

Bath & North East Somerset Council	
MEETING:	Council
MEETING DATE:	18 th June 2012
TITLE:	Special Meeting to consider issues relating to Gypsy and Traveller Site provision
WARD:	ALL
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <ol style="list-style-type: none"> 1. Report to Cabinet on 9th May 2012 2. Draft Resolution of the Planning Transport & Environment Policy Development & Scrutiny Panel dated 15th May 2012 3. Text of request submitted for Special Meeting 4. Advice received from Bevan Brittan 	

1 THE ISSUE

- 1.1 To consider the issues raised by five members of Council as shown in Appendix 3.

2 RECOMMENDATION

Council is asked to consider the issues raised and decide whether it wishes to take any action or recommend any course of action .

3 FINANCIAL IMPLICATIONS

- 3.1 As set out in the report in sections, there are potential financial implications of delay to the process and the undertaking of a further assessment of need. The sums potentially involved are indicated in the text of the report.
- 3.2 There are also potential financial implications if the course of action being followed by Cabinet are the subject of challenge. The amount of such costs cannot be quantified at this stage but are likely to be significant
- 3.3 The Section 151 officer will update the meeting on the potential source(s) of such funds

4 CORPORATE OBJECTIVES

Consideration of these issues thus far are seen as complementary to the corporate objectives of promoting independence and positive lives for everyone and creating neighbourhoods where people are proud to live.

5 THE REPORT

- 5.1 Under the provisions of the Council's Constitution and as required by law, any five members of Council have the power to request the Chairman of Council to call a Special Meeting to consider business put forward in the meeting request. Such a request was submitted to the Chairman of Council by five members and the Chairman has decided to call a Special Meeting as requested and set the time and date accordingly
- 5.2 As the meeting is called as the result as a request from members, rather than as part of programmed business or a report prepared by officers, the process is akin to a notice of motion being included on an agenda for a Council meeting. The procedure the Council follows in such cases is for the proposer of the notice of motion to prepare a draft of what decisions are being sought from Council and for officers then to ensure that appropriate information and advice is available to the meeting to enable the Council to reach a decision on the matter.
- 5.3 This report has been prepared and shared with those seeking the meeting to ensure that the points they wish to cover are properly addressed but responsibility for the content of the report rests with officers.. The points raised are set out below.
- 5.4 Should Council commission a new Gypsy & Travellers' accommodation needs assessment?
- 5.5 The Council, together with partner authorities in the West of England, (Bristol City, North Somerset and South Gloucestershire Councils), produced a Gypsy and Traveller Accommodation (and Other Needs) Assessment (GTAA) in 2007. That document assessed the total level of accommodation need across the four local authority areas, including both the immediate level of need and the projected level of need up to 2016.
- 5.6 The levels of accommodation need identified in the 2007 GTAA for B&NES include a total of 19 permanent pitches to meet immediate need over the period to 2011, and a further 3 permanent pitches to meet the projected need over the period to 2016. The GTAA also identifies a need for 1 travelling showpeople's site and 20 transit pitches to facilitate travelling across the District and to assist in managing unauthorised encampment.
- 5.7 The GTAA was conducted following the recommended methodology in the ODPM draft GTAA guidance issued in February 2006. This includes an understanding of patterns of extended family living, nomadism or semi-nomadism, a preference for caravan-dwelling, movement between housing and caravans, and presence on unauthorised caravans or developments. The GTAA addressed potential accommodation types, including standard housing, group homes, permanent residential sites and transit sites.
- 5.8 The B&NES Core Strategy paragraph 6.81b includes the pitch requirement from the GTAA and at Policy CP11 states that the accommodation needs of Gypsies, Travellers and Travelling Showpeople, as assessed in the GTAA will be identified

in a separate Development Plan Document for the period to 2011. The Core Strategy also states that sites will be identified to meet future accommodation needs when assessed.

5.9 The Site Allocations DPD is therefore seeking to meet the identified (2006-2011) and projected (2011-2016) accommodation needs as set out in the 2007 GTAA.

5.10 New national planning guidance entitled Planning for Traveller Sites was released in March 2012, and is to be read alongside the National Planning Policy Framework (also March 2012). The requirement to undertake an assessment of need is also retained in legislation (Housing Act, 2004), The 'Gypsy and Traveller Accommodation Needs Assessments: Guidance' (CLG, 2007) remains in use, and was used to inform the West of England GTAA. In relation to identification of need, national policy now states:

National Policy on Planning for Traveller Sites

"Para 8 Local planning authorities should set pitch targets for gypsies and travellers and plot targets for travelling showpeople which address the likely permanent and transit site accommodation needs of travellers in their area, working collaboratively with neighbouring local planning authorities.

