

B&NES CABINET MEETING 12th September 2012

Update report on Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document REF. E2433

Introduction

- 1.1 This update reports brings to the attention of the cabinet the draft minutes of the Planning, Transport & Environment Policy Development and Scrutiny Panel meeting held on 23 August 2012 (Appendix A to this update report) along with the public submissions made at the Panel Meeting (Appendix B to this update report). It also updates Cabinet on the viability assessment of the site at Pensford Tip. These items raise a number of points which are addressed below

Public statements

- 1.2 At the Scrutiny Panel meeting 8 members of the public made statements regarding the Cabinet Report. These statements mostly re-iterated issues relating to specific sites raised through the public consultation. The key issues arising from the public consultation are summarised in the Cabinet Report Appendix 2 for the benefit of Cabinet and the full comments will be available to view once they are uploaded on the Council's website. In addition concerns were raised relating to the DPD preparation process.

Ongoing Lack of Certainty

- 1.3 One of the main issues raised in the public statements and the Scrutiny Panel was the uncertainty that has resulted from the public consultation on the sites. There is concern that the stock take would continue to cause distress to the public living in the vicinity of the site options as the results of this stock take will not be known until early 2013. The ongoing work causes concern for both the settled and travelling communities.

Viability Report on GT.2 Old Colliery Buildings, Stanton Wick

- 1.4 As part of the stock take, a number of investigations are underway. These will inform the outcome of the review of sites. Initial results are outlined in the Cabinet report and all these studies will be made publically available. In particular, the Cabinet report at paragraph 5.20 refers to a viability assessment on the deliverability of the site at Stanton Wick (Appendix C). The viability work sought to understand the potential costs of developing either 20 or 5 pitches on-site, the two costs seeking to provide a comparator for alternative site development options.
- 1.5 On the basis of providing a 20 pitch site, requiring a site area of 10,200m², the total scheme cost is estimated to be approximately £3.6m. Alternatively, the estimated cost of providing a 5 pitch site, requiring a site area of 3,835m²

would have a total development cost of £1.7m. Preliminary research conducted by the Council based around informal discussions with representative bodies indicates that pitch sales, at the maximum of market yield and based on permanent pitch costs only, could achieve just £2.4m for 20 pitches and £600k for 5 pitches. This preliminary assessment of viability indicates that the cost of delivering a site at Old Colliery Buildings, Stanton Wick, is highly likely to be prohibitive against potential site yield.

Draft Minute of the Planning, Transport & Environment Panel – 23rd August 2012

**Gypsies, Travellers and Travelling Showpeople Site Allocations Development
Plan Document**

The Policy & Environment Manager introduced this item to the Panel. He explained that the Council undertook consultation on an Issues and Options document between 21st November 2011 and 16th January 2012 and that a Preferred Options document was consulted on between 23rd May and 20th July 2012.

He added that as a result of the issues raised during the public consultation and also because of the further work required on the Core Strategy the Council was undertaking a review or stock take of the work so far. Part of the stock take will be a review of the site selection process in light of the concerns expressed over the previous methodology through the public consultation.

He stated that over 1,600 comments had been received to that consultation, including a number of petitions.

He informed the Panel that through the consultation 27 new sites had been suggested. He stressed that no assessment had yet taken place of these sites.

The Chairman commented that earlier in the week she had received a copy of the Cabinet report due for publication in September. She asked why the report had already been written.

The Policy & Environment Manager replied that he thought an early site of the paper would be of help.

Councillor Malcolm Hanney asked why there was no mention of the Judicial Review process in the report.

The Policy & Environment Manager apologised for the omission.

Councillor Malcolm Hanney commented that he did not understand why the Cabinet report had been published prior to this meeting. He added that the communities surrounding the 27 newly proposed sites would not have had time to receive and digest the information. He asked for the dates for when each of the newly proposed sites were suggested.

The Policy & Environment Manager replied that in response to a request at the last Town & Parish Council liaison meeting, the Council had agreed to notify Parish & Town Councils of the new list of sites as soon as it was possible. He added that it took some time to work out the exact location of some of the sites that were being put forward.

Councillor Geoff Ward commented that he felt it would be more beneficial if only viable sites were listed.

The Policy & Environment Manager reiterated his previous comment relating to the request of the Parish & Town Councils. He added that the publication of the list would promote early engagement.

The Chairman asked if some sites should simply be dismissed before publication.

The Policy & Environment Manager replied that officers have been asked not to withhold any suggested sites in light of previous criticism that the council had made decisions on sites without involving local councils.

The Chairman asked if any further comment could be given on whether three sites from the initial list were going to be removed at the next Cabinet meeting.

Councillor Tim Ball, Cabinet Member for Homes & Planning replied that it was highly unlikely that the Cabinet would choose to progress the sites at Stanton Wick, Radstock Canteen and Ellsbridge House.

The Chairman asked at this point if Councillor Ball would like to make his statement to the Panel.

Councillor Ball stated that in the light of the recent Options Consultation and the further work required on the Core Strategy, a stock take of the Gypsy & Traveller site work was underway. He added that the results of on-going work indicated that there were particular concerns about the deliverability of three of the sites.

Old Colliery, Stanton Wick:

Highways – The development of this site would require considerable improvements, such as a visibility splay, amendments to the existing Traffic Regulation Order, improvements at the Stanton Wick Lane junction with the A368 and provision of additional passing places in Stanton Wick Lane. These measures will all have a cost.

Ecology – Whilst the Ecologist is of the view that no significant habitat related constraints have been identified that would prevent a carefully sited development proceeding, further surveys are needed for protected species (eg bats, great crested newts) which may require mitigation with associated costs.

Viability – An initial assessment indicates that the costs of developing the site will render the site unviable. (NB 20 pitches would cost £3.6m to develop & 5 pitches would cost £1.7m. Even if the pitches were valued at the top end of the market, they are likely to yield £2.4m for 20 pitches & £0.6m for 5 pitches).

Former Radstock Infant School Canteen:

Historic Environment – A formal Conservation Area Impact Assessment concludes that it would be very difficult to achieve good design as a Gypsy or Traveller site and that the harm arising to the Conservation Area would be considerable, failing to accord with national planning policy requirements.

