



DRAFT PORTFOLIO HOLDER DECISION NOTICE

PROPOSED INDIVIDUAL DECISION BY THE PORTFOLIO HOLDER FOR PLANNING AND ENFORCEMENT

TOPIC – PLANNING FOR TRAVELLER SITES: CONSULTATION

PROCEDURAL INFORMATION

The Access to Information Procedure Rules – Part 4, Section 22 of the Council's Constitution provides for a decision to be made by an individual member of Cabinet.

In accordance with the Procedure Rules, the Corporate Director (Governance), the Chief Executive and the Head of Finance are consulted together with Chairman and Vice Chairman of The Overview and Scrutiny Committee and any other relevant overview and scrutiny committee. In addition, all Members are notified.

If five or more Members from those informed so request, the Leader may require the matter to be referred to Cabinet for determination.

If you wish to make representation on this proposed Decision please contact the relevant Portfolio Holder and the following Committee Administrator by 5.00pm on Friday 24 June 2011.

Contact Officers: Steve Opacic, Tel: 01962 848 101, Email: sopacic@winchester.gov.uk

Zoë James, Tel: 01962 848 420, Email: zjames@winchester.gov.uk

Committee Administrator: Nancy Graham, Tel: 01962 848 235, Email: ngraham@winchester.gov.uk

SUMMARY

This decision notice sets out a recommended response by the City Council to the Government's consultation on replacing the existing gypsy and traveller planning circulars (CLG Circulars 01/2006 and 04/2007) with a Planning Policy Statement for traveller sites which will eventually become part of the National Planning Policy Framework. The policies within the Planning Policy Framework/Statement would be a material consideration where relevant for a planning application.

Winchester City Council has a statutory duty under the 2004 Housing Act to "...carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district" as part of their review of housing needs. Under the Local Government Act 2003 they must also prepare a strategy on how these accommodation needs will be met.

The number of unauthorised pitches in Winchester District demonstrates a demand for gypsy and traveller accommodation locally. More authorised pitches in the District would help to ease the conflicts between the traveller and settled communities as well as to address the Council's statutory obligations to meet the accommodation needs of all its communities.

The consultation document seeks to secure fairer planning rights for travellers and the settled community and requires each local planning authority to set pitch/plot targets to be delivered on identified sites. Local planning authorities would therefore have to show a 5 year land supply of traveller sites, as is required for other housing.

This draft Notice concludes that Winchester City Council should support the need to assess gypsy and traveller accommodation needs locally and develop a target for provision. However, the Winchester City Council Core Strategy is at an advanced stage of preparation and it will not be possible in the planned timescale to set and consult on site targets for travellers' sites within the Core Strategy. It is therefore recommended that the Council seeks more flexibility on establishing pitch/plot targets and opposes policies for Gypsy and Traveller sites which are based on demonstrating a 5 year land supply of pitches/plots. Instead, it is proposed that local planning authorities should be able to set interim criteria-based policies with the aim of undertaking a needs assessment and setting targets through the Development Management and Allocations DPD.

PROPOSED DECISION

1. That the Council objects to various parts of the consultation document, particularly those which relate to setting specific pitch/plot targets for Traveller sites and for this to be demonstrated through a 5 year land supply.
2. That the Head of Statagic Planning responds to the specific questions set in the consultation document as set out in the "Reasons for the Proposed Decision" of the Portfolio Holder Decision Notice.

REASON FOR THE PROPOSED DECISION AND OTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

Background

The 2010 [Count of Gypsy and Traveller Caravans](#) recorded a number of unauthorised Gypsy and Traveller sites in Winchester District. This indicates that there is a demand for such sites within the District and a possible need to plan for additional authorised sites to help ease the conflicts between the travelling and settled communities, as well as to address the Council's statutory obligations to meet the accommodation needs of all their communities.

The Government is proposing the following approach to Gypsies and Travellers:-

- Removing the requirement to set traveller pitch targets through regional strategies, in Winchester's case the South East Plan (through the Localism Bill);
- Using the new 'duty to cooperate' which will require more cross-boundary work (through the Localism Bill);
- Allowing new Gypsy and Traveller sites to qualify for the New Homes Bonus scheme, where the sites are owned or managed by local authorities or registered partners;
- Making some funding available under the National Affordable Housing Programme 2011-2015 for traveller sites;
- Improving protection for travellers living on authorised local authority sites under the [Mobile Homes Act \(1983\)](#) (implemented in April 2011);
- Limiting opportunities for retrospective planning permission by only allowing an enforcement appeal or a retrospective planning application for a development, not both (through the Localism Bill); and
- Increasing Breach of Condition Notice non-compliance penalties from £1,000 to £2,500 (through the Localism Bill).

