

SUPPLEMENTARY STATEMENT - Appeal by Mr Billy Rogers

Site Address: Land Lying to The southwest of Saredon Road, Hospital Lane, Cheslyn Hay, Staffordshire, WS6 7HZ

Provision and Need for Sites

1. There are no public gypsy sites in South Staffordshire and existing private sites largely comprise small sites accommodating extended family groups. All existing private sites, so far as I am aware, are full, including the sites with pitches for rent at Featherstone and Kingswood Colliery.
2. The site allocations made in the Site Allocations Development Plan Document (SAD) were based on Policy H6 of the Core Strategy which, in turn, was based on a GTAA carried out in 2008. The Council has subsequently participated in preparation of up-dated GTAAs , published in 2014, 2017 and August 2021.
3. The latest GTAA distinguishes between gypsies and travellers that comply with the definition in Annex 1 of PPTS (2015), those whose status is unknown (“*unknowns*”) and, those deemed not to comply with the definition (non-PPTS). It is worth bearing in mind that Opinion Research Services (ORS), who produced the GTAA, only survey persons living on known gypsy and traveller sites (ethnic gypsies and travellers) and, for the households who were interviewed, were the sole arbiters of who did or did not satisfy the old PPTS definition.
4. The 2021 GTAA estimates that there is a need for the provision of 121 additional residential pitches in the period 2021-2038 for those that satisfy the PPTS definition; 9 for “unknowns”; and 24 for non-PPTS gypsies and travellers. Of these, a total of 92 permanent pitches are required to be provided in the first five-year period, 2021 - 2025. Following the judgement in **Lisa Smith v. Secretary of State for Levelling Up, Housing & Communities [2022] EWCA Civ 1391** it is the “cultural” need that should guide provision because, to do otherwise, gives the potential for unlawful discrimination. This has been confirmed by the change to the gypsy definition in the 2023 version of PPTS.

Supply

5. The Site Allocations Development Plan Document allocated land to meet the residual need identified in Policy H6 of the Core Strategy in the period 2018 to 2028. The Council's strategy to meet the needs identified was to intensify and/or expand existing sites where a need has been evidenced, instead of allocating public sites. Sites were allocated sufficient to provide 20 pitches, of which only 5 have subsequently come forward through the development management process. Apart from the allocated sites, only 2 permanent pitches have been approved on windfall sites since the beginning of the GTAA assessment period.
6. This leaves a considerable shortfall which, in South Staffordshire, can only be met on windfall sites coming forward in the Green Belt. A copy of the 2021 GTAA is attached at **Appendix PBA 1**.
7. The Local Plan Review has been through its Regulation 19 consultation (December 2022) but, the Publication Plan has not yet been submitted for public examination. The review was paused pending the outcome of the government's proposed changes to national planning policy. Following publication of the revised NPPF in December 2023, the Council is currently carrying out a further round of public consultation. The timetable for adoption is currently uncertain but, is unlikely to take place within the next 12 – 18 months.
8. Paragraph 7.24 of the Publication Plan (2024) states that: *“The council is unable to meet its full 5-year requirement (92 pitches) for gypsy and traveller pitches due to a lack of suitable site options to meet evidenced locally generated needs, with an assessment of site options through the Pitch Deliverability Study 2021 identifying 42 suitable pitch options towards this 5 year requirement. However, based on representations to our Preferred Options consultation in 2021, the decision was taken to delete Land at 122 Streets Lane (GT35) when taking account of a planning inspector's conclusions on the unsuitability of the site at a previous Section 78 Appeal. Through the 2024 GTAA update, the five year needs of families were reassessed, including the families on sites assessed as suitable for expansion, with the number of pitches proposed reflecting this latest evidence. As a result, the Local Plan has suitable sites to allocate 37 pitches towards the 5 year identified needs of families, with further provision likely to come through windfall developments that will be considered against this*

policy. The council will respond positively to windfall proposals that accord with Policy HC9, including intensification or expansion of existing sites where there is a proven existing family need.”