Highways – The limited size of the site would prevent on-site turning and passage of large vehicles on the access road would be difficult. The proposed use of the site would require full demolition of the front boundary wall which, as noted by the Conservation Area Impact Assessment, makes a valuable contribution to the character of the Conservation Area.

Ellsbridge House, Keynsham:

Trees – The Council's senior arboriculture officer is of the view that development of this site would destroy the woodland appearance. In her view, the site is suitable for a woodland designation Tree Preservation Order.

Highways – The neighbouring landowner has indicated very strongly that the option of a new, improved shared access would not be acceptable and so this access solution is not available to the Council.

Conclusion on the above 3 sites: I believe it is almost certain that the three sites suggested at Stanton Wick, Ellsbridge House and Radstock Infant School Canteen will not be included in our final plans

The Council has also now published the list of sites suggested by the community for investigation as Gypsy & Traveller sites and these will be assessed against the new criteria. Before the Council finalises the draft Plan it will consult on the revised list of sites in the New Year.

Judith Chubb-Whittle, Chair of Stanton Drew Parish Council addressed the Panel (a full copy of the statement is available on the Panel's Minute Book, a summary is set out below).

Here are a few of the questions my parishioners have asked me to put to you;

Can a detailed number of responses received be provided?

Does a petition count as a single response?

Is it possible to provide a breakdown of responses received per site?

A revised, and hopefully more realistic and accurate site selection process is welcomed, but can we be assured that sites which have already been shown to be undeliverable will be removed AND removed permanently?

The report refers to new sites identified through the 'Call for Sites', but the initial Call for Sites closed on 16-Jan-2012. Is there currently a formal Call for Sites or is this just an informal request? Whilst the response form can be found by searching the B&NES website, it is not linked from the Gypsies, Travellers and Travelling Showpeople Site Allocations DPD web page.

One positive outcome has been the massive increase in the interest in the activities of the Parish Council; the lowest level of democracy and the only one which is apolitical. This contrasts with the Parishioners' current view of B&NES, which has

massively undermined its credibility and frustrated everyone with its unnecessary politicisation of a hugely important local issue.

Mary Walsh, Joint Chair of Whitchurch Village Action Group addressed the Panel (a full copy of the statement is available on the Panel's Minute Book, a summary is set out below).

My question this morning is why is this consultation being continued, as it has been proven to be flawed and is littered with inaccuracies?

The Whitchurch site is still included on the preferred list when it is an inappropriate site in a dangerous position, but most of all it is in the Green Belt. The Council referred to site on the matrix table as Brownfield when it has now been agreed it is definitely in the Green Belt.

Three sites have been rumoured as being removed from the list, my question is was it because they were represented by a renowned barrister or because they were inappropriate just as the Whitchurch site is. If this is the only way to get fair play we will take appropriate action or did the council remove them because of public outcry?

I keep asking about the Gas Main that runs very near to the site but no one has answered my question. Is it correct that a new development cannot be created near this danger? A letter I sent dated 12th July has still not been answered.

I trust sense will prevail and the correct action will be to remove the site from the list.

Councillor Malcolm Hanney asked if she felt that Whitchurch had been treated fairly in this process.

Mary Walsh replied that she felt that Whitchurch had not been treated fairly and that the figures attributed to them on the scoring matrix were very wide of the mark.

Ken Sutton addressed the Panel (a full copy of the statement is available on the Panel's Minute Book, a summary is set out below).

The need for B&NES to pursue the issue of traveller's sites is obvious but progress should not mean change at any price. B&NES must get it right. The current proposals are not the right thing and would do untold damage.

The absence of the mention of Conservation Areas in the current document is alarming. One of the original criteria was that sites should not be within 1½miles of such an area.

I move now to the summary of comments received on the suggested site at Radstock. The shorthand presentation of comments is worrying. People take a lot of time to present comments, they deserve effective presentation. This seems more geared to brevity than accuracy.

Traffic problems – B&NES own team leader for Highway Development Control advised before pre-consultation that the roads were already very difficult. The

document in front of you identifies the problem but plays it down. The use of this site will change the road from difficult to dangerous.

Access – Certainly the site can be reached by foot and cycle but it takes determination and hard work because it is at the top of a very steep hill. I live below the site and have walked home on only 3/4 occasions in the past 4 years. Bicycles need to be pushed up. Public Transport is very limited.

There is a primary school nearby, but it is oversubscribed. Again, B&NES officers pointed this out prior to the first paper.

The above suggests a selective deafness throughout these reports. That suggests predetermined conclusions and does no justice to the gravity of the issue, or make your job of assessment any easier.

Rosemary Collard addressed the Panel (a full copy of the statement is available on the Panel's Minute Book, a summary is set out below).

On 9th May, the land adjacent to Ellsbridge House was designated by the Council as a preferred option for a Gypsy & Traveller Site. This decision and the subsequent consultation have had a very detrimental impact on our business and its prospects as the proposed site is immediately adjacent to our nursery and shares its access.

Despite representations made to the Council, including at a Special Council meeting on 18th June 2012, the Council has failed to acknowledge that its decision to determine this site as a preferred option was negligent. As a result, we have had to deal with staff concerns, both from current staff and in the recruitment of new staff for the Keynsham nursery. There has also been less interest by families than anticipated and many families attending the Open Days have expressed concerns relating to child safety and the difficulties of securing a shared access.

The Highways section of the detailed site assessments related to this site states that 'the formation of any additional access in this location would be resisted and not in the interests of highway safety, particularly given the need for access by large / towing vehicles and caravans'.

With regard to the Potential for Development and Suitability section it was stated that 'the site is not considered suitable for development as a Gypsy & Traveller site due to its location adjacent to a busy and noisy highway'.

I do not understand why, with all the information the Council had at its disposal, the land adjacent to Ellsbridge House ended up being one of the 6 preferred sites. After months of uncertainty and worry, of time being spent writing statements, attending meetings and dealing with queries and concerns, the question I would like an answer to is, has the site been rejected?

Liz Richardson, Stanton Wick Action Group addressed the Panel (a full copy of the statement is available on the Panel's Minute Book, a summary is set out below).

Members of this Committee are now aware that both a detailed letter of claim and a detailed application for leave to legally challenge the Council has been issued by individuals including myself connected with the preferred sites at Stanton Wick, Keynsham and Radstock.

