



**AGENDA ITEM: 7(d)**

**CABINET:  
14 June 2016**

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**Report of:** Director of Development and Regeneration

**Relevant Portfolio Holder:** Councillor J Hodson

**Contact for further information:** Mr S Benge extn. 5274  
(Email Stephen.benge@westlancs.gov.uk)

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**SUBJECT: PROVISION FOR TRAVELLER SITES DEVELOPMENT PLAN DOCUMENT**

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Wards affected: Borough Wide

**1.0 PURPOSE OF THE REPORT**

1.1 To seek Cabinet's approval for suspending preparation of the Provision for Traveller Sites Development Plan Document as attached at Appendix A to this report.

**2.0 RECOMMENDATION**

2.1 That the preparation of the Provision for Traveller Sites Development Plan Document ('Traveller Sites DPD') be suspended, and that it be noted that the issue of Traveller site allocations will instead be dealt with as part of the future review of the Local Plan.

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**3.0 BACKGROUND**

3.1 The West Lancashire Local Plan 2012-2027 was adopted by Council in October 2013. Earlier drafts of this Local Plan contained a policy (Policy RS4) on Gypsies and Travellers and Travelling Showpeople (referred to collectively hereafter as 'Travellers'). During the Local Plan Examination in early 2013, the Local Plan Inspector advised that he could not find Policy RS4 sound, as it did not meet the national policy requirement to allocate specific deliverable sites to provide a five year supply of land to meet Traveller accommodation needs. The Inspector

recommended that Policy RS4 be deleted from the Local Plan, and that the Council commit to preparing a separate Development Plan Document (DPD) to allocate sufficient deliverable sites to meet Traveller accommodation needs over the Local Plan period.

- 3.2 Acting upon the Local Plan Inspector's recommendation, the Council agreed to prepare a Traveller Sites DPD. The DPD was to comprise the following elements:
- a) A statement of objectively assessed Traveller accommodation needs;
  - b) A criteria-based policy against which planning applications for Traveller sites can be assessed (these criteria would also be applicable to enforcement and appeal cases); and
  - c) Site-specific allocations for Gypsies and Travellers, and for Travelling Showpeople.
- 3.3 In terms of (a), the Borough Council participated in a joint Gypsy and Traveller Accommodation Assessment (GTAA) with the five Merseyside local authorities. This Merseyside and West Lancashire GTAA (August 2014) concludes that the need for new Traveller accommodation in West Lancashire, additional to that which already has permission, is as follows:
- 14 pitches on permanent Gypsy and Traveller sites by 2018, rising to 17 pitches by 2023, 20 pitches by 2028, and 22 pitches by 2033;
  - 4 transit pitches; and
  - 1 yard for Travelling Showpeople with at least 1 residential plot.
- 3.4 In terms of (b), the Options and Preferred Options Traveller Sites DPD contained a criteria-based policy (policy GT1), based upon the government's Planning Policy for Traveller Sites document (PPTS, August 2015), but tailored to local circumstances. In developing the criteria, regard was had to advice set out in the government document, 'Designing Gypsy and Traveller Sites - Good Practice Guide', although, as this document was cancelled in 2015, less weight has been attached to it.
- 3.5 In terms of (c), the Council has undertaken as robust a search for sites as possible, the intention being to assemble a 'pool' of sites, from which to shortlist the most deliverable sites for allocation to meet local Traveller accommodation needs ('deliverable' defined in national policy as meaning available, suitable, and achievable). Paragraphs 3.8 – 3.10 below summarise the site search process and outcomes.
- 3.6 In preparing DPDs, the Council is bound by the 'Duty to Co-operate', set out in the Localism Act and the National Planning Policy Framework. The Council has co-operated, and will continue to co-operate, with neighbouring local authorities and other relevant organisations ('Prescribed Bodies') throughout the preparation of the Traveller Sites DPD. The Consultation Report and Duty to Co-operate Statement appended to this report (Appendix D) summarises the interaction between this Council, Prescribed Bodies and neighbouring authorities.

