

This Report will be made public on 9 July 2019

Report Number **C/19/13**

To: Cabinet
Date: 17th July 2019
Status: Key Decision
Responsible Officer: Charlotte Spendley, Assistant Director – Finance, Customer & Support Services
Cabinet Member: David Wimble - Cabinet Member for the District Economy

SUBJECT: Places and Policies Local Plan – Gypsy and Traveller allocation site

SUMMARY:

The Planning Inspector considering the Places and Policies Local Plan (PPLP) at the Examination in Public indicated that the District Council should be allocating a site(s) to meet the future needs for the Gypsy and Traveller community. This report sets out the work that has been undertaken to identify a preferred site. The report also seeks Cabinet approval to carry out a six-week period of public consultation on the preferred site allocation.

REASONS FOR RECOMMENDATIONS

To enable the Places and Policies Local Plan to continue to the final stages of examination and adoption.

RECOMMENDATIONS:

1. To receive and note report C/19/13.
2. To agree to the publication of the preferred Gypsy and Traveller site allocation, draft Policy RM15 wording; and supporting documents for public consultation
3. To give delegated authority to the Assistant Director of Finance, Customer & Support Service to make any minor modifications to the consultation materials resulting from the findings of the Sustainability Appraisal/Habitats Regulations Assessment
4. To agree that the consultation comments and consultation materials be submitted to the planning Inspector to progress with the final stages of the public examination of the Places and Policies Local Plan.

1.0 BACKGROUND

- 1.1 The Places and Policies Local Plan (PPLP) is now in the final stages of the plan-making process, the Examination in Public. A series of public hearing sessions took place between the 15th and 17th of May 2019; the initial indication from the hearing sessions is that the Inspector will only recommend a limited number of Main Modifications to the plan. Nevertheless, the Inspector has expressed concern that the draft Places and Policies Local Plan does not adequately address the future housing needs of the Gypsy and Traveller community. In order for the PPLP to be found 'sound' the Inspector has instructed the District Council to identify and put forward a site(s) allocation to meet the permanent pitch requirements set out in the Folkestone & Hythe District Gypsy and Traveller Accommodation Assessment (2018).
- 1.2 The Planning Policy Team has therefore had to undertake work quickly to identify and assess potential sites for Gypsy and Traveller development to ensure that progress can continue with the Places and Policies Local Plan. The work that has been undertaken to date has considered a wide selection of sites drawn from a number of sources before concluding on the preferred allocation. It is now necessary to publish this work for consultation so that members of the public can have their say on the proposed allocation. The draft policy and representations will be sent to the Planning Inspector for consideration and to conclude and issue his final report on the Plan.

2.0 PLANNING POLICY

- 2.1 The requirement to provide sites for Gypsy and Travellers is set out in the National Planning Policy Framework (NPPF 2019).
- 2.2 Paragraph 59 of the Framework states:

"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay."

- 2.3 Furthermore, Paragraph 61 states in relation to delivering a sufficient supply of homes:

"The size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes)."

- 2.4 The Government has also produced a specific planning policy document, Planning Policy for Traveller Sites (PPTS, 2015), which should be read in conjunction with the NPPF. The aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community.

- 2.5 PPTS (2015) sets out the definition of Gypsies and Travellers as:

"Persons of nomadic habitat of life whatever their race or origin, including such persons who on grounds only of their own or their family's or

dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

- 2.6 PPTS requires that local planning authorities assess the need for Gypsy and Travellers and develop fair and effective strategies to meet the likely need for permanent and transit pitches through the identification of sites.
- 2.7 Paragraph 13 sets out the following general considerations for site selection:
- 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 health services;
 - c) Ensure children attend school on a regular basis;
 - d) Provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment.
 - e) Consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers;
 - f) Avoid undue pressure on local infrastructure and services;
 - g) Do not locate sites in areas at high risk of flooding; and
 - h) Reflect the extent to which traditional lifestyles can contribute to sustainability (some travellers live and work from the same location).
- 2.8 More detailed guidance was published as in Designing Gypsy and Traveller Sites: Good Practice Guide (CLG, 2008); although officially withdrawn, it is still available to view among the Government's archived document and provides general design advice and some site design examples.

