

## LOCAL PLAN SUB COMMITTEE - 28 MARCH 2019

### PART I – NOT DELEGATED

#### 5. LOCAL PLAN (DCES)

##### 1 Summary

1.1 This report provides:

- a brief history of the work undertaken in respect of meeting the needs of Travellers and the decisions already taken by the Local Plan Member Working Group, Policy & Resources Committee and Full Council in respect of the allocation and/safeguarding of sites for Traveller use
- details of two additional sites to be added to the Strategic Housing Land Availability Assessment, and an
- an update on the requirement to submit an Annual Position Statement.

##### 2 Travellers

2.1 In February 2013 a Draft Gypsy and Travelling Showpeople Local Development Document (GTTS) was published for consultation together with a Travellers Needs Assessment and Sustainability Appraisal. This document considered the allocation of land in Tolpits Lane to accommodate the 8 pitches that were needed as identified by the Travellers Needs Assessment (2012). The GTTS was considered by the Local Plan Member Working Group in December 2012 and approved by the Executive Committee at its meeting on the 28 January 2013<sup>1</sup>.

2.2 Following the consultation (undertaken between 8 February and 22 March 2013) it was determined that the land in Tolpits Lane would not be available for allocation as the Agent acting on behalf of the landowner confirmed that the site was subject to a long agricultural tenancy and would not be made available for use as a Traveller site.

2.3 The Local Plan Member Working Group, at its meeting of the 15 May 2013, considered all the responses to the consultation (including a petition) and having decided that compulsory purchase of the Tolpits Lane site was not suitable, considered other options for meeting the identified need to include allocating:

- sites that had temporary planning permissions
- sites that had been put forward for allocation in response to the consultation, and
- previously considered housing sites.

2.4 The Local Plan Member Working Group at its meeting of 8 July 2013, having undertaken site visits to inform their considerations, concluded to recommend to the Executive Committee that the identified need should be met by allocating the sites that had temporary and or expired temporary permissions.

2.5 The Executive Committee, at its meeting of the 22 July 2013<sup>2</sup>, resolved that:

- (1) the three sites with temporary permission or expired temporary permission which accommodate 6 pitches be taken forward for consultation.

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<sup>1</sup> <https://www.threerivers.gov.uk/meeting/executive-committee-28-january-2013>

<sup>2</sup> <https://www.threerivers.gov.uk/meeting/extraordinary-executive-committee-22-july-2013>

(2) the Director of Community and Environmental Services be delegated to agree the consultation document in consultation with the Executive Committee Members and the Members of the Local Plan Member Working Group.

2.6 Whilst the draft document was prepared and signed off by the Executive Committee Members it was not issued immediately for consultation as we were awaiting the Inspector's decision on the approach to the Green Belt when allocating sites for development in the Site Allocations LDD examination<sup>3</sup>.

2.7 Also, a gypsy/traveller family had subsequently left the area and another site had been granted planning permission which meant that an update to the Needs Assessment was required to take account of any possible reductions in future need requirements as a result prior to finalising the GTTS.

2.8 An update to the GTTS Needs Assessment was undertaken and published in December 2013. It concluded that an additional 7 pitches were needed between 2013 and 2027 to address the needs of those with temporary planning permission and growth in household numbers due to household formation.

2.9 In accordance with the Executive Committee resolution (paragraph 2.5), the GTTS was amended taking account of the above and a consultation was undertaken between 24 January and 7 March 2014.

2.10 The document sought to allocate the following 2 sites (which at the time had temporary planning permission) as Traveller Sites:

- Land rear of Toms Lane, Kings Langley and
- Land between Langleybury Lane and Old House Lane, Langleybury

and to safeguard the existing authorised sites for traveller use which were:

- The Oaklands, Bedmond Road, Bedmond
- Fir Trees, Dawes Lane, Sarratt
- Land adjacent to 321B Uxbridge Road, Mill End
- Rear of 317-319 Uxbridge Road, Mill End
- Rear of 321 Uxbridge Road, Mill End.

2.11 Following the consultation, some minor changes were made to the GTTS in response to recommendations from statutory consultees and the Local Plan Member Working Group considered at its meeting of 13 August 2014 a further draft of the GTTS which also included the requirement to remove the Green Belt designation from all sites that were to be allocated through the plan-making process.<sup>4</sup>

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<sup>3</sup> It was determined through the examination of the Site Allocations LDD that the Green Belt designation had to be removed from sites that were to be allocated. The Inspector's correspondence in relation to this can be viewed from <https://www.threerivers.gov.uk/egcl-page/site-allocations-examination-page>

<sup>4</sup> See previous foot note. Examination of the Site Allocations LDD was undertaken between 21 June 2013 and 15 September 2014 when the Inspector's Final Report was received. There was a Main Modifications Consultation undertaken as part of the examination between 31 January and 18 March 2014.

