

Taunton Deane Borough Council

Executive - 8 August 2012

Report on Gypsy and Traveller Statutory Requirements and work being undertaken to address these

Report of the Planning Policy Officer

(This matter is the responsibility of Executive Councillors Jean Adkins (Portfolio Holder for Housing) and Mark Edwards (Portfolio Holder for Planning and Transport))

Executive summary:

TDBC has a statutory responsibility to:

- Identify the requirements for Gypsy & Traveller Pitches through the life of its Planning Policy;
- Set out in the Core Strategy criteria based policy for the location of gypsy and traveller sites;
- Allocate sites in the Site Allocations Development Plan Document;
- Identify a 5 year supply of land for future Gypsy & Traveller pitches;
- Provide appropriate accommodation for those presenting as homeless.

Work has already been done to meet some of these requirements and work is ongoing to address the others. Member support is required to enable officers to undertake this work and meet the Council's obligations.

1 Purpose of report:

- 1.1 To update members of changes in legislation and the Authorities statutory responsibility; to inform members what Officers are doing to address the Council's statutory responsibility; to request member support for the work officers are doing.

2 Background:

- 2.1 The Government abolished the following Planning Legislation and Guidance relating to Gypsy & Traveller Accommodation:
- Planning Policy Statement 3: Housing;
 - Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites;
 - Circular 04/2007 Planning for Travelling Show People.

2.2 Replacing it in March 2012 with:

- National Planning Policy Framework;
- Planning Policy for Traveller Sites.

2.3 Legislation which remained; relating to Gypsy & Traveller Accommodation:

- Section 225 of the Housing Act 2004;
- Section 87 of the Local Government Act 2003 (as amended);
- Section 17 (3) Planning and Compulsory Purchase Act 2004.

3 Statutory Requirements:

3.1 The Authority was and still is required to:

- Establish Need:
A robust and credible evidence base for a 5 year period
- Address Need:
Plan Making: Set criteria to guide the allocation of sites and Allocate suitable land
- Duty to Homeless:
Provide appropriate accommodation for those presenting as homeless

3.2 Additional Statutory Requirements under the new legislation:

- Establish Need:
A robust and credible evidence base for time frame covered in the local planning policy; the Core Strategy; a 15 year period
- Address Need:
Identify a 5 year supply of land to meet identified need.
- Locations: Sustainability of site locations, not in the countryside unless exceptional circumstances are proven.

4 How are we addressing this?

4.1 **Establishing need: The 2010 Gypsy & Traveller Accommodation Assessment** (GTAA) established the need for pitches in years 2010 to 2020. As this was produced before the new legislation was brought in it doesn't cover need for 2021 to 2028.

Residential Pitches* 2010 - 2015	Residential Pitches 2015 - 2020	Transit Pitches**	Showmen's Yards***
25	19	5	4

*Residential Pitches are those with permanent permission for residence.

** Transit pitches are permanent sites intended for temporary residence. Otterford B in Taunton Deane (Somerset County Council owned site) site permits residence by agreement of up to 6 months.

***At least 4 Showmen's yards will be needed by 2015 across the County of Somerset

An addendum will be required to the GTAA projecting the need to 2028. Officers have contacted De Montfort University who produced the GTAA to see if they are able to produce an addendum to the report to provide the need to 2028. A meeting is being arranged with Somerset Planning Policy Officers from the 5 District Councils to discuss jointly commissioning this work. Members support for this work is vital.

- 4.2 **Addressing Need: Plan Making:** The Core Strategy sets out the need identified through the GTAA in Core Policy 4: Housing and Development. Development Management Policy 3: Gypsy & Traveller Site Selection Criteria sets out assessing the suitability of sites for transit and residential pitches. A key change in policy direction is for sites to be sustainable; economically, socially and environmentally. Sites in the open countryside should be strictly controlled if outside existing settlements and Plan Allocations, unless there are mitigating circumstances i.e. linked to location of employment or identified affordable accommodation need locally, as in the case of exceptions sites for settled housing. The Core Strategy states that allocations will be made in the Site Allocations Development Plan Document.
- 4.3 **Addressing Need: Site Allocations Development Plan Document,** which follows on from the Core Strategy, could allocate sites in any of the sustainable locations identified in the Core Strategy. Government guidance recommends identifying locations for small family run sites. Allocations work is ongoing through the Call for Sites and discussions with TDBC departments (i.e. Housing Enabling, Development Management), Partners (i.e. Southwest One Asset Management, Somerset County Council). Identifying sites is a contentious and complex process. Members support for this work is vital.
- 4.4 **Addressing Need: establishing a 5 year supply of sites** for Gypsy & Traveller pitches is a new statutory requirement for the Council.

