

REPORT TITLE: GYPSY AND TRAVELLER DEVELOPMENT PLAN DOCUMENT – PROPOSED ADOPTION

13 FEBRUARY 2019

REPORT OF PORTFOLIO HOLDER: Portfolio Holder for Built Environment, Councillor Caroline Brook

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WARD(S): ALL (OUTSIDE SOUTH DOWNS NATIONAL PARK)

PURPOSE

This report provides an update on the Winchester District Gypsy, Traveller and Travelling Showpeople Development Plan Document ('Traveller DPD') and recommends that the Plan be adopted by the Council.

Following consultation on 'Proposed Modifications' to the Traveller DPD, published in October 2018, the Local Plan Inspector's Report was received on 28 January 2019 (see Appendix 1).

The Inspector considered representations on the 'Main Modifications' to the Plan in producing her report and the Council now needs to consider the recommendations made by the Inspector. In order to progress the DPD to statutory adoption the Council must accept the Inspector's Main Modifications and this report recommends that it should do so.

Adoption of the DPD (with these Modifications) would achieve a sound and National Planning Policy Framework-compliant Development Plan, which is important given the Government's emphasis on putting in place up to date statutory planning policies.

RECOMMENDATIONS:To Council:

1. That the Winchester District Gypsy, Traveller and Travelling Showpeople Development Plan Document ('Traveller DPD'), as submitted to the Secretary of State in May 2018 and modified in accordance with the Inspector's recommended Main Modifications (see Appendix 1) and the Additional Modifications (see DPD as recommended for adoption at Appendix 2), be adopted and that formal notices be published to complete the process of statutory adoption.

To Cabinet:

2. That authority be delegated to the Head of Strategic Planning, in consultation with the Portfolio Holder for Built Environment, to undertake minor updating and amendments in order to incorporate the Modifications and consequential changes to the Plan, including to correct errors and format text, without altering the policy intentions of the Plan.

IMPLICATIONS:

1 COUNCIL STRATEGY OUTCOME

- 1.1 The Traveller DPD will contribute to achieving the Council Strategy vision of 'developing quality housing with a balanced range of tenures'. It is a requirement for legal compliance that the DPD has had regard to the Council Strategy.

2 FINANCIAL IMPLICATIONS

- 3 The resources for the preparation of the various elements of the District Development Framework (including the Traveller DPD) have been approved as part of the budget process. The main remaining cost associated with the Traveller DPD relates to the examination process and is estimated at approximately £25,000 (Inspector's and Programme Officer's fees and venue). This is provided for within existing budget projections and the Local Plan reserve.

4 LEGAL AND PROCUREMENT IMPLICATIONS

- 4.1 There is a 6-week period after the adoption of a DPD when it can be challenged in the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004. This could only be on the basis that the document is not within the appropriate powers or that a procedural requirement has not been complied with. The Traveller DPD examination has tested compliance with these procedures and found the Plan to be 'sound' (subject to modifications) and 'legally compliant', so it is not expected that there are grounds for its adoption to be challenged.

5 WORKFORCE IMPLICATIONS

- 5.1 Following adoption, those interested in the DPD will need to be notified, public notices will be published, and the document will need to be produced electronically and in hard copy. There are adequate staff and budget resources to undertake these tasks.

6 PROPERTY AND ASSET IMPLICATIONS

- 6.1 None directly. The DPD sets out planning policies that could apply to a variety of property, including that owned by the Council.

7 CONSULTATION AND COMMUNICATION

- 7.1 The Traveller DPD has been subject to various consultation processes and exercises. These included consultation on the Proposed Modifications, the results of which the Inspector has taken into account in producing her Report. The Inspector's Report is not published for consultation as its recommendations must be followed if the Council wishes to proceed to adopt the DPD.

8 ENVIRONMENTAL CONSIDERATIONS

8.1 The DPD is required to meet various test of 'soundness' which include a requirement to conform to Government policy, including the NPPF which is intended to achieve sustainable development. The DPD also needs to be subject to Sustainability Appraisal and Strategic Environmental Assessment, as well as assessing potential impacts on internationally important habitats (Habitat Regulations Assessment). Environmental considerations are, therefore at the heart of the Plan's production.

