

Meeting:	Cabinet
Meeting date:	Thursday 28 September 2017
Title of report:	Travellers' sites development plan document
Report by:	Cabinet member infrastructure

Classification

Open

Decision type

Budget and policy framework item.

Wards affected

Countywide

Purpose and summary

To consider the Herefordshire Travellers Development Plan Document (DPD) for pre-submission publication in accordance with regulation 19 of the Town and Country Planning (Local Development) (England) (Amendment) Regulations 2012 (as amended) prior to its consideration at full Council on 13th October 2017; and

To report the recommendations of General Scrutiny Committee of 11 September in relation to the Travellers Development Plan Document; and

To refer the DPD to Council with a recommendation that, following the completion of the pre-submission publication period and consideration of duly made representations, it be submitted to the Secretary of State for independent testing in accordance with section 20(3) of the Planning and Compulsory Purchase Act 2004 and regulation 22 of the Town and Country Planning (Local Development) (England) (Amendment) Regulations 2012.

Recommendation(s)

That:

- (a) the responses at paragraph 35 to the recommendations made by General Scrutiny Committee be agreed; and**

(b) the following be recommended to full Council:

- i. the draft Travellers Sites Development Plan Document 2011 – 2031 at appendix 1 be approved for pre-submission consultation;**
- ii. authority be delegated to the Programme Director Housing and Growth, following consultation with the Cabinet Member Infrastructure, to make any technical amendments required to the draft Travellers Development Plan Document and supporting documents resulting from the completion of ongoing technical work before pre-submission consultation begins;**
- iii. authority be delegated to the Programme Director Housing and Growth, following consultation with the Cabinet Member Infrastructure, to make any minor textual or graphical amendments, prior to the submission to the Secretary of State and**
- iv. following completion of the pre-submission publication of the Travellers Sites Development Plan Document and its supporting documents, the documents be submitted to the Secretary of State for Examination in Public.**

Alternative options

1. Not to produce a Travellers' Sites DPD. This is not recommended because the document is a required element in the local development scheme and when adopted will form part of the Herefordshire Local Plan. The inspector's report to the core strategy examination stated that the council must make the submission and adoption of a Travellers' Sites DPD a key priority in order to plan effectively for the needs of the travelling community, meet the requirements of National Planning Policy for Traveller Sites and comply with the public sector equality duty.
2. Not to delegate authority to make necessary and minor amendments. This is not recommended because it would be impracticable to await a further meeting of full Council to address such issues.

Key considerations

3. There has been a travelling community in Herefordshire for the last 500 years. Travellers live in different ways including permanently 'on the road' in caravans or mobile homes or in settled accommodation (for part or all of the year). Within the county there are six local authority sites with a total of 53 pitches as well as a number of small authorised private sites across the county totalling 84 pitches. There are also privately owned Showman's Yards in Ross-on-Wye with a total of 10 plots. Additionally there are a number of traveller families living in bricks and mortar housing in Herefordshire.
4. Nationally travellers face inequality in terms of access to a range of services and this can affect the life outcomes of travellers' families including traveller children. In Herefordshire, improvements have been made in terms of educational progress and sites refurbishment, yet the traveller community continue to face inequalities. This can be addressed in a number of ways but the availability of sufficient and suitable pitches and

plots to enable decent accommodation is a key factor in helping to address these inequalities.

