



AGENDA ITEM: 7

SUMMARY

Report for:	Strategic Planning and Environment Overview & Scrutiny Committee
Date of meeting:	19 July 2016
PART:	1
If Part II, reason:	

Title of report:	Planning approach to provision for Gypsies and Travellers, including Site LA5
Contact:	<p>Cllr Graham Sutton – Portfolio Holder for Planning & Regeneration</p> <p><i>Author/Responsible Officer(s):</i> John Chapman – Strategic Planning and Regeneration Officer Laura Wood – Strategic Planning and Regeneration Team Leader</p>
Purpose of report:	<p>1. To set out Government requirements for Gypsy and Traveller provision, and how the Council plans to meet them via the Site Allocations Development Plan Document.</p> <p>2. To use Local Allocation LA5 (Icknield Way, west of Tring) by way of an example of the Council's approach.</p>
Recommendations	That the contents of the report are noted.
Corporate objectives:	<p>The Council's approach to planning for Gypsy and Traveller provision helps support the following corporate objectives:</p> <ul style="list-style-type: none"> • <i>Community capacity</i>: by providing accommodation for all sectors of the Dacorum community. • <i>Affordable housing</i>: Gypsy and Traveller pitches can often be counted as a form of affordable rented homes • <i>Dacorum delivers</i>: e.g. provides a clear framework for the delivery of Gypsy and Traveller sites.
Implications:	<p><u>Financial</u> No implications as a result of this report.</p> <p><u>Value for Money</u> The Traveller Needs Assessment (2013) was jointly commissioned with Three Rivers District Council to ensure</p>

	<p>value for money.</p> <p><u>Legal</u> Jameson and Hill have been retained to provide external legal support for the Site Allocations Development Plan Document. The same advisers acted for the Council through the Core Strategy Examination process and subsequent (unsuccessful) legal challenge to this document. They will provide the Council with any advice required regarding the implication of new Government advice; assist with responding to key representations; advise on the production of any additional evidence and support Officers through the Examination process itself.</p>
Risk Implications	Risk Assessment prepared and update as part of monthly CORVU monitoring on the Local Development Framework.
Equalities Implications	An Equality Impact Assessment has been carried out for the Core Strategy, which provides the overarching planning framework for the Borough. Equalities issues are also picked up as part of the Sustainability Appraisal Report that accompanies the Site Allocations document itself.
Health And Safety Implications	Implications are included in the planning issues covered by the Core Strategy and Site Allocations DPDs.
Consultees:	<p>Cllr Alan Anderson, Chairman, Strategic Planning and Environment Overview and Scrutiny Committee</p> <p>Cllr Graham Sutton, Portfolio Holder, Planning and Regeneration</p> <p>Mark Gaynor, Corporate Director, Housing and Regeneration</p> <p>James Doe, Assistant Director, Planning, Development and Regeneration</p>
Background papers:	<ul style="list-style-type: none"> • Pre-Submission Site Allocations DPD (September 2014) • Dacorum Borough Local Plan 1991-2011 (adopted April 2014) • Planning Policy for Travellers Sites, August 2015 (and 2012 version). • Mrs Jean Timmins and A W Lymn Limited vs Gedling Borough Council and Westerleigh Group Limited High Court Judgment (March 2014) • Core Strategy (adopted September 2013) • Dacorum Borough Council and Three Rivers District Council Traveller Needs Assessment' (ORS, January 2013) • Site Allocations Supplementary Issues and Options (2008) • Accommodation Needs of Gypsies and Travellers in South and West Hertfordshire (Scott Wilson, March 2007) • Draft LA5 Master Plan (September 2014) and revised version (October 2015) • Providing Homes and Community Services Background Issues Paper (November 2015) • Cabinet Report on Gypsy and Traveller Sites (March

