

EAST HERTS COUNCIL

DISTRICT PLANNING EXECUTIVE PANEL – 22 OCTOBER 2014
EXECUTIVE – 4 NOVEMBER 2014

REPORT BY EXECUTIVE MEMBER FOR STRATEGIC PLANNING
AND TRANSPORT

EAST HERTS GYPSIES AND TRAVELLERS AND TRAVELLING
SHOWPEOPLE IDENTIFICATION OF POTENTIAL SITES STUDY,
SEPTEMBER 2014

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- This report presents the findings of the East Herts Gypsies and Travellers and Travelling Showpeople Identification of Potential Sites Study, September 2014, which makes recommendations on the manner in which the identified accommodation needs of Gypsies and Travellers and Travelling Showpeople could be met in the district for the period to 2031.

RECOMMENDATIONS FOR DISTRICT PLANNING EXECUTIVE
PANEL AND EXECUTIVE: That:

| | |
|------------|--|
| (A) | the East Herts Gypsies and Travellers and Travelling Showpeople Identification of Potential Sites Study, September 2014, be supported as part of the evidence base to inform and support the East Herts District Plan; and |
| (B) | the East Herts Gypsies and Travellers and Travelling Showpeople Identification of Potential Sites Study, September 2014, be supported to inform Development Management decisions; and |
| (C) | in light of the potential site options suggested in the Identification of Potential Sites Study, a joint Member/Officer Working Group be established to take forward the requirement to provide sufficient pitches and plots to meet the accommodation needs of Gypsies and Travellers and Travelling Showpeople and to formulate an appropriate policy approach. |

RECOMMENDATIONS FOR COUNCIL: That:

| | |
|------------|--|
| (A) | the East Herts Gypsies and Travellers and Travelling Showpeople Identification of Potential Sites Study, September 2014, be agreed as part of the evidence base to inform and support the East Herts District Plan; and |
| (B) | the East Herts Gypsies and Travellers and Travelling Showpeople Identification of Potential Sites Study, September 2014, be agreed to inform Development Management decisions; and |
| (C) | in light of the potential site options suggested in the Identification of Potential Sites Study, a joint Member/Officer Working Group be established to take forward the requirement to provide sufficient pitches and plots to meet the accommodation needs of Gypsies and Travellers and Travelling Showpeople and to formulate an appropriate policy approach. |

1.0 Background

- 1.1 Local authorities have a legal responsibility to plan for the accommodation needs of the Gypsy and Traveller community. The Housing Act 2004 (Section 225) requires local authorities to consider Gypsy and Traveller sites as part of their Accommodation Assessments and to prepare strategies to meet those needs. In March 2012 the Government, in tandem with the publication of the National Planning Policy Framework, issued its 'Planning policy for traveller sites' document, which sets the overarching policy context for the provision of traveller accommodation (to include both Gypsies and Travellers and Travelling Showpeople).
- 1.2 The guidance requires local planning authorities to "make their own assessment of need for the purposes of planning" (paragraph 4) and that "local planning authorities should [*inter alia*], 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" and "identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15". Thus, an onus is placed on the Council to demonstrate that it can both quantify what the accommodation needs of Gypsies and Travellers and Travelling Showpeople will be for the Plan period and identify

locations in which that need can be met, in the same way that it has a duty to meet general housing needs.

- 1.3 Members will recall that, at the District Planning Executive Panel meeting on 17th July 2014, Agenda Item 5 presented the findings of the Gypsies and Travellers and Travelling Showpeople Accommodation Needs Assessment, April 2014, which was produced by ORS, consultants engaged on behalf of the Council. The Panel agreed to support this technical work as part of the evidence base to both inform and support the East Herts District Plan, and inform Development Management decisions. The Executive subsequently agreed the recommendations on 5th August.
- 1.4 Following on the Council's agreement of the assessed needs for Gypsies and Travellers and Travelling Showpeople to 2031 in the ORS study, this report now details the Council's approach to establishing a robust evidence base in respect of work relating to the identification of potential locations where these accommodation needs might be met, through the provisions of District Plan Policy HOU7.
- 1.5 Peter Brett Associates (PBA), a company with considerable relevant experience in the field, were appointed by the Council to carry out an Identification of Potential Sites Study (IOPS) to suggest locations where the needs identified in the ORS Gypsies and Travellers and Travelling Showpeople Accommodation Needs Assessment could potentially be met within the district. This report has now been finalised and is discussed below.
- 1.6 For information in reading the report, it should be noted that accommodation for Gypsies and Travellers is expressed in the form of 'pitches' and for Travelling Showpeople is expressed in the form of 'plots'. 'Sites' contain a number of pitches or plots, which for Travelling Showpeople can also be known as 'yards'.