- 2.12 The LPMWG recommended to the P&R that the revised GTTS be approved for a further six-week consultation and that a report would go to Full Council on 25 November 2014 to approve the document for the submission to the Secretary of State for examination.
- 2.13 The 'Preferred Options' version of the GTTS (Appendix 1) was subsequently agreed by the Policy & Resources Committee on the 22 September 2014 and a six-week consultation was undertaken between 3 October and 14 November 2014.
- 2.14 It was during this period that the Government issued a consultation that proposed changes to national planning policy and Planning Policy for Travellers Sites (PPTS), specifically in the way Travellers were covered in the planning system.
- 2.15 The main proposal was to amend the definition of Travellers by removing the term '*persons.....who have ceased to travel permanently*' meaning that those who have ceased to travel permanently would no longer fall under the definition of a Traveller for the purposes of assessing accommodation need in a GTTA.
- 2.16 The Policy & Resources Committee approved a full response to the consultation on 27 October 2014.<sup>5</sup>
- 2.17 In the light of the Government's intention to change the definition of Travellers for planning purposes together with some difficulties in obtaining the information from some LPAs required to demonstrate that we had complied with the Duty to Co-operate, it was decided not to progress submission of the GTTS for examination. To do so would have resulted in the GTTS being found unsound should the change to the definition be made during the examination process,
- 2.18 It was not until 31 August 2015 that the Government published a revised PPTS which included the change to the definition of 'Travellers for planning purposes'. Essentially this meant that, where someone has ceased to travel permanently, they would no longer be considered to be a Traveller and the requirement to provide pitches or sites would cease.
- 2.19 A report to the Local Plan Member Working Group on 24 September 2015 set out the changes to the PPTS and the risks of challenge should the GTTS be submitted for examination without determining whether the residents on the sites that were proposed for allocation were still Travellers in planning terms. This would require a further update to the Needs Assessment to include a method by which the information needed could be obtained.
- 2.20 It was also considered that due to the nature of the change it was highly likely that the new definition of Traveller would be challenged through the High Court over the coming months and that it would be prudent to review the situation in the New Year to take account of any such challenges before commissioning an update to the Needs assessment.
- 2.21 By February 2016, no High Court challenges had been made but there were several Local Plan examinations due to take place within the next couple of months and the update to the Needs Assessment was postponed to start early in the new financial year. (LPMWG 9 February 2016).

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<sup>5</sup> <https://www.threerivers.gov.uk/meeting/policy-and-resources-committee-27-october-2014>

- 2.22 An update to the Needs Assessment was commissioned May 2016 and undertaken by ORS, the fieldwork and interviews being undertaken between August and November 2016. The initial draft report was received in December 2016.
- 2.23 The new definition included those who travel (or have ceased to travel temporarily) for work purposes and in doing so stay away from their usual place of residence. This would include households where some family members travel for nomadic purposes on a regular basis, but where other family members stay at home to look after children in education, or other dependents with health problems etc.
- 2.24 The definition would not include:
- those who travel for purposes other than work (such as horse fairs, visiting friends or relatives)
  - those who commute to work daily from a permanent place of residence.
- 2.25 A report to the LPMWG on 25 January 2017 detailed the findings of the Needs Assessment (Appendix 2) and it was also agreed that, due to the timing of the review of the Local Plan, the GTTS would not be progressed as a standalone document but incorporated into the new Local Plan.
- 2.26 The following paragraphs are taken from that LPMWG report and have been updated to reflect any changes relating to the granting of planning permissions.
- 2.27 Due to the change in definition of a Traveller for planning purposes, the methodology was slightly different to that used in the previous Needs Assessments and the results presented in a different way.
- 2.28 The additional needs are now categorised in the following way:
- **Travellers** - households that meet the definition of a Traveller following an interview
  - **Unknown** –households where an interview was not able to be completed (refusing to be interviewed/not being present despite 3 visits to the site) who may meet the new definition
  - **Non-Travelling** – households that fail the definition of a Traveller following an interview.
- 2.29 The findings are set out in the tables below:

**Table 1:** Additional Need for Gypsy & Traveller Households (2016 – 2031)

Status	Total
Travellers	<b>2</b>
Unknown	<b>0-8</b>
Non-Travelling	<b>0</b>

**Table 2:** Additional Need for Travelling Showpeople Households (2016-2031)

Status	Total
Travellers	<b>4</b>
Unknown	<b>0-21</b>
Non-Travelling	<b>1</b>

**Table 3:** Additional Need for Travelling Households by 5-year periods

Years	0-5	6-10	11-15	
	2016-21	2021-26	2026-31	Total
Gypsy & Traveller	2	0	0	2
Travelling Showpeople	1	1	2	4