	<p>2009)</p> <ul style="list-style-type: none"> • Site Allocations Focused Changes consultation document (August 2015) • Cabinet Report on submission of Site Allocations (December 2015) and referral to Full Council (January 2016) • Cabinet Report on draft Master Plans (October 2015) • Cabinet Report on Site Allocations Pre-Submission (July 2015)
Historical background <i>(please give a brief background to this report to enable it to be considered in the right context).</i>	The Core Strategy sets out the Council's approach to Gypsy and Traveller provision. This document was adopted in September 2013. The role of the Site Allocations DPD is to deliver the Core Strategy via a series of policies and site specific proposals – including for Gypsies and Travellers. The Site Allocations document was agreed by Full Council for submission to the Planning Inspectorate in January 2016. The examination process is currently underway, with the hearing sessions programmed for October 2016.
Glossary of acronyms and any other abbreviations used in this report:	<p>DPD Development Plan Document GTAA Gypsy and Traveller Accommodation Assessment PPTS Planning Policy for Travellers Sites CAONB Chilterns Area of Outstanding Natural Beauty</p>

BACKGROUND

1. Existing Provision for Gypsies and Travellers

- 1.1 There are two existing sites for Gypsies and Travellers in the Borough, both of which are owned and managed by Hertfordshire County Council:

Site	Number of authorised pitches
Three Cherry Trees Lane, Hemel Hempstead	30
Cheddington Lane, Long Marston	6
<i>Total</i>	36

- 1.2 These sites accommodate Irish Travellers and Romany Gypsies respectively. Whilst there are often short term vacancies at the Three Cherry Trees site, Hertfordshire County Council advise that these are quickly filled from the waiting list.
- 1.3 Members should note that unauthorised encampments – should they exist, and there are none at present – cannot count towards the total current supply of Gypsy and Traveller pitches in the Borough.

2. National Policy and Guidance on Provision of Gypsy And Traveller Sites

- 2.1 When the Council consulted on its Pre-Submission Site Allocations (September 2014), national policy for Gypsies and Travellers was set out in the 2012 version of Planning Policy for Traveller Sites (PPTS). This guidance encouraged fair and equal treatment for travellers, and urged local planning

authorities to identify need and plan for future provision in appropriate locations. It recognised the sensitivity of new sites in rural areas, particularly the Green Belt, and sought to limit the number and scale of new traveller site developments in open countryside.

2.2 In August 2015, the Government issued its revised 'Planning Policy for Traveller Sites'. The guidance on plan-making is little changed from the 2012 guidance. In particular, the Council's obligations to make appropriate provision for Gypsies and Travellers have not changed:

- Local planning authorities should set pitch targets for Gypsies and Travellers which address the likely need for such accommodation.
- Local planning authorities should, in producing their Local Plan, identify sites to meet their locally set targets. This includes the requirement to be able to demonstrate a 5 year supply of deliverable sites.
- Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to alter the Green Belt boundary 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.

2.3 The changes to the PPTS relate to two main areas:

1. The treatment of speculative applications for sites in the Green Belt - powers to refuse such applications have been strengthened. Also, new text indicates that a lack of pitches for Gypsies and Travellers is not a reason to grant planning permission for sites in the Green Belt and other protected areas. This text is in the section on determining applications (i.e. Development Management decisions), not the plan-making section.

2. The definition of Gypsies and Travellers - previously the definition covered persons of nomadic habit of life, including those who have ceased to travel temporarily or permanently. The words '*or permanently*' have now been deleted from the definition.

3. The Council's Approach to Provision of Sites

Core Strategy

3.1 Core Strategy Policy CS22 (New Accommodation for Gypsies and Travellers) sets out the Council's general approach towards provision. It also provides a series of criteria against which the suitability of sites will be judged. This policy does not identify any specific sites.

3.2 The delivery section below Policy CS22 states that sites will be identified in the Site Allocations Development Plan Document (DPD). It also sets a monitoring target for a minimum of 17 additional pitches (net). A pitch is an area large enough for one household to occupy. It typically contains enough space for two caravans, but can vary in size.