Part of the Government's approach is to bring planning policy for Travellers' accommodation in line with planning policy for settled communities (set out predominantly in PPS3: Housing). This would require local authorities to assess travellers' needs and identify specific traveller pitch/plot targets, rather than these being set in regional strategies. The intention is that the current under-provision of sites is addressed within 3-5 years and that adequate sites are identified to demonstrate a rolling 5 year land supply, with further sites identified in development plan documents to meet the needs for the next 15 years. This follows the approach currently required for other forms of new housing. However, instead of being set through the South East Plan, these targets would be set locally, based on a robust evidence base.

These changes would be made through the proposed Planning Policy Statement (PPS) called 'Planning for Traveller Sites' and subsequently incorporated into the proposed National Planning Policy Framework. The consultation on this document began on 16 April 2011 and will end on 6 July 2011. The final PPS will replace current policy set out in *Circular 01/06 (ODPM): Planning for Gypsy and Traveller Caravan Sites* and *Circular 04/07: Planning for Travelling Showpeople*.

The consultation proposes a number of changes from the current system of setting Gypsy and Traveller pitch/plot targets for local planning authorities through regional strategies. There are a series of consultation questions which are set out below, followed by a discussion of the issues raised and the recommended response by Winchester City Council.

Q1: Do you agree that the current definitions of "gypsies and travellers" and "travelling showpeople" should be retained in the new policy?

The consultation proposes that the current planning definitions for gypsies, travellers and travelling showpeople should be retained for the new policy but combined under the term 'Traveller' for the purposes of the PPS.

Currently there are different definitions for gypsies and travelling showpeople and separate government circulars giving advice on each. Whilst the use of the term 'traveller' to cover all the categories is convenient, it is important to recognise that there are clear cultural and ethnic differences between gypsies and travelling showpeople, with corresponding differences in statutory requirements and policy approaches. Each group is keen to maintain these differences and may be unlikely to accept a generic definition.

Recommended Response: Q1 The Council is **concerned** about the suggestion that the definitions should be combined under the term 'Traveller' for this PPS. Gypsies and travelling showpeople are distinct groups which are likely to want to maintain their separate cultural identities. If a single term is used, it is important that the guidance recognises these differences to reassure the groups that it is not seeking to dilute the differences between them.

Q2: Do you support the proposal to remove the specific reference to Gypsy and Traveller Accommodation Needs Assessments in the new policy and instead refer to a "robust evidence base"?

Q3: Do you think that local planning authorities should plan for "local need in the context of historical demand"?

The new policy would require local planning authorities to set their own targets for traveller pitch/plot provision to meet their housing needs (as required by the 2004 Housing Act), as opposed to the current system of targets being set regionally. The targets still have to be based on robust evidence of local need taking historical demand into account, but the evidence required will not be set out by the Government (currently a 'Gypsy and Traveller Accommodation Needs Assessment' is required by the guidance).

The greater flexibility that would be given in terms of the level of evidence required, and how it is collected, is to be welcomed. However, whether it will be possible to gather this, consult and use it to establish a target in a development plan document will be very dependent on the stage each authority's Core Strategy (or other DPDs) has reached. Accordingly, it is recommended that greater flexibility be sought to allow a 'criteria-based' policy to be developed as an interim measure where developing a local target would delay plan-production, rather than insisting that pitch/plot targets must always be set (see also recommended response to Q4). Criteria-based policies may also be needed to deal with any 'windfall' sites, although it is recognised that targets are important in achieving site provision.

Recommended Response: Q2 The Council **supports** the removal of the specific reference to 'the Gypsy and Traveller Accommodation Needs Assessment' guidance and its replacement with reference to a "robust evidence base" on which to base a needs assessment.

Recommended Response: Q3 The Council **disagrees** that the policy should require needs to be assessed 'in the light of historical demand'. This conflicts with the freedom which the guidance tries to achieve by removing

the requirement for gypsy and traveller accommodation assessments. Placing too much emphasis on historic demand which fluctuates greatly between years would not be a sound basis on which to allocate sites; the fluctuation between needs in each year varies so much that in years of high caravan numbers, there would not be sufficient permitted sites to accommodate the need and an over-supply of sites in other years. Instead, a needs assessment should be based on consultation with both the local traveller and settled community. The City Council supports the other requirements of Policy A to “co-operate with travellers, their representative bodies and local support groups, other local authorities and relevant interest groups to prepare and maintain an up-to-date understanding of the likely permanent and transit accommodation needs of their areas over the lifespan of their development plan”.