The issue which I am addressing is the lack of any reference in the reports before you of the application for a Judicial Review we consider should be of material interest to this Committee. The application which follows a detailed letter of claim before action, Challenges the Council that it acted unlawfully for the following reasons:

- The selection criteria failed to apply, or give reasons for not applying, national policy in Planning policy for traveller sites, in breach of the statutory duty to have regard to national policy;
- The Council failed to consider the reasonable alternative sites or give reasons why other sites, including tolerated sites where gypsies and other travellers are already living and working without apparent land use problems were not reasonable alternatives, in breach of the Environmental Assessment of Plans and Programmes Regulations 2004;
- The Council acted irrationally by adopting selection criteria and then short listing sites which performed very badly against those criteria;

The failure to reconsider the Gypsies DPD preferred options following the suspension of the Core Strategy examination was unlawful for the following reasons:

- A reason for refusing to reconsider the Gypsy and Traveller DPD was a belief that any delay would undermine the Core Strategy. As the Core Strategy examination has been suspended for at least 11 months, the need for urgency on the Gypsy and Traveller DPD has abated and this is a relevant consideration requiring the future of the document to be reconsidered;
- The Gypsy and Traveller DPD is required to be consistent with the development plan. However the preferred options draft is not consistent with the current Local Plan or the submission draft Core Strategy and the relevant Core Strategy policy will have to change in any event to be consistent with Planning policy for traveller sites.

I understand that it is not appropriate for me to make available copies of legally privileged documentation but I am sure the Committee will be able and wish to avail itself of copies of both the Letter of Claim before action, the Application to Challenge the Council at a Judicial Review hearing and the connected correspondence between the Council and the lawyers representing the Claimants.

Sue Osborne, Stanton Wick Action Group addressed the Panel (a full copy of the statement is available on the Panel's Minute Book, a summary is set out below).

I am providing you with a submission in respect of the main body of the report which you have before you.

Item 2.1 – ‘the scope of the stock take’ – Our submission is that the “stock take” is in effect a fundamental review and should therefore be predicated by a complete stop of this process. Only in this way will the Council be able to properly manage what is a sensitive and complex process and ensure that the conclusions reached are both robust and deliverable. To attempt what is a confused re-timing whilst continuing the review of the 6 preferred sites will bring unnecessary expense, confusion and harm to the communities surrounding the 6 preferred sites.

Item 3.1 – there is no advice regarding the cost of defending a legal challenge which is inevitable if the current process is not halted, reviewed and re-started. We suggest that this Committee will want to see a detailed budget including the cost of defending a legal challenge. We suggest that it would be appropriate for the officers to present budget and timing comparisons between a halt and re-start and the proposed ‘stock take’ and assessment of additional sites. Our cursory work concludes the cost of halting and re-starting will not be higher than this proposal for sticking plaster and hope.

Item 3.4 – We submit that the costs of development are fundamental to the consideration of deliverability and sustainability and contrary to the advice given to the Committee we consider that costs cannot be left to the Draft Plan Stage. The deliverability must be a fundamental consideration in the early appraisal of sites. Highways and Contamination can always be overcome at a price but that does not make a site deliverable for its proposed use.

Item 4.3 – We submit that to describe the objections, which have resulted in an application for a legal challenge as “concerns” is a contrived understatement and an avoidance of the challenge that the process is fundamentally flawed.

Item 4.11 – How can the continuing of this process be defended when it is admitted that the needs assessment, that which will set out the requirement for pitches, must be updated?

Item 5.5 – We submit that the flawed process promoted to date by the Council has inflicted considerable damage to relationships between the travelling communities and settled communities.

Karen Abolkheir, Stanton Wick Action Group addressed the Panel (a full copy of the statement is available on the Panel’s Minute Book, a summary is set out below).

The report fails to list all of the issues raised by the consultation process and the submissions received from individuals, professional advisors and other concerned and connected parties. Many of the issues were brought to the attention of Cabinet BEFORE 9th May meeting. We are concerned that the report is misleading from its failure to ensure the correct emphasis is applied to each of the issues and that some key issues have been omitted.

We submit that the key areas of omission are;

- The potentially affected communities were not made aware of the proposals much earlier in the process – a failure of duty by the Council to ensure a proper process of communication and consultation.
- The proposal is an inappropriate development in the Green Belt therefore contrary to Government policy and previous applications on the site have been refused on Green Belt grounds.
- Occupation of the site would dominate nearest local community at Stanton Wick directly contrary to Government policy.
- The examination and criticism of the site appraisal process and the site selection scoring matrix.
- The Stanton Wick site scores a minimum of -8. A highly respected and nationally renowned Planning Consultant submitted a report evidencing the scoring.
- The site is not one preferred by travellers as shown in the GTAA i.e. in close proximity to amenities and small family sites of up to 5 pitches.
- The distance from public services and community facilities and access to public transport.
- Impact on availability of school places, resources and quality of education in local schools.
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- Impact on availability of school places, resources and quality of education in local schools.

In respect of Responses listed from Statutory Consultees we respectfully call your attention to the following;

English Heritage – Need to carefully consider historic and social significance of the colliery to ensure any future use of the site is sensitive to its cultural heritage value (reference to conservation of non-designated heritage assets Core Strategy Policy CP6 and NPPF). – not made available for public consultation.

Wessex Water – Comment has no consideration of cost and supply restrictions and is therefore insufficient for the purpose of site evaluation.

Avon Wildlife Trust – Site is clearly not suitable for a development as proposed.

The Gypsy Council – Recommends smaller sites.

We consider that the report is therefore incomplete and selective in its reporting of the issues raised and opinions given during the consultation process.

Clarke Osbourne, Stanton Wick Action Group addressed the Panel (a full copy of the statement is available on the Panel's Minute Book, a summary is set out below).

Considerable expense of time and money has been made by our group in seeking to advise and inform the Council in both the mistakes of process and the particular detailed information concerning the site at Stanton Wick. It is of great concern that much of this advice and information has been ignored.

We remain convinced that the Council should heed this Committees earlier advice and stop this process, re-set the needs assessment, re-set the site assessment and undertake an open and fair process of selection and following that a public consultation.

We have many unanswered questions, particularly in respect of the involvement of individuals prior to the notification and launch of the process by the Council in May this year. We intend to follow through this questioning in the weeks and months to come to satisfy ourselves that all proper care has been taken by the Council to ensure a fair and open process, devoid of emotion or political positioning has been followed.