- 3.7 The Traveller Sites DPD, so far as it has progressed, has been subject to Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA). The SA and HRA reports have been taken into account in preparing the Traveller Sites DPD, and are appended to this report (Appendices B and C).

The search for potential Traveller sites

- 3.8 In searching for potential sites for allocation to meet Traveller accommodation needs, the following sources of site were explored from 2013 onwards:

- (i) Sites known to the Council on account of their Traveller-related planning history, including sites subject to enforcement action;
- (ii) Sites put forward by landowners (private or public), Travellers, and / or other stakeholders in two 'Call for Sites' exercises held in 2013 and 2015;
- (iii) Direct approaches to owners of sites in the Council's Strategic Housing Land Availability Assessment (SHLAA) in 2013 and 2015, asking whether the owners would be willing for their land to be considered as Traveller sites;
- (iv) Engagement with a number of other landowners in areas of Traveller need, to ascertain whether they were willing for any of their land to be considered as a Traveller site;
- (v) Approaches to owners / agents / developers of allocated residential sites, or safeguarded sites in the West Lancashire Local Plan 2012-2027, enquiring as to the possibility of part of any site being set aside for Traveller accommodation;
- (vi) Liaison with the WLBC Economic Regeneration team to investigate the possibility of any land on industrial estates being considered for Travellers (in particular, transit sites);
- (vii) Discussions with the Lancashire County Council Estates and WLBC Estates teams to enquire as to the availability and suitability of any Council-owned land being released for Traveller accommodation.
- (viii) Approaches to neighbouring local authorities under the Duty to Co-operate, to enquire whether they have any land or sites that could contribute towards meeting West Lancashire's Traveller accommodation needs.

- 3.9 Elements (iv) – (viii) above yielded no potential Traveller sites. Elements (i) – (iii) initially yielded twenty sites. However, at the time of preparing the Options and Preferred Options version of the Traveller Sites DPD (autumn 2015), owners of eleven of the twenty sites had indicated that they were not in fact willing for their land to be considered as a potential Traveller site allocation. Of the nine remaining sites, two were located in Flood Zone 3, in which permanent residential use of static caravans is not permitted by national policy; consequently, these sites were also ruled out, leaving just seven sites.

- 3.10 The seven sites considered 'available' for Traveller development are as follows:

No.	Site name / address	Source
3	Land adjacent to 'The Poppys' (sic), Sugar Stubbs Lane, Banks	Site subject to Traveller-related planning applications.

6	Land west of The Quays, Burscough	Site with planning permission for Travelling Showpeople accommodation.
8	Pool Hey Caravan Park, Pool Hey Lane, Scarisbrick	Site occupied by Travellers.
14	White Moss Road South (B), Skelmersdale	Site submitted in 2015 Call for Sites exercise.
16	Land at Blackacre Lane, Ormskirk	Site submitted in 2013 Call for Sites exercise.
17	Land south of Butcher's Lane, Aughton	SHLAA site whose owner expressed willingness for the site to be considered as a potential Traveller site.
18	Land east of Brookfield Lane, Aughton	SHLAA site whose owner expressed willingness for the site to be considered as a potential Traveller site.

3.11 In preparing the Options and Preferred Options Traveller Sites DPD, the above seven sites were analysed for deliverability. It was concluded that only three sites were deliverable, namely:

- Land at Sugar Stubbs Lane, North Meols, currently occupied by Travellers, and with permission for one caravan. This site was considered a suitable site for permanent Traveller accommodation (3 pitches);
- Pool Hey Caravan Park, Pool Hey Lane, Scarisbrick, currently occupied by Travellers. This site was also considered suitable for permanent Traveller accommodation (5 pitches); and
- Land west of The Quays, Burscough, currently with permission for 10 Travelling Showpeople plots, considered suitable as a Travelling Showpeople site (10 plots).

