Further submission by Five Acres Local Community action (FALCA) to Uttlesford District Council (UDC) Planning Officers relating to a proposed Gypsy and Traveller Site at Poore Street, Wicken Bonhunt (Five Acres)

THE PLANNING EVIDENCE AND ISSUES FOR THE FIVE ACRES SITE

9th June 2015
BACKGROUND

FALCA wishes to make this further submission to UDC following the publication of more evidence in relation to Five Acres. This further evidence consists of a Flood Risk Appraisal (FRA) dated April 2015 commissioned by Ms Allum, the site owner, from GTA Civils Ltd and responses submitted to UDC by consultees asked to comment on the FRA.

The FRA was requested by UDC planning officers following their report to the February meeting of the Uttlesford Policy Planning Working Group (UPPWG).

PURPOSE OF THIS SUBMISSION

UDC is now in a position to arrive at a conclusion on the suitability of Five Acres. This site remains outstanding as the only site for which no recommendation as to suitability has been made out of 29 sites originally assessed in the process leading to the public consultation on Gypsy and Traveller Issues and Options in December 2014 and January 2015.

This prolonged uncertainty has been highly detrimental to the local settled community which FALCA represents and FALCA wishes to ensure that all the evidence and issues relating to Five Acres are now thoroughly evaluated.

We believe this evidence persuasively and incontrovertibly demonstrates that Five Acres does not meet the criteria required of a Gypsy and Traveller site for it to be considered suitable and therefore carried forward into the new Local Plan to determine allocations.

EVIDENCE BASE

The evidence base is as follows:-

1) The ORS needs analysis report of July 2014
2) The report on Gypsy and Traveller (G&T) sites in October 2014 from Peter Brett and Associates commissioned by UDC (the Brett report)
3) Communications with consultees referred to in the Brett Report and subsequently contacted by UDC, in particular responses from the Environment Agency and Essex Historic Environment Advisor
4) Relevant local and national policies
5) The Sustainability Appraisal and Strategic Environmental Assessment: Environmental Report (SASEAER) from Place Services dated December 2014
6) The Gypsy and Travellers Issues and Options Consultation published by UDC in November 2014
7) The report submitted in this consultation by Strutt and Parker LLP on behalf of FALCA, Arkesden Parish Council and Wicken Bonhunt Parish Meeting. This commented on all the above planning evidence and issues and contained specialist reports on flooding by Ardent Consulting and transport and access by Journey Transport Planning
8) The public responses to this consultation including over 600 responses from the local settled community specifically on views on Five Acres requested in Question 12 of the consultation
9) The response by the site owner to the public consultation and the FRA from GTA Civils Ltd in April 2015.
10) The commentary on this FRA from Ardent Consulting dated June 2015 which is attached as an Appendix to this submission.

THE PLANNING EVIDENCE AND ISSUES RELATING TO FIVE ACRES WHICH UDC SHOULD CONSIDER

The methodology and basis upon which sites were initially screened and either eliminated as unsuitable or recommended for further consideration as potentially available, suitable and deliverable was set out in the Brett Report and FALCA has applied this same methodology and approach in making this submission

Of specific relevance to Five Acres are the following:-

- **Availability**

  Five Acres was identified in the Brett Report as available under Delivery Model 1 (‘Existing privately owned sites where there is potential.......to meet immediate family needs. Under this model planning permission would be needed.)

  However
  - Ms Allum now resides in permanent accommodation near Fakenham, Norfolk (some 80 miles from Five Acres) where she has lived for many years and has had no local community involvement or residence in that time
  - There has been no regular use or sustained occupation of the site by her or her family
  - The history of the Five Acres site as represented by Ms Allum to Peter Brett Associates, including its historical use and buildings but especially in terms of its alleged ownership, occupation and desired use by her family members is wholly inaccurate. Peter Brett Associates took this history as read but did not consult with the local settled community to corroborate the site owner’s claims as a result of which a misleading impression of availability is given.
  - Legal title to the site was transferred in Feb 2014 to Mrs Ruby Allum who had previously put forward the Five Acres site purportedly as owner
  - In more recent correspondence with Arkesden Parish council Ms Allum suggests she speaks ‘on behalf of the Allum family’. Other sites with multiple beneficial ownership which have been put forward have proved not to be ‘available’ and been withdrawn as unanimous consent has not been forthcoming.
  - The above shows there is therefore weak supporting evidence that the site is available under Delivery Model 1
**Suitability.**

Suitability was determined in the Brett Report against Local Plan Draft Criteria HO11.