- 3.3 Although the Core Strategy does not refer to the location of these sites, the Council has been clear to residents, developers, landowners, representatives of the Gypsy and Traveller community and to the Core Strategy Planning Inspector that its preferred method of provision is through the Local Allocations. Six Local Allocations (LA1-LA6) are identified in the Core Strategy. These are large sites for housing development, which will be released from the Green Belt via the Site Allocations DPD.
- 3.4 This approach was explained as follows in the Council's evidence to the Core Strategy examination in public:

"In terms of the location of sites, new pitches are expected to be provided alongside large-scale planned development, particularly the appropriate local allocations. These sites will be defined on the Proposals Map. This approach is intended to aid integration of sites with the settled community; reduce the marginalisation of the travelling communities; and ensure occupants of the sites have good access to local services and facilities such as health and education. The Council will be clearer about the appropriate and fair target to use at this time. It may or may not be necessary to supplement this supply with other identified site(s) in the Site Allocations DPD."

Traveller Needs Assessment

- 3.5 Future needs were assessed by consultants ORS in the 'Dacorum Borough Council and Three Rivers District Council Traveller Needs Assessment' (January 2013). This document concluded that 17 new pitches are needed to meet the natural growth of Gypsies and Travellers already resident in the Borough between 2012 and 2031.
- 3.6 ORS also advised that the incorporation of new Gypsy and Traveller sites within new urban extensions was emerging as a 'good practice' approach. Similar advice has been given by the Planning Officers' Society (POS) and the Gypsy and Traveller Unit at Hertfordshire County Council.
- 3.7 For Dacorum, the ORS study also noted that the needs for future pitch provision is split between Romany Gypsies and Irish Travellers. These are separate ethnic groups and while they often live together on sites, this is not usually their preference. Therefore, the study advised that the Council consider making pitch provision on separate sites to allow the two groups the option of continuing to live independently.
- 3.8 The Three Cherry Trees Lane, Hemel Hempstead site is occupied by Irish Travellers, whilst the Romany Gypsies are focused on the Long Marston Site, north of Tring.

Site Allocations Development Plan Document (DPD)

- 3.9 An initial consultation on potential Gypsy and Traveller sites for inclusion in the Site Allocations DPD was undertaken in 2008. Most of these sites were identified in the 2007 Scott Wilson Report, which identified potential Gypsy and Traveller sites across South West Hertfordshire. All the Scott Wilson sites were in the Green Belt or Rural Area, as no suitable urban sites were found.

- 3.10 Following analysis of the consultation responses, Cabinet considered a report on 31 March 2009 regarding how and where provision should be made within the Borough. This resulted in the current policy approach of seeking to integrate sites with new ‘bricks and mortar’ housing.
- 3.11 An alternative approach of meeting future needs by extending the two existing Gypsy sites within the Borough was considered, but rejected. The Gypsy and Traveller Unit at Hertfordshire County Council (who own and manage both sites) advised that:
- The Three Cherry Trees Lane site is already larger than the ideal site size and should not be extended.
 - The Long Marston site is not ideally located in terms of access to services and facilities and is already of the maximum size suitable for its rural village edge location. The landowners of the adjoining land are opposed to expansion. Also, there is a written undertaking between the County Council and local Parish Council that there will be no further expansion. Whilst this is not legally binding, it is a further constraint to expansion.
- 3.12 Consultation took place in autumn 2014 on the Pre-Submission Site Allocations DPD (i.e. the version of the plan the Council proposed to submit for public examination). The approach proposed in this document reflected the Traveller Needs Assessment and feedback from a Member Task and Finish Group established to inform the Site Allocations process. Small new Gypsy and Traveller sites were proposed within the three largest Local Allocations as follows:

Site	Number of pitches
LA1: Marchmont Farm, Hemel Hempstead	5
LA3: West Hemel Hempstead	7
LA5: Icknield Way, west of Tring	5
<i>Total</i>	<i>17</i>