Q4: Do you agree that where need has been identified local planning authorities should set targets for the provision of sites in their local planning policies?

Q5: Do you agree with the proposal to require local planning authorities to plan for a five-year supply of traveller pitches/plots?

The Government wants to significantly increase the number of traveller sites with permission and proposes that to make this happen, local planning authorities should maintain a 5 year supply of traveller pitches/plots which are available now, suitable and achievable. The argument is that this would give a more reasonable timescale in which to meet local targets, but the proposed policy wording also sets a requirement to identify specific sites to ‘enable continuous delivery of sites for at least 15 years from the date of adoption’.

The potential problems for the City Council of including a target within the Core Strategy are mentioned above. Whilst a target and a requirement to demonstrate how it is being met should help to increase pitch/plot provision, the requirement to demonstrate a 5-year pitch/plot supply (for which a pitch/plot target would need to be in place) is considered particularly problematic. This is already a complex area in relation to permanent housing and it would be extremely difficult to measure whether a 5 year supply exists in relation to traveller accommodation where, by its very nature, the situation can change over a short period. Also, there are likely to be difficulties in terms of how temporary consents should be dealt with, as well as unauthorised sites. There may also be complications about how to count pitches for family members who may not physically move their own accommodation onto the site and whether sites subject to personal consents would be counted as being ‘available’.

Policy B suggests that targets could be considered across authorities to provide more flexibility in identifying sites which could address some of the issues regarding the variation in caravan numbers per year. Under Policy B, identified sites would have to be allocated a set a pitch/plot number based on the size and location of the site and the surrounding population’s size and density. Further to this, the policy states that allocations are needed where

there is an identified need, but where there is no identified need criteria-based policies should be used. Where applications come in on sites not allocated, Policy H states that the LPA should consider the application in light of whether they will undermine achievement of their policy objectives.

Recommended Response: Q4 The Council **disagrees** that local planning authorities should always be required to set pitch/plot targets for the provision of traveller sites in their local planning policies. There should be flexibility to allow for interim criteria-based policies to be developed where development plan documents would otherwise have to be delayed to undertake traveller needs research; this would apply to Winchester City Council's Core Strategy. Targets based on a needs assessment could then be prepared for a development allocations document, based on current and future need in the area, rather than simply historical demand.

Recommended Response: Q5 The Council strongly **disagrees** that a five-year supply of traveller pitches/plots should be required. The requirements set under PPS 3 for settled communities to demonstrate a 5 year land supply of sites which are available now, suitable and achievable would be extremely difficult and onerous to measure, demonstrate and monitor for a mobile community where there is a lot of temporary, unauthorised and transitional accommodation. The very fact that travellers have a transient way of life and choose not to be part of the settled community makes such an approach inappropriate for traveller accommodation. The policies for Traveller sites need to recognise the transient nature of much of the community and therefore the Council would suggest a more straightforward means of monitoring the adequacy of provision.

Q6: Do you agree that the proposed wording of Policy E (in the draft policy) should be included to ensure consistency with Planning Policy Guidance 2: Green Belts?

The PPS would change policy on development within the Green Belt to make it consistent with PPG2 so that applications from travellers are considered in the same way as those in the settled community. There is no designated Green Belt within Winchester District, but this proposal singles out Green Belt for a higher level of protection than may be given to other important designated areas, such as Sites of Special Scientific Interest or National Parks.

Recommended Response: Q6 Winchester does not have any designated Green Belt, but the City Council would consider that gypsy and traveller sites are more likely to be located in the countryside than in urban areas and therefore it would be more helpful to consider the location of sites based on policy criteria and not automatically on whether the site is within the Green Belt. Green Belt should not necessarily have a more restrictive policy approach towards Travellers than other areas which are designated

as important for particular reasons, such as nature conservation (SSSIs) or landscape interest (AONBs/National Parks).

Q7: Do you agree with the general principle of aligning planning policy on traveller sites more closely with that for other forms of housing?

Q8: Do you think the new emphasis on local planning authorities consulting with both settled and the traveller communities when formulating their plans and determining individual planning applications will reduce tensions between these communities?