Current 5 year requirement is 21 pitches*
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*(25 pitches 2010-15, minus 8 pitches granted planning permission 2010-2012, plus 3.8 pitches for 2016 = 5 year requirement of 20.8 pitches)

The five year supply does not include figures for transit accommodation.

It must be borne in mind that the pitch requirements are very specific, there isn't an established building industry promoting sites nor do we have landowners routinely offering land for Gypsy & Traveller sites. The process will therefore be lengthy and complicated. It should be noted that not having identified land for a 5 year supply of Gypsy & Traveller Pitches will put the Council at risk of having to grant planning permission for pitches in locations which we would not otherwise to grant permission for; on Appeal. Members support for this work is vital.

- 4.5 **Addressing Need: the first Call for Sites** was undertaken in September 2011; TDBC Members, Somerset County Council, TDBC departments, Members of the Gypsy & Travelling Community were asked if they knew of any potential sites for future pitches. 9 potential sites were promoted to us. An initial desk top assessment identified any policy constraints (i.e. flooding, highways, AONB, sustainability). These sites were also taken to two panels made up of Gypsy & Traveller Organisations and members of the Gypsy & Traveller community. Unfortunately none of the sites were suitable due to either availability or policy constraints.

The sites were not suitable because they were either not deliverable or not developable. For a site to be considered deliverable or developable, it must be suitable, available and achievable. 5 of the sites were let on long term leases and therefore were unavailable in the next 5 years. 1 site was in a flood plain and had a covenant on it for use as Public Open Space, therefore not suitable in Planning Policy terms. 1 site had planning permission for another use and the site owner intended on implementing that permission, therefore the site was not deliverable. 1 site was in the open countryside and therefore was not suitable in Planning Policy terms. 1 site was in a prominent position in the landscape and therefore not suitable in Planning Policy terms.

The second Call for Sites is underway; the scope was widened to include Stakeholders (i.e. Somerset County Council, Somerset NHS, Avon & Somerset Constabulary and Police Authority, Wessex Water, National Rail). Officers intend to contact landowners who have previously submitted land for consideration for Housing which fell below the Strategic Housing Land Availability Assessment threshold of 5 dwellings or 0.25hectares; to see if they would consider putting the land forward for Gypsy & Traveller pitches. In the future we could look at any registers of unused and under-utilised land owned by public bodies. Members support for this work is vital.

- 4.6 **Addressing Need: Transit provision** is important for the Authority to discharge its statutory responsibility to provide accommodation to members of the Gypsy & Traveller community who are homeless or at risk of being homeless and also to provide alternative accommodation to those occupying unauthorised sites. Transit provision should primarily be met through the planning process. However; other options to provide temporary accommodation include: opening up traditional stopping place or Green Lanes, taking a lease or purchasing the County owned Otterford B site, having a legal agreement with private landowners (i.e. Somerset Travellers Ltd; leaseholders of Middlezoy in Sedgemoor). Some initial enquiries have been made in partnership with Somerset Project Working Group for the Implementation of the GTAA recommendations. A significant amount of work remains as it requires joint working with landowners, District and County Authorities and other Organisations and Stakeholders (i.e. Friends and Families of Travellers, Travellers Education, Avon and Somerset Police). Members support for this work is vital.

- 4.7 **Addressing Need: Affordable Accommodation:** As with all forms of housing there is a need for affordable accommodation. Unfortunately the Council's preferred affordable housing partners have told us they do not possess the specialist knowledge or resources to deliver Gypsy & Traveller sites. Officers

have had discussions with a few Local Authorities with experience delivering Gypsy & Traveller accommodation in partnership with Affordable Housing Providers and hope to explore this in more detail in due course. Members support for this work is vital.

- 4.8 **Addressing Need: Capital fund for provision of Gypsy & Traveller Pitches:** The Authority received money in 2006/7 from the Gypsy & Traveller Sites Grant from the Department of Communities and Local Government to create new sites and pitches. TDBC's joint application with the Gypsy & Traveller Community created a capital fund of £150,000. The conditions of the grant state that money is to be used for the purchase of land and installation of infrastructure; sale of land and pitches is to be put back into the fund. Internal discussions and discussions in partnership with Somerset Project Working Group for the Implementation of the GTAA recommendations have highlighted difficulty identifying sites. Identifying sites is vital, however; Officers intend to explore other options involving existing projects such as Community Land Trust or Community Interest Companies (i.e. Mendip, Home Space). Members support for this work is vital.

Government have indicated that they will continue to support the Gypsy & Traveller Sites Grant Scheme through the Homes and Communities Agency. £13 million is available from its Traveller Pitch Funding Programme for developed schemes that can demonstrate value for money.

