

# **TAUNTON DEANE BOROUGH COUNCIL**

**EXECUTIVE – 3 MAY 2006**

## **JOINT REPORT OF THE DEVELOPMENT CONTROL MANAGER, FORWARD PLAN MANAGER AND ACTING HOUSING STRATEGIC SERVICES MANAGER**

**(This matter is the responsibility of Executive Councillors Garner and Bishop)**

### **PROVIDING FOR GYPSIES AND TRAVELLERS – AN UPDATE**

#### **1.0 EXECUTIVE SUMMARY**

- 1.1 The Council has responsibility for meeting the accommodation needs of gypsies and travellers as both housing and local planning authority. A recent assessment of needs has shown there to be 22 caravans on unauthorised sites. Although it is not expected that every caravan will represent a legitimate housing need that will need to be met on an authorised site, it is clear that a number will. Where the unauthorised site cannot be tolerated, such as at Oxen Lane, any households or groups with a legitimate need for accommodation represents a priority for action.
- 1.2 A new Planning Circular relating to gypsy and traveller sites has just been issued. It contains revised guidance for local planning authorities, including a requirement for sites to be allocated in LDFs for gypsies and travellers, which will need to be taken into account in due course. The Circular also amends previous guidance concerning the circumstances in which gypsy and traveller sites may be acceptable, creating a need for the Council's current policy on gypsy and traveller sites to be implemented in an amended manner.
- 1.3 This report has been considered by the Housing and Strategic Planning, Transportation and Economic Development Review Panels, which have resolved to support its contents.
- 1.4 The Executive's approval of the recommended actions arising from the needs survey and Circular are sought.

#### **2.0 PURPOSE OF REPORT**

- 2.1 This report informs Members of the results and implications of a recently completed assessment of gypsy and traveller accommodation needs in Somerset. It also outlines the main elements of the new Planning Circular on gypsies and travellers. The report concludes with recommendations on actions that are required in response to these two new considerations.

### **3.0 BACKGROUND**

- 3.1 Section 225 of the Housing Act 2004 places the responsibility for identifying and meeting the accommodation needs of Gypsies and Travellers on local housing authorities, which includes this Council.
- 3.2 The Council also has a related responsibility in its role as local planning authority, where it is required to ensure that a wide choice of housing types is available to meet the needs of all members of the community. Draft Planning Policy Statement 3: Housing, published for consultation in December 2005, states that local development frameworks should 'set out policies to address the particular accommodation needs and demands of specific groups'. It goes on to refer specifically to Gypsies and Travellers, and impending guidance relating to meeting their needs in a new Planning Circular.
- 3.3 That Circular, 'Planning for Gypsy and Traveller Caravan Sites' (01/2006), was published at the beginning of February. It replaces the previous Circular (01/94) and provides detailed guidance on how local authorities' responsibilities for meeting the accommodation needs of gypsies and travellers are to be implemented through the planning system. A summary of the main aspects of the Circular follows in the next section of this report.
- 3.4 One of the key features of the policy process relating to housing generally is the preparation of sub-regional housing market assessments. These should estimate the need and demand for all types of housing, including the particular needs and demands of a range of specific groups. Gypsies and travellers are one of the groups identified. A housing market assessment for Somerset, jointly commissioned by all six local authorities, has been completed recently. It includes an assessment of the needs of gypsies and travellers, which is summarised in Section 5.0 of this report.
- 3.5 Another significant element in the background to this report is the Council's experience with the large unauthorised gypsy site at Oxen Lane, North Curry. That situation highlighted a range of issues that have resulted in subsequent actions and which also need to be borne in mind in the Council's future decisions and strategy relating to gypsies and travellers.

### **4.0 CIRCULAR 01/2006, PLANNING FOR GYPSY AND TRAVELLER CARAVAN SITES**

- 4.1 This circular was published on 2nd February, 2006 and replaces DoE Circular 1/94 "Gypsy Sites and Planning"
- 4.2 The Circular has nine stated aims:

- to create communities where there is respect between the travelling and settled communities;
- to reduce the number of unauthorised encampments and developments;
- to significantly increase the number of gypsy and traveller sites in appropriate locations;
- to protect traditional ways of life whilst respecting the interests of the settled community;
- to stress the need for regional assessments of need and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- to make provision for sites where need is identified;
- to ensure that DPDs include fair, realistic and inclusive policies;
- to promote more private gypsy and traveller site provision through the planning system;
- to help avoid gypsies and travellers becoming homeless through eviction from unauthorised sites.