Para 9: Local planning authorities should, in producing their Local Plan:

- *identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets*
- *identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15*
- *consider production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area (local planning authorities have a duty to cooperate on planning issues that cross administrative boundaries) "*

5.11 The Housing Act 2004

"Section 225: Duties of local housing authorities: accommodation needs of gypsies and travellers

- (1) Every local housing authority must, when undertaking a review of housing needs in their district under section 8 of the Housing Act 1985 (c. 68), carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district.
- (2) Subsection (3) applies where a local housing authority are required under section 87 of the Local Government Act 2003 (c. 26) to prepare a strategy in respect of the meeting of such accommodation needs.
- (3) The local authority who are that local housing authority must take the strategy into account in exercising their functions. Functions" includes functions exercisable otherwise than as a local housing authority.
- (4) A local housing authority must have regard to any guidance issued under section 226 in—
 - (a) carrying out such an assessment as mentioned in subsection (1), and
 - (b) preparing any strategy that they are required to prepare as mentioned in subsection (2).
- (5) In this section—
 - (a) "gypsies and travellers" has the meaning given by regulations made by the appropriate national authority;

(b)“accommodation needs” includes needs with respect to the provision of sites on which caravans can be stationed; and

(c)“caravan” has the same meaning as in Part 1 of the Caravan Sites and Control of Development Act 1960.”

5.12 The policy in Planning for Traveller Sites places an emphasis on cross-boundary working between local authorities and the duty to cooperate on strategic planning. North Somerset Council recently commissioned work to review the immediate need for pitches as an interim update to the GTAA in their area.

5.13 It would therefore not now be possible to undertake a full review of the GTAA across the four West of England authorities, due to North Somerset Council having already commissioned work in their area. It would be possible to review the B&NES GTAA figures through a local assessment of need, separate of the other West of England authorities, which would require funding. Preliminary queries have indicated that a joint assessment across the four authorities could cost approximately £35,000, and that a single assessment for the B&NES area would be approximately £20,000. The form of the review would have to follow the national guidance on Gypsy and Traveller Accommodation Assessments.

5.14 Set out below is the B&NES annual count of caravans undertaken by the Department of Communities and Local Government; (It should be noted that this relates to caravans and not pitches) The relationship between pitches and caravan numbers depends upon a number of factors including whether the pitch provides permanent or transit accommodation.

DCLG bi-annual annual count of caravans on authorised and unauthorised sites

	Total
Jan 2012	71
Jul 2011	54
Jan 2011	41
Jul 2010	48
Jan 2010	39

5.15 The Site Selection Process

National Planning Policy for Traveller Sites (March 2012) para 10 states that Criteria should be set to guide land supply allocations where there is identified need

National Policy sets out a broad policy for guiding site selection criteria as reproduced below.

Para 11. Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) promote peaceful and integrated co-existence between the site and the local community
- b) promote, in collaboration with commissioners of health services, access to appropriate health services
- c) ensure that children can attend school on a regular basis
- d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment

- e) provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development
- f) avoid placing undue pressure on local infrastructure and services
- g) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans
- h) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

Para 12. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.

Para 14. Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development.

Para 15. Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only.

(Circulars 01/2006 and 04/2007 on Gypsy, Traveller and Travelling Showpeople sites).

Core Strategy Policy CP11 sets out broad criteria to be used to guide the identification of sites.

5.16 The selection process undertaken for the Preferred Options consultation was agreed by Cabinet and Council on the 9th and 10th November 2011 respectively. This was published for consultation as part of the Issues and Options consultation which took place between 21 November 2011 and 16 January 2012. Site selection, as set out in the Detailed Site Assessment Report put before Cabinet on 9 May 2012, used a two-stage process.

5.17 Sites were first assessed through a desktop study for general accordance with sustainability criteria such as access to local services and facilities, and to highlight those sites with important physical or policy-led constraints to long term development. A second stage of more detailed site assessment was used to draw out more site-specific constraints.

The Site Allocations DPD is required to be submitted for Examination in Public before it can be adopted by the Council and found to be both legally compliant and sound. To be found sound at Examination the document must be justified, effective and consistent with national policy.

