

GYPSY AND TRAVELLER PLAN

Local Planning and Environment Advisory Committee – 23 October 2014

Report of Chief Planning Officer

Status: For Decision

Also considered by: Cabinet – 13 November 2014

Key Decision: Yes

Executive Summary:

This report outlines the content of the recent government consultation (Planning and Travellers, published 14 September) and possible implications for SDC.

It also sets out the alternative sites proposed through the call for sites, that could be subject to a supplementary consultation in the autumn/winter.

The report outlines the proposed next steps to progress the Plan.

This report supports the Key Aim of Caring Communities and Green Environment from the Community Plan

Portfolio Holder Cllr. Piper

Contact Officer(s) Hannah Gooden Ext.7178 and Steve Craddock Ext.7315

Recommendation to Local Planning and Environment Advisory Committee: That the recommendation to Cabinet is endorsed.

Recommendation to Cabinet: That the Council undertakes a supplementary site options consultation, to provide an opportunity for interested parties to comment on potentially suitable alternative site options, put forward through the recent call for sites.

Reason for recommendation:

To make progress on the preparation of the Gypsy and Traveller Plan in accordance with the Local Development Scheme. The Council should acknowledge that the Government is consulting on changes to national policy on Gypsies and Travellers in the supplementary sites consultation. However, the Council should continue to prepare its plan on the basis of national policy in place at the current time. Some aspects of the consultation are a fairly radical departure from existing policy and may change following the consultation and/or the General Election. Following the supplementary sites consultation, there will be the opportunity for the Council to reflect on the changes made

to national policy before submitting the plan for examination.

Government Consultation (Planning and Travellers)

- 1 The commentary below sets out briefly the content of the consultation and implications for SDC. The consultation on Planning and Travellers was published by DCLG on Sunday 14 September for 10 weeks (until 23 November).
- 2 The Government states that it is keen to deliver a planning system that applies equally and fairly to all. If travellers have given up travelling permanently, it is proposed that they are to be treated in the same way as the settled community.
- 3 The Government states that it is concerned that current policy is not giving sufficient protection to Green Belt and other sensitive areas (SSSI/AONB/National Parks).
- 4 The consultation document proposes thirteen questions and a response to this consultation will be prepared in consultation with the Portfolio Holder.

Consultation Section 2 - Ensuring fairness in the planning system.

- 5 The word 'permanently' is proposed to be deleted from the definition of travellers i.e. if travellers have given up travelling *permanently*, and apply for a permanent site then the application would be treated in the same way as an application from the settled community. In SDC, where the majority of land is Green Belt / AONB, local planning policies seek to resist the positioning of caravans (or new dwellings) in these areas. It is unlikely to be economically viable to develop a caravan site within the built confines of settlements. This in effect means that the Council is unlikely to be able to issue any planning consents for permanent sites.

Consultation Section 3 – Protecting sensitive areas and the Green Belt

- 6 The government wants to clarify the level of protection afforded by national policy (the NPPF) to sensitive areas (which it lists as areas protected under Birds and Habitats Directives, SSSIs, Local Green Space, AONB and National Parks).
- 7 Government policy is proposed to be amended so that the absence of a five year supply of sites would no longer be considered a significant material consideration in the above areas in favour of the grant of temporary consent (it would be a material consideration). This re-iterates the ministerial statement (from January 2014) which said that unmet need is unlikely to outweigh harm to the Green Belt. This in effect means that the Council would also be unlikely to be able to issue planning consents for temporary sites, as the majority of the District falls into these constrained areas.
- 8 Following the publication of the Planning and Travellers consultation, the Government has updated the National Planning Practice Guidance to state that in decision taking, unmet need is unlikely to outweigh the harm to the Green Belt and constitute very special circumstances.

Consultation Section 4 – Addressing unauthorised occupation of land

- 9 The government wants to address ‘intentional unauthorised occupation’ as it states that retrospective planning permission is to correct ‘innocent mistakes where applicants are unaware the planning permission is required’ and this is being flouted. Therefore intentional unauthorised occupation would be regarded as a material consideration that weighs against the grant of permission.
- 10 There is also a section that sets out that where a local authority has a large-scale unauthorised site (which is then cleared), there is no assumption that the local authority then has to meet their traveller site need in full. It is likely that this is in response to the clearance of Dale Farm, Basildon.