### **Identifying Need and the Development Plan Process**

- 4.3 The Circular advocates community involvement at an early stage in the process, emphasising the need for dialogue with the travelling community. It requires the number of pitches set out in the RSS to be translated into specific site allocations. The core strategy should set out criteria not only to guide the allocation of sites, but also to be used to meet unexpected demand. To have a solely criteria based policy (as in the Taunton Deane Local Plan) will no longer be acceptable. In identifying specific sites to meet any assessed need local authorities are encouraged to dispose of land for less than best consideration, to make full use of registers of unused or underused land and to exercise their compulsory purchase powers.

### **Sites in Rural Areas and the Countryside**

- 4.4 The Circular advocates a rural exceptions site policy for gypsies similar to that for housing.
- 4.5 In areas of nationally recognised designations such as SSSIs, AONBs and Conservation Areas, planning permission for gypsy and traveller sites should only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development. However, local designations should not be used in themselves as a reason for refusal. Rural sites are acceptable in principle and “local authorities should be realistic about the availability or likely availability of alternatives to the car in accessing local services”. However, sites must not dominate the nearest settled community.

## **Applications**

- 4.6 The guidance indicates that local planning authorities should not refuse applications solely because the applicant has no local connections. But they are entitled to refuse private applications in locations that do not comply with planning policies, especially where the authority has complied with the guidance and proceeded properly to ensure that needs identified by accommodation assessments are being met.
- 4.7 Local planning authorities are also advised to have regard to whether the absence of existing provision may prejudice enforcement action, or give rise to grounds of appeal against refusal of an application for a new site.

## **Sustainability**

- 4.8 Relevant considerations include transport modes and distances from services; promotion of integrated co-existence between the site and the local community; the wide benefits of easier access to health services and education; that provision of a settled base may reduce possible environmental damage caused by unauthorised encampments; and avoiding sites where there is a high risk of flooding. Highway considerations are also relevant as is potential for noise and disturbance from vehicles and on-site business activities.

## **Appeals**

- 4.9 The Circular advises that where Inspectors are considering appeals against the refusal of permission for new gypsy or traveller sites, material considerations will include: the existing and planned provision and need for sites in the area; the quality of information on needs; pitch availability on existing sites; personal circumstances and alternative accommodation options.

## **5.0 ACCOMMODATION NEEDS ASSESSMENT FOR GYPSIES AND TRAVELLERS WITHIN SOMERSET**

- 5.1 The needs assessment was carried out by Rupert Scott of Ark consultants. It is one of the first of its kind, and has the advantage of putting Somerset 'ahead of the game' in terms of our understanding of accommodation needs in the county. The early completion of the assessment has enabled the Somerset local authorities to submit its findings in response to an invitation from the Regional Planning Body for 'First Detailed Proposals' in relation to the specific needs of gypsies and travellers in the county which need to be provided for within the Regional Spatial Strategy.
- 5.2 On the other hand, the early completion of the assessment carries the disadvantage of its having been prepared in advance of promised

Government guidance on the subject. In the absence of that guidance or any precedent, the following common sense approach was adopted:

- Consolidating local knowledge and expertise.
- Providing a statistical baseline that can be monitored and updated.
- Engaging directly with the local gypsy and traveller community.

5.3 The assessment was carried out in four separate phases:

- Desk top survey - based on data from the local authorities.
- Interview survey - based upon a standard questionnaire.
- The consolidation and assessment of data - to produce the Interim Report.
- Consultation and production of the Final Report.

### **The Main Findings**

5.4 Somerset has three key features that have a major influence on the nature and scale of the gypsy and traveller community:

- The number and pattern of main travel routes through the county, given the nomadic way of life of gypsies and travellers, in particular the M5, A303 and A37.
- Attractions and opportunities, such as attractive upland areas, and events such as the Glastonbury Festival and Priddy Fair.
- The nature of public and private provision, especially the larger public sites, which account for a high proportion of total numbers and have been provided in each District.