- 4.9 **Identifying and Resolving Issues: Gypsy & Traveller Forum:** The forums are vital, two-way communication tools. They allow TDBC to take policies and procedures for consultation as well as disseminate information on a variety of topics and they provide a conduit for the communities to raise issues. TDBC has historically had a very active and productive forum. In 2011 Somerset Equalities Officers Group provided funds for the charity People Can to facilitate the forums in four of Somerset's District Council's, since then attendance has waned. Officers are trying to work with People Can to revitalise the forums and resolve tensions that appear to have occurred since they took over the facilitation of the Forums. There is a risk that TDBC will lose a vital communication tool with this traditionally hard to reach minority within its Borough. Members support for this work is vital.

- 4.10 **Identifying and Resolving Issues: Gypsy & Traveller Working Group:** Following the sale of the Country Council owned Gypsy & Traveller sites to a private company; a number of issues have developed. A Gypsy & Traveller Working Group (GTWG) was established to bring a number of teams and departments in TDBC together to jointly tackle these issues. The group currently comprises of representatives from Planning Policy, Housing Enabling, Benefits, Planning Enforcement and Development Management; though it is envisaged that membership will vary and ultimately involve external stakeholders (i.e. Citizens Advice, Avon & Somerset Constabulary, Somerset County Council) as issues evolve. Members support for this work is vital.

5 Financial Comments

- 5.1 The Somerset Authorities pooled contributions for the GTAA, a more cost effective solution than each authority funding an individual report. The TDBC contributions came from Planning Policy and Housing Strategy budgets. It is hoped that an addendum will also be jointly commissioned.
- 5.2 The Coalition Government have indicated that the New Home Bonus Scheme, which will match the Council Tax raised on each new house for six years after it built, will be applicable to new Gypsy & Traveller Pitches.
- 5.3 The Authority received money in 2006/7 from the Gypsy & Traveller Sites Grant from the Department of Communities and Local Government to create new sites and pitches. TDBC's joint application with the Gypsy & Traveller Community created a capital fund of £150,000.

Government have indicated that they will continue to support the Gypsy & Traveller Sites Grant Scheme through the Homes and Communities Agency. £13 million is available from its Traveller Pitch Funding Programme for developed schemes that can demonstrate value for money.

- 5.4 Not identifying sufficient suitable land will result in risk of future illegal encampment and planning by appeal. Liability for costs of such actions is payable by the Authority.

6 Legal Comments

- 6.1 The various Gypsy & Travellers communities are officially recognised as a distinct ethnic group under the Race Relations Act.
- 6.2 National Planning and Housing legislation makes clear that Local Authorities should undertake a robust assessment of need to enable successful planning for future pitch provision for the Gypsy & Travelling community in the same way that they plan for the settled community. Through the Plan led system the Local Authority should set out criteria based policy for the location of gypsy and traveller sites; allocate sites and identify a 5 year supply of land for future Gypsy & Traveller pitches.
- 6.3 Local Authorities may also be required, under Section 87 of the Local Government Act 2003 (as amended), to produce a strategy that addresses the need identified, including that of Gypsies and Travellers.
- 6.4 Housing Acts of 1977 and 1996, and the Homelessness Act 2002, placed statutory duties on local housing authorities to ensure that advice and assistance to households who are homeless or threatened with homelessness is available free of charge. Local Authority must also provide appropriate accommodation for those presenting as homeless.
- 6.5 Under the Human Rights Act 1998 offering a homeless Gypsy or Traveller Bed & Breakfast accommodation, as we do settled members of the community, would contravene their personal beliefs.

7 Corporate Aims

7.1 This work links directly and indirectly to the following Corporate aims:

Aim 1 – Tackling Deprivation and Sustainable Community Development
Deprivation will be tackled so that disadvantaged communities will have better access to jobs, training and local services

Aim 2 – Regeneration
...Homes will have been provided to cater for the needs of an expanding and diverse population...

Aim 3 – Affordable Housing
Everyone will have access to a decent home at a price they can afford, in a place they want to live

This work also feeds in to the Council's Planning Policy which is a Council priority.

8 Environmental Implications

8.1 National Planning Policy and TDBC's Core Strategy contains policies on development in sustainable locations to minimise the need to travel and maximise the opportunities for public transport, cycling and walking. A sustainability appraisal has been carried out on all objectives, policies, and proposals of the Core Strategy.

9 Community Safety Implications

9.1 The aim of National and Local Policy is to address the needs of particular groups and areas of deprivation and seeks to reduce crime and fear of crime, as well as incidents of antisocial behaviour, reduce social inequalities and disadvantage; protect and enhance the sense of community and access to services and facilities.

10 Equalities Impact Assessment

10.1 The GTAA was written considering the positive and negative impacts on the six following equalities groups – Disability, Race, Faith, Gender, Sexual Orientation and Age. The GTAA with the help of the National Guild of Showmen was only able to identify one Showman's Yard in Somerset. The views of the wider Showmen's Community may therefore not be represented in the report.