9 EQUALITY IMPACT ASSESSEMENT

9.1 The Traveller DPD relates specifically to the needs of particular minority groups, some with 'protected characteristics'. It has been subject to an Equalities Impact Assessment and has been modified as necessary to reflect the recommendations arising. Equalities issues have also been taken into account by the Inspector in examining the Plan.

10 DATA PROTECTION IMPACT ASSESSMENT

10.1 Data protection requirements have been followed in assessing the needs of Travellers and in dealing with personal information submitted by those commenting on the DPD.

11 RISK MANAGEMENT

11.1 The steps undertaken in preparing the Traveller DPD have all been done with consideration for minimising the risk that the Plan may not successfully pass the examination process, could be delayed in its adoption, or could be challenged. This is necessary to ensure that the Councils' Development Plan is up to date, that a five year supply of traveller sites can be demonstrated and to avoid putting the Council at risk of development being determined through the appeal process. The Inspector's Report has addressed any soundness issues and the Local Development Scheme sets out a more detailed risk assessment of DPDs.

11.2 The Government recently announced its intention to require that local plans are put in place quickly, so it remains important to progress the Traveller DPD to adoption, avoiding any risk of government intervention. The Development Plan will be complete and up to date once the DPD is adopted, albeit that work has started on a roll forward of the Local Plan.

Risk	Mitigation	Opportunities
<i>Property</i> None	-	-
<i>Community Support</i> Elements of the DPD have been controversial	The DPD has been subject to several stages of public consultation and has also been subject to	None, this is not a consultation stage and the Council must accept the Inspector's Report

	independent examination.	recommendations if it wishes to adopt the DPD.
<i>Timescales</i> Risk of delay in adopting the DPD	Approval of the Inspector's Report recommendations.	-
<i>Project capacity</i> Limited risk (project now largely complete)	Approval of the Inspector's Report recommendations.	-
<i>Financial / VfM</i> Limited risk (project now largely complete)	Approval of the Inspector's Report recommendations.	-
<i>Legal</i> Risk of legal challenge following adoption	The DPD has been produced with a view to minimising risks and has been examined by an Inspector.	None at this stage of the process.
<i>Innovation</i> NA	-	-
<i>Reputation</i> See 'Community Support' above	-	-
<i>Other</i> NA	-	-

12 SUPPORTING INFORMATION:

Background

- 12.1 The Winchester District Gypsy, Traveller and Travelling Showpeople Development Plan Document ('Traveller DPD') complements the Local Plan (Parts 1 and 2) by safeguarding and allocating sites for traveller accommodation and providing development management policies relating to traveller development. The DPD will form part of the 'Development Plan' for that part of the District outside of the South Downs National Park (the National Park Authority is developing its own local plan within the Park).
- 12.2 Work on the Traveller DPD was commenced in late 2016, following the publication of the Gypsy and Traveller Accommodation Assessment (GTAA). A draft DPD was published for consultation in July 2017 and almost 100 comments were received. The DPD was revised and the Publication (Pre-Submission) DPD was published in January 2018. 16 responses were received at this stage but no changes were made to the content of the Publication DPD as it was considered that the representations received did not raise 'soundness' issues. Therefore the Plan was 'submitted' to the Secretary of State in May 2018 so that it could be subject to examination by an independent Inspector.