5.5 The results of the study are attached at Appendix 1. They show that Taunton Deane contains the largest number of caravans in the county (134). In theory a further 34 caravans could be accommodated on authorised sites, although the study indicates that much of this theoretical spare capacity is unlikely to be utilised. The majority of caravans are on authorised sites. Most of the 22 unauthorised caravans are located on the large site at Oxen Lane, North Curry, although it is noted that only 7 of the 17 there, on four of the 16 pitches, were occupied at the time of the Caravan Count on 19 January.

5.6 The survey notes, however, that the results represent a winter 'snapshot' that does not take account of seasonal movements, which are expected to be a significant factor and will need to be examined in the coming summer.

5.7 Over 250 families were contacted regarding the interview survey, and the results of 180 interviews were analysed in the report. About 65% of the respondents were gypsies, 5% Irish Travellers and approximately 30% new age travellers. The results, which do not differentiate

between the different groups, showed that of those who answered the relevant questions:

- 74% described themselves as a family group;
- 73% had been on their site for 12 months or more;
- 75% of respondents had come from within Somerset;
- 96% of respondents gave Somerset as their preferred choice of location;
- small, but similar, numbers of people expressed the desire to change from local authority owned to private sites, or from private to local authority, indicating that the supply of publicly owned pitches is about right;
- 81% stated a preference for small sites of 1 – 4 pitches; and
- 62% wished to own their own site.

### **Conclusions and Recommendations of the Needs Assessment**

- 5.8 Despite the large number of authorised caravans within Taunton Deane, the scale of unauthorised caravans indicates a need for further accommodation. The Council is also committed to finding a site for a new traveller family that has sought assistance in finding a suitable site. There is no need for further transit accommodation, as existing provision is adequate.
- 5.9 It should not be assumed, however, that the number of unauthorised caravans represents the level of need that the Council must seek to accommodate. Actual need should be determined by an assessment of the needs of each individual, group or family on the unauthorised sites. The large number of unoccupied caravans at Oxen Lane suggests that the real level of need may be for less than the 17 caravans on the site.
- 5.10 The ODPM Caravan Count requires a distinction between unauthorised sites that are 'tolerated' and those that are 'not tolerated'. In this context toleration refers only to whether immediate action to remove the occupants is either not possible or not desirable. Sites that are not tolerated are therefore ones for which an immediate alternative is required.
- 5.11 The first step in assessing the level of need for new sites is to identify which existing unauthorised sites are, or could be made, acceptable (or tolerated), and the conditions that would need to be met for them to become authorised.
- 5.12 Once this has been done there will be a residue of sites that are not, and could not, be made acceptable, and for which an alternative is required. This is the immediate, or backlog, need that is the equivalent of homelessness, for which alternatives are needed as a matter of priority. The scale of this need can only be determined by the detailed analysis of the circumstances of each individual, family or group referred to above.

## **6.0 PROVISION OF EMERGENCY GYPSY ACCOMMODATION**

- 6.1 One of the key lessons learnt by the Council from the Oxen Lane experience is the importance of having alternative sites available if effective short-term action is to be taken against unauthorised sites that cannot be tolerated. At Oxen Lane the absence of such an alternative was one of the factors that led to a situation where the Council was advised that the obtaining of a temporary injunction pending final determination of the enforcement appeal was likely to be unsuccessful.
- 6.2 As a result of this experience the Council has sought to provide an emergency site, where temporary accommodation is available to gypsies or travellers evicted from unauthorised sites that cannot be tolerated. The site, containing six pitches, adjoins the existing gypsy site at Otterford. Planning permission was granted during 2005, and a lease with the County Council, which owns the land, should be completed this month. An application has also been made to the ODPM for approximately £50,000 to finance the development of the site. A decision on this is expected in May 2006.

## **7.0 CONCLUSIONS**

- 7.1 The responsibility that the Council now has with regard to gypsy and traveller accommodation needs, the identification of unmet needs in the form of unauthorised sites, and the revised planning guidance in Circular 01/2006, all have implications for the Council's future actions. These can be broken down into a number of discrete, but linked, areas.

### **Addressing Short Term Needs**

- 7.2 Under the provisions of the 2004 Housing Act the Council now has a clear responsibility to have regard to the accommodation needs of gypsies and travellers. The recently completed needs survey identified 22 caravans on four unauthorised sites. Seventeen of the caravans are located on the site at Oxen Lane, where a Planning Appeal has been dismissed and a 12 month period of compliance with the decision is running its course. Although it is not expected that an alternative site or sites will be required for all of these, there is a need to establish the number that will. These will then constitute a priority for action.