2.0 Report

- 2.1 To set the context for the current study, it should be noted that this is the second study that has been commissioned by the Council to consider potential locations for meeting the accommodation needs of Gypsies and Travellers in the district. However, it is the first study to take the needs of Travelling Showpeople into account.

- 2.2 The first locational study, completed in 2007, was commissioned on a partnership basis jointly with Broxbourne Borough, North Hertfordshire District, Stevenage Borough, Welwyn Hatfield Borough and Hertfordshire County Councils, and employed consultants, Scott Wilson, who completed the 'Accommodation Needs of Gypsies and Travellers in Northern and Eastern Hertfordshire, Stage Two: Identification of Potential Areas to Accommodate Gypsy and Traveller Pitches In the Study Area Report' in October 2007. That study was carried out in accordance with ODPM Circular 01/2006, which was in force at that time.
- 2.3 As the previous 2006 Northern and Eastern Hertfordshire Gypsy and Traveller Accommodation Assessment had identified a need for the overall study area, but had not distinguished the level of individual need for the five separate local authority areas, the Scott Wilson Study suggested various locations where any pitches assigned to the district via the then emerging East of England Regional Assembly's Single Issue Review Policy could potentially later be met once it had been finalised.
- 2.4 An important issue to note about the former Scott Wilson study is that it was carried out at a time when guidance on meeting the needs of Gypsies and Travellers had only relatively recently been issued, via the provisions of Circular 01/2006. Consequently, as this was an emerging area of study, there was a lack of relevant advice or comparator work regarding how such studies should be undertaken.
- 2.5 Subsequent to the publication of the Scott Wilson study, it became apparent that there was a shortcoming with the approach which had been utilised, in that land availability did not form a part of the sifting criteria for the identification of potential Gypsy and Traveller sites. The significance of this is that, while the study was able to identify potential sustainable locations for site provision, none of the owners of any of the sites suggested for East Herts in the Scott Wilson study (except on existing authorised Gypsy and Traveller sites) were then prepared to make their land available for such a use.
- 2.6 Therefore, while permission has subsequently been granted by the Council for an increase in pitches on existing authorised Gypsy and Traveller sites, none of the other suggested sites could be considered as deliverable options for the Council to consider taking forward for inclusion in any planning policy covering provision of new sites to meet the accommodation

needs of Gypsies and Travellers. Consequently, none of the previously suggested new sites have been taken into account as part of the new study.

- 2.7 Since the Scott Wilson study was produced in 2007, Circular 01/2006 has been revoked and has been replaced by the Government's current guidance on the provision of new sites for Gypsies and Travellers and Travelling Showpeople in 'Planning policy for traveller sites', March 2012 (PPTS).
- 2.8 This document confirms that it is necessary for local planning authorities 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 working collaboratively with neighbouring local planning authorities" and "use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions" (paragraph 6). The provisions of PPTS mean that it is vitally important that a robust evidence base should underpin any allocations through Local Plan policies.
- 2.9 In addition to the need to meet the requirement for a rolling five year land supply, another fundamental element of national planning policy is that related to the provision of traveller accommodation in the Green Belt. Policy E is quite specific stating at, paragraph 14, that:

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.

However, in exceptional circumstances only, a limited alteration to the Green Belt boundary can be made to "meet a specific, identified need for a traveller site" through the plan making process. In such a case it should be specifically allocated in the development plan as a traveller site only.

- 2.10 PPTS also contains specific criteria to ensure that, *inter alia*, local planning authorities ensure that traveller sites are sustainable economically, socially and environmentally. PBA have incorporated the provisions of the PPTS guidance into their site assessment criteria. Particularly, they have ensured that the deliverability status of any land was included as a key consideration in all of their assessments, which will ensure that the shortcomings of the previous 2007 study are not repeated.