Examination and Inspector's Report

- 12.3 An independent planning Inspector (Louise Crosby MA MRTPI) was appointed in May 2018 to examine the Plan's 'soundness', and 'public hearings' were held during September 2018. The Inspector indicated during the public hearing sessions that she would expect a number of modifications to be put forward to address matters raised through the examination and officers submitted a draft Schedule of Modifications under delegated authority (granted by Council on 10 January 2018). The Proposed Modifications were published in October 2018 for a 6-week consultation period.
- 12.4 The Proposed Modifications were aimed at addressing concerns raised by the Inspector or matters identified by the Council and fell into two types – 'Main Modifications' to address 'soundness' matters, and 'Additional Modifications' proposed by the Council to address some objections or to update the Plan. Only 7 representations were received (including some 'no comments' from statutory consultees) on the Proposed Modifications and these related entirely to the Main Modifications.
- 12.5 Comments on the Main Modifications must be considered by the DPD Inspector, as they respond to 'soundness' concerns raised by her. The comments were sent to the Inspector following the close of the consultation, so that she could take them into account in producing her report. As they relate to 'soundness' matters, all the Main Modifications recommended by the Inspector must be accepted for the Council to be able to adopt the Plan.
- 12.6 The Inspector's Report was received on 28 January 2019 and recommends the inclusion of the Main Modifications that were published for consultation, with only small changes relating to the proposed new 'criteria-based' policy (MM04), updating and minor re-numbering.
- 12.7 The Inspector recommends that the DPD is 'legally compliant', meets the Duty to Cooperate and, subject to all of the recommended Main Modifications being made, would be 'sound' and capable of adoption by the Council. The Inspector produced her Report without needing to invite any further evidence or re-open the examination hearings. The Council can now proceed to adopt the Traveller DPD provided it makes the Main Modifications recommended by the Inspector. It cannot adopt the Plan unless it makes these Modifications, as it would not be sound, and cannot introduce significant new changes as these would not have been subject to consultation or examination.
- 12.8 A series of 'Additional Modifications' were published for consultation alongside the Main Modifications and it would be for the Council to consider any comments received on the Additional Modifications and editing changes. In the event, no comments were made specifically on the Additional Modifications.

Next Stages

- 12.9 It is recommended that the Traveller DPD be adopted incorporating the Inspector's Main Modifications and the Council's Additional Modifications. A version of the DPD as proposed to be adopted is attached at Appendix 2 incorporating the various Modifications. The Modifications require several consequential changes and it will also be necessary to make various minor updating changes, amendments and corrections / formatting to finalise the DPD. These are incorporated into Appendix 2 but it is recommended that delegated authority be given to the Head of Strategic Planning, in consultation with the Portfolio Holder for Built Environment, to make any further minor changes needed, provided this does not alter the policy intentions of the Plan.
- 12.10 Following the recommended adoption of the DPD by Council on 28 February 2019, the document will need to be published in hard copy and online, and there will be a 6-week period when it can be challenged in the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004. This could only be on 'procedural' matters and, as the DPD examination has tested compliance with these processes and found the Plan to be 'sound' (subject to Modifications) and 'legally compliant', it is not expected that there are valid grounds for the Plan to be challenged.

13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 The Council must accept the Inspector's Main Modifications if it wishes to adopt the Traveller DPD, as the document would otherwise not be 'sound'. The Local Plan has been through various stages of preparation and consultation, including on the Proposed Modifications, and the Council now needs to complete the process by resolving to adopt the DPD.
- 13.2 The only other option is to resolve not to adopt the DPD, which would effectively mean that the Council either is unable to put in place an up to date document, or would need to start the process again. As noted in relation to 'Risk Management' above, the Council is required to ensure that the Development Plan is up to date and that a five year supply of traveller sites can be demonstrated. Failure to meet these requirements would put the Council at risk of unplanned development, determined through 'hostile' planning applications and/or the appeal process. It also remains important to progress the DPD to adoption quickly to avoid any risk of government intervening.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB2837(LP) Gypsy And Traveller Needs / Site Allocations Development Plan Document – Cabinet (Local Plan) Committee, 5 October 2016

CAB2947(LP) Traveller Development Plan Document – Approval of Draft for Consultation – Cabinet (Local Plan) Committee, 30 June 2017; Cabinet, 5 July 2017

CAB2965(LP) Winchester District Traveller Development Plan Document – Approval of Plan For Publication And Submission For Examination – Cabinet (Local Plan) Committee, 4 December 2017; Cabinet, 6 December 2017; Council 10 January 2018

CAB3087(LP) Updated Local Development Scheme – Cabinet (Local Plan) Committee, 3 December 2018

Other Background Documents:-

Representations received on Traveller DPD Proposed Modifications, published online: <https://winchester.citizenspace.com/policy-and-planning/modifications-gypsy-traveller/>

APPENDICES:

Appendix 1 – Traveller DPD Inspector’s Report (including Main Modifications)

Appendix 2 – Winchester District Gypsy, Traveller and Travelling Showpeople Development Plan Document, as recommended for adoption.