5. The Travellers' Sites DPD will identify locations where new pitches may be sited to provide a five year supply of pitches and includes policies against which planning applications for further pitches and plots will be determined. Once adopted it will form part of the Herefordshire Local Plan. National government planning guidance on this matter is set out in its Planning Policy for Traveller Sites (PPTS) August 2015. This states that the government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community. The 2015 PPTS introduced the revised definition of travellers and travelling show people for the purposes of planning. This definition excludes those travellers who have stopped travelling permanently due to ill health or old age. This new definition is currently the subject of a legal challenge with final hearings anticipated in the autumn.
6. The preparation of the Travellers' Sites DPD is informed by a Gypsy and Traveller Accommodation Assessment (GTAA) which is an important part of the evidence base for the Travellers' Sites DPD. A GTAA was finalised in November 2015 which set out the number of new pitches that would be required during the plan period up to 2031. An update to this has recently been carried out to ensure that the evidence is up to date and robust as we move forward to the examination stage.
7. The GTAA update has made assessments of the requirement for new pitches based on both the PPTS definition and also by applying 'cultural need' – i.e. based on ethnicity. This allows for flexibility of approach should the legal challenge referred to in paragraph 4 be successful.
8. The 2017 GTAA update identifies a requirement of 33 additional pitches between 2011 and 2031 based on the PPTS definition and 91 pitches using the cultural definition. The GTAA includes consideration of how turnover on council sites (the effect of a pitch being vacated by one resident and then becoming available for another occupant), may impact on the supply of pitches. The GTAA applies an anticipated average annual turnover of six pitches on council sites during the remainder of the plan period (2017/18 to 2031/32). This is based on average trends over two years. This turnover rate equates to 84 pitches becoming available. The GTAA concludes that therefore that the PPTS shortfall is likely to be addressed through turnover and the cultural need shortfall is nearly met.
9. However even taking into account turnover there is still a requirement to identify a five year supply of pitches in accordance with PPTS requirements. There have been 18 completions of pitches between 2011 and 2017 leaving a residual requirement of 15 for the plan period. Therefore the five year supply requirement is between five and six pitches. This is a reduction in the number of pitches identified in the preferred options documents and therefore on this basis not all the sites previously identified are required for inclusion in the pre-submission document. It is proposed that those pitches that have the greatest certainty of deliverability should be carried forward and these are the new pitches that are proposed within or adjacent to the council owned sites at:
 - Romany Way, Grafton. There are currently nine pitches on this site. The DPD proposes one additional pitch within the site boundaries.
 - Orchard Park, Lower Bullingham. There are currently eleven pitches on this site. The DPD proposes two additional pitches as an extension to the east of the existing site.

- Openfields, Bromyard. There are currently ten pitches on this site. The DPD proposes the reinstatement of two additional pitches within the existing site boundaries.
 - Turnpike Site, Pembridge. There are currently six pitches on this site. The DPD proposes four additional pitches as an extension to the east of the existing site.
10. The GTAA recommends that this evidence base is refreshed on a five-yearly basis to ensure that the level of pitch and plot provision remains appropriate for the Gypsy and Traveller and Travelling Showpeople population across Herefordshire. A review will be required of the revised evidence base which will then inform a review of this document to identify a further five year supply of sites. In addition to the proposed allocations there will be a demand for more private traveller sites and these can be considered through the planning application process against the relevant policies in the core strategy and those proposed in the DPD.
 11. The Travellers' Sites DPD will also include a proposed site for use as a temporary stopping place. The purpose of this is to reduce the occurrence of unauthorised encampments in the county. In 2015 there were 22 unauthorised encampments in the county and there were 50 in 2016. These varied in the number of caravans and the length of stay. There are significant financial implications for both the council and the police dealing with these unauthorised encampments which could be reduced with the provision of a site. West Mercia Police strongly advocate the provision of such a site. Furthermore by providing an authorised site to which temporary facilities can be brought in, better living conditions are proposed for families and their children during their temporary stay.
 12. The preferred options consultation document 2016 included two sites proposed for use as temporary stopping places at Broadmeadow Yard, Ross-on-Wye and at the A49, Leominster. However there were concerns about the impact of shared access with local businesses and therefore the site in Ross has not been taken forward.
 13. Public consultation on the preferred options took place between July and September 2016 for approximately eight weeks and details of this can be found in the consultation section later in the report. A summary of the responses received can be found in Appendix 3. A variety of responses were received with some raising issues related to land use planning considerations whilst others referred to matters that are not within the remit of planning considerations. A number of changes have been made as a result of the consultation. However there is a continuing need to identify sites therefore it was not possible to satisfy all the objections at the previous stages.
 14. Since the completion of the consultation last year various pieces of work have taken place:
 - Further technical work on the sites including flood risk assessment, contaminated land assessment and consideration of highways issues
 - Continued participation in the Gypsy Roma and Strategy Group, a multidisciplinary group made up of representatives from different council departments, West Mercia Police and the Herefordshire Travellers Support Group
 - A seminar to which all council members were invited to inform them of the issues to be considered in the DPD (January 2017). This included a presentation by Chief Inspector Adam Thomas from West Mercia Police on the need for temporary stopping places