- 2.11 It should also be noted that, in undertaking the study, PBA have paid due recognition to the provisions of the policy requirements of the National Planning Policy Framework (NPPF) in addition to the provisions of PPTS. In particular, the general approach to identifying appropriate site selection criteria was built upon the premise of establishing whether any site would be available, suitable, and developable (i.e. viable and deliverable).
- 2.12 As part of the development of the study, a workshop was held where invitees included appropriate officers of HCC and East Herts Council, and other key stakeholders including officers from neighbouring authorities, local and national interest groups, and members of the travelling community. The outputs from the workshop have informed the development of the site assessment criteria in the main report.
- 2.13 In sourcing potential sites to assess as part of the study, all existing authorised and unauthorised sites in the district were taken into consideration. A specific Gypsies and Travellers and Travelling Showpeople 'Call for Sites' exercise was also undertaken, whereby all site promoters of land outside settlement boundaries (which did not already benefit from extant planning permission) from the previous general 'Call for Sites' or 'SLAA' process were contacted, along with a search of surplus Council and other public sector land. Additionally, all the proposed draft District Plan allocations involving strategic urban extensions without the benefit of planning permission, and the proposed broad locations were also factored into the assessment.
- 2.14 The study itself was carried out in two stages, with an initial desk based high-level site assessment applying broad criteria, which was honed by the second stage detailed site assessment stage, which also included individual site visits, for all those locations which fulfilled the initial sieving criteria.
- 2.15 These second stage assessments have all been clearly documented in the appendices to the report, so the reasons supporting the decisions over whether to carry any individual site forward are clearly apparent.
- 2.16 A full copy of the East Herts Identification of Potential Sites Study is attached to this report at **Essential Reference Paper 'B'**.
- 2.17 At the Panel meeting Members will have the benefit of the key findings of the study being presented to them by the consultants.

This will then be followed by an opportunity for Members to field questions if they so wish.

Key Findings

2.18 Before discussing the key findings of the Identification of Potential Sites Study, it is appropriate at this stage to provide a brief summary of the conclusions which were reached in respect of the requirements for pitches and plots for to be met in the district across the Plan period in the Gypsies and Travellers and Travelling Showpeople Accommodation Needs Assessment (ANA).

2.19 The table below (taken from Figure 9 of the ANA) illustrates the requirement for additional pitch provision across the Plan period for Gypsies and Travellers:

Extra Pitch Provision in East Hertfordshire in 5 Year Periods

| | 2013-2018 | 2018-2023 | 2023-2028 | 2029-2031 | Total |
|--------------|------------------|------------------|------------------|------------------|--------------|
| Total | 7 | 1 | 2 | 2 | 12 |

2.20 For Travelling Showpeople, the table below (taken from Figure 11 of the ANA) illustrates the findings of the study in relation to the requirement for extra plot provision across the Plan period:

Extra Plot Provision in East Hertfordshire in 5 Year Periods

| | 2013-2018 | 2018-2023 | 2023-2028 | 2029-2031 | Total |
|--------------|------------------|------------------|------------------|------------------|--------------|
| Total | 1 | 1 | 2 | 1 | 5 |

2.21 From both the NPPF and PPTS perspective, it is important to note that the Council must demonstrate a five year land supply of pitches and plots through the identification of 'specific deliverable sites' to meet its needs. Beyond the first five years, it has to identify 'a supply of specific developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15'.

2.22 While the overall levels of need for both Gypsies and Travellers and Travelling Showpeople over the Plan period are not considered to be high, the conclusions of the IOPS are that, despite best endeavours, it has not been possible to identify a sufficient five year land supply in locations beyond the Green Belt to meet the accommodation needs of either group.

- 2.23 In terms of Gypsies and Travellers, the report states that there is potential for one pitch to be provided beyond the Green Belt by granting permission at the existing unauthorised site in Throcking. This site has previously been the subject of a planning application for a mobile home and touring caravan with replacement stable block and hard standing, which was dismissed at appeal. The IOPS recognises the issues which caused the previous application to be unsuccessful, and therefore recommends that, if selected, the site should not be granted permission for a static unit, but rather should be limited to a single touring caravan. This could potentially be used to meet the need of one of the seven pitches required in the first five years.
- 2.24 For locations to meet the needs of either Gypsies and Travellers or Travelling Showpeople, the only potential non-Green Belt option identified in the IOPS would involve the provision of pitches as part of development proposals for land to the south of Buntingford. This location, which was formerly used as the Sainsbury's Distribution Depot, features under Policy BUNT2 in the draft District Plan. However, this site has not been made available by its promoters for Gypsy and Traveller use and is currently the subject of a planning application (undetermined at the time of writing) for a scheme comprising mixed use development. Should that scheme not progress then, subject to masterplanning and viability testing, pitches for Gypsies and Travellers or plots for Travelling Showpeople would potentially only be likely to be made available as part of the development via a Policy requirement or, alternatively, through a S.106 agreement if another scheme were to be submitted.
- 2.25 Two other options are suggested in the IOPS to meet the immediate five year land supply, but both would involve the release of Green Belt land, which in national policy terms should only be considered in exceptional circumstances. The first Green Belt suggestion is that, subject to masterplanning and viability testing, pitches for Gypsies and Travellers or plots for Travelling Showpeople could be made available as part of the development of the proposed allocated sites that would be constructed in the first phase of the Plan period (see relevant sites in table 6.9). Again, none of these sites have been made available by their promoters for Gypsy and Traveller or Travelling Showpeople use, and it is anticipated that there could be resistance to any requests for such provision. Therefore, unless S.106 agreements could be achieved, potentially this option would only be likely to be achievable via a Policy requirement (the precedent for this has

already been set elsewhere in the country, notably at Teignbridge District Council).