### **The Need to Allocate Sites**

- 7.3 In the longer term the Council's local development framework will have to address the issue of identifying sites for unmet gypsy and traveller needs, as it is no longer acceptable to only have a criteria-based policy against which applications can be considered, as at present in the Local Plan. This is likely to be a difficult and contentious issue and will be included in the Allocations Development Plan Document.

## **Impact of Circular 01/2006 on the Determination of Planning Applications**

- 7.4 All proposals will still need to be assessed in terms of Policy H14 of the Taunton Deane Local Plan.

*H14 Outside the defined limits of settlements, sites for gypsies or non-traditional travellers will be permitted, provided that:*

- (A) there is a need from those residing in or passing through the area;*
  - (B) there is safe and convenient access by bus, cycle or on foot to schools and other community facilities and they are sited near a public road;*
  - (C) a landscaping scheme is provided which screens the site from outside views and takes account of residential amenity;*
  - (D) adequate open space is provided;*
  - (E) accommodation will enjoy adequate privacy and sunlight;*
  - (F) areas for business, where appropriate, are provided within sites, with satisfactory measures for their separation from accommodation spaces and the safety and amenity of residents;*
  - (G) in the case of transit sites, there is convenient access to a County or National route;*
  - (H) the site is not within an Area of Outstanding Natural Beauty or a Site of Special Scientific Interest, or would harm the special environmental importance of any other protected area; and*
  - (I) adequate fencing, capable of preventing nuisance to neighbouring areas, is provided.*
- 7.5 However, in light of the new Circular the criteria may need to be considered more flexibly in cases where an identified need has been established. The fact that a site may be in an area with a landscape, wildlife or conservation designation should no longer in itself be a reason for refusal, unless it can be demonstrated that the development would undermine the objectives of that designation. A more flexible approach should also be taken in terms of distance to local facilities. Whilst sites immediately adjoining settlements may best meet sustainability criteria they can also give rise to other problems, particularly in relation to impact upon residential amenity.
- 7.6 Circular 01/2006 identifies the issue of the scale of sites in relation to existing settlements. Existing communities should not be dominated by



large scale gypsy sites. In implementing Policy H14, the relative size of any proposed site in relation to nearby settlements must be taken into account.

## **8.0 CORPORATE PRIORITIES**

8.1 This report is concerned with the provision of housing, which impacts mainly on the Corporate Priorities of Health and Economy.

## **9.0 CONSIDERATION BY REVIEW PANELS**

9.1 The report has been considered by the Housing Review Panel and Strategic Planning, Transportation and Economic Development Review Panel at their meetings on 11 and 12 April respectively. Both Panels resolved to support the report's recommendation.

## **10.0 RECOMMENDATION**

10.1 It is **recommended** that the Executive notes the contents of this report and agrees the following actions:

- undertake an assessment of the needs of each individual, family or group currently occupying unauthorised sites;
- seek to identify opportunities for providing suitable sites for those individuals, families or groups accepted as having legitimate needs; and
- adoption of a changed approach to the implementation of Taunton Deane Local Plan Policy H14 to reflect:
  - the more flexible approach to applications within areas of nationally recognised environmental designations such as AONBs or SSSIs;
  - greater flexibility in terms of the distance from facilities; and
  - new advice that existing communities should not be dominated by large scale gypsy sites;
- inclusion in the Core Strategy DPD of criteria to guide the allocation of sites; and
- inclusion in the Allocations DPD of specific site allocations to accommodate identified unmet needs.