3.0 ASSESSMENT OF GYSPY AND TRAVELLER NEED

- 3.1 The Government's aim in respect of Gypsy and Traveller sites is that Local Planning Authorities should undertake their own assessment of need for the purposes of planning.
- 3.2 The East Kent Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) (2014) identified a need for 7 residential pitches between 2013 and 2027. A site allocation was not sought as part of the preparation of the Place and Policies Local Plan due to the Government's decision in 2015 to change to the planning definition of both Gypsy and Travellers and Travelling Showpeople.
- 3.3 The change in definition meant that the EK GTAA (2014) was effectively out-of-date and there was an uncertainty over the reliability of the information. A consortium of Kent Authorities commissioned consultants Arc⁴ to undertake a comprehensive update of this piece of work, looking at each local authority area separately before collating findings into a Kent-wide report. FHDC was part of the first tranche of work with its GTAA completed in August 2018.
- 3.4 The FHDC GTAA (2018) evidences an overall requirement for the Core Strategy Review plan-period to 2036/37 of:
- Five additional Gypsy and Traveller residential pitches;
 - Two additional Travelling Showpersons pitches;
 - Three to Five additional Transit pitches.

- 3.5 The Planning Inspector has indicated that FHDC only needs to address the outstanding five Gypsy and Traveller residential pitches as part of the Places and Policies Local Plan. The GTAA (2018) found evidence for three residential pitches over the next five years (2017/18 to 2021/22) and a further two across the remainder of the Local Plan Period (2022/23 to 2036/37).
- 3.6 Since the GTAA (2018) was prepared, planning permission (Y18/0303/SH) has been granted for an additional permanent Gypsy and Traveller pitch on an existing site at Fishers Paddock, Ashford Road, Benzett.
- 3.7 As a consequence, this has the effect of reducing the permanent Gypsy and Traveller residential pitch requirements to a total of four, comprising two pitches over the next five-year period to 2021/22 and a further two pitches to 2036/7.

4.0 SITE IDENTIFICATION AND SELECTION OF THE PREFERRED SITE

- 4.1 The Places and Policies Local Plan is required to allocate a site(s) to meet an identified need of four Gypsy and Traveller residential pitches. Planning Policy officers have undergone a thorough process of identifying suitable, available and deliverable site(s) where this need could be accommodated.
- 4.2 To ensure that all reasonable alternatives for potential Gypsy and Traveller sites were considered, a 'long list' of sites was compiled through a comprehensive review of the following sources:

• A 'call for sites'	(0)
• Existing Gypsy and Traveller sites	(0)
• Other sites owned by Gypsy and Traveller Community	(0)
• Privately-owned caravan sites	(13)
• Public sector land ownership	(12)
• SHLAA database	(15)
• Church Commissioners for England	(0)
• Housing Associations	(0)
Total	(40)

- 4.3 This exercise resulted in a total of forty potential sites, in locations across the district, being identified for further assessment. Further information about each of the sources and the sites generated from them is outlined in Appendix 1.
- 4.4 In February 2019 the General Synod of the Church of England agreed that Church bodies should *"play their part in lobbying for and enabling land to be made available for traveller sites."* The Council has pressed the Church Commissioners for their assistance in identifying any potential sites for travellers on Church-owned land within the district. To date the response has been limited, given that the decision of the Synod is relatively recent, but officers are continuing to press the Church for its help and this may yield results in the future.

5.0 SITE ASSESSMENT PROCESS

- 5.1 The site being sought is for permanent residential pitches for members of the Gypsy and Traveller community. Therefore, it was considered that the appropriate approach to potential site assessment should follow the same principles that applied for the Strategic Housing Land Availability Assessment (SHLAA) methodology to ensure that the process is rigorous and can be defended at examination.

