

Meeting:	Cabinet
Meeting date:	Thursday 26 September 2019
Title of report:	Travellers Sites Development Plan Document
Report by:	Cabinet member Infrastructure and transport

Classification

Open

Decision type

Budget and policy framework

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose and summary

To recommend to council that the Herefordshire travellers' sites development plan document (DPD) 2018 -2031 is adopted.

The Government's guidance Planning policy for Traveller Sites requires local planning authorities to make provision for traveller sites within their local plans. The adopted core strategy includes a commitment for the council to do so through a travellers sites DPD. This DPD has been prepared in accordance with the core strategy and government guidance. It has been subject to independent examination by a government appointed inspector. The inspector has concluded that it can provide an acceptable supply of pitches over the next five years and with the main modifications meets the government's test of soundness.

The adoption of the DPD supports the objectives of the Council's Equality Policy adopted in 2017 as outlined in paragraph 15 below.

Authority for making any further additional modifications could be delegated to the relevant cabinet member; as the modifications covered by this delegation would not affect the basis of the DPD. In exercising such delegated authority the officer is required to consult with the cabinet member for infrastructure and transport. Therefore the proposed delegation provides the most efficient way of maintaining a clear and consistent set of development plan documentation.

Recommendation(s)

That:

(a) the Herefordshire Travellers sites Development Plan Document (DPD) 2018-2031 (appendix 4 and at https://www.herefordshire.gov.uk/info/200185/local_plan/796/travellers_sites_document_examination/7), incorporating the Planning Inspector's recommended main modifications (appendix 2) and the schedules of additional modifications (appendix 3) be recommended to Council for adoption; and

(b) it be recommended to Council that delegated authority be given to the programme director growth to make any further minor modifications, (e.g. typographical) to ensure consistency with other development plan documentation.

Alternative options

1. There is an alternative option for the council not to adopt the DPD. However, this is not recommended given that the inspector has concluded that the DPD is sound. In addition, there would be little, if any, improvement in the council's five year land supply of traveller pitches. Furthermore not adopting the plan could conflict with the approved objectives of the Council's Equality Plan 2017-2019.
2. If the council decided to make changes to the plan, there would be considerable delay in progressing the DPD, given the requirements for further public consultation as well as public examination which would be required to progress any amended DPD. There would also be additional financial costs associated with this. The further consultation and examination would be necessary as there is not an option to adopt the DPD with only some of the proposed main modifications that came out of the examination process. By definition the DPD is now considered to be sound on the basis of its full content. If the main modifications were not included, the DPD would not be sound and it could not be recommended for adoption.
3. Cabinet could decide to defer this decision or recommend to council that the decision is deferred but this is not recommended for the reasons set out above.
4. The schedule of additional modifications does not affect the basis of the DPD and as such an alternative could be to recommend adoption without the schedule of additional modifications. However as this schedule aids the clarity of the document and ensures the plan is up to date this option is not recommended.