9. The Council’s preferred strategy for meeting Gypsy and Traveller needs is to allocate sites to meet identified needs, through the intensification or extension of existing sites. No new sites are to be allocated. The emerging Local Plan allocates land, under Policy SA6, for a total of 37 pitches out of a five-year requirement for the provision of 92 permanent pitches.
10. As things stand, there is a considerable unmet need for gypsy and traveller sites in South Staffordshire which will not be met in the foreseeable future other than through the development management system. It goes without saying that the Council cannot demonstrate that it has a five-year supply of deliverable land for gypsy and traveller sites.
11. The Council considers that there is adequate scope for a supply of pitches to come forward through the development management process against the new criteria-based policy - Policy HC9. When examining the past delivery of new pitches, a very significant proportion of supply of permanent gypsy and traveller has come forwarded on un-allocated sites, coming forward through ad-hoc planning applications. This is not surprising, since it took the Council until 2018 to allocate any land for gypsy and traveller sites.
12. Of the 85 pitches granted planning permission in South Staffordshire since 2007/2008, 50 have been approved on appeal (all but 7 dealt with by myself) and, most of the remainder have been approved by intensifying the use of, or extending, existing sites originally approved on appeal. The existing site in Hospital Lane for 6 pitches, approved on appeal in July 2007, has twice been extended, in 2011 and 2013, for a total of 10 further pitches. A copy of the Gypsy and Traveller Topic Paper 2022, prepared for the Local Plan Review is attached at **Appendix PBA 2**.
13. The likelihood that any new gypsy sites will be in the Green Belt is a further material consideration in favour of the appellant’s case. About 80% of the District is designated as Green Belt and, land is unlikely to come forward for gypsy sites outside of the Green Belt. It has been accepted on appeal that the high proportion of Green Belt in the District does not release the

Council from their pitch allocation responsibilities. As such, the Council's strategy for meeting gypsy and traveller accommodation needs is unlikely to survive un-changed through the examination process.

14. The unmet need, lack of a five-year supply of deliverable land for gypsy sites and, the failure of the Development Plan to meet the full identified need in a timely manner, are all matters which weigh separately in favour of the proposed development: the unmet need is evidence of a current failing; the lack of a five-year supply is indicative of failing to meet that need in the future; and the failure of policy that has led to the present situation can be traced back at least to 2006. It would be possible for one or two of these factors to exist without the third and so, in the balance, each should be accorded weight where they all occur, as in this case.

Locally Specific Criteria

LOCAL PLAN PUBLICATION PLAN (2024) POLICY HC9: GYPSIES TRAVELLERS AND TRAVELLING SHOWPEOPLE

15. Applications for Gypsy, Traveller and Travelling Showpeople pitches or plots will only be supported where all of the following criteria are met:
- a) Essential services such as power, water, drainage, sewage disposal and refuse/waste disposal are provided on site. – **Essential services are already provided or, are capable of being provided, as they were for the existing gypsy site in Hospital Lane.**

 - b) The site is well designed and landscaped with clearly demarcated site and pitch boundaries using appropriate boundary treatment and landscaping sympathetic to, and in keeping with, the surrounding area. Where tree and hedgerow boundaries border the site these should be retained and where possible strengthened. - **In this case, the proposed development is remote from public vantage points, apart from a little used public footpath. The site would be reasonably well screened from the public footpath by the existing roadside hedgerow. Notwithstanding this, it is not unusual to see gypsy sites in the countryside, there is already a lawful gypsy site nearby along Hospital Lane and, in my**

opinion, subject to appropriate landscaping, the proposed development would be unlikely to cause unacceptable harm to the character and appearance of this rural area.

c) A minimum 10% biodiversity net gain is demonstrated in accordance with Policy NB2. – **The requirement to provide a minimum 10% biodiversity net gain did not apply to small developments such as this until April 2024.**

d) The amenity of the site's occupiers and neighbouring residential properties is protected in accordance with Policy HC11. Sites must be designed to ensure privacy between pitches and between the site and adjacent users, including residential canal side moorings. Proposals for caravans in residential gardens will be refused where they have an adverse impact on the amenity of neighbouring properties. – **The site is not adjacent to any other residential properties and, the site is of sufficient size to accommodate 6 families whilst providing adequate standards of privacy and amenity for residents.**

e) The site can be safely and adequately accessed by vehicles towing caravans, is well related to the highway network, and provides adequate space within the site to accommodate vehicle parking and turning space to accommodate the occupants of the site. - **The site has safe access along Hospital Lane, which already serves a lawful gypsy and traveller site.**

f) The proposal, either in itself or cumulatively having regard to existing neighbouring sites, is of an appropriate scale so as to not put unacceptable strain on infrastructure or dominate the nearest settled communities, to avoid problems of community safety arising from poor social cohesion with existing families.- **The site, even in combination with the existing gypsy site in Hospital Lane, would not over-dominate Cheslyn Hay in any physical sense or, place undue strain on local infrastructure.**