3.12 The above three sites were chosen as preferred options in the Options and Preferred Options Traveller Sites DPD, which was subject to public consultation from 3 December 2015 – 25 January 2016.

3.13 Representations on the draft DPD were received from 21 different stakeholders (individuals, statutory consultees, agents for Travellers, etc.). The representations received, and the Council's response to them, are set out in the Schedule of Representations and Responses (Appendix D to this report). The most significant points made by respondents are as follows:

- Site 3 (proposed permanent Traveller site allocation at Sugar Stubbs Lane, Banks) has been redesignated by the Environment Agency as being in Flood Zone 3, and therefore under national planning policy should not be allocated as a Traveller site;
- The owner and occupier of Site 6 (proposed Travelling Showpeople site allocation at Burscough) has stated he is opposed to the site's proposed allocation;
- Both opposition and support were expressed in relation to Site 8 (proposed permanent Traveller site allocation at Pool Hey Lane, Scarisbrick). Network

Rail stated they have no objection to the site being made permanent as long as there is no increase in the type and / or volume of usage at the site;

- Concern was expressed by two neighbouring authorities and by one agent acting for Travellers that the document did not propose meeting identified Traveller accommodation needs in full, and the impact this may have on Travellers, and on neighbouring Local Authorities. The Agent advised that it may be necessary to 'reassess sites put forward and compromise on selection' in the light of the likely shortfall in meeting Traveller accommodation needs.

3.14 Since the consultation on the Options and Preferred Options Traveller Sites DPD, the Council has contacted neighbouring authorities once again to ask whether there was any change in circumstances with regard to these authorities' ability to contribute towards meeting West Lancashire Borough's unmet Traveller accommodation needs. The neighbouring authorities have all confirmed that they remain unable to help meet this Borough's Traveller needs.

#### **4.0 CURRENT POSITION AND ISSUES**

4.1 In the light of the representations made regarding the Options and Preferred Options Traveller Sites DPD, a number of changes were made to the Traveller sites policy, and to the proposed site allocations. The changes agreed by the Council are described in the Schedule of Representations and Responses (Appendix D). The most significant amendment in terms of proposed Traveller site allocations would have been the removal of Site 3 (Sugar Stubbs Lane, Banks).

4.2 As a result of the removal of Site 3, and given no new sites have come forward since the consultation on the Options and Preferred Options DPD, the Traveller Sites DPD: Publication version ('Publication Traveller Sites DPD') that has been drafted was to propose only two sites for allocation:

- Site 6: Land west of The Quays, Burscough, as a Travelling Showpeople site. This site was to remain as a proposed site allocation, given its existing use and planning permission as a Travelling Showpeople yard. However, the fact that the site owner has expressed opposition to the site's proposed allocation is an important consideration.
- Site 8: Pool Hey Caravan Park, Pool Hey Lane, Scarisbrick, for permanent Traveller accommodation.

4.3 Therefore, of the identified Traveller accommodation needs, the proposed site allocations would have provided only 5 Gypsy and Traveller pitches. (The proposed Travelling Showpeople allocation at Burscough does not meet the identified Travelling Showpeople need, which is over and above any existing consented provision.) There would be an unmet need of 9 pitches to 2018, rising to 17 by 2033 on permanent Gypsy and Traveller sites, 4 transit pitches, and one Travelling Showpeople yard with at least one residential plot. Therefore, the Publication Traveller Sites DPD that has been drafted has a greater deficit in terms of meeting identified Traveller accommodation needs than the Options and Preferred Options Traveller Sites DPD. In addition, the owner and current

occupier of Site 6 has expressed his opposition to the site being allocated as a Travelling Showpeople site and is of the opinion that the Council should identify another site to accommodate the Travelling Showpeople currently occupying Site 6, as well as their equipment.