- 2.26 However, it should be noted that development of sites for Gypsies and Travellers or Travelling Showpeople in the proposed allocated sites or broad locations would have a knock-on effect in terms of general housing numbers. This is because the land-take required for Gypsies and Travellers or Travelling Showpeople's accommodation and associated buffering between settled and travelling communities would reduce the amount of land available for other housing to be provided on those sites. This could have the potential to impact negatively on the delivery trajectory.
- 2.27 In respect of the viability of providing accommodation for Gypsies and Travellers or Travelling Showpeople in these locations, the Council is currently awaiting the outcome of the District Plan Delivery Study, which is being undertaken by the same company of consultants, Peter Brett Associates, which carried out the IOPS. One of the issues to be addressed in the study as part of the overall commission is to 'Advise on the impact of potential impact of different land uses including gypsy and traveller sites on site-specific viability' (Task 4d, paragraph 40). The outcome will therefore need to be taken into account to influence Council's decisions in relation to influencing the formulation of Policy HOU7 in due course.
- 2.28 A second Green Belt option to meet the initial five year land supply would involve allocating a site for the accommodation for Gypsies and Travellers only on part of the existing unauthorised site at Esbies, Sawbridgeworth. This site has a long history of enforcement appeals, the latest being dismissed by the Secretary of State in 2013, but as the need for six of the seven pitches to be provided in the first five years emanate from this site, this could present an opportunity to meet those needs by consolidating development to the north west corner of the site and remediating the remaining area. However, PBA recognise that this option would require the co-operation of existing landowners and would have financial implications for the Council.
- 2.29 Therefore, in order to fulfil its obligations to meet its initial five year land supply requirements in the district, stark choices will need to be made by the Council.
- 2.30 Looking further ahead to years six to 10 and 11 to 15, the situation is, unfortunately, not good in terms of availability of

suitable developable land beyond the Green Belt, as none at all has been able to be identified through the study.

- 2.31 Within the Green Belt, a site has been identified as offering potential for either Gypsy and Traveller or Travelling Showpeople's accommodation at Water Hall Quarry on the B158 between Hertford and Essendon. While this site is somewhat remote from services and does not perform well in sustainability terms, the promoter has indicated that it is likely to become available as the current quarrying operations on the site cease (likely to be between 2024 and 2028) towards the middle to end of the Plan period.
- 2.32 Other than that potentially available site, then the situation is the same as detailed above for the first five year period, in that it would be a matter for the Council to decide whether or not to bring forward Gypsies and Travellers and Travelling Showpeople provision within the proposed allocated sites and/or broad locations.
- 2.33 Again, should the Esbies site be legalised, there would also be the potential (subject to Green Belt and flooding issues being capable of being mitigated and there being sufficient useable space) to meet the remaining assessed need of five pitches for the rest of the plan period on that site.
- 2.34 It should be noted that, while recognising the potential of two of the existing authorised sites in the district to possibly accommodate additional pitches, the study does not recommend utilising this approach. This is for two separate reasons; firstly, the occupants have articulated that they would only wish to meet the needs of their own families and friends on their own private sites and thus the land would not be available to meet the needs of other groups. Secondly, the potential scope to expand these sites could help meet the needs of the existing families beyond the plan period and thus enable those communities to continue living together.
- 2.35 However, it is important to note that, while this report has up to this point focussed mainly on meeting the accommodation needs of Gypsies and Travellers and Travelling Showpeople who reside in East Herts, due attention must also be paid to the Government's requirements around the Duty to Co-operate. While the above suggested approaches could potentially help meet this district's generated needs, other neighbouring

authorities may also be experiencing difficulties in provision and may seek to engage with this Council to achieve delivery.

2.36 Currently, the situation with neighbouring Hertfordshire authorities is incomplete as they are at different stages in the plan making process and their evidence varies. Individual studies have been undertaken for Stevenage (David Couttie Associates, 2013) and for Welwyn Hatfield (in house, 2012). Broxbourne and North Herts are in the process of having studies completed by consultants on their behalf, but these are not yet published. Essex authorities have recently published a joint 'Gypsy and Traveller and Travelling Show People Accommodation Assessment, July 2014', which was carried out by ORS, the same company who carried out the East Herts Gypsies and Travellers and Travelling Showpeople Accommodation Needs Assessment, April 2014.