- 2.30 Table 3 sets out the needs arising from those households considered to meet the new definition through the interviews undertaken by ORS and these needs should be addressed through site allocation, site expansion and/or site intensification.
- 2.31 Careful consideration was given on how to address the needs arising from the **Unknown** households (0-8 Gypsy & Traveller and 0-21 Travelling Showpeople),
- 2.32 On average, approximately 10% of those households interviewed<sup>6</sup> by ORS since the PTTS was published have met the new definition of Traveller for planning purposes. It has therefore been suggested that any need from Unknown households is likely to be very small and that the criteria-based policy (CP5 of the Core Strategy) be used to assess development proposals for any Unknown households that do provide evidence that they meet the definition in the future.
- 2.33 LPAs that have large travelling communities and many sites (unauthorised and/or authorised) might consider applying this 10% calculation to their Unknown households to come to a pitch/plot<sup>7</sup> requirement for plan-making purposes and this may be considered a reasonable approach to take in such instances.
- 2.34 However, we are in a position to know that the additional needs from the identified Travellers and the Unknown households set out in Table 1, come from the two sites that had temporary planning permission at that time ('Little Lily' and Old House Lane) which were proposed for allocation in the Gypsy, Traveller & Travelling Showpeople LDD (GTTS LDD) that was approved by the Policy & Resources Committee on 22 September 2014.
- 2.35 ORS were able to identify that the households on Little Lily (Land rear of 59 Toms Lane) met the definition of Travellers and the site has since been granted permanent planning permission<sup>8</sup> so it is still the Officer's opinion that this site should still be allocated and safeguarded. This site has capacity to accommodate additional pitches should they be required.
- 2.36 In relation to the site on Old House Lane, it was not possible for ORS to conduct an interview with the occupants despite several phone calls from officers to advise the owner of the importance of responding to requests for an interview and visits and phone calls from ORS over a period of several months. The occupants of this site were therefore classified as Unknown households in the Assessment.
- 2.37 Since the Needs Assessment was undertaken, this site was subject to a planning application<sup>9</sup> and a subsequent appeal which determined that the occupants met the

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<sup>6</sup> ORS have undertaken 1,500 interviews with households across the country since August 2015

<sup>7</sup> Area of land on a site generally home to one household. Can be of varying sizes and have varying caravan numbers. Pitches refer to Gypsy & Traveller sites and Plots to Travelling Showpeople Yards

<sup>8</sup> 17/2695/RSP permanent permission (with personal occupation restrictions) was granted 23 February 2018.

<sup>9</sup> Temporary planning permission with personal occupancy restrictions was granted 1 July 2016 (16/0958/FUL).

new definition for Travellers. Permanent permission was granted on Appeal with occupancy restrictions on 23 June 2017.

- 2.38 As it has been determined through the appeal process that the occupants of this site are Travellers for planning purposes, the Council will still be able to allocate the site to meet the needs of Travellers as approved by the Policy & Resources Committee on 22 September 2014.
- 2.39 With regards to Travelling Showpeople households, there are currently two authorised<sup>10</sup> Showmen yards with a combined capacity of 18 plots, and two 'tolerated'<sup>11</sup> yards with a combined capacity of 19 plots.
- 2.40 The GTTS LDD acknowledges the existence of the tolerated yards and seeks to remove the Green Belt designation from the existing authorised yards and safeguard them to ensure that the permitted use is not lost through the grant of any subsequent planning permission while there remains a need for them. There were no new sites proposed for allocation as the previous Needs Assessment showed that there was no identified need for further Showpeople plots in the first five years and that, in any case, any future needs could be accommodated on the existing authorised sites.
- 2.41 Very few interviews with Showpeople were carried out as most were away from sites at the time of the fieldwork undertaken by ORS.
- 2.42 From the interviews completed it was ascertained that 5 households met the definition of Traveller in planning terms and that there is a current need for 4 additional plots that should be addressed through site allocation, site expansion and/or site intensification.
- 2.43 The Unknown households of 0-21 plots (Table 2) arise from the households on the tolerated plots<sup>12</sup>. As we were unable to determine the exact needs from each of these yards, it was the Officer's opinion that any future applications for additional plots should be assessed against the criteria-based Policy CP5 of the Core Strategy that will be taken forward into the new Local Plan. (See Appendix 3)
- 2.44 It is the Officer's opinion that the approach taken in the GTTS LDD (see paragraph 2.38) remains the most appropriate way to accommodate the needs of Travelling Showpeople.
- 2.45 In summary, there is no requirement to allocate additional sites to those already proposed in the agreed GTTS LDD. Appendix 4 provides details of the locations of the sites agreed to be allocated/safeguarded.
- 2.46 As previously agreed by the LPMWG, it is intended that the contents of the GTTS LDD (Appendix 1) that was agreed by the Policy & Resources Committee on the 22 September 2014 be updated to reflect the changes detailed in this report and to reflect the findings of the Final Needs Assessment (Appendix 2) and that it be incorporated within the new Local Plan together with the criteria-based policy based on Policy CP5 of the Core Strategy (Appendix 3).
- 2.47 **Recommendations**