- 4.4 With regard to not meeting identified Traveller accommodation needs in full, the report to Cabinet in November 2015 advised (paragraph 5.18) that:
- There is no policy requirement to meet need at any cost;
  - If the Council is unable to identify sufficient deliverable sites (defined as sites that are available, suitable, achievable, and viable for the intended use) or if environmental constraints (i.e. harm to the Green Belt and other possible elements of harm) are such that need cannot be met in West Lancashire, then that position could be justified;
  - In seeking to show that the balance fell against meeting the need, the Council would have to demonstrate that its search for sites had been rigorous (and that in respect of candidate sites, harm was such that an allocation was not acceptable).
- 4.5 The Publication Traveller Sites DPD that has been drafted explains that the Council has undertaken a rigorous search for sites, and concludes that the harm associated with the allocation of sites 16, 17 and 18 would be such that an allocation is not considered acceptable. The Council's position in proposing not to meet Traveller accommodation needs in full could therefore be considered justified. However, I am not aware of any other Traveller Sites DPD (or Traveller site allocation policy forming part of a post-NPPF / post-PPTS Local Plan) that has been submitted for examination in which it is proposed not to meet needs in full. Therefore, whilst it is considered the Council's position is justified, progressing the Traveller Sites DPD to Publication and Submission / Examination stages is akin to entering uncharted waters, and the outcome is not certain.
- 4.6 As such, in deciding whether or not to approve the Publication Traveller Sites DPD for consultation (and subsequent submission to central government), it is necessary for Cabinet to weigh up the desirability of progressing this document (in accordance with national policy, the recommendations of the Local Plan Inspector in 2013, and the Council's commitment in its Local Development Scheme to prepare the DPD) against the risk of the document potentially being found unsound at examination. If the DPD is found "not sound", the Council may be asked to reconsider the 'available but unselected' sites (i.e. Sites 16, 17 and 18 listed in paragraph 5.10 above), and / or may be asked to identify additional sites to meet Traveller needs, or, at worst, may be required to recommence the preparation of the DPD.
- 4.7 If the Traveller Sites DPD were not to be progressed at this point, the need to identify and allocate sites to meet Traveller accommodation remains. Barring the unlikely prospect of appropriate deliverable sites coming forward to meet identified Traveller accommodation needs in the Borough, it is probable that the next opportunity to identify and work towards allocating sites would be as part of the Local Plan Review process, likely to take place 2017-2020. This work is more likely to yield deliverable sites than the work undertaken so far on the Traveller Sites DPD, as the Council will be able to take a more comprehensive

approach towards allocating land for development, combining proposed Traveller sites with sites for other uses such as housing, thereby giving landowners greater incentive to agree to their land being used to help meet Traveller accommodation needs. Until such time as a Traveller site allocations DPD (or Local Plan incorporating Traveller sites) is well-advanced, there is a possibility that the Council may be vulnerable to further unauthorised encampments and / or occupation of sites, and it is possible there would be a reduced prospect of success in taking enforcement action against such activity, including cases where (retrospective) planning applications for Traveller accommodation had been refused. There is also a greater risk of the Council not being able to successfully defend Traveller-related planning appeals. However, these risks will apply whatever action the Council takes given that the Draft Traveller Sites DPD, if adopted, would not meet all the Borough's identified need. I also think it worth noting, when considering risk, that since the adoption of the West Lancashire Local Plan in October 2013, there have been no new unauthorised encampments in the Borough (excluding the 'roadside' type of encampments, typically lasting only a few days).

- 4.8 Given the severe shortfall in deliverable sites to meet Traveller needs, there is a significant likelihood the Traveller Sites DPD would be found unsound, were it to be submitted for examination. Rather than incurring unnecessary expenditure on a failed examination, it would, in my view, be preferable to suspend the preparation of the Travellers Sites DPD and to address the issue of Traveller site provision as the Local Plan is reviewed.