- 5.2 The SHLAA assessment form that was used to assess the suitability of potential housing sites was amended slightly so that the initial three screening criteria that enabled sites to progress to a more detail assessment reflected site-specific requirements and policy guidance to ensure a successful Gypsy and Traveller site. The screening criteria included setting a site area requirement of at least 0.1 ha to accommodate a minimum of two pitches; a 500m threshold from the nearest settlement boundary to promote integration and co-existence; and specific site constraints such as avoiding areas of extreme and significant flood risk and other policy designations. Permanent caravan sites are classed as a “highly vulnerable” form of development in national planning policy and such developments should be avoided in areas at significant risk of flooding; flood risk is therefore a key consideration.
- 5.3 Twenty of the initial forty sites failed to pass all three of the screening criteria.
- Four of the sites exceeded the maximum 500m threshold of a settlement boundary.
 - Eleven had policy constraints relating to matters such as flood risk, ecology and landscape; and
 - Five exceeded both the maximum 500m threshold of a settlement boundary and had policy constraints relating to matters of flood risk, ecology and landscape
- 5.4 The remaining twenty sites that passed the initial screening criteria underwent a more detailed assessment of suitability looking at matters such as access and highway capacity, connection to services, proximity to local facilities, landscape and townscape impact, wildlife and nature conservation, listed buildings and archaeology; and residential amenity.
- 5.5 Seven of the twenty sites were considered to be relatively free of constraints and therefore progressed to the next stage of the study. A matrix illustrating how the potential sites performed against each of the detailed assessment criteria is set out in Appendix 1. The seven sites that formed part of a ‘short list’ included:
- Station Approach, New Romney
 - Running Waters Corner, New Romney,
 - Brickyard Poultry Farm, Cockreed Lane, New Romney
 - Land west of Cockreed Lane, New Romney
 - Craythorn Farm, New Romney
 - Kitewell Lane (North), Lydd
 - Kitewell Lane (South), Lydd
- 5.6 The ‘short-list’ of potential sites was then passed to consultants Arc⁴ for their view as to which (if any) would be attractive to the Gypsy and Traveller community. Arc⁴ visited each of the sites and concluded that four would be suitable for either permanent sites, transit sites or a mix of both. In no particular order these were: Station Approach, Running Waters Corner and both the Kitewell Lane sites.
- 5.7 Officers considered that a site in public-sector ownership is more likely to be made available for traveller use, where there are no alternative plans for its development or disposal, than a site in private-ownership being promoted for housing development.

- 5.8 Therefore, officers proceeded to conduct inquiries as to the availability of the sites at Kitewell Lane which are in the ownership of FHDC; and Running Waters Corner which was assumed to be in the control of Kent County Council.
- 5.9 FHDC has indicated that at this stage the two sites at Kitewell Lane are not currently available with both already allocated for housing in the Places and Policies Local Plan. In addition, KCC have also informed the Council that whilst their road surfacing team uses the land at Running Waters Corner on an ad-hoc basis, it is actually Highways England that holds the titles to the site. It is therefore not within KCC's gift to release the land for alternative uses. While it may be possible to work with KCC and Highways England to secure ownership of the Running Waters Corner site in the future, it would need the provision of alternative facilities in the vicinity to compensate KCC for the release of the depot land. It is therefore considered that the site is not deliverable within the timeframe needed for the completion of this work and, with this uncertainty, the planning Inspector would not find it a deliverable allocation.
- 5.10 Sites at Station Approach, Cockreed Lane and Craythorn Farm in New Romney are in private ownership and have been actively pursued for housing through the SHLAA. From officers' knowledge of these sites, it is considered unlikely that they will be made available for Gypsy and Traveller residential pitches.
- 5.11 Having gone through a thorough process of identifying and assessing potential sites, officers were left to conclude that there were no suitable AND available sites in Folkestone & Hythe District that could accommodate the required number of gypsy and traveller pitches that has been identified in the GTAA (2018).