- 3.13 The recommended distribution of new pitches reflected the locational split, between Romany Gypsies and Irish Travellers (see paragraphs 3.7 and 3.8 above).
- 3.14 The reasons why LA1, LA3 and LA5 were chosen include the size of site (i.e. sufficiently large to enable integration with the new and settled community), proximity to the primary road network and site topography. The Pre-Submission Site Allocations DPD included the proposed Gypsy and Traveller sites at LA1 and LA3 within the land to be removed from the Green Belt. The site at LA5 was initially retained in the Green Belt, before subsequently being removed (see explanation in paragraphs 3.22-3.33 below).
- 3.15 Consultation on draft master plans for each local allocation took place at the same time as the consultation on the Pre-Submission Site Allocations DPD. The draft master plans for LA1, LA3 and LA5 included additional guidance on the proposed Gypsy and Traveller sites.
- 3.16 A considerable number of objections to the proposed new Gypsy and Traveller sites were submitted in response to the Pre-Submission Site

Allocations DPD and the draft master plans. The highest number of objections related to the proposed site at LA5.

- 3.17 Responses to the Pre-Submission Site Allocations DPD were reported to Cabinet on 21 July 2015. In the light of these responses, the Council published the Focused Changes to the Pre-Submission Site Allocations consultation document (August 2015). This document proposed a limited number of changes to the Pre-Submission document. No changes were proposed in respect of the proposed Gypsy and Travellers sites at LA1 and LA3, but a change was proposed concerning the site at LA5 (see paragraph 3.24 below).
- 3.18 Responses to the draft master plans were reported to Cabinet on 20 October 2015. Members agreed revised versions of the draft master plans.
- 3.19 The Site Allocations DPD was submitted for public examination in February 2016, as agreed by Cabinet on 15 December 2015 and Full Council on 20 January 2016. An Inspector has been appointed. She has raised various queries with the Council and has asked the Council to undertake viability testing of the developments proposed at LA1, LA3 and LA5. This request stems from the fact that the LA5 developer (CALA Homes) has questioned the viability of this site due to the requirement for a Traveller site.
- 3.20 The viability testing is due to be completed shortly and it is expected that the public hearings into the Site Allocations DPD will be held in early October.
- 3.21 Further information on how the Council has considered the need for Gypsy and Traveller sites in the Site Allocations document can be found in Section 4 (Travelling Communities) in the 'Providing Homes and Community Services' Background Issues Paper (November 2015):
<http://www.dacorum.gov.uk/home/planning-development/planning-strategic-planning/local-planning-framework/site-allocations/site-allocations-examination-2016/site-allocations-examination-library> (document SA4)

This document includes a list of alternative sites / locations put forward by members of the public, and why these were not considered to be reasonable alternatives.

Local allocation LA5 (Icknield Way, west of Tring)

- 3.22 The Pre-Submission Site Allocations DPD proposed a new Gypsy and Traveller site at LA5, accessed from Aylesbury Road. The proposed location is in the western part of the site, separated from the proposed new housing by the proposed cemetery extension. This part of LA5 is within the Chilterns Area of Outstanding Natural Beauty (CAONB) and was proposed in the Pre-Submission document to remain in the Green Belt.
- 3.23 One of the reasons why a new Gypsy and Traveller site is proposed at LA5 is that it is reasonably close to the existing Romany Gypsy site at Long Marston (see paragraphs 3.7 and 3.8 above). This site is currently operating above capacity.
- 3.24 Cabinet agreed on 21 July 2015 that the proposed cemetery extension and Gypsy and Traveller site should be added to the land at LA5 to be removed from the Green Belt. This decision was made in the light of recommendations

from the Council's legal adviser, following the judgment by the Court of Appeal on the Timmins case (see paragraphs 4.8 and 4.9 in the December 2015 Cabinet report). This in-effect established that (rather counter-intuitively), cemetery buildings are deemed 'appropriate' development in the Green Belt, whilst the open elements are considered 'inappropriate' development in the Green Belt.