Five Acres does not satisfy the following criteria

1. **Flooding (national G&T policies, Local Plan Draft Criteria HO11)**
   - It should now be accepted that parts of the site along the eastern edge adjoining Poore Street lie in Flood Zone 3 (FZ3) as shown in Environment Agency (EA) flood mapping.
   - Surface water flooding maps from the EA show that a significant part of the site encroaching much further into the site than this FZ3 area are susceptible to flooding to depths from 300mm-900mm.
   - Anglia Water designate Five Acres as ‘red’ i.e. there are significant infrastructure and/or treatment issues arising from any development.
   - Photographic and other evidence supplied in the public consultation shows that flooding occurs on a regular basis and is significant in terms of depth and extent on the site.
   - Access for the site is onto Poore Street which is in FZ3. Photographic evidence shows that Poore Street floods for a significant distance in both directions when the site is flooded. Pedestrian and vehicular access to and from the site is then significantly affected. Access by emergency services – potentially essential in these circumstances – will also be affected.
   - A site visit, a topographical survey or even a cursory inspection will show that the level of the site is no higher and in some places lower than the level of Poore Street to a significant distance into the site. The ground mapping technique used by the EA to estimate ground levels at the location of Five Acres has a margin of error of 1.5m. So irrespective of the FZ3 line on EA maps, if it is accepted that Poore Street and the eastern edge of the site is in FZ3 then a substantial further part of the site must be susceptible to the same flooding risk as these FZ3 areas.
   - Downstream along Wicken Water in Wicken Bonhunt UDC has refused planning permission for 7 dwellings on the grounds, inter alia, of flooding and unsustainability.
   - 2 properties have had to be evacuated because of Wicken Water flooding.
   - The cost and availability of insurance for properties in Wicken Bonhunt has been adversely affected because of flood risk.
   - The site owner has been asked by UDC to provide an FRA and other information on safety, sewage and evacuation mitigation measures before they decide on suitability. N.B. the Brett Report said an FRA would only be required as part of a planning application.
   - This FRA does not deal with all the issues requested by UDC, has fundamental deficiencies and contains inaccurate and misleading information. Further details on these inadequacies are contained in a letter from Ardent Consulting (see Appendix).
   - The response to UDC from the Environment Agency dated 3rd June 2015 is critical of this FRA and states it does not meet National Planning Policy...
Framework (NPPF) requirements. It also raises a number of important issues for UDC to consider including safe access and egress and the adequacy of evacuation measures. The EA also acknowledges that its flood maps are only indicative and further modelling would be required to determine the precise extent of FZ3 but makes it clear that locating ‘highly vulnerable’ caravans should not be allowed in FZ3.

- Mitigation measures designed to divert floodwater from the site will have an impact on adjoining and downstream land and properties which is likely to be adverse and exacerbate flooding elsewhere.

- **Safe pedestrian and vehicular access (HO11 criteria, highways regulation and national and local traffic policies)**
  - Access to the site lies in a 60 mph speed zone. Visibility requirements need to be reviewed by Essex County Council (ECC) but detailed evidence from Journey Transport Planning indicates cannot be achieved even with site mitigation measures. ECC acknowledge they have not visited the site so their comments are ‘desk top’ and at a superficial level.
  - Access to and from the site could be in both directions (towards Arkesden or Wicken). There is a weight restricted bridge and Poore Street narrows in the direction of Arkesden with many roadside properties and unrestricted parking on Poore Street in the direction of Arkesden.
  - HGV and light commercial traffic access (often required by the G&T community given patterns or employment) and other vehicle access would both for the above reason and shorter distance to the B1038 therefore be in the direction of Wicken.
  - Journey Transport Planning’s report shows that there are several pinch points narrower than the typical 4m width of Poore Street which prevent two vehicles passing without driving off the road surface.
  - There are blind bends with severely restricted visibility going up a steep incline still within the 60mph zone.
  - Verge degradation of Poore Street is already severe from existing traffic usage.
  - There is no street lighting, no pavement and no room for pavement in either direction from Five Acres.
  - Pedestrian access to the nearest public transport (a very limited bus service) has to be along Poore Street in the direction of Wicken.
  - Safe pedestrian access must therefore be a critical planning issue for UDC. This is especially so because the safety of children getting to school will be at risk.
  - HGV, light commercial and other vehicular safe access to Five Acres, which will predominantly be to and from Wicken, is another critical issue both from a safety perspective and in terms of impact on a Protected Lane.
  - Site mitigation measures will not, by definition, alter any of the above characteristics of Poore Street and cannot have any beneficial impact on the above issues.