Consultation Annex A – Draft Planning Guidance for Travellers

- 11 The Government is also updating the guidance for objectively and accurately assessing the pitch need (i.e. the GTAA guidance), which is set out at Appendix A. This section also clarifies that Temporary Stop Notices can be used where a breach of planning control has occurred on land occupied by a third party. If these consultation proposals become government policy, the Council is likely to need to update its needs assessment evidence base document (the GTAA) to identify whether those people that have stopped travelling have done so temporarily or permanently.

Implications of the Government Consultation for SDC

- 12 If the proposals within the consultation document are adopted, SDC is unlikely to be able to issue either permanent or temporary consent for gypsy and traveller pitches in the District.
- 13 Applications for permanent consent for pitches in the Green Belt/AONB will be judged against SDC planning policy (see Allocations and Development Management Plan Policy GB6 - siting of caravans and mobile homes in the Green Belt), and are likely to be refused. The Policy restricts this type of development other than for agricultural/forestry activity and with a proven need.
- 14 Applications for temporary consent for pitches in the Green Belt/AONB are likely to be refused, as the unmet need and personal circumstances of applicants are unlikely to outweigh harm to the Green Belt to constitute ‘very special circumstances’, under revised national policy. The consultation document does not, however, propose to amend paragraph 15 of Planning for Traveller Sites, which allows local authorities to amend Green Belt boundaries to meet an identified need for Gypsy and Traveller pitches.
- 15 Since very little land in the District is not constrained by Green Belt/AONB designations, the result of these proposed changes is that they are likely to drive the need elsewhere. The Council would need to use the ‘duty to co-operate’ to try and ensure that unmet need is addressed by neighbouring authorities with less strategic policy constraints. However, unlike recent ‘duty to co-operate’ discussions, the Council would be starting from a position, where its need would likely be significantly lower and it would be under less threat of developments being permitted in the Green Belt if need is not met.

Implications for the SDC Gypsy and Traveller Plan

- 16 The Council's Gypsy and Traveller Plan has been prepared in accordance with the current 'Planning policy for traveller sites (March 2012)' and unless/until this is replaced, this remains the prevailing planning policy related to gypsies and travellers. Until the consultation closes and the government decides whether to implement, drop or modify the new proposals, these should only be considered as potential future options and not as adopted government policy. It should be noted that the proposed changes have been seen as relatively controversial by sections of the community and commentary suggests that the consultation and any resultant changes to policy may not be a straightforward process, and may be subject to future legal challenges if implemented.
- 17 Our work programme for the Gypsy and Traveller Plan outlines that the Council will undertake a supplementary site options consultation, this autumn/winter, to provide an opportunity for interested parties to comment on potentially suitable alternative site options, put forward through the recent call for sites.
- 18 It is recommended that the Council continues with this consultation, but that the document contains a clear caveat that the Government is currently consulting on proposals that may affect planning policy for travellers, and that any subsequent changes will be taken into account.
- 19 It should be acknowledged that many of the responses to any supplementary consultation may highlight that the location of the sites (in the Green Belt/AONB) and the proposals to make these sites permanent, are inconsistent with the government consultation document as drafted. However, the Council would need to reiterate the above response that until the government decides whether to implement, drop or modify the new proposals, they should not be viewed as adopted government policy
- 20 The alternative is to pause until the government consultation has concluded and the changes are either implemented, dropped or modified. The risk is that this may leave SDC in 'limbo' for some time (i.e. the response may come before or after the elections in May 2015), and will lead to a further delay in the production of this Plan. If the Council was to pause at the release of every planning consultation, it would be very difficult to make any progress in planning policy formation. Therefore, the recommendation is to continue with the proposed supplementary consultation, whilst acknowledging that there is a live government consultation that may have future implications for the Plan.