- Drop-in session for parish councils (February 2017)
15. In terms of the changes that are recommended to be taken forward into the pre-submission draft in relation to permanent residential pitches the following amendments have been made:
- Land adjacent to Whitfield Coppice, Pixley. The owner has carried out various pieces of technical work on the site to demonstrate its suitability. However suitable highway access has not been demonstrated. Therefore as the site is not required to meet the pitch requirements of the revised GTAA it is not being taken forward to the pre-submission stage.
 - Land to the south east of Sutton St Nicholas. This is a greenfield site owned by Herefordshire Council. This site is no longer required to meet the revised housing requirements. Should any future GTAA identify need for further sites then this could be considered for allocation in the future.
 - Turnpike, Pembridge. An extension of four additional pitches is proposed to the existing council site. This was proposed as an extension to the south of the site in the preferred options document. However following representations made by the parish council, and taking into account the findings of the Strategic Flood Risk Assessment, an extension to the east of the site rather than the south is now being proposed. This extended area provides the opportunity to provide four pitches as well as an area for orchard planting and animal grazing.
 - Romany Close, Grafton. An additional pitch was suggested by the residents, on an unused play area. However further analysis of the site showed that more efficient use of land could be made by siting the new pitch to the right of the entrance where the former warden's office is located and thus allowing the retention of the play area for future use. The provision of play areas on site is recognised as good practice and is in line with the recommendation of the sustainability appraisal of the preferred options.
16. Therefore there are fewer sites included than in the Preferred Options document. The GTAA will be scrutinised as part of the examination process. The sites that have been considered but are not being taken forward could either come through the planning application process or be considered at a future date should a further need for sites be identified.

Travelling showpeople

17. The Planning Policy for Traveller Sites (PPTS) (August 2015) defines "Travelling showpeople as members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers as defined above. Individual pitches within a site are known as plots".
18. With fairs and shows generally taking place between Easter and October, such sites are sometimes referred to as 'Winter Quarters' as they were traditionally occupied in the winter months and vacant in the summer months when the whole family would travel together to shows. However, it is now more usual for these sites to be occupied all year by some family members. This allows children to maintain regular attendance at schools

and for elderly relatives to stay at home. The opportunity to have access to education without disruption is a key factor in helping to improve outcomes for children. The availability of sufficient and suitable accommodation from which to access educational services is vital in this respect.

19. Plots for Travelling Showpeople require enough space for both living accommodation and the storage of fairground equipment. Having equipment close to living quarters has advantages in terms of security and also allows on-site maintenance to take place. PPTS states that local planning authorities should have regard to the need that travelling showpeople have for mixed-use yards for both residential accommodation and space for storage and maintenance of equipment. The PPTS advises that planning conditions or obligations may be used to overcome any potential objections for this mixed land use for example by limiting which parts of the site would be used for business operations.
20. The 2015 GTAA established a need for nine additional travelling show persons' plots up to 2031. The GTAA update 2017 process included discussions with a local travelling show person community member and these suggested that this remains an appropriate number over the plan period to 2031. Liaison has taken place with the regional office of the Showman's Guild (the representative body of travelling show people). It was agreed that in the absence of allocating any suitable sites the DPD will include a positive enabling policy to encourage suitable sites to come forward to provide sufficient plots for a settled base to allow families to access services and children to attend school.
21. **Timescale:** Following Cabinet consideration, the pre-submission draft will be presented to full Council in October. It could then be published for the formal stage of consultation in late October / early November for a period of six weeks. All the representations received following pre-submission stage will be reviewed by the council to assess whether they raise any issues relating to the 'soundness' of the plan that have not previously been identified. If such matters do arise there may be a need to amend the plan and undertake further public consultation; any such action will be subject to further governance. If there are only minor or technical changes required, following consultation with the cabinet member, the documentation will be submitted to the secretary of state together with the supporting evidence base. The Planning Inspectorate will appoint a planning inspector to examine the plan. The examination process is likely to include hearing sessions, expected in the New Year, chaired by the planning inspector to hear the views of invited participants. The inspector will publish a report with their findings and any recommended changes. The plan is then adopted by the council and becomes part of the Herefordshire Local Plan. Following adoption of the plan, the provision of the identified, additional pitches on council owned land will be subject to further governance.
22. **Other Sites:** Two other sites were submitted for consideration since the preferred options stage but have not been taken forward into the pre-submission draft for the following reasons:
 - Land at Barnet Lane Wigmore was suggested for infilling between two existing pitches. This was not taken forward because of the highway capacity constraints and the impact on the setting of Wigmore Castle.
23. An adjacent site to the one included in the preferred option document at Trumpet was suggested as an alternative site. This has not been taken forward as further assessment regarding highways impact was not available.

Community impact

24. The Travellers' Sites DPD seeks to address the needs of the traveller community in Herefordshire. This is in line with the council's corporate plan priority to enable residents to live safe, healthy and independent lives.
25. The Local Investment Plan (2011-2026) includes the provision of pitches for Gypsies and Travellers under Outcome 3: Supporting independent living/vulnerable persons.