The Government proposes to align planning policy for traveller sites more closely with that for other housing (e.g. PPS3). The proposed PPS includes a requirement for local planning authorities to monitor and analyse decisions on applications for traveller sites against those of other types of residential development to inform policy development. The PPS would also increase the emphasis on early and effective community engagement with both the settled and traveller communities for both planning policy development and when determining planning applications.

Recommended Response: Q7 The City Council **disagrees** with the general principle of aligning planning policy on traveller sites more closely with that for other forms of housing. The cultural needs of travellers are different from the settled community and therefore should not automatically be assessed under same housing policies. The requirements to demonstrate 5 year land supply as required by PPS3 are not suitable to be applied to Travellers sites (see above).

Recommended Response: Q8 The City Council **agrees** that the new emphasis on consulting with both settled and traveller communities could help to reduce tensions between communities.

Q9: Do you agree with the proposal in the transitional arrangements policy (paragraph 26 of the draft policy) that asks local planning authorities to “consider favourably” planning applications for the grant of temporary permission if they cannot demonstrate an up-to-date five-year supply of deliverable traveller sites to ensure consistency with Planning Policy Statement 3: Housing?

Q10: Under the transitional arrangements, do you think that six months is the right time local planning authorities should be given to put in place their five-year land supply before the consequences of not having done so come into force?

Q11: Do you have any other comments on the transitional arrangements policy?

Transitional arrangements are proposed where a local planning authority cannot demonstrate a five year land supply, then applications for a temporary permission should be treated favourably, which is the current approach for

settled communities. It is proposed that LPAs should be given six months to put their 5 year land supply in place before applications are considered favourably.

Recommended Response: Q9 Winchester City Council **disagrees** with the proposal that applications for temporary permission for travellers sites should be considered favourably if a 5 year land supply cannot be demonstrated. As previously stated, we believe there should be some provision for criteria-based policies for travellers sites and that there should not be a requirement to demonstrate a 5-year supply of sites. In this case, transitional arrangements would not be required.

Recommended Response: Q10 Winchester City Council strongly **disagrees** that 6 months after the policy is adopted is the right timescale to allow LPAs to put a 5 year land supply in place. A 5 year land supply cannot be measured until a pitch/plot target is in place and the time needed to develop an evidence-based target, consult on it and incorporate it into a development plan document will be considerable (even if the planning authority is at the right stage of the LDF process to do this). The policy requires effective engagement with both the traveller and settled communities and 6 months is not sufficient time in which to achieve this and consult with both the local and more transient traveller populations and allow discussion and consultation with the settled communities. Experience from producing the Strategic Housing Land Availability Assessment shows that producing this type of information based on robust evidence takes a significantly longer time.

Q12: Are there any other ways in which the policy can be made clearer, shorter or more accessible?

Q13: Do you think that the proposals in this draft statement will have a differential impact, either positive or negative, on people because of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation? If so, how in your view should we respond? We are particularly interested in any impacts on (Romany) Gypsies and (Irish) Travellers and welcome the views of organisations and individuals with specific relevant expertise.

Recommended Response: Q12 The approach set out in the consultation of combining the relevant information from the two Circulars into a single PPS and removing cross references to national policy may make the guidance simpler, but it is important that the clear differences between the gypsy and travelling showpersons communities is not overlooked or eroded.

Recommended Response: Q13 The proposals are intended to have a beneficial impact on various traveller groups. Provided the proposals are modified in the way suggested by the comments above the policy should be successful in achieving this.

RESOURCE IMPLICATIONS:

None at this stage but there may be significant future resource impacts depending on the content of the final Planning Policy Statement/Framework. This is likely to require additional work to assess travellers' needs and identify new sites. If the requirements prove difficult to meet there may be additional resource implications for enforcement work, planning applications and appeals.

CONSULTATION UNDERTAKEN ON THE PROPOSED DECISION

CMT and the Portfolio Holders for Planning and Enforcement, Strategic Housing and Landlord Services, and Environment & Transport.

**FURTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED
FOLLOWING PUBLICATION OF THE DRAFT PORTFOLIO HOLDER DECISION
NOTICE**

n/a

**DECLARATION OF INTERESTS BY THE DECISION MAKER OR A MEMBER OR
OFFICER CONSULTED**

n/a

DISPENSATION GRANTED BY THE STANDARDS COMMITTEE

n/a

Approved by: (signature)

Date of Decision

Councillor Humby – Portfolio Holder for Planning and Enforcement