SDC Supplementary Sites Consultation

- 21 Many alternative sites were suggested during the Council's recent 'call for sites', which requested landowners and other interested parties to suggest land that might be suitable for Gypsy and Traveller pitches.
- 22 The recommendation is that these sites are now subject to a Supplementary Sites Consultation to provide an opportunity for interested parties to comment on potentially suitable alternative site options, put forward through the recent call for sites. The Supplementary Sites Consultation document is set out at Appendix A, which includes detailed site assessments for each of the sites outlined below.

- 23 An initial 'high level' desktop assessment was undertaken of the suitability of each of these sites, and land registry searches were undertaken where the land-owner was not known. Site visits were conducted on sites which were considered to be potentially suitable following the initial 'high level' desktop assessment. The potential alternative site options are set out in the following paragraphs below.
- 24 These sites were reported to Advisory Committee and Cabinet in September. The track changes in the charts set out where further information has been received on these sites since these meetings.

| Source | Potential Number of Additional/Alternative Pitches |
|--|---|
| Sites with planning applications submitted (Table 1) | 8 (10) pitches |
| Extensions to Existing Sites (Table 2) | 28 (26) pitches |
| New sites suggested by landowners (Table 3) | 5 (8) pitches |
| TOTAL | 41 pitches |
| Number of remaining pitches from initial consultation document (30 pitches were removed) | 41 pitches |
| GRAND TOTAL | 82 pitches |

| Table 1 | | |
|---|---------------------------------|--|
| New Site / Extension | Potential No. of Pitches | Notes |
| New or extended sites with planning applications submitted | | |
| Hilltop Farm, London Road, Farningham | 5 | Planning application submitted – pending consideration |
| Malt House Farm, Lower Road, Hextable | 2 | Planning application submitted – pending consideration |
| Bluebell Paddock, Gravesend Road, Ash-cum-Ridley | 1 | Planning application submitted – pending consideration |
| Button Street, Swanley | 2 | Planning permission now issued |
| | 8 pitches | |

| Table 2 | | |
|--|---------------------------------|---|
| New Site / Extension | Potential No. of Pitches | Notes |
| Extensions to Existing Sites | | |
| <u>Button Street, Swanley (Existing Site)</u> | <u>2</u> | <u>Temporary permission issued. Proposal to convert temporary to permanent permission now suggested for consultation</u> |
| Button Street, Swanley (Extension) | 4 | Submitted through a Representation – more pitches (9) were suggested but, given the comments expressed from the settled and G&T communities about how smaller sites are easier to integrate, only 4 are proposed for consultation |
| Two Barns, Knatts Valley, West Kingsdown | 3 4 | Feedback from G&T survey (<u>an additional pitch was requested</u>) |
| Fordwood Farm, New Street Road, Hodsoll Street | 3 | Feedback from G&T survey |
| Polhill Park, Polhill, Halstead (existing G&T site) | 2 | Feedback from G&T survey. A formal response to the consultation from KCC is still awaited and should confirm whether there is potential for additional pitches at this site. A response from KCC was received that did not promote this site – SDC is working with KCC to see if there are any options for expansion |
| Seven Acres Farm, Hever Road, Edenbridge | 5 | Feedback from G&T survey – more pitches (10) were suggested but, given the comments expressed from the settled and G&T communities <u>and members</u> about how smaller sites are easier to integrate, only 5 (+7 considered in the previous consultation) are proposed for consultation |
| Bournewood Brickworks, Stones Cross Road, Crockenhill | 7 | Feedback from G&T survey |
| Holly Mobile Home Park, Hockenden Lane, Swanley | 2 | Feedback from G&T survey |
| <u>Land North of Pembroke House, Swanley</u> | <u>1</u> | <u>Site suggestion from third party supported by landowner</u> |
| | 28 pitches | |

| Table 3 | | |
|--|------------------------------------|--|
| New sites suggested by landowners | Potential Number of pitches | Notes |
| Little Foxes Farm, Roman Road, Marsh Green, Edenbridge | 2 pitches | <u>Site is not considered suitable due to access issues - Kent Highways Services have advised that site entrances from Hartfield Road are unsuitable and Roman Road is outside the land ownership of the site promoter</u> |
| Fairhavens, Mussenden Lane, Horton Kirby | 6 5 pitches | <u>Capacity reduced to five pitches following site visit due to environmental designations on site (ancient woodland and local wildlife site)</u> |
| Total | 5 pitches | |

