

Report of	Meeting	Date
Chief Executive (Introduced by the Executive Leader and Executive Member for Economic Development and Partnerships)	Council	22 September 2015

PLANNING POLICY FOR TRAVELLER SITES – AUGUST 2015

PURPOSE OF REPORT

- To inform members about the revised ‘Planning policy for traveller sites – August 2015’.

RECOMMENDATION(S)

- That members endorse officer advice to seek further expert and legal advice on the implications of this guidance on the assessment of the Gypsy, Traveller and Travelling Showpeople’s housing needs in the Central Lancashire area and the progression of the Traveller Local Plan.

EXECUTIVE SUMMARY OF REPORT

- A report was taken to the previous Council on the Central Lancashire Gypsy and Traveller Accommodation Assessment (GTAA June 2015).
- It recommended that further work be undertaken by officers to ascertain when the government’s revised guidance on Travellers is likely to be issued and to further explore the issue of ‘local circumstances’ that may apply to Chorley Borough and impact on its figures of need.
- The revised guidance has now been issued and this report seeks to highlight the main changes to the guidance and the potential implications on the GTAA and the progression of the Central Lancashire Gypsy, Traveller and Travelling Showpeople Local Plan.

Confidential report Please bold as appropriate	Yes	No
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Key Decision?	Yes	No
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REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

- As the GTAA forms a significant part of the evidence to the Central Lancashire Gypsy, Traveller and Travelling Showpeople Local Plan , the Issues and Options version of which is currently being drafted, it is important that the Council proceed on the most certain position possible.

7. Central Government have reviewed their guidance on Gypsy and Traveller Planning matters and this changes the context of Chorley Council's approach to the preparation of the Gypsy and Traveller Local Plan and its supporting GTAA.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

8. Failure to undertake a GTAA and progress a local plan to allocate sufficient land to meet the identified need for new pitches would be contrary to national planning policy guidance.

CORPORATE PRIORITIES

9. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	X	A strong local economy	X
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	X

BACKGROUND

10. A revised version to the Planning policy for traveller sites (PPTS) was published by the Department for Communities and Local Government (CLG) on 31st August 2015 and its policies apply from the same date.
11. There are a number of changes to the text of the new PPTS that differentiate it from the March 2012 policy document (see Appendix 1). None of the changes relates to using evidence; the majority of changes relate to plan making and decision taking. However, the changed definition of gypsies and travellers will have an impact for GTAAs.
12. There has been no change to the requirement for Local Authorities to make their own assessment of Gypsy, Traveller and Travelling Showpeople accommodation needs for the purposes of planning, and plan for sites over a reasonable timescale.
13. The PPTS changes focus upon:
- Ensuring that Local Planning Authorities (LPAs) are not required to address the accommodation requirements of one-off, largescale unauthorised encampments in their areas (para 12, PPTS);
 - Protecting the Green Belt (paras 16, unnumbered para preceding para 25, and end of para 27, PPTS); and
 - Amending the definition of gypsies and travellers and travelling showpeople (Annex 1 paras 2/3, PPTS).
14. The consultants Arc4, who undertook the Central Lancashire GTAA have offered their views on the changes to the guidance and these have been incorporated into this report.

LARGESCALE UNAUTHORISED ENCAMPMENTS

15. The inclusion of paragraph 12 in the revised policy is aimed at preventing the reoccurrence of a 'Dale Farm' situation. The new policy seeks to ensure that LPAs do not need to plan to meet their traveller site needs in full where:
- There is a largescale unauthorised encampment that has significantly increased need in an area; and
 - The area is subject to 'strict and special planning constraints'.

PROTECTING THE GREEN BELT

16. Additions to the policy stress the point that harm to the Green Belt through the development of temporary or permanent sites is **unlikely** to be outweighed by *'the best interests of the child, personal circumstances and unmet need.'*

Temporary permission in the Green Belt and other sensitive areas

17. Planning Policy for Traveller Sites previously stated that if a local planning authority could not demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.
18. In order to give 'sensitive areas' more protection and reduce the circumstances in which temporary permission in these areas should be granted, the Government amended the guidance to make it clear that this does not apply to sites on land designated as Green Belt; sites protected under the Birds and Habitats Directive and / or sites designated as Sites of Special Scientific Interest; Local Green Space; an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).
19. Accordingly, if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should continue to be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission in other areas, but **not** if the site is in one of the sensitive areas listed above. However, an absence of an up-to-date 5 year supply of deliverable sites is still capable of being a material consideration for site proposals in those areas.
20. The lack of a five year supply for general housing means that relevant policies for the supply of housing are considered out-of-date, but doesn't mean that development should then be allowed in the Green Belt. Para 14 of the Framework states that permission should be granted unless specific policies, including land designated as Green Belt, indicate that development should be restricted. Therefore, there is protection for the Green Belt, even if there is no five year supply, for general housing and this is now the case for Travellers.
21. Again protection of the Green Belt, as well as other sites subject to landscape or environmental designation³, is reiterated at paragraph 27, closing the loophole enabling grant of temporary planning permission on sites in the Green belt where an LPA cannot demonstrate an up-to-date five year supply of deliverable sites.

CHANGES TO DEFINITION OF GYPSY AND TRAVELLER

22. The revised policy retains most of the original definition of gypsies and travellers from the 2012 document. However, it removes from the definition those who have ceased to travel **permanently**. It also adds the following 'clarification' for determining whether someone is a gypsy or traveller:
'In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:
- a) whether they previously led a nomadic habit of life*
 - b) the reasons for ceasing their nomadic habit of life*
 - c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.'*
23. The government considers the new definition 'fairer'.