6.0 THE PREFERRED SITE

- 6.1 Following the conclusion of this site identification study, officers' attention has been drawn to an established Romany Gypsy family living and working in the Romney Marsh area who have acquired a parcel of land with the aspiration of developing it as a Gypsy and Traveller site. Officers contacted the family and identified the 1.5ha site as 'land adjacent to The Retreat, Lydd Road, Old Romney'. A site location map is provided in Appendix 2.
- 6.2 Officers have subsequently considered the site using the assessment methodology outlined in Appendix 1.
- 6.3 The site does not strictly meet the Stage 1 screening criteria that would automatically take it forward for a more detailed assessment. However, it is considered that in this case a reasonable level of planning judgment can be exercised given the outstanding Gypsy and Traveller need to be addressed; the absence of reasonable alternatives; and the availability of the site, to allow it to progress to Stage 2 of the site assessment process.
- 6.4 In regards to the initial screening criteria, the site is further than the 500m threshold from the nearest settlement boundary. It is though within 500m of Old Romney with direct access onto the A259 and New Romney; as such it is considered that the site would not exclude Gypsy and traveller families and that opportunities would still exist for them to be able to integrate with both of the neighbouring local communities. Settlement boundaries are not defined for the smaller villages in the district in an effort to steer new development towards the more sustainable towns and villages in the settlement hierarchy. Additionally, a small proportion of the site along the southern extent of the site is identified as being of significant flood risk. The remainder of the site is classified as being of Nil to Moderate in terms of the risk of flooding with safe access and egress from the

site during a significant flooding event. As such, it is officers' opinion that there is a large enough 'developable area' at Nil risk of flooding to accommodate a small number of Gypsy and Traveller pitches.

- 6.5 A Stage 2 detailed assessment of the site suggests that it is largely free of constraints. There are some limitations, principally these relate to the potential ecological value of the site due to its location in the countryside; as well as future residents' ability to access services in New Romney without use of a private vehicle. However, matters such as drainage, ecology, landscape and archaeological are all considered to be manageable with appropriate mitigation.
- 6.6 The site assessment process identifies at Stage 3 that the site is available for development by virtue of being in the ownership of a Gypsy and Traveller family who have purchased the site with the intention of creating two to four residential pitches in order to meet the housing requirements of their immediate family.
- 6.7 A summary of the detailed site assessment can be found in the site assessment Matrix for Gypsy and Traveller Pitches in Appendix 1.
- 6.8 On balance of material considerations, officers' consider that 'land adjacent to 'The Retreat', Old Romney, where supported by an appropriate policy, is both a suitable and available site that is capable of delivering a small-scale Gypsy and Traveller site of two to four pitches. Draft Policy RM15 can be found in Appendix 3.
- 6.9 It should also be noted that should a suitable and available site allocation not be identified there is a high chance that the Places and Policies Local Plan would be found unsound by the Planning Inspector. In this event, as is the case with housing, applications for gypsy and traveller pitches could potentially be brought forward on other sites with an outstanding and unmet need being a material consideration that would need to be taken into account in any planning decision.

7.0 SUSTAINABILITY APPRAISAL/HABITATS REGULATIONS ASSESSMENT

- 7.1 Sustainability Appraisal (SA) and Habitats Regulations Assessment are systematic processes that must be carried out during the preparation of a Local Plan. Their role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.
- 7.2 The site options discussed in this report are being assessed by the Council's SA/HRA consultants and the results of this process may necessitate some minor amendments to the wording of the draft policy. Recommendation 3 of this report therefore recommends that delegated authority be given to the Assistant Director to make these amendments prior to the start of the consultation.

8.0 NEXT STEPS

- 8.1 If approved by Cabinet, the proposed site allocation, draft policy wording and supporting documents will be put out for public consultation for a six-week period.
- 8.2 Consultation comments will be passed directly to the planning Inspector for his consideration. The Inspector has indicated that it may be necessary to hold an additional hearing session into the proposed site allocation, but this is likely to be a brief session of a few hours only.