Councillor Geoff Ward asked what changes should be made to the process.

Clarke Osborne replied that he felt that the whole process should be halted to allow for further discussion with the other neighbouring Local Authorities to take place and for a review of the needs assessment to be carried out.

Peter Duppa-Miller, Secretary, B&NES Local Councils Association addressed the Panel.

He said that looking forward, the Local Councils Association most warmly welcomes B&NES Council's intentions to -

- Identify sufficient suitable, available and achievable authorised sites in Bath and North East Somerset for Gypsies, Travellers and Travelling Show People.
- Review the GTAA 2007, in order to establish the up-to-date (and projected) need for pitches.
- Comply with the Duty to Co-operate with neighbouring Local Authorities.
- Establish, and utilise, a much more robust site selection process.

Brian Hugget, Englishcombe Parish Council addressed the Panel. He stated that Site 1 of the new list of proposed sites needed to be correctly identified and that he had informed the officers of this error. He added that he found the scoring matrix difficult to follow and hoped that this would be revised as the process moved into this next phase.

The Chairman at this point wished to ask the officers present some of the questions that had been raised by the members of the public during their statements.

She asked if a detailed number of responses received per site could be provided.

The Policy & Environment Manager replied that all the responses that had been received would soon be available to view online. He added that he would provide details of the number of responses per site at the next meeting of the Panel.

The Chairman asked if a petition was counted as a single response.

The Policy & Environment Manager replied that it was.

The Chairman asked if a decision on the future of the sites at Stanton Wick, Radstock and Ellsbridge House would be made at the September Cabinet meeting.

Councillor Tim Ball replied that it would.

The Chairman asked if the scoring matrix would be revised.

The Policy & Environment Manager replied that the matrix would now be replaced by more descriptive & analytical Site Selection Criteria as set out in Appendix 3 of the Cabinet report.

The Chairman asked why there had been no mention of the Judicial Review in either the Panel or Cabinet report.

The Policy & Environment Manager apologised for this oversight and said that an update report would be issued to the Cabinet meeting.

The Chairman asked for an explanation of the scoring in relation to the site in Whitchurch.

The Policy & Environment Manager replied that he would need to look at the matrix and would give an answer at the next meeting of the Panel.

Councillor Malcolm Hanney commented that he believed the site would move from 5th to 13th on the original scoring matrix now that the site had been ratified as being within the Green Belt. He added that he did not see much need in having a further call for sites at this stage.

He asked how the 27 newly proposed sites could be fairly compared with all the previous sites.

He also stated that he was concerned over possible further legal challenges and that therefore the Council needed to get the process completely right.

Councillor Nicholas Coombes commented that he understood why a scoring matrix was used in the first instance but agreed that it was the correct decision to move on from it at this stage. He added that he welcomed the new raw list of sites and stated that he felt the MoD sites should be ruled out of these discussions.

Councillor Geoff Ward commented that he felt that only deliverable sites should be discussed and that the Council should take stock now and serve the community in the best way it can.

Councillor Caroline Roberts asked if the Council's legal team had approved the initial process.

The Policy & Environment Manager replied that it had.

Councillor Geoff Ward called for the final decisions on this matter to truly provide real solutions for the travelling community.

The Chairman asked for an update at the next meeting on the relationship between the Gypsy & Traveller Development Plan Document, the Placemaking Plan and the Core Strategy.

She also thanked the members of the public present for their attendance and contribution to the meeting.

**Statements of the Public to Planning, Transport & Environment Policy
Development and Scrutiny Panel 23rd August 2012**

BORAG

Transcript of a presentation to be made by Ken Sutton to the BANES Planning, Transport & Environment Policy and Scrutiny Panel on 23/08/12.

The need for BANES to pursue the issue of travellers sites is obvious but progress should not mean change at any price. BANES must get it right. The current proposals are not the right thing and would do untold damage.

The absence of mention of Conservation Areas in the current document is alarming. One of the original criteria was that sites should not be within 1½miles of such an area.

We have been assured by the Leader of the council that this is a “pre” consultation process. Throughout this document the word consultation is used. I presume that this is just another typographical error.

I move now to the summary of comments received on the suggested site at Radstock. The shorthand presentation of comments is worrying. People take a lot of time to present comments, they deserve effective presentation. This seems more geared to brevity than accuracy.

Traffic problems. BANES own team leader for Highway Development Control advised before pre-consultation that the roads were already very difficult. The document in front of you identifies the problem but plays it down. The use of this site will change the road from difficult to dangerous.

Local amenity is mentioned as being unable to be fully protected by screening, this is also true of the amenity of the travellers. They would be overlooked on a continuous basis.

Access, certainly the site can be reached by foot and cycle but it takes determination and hard work because it is at the top of a very steep hill. I live below the site and have walked home on only 3/4 occasions in the past 4 years. Bicycles need to be pushed up. Public Transport is very limited.

There is a primary school nearby, but it is oversubscribed. Again BANES officers pointed this out prior to the first paper.

The above suggests a selective deafness throughout these reports. That suggests predetermined conclusions and does no justice to the gravity of the issue or make your job of assessment any easier.

Let me finish with the words of our local councillor and your Cabinet member Simon Allen. "I will be objecting on planning reasons. Bath Old Road is already chocker-block with traffic, the area is designated a conservation area and access to the site is limited without reducing car spaces further"

Well said Simon.

For those and many other reasons I ask that you recommend the removal of the Radstock site from any further consideration.

Sue Osborne

My name is Sue Osborne and I am a member of the Stanton Wick Action Group and make this statement both personally and on their behalf.

I am providing you with a submission in respect of the main body of the report which you have before you.

Item 2.1 – 'the scope of the stock take' – Our submission is that the "stock take" is in effect a fundamental review and should therefore be predicated by a complete stop of this process. Only in this way will the Council be able to properly manage what is a sensitive and complex process and ensure that the conclusions reached are both robust and deliverable.

To attempt what is a confused re-timing whilst continuing the review of the 6 preferred sites will bring unnecessary expense, confusion and harm to the communities surrounding the 6 preferred sites.

Item 3.1 – there is no advice regarding the cost of defending a legal challenge which is inevitable if the current process is not halted, reviewed and re-started.