Equality duty

26. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

27. Romany gypsies and Irish travellers are recognised by the courts as being distinct ethnic groups and are protected from discrimination by the Equality Act 2010. There is a statutory duty on public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations in the course of developing policies and delivering services.
28. Herefordshire Council's Equality Policy 2017 – 2019 approved by Cabinet in January 2017 identifies three priority areas including the production of a Gypsy, Roma & Traveller (GRT) strategy. This includes the objective of agreeing on a location, and development of a transit site/temporary stopping place in Herefordshire. A further objective is to focus on key areas such as education, employment, accommodation and health in relation to the travelling community. Clearly the adoption and implementation of the DPD will make a positive contribution to achieving these wider objectives

Resource implications

29. Sufficient budget is available to prepare the full suite of documents, of which the Travellers' Sites DPD is one, which together will form the Local Plan. The costs of pre-submission consultation will be kept to a minimum with the use of electronic communication where possible. The main costs will be associated with printing and postage where this is not possible and is unlikely to exceed one thousand pounds.
30. There may be further financial implications as the Travellers' Sites DPD includes land in the council's ownership. Although the financing of the proposals is not a matter for consideration for the Travellers' Sites DPD, the successful delivery of the pitches will be subject to available finances. Therefore the detailed financial implications of the site provision will be identified in a separate report through the capital programme process. The decision regarding the bid to the capital programme will be made in December 2017. The position on this will be known prior to submission of the plan to the Secretary of State. Confirmation has now been received from the Homes and Community Agency that match funding is potentially available to apply for from the Shared Ownership and Affordable Homes Programme 2016 – 2021

Legal implications

- 31 Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) places a duty on the council as local planning authority to prepare and maintain a Local Development Scheme which will specify documents (amongst other matters) once prepared, to be comprised in the Local Plan for the area. Development plan documents form part of the Local Development Scheme.
- 32 Legislation does not dictate the specific topics to be addressed by development plan documents as the discretion is left to the local planning authority on what form the local plan takes. However when considering a development plan document focus should be on the key issues in the authority's area, and is required to take account of national government policy and planning practice guidance. In this instance Planning Practice Guidance – planning policy for traveller sites, and the National Planning Policy Framework.
- 33 Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) requires the document to be submitted to the Secretary of State for independent examination, once the council is satisfied it has complied with procedural regulations 18-20 inclusive on preparation, publication and consultation as laid out in the Town and Country Planning (Local Development) (England) (Amendment) Regulations 2012 (as amended). This is a Regulation 19 decision.
- 34 Consideration of the Local Plan is a Council function and under Part 3 Section 1 of the constitution council has the authority to make decisions on development plan documents pursuant to Section 15 of the Planning and Compulsory Purchase Act 2004 and under Part 4 Section 3 is responsible for the adoption of those documents within the budget and policy framework rules.

Risk management

35. By not making adequate provision for the accommodation needs of gypsies and travellers the council would not be fulfilling the objectives of the council's Housing Strategy nor meeting the requirements of the public sector equality duty.
36. By not making adequate provision in the development plan document for sites the council is at risk of not being able to demonstrate a sound DPD at examination. The identification of sites to provide a five year supply of pitches mitigates this risk.

Consultees

37. Public consultation has already taken place on:
 - Issues and Options Consultation Document in August 2014. This focused on how any need for traveller accommodation in Herefordshire should be met, by identifying the possible ways in which sites for permanent and transit pitches and plots for Travelling Show people could come forward. It looked at the best approach or "options" for how sites and broad locations of search can be identified to meet existing and any future need. A report on the representations received and how these should be taken forward was set out in a separate report at:
https://www.herefordshire.gov.uk/media/8060233/results_report_for_issues_and_options_paper1_sept_2015.pdf