- **Protected Lane status**
  - It is the duty of UDC to apply and safeguard its policies (in conjunction with ECC) and assess the impact on these policies of any proposed development affecting Protected Lanes.
The nature, frequency and density of increased traffic usage from development of Five Acres can only have a detrimental impact on Poore Street.

The Essex Historic Environment Advisor has responded “Any development on this site will put added pressure onto the protected lane”

The original response from ECC required a speed survey, any access to the site to include widening the entrance, avoiding unbound materials for this entrance and improving visibility through the destruction of hedgerow.

These site mitigation measures by the owner could only have a further detrimental impact on Poore Street and UDC has a duty to protect its Protected Lanes

- **Landscaping and visual impact (HO11 criteria)**
  - The Brett Report rejected as unsuitable 10 potential sites from further consideration for landscaping and visual impact reasons.
  - The Brett Report concluded that any development of Five Acres on the higher (western) part of the site would fail landscaping and visual impact tests.
  - Development of Five Acres anywhere other than the lower eastern part (that affected by flooding) will therefore result in it being deemed unsuitable.

- **Sustainability**
  - Place Services have admitted that they may have made a mistake in their SASEAER in saying flooding had an ‘uncertain’ rather than ‘negative’ effect on SA Criterion 4. Notwithstanding this potential error Place Services conclude “Site UTT022 (5 Acres) will have a reasonably large proportion of negative sustainability impacts”; the only site to be qualified in this way.
  - UDC have rejected residential development in Wicken as unsustainable.
  - A residential application in Arkesden was recently withdrawn following clear guidance from UDC (expressed in a written opinion to Arkesden Parish Council) that further development, even of a single dwelling in a village such as Arkesden, is unsustainable.
  - The same sustainability tests under national and local policies should apply to G&T development. Gypsies and Travellers are to be treated fairly and equitably when compared to the settled local community and vice versa.
  - Five Acres clearly fails to meet sustainability requirements.
  - Recognising this, UDC planning officers have put forward an opinion that due to the rural nature of Uttlesford it will be more difficult to find sites in rural locations which meet sustainability criteria. This raises but does not address the strategic planning question that because of this the G&T community may not actually see large areas of Uttlesford as where they wish to live. This explains the relatively low numbers of pitches currently required and the very low numbers to the point of insignificance historically of unauthorised pitches compared to other Essex districts.
  - UDC planning officers have therefore recommended reducing the maximum number of pitches on sites in rural locations from 15 to 5, ostensibly for the above reason. This also arguably (and coincidentally?) lessens the risk of G&T sites dominating the local settled community in contravention of national guidelines for G&T developments.
This pitch size recommendation is a non-sequitur and muddled strategic thinking as a 5 pitch site in an unsustainable location is still unsustainable. It merely means that less gypsies are discriminated against in that location and other gypsies may then be similarly discriminated against in other unsustainable locations. It would be bad planning policy and unlikely to be successfully defended upon appeal if carried into the new Local Plan.

• **Deliverability**
  - Even if effective mitigation measures could be proposed by the owner the cost of these would be so prohibitive as to call into question the financial viability of the site. Despite a request from UDC the site owner has not supplied any information on the financial viability of the site.
  - In any event there is a mineral rights extraction charge registered against title to the site and the owner of that charge has indicated in his response to the public consultation that he would enforce the charge to prevent development. This also calls into question the deliverability of the site and the financial viability given the likely cost of successfully defeating a legal challenge to development.

**SUMMARY AND CONCLUSIONS**

For so many reasons cited above Five Acres is unsuitable. It fails to meet many of the criteria applied by UDC’s own consultants in the Brett Report.

Safe pedestrian access is a critical issue as gypsy children walking to the nearest bus stop would be at risk.

Of particular significance is the flooding risk to occupants were there to be development of the site. Flooding is now acknowledged by all concerned (including UDC, the site owner’s FRA consultants and especially the Environment Agency) to be a major factor and FALCA and many local residents have supplied evidence to UDC which shows the site floods regularly, significantly and to a much greater extent than a desk top assessment based upon indicative flood maps might conclude. The recent report commissioned by UDC from the EA provides ample evidence that recommending Five Acres to be carried forward into the Local Plan as suitable for a G&T site is inappropriate and, together with all the evidence on other negative factors, supports a conclusion by planning officers to reject Five Acres as a potential site.

The evidence now to hand means that Five Acres should be rejected and removed from further consideration in the new Local Plan.