Key considerations

5. The DPD has been in preparation since 2016. It has been developed in accordance with national planning policy guidance, including undergoing two stages of consultation. Following approval by council in October 2017, it was submitted for examination in February 2018 and a publically open hearing session was held in May 2018. Following this the inspector issued a post hearing report in which he recommended the Council should identify further pitches to achieve a revised five year supply requirement. As a result an additional sites consultation was carried out between October and December 2018 and this was followed by a further public hearing session in March 2019. Following this second hearing session, consultation was carried out on the inspector's recommended main modifications between March and June 2019. The additional modifications were also published for information. At the end of that consultation the inspector published his final report. This report concludes that the Herefordshire travellers sites development plan document (DPD) provides an appropriate basis for the planning of traveller sites in the county, provided that a number of main modifications are made to it.
6. The DPD covers the period from 2018–2031. It includes allocations and policies as follows:
 - Additional pitches at the local authority sites at Pembridge, Bromyard, Grafton and Watery Lane and a private site near Bosbury.
 - A new stopping place for short stays adjacent to the A49 at Leominster.
 - Policies to provide more details for site requirements and to support travelling show people plots.
7. The inspector's report attached at appendix 1, was received on 24 June 2019 and is published on the council's website. It concludes that, with the inclusion of the series of proposed main modifications (at appendix 2), the DPD meets the test of soundness. The inspector's main modifications include changes to some key aspects of the submitted DPD as follows:
 - Correcting the need for gypsy and traveller pitches to 19 pitches for the 5 years between 2018 and 2023 and to 30 pitches over the plan period;
 - Allocating a further site for 4 pitches at Bosbury;
 - Identifying Stoney Street, Madley as a possible future growth location;
 - Confirming that the core strategy review will consider the longer term unmet needs of those meeting the definition within the Planning Policy for Traveller Sites as well the needs of travellers outside of it; and
 - Changes to the detailed general policies for traveller and showpeople sites to ensure that they are fair in facilitating the traditional and nomadic life of travellers whilst respecting the interests of the settled community.
8. In addition to the main modifications there are also a series of additional modifications (appendix 3) proposed which clarify aspects of the plan but do not change the approach of the plan's policies. Additional modifications were proposed by the council. Appendix 4 incorporates all the modifications into the DPD as track changes for ease of reference.
9. Although the plan period of the DPD is up to 2031, it identifies a supply of allocated pitches for the next five years. The inspector in his report recognised that with the additional pitches the plan is still one pitch short of the five year supply. However the inspector recommended that it would be preferable to complete this DPD now so that the

proposed site allocations can be brought forward with confidence rather than delay the adoption of the DPD. In addition to the allocations, the modifications include a broad area of search at Stony Street Madley for longer term consideration.

10. Allocations of further pitches to meet the longer term need up to 2031 will be considered as part of the review of the core strategy.

Community impact

11. The 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.
12. 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

13. 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 -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
14. 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. 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, which allocates a site for a temporary stopping place and additional residential pitches, will make a positive contribution to achieving these wider objectives.
 15. An equalities impact assessment has been carried out and is included at appendix 5 to this report. This assessment concludes that there are only positive or neutral impacts on the protected characteristics referred to in the Equality Act 2010.

Resource implications

16. Costs associated with adoption will involve ensuring the necessary notifications are undertaken and making the DPD and other documents required by the local plan regulations available for inspection. Funding for these tasks is in place in existing budgets and/or reserves.

17. There are costs associated with the delivery of the additional pitches at the local authority sites and the new temporary stopping place. The capital funding bid for 3 pitches at the local authority sites at Grafton (1 additional pitch) and Bromyard (2 additional pitches) was agreed at the budget meeting of the Council on 15 February 2019. Funding for the additional pitches at the local authority sites at Pembridge and Watery Lane, as well as the new temporary stopping place planned for Leominster, will be sought over the next 2 years. However the funding of the delivery of the pitches is not for consideration as part of this recommendation and decision.

Legal implications

18. The Cabinet member infrastructure and transport has delegated authority from Cabinet in exercise of its functions under Part 3 Section 3 of the constitution for formulating or preparing the documents consisting of the budget and policy framework which includes DPDs pursuant to Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended). This report by the cabinet member to cabinet puts forward the above recommendations for full council to consider. The subsequent adoption thereof is a Council function under Part 3 Section 1.
19. 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.
20. 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.
21. The draft DPD has in accordance with Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) been submitted to the Secretary of State for independent examination in accordance with procedural regulations laid out in the Town and Country Planning (Local Development) (England) (Amendment) Regulations 2012 (as amended). The independent examination of the DPD has been carried out by the person appointed to do so by the Secretary of State and has made recommendations that it is adopted. In accordance with Section 23(2) of the Planning and Compulsory Purchase Act 2004 the Council may adopt the document as it is; or with modifications (taken together) if they do not materially affect the policies set out in it.
22. This report recommends the local plan inspectors' report be noted and that the DPD be recommended to Council for adoption in accordance with legislation. There are no other legal considerations

Risk management

23. There are no significant risks associated with adoption of the DPD. Conversely, there are significant risks associated with a decision not to adopt. 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. It would also put the council at risk of applications for traveller pitches being determined through the appeal process.