We suggest that this Committee will want to see a detailed budget including the cost of defending a legal challenge.

We suggest that it would be appropriate for the officers to present budget and timing comparisons between a halt and re-start and the proposed 'stock take' and assessment of additional sites.

Our cursory work concludes the cost of halting and re-starting will not be higher than this proposal for sticking plaster and hope.

Item 3.4 – We submit that the costs of development are fundamental to the consideration of deliverability and sustainability and contrary to the advice given to the Committee we consider that costs cannot be left to the Draft Plan Stage. The deliverability must be a fundamental consideration in the early appraisal of sites. Highways and Contamination can always be overcome at a price but that does not make a site deliverable for its proposed use.

Item 4.2 We submit that the proposal of a Stock Take is not sustainable and hope that the Committee when reading the proposals for the Stock Take will conclude that the clearest, sustainable and most cost effective way forward will be to cease the process and thereafter launch a new process of DPD which has been fully researched, carefully considered and has at its heart a fair, applied and logical matrix of appraisal. It cannot be too much to expect of a competent authority.

Item 4.3 We submit that to describe the objections, which have resulted in an application for a legal challenge as “concerns” is a contrived understatement and an avoidance of the challenge that the process is fundamentally flawed.

Item 4.8 We have been given many assurances from Members that the matter of the Preferred Sites list would in any event be concluded and announced at the Cabinet meeting on the 12th September and we have recently seen and heard both formal and ad-hock statements from Members that the site at Stanton Wick has been withdrawn from the list of Preferred Sites.

The report before you intimates that it is intended to continue work on this site (that are clearly not deliverable and which is part of an application for Legal Challenge). This is both confusing and detrimental to the communities affected.

Item 4.10. Underlines the need to stop the process as it clearly is not possible for officers to provide information in a timely manner.

Item 4.11 How can the continuing of this process be defended when it is admitted that the needs assessment, that which will set out the requirement for pitches, must be updated?

Item 4.12. It is not clear if the Council is intending to update or produce a new needs assessment which is stated in 4.11.

Item 4.13 If the neighbouring Councils are not in a position to update their evidence base is it not best to wait until they are?

Item 4.14. We are concerned as it appears that options within the Green Belt continue to be considered (Please refer to the list of 27 accompanying the Cabinet papers 12 September).

Item 4.15. We submit that the revised timetable should be amended to allow for the following detailed progression.

- Formally halt the process and remove all sites from the Preferred List
- Undertake new needs assessment
- Undertake, publish, consult and agree new site assessment criteria and scoring matrix
- Complete call for sites with specific media advertising campaign
- Undertake assessment of all sites put forward and publish results
- Produce and publish a list of 10 preferred sites which combined are capable of providing more than double the requirement of pitches
- Consult on the list of 10 preferred sites
- Conclude on sites to be taken forward into draft plan and publish
- Consult on draft plan
- Revise and submit Plan for examination
- Hearings
- Inspectors report
- Adopt

Item 5.5: We submit that the flawed process promoted to date by the Council has inflicted considerable damage to relationships between the travelling communities and settled communities

Item 6.4: We submit that the Council has failed in this respect by continuing failure to manage this process competently.

Item 6.5 We would like to see an acknowledgement of the equal responsibility to consult with both the travelling and settled communities at the same time

**Speaker - Judith Chubb-Whittle
Chair, Stanton Drew Parish Council
Statement to Scrutiny Panel Thursday 23rd August 2012
Opposition to BaNES proposal to develop the Old Colliery Site, Stanton Wick
as a Gypsy, Traveller site.**

Here are a few of the questions my parishioners have asked me to put to you;

1. Can a detailed number of responses received be provided?
2. Does a petition counts as a single response?
3. Is it possible to provide a breakdown of responses received per site?
4. The Cabinet has now decided to review the site selection process, GTAA needs assessment (which was out of date at the start of this process), to take into account the new NPPF, liaise with adjacent Authorities and so on.
 - a. The status of these documents is the same as it was at the time of the Scrutiny Panel [15th May 2012] and the Special Council Meeting [18th June 2012], so why delay until now?
5. Would the Cabinet have done a complete 'stock take' if the Core Strategy had not been rejected by the Planning Inspector?
6. Were the concerns expressed by Councillors Ball and Crossley that stopping or changing the DPD process before September entirely spurious and intended to throw people 'off the scent'?
7. A revised, and hopefully more realistic and accurate site selection process is welcomed, but can we be assured that sites which have already been shown to be undeliverable will be removed AND removed permanently?
8. If some of the sites are inappropriate, they should be removed as soon as possible. It would be unreasonable to retain them any longer than necessary and would continue to stress local residents and increase costs both for residents and the Council Taxpayers.
9. Will revised and corrected scoring matrices be issued prior to the Cabinet Meeting? Errors have been identified by Parishioners which BaNES has acknowledged. Stanton Wick Colliery should have scored far lower than 17.
10. Satisfactory explanation has not been provided of how sites with low scores were placed on the list of Preferred Sites. Will this be clarified?
11. Why is there no mention of the legal action relating to a Judicial Review in the report?

12. The report refers to new sites identified through the 'Call for Sites', but the initial Call for Sites closed on 16-Jan-2012. Is there currently a formal Call for Sites or is this just an informal request? Whilst the response form can be found by searching the BaNES website, it is not linked from the Gypsies, Travellers and Travelling Showpeople Site Allocations DPD web page.

13. The only response received from the Gypsy community showed a preference for small sites. Is this being taken into account in the site selection process? Councillors Crossley and Ball stated, at Consultation Meetings that the only good thing about the Stanton Wick site was that it was large.

14. Is it appropriate that the same planning team be allowed to manage what has been a deeply flawed & irresponsible process?

15. Why was SNCI status not properly taken into account?

One positive outcome has been the massive increase in the interest in the activities of the Parish Council; the lowest level of democracy and the only one which is apolitical. This contrasts with the Parishioners' current view of BaNES, which has massively undermined its credibility and frustrated everyone with its unnecessary politicisation of a hugely important local issue.

Karen Abolkheir

My name is Karen Abolkheir and I am a member of the Stanton Wick Action Group and make this statement both personally and on their behalf.

I will briefly make a statement in respect of the report and specifically the site GT.2 Old Colliery Buildings, Stanton Wick.