- 8.3 The Inspector will then advise on the timetable going forward to the close of the Examination in Public and the issue of his final report. The modified Places and Policies Local Plan will then be taken to Cabinet and full Council for adoption. If Council adopts the plan, there is then a six-week period during which a legal challenge can be lodged. At the end of this process, the plan can then be used to determine planning applications.

9.0 CONCLUSION

- 9.1 To conclude, the Folkestone & Hythe District has an established identified need for four residential Gypsy and Traveller Pitches. The Council has been instructed by the Inspector appointed to oversee the Examination in Public of the Council's Places and Policies Local Plan to allocate a site(s) within the plan in order to be found 'sound'.
- 9.2 Following a thorough review of potential forty sites within the Folkestone & Hythe District, officers concluded that there were no suitable and available sites for development as Gypsy and Traveller pitches within the Plan period.
- 9.3 Subsequently, a new site has since emerged on land in between New Romney and Old Romney. It is available for development for gypsy and traveller pitches and an initial assessment by officers finds that the site would be suitable for development subject to an appropriate layout and mitigation in respect of landscaping, drainage and flood risk. This report seeks permission from Cabinet to commence a consultation for a six-week period on 'land adjacent to 'The Retreat', Lydd Road, Old Romney' as its preferred site to accommodate up-to four residential pitches for the Gypsy and Traveller Community.

10.0 OPTIONS

- 10.1 Council has three options in considering this report:
1. Proceed with consultation on the preferred Gypsy and Traveller site allocation and draft Policy RM15 wording.
 2. Do not proceed with consultation. This is not advised; failure to allocate a Gypsy and Traveller site would likely result in the Places and Policies Local Plan being found 'unsound'.
 3. Proceed with consultation on an alternative site. This is not advised; officers consider that site identification and assessment has gone through an appropriate and thorough process.

11.0 RISK MANAGEMENT ISSUES

- 11.1 The risk management issues are outlined below.

Perceived risk	Seriousness	Likelihood	Preventative action
Inspector rejects site allocation	High	Low	Council undertakes thorough review of reasonable and available sites which can be defended at public hearings
Site is not	High	Low	The Council has

deliverable			consulted landowners, including public sector landowners, as part of the process to ensure that deliverability is properly considered.
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12.0. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

12.1 Legal Officer's Comments

The legal implications arising from this report are significant. In order for the PLPP to be considered capable for adoption the Appointed Inspector must determine that the plan is 'sound' (Section 20(5)(c) Planning and Compulsory Purchase Act 2004). The Inspector has directed that for the plan to be determined sound it must adequately address the future housing needs of the Gypsy and Traveller community by identifying and putting forward a site(s) allocation to meet the permanent pitch requirements set out in the Gypsy and Traveller Accommodation Assessment (2018).

Should the Council fail to comply with this direction resulting in the Inspector's determination that the PLPP is unsound then the recommendation must be the PLPP is not adopted. It follows that in these circumstances the Council should withdraw the PLPP in accordance with regulation 27 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

12.2 Finance Officer's Comments

There are no direct financial implications of the recommendations proposed.

12.3 Diversities and Equalities Implications

Gypsy and Travellers can be classified as an ethnic group: '*a group who share the same history and cultural traditions*', which falls under the protected characteristic of 'Race' as defined in the Equality Act 2010. The Planning inspectorate has identified the need for the Council to address housing provision for the gypsy and traveller communities as part of the Places and Policies Local Plan. The Council has duty to provide adequate provision for housing and should ensure all future housing provision does not discriminate against individuals or groups within a community on the grounds of protected characteristics defined within the act.

13.0 CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Officer: Adrian Tofts: Planning Policy Manager
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The following background documents have been relied upon in the preparation of this report:

(Note: only documents that have not been published are to be listed here)

14.0 Appendices:

Appendix 1: Gypsy, Traveller & Travelling Showpersons: Site Identification Study (FHDC, 2019)

Appendix 2: Land adjacent to The Retreat, Lydd Road, Old Romney: Site Map

Appendix 3: Draft Policy RM15

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