2.37 A summary table is attached to this report at **Essential Reference Paper 'C'** and this details the currently known position of the neighbouring authorities. Some of these councils have a higher need than East Herts and also experience similar Green Belt constraints. Therefore, it should be borne in mind that Duty to Co-operate discussions between authorities may influence outcomes in terms of numbers of pitches and plots to be accommodated in the various districts. A consequence of this could be that other authorities could seek to accommodate their own needs elsewhere if they cannot be demonstrated to be met where locally arising and that potentially that may impact on this Council by way of its own identified local needs being supplemented by additional needs that have arisen elsewhere.

2.38 However, given the severe issues facing the Council in its own ability to meet its five year land supply, it is possible that this could be more likely to impact later on in the Plan period.

Other Matters

2.39 On 14th September, the Government issued 'Consultation: planning and travellers'. This document proposes making certain changes to the 'Planning policy for traveller sites' guidance and cancelling several other traveller related guidance documents. The consultation runs for 10 weeks and will close on 23rd November. A separate non-key Executive report will consider the matters raised in the consultation together with the Council's proposed response to it.

2.40 It is important to note that the proposed revisions to the guidance are currently only at the consultation stage and have not been finalised. Therefore, at this stage it is considered that there would be no reason for this to affect the Council's consideration of the Gypsies and Travellers and Travelling Showpeople Identification of Potential Sites Study.

Next Steps

- 2.41 It is crucial that it can be demonstrated that the accommodation needs of Gypsies and Travellers and Travelling Showpeople across the Plan period are capable of being met within the provisions of the emerging District Plan (draft Policy HOU7). Failure to make proper provision for Gypsies and Travellers and Travelling Showpeople's accommodation needs could render the whole Plan subject to being found unsound at Examination, as has been experienced by various councils elsewhere in the country.
- 2.42 The Council will have difficult choices to make in the near future regarding how demonstrated accommodation needs for Gypsies and Travellers and Travelling Showpeople can be met in the district. It will be necessary in the first instance to ensure that a five year land supply (five pitches and one plot) can be demonstrated, but also that a strategy indicating broad locations for delivery is in place to meet the further needs beyond that time frame (of an additional five pitches and four plots) to the end of the Plan period.
- 2.43 How this is achieved will be a matter for consideration as part of a later report. This will need to take all of the issues raised above into account, including the Duty to Co-operate. Furthermore, none of the proposed allocations and broad locations in the draft District Plan can currently be considered as 'available'; indeed the site promoters have all confirmed the opposite to be the case. However, in the absence of a sufficient supply of land which can be considered as available, suitable and developable (to meet the provisions of the NPPF and PPTS), it may be necessary to require provision in some of these locations through Policy HOU7.
- 2.44 It is anticipated that the re-formed Members' District Plan Policy Discussion Group will help inform decisions over the strategy that the Council will adopt going forward in relation to shaping the contents of Policy HOU7 prior to the amendments consultation.

2.45 In addition to this, because of the complexity attached to this matter, it is recommended that a joint Member/Officer Working Group be established at the earliest opportunity so that the Council may best consider the recommendations made in the Identification of Potential Sites Study and give due consideration to the options presented. The Working Group should also seek to ensure that the Council is able to demonstrate a five year supply in respect of Gypsies and Travellers' pitches and Travelling Showpeople's plots. As part of its remit, any changes to Government policy resulting from the current 'Consultation: planning and travellers', would be taken into account in its considerations.

2.46 Therefore, Members are requested to support the recommendations at the head of this report that the East Herts Identification of Potential Sites Study be supported to form part of the Council's evidence base, both to inform and support the East Herts District Plan, and to inform Development Management decisions, and that a Member/Officer Working Group be established to progress the identification of Gypsies and Travellers' pitches and Travelling Showpeople's plots to meet the five year supply.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

- East Herts Gypsies and Travellers and Travelling Showpeople Identification of Potential Sites Study, Peter Brett Associates, September 2014;
- East Herts Gypsies and Travellers and Travelling Showpeople Accommodation Needs Assessment, ORS, April 2014;
- Consultation: planning and travellers, CLG, September 2014
<https://www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance>;
- Planning policy for traveller sites, CLG, March 2012.

Contact Member: Cllr Mike Carver – Executive Member for Strategic

Planning and Transport
mike.carver@eastherts.gov.uk

Contact Officer: Kevin Steptoe – Head of Planning and Building
Control
01992 531407
kevin.steptoe@eastherts.gov.uk

Report Author: Kay Mead – Senior Planning Policy Officer
kay.mead@eastherts.gov.uk