10.2 An Equalities Impact Assessment (EIA) of the Core Strategy has been carried out and published alongside the Published Plan Core Strategy document.

10.3 An EIA will be undertaken for all subsequent work identifying need (i.e. GTAA addendum), addressing need (i.e. Site Allocations Document), as well as processes and decisions on allocation of the Capital fund for provision of Gypsy & Traveller Pitches.

11 Risk Management

- 11.1 Financial: Without actively identifying and addressing the need the Authority is at risk of unauthorised encampments, permitting development in undesirable locations and Planning by Appeal; with their associated costs. Actively addressing the requirements reduces the risk of discrimination. For example, if we cannot offer pitches the Council is exposed to claims based on discrimination under the European Court of Human Rights Legislation.
- 11.2 Reputation: The Council is at risk of not producing justified and effective Development Plan Documents, thus carrying risk of the plans being found unsound. The issues around unauthorised encampments, appeals and Human Rights will also affect the Authority's reputation.
- 11.3 Community Health: The Council is at risk of not being able to discharge its homelessness obligations and offer alternative accommodation to illegal encampments. Promotion of sustainable development locations and community integration are key in tackling issues of deprivation and ill health that are prominent within significant groups of the Gypsy & Travelling community.

12 Partnership working

- 12.1 Identifying Need: The Authority has already undertaken partnership working in regard to the evidence base of need, the GTAA. It is hoped that this will continue with the commissioning of an addendum to the GTAA.
- 12.2 Addressing Need: addressing need will only be delivered in partnership with organisations (i.e. Showpersons Guild, Affordable Housing Providers), stakeholders (i.e. Somerset District Council's, Somerset County Council, Avon & Somerset Police) and communities (Parish Councils, Members of the Gypsy & Travelling Community).

13 Recommendations

- 13.1 Executive is requested to acknowledge the TDBC's statutory responsibilities and endorse the actions in relation to identifying need, addressing need and engaging with the Gypsy & Travelling Community, as a means to enable the Council to meet its statutory responsibilities.

14 Further Information

- 14.1 Ann Rhodes Policy Officer (Planning and Development)
Ext 2222, e-mail a.rhodes@tauntondeane.gov.uk

Appendix 1

Policy DM 3 - GYPSY AND TRAVELLER SITE SELECTION CRITERIA

Proposals for the use of land for occupancy by Gypsies and Travellers should demonstrate that in the first instance consideration has been given to sites within existing settlement boundaries. Where such sites are not available consideration should be given to sites adjoining or adjacent to existing settlement limits. The consideration of sites which do not fulfil this criteria will only be justified where the Council is satisfied that alternative sites are not reasonably available to the applicant. Expansion of existing sites will be considered on its merits, taking into account the potential impacts of expansion in accordance with the provisions set out in a) to f) below.

Applicants will need to provide evidence that the future occupants are members of the Gypsy or Travelling communities, including information about the intended occupant's past travel and their link to work patterns where applicable.

RESIDENTIAL SITES

In all cases the following criteria should be satisfied fully:

- (a) The proposal will help to meet a clear and evidenced need as demonstrated through a GTAA or other evidence submitted alongside the application; and
- (b) The site is well-related to local services and facilities including retailing opportunities, schools and doctors surgeries as well as existing employment provision; and
- (c) The environmental impacts of the proposal are minimised, this will include appropriate screening and siting of development taking into account landscape issues as well as any likely impacts upon wildlife, built heritage and flood risk; proposals should in particular avoid any adverse impact on the Natura 2000 sites in the Borough and comply with Habitats Regulations 2010. Details of habitats protection and mitigation including bat protection zones are covered under Environment Policy.
- (d) The proposal would not unacceptably prejudice the amenity of adjoining or adjacent occupiers; and
- (e) The site can be adequately served by the appropriate infrastructure to support the development including foul and surface water drainage;
- (f) The impact of the proposal will not give rise to an unacceptable impact on traffic movements, noise and other potential disturbance arising out of the movement of vehicles on to and off of the site.

TRANSIT SITES

In the case of transit sites, these will be considered in the context of the criteria outlined above excluding point b. Here preference should be given to proposals which relate to land that benefits from ease of access to the Trunk Road network and M5 motorway.

Appendix 2

Core Strategy	Strategic Planning Policy Document for the Borough
DPD	Development Plan Document (Planning Policy Document)
EIA	Equalities Impact Assessment
GTAA	Gypsy & Traveller Accommodation Assessment
GTWG	Gypsy & Traveller Working Group (a TDBC Officers Group)
SHELAA	Strategic Housing & Employment Land Availability Assessment