g) Pitches are of an appropriate scale for the size and number of caravans to be accommodated, without over-crowding or unnecessary sprawl. Site intensification or extensions resulting in additional pitches may be considered acceptable in principle, subject to it being for a proven existing local family need, and acceptable in terms of other planning policies and

licencing requirements. A single pitch to accommodate immediate family should only consist of one static caravan and one tourer caravan unless it can be demonstrated that additional caravans are necessary on the pitch to avoid overcrowding. - **The site is of sufficient size to accommodate 6 pitches, each accommodating two caravans, vehicle parking and manoeuvring space, amenity areas and extensive landscaping.**

h) Built development in the countryside outside the development boundaries is kept to the minimum required, in order to minimise the visual impact on the surrounding area. Where proposals are in the Green Belt, proposals will only be acceptable where they conform to Policy DS1. The proposed allocations of new pitches in the Green Belt set out in Policy SA4 will be acceptable in principle, subject to conformity with Policy SA4 and all criteria in this policy. – **No buildings are proposed.**

i) Any amenity buildings proposed are of an appropriate scale and reasonably related to the size of the pitch or pitches they serve. – **No amenity buildings are proposed.**

j) Proposals are not located in areas at high risk of flooding. – **The appeal site is located in Flood Zone 1.**

k) Where the proposal is for travelling showperson provision, the site is large enough for the storage, maintenance and testing of items of mobile equipment, and does not have an unacceptable impact on the amenity of neighbouring residential properties, including canal side residential moorings. – **Not relevant.**

l) Where the proposal is for a transit site, proposals avoid locations that are accessed via narrow country lanes and are in locations with good access to the strategic highway network. – **Not relevant.**

Applications for pitches from individuals that do not meet the planning definition set out in Annex 1 of Planning Policy for Traveller Sites will also be considered in line with this criteria-based policy and other relevant policies on a case-by-case basis. Development proposals should be consistent with other Local Plan policies. – **The site residents are gypsies and travellers as defined in Annex 1 of the 2023 up-date of PPTS.**

Personal Circumstances

16. The proposed caravan site will accommodate an extended Romany Gypsy family comprising of the following households:
1. Edmund Lee and Julie Rafferty;
 2. Thomas and Scarlet Rogers, together with their 3 children: Tyson (9); Thomas (12); and Marney (15).
 3. John and Lacy Jones and their children: John (11); Ocean (8); and Zandia (5).
 4. Simon and Kate Lee, together with 4 children: Simey (7); Noah (6); Isaac (3); and Lady-Alayha (2).
 5. Sherry Clee and her children: Andrew (21); Samuel (20); Leon (18); and Charice (17).
 6. Tiffany Gorman (nee Rogers) and her children: Sam(9) and Joe (5).
17. Lacy Jones and Thomas Rogers are the adult children of the appellant and, Tiffany Gorman is his niece. Scarlet Rogers is the daughter of Julie Rafferty and, Simon Lee is Julie's son. They are an extended gypsy family, living and travelling together for mutual help and support. They are closely related to the families who occupy the existing (lawful) gypsy site along Hospital Lane, where the appellant and his brother live.
18. Tyson and Thomas Rogers both attend local schools and, Marney is home tutored. John, Ocean and Zandia Jones also attend local schools, as do the school-age children of Simon Lee and Tiffany Gorman. Sherry Clee's son, Leon is being treated for leukaemia and, needs a stable base from which he can receive essential health care.
19. It is consistent with caselaw in *Stevens v. SSCLG [2013] EWHC 792 (Admin)* that the best interests of children should be a primary consideration in this application, although not necessarily the determinative factor. Their best interests would be for the site to be developed as proposed. It would give them the best opportunity for a stable and secure family life, for access to regular schooling and health care, and with opportunities for play and personal development.

Very Special Circumstances

20. On balance, the unmet need for sites; the Rogers/Rafferty family's personal accommodation needs and personal circumstances; the absence of alternative sites; the failure of the development plan to bring forward sufficient suitable land for traveller sites in a timely manner; the likelihood that any new pitch provision will be made in the Green Belt; compliance with the Council's locally specific criteria for the location of traveller sites; and the needs of the children, clearly outweigh harm to the Green Belt and any other harm. Very special circumstances therefore exist to justify the granting of planning permission.