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<sup>10</sup> Rear of 317-319 and Rear of 321 Uxbridge Road, Mill End

<sup>11</sup> Long term Showmen yards in Sarratt and Carpenders Park which have been in existence for a number of years without planning permission.

<sup>12</sup> Brickfield Farm, Carpenders Park and Deadmans Ash Lane, Sarratt

That the Local Plan Sub-Committee:

- Note the decisions made by the Local Plan Member Working Group, Policy & Resources Committee and Full Council in regards to the GTTS LDD as set out in this report
- Note the number of consultations already undertaken on the GTTS LDD and the proposed allocations for Traveller Sites
- Note that details of the consultations are available on the Council's web site<sup>13</sup>
- Note the results of the Needs Assessments as previously reported to the Local Plan Member Working Group as set out in this report
- Note that the contents of the GTTS LDD (Preferred Options) October 2014 are to be updated to reflect the changes detailed in this report and to reflect the findings of the Final Needs Assessment (Appendix 2), and
- That the updated content of the GTTS LDD be incorporated within the new Local Plan together with the criteria-based policy as set out in Policy CP5 of the Core Strategy (Appendix 3) and

That the Local Plan Sub-Committee recommend to the Policy & Resources Committee a Draft Local Plan that includes:

- the updated content of the GTTS LDD and the criteria based policy as set out in Appendix 3.

### **3 Additional Sites**

3.1 In addition to the 25 sites put forward in response to the Call for Sites exercise undertaken alongside the Potential Sites consultation, a further 2 sites have been submitted for consideration. As we were still at a stage to include these in the Strategic Housing and Employment Land Availability Assessment when they were received, they will be assessed alongside the other sites. No further sites will be considered unless they are within the urban area and/or are on previously developed land. These additional sites can be viewed in Appendix 5.

#### **3.2 Recommendation**

3.3 That the Local Plan Sub-Committee note the inclusion of the 2 additional sites in the Strategic Housing Land and Availability Assessment

### **4 Annual Position Statement Update**

4.1 Officers stated at the 7 March Local Plan Sub-Committee meeting that they would seek to clarify whether there is a need to produce an Annual Position Statement. Clarification has now been sought and we are not required to produce an Annual Position statement.

4.2 An Annual Position Statement is only required when the Council wishes to 'confirm' that it has a 5-year supply of deliverable housing through independent examination by the Planning Inspectorate. This would formally 'fix' the Council's 5-year land supply position making it impervious to challenge by applicants.

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<sup>13</sup> <https://www.threerivers.gov.uk/egcl-page/gypsy-and-traveller-development-plan-document>

### 4.3 **Recommendation**

4.4 That the Local Plan Sub-Committee note that the Council does not need to produce an Annual Position Statement as we are unable to demonstrate a 5-year supply of deliverable housing.

## 5 **Options and Reasons for Recommendations**

5.1 The Council has a legal requirement to produce a Local Plan.

## 6 **Policy/Budget Reference and Implications**

6.1 The recommendations in this report are within the Council's agreed policy and budgets

## 7 **Financial, Legal, Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications**

7.1 None specific.

## 8 **Recommendations**

8.1 To consider the recommendations at Paragraphs 2.47, 3.3 and 4.4.

Report prepared by: Claire May MSc, MRTPI, Head of Planning Policy & Projects

### **Background Papers**

National Planning Policy Framework

Planning Policy for Travellers Sites (2012)

Consultation: Planning and Travellers (DCLG) (2014)

Planning Policy for Traveller Sites (2015)

Draft Gypsy and Travelling Showpeople Local Development Document (2013)

Gypsy, Traveller and Travelling Showpeople Local Development Document (Preferred Options) October 2014

Traveller Needs Assessment (2012)

Traveller Needs Assessment (2013)

Traveller Needs Assessment (2017)

Report on the Examination into the Three Rivers Site Allocations LDD (September 2014)

### **APPENDICES**

Appendix 1 GTTS Local Development Document (Preferred Options) October 2014

Appendix 2 Final Traveller Needs Assessment (February 2017)

Appendix 3 Criteria Based Policy for the Local Plan

Appendix 4 Traveller Sites to be allocated/safeguarded

Appendix 5 Additional Sites