- 3.25 These proposed changes to the Green Belt boundary at Tring as a result of the Timmins judgement were incorporated into the Focused Changes document (August 2015) and were called 'significant changes SC1 and SC7'.
- 3.26 On 20 October 2015, Cabinet considered issues raised through consultation on the draft master plans on the local allocations in autumn 2014, including the draft LA5 Master Plan. Members agreed some changes to the draft master plans. The master plans are to sit alongside the Site Allocations DPD, and will be a material consideration when determining planning applications on the sites. They will not be part of the statutory development plan, but Full Council will be asked to endorse the master plans when the Site Allocations DPD is adopted.
- 3.27 Feedback from the master plan consultation was considered by Cabinet in October 2015. This report highlighted that there were more objections from individuals to the proposed Traveller site at LA5 than to any other aspect of the draft master plan. It also noted concerns raised about the impact of the travellers site on the Chilterns AONB.
- 3.28 The response to these objections (agreed by Cabinet) was that the Traveller site will have only a limited impact on the AONB, although it supported changes to the draft master plan to stress the need for landscaping of the site.
- 3.29 Paragraphs 5.11-5.17 in the revised draft LA5 Master Plan (October 2015) provide guidance on the proposed Gypsy and Traveller site. Paragraph 5.12 states that the proposed location for the Gypsy and Traveller site is considered to be the most suitable, because it:
- is separated from, but close to the existing and proposed new housing;
 - occupies a sustainable location, where the residents will have easy access to local services and facilities in Tring; and
 - will have a very limited impact on the special qualities of the AONB or the visual amenity of the Green Belt.
- 3.30 Paragraph 5.13 is also particularly relevant:

"With regard to bullet point 3 above, it is important to note that the proposed Gypsy site is on relatively low land at the bottom of the slope. Views of this part of LA5 from the Chilterns escarpment are already well screened by the tree belt on the south side of Aylesbury Road. Further landscaping should be provided to ensure that the Gypsy site is well contained in the landscape. In particular, the site should be screened from views along Aylesbury Road and well landscaped along its northern and western boundaries, adjoining the western fields open space. This will help to create a new long term defensible Green Belt boundary at LA5."

3.31 Cabinet considered responses to the Site Allocations Focused Changes consultation on 15 December 2015. At this meeting Members were informed of the Government's revised Planning Policy for Travellers (see paragraphs 2.2 and 2.3 above). Paragraph 18 in the Officer report stated that the exclusion of the proposed Gypsy and Traveller sites at LA1, LA3 and LA5 accords with Core Strategy Policy CS22.

3.32 Paragraph 32 in the December 2015 Officer report advised Cabinet as follows:

"As expected, the highest number of individual comments of objections to any of the specific changes related to SC1 (5 objectors) and SC7 (8 objectors) which proposed the removal of the cemetery extension and Gypsy and Traveller site at LA5: Ickniel Way, Tring from the Green Belt. The reasons for this change were summarised in the Cabinet Report of 21st July 2015. The reasons for this change remain valid, and legal advice received recommends that the Council incorporates these changes within the Site Allocations DPD submitted to the Planning Inspectorate."

3.33 Cabinet accepted the above advice and the report and its recommendations were agreed.

4. How the Council's Approach to Provision of Sites Accords with National Policy and Guidance, and the Role of the Site Allocations Examination in Checking whether this Approach is Sound

4.1 The Site Allocations DPD is being examined by an independent Inspector whose role is to assess whether the plan has been prepared in accordance with the Duty to Co-operate, legal and procedural requirements, and whether it is sound.

4.2 The plan cannot be adopted by the Council unless it is found sound, (with or without any modifications required by the Inspector). In order to be found sound, the plan must be:

- positively prepared
- justified
- effective
- consistent with national policy

4.3 At the 15 December 2015 Cabinet meeting, Members were informed of the Government's revised Planning Policy for Travellers (see paragraphs 2.2 and 2.3 above).