5.18 To be justified, the DPD must be “founded on a robust and credible evidence base, and the most appropriate strategy when considered against reasonable alternatives”

5.19 Should Council request or require the current consultation to be suspended?

5.20 Consultation on the Preferred Options document formally commenced on 23 May 2012. This period of consultation is not a formally required stage in the development of the Site Allocations DPD, but is instead a discretionary consultation being used to gather further information on sites and engage with local communities prior to reconsideration of each site. The Preferred Options consultation is the first stage at which the public are consulted on sites and is scheduled to be followed by a further stage of consultation where additional, suitable sites are brought forward through the ongoing Call for Sites. Any additional sites are due to be considered by Cabinet in September / October 2012.

5.21 Both the Preferred Options and any additional sites consultation are being used to gather further information on sites and potential constraints to development, and will be used to inform the draft Plan. Suspending the current consultation and reviewing the pitch need would entail the following revised timetable.

Current programme		Revised programme
Needs assessment Review site criteria	complete	June- Sept 2012
Issues & Options consultation (Reg 18)	Complete	Nov 2012-Jan 2013
Site selection process & consultation (Reg 18)	Feb to Oct 2012	February – July 2013
Draft Plan (Reg 19)	Dec 2012	Sept 2013
Submission to SoS (reg 22)	March 2013	Dec 2013
Examination (Reg 24)	June 2013	March 2014
Report (Reg 25)	Sept 2013	June 2014
Plan adoption (Reg 26)	Dec 2013	Sept 2014

5.22 The Preferred Options consultation, as set out above, is the first stage at which sites are considered through public consultation for allocation in the Draft Plan (Pre-Submission Document). This DPD will therefore help to address the needs of the travelling community within B&NES and will also ensure that the most appropriate sites are identified in a planned way rather than decisions being made on an ad hoc basis by appeal. Ad hoc planning applications for development in the Green Belt, in the absence of allocated sites, would be much harder to refuse than if the Council identifies suitable land through the Site Allocations DPD. The failure to identify and allocate sites will also inhibit the ability of B&NES to take enforcement action against unauthorised sites in poor locations. Previous Planning Appeal Inspectors have both noted the need to provide sites. Up to now decisions have been based on the demonstration of progress on the G&T DPD. For example in the decision to dismiss the appeal at Land adjacent to The Poplars, Redlynch Lane, Queen Charlton in February 2011 the inspector states:-

“17.The Council has now started work on a Gypsies, Travellers and Travelling Showpeople Site Allocations Development Document (“the DPD”). I was advised by the Council that this work is likely to continue notwithstanding the Government’s intention to revoke Circular 01/2006 and the Regional Spatial Strategies. I was also told that it is likely that the DPD, which will seek to provide 19 residential pitches for Gypsies and Travellers, will be adopted in 2012, and that it could include pitches in the countryside, with the Green Belt not being ruled out.”

“In terms of site provision, the Council has not granted planning permission for any sites in recent years. From the evidence before me, I am, however, satisfied that the Council is now proactive in progressing the DPD. Nevertheless, there is a general need at the present time for Gypsy and Traveller sites in the Council’s area, in addition to a wider sub regional need. Whilst the demand for accommodation in the Council’s area may not be of a scale found in adjoining authorities, it is nevertheless a consideration which weighs in favour of the proposal.”

Suspending the process to review the evidence would lead to a 6 to 12 month delay depending on the extent of what work needs revisiting.

5.23 One key aspect which Council will need to consider is whether the proposals under consideration are matters which may, under the provisions of the law, be dealt definitively with by Council or must be dealt with exclusively by Cabinet.

Advice on this and other aspects is set out in the letter of advice at Attachment 4

5.24 Challenge to the approach adopted by Cabinet may result in the Council incurring costs defending its actions..

5 RISK MANAGEMENT

5.1 No risk management assessment has been undertaken. It is clear from the text of this report what the options available to Council are and what the consequences will be of taking any course of action

6 EQUALITIES

No additional work in respect of equalities has been taken in respect of this paper. The process currently being undertaken by the Cabinet has been the subject of a full equalities impact assessment both initially and on-going.

7 CONSULTATION

Consultation has taken place with the Strategic Director for Place, Chief Executive and Section 151 Officer, Cabinet Member for Planning & Housing and the members who have requested the meeting. Consultation has been carried out primarily by e-mail.

8 ISSUES TO CONSIDER IN REACHING THE DECISION

8.1 Social Inclusion; Sustainability; Property; Human Rights

9 ADVICE SOUGHT

9.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	<i>Vernon Hitchman, Monitoring Officer & Divisional Director (Legal & Democratic Services and David Trigwell, Divisional Director, Planning & Transport Development</i>
Background papers	<i>Reports to Cabinet and Council dated 9th and 10th November 2011</i>
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