- 25 In summary, the further call for sites has elicited 41 potential pitches to date, which together with the remaining pitches from the initial consultation document (also 41 pitches), provides sufficient sites to meet the District's identified need (71 pitches to 2026) with a modest margin to provide for flexibility and a fall-back in case certain sites do not come forward.
- 26 The Council has continued to investigate additional sites suggested to it by third parties to see whether the landowner is supportive of the allocation. To date, only one landowner (Land at Pembroke House, Swanley) has indicated that a site suggested by a third party is deliverable. The list of sites (suggested by third parties) is set out in Gold Appendix 1.

Conclusion and Next Steps

- 27 It is recommended that the 'supplementary site options' consultation is held in autumn/winter 2014 to give interested parties the opportunity to comment on the new potential site options.

Other Options Considered and/or Rejected

- 28 The Council could decide to put the Plan on hold until the government consultation has concluded and the changes are either implemented, dropped or modified. The risk is that this will lead to delay (i.e. the response may come before or after the elections in May 2015), and will lead to the elongation of the production of this Plan. If the Council was to pause at the release of every planning consultation, it would be very difficult to make any progress in planning policy formation. Therefore, the recommendation is to continue with the proposed supplementary consultation, whilst acknowledging that there is a live government consultation that may have future implications for the Plan

Key Implications

Financial

Any expenses incurred in the preparation of the Plan will be met from the existing budget.

Legal Implications and Risk Assessment Statement.

National planning policy requires the Council to be able to show a rolling 5 year supply of deliverable pitches. If the Council is unable to demonstrate a 5 year supply then this will currently need to be given significant weight by the Council or the Planning Inspectorate in support of any planning applications for Gypsy and Traveller pitches.

If the Council were to decide not to progress the Plan, resources in the Planning Policy team would be diverted onto other work-streams, such as the Core Strategy review, CIL implementation and Character Area Appraisals. However, the costs/risks of not preparing a Plan are related to the above issue, that without a Plan in place, the Council is at risk of losing appeals on unplanned and potentially inappropriate Gypsy and Traveller sites.

In relation to risks to the delivery of sites, if landowners were to decide not to promote an identified site for this use, the Council would need to undertake an additional call for sites, if the reduction of the site severely affected the total number of pitches.

Equality Impacts

| Consideration of impacts under the Public Sector Equality Duty: | | |
|---|----------|--|
| Question | Answer | Explanation / Evidence |
| a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community? | Yes / No | An Equalities Impact Assessment was a background document to the Gypsy and Traveller Site Options consultation. It is not a site specific assessment and, therefore, the decision on individual sites will not affect the findings of that assessment, subject to the Council still being able to prepare a plan and the same site selection criteria being applied. |
| b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity? | Yes / No | |
| c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above? | | N/A |

Appendices

Appendix A – Gypsy and Traveller Plan -
Supplementary Site Options Consultation
Document

Appendix B – Gypsy and Traveller Plan -
Supplementary Site Options Consultation –
Site Assessments

Appendix C – Gold – Sites suggested by third
parties where landowners have been
approached

Background Papers:

1. [Planning and Travellers: Proposed changes to planning policy and guidance](#) (CLG, 2014)
2. [Planning Policy for Traveller Sites](#) (CLG, 2012)
3. [National Planning Policy Framework](#) (CLG, 2012)
4. [National Planning Practice Guidance](#) (CLG, 2014 – latest version)
5. [Designing Gypsy and Traveller Sites: Good Practice Guide](#) (CLG, 2008)
6. [Gypsy and Traveller Equalities Impact Assessment](#) (2014)
7. [Gypsy, Traveller and Travelling Showpeople Accommodation Assessment – Sevenoaks](#) (2012)

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