- The Gypsy and Traveller Accommodation Assessment February/March 2015. This provides the evidence base for the number of pitches required over the plan period. Views were sought on the methodology and findings. As a result of concerns raised about Methodology an updated assessment was produced in November 2015 with subsequent amendments to the figures.
38. The Environment Agency, Highways England and specialist officers within the council have been consulted on relevant sites as part of the technical assessment process. Consultation on the preferred options document took place between July and September 2016 for approximate eight weeks. This included the following measures:
- Mail out to stakeholders and individuals on the consultation database
 - Publicity in the local and traveller press and through social media
 - Three drop- in public consultation events were held in Holmer, Leominster and Ross on Wye
 - Engagement with travellers through the council's traveller service
 - Consultation with statutory stakeholders and a range of other consultees
 - Stakeholders and individuals will be notified to the pre-submission publication by email where possible with details of the how to respond and the publication period.
39. Opportunity will be provided for representations to be made on the GTAA, Sustainability Appraisal and the Habitats Regulations Assessment as part of the pre-submission publication process.
40. The draft Travellers Sites Development plan document was considered by General Scrutiny Committee on 11 September 2017. The following issues were raised for consideration by the Committee, set out together with a suggested officer response.
- **The executive be recommended to consider whether an additional temporary stopping place should be identified;**
Response - The occurrences of unauthorised encampments across the county will continue to be monitored and this information will feed into future reviews of the GTAA and be a relevant factor in consideration of the need to review the DPD. The effectiveness of providing the temporary stopping place at Leominster will also be monitored
 - **Co-operative working with neighbouring authorities should be pursued;**
Response – Agreed, local planning authorities are required to cooperate with neighbouring authorities, engage constructively, actively and on an ongoing basis with regard to relevant strategic matters under the Localism Act.
 - **Clarity be provided on how the temporary stopping place would operate in practice, including protocols for the allocation of places on the site including the management of different families, so that there is a clear public understanding;**
Response - it would be beneficial to expand on the text in paragraph 4.20 – 4.25 to clarify the purpose and characteristics of this type of site. This will now refer to a management policy that will explain how the temporary stopping place will be managed by the Licensing, Traveller and Technical Support team. A management policy for the site will be produced in consultation with the Police to ensure that a fair, transparent and accountable method of allocating pitches on the temporary

stopping place is set out. The lengths of stay for each encampment will be negotiated on a case by case basis but will not exceed 14 days.

- **Consideration be given to specifying when a review of the policy should be conducted;**

Response – Agreed, it is recommended to strengthen section 7 to refer to a five yearly review of the accommodation requirements of travellers. It is also recommended to include reference to the monitoring of the effectiveness of the policies through the Annual Monitoring Report using the following indicator:

- The amount of new traveller pitch commitments and completions.

Finally it is recommended that the records of both unauthorised encampments and turnover of site kept by the council are reviewed to help monitor the effectiveness of the policies.

- **Dialogue continue with the Showmans' Guild to identify an appropriate site to meet their needs;**

Response – Agreed, officers will continue to engage with the Showmans Guild in order to help identify and bring forward sites to meet the identified requirement. The progression of the draft plan to adoption will not prevent such a site being brought forward during the plan's lifetime.

- **The scope to acquire land for sites by compulsory purchase order (CPO) to increase the options and select sites in the most suitable locations be explored;**

Response - Legal advice has been sought on the suitability of this process in relation to this matter. CPO could be used in the context of gypsy and traveller sites and there are several acts which enable public bodies to compulsory purchase land for a particular purpose but they would have to justify and demonstrate that the required criteria have been fulfilled. Before a CPO can be implemented, the acquiring authority will have to justify it to the Secretary of State and must be able to demonstrate (in respect of the CPO):

- that it is authorised by statute to purchase land compulsorily for a particular purpose and the CPO is necessary to achieve this purpose;
- there is a compelling case in the public interest that sufficiently justifies interfering with the rights of those with an interest in the land affected;
- the provisions of Article 1 (protection of property) of the First Protocol to the European Convention on Human Rights 1950 (and if a dwelling), Article 8 (protection of a person's home), should be taken into account

Therefore at this stage it is not recommended that the CPO process be pursued to identify land whilst there are options available to meet the requirement in the GTAA.

- **Site allocation policy on residential sites should be clear;**

Response - Site allocation policy is not a matter for the DPD. There is an existing Gypsy and Traveller Site Allocation and Management Policy for Herefordshire 2015 which covers the existing residential sites managed by the council. However to aid a comprehensive picture to be provided, a document explaining the management and pitch allocation policy relating to the management of the Temporary stopping place will also be produced to accompany the DPD though the publication and examination processes.

- **Officers be requested to ensure that existing sites are appropriately managed and maintained and that appropriate resources are in place for both capital improvements and maintenance.**

Response – the management of the sites and allocation of resources are not matters for the DPD. Revenue and capital requirements for existing or planned sites in the council's ownership will be considered and prioritised through the council's normal budget planning process, and sites will be managed in accordance with the relevant policies.

Appendices

Appendix 1 – Draft Pre-submission Travellers' Sites Development Plan Document.

Appendix 2 - Draft Gypsy and Traveller Accommodation Assessment August 2017

Appendix 3 – Summary of responses received on Traveller Sites Document Preferred Options July-September 2016

Background papers

None