The report fails to list all of the issues raised by the consultation process and the submissions received from individuals, professional advisors and other concerned and connected parties. Many of the issues were brought to the attention of Cabinet BEFORE 9th May meeting.

We are concerned that the report is misleading from its failure to ensure the correct emphasis is applied to each of the issues and that some key issues have been omitted.

We submit that the key areas of omission are;

- The potentially affected communities were not made aware of the proposals much earlier in the process – a failure of duty by the Council to ensure a proper process of communication and consultation.
- The proposal is inappropriate development in the Green Belt therefore contrary to Government policy and previous applications on the site have been refused on Green Belt grounds.
- Occupation of the site would dominate nearest local community at Stanton Wick directly contrary to Government policy.
- The examination and criticism of the site appraisal process and the site selection scoring matrix.

- The criticism that the site appraisal criteria and comparison process through the Scoring Matrix as set out by the Council was not applied to the sites being appraised.
- The Stanton Wick site scores a minimum of -8. A highly respected and nationally renowned Planning Consultant submitted a report evidencing the scoring.
- The site is not on a recognised traveller route.
- The site is not one preferred by travellers as shown in the GTAA i.e. in close proximity to amenities and small family sites of up to 5 pitches.
- Ground stability, safety and contamination issues associated with former mining operations are not resolved, and the clarification of the cost of remediation.
- Whether the site benefits from existing B2 use. Whether the site as defined by the Council can be considered 'previously developed' land which we dispute.
- The cost of substantive highway improvements required to Wick Lane and the ability of the highway authority to complete such works through compulsory purchase powers of the roadside land.
- The absence of a suitable footpath along the lane.
- The distance from public services and community facilities and access to public transport.
- Impact on availability of school places, resources and quality of education in local schools.
- The absence of mains sewerage and the cost of connection.
- The additional pressure on existing mains water with increased demand.
- The cost of providing necessary utilities infrastructure to service the site.
- The detrimental effect of the proposal on wildlife present on site.
- The fact that the site is designated as a Site of Nature Conservation Interest.
- The impact on tourism as the proposal would have a detrimental effect on landscapes, countryside walks and local tourist related businesses.
- The mining heritage and industrial legacy of the Old Colliery Buildings, as highlighted in the Pensford Conservation Area Character Appraisal.
- The proper appraisal of the impact on the Pensford Conservation Area which is at the end of Wick Lane.

In respect of Responses listed from Statutory Consultees we respectfully call your attention to the following;

- Coal Authority; Serious concerns surrounding the Stanton Wick Site – not made available for public consultation
- English Heritage; Need to carefully consider historic and social significance of the colliery to ensure any future use of the site is sensitive to its cultural heritage value (reference to conservation of non- designated heritage assets Core Strategy Policy CP6 and NPPF). – not made available for public consultation
- Environment Agency; Salter's Brook, which runs along the Eastern boundary of the site should be identified as a potential site constraint and pitches set back from the watercourse which should be protected and enhanced where possible. – not made available for public consultation
- Wessex Water – comment has no consideration of cost and supply restrictions and is therefore insufficient for the purpose of site evaluation.
- Avon Wildlife Trust – site is clearly not suitable for a development as proposed
- The Gypsy Council – recommends smaller sites

We consider that the report is therefore incomplete and selective in its reporting of the issues raised and opinions given during the consultation process.

Liz Richardson

My name is Liz Richardson and I am a member of the Stanton Wick Action Group and make this statement both personally and on their behalf.

Members of this Committee are now aware that both a detailed letter of claim and a detailed application for leave to legally challenge the Council has been issued by individuals including myself connected with the Preferred sites at Stanton Wick, Keynsham and Radstock.

You will also be aware of the detailed submissions previously made to this Committee, the Cabinet and a meeting of the full Council.

The issue which I am addressing is the lack of any reference in the reports before you of the application for a Judicial Review we consider should be of material interest to this Committee.

The application which follows a detailed letter of claim before action, Challenges the Council that it acted unlawfully for the following reasons:

The selection criteria failed to apply, or give reasons for not applying, national policy in *Planning policy for traveller sites*, in breach of the statutory duty to have regard to national policy;

The Council failed to consider the reasonable alternative sites or give reasons why other sites, including tolerated sites where gypsies and other travellers are already living and working without apparent land use problems were not reasonable alternatives, in breach of the Environmental Assessment of Plans and Programmes Regulations 2004;

The Council failed to consider the requirements of the Habitats Directive in breach of regulation 9 of the Conservation of Habitats and Species Regulations;

The Council acted irrationally by adopting selection criteria and then short listing sites which performed very badly against those criteria;

The Council acted irrationally in resolving to refuse to reconsider sites which it had rejected.

The failure to reconsider the Gypsies DPD preferred options following the suspension of the Core Strategy examination was unlawful for the following reasons:

A reason for refusing to reconsider the Gypsy and Traveller DPD was a belief that any delay would undermine the Core Strategy. As the Core Strategy examination has been suspended for at least 11 months, the need for urgency on the Gypsy and Traveller DPD has abated and this is a relevant consideration requiring the future of the document to be reconsidered;

The Gypsy and Traveller DPD is required to be consistent with the development plan. However the preferred options draft is not consistent with the current Local Plan or the submission draft Core Strategy and the relevant Core Strategy policy will have to change in any event to be consistent with *Planning policy for traveller sites*.

In response the Council have advised that in their view the challenge is;

1. 'premature, misconceived and unnecessary'
2. that a Development Plan Document has not yet been produced' and
3. 'provided the Council has not made its mind up about site selection, it is entitled to consult on any proposal it likes, including its Preferred Options'.

Without wishing to preempt the legal process and entirely without prejudice I would like to comment on the Council's points in turn:

Point 1: The challenge surrounds the decision taken on 9th May to take 6 'Preferred Options' forward to consultation – a decision based on a flawed process and incorrect scores applied to the selection criteria matrix.

Point 2: The documents produced during this process display DPD all over them. How do we distinguish between all these DPDs?

Point 3: There is evidence pointing to the possibility that the Council had made up its mind early this year by reference to the numbering of the sites 01 to 23 and other correspondence and statements.