## **5.0 NEXT STEPS**

- 5.1 If Cabinet were to accept the recommendation at 2.1 above, work on the Travellers DPD will stop, and a fresh consideration of how best to meet the needs of Travellers will be undertaken as part of the next review of the Local Plan.
- 5.2 However, if Cabinet wished to proceed with the matter and subsequently approved the Traveller Sites DPD for public consultation, this would take place for 8 weeks between Thursday 7 July and Thursday 1 September 2016.
- 5.3 Following the public consultation, the Publication version of the Traveller Sites DPD, together with the formal representations received, would be considered by Council. It is possible (depending on the nature of the representations made during the consultation) that Council would be asked in October to approve the DPD for submission to the Secretary of State for an Examination in Public. Once submitted, the Traveller Sites DPD would then be examined by a Planning Inspector.
- 5.4 If the Inspector were to find the DPD "sound" (i.e. that it has been prepared in a manner compliant with the relevant legislation and regulations, and that it is justified, effective, positively prepared, and consistent with national policy), the Traveller Sites DPD can be brought back to Council for adoption. If the DPD is found "not sound", the Council may be asked to reconsider the "available but unselected" sites (i.e. Sites 16, 17 and 18 listed in paragraph 5.10 above), and / or may be asked to identify additional sites to meet Traveller needs, or, at worst, may be required to recommence the preparation of the DPD.

## **6.0 SUSTAINABILITY IMPLICATIONS / COMMUNITY STRATEGY**

6.1 The purpose of the Traveller Sites DPD is to facilitate the allocation of land for Traveller sites and to provide local planning policy to guide local decision-making on applications related to Gypsies, Travellers and Travelling Showpeople. By allocating land for these groups, the DPD will help meet two objectives of the Sustainable Community Strategy:

- To improve health outcomes, promote social wellbeing for communities and reduce health inequalities for everyone (improved health for all)
- To provide more appropriate and affordable housing to meet the needs of local people (affordable housing)

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

7.1 The preparation of the Preferred Options for the Traveller Sites DPD has been resourced through the Planning Service's revenue budgets. The Publication stage would also be resourced through the Planning Service's revenue budgets. However, the Examination in Public would be resourced separately using a specific revenue budget previously established for this purpose.

7.2 However, if recommendation 2.1 above is agreed by Cabinet, there will be no further expenditure on the Travellers DPD and any future work on preparing policy and site allocations for Travellers will be incorporated within that for the next review of the Local Plan.

## **8.0 RISK ASSESSMENT**

8.1 The West Lancashire Local Plan 2012-2027 was found sound in relation to the provision of Traveller sites only because the Council committed to preparing a separate DPD on the matter, the purpose of the DPD being to comply with national policy by allocating specific deliverable sites for Traveller accommodation. This commitment was set out and published in the Council's Local Development Scheme. Were the Council not to proceed with the Traveller Sites DPD, regardless of whether this course of action were subject to challenge on the basis that the Council had failed to ensure adequate provision, the matter would have implications for the next review of the Local Plan, which would need to address the complicated and potentially controversial matter of meeting Traveller accommodation needs in full.

8.2 Conversely, were the Council to continue preparation of the Traveller Sites DPD, the risks of submitting a document that falls significantly short of meeting identified Traveller accommodation needs in full have been set out above. It is quite possible (however justified the Council may feel in their approach to the Traveller Sites DPD and site assessments) that the DPD may be found unsound at Examination or that alternative sites might be forced upon the Council in order to make the DPD sound. Furthermore, even if the DPD as it currently stands



were to be taken forward, found sound and adopted, the need to provide additional Traveller accommodation as part of the next review of the Local Plan would remain, given the shortfall in meeting identified needs in the current DPD.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

There is a direct impact on members of the public. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as Appendix E to this report, the results of which have been taken into account in the Recommendations contained within this report.

### **Appendices**

- Appendix A – Provision for Traveller Sites DPD: Publication Version
- Appendix B – Sustainability Appraisal Report
- Appendix C – Habitats Regulations Assessment
- Appendix D – Schedule of Representations and Responses
- Appendix E – Equality Impact Assessment