Risk / opportunity	Mitigation
Risk of delay in adopting the DPD	Approval of the recommendations of this report and adopt the DPD
Risk of identified sites not coming forward	An assessment of the sites has been carried out and their deliverability was considered by the inspector as part of the examination process. However the delivery of the new pitches will be monitored on a regular basis as part of the council's standard monitoring processes. If sites do not come forward then the reasons for this will be identified and addressed.

Consultees

24. During the period of preparing the core strategy there have been four periods of consultation as follows:
- Issues and Options Consultation Document in August 2014.
 - The Gypsy and Traveller Accommodation Assessment (GTAA) February/March 2015.
 - Preferred options consultation July 2016
 - Pre- submission consultation November 2017
 - Main modifications Consultation 2019
25. The nature of the process has involved extensive engagement with members of the public across the county, interest groups and statutory agencies. Details of the consultations undertaken are available at https://www.herefordshire.gov.uk/download/downloads/id/13629/travellers_sites_regulation_22_consultation_statement_-_february_2018.pdf
26. All the consultation stages included the following:
- Mail out to stakeholders and individuals on the consultation database
 - Publicity in the local and traveller press and through social media
 - Drop in public consultation events were held in Holmer, Leominster and Ross on Wye
 - Engagement with travellers through the council's traveller service and social inclusion team.
 - Consultation with statutory stakeholders and a range of other consultees
27. General Scrutiny Committee considered the draft Travellers Sites Development plan

document on 11 September 2017 prior to its consideration for approval for pre-submission consultation by Cabinet on 12 September 2017 and Council on 13 October 2017. As a result of the resolutions of the meeting, the plan was amended to provide further details about how the proposed temporary stopping place would be used and also to strengthen the monitoring section in relation to the effectiveness of the policies and the need to review the DPD.

28. A further round of consultation took place as part of the examination process on the main modifications. All the responses received were passed on to the inspector for his consideration in accordance with the regulations. The inspector took these responses into account in his final report and recommendations.
29. Consultation with all councillors took place prior to the publication of this report. A response was received from Cllr Roger Phillips (Arrow Ward) who highlighted the following:
 - i. The policies of (Core Strategy Policy) H4 refer to proportionality with the local area so it is clear that the whole area cannot be identified for expansion. The suggestion of 4 has to be the maximum figure.
 - ii. This continued reference to an orchard and grazing is ridiculous – the council struggles to maintain what is there now and it is impractical to place livestock on the site. The remainder should be planted with trees (larger saplings to ensure establishment).
 - iii. There should be a reference to prohibit access to the northern industrial access road to Kingspan and other companies on the grounds of safety. As the councillor for over 20 years my corporate memory does not want to see the dangerous situations we had in the past. Direct access from the site from this highway must not be allowed.
 - iv. I am interested in what is meant by our H4 policy on provision for recycling and waste management – there have been issues on this site in recent years

The following officer response is provided to those points raised:

- i. The allocation is for four pitches and it is stated in the DPD that this should be the maximum number of new additional pitches.
- ii. Criterion 2 of DPD policy TS7 includes reference to the management and use of the remaining part of the site for grazing or orchard / native tree species planting. These uses would be agreed at the planning application stage. The wording of the policy allows the planting of trees as suggested above.
- iii. Criterion 6 of the DPD policy states that access should be provided to the new pitches via the existing access onto the highway. Therefore it follows that access to the north of the site will not be permitted
- iv. Policy H4 of the Core Strategy requires applications for new traveller sites and pitches to include adequate provision for the disposal and recycling of waste. This means that additional provision will be made at the Pembridge site for the new pitches.

In summary it is considered that the points raised above are adequately covered by policy TS7 of the DPD. Furthermore, any further policy changes at this stage would

mean that the DPD could not be adopted at the Council meeting as further public examination and main modification consultation would be required as explained in the Alternative Options section on page 2 of this report.

Appendices

Appendix 1 - Report on the examination of the Herefordshire Traveller Sites Document June 2019

Appendix 2 – Travellers’ Sites DPD main modifications, June 2019

Appendix 3 – Traveller sites DPD additional modifications, May 2019

Appendix 4 – Travellers Sites DPD incorporating main and additional modifications.

Appendix 5 - Equalities Impact Assessment of the Adoption of the Travellers sites DPD.

Background papers

None