4.4 This Cabinet report gave Members the following advice on the implications for the Council's approach towards planning for new Gypsy and Traveller sites:

"Officers have taken both internal and external legal advice (from Rob Jameson at Attwaters Jameson Hill) regarding whether the publication of the new PPTS requires the Council to make any changes to this approach. This legal advice concludes that the only legally sound way forward for the Council is to continue with this current approach. This is due to a range of reasons summarised below:

- a) *The role of the Site Allocations DPD is to allocate sites in accordance with the targets and policies set out in the adopted Core Strategy. It is not the role of the Site Allocations DPD to reconsider or revise these numbers. This is consistent with the approach the Council is taking (that has been accepted by Inspectors), regarding further Green Belt releases for housing.*
- b) *The appropriate time to update our Gypsy and Traveller Accommodation Assessment (GTAA) is as part of a suite of technical work to inform the new Local Plan i.e. in 2016/17. If the target of 17 pitches comes down following this review, then the Council can de-allocate sites, or reduce their size, in the new single Local Plan.*
- c) *Processes are underway for a legal challenge by representatives of the travelling community to the new PPTS. This challenge is expected to seek the quashing of the new definition, or if this is unsuccessful, some clarity regarding the meaning of key words within it. It is unwise to change the current approach on the basis of a definition that will be subject to such challenge. It is better in both planning and legal terms to allow for discussion of the issues as part of the Site Allocations examination process, with the Inspector advising the Council to modify its plan if necessary.*
- d) *It is too early for the Gypsy and Traveller Unit at Herts County Council to assess the likely impact of the new PPTS upon the availability of pitches at the two existing sites within the Borough. They are therefore not yet in a position to advise upon the new PPTS's likely impact upon overall levels of need and pitch availability in the Borough.*
- e) *It is not known how the change in definition will affect the Gypsy and Traveller community themselves – for example, it is quite likely that they may modify their travelling behaviour to ensure they fall within the new definition.”*

4.5 The Cabinet report also explained that Officers have been unable to find any suitable sites for Gypsies and Travellers on land excluded from the Green Belt. Therefore, exceptional circumstances existed that justify releasing land from the Green Belt to meet the assessed need for additional accommodation. Members were advised that this approach is consistent with the revised PPTS.

4.6 CALA Homes (the LA5 developer) has questioned whether the LA5 development is viable given the Council's requirement for a Gypsy and Traveller site. If key sites are unviable, it could result in the Site Allocations Inspector finding that the plan is unsound, because it is not effective i.e. the plan is not deliverable over its period. Therefore, the Council has commissioned BNP Paribas to undertake additional viability testing of the sites where new Gypsy and Traveller sites are proposed (LA1, LA3 and LA5).

4.7 The results of the viability testing will be available shortly. It is expected that BNP Paribas will confirm that the proposed Gypsy and Traveller sites at LA1, LA3 and LA5 do not threaten the overall viability of these sites.

4.8 It should be noted that the Council's internal legal team, our external legal advisor (Rob Jameson) and the Planning Officers' Society have all advised

that the viability testing cannot take account of the impact of the Gypsy and Traveller sites on the price of existing local housing as this is not a valid or appropriate planning consideration.

- 4.9 Furthermore, the Council has a duty, under the Equality Act 2010 to:
- Eliminate discrimination
 - Advance equality of opportunity; and
 - Foster good relations between different people when carrying out their activities.

The courts have ruled that Romany Gypsy and Irish Travellers are ethnic groups under the Equality Act. Therefore, the Council would be failing in its duties if it were to consider whether a Travellers site might reduce existing local house prices.

- 4.10 In view of the above, it is concluded that the Council's approach towards the provision of Gypsy and Traveller sites is consistent with national policy and guidance, and is sound.

5. New Dacorum Local Plan

- 5.1 Work is currently in progress on preparing the evidence base for the new Local Plan for the Borough. This Local Plan will replace the Core Strategy, the Site Allocations DPD and the saved policies in the Dacorum Borough Local Plan 1911-2011.

- 5.2 One of the technical studies required to inform this new plan will be an updated Traveller Needs Assessment. It is expected that this will be prepared during the first part of 2017. This will take account of the revised definition of Gypsies and Travellers in the PPTS (see paragraph 2.3 above). It should be noted however that this new definition of Gypsies and Travellers is expected to be the subject of legal challenge. As a result of the revised needs assessment, and any other government guidance that emerges, it may be necessary for the Council to amend its policy approach towards Gypsy and Traveller sites. This could involve either an increase or a decrease in the number of pitches we need to provide.