## **Background Papers**

The following documents have informed the content of this report:

- Taunton Deane Local Plan, November 2004
- Accommodation Needs Assessment for Gypsies and Travellers within Somerset, February 2006
- Draft Planning Policy Statement 3: Housing, December 2005
- ODPM Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites, February 2006

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## APPENDIX 1

**Table 1: The Existing Situation - Site and Caravan numbers and distribution – authorised, and actual at 19/1/06**

	Sedgemoor		Mendip		South Somerset		Taunton Deane		West Somerset		Somerset County	
<u>Authorised Sites</u>	Site	C/vans	Site	C/vans	Site	C/vans	Site	C/vans	Site	C/vans	Site	C/vans
L A Residential	1	16	1	46	2	28	1	30	1	20	6	140
L A Transit	1	19	0	0	0	0	0	0	0	0	1	19
LA to address unauthorised dev.	0	0	0	0	0	0	1	6	0	0	1	6
Private	9	36	13	57*	8**	16	13	85	0	0	43	189
Private Transit	0	0	0	0	0	0	1	25	0	0	1	25
<b>Total No of Authorised Sites and Caravans</b>	<b>11</b>	<b>71</b>	<b>14</b>	<b>103*</b>	<b>10</b>	<b>44</b>	<b>16</b>	<b>146</b>	<b>1</b>	<b>20</b>	<b>52</b>	<b>379</b>
Actual No. of Authorised Caravans at 19/1/06 (including Transit)		59		73+		30		112		18		292
Actual No. of Unauthorised Caravans at 19/1/06	7	26	7	41	6	29	4	22***	0	0	24	118
<b>Actual Total No. of Sites and Caravans at 19/1/06</b>	<b>18</b>	<b>85</b>	<b>23</b>	<b>114+</b>	<b>16</b>	<b>59</b>	<b>20</b>	<b>134***</b>	<b>1</b>	<b>18</b>	<b>76</b>	<b>410</b>
No. of unauthorised encampments recorded 2002-2005	8		31		20		8		1		68	
Estimate of Families in Housing	10		20		20		10		0		48	

\* Includes 16 Shelters

\*\* Includes 1 LA Residential Family Site counted as Private

\*\*\* Includes 10 on one site with no evidence of current occupation

+ Possible 12 Vans on authorised sites not visited in Count

**Table 1** above shows the overall number of sites and caravans that have been identified through a combination of the desk top survey and the 19<sup>th</sup> January Caravan Count. A further Caravan Count is due to take place in July.

## TAUNTON DEANE

Category	Site Location	Ethnic Group	No. of Vans Auth'd	Actual No. of Vans	Comments
L.A. Residential Site	Otterford Taunton	Gypsies	30	23	Site full – no pitches available
L.A. Temporary site	Otterford, Taunton	Gypsies	6	0	Temporary permission
Private Site	Stoneyhead, Wrantage	Gypsies	30	10	Largest site in Somerset
Private Site	Longacre, North Curry	Gypsies	1	5	
Private Site	Lords Wood, N. Curry	Gypsies	6	9	
Private Site	Newport, North Curry	Gypsies	5	5	
Private Site	Greenway, N. Curry	Gypsies	1	1	
Private Site	Upcott, Bishops Hull	Gypsies	3	4	
Private Site	Fosgrove, Blackdown	Gypsies	1	1	
Private Site	Lodge Copse, Bradford-on-Tone	Gypsies	3	3	
Private Site	Pitt Farm, Rockwell Green	Gypsies	3	3	
Private Site	Park View, Milverton	Gypsies	1	1	
Private Site	High View, Ford Street	Gypsies	4	4	
Private Site	West Hatch, Neroche	New T.	26	26	Site full
Private Site	Dodhill Green, Staplegrove	Gypsies	1	1	
<b>Total Authorised Residential Sites (15)</b>			<b>121</b>	<b>96</b>	
Unauthorised Private Site	Oxen Lane, North Curry	Gypsies	0	17*	Granted 1 year to relocate.
Unauthorised Private Site	Knapp Lane, N. Curry	Gypsies	0	1	
Unauthorised Private Site	Brimley Hill, Blackd/n	Gypsies	0	3	
Unauthorised Private Site	Two Acres, Ford Street	Gypsies	0	1	
<b>Total Unauthorised Sites (4)</b>			<b>0</b>	<b>22</b>	
<b>Total – Residential</b>	<b>15 Authorised Sites, 4 Unauthorised Sites</b>		<b>121</b>	<b>118</b>	

Category	Site Location	Ethnic Group	No. of Vans Auth'd	Actual No. of Vans	Comments
<b>Transit Site (Private)</b>	Stoneyhead, Wrantage	Gypsies	<b>25</b>	<b>16</b>	Could be developed further

\* Only 7 of the 17 caravans, on 4 out of the 16 pitches, showed any evidence of current occupancy.