I understand that it is not appropriate for me to make available copies of legally privileged documentation but I am sure the Committee will be able and wish to avail itself of copies of both the Letter of Claim before action, the Application to Challenge the Council at a Judicial Review hearing and the connected correspondence between the Council and the lawyers representing the Claimants.

Clarke Osborne

My name is Clarke Osborne and I am the Chairman of the Stanton Wick Action Group and make this statement both personally and on their behalf.

The Committee has heard from my colleagues who have set out our three primary areas of concern in respect of this important process, namely;

- The lack of advice to Members in respect of the legal challenge made.
- The concerns we have in respect of the proposed way forward i.e. a twin track of a “Stock Take” and continuing process of comparative site evaluation and needs assessment.
- The concerns we have in the selective and we believe misguided reporting in respect of the results from the consultation process surrounding the site at Stanton Wick

Considerable expense of time and money has been made by our group in seeking to advise and inform the Council in both the mistakes of process and the particular detailed information concerning the site at Stanton Wick. It is of great concern that much of this advice and information has been ignored.

We have welcomed the public verbal and written statements made by the Council, the Liberal Democrats and individual Members advising that the three sites which are the subject of legal challenge have been removed from the list of 6 Preferred Sites. However we remain concerned that the process has been and will following the adoption of the these proposals, remain deeply flawed and will likely cause further confusion and bring further concern from both the settled and travelling communities.

We remain convinced that the Council should heed this Committees earlier advice and stop this process, re-set the needs assessment, re-set the site assessment and undertake an open and fair process of selection and following that a public consultation.

We have many unanswered questions, particularly in respect of the involvement of individuals prior to the notification and launch of the process by the Council in May this year. We intend to follow through this questioning in the weeks and months to come to satisfy ourselves that all proper care has been taken by the Council to ensure a fair and open process, devoid of emotion or political positioning has been followed.

Mary Walsh

My name is Mary Walsh joint chair of Whitchurch Village Action Group

My question this morning is why is this consultation being continued as it has been proven to be flawed it is littered with inaccuracies.

Whitchurch Site is still included on the Preferred list when it is an inappropriate site in a dangerous position but most of all it is in the Green Belt The council referred to site on matrix table as Brownfield when it has now been agreed it is definitely Green Belt

Three sites have been rumoured to be being removed from the list My question is was it because they were represented by a Renown Barrister or because they were

inappropriate just as Whitchurch site if this is the only way to get fair play we will take appropriate action or did the council remove because public out cry?

The council has not been fair to Whitchurch

1 Road shows were arranged for 5 sites but the only village not represented yes you know Whitchurch after many telephone calls we were given one at short notice but the attendance was impressive for time given to publicise the event

2 The Council made the owner of the site change the entrance. Yesterday I walked with a BBC reporter and we were scared the amount of fast traffic made us change our mind to film and we had to find a quieter location nearby.

3 I keep asking about the Gas Main that runs very near the site but no one has answered my question Is it correct that new development cannot be created near this danger A letter sent to planning Officer Meghan Rossiter dated 12 th July still not answered

I trust sense will prevail and the correct action will be to remove the site from the list.

Rosemary Collard

Scrutiny Panel Meeting 23rd August 2012

Statement re Gypsies, Travellers and Travelling Showpeople Site Allocations Development

Plan Document in relation to land adjacent to Ellsbridge House, Keynsham (GT14)

On 9th May, the land adjacent to Ellsbridge House was designated by the Council as a preferred option for a Gypsy and Traveller Site. This decision and the subsequent consultation has had a very detrimental impact on our business and its prospects as the proposed site is immediately adjacent to our nursery and shares its access.

Despite representations made to the Council, including at a Special Council Meeting on

18th June 2012, the Council has failed to acknowledge that its decision to determine this site as a preferred option was negligent. As a result, we have had to deal with staff concerns, both from current staff and in the recruitment of new staff for the Keynsham nursery. There has also been less interest by families than anticipated and many families attending the Open Days expressed concerns relating to child safety and the difficulties of securing a shared access.

It is very disappointing that the issues included in our statements throughout this process are the ones highlighted by the Council in their various reports. For example, Property Services indicated there would be possible highways issues and that it was heavily wooded. The Highways section of the detailed site assessments related to this site states that 'the formation of any additional access in this location would be resisted and not in the interests of highway safety, particularly given the need for access by large/towing vehicles and

caravans'. The site constraints section of the detailed site assessments states that 'the site is adjacent to Ellsbridge House, a Grade II Listed Building, due to reopen as a day care nursery in September 2012. Development at this location would affect the setting of the Listed Building. With regard to the Potential for Development and Suitability section of the Detailed Site Assessments it was stated that 'the site is not considered suitable for development as a Gypsy and Traveller site due to its location adjacent to a busy and noisy highway'. It was also discovered that the boundary line used to portray the dimensions of the site was inaccurate. These are only a sample of the many reasons confirming this site as being unsuitable.

I do not understand why, with all the information the Council had at its disposal, the land adjacent to Ellsbridge House ended up being one of 6 preferred sites.

In conclusion, I would like to say that I was cautiously excited when I saw the press releases. I was excited on reading that the land adjacent to Ellsbridge House was one of three sites being rejected but cautious when I read another press release saying it was almost certain that the sites would be rejected. After months of uncertainty and worry, of time being spent writing statements, attending meetings and dealing with queries and concerns, the question I would like an answer to is, has the site been rejected?

Provisional Cost Appraisal for Gypsy & Traveller Site to be located at the former Stanton Wick Colliery Site, BS39 4BU

Summary- 21st August 2012

Background

GT2 Old colliery Buildings, Stanton Wick is one of six preferred sites. A request was made by Planning Services to Property Services on 14th August 2012 to provide cost estimates for the application of this site for use as:

1. 20 pitch site
2. 5 Pitch site.

Constraints

1. Due to the tight time constraints, no site inspection has been possible.
2. The three red brick colliery buildings are to remain. Due to issues connected to configuration of pitches, the effect of this has been that the respective footprints and immediate surrounding area cannot be included within the overall pitch allowance.

Assumptions

1. For the appraisal of the 20 pitch site, a total site area of 10,200 square meters has been assumed based on an allowance of 500 square meters per pitch which has been advised includes internal & external circulation, amenity, communal space and administration. This includes a depth from Wick Lane of 120m and a width of 85m.
2. For the appraisal of the 5 pitch site, a total site area of 3825 square meters has been assumed based on same allowance as above. The constraints detailed above in connection with the remaining buildings have a proportionately larger effect on this site. This includes a depth from Wick Lane of 45m and a width of 85m.
3. Due to the inconclusive nature of the contaminated land survey report, several assumptions have been made. These include:
 - a. Areas for gardening/landscaping - to dig to depth of 1m and replace contaminated material with imported subsoil & top soil.
 - b. Areas to be concreted (hard standings, footprint of buildings & play areas)- these have been graded to regulate existing contours. The contaminated material has not been removed but concreted over. In the case of the play areas, these have thereafter been surfaced appropriately.
 - c. Areas occupied by access roads- these have been excavated to a depth of 0.5m to remove contaminated material before surfacing with normal Macadam construction.

4. An allowance has been made for the refurbishment and reuse of existing buildings numbered on the plans 1-3. Due to the scale and size of these buildings, it remains uncertain as to their potential use.
5. An allowance has been made for the demolition of all other existing buildings on site.
6. A new access road is assumed with a junction from Wick Lane sited between Buildings 2 & 3.
7. Issues raised by the Highways Departments, such as provision of a visibility splay, amendments to the Traffic Regulation Order, improvement of visibility at the Stanton Wick Junction with the A368 and provision of additional passing places have been allowed for.
8. It is understood the richest ecological habitats are to be found in the south of the site which is not being utilised. No special allowances have therefore been made.
9. It is understood that there are two mine shafts on the site, one of which has been capped. It is assumed that the state of remaining shaft is currently acceptable otherwise it would similarly have been capped but £10,000 has been allowed for this should it occur.
10. An allowance has been made for new services to include LPG for the gas element. It is assumed foul & storm water sewage & _drainage is accessible from Wick Lane.
11. A contingency allowance of 10% has been included.

Recommendations

1. A more accurate appraisal will be possible with the production of formal layout drawings and specifications.
2. Further investigation into site contamination may vary the cost.



GT2 Stanton Wick Colliery Site 20 Pitch Appraisal
Scale 1:1250 22 August 2012

Gypsy and Traveller Site at Stanton Wick Colliery Site
Estimated cost of development for 20 pitches , 21st August 2012

Basis of Development

- Site plan 1:2500
- Site plan 1:1000
- Site plan showing contours
- Site assessment report
- SLR contaminated land report
- Ecological appraisal Aerial photograph Coal report
- Cost appraisal
- Viability assessment
- Mine shaft cap
- Schematic Layout
- Prepared for estimate purposes only
- Total site area 10,200m²

Assumptions

- For the appraisal of the 20 pitch site,a total site area of 10,200 m² has been assumed based on an allowance of just less than 500 m² per pitch inclusive of internal and external circulation, amenity, communal space and administration
- Allowances have been made for the refurbishment and reuse of existing buildings numbered 1-3
- Allowance has been made for the demolition of all other existing buildings on the site
- Estimate is based on the Detailed Site Assessment
- Report para 4.2 and annexes B2 and B3
- Allowances have been made for all services
- Current pricing levels with no further allowances for inflation

Estimate

Demolition of existing buildings on the site		70,000
Remediation of contaminated land		449,233
Refurbishment of existing buildings to provide day/utility rooms, site manager house and storage facilities		432,000
External services		373,000

Pitches

Concrete hardstandings	280,000	
Amenity buildings	390,000	
Garden areas	10,020	
Boundary walls	182,500	
Intermediate fences	16,500	
Set of gates	5,000	884,020

Play area

Concrete surface	35,000	
Bouncy' paving	25,000	
Playground equipment	6,000	66,000

Roads

Roads	192,000	
New junction	25,000	217,000

Road frontage

fencing and gates	4,850	
landscaping	29,500	34,350

Off-site works

Access to A368		50,000
		<u>2,575,603</u>

Preliminaries

	12.5%	321,950
		<u>2,897,553</u>

Allowance for specialist-surveys, investigations and scheme design	15%	434,633
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Further allowances for contingencies and design risk	10.0%	289,755
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TOTAL SCHEME COST**£3,621,942**



GT2 Stanton Wick Colliery Site 5 Pitch Appraisal
Scale 1:1250 22 August 2012

Gypsy and Traveller Site at Stanton Wick Colliery Site

Estimated cost of development for 5 pitches , 21st August 2012

Basis of Development

- Site plan 1:2500
- Site plan 1:1000
- Site plan showing contours
- Site assessment report
- SLR contaminated land report
- Ecological appraisal Aerial photograph Coal report
- Cost appraisal
- Viability assessment
- Mine shaft cap
- Schematic Layout
- Prepared for estimate purposes only
- Total site area 10,200m²

Assumptions

- For the appraisal of the 5 pitch site, a total site area of 3,825 m² has been assumed based on an allowance of just less than 500m² per pitch inclusive of internal and external circulation, amenity, communal space and administration
- Allowances have been made for the refurbishment and reuse of existing buildings numbered 1-3
- Allowance has been made for the demolition of all other existing buildings on the site
- Estimate is based on the Detailed Site Assessment Report para 4.2 and annexes 82 and 83
- Allowances have been made for all services
- Report para 4.2 and annexes B2 and B3
- Current pricing levels with no further allowances for inflation

Estimate

Demolition of existing buildings on the site		70,000
Remediation of contaminated land		157,232
Refurbishment of existing buildings to provide day/utility rooms, site manager house and storage facilities		432,000
External services		95,000

Pitches

Concrete hardstandings	70,000	
Amenity buildings	97,500	
Garden areas	2,505	
Boundary walls	45,625	
Intermediate fences	4,125	
Set of gates	1,250	221,005

Play area

Concrete surface	35,000	
Bouncy' paving	25,000	
Playground equipment	6,000	66,000

Roads

Roads	76,800	
New junction	25,000	101,800

Road frontage

fencing and gates	4,850	
landscaping	29,500	34,350

Off-site works

Access to A368		50,000
		<u>1,227,387</u>

Preliminaries

12.5%	<u>153,423</u>
	1,380,810

Allowance for specialist-surveys, investigations and scheme design	15%	207,122
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Further allowances for contingencies and design risk	10.0%	138,081
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TOTAL SCHEME COST**£1,726,013**