24. The removal of the words 'or permanently' (in relation to ceasing to travel – see below) applies to both Gypsies and Travellers and Travelling Showpeople. The government believes that it is fair that if someone has given up travelling permanently then applications for planning permission should be considered as they are for the settled community within national planning policy rather than Planning Policy for Traveller Sites. When applying the new definition, local planning authorities have to be mindful of Article 8 of the European Convention on Human Rights and the interest of the child.

PROTECTING OPEN COUNTRYSIDE

25. To give greater protection to the countryside, the Government has decided to add the word "very" to what is currently paragraph 23 of Planning Policy for Traveller Sites. It will now read: "Local planning authorities should very strictly limit new traveller site development in open countryside."

INTENTIONAL UNAUTHORISED OCCUPATION

26. Unauthorised occupation of land can cause irreparable damage to the environment, endanger the safety of the occupants as well as neighbours and, in the case of developments occupied by particular groups of people, serve to sour relations between these groups and the rest of the community. It can also harm the effectiveness of the planning system and public confidence in it.
27. The Government has changed national planning policy to make intentional unauthorised development a material consideration that would normally be weighed in the determination of planning applications and appeals. This change applies equally to the settled and traveller communities. Local authorities have powers available to them to address illegal encampments and should make use of these where appropriate.
28. The Government has decided to amend Planning policy for traveller sites (PPTS) to make clear that in exceptional cases, where a local authority is burdened by a large scale unauthorised site which has significantly increased their need and their area is subject to strict and special planning constraints then there is no assumption that the local authority is required to meet their traveller site needs in full.

ENFORCEMENT POWERS

29. In addition to the guidance issued in March 2015 on powers to tackle unauthorised encampments, further new guidance on enforcement powers can be found on the Planning Practice Guidance website. The absence of authorised sites in the area does not automatically mean that powers of enforcement cannot be used.

IMPLICATIONS OF CHANGED DEFINITION FOR FUTURE GTAAS

30. The Government considers it is for local planning authorities to consider the particular needs of their own areas and the revised, streamlined guidance focuses advice on the main elements all authorities should consider when undertaking their assessments. It is for authorities to consider this and decide how this should be tailored to the needs of their areas. The Government will lay before Parliament a proposal to revoke "Gypsy and Traveller Accommodation Needs Assessments – Guidance" (2007). Subject to that the Government will publish new guidance on traveller accommodation needs assessments.

31. The Government also intends cancelling further outdated guidance on enforcement as some of this has been superseded by the March 2015 guidance to local authorities and the police on powers available to them to tackle unauthorised encampments as well as by up-to-date Planning Practice Guidance. It has cancelled the following documents: "Guide to effective use of enforcement powers – Part 1" (2006), and "Guide to effective use of enforcement powers – Part 2" (2007), as well as "Designing Gypsy and Travellers Sites – Good Practice Guide" (2008).
32. The Government has put Local Plans at the heart of the planning system, enabling local authorities to consider their specific local needs for all in their local communities, including the needs of travellers. The revised streamlined guidance, together with the updated on-line planning guidance, provides advice on the key elements local planning authorities should consider in preparing needs assessments, which they can tailor to the specific circumstances of their areas.
33. Future GTAAs will need to establish answers to these questions (a, b, and c above at paragraph 22). However, it is not immediately apparent what 'consideration of these matters' will add to needs assessments other than to provide additional data in respect of those in the local gypsy and traveller community that are not currently travelling (i.e. how many do not travel, why and if/when will they be starting again).
34. No detailed guidance on undertaking GTAAs has been provided, and the government has stated that it will 'lay before Parliament a proposal to revoke "Gypsy and Traveller Accommodation Needs Assessments – Guidance" (2007) and then publish new guidance on traveller accommodation needs assessments. However, it appears that this revised guidance will essentially exclude from needs assessments those respondents indicating that they have no intention of travelling in the future.
35. Whilst Chorley's existing GTAA asked about time spent travelling each year, it did not ask about why people ceased to travel and did not assume that a nomadic lifestyle has been led previously. Given the changed definition it is not possible to go back and update existing needs figures. But it would appear that there is potential for them to reduce in which case it is prudent to delay the progression of the Central Lancashire Gypsy and Traveller Accommodation Needs Assessments pending a review of the latest Needs assessment in light of the new guidance, rather than risk a legal challenge by progressing this local plan with an evidence base that is likely to be flawed and also may be over-estimating the need for traveller pitches in Central Lancashire.
36. It is unclear what 'ceasing to travel' means. Male travellers often leave the 'permanent' family plot to travel to work, leaving the women, children (and sometimes elderly parents). It is not clear whether they will no longer be considered 'Travellers'. How many weeks a year would a traveller need to travel to satisfy this definition? How can the amount of travelling be monitored?
37. Ceasing to travel could imply that those Travellers in bricks and mortar are no longer considered as such, in which case Chorley's 'requirement' under the most recent GTAA would reduce by 2.
38. As yet we are unclear on the impact of the changes to unauthorised encampments (and subsequent transit provision). Whilst paragraph 12 is clearly aimed at preventing future recurrences of a 'Dale Farm' situation, the lack of definition of 'largescale' could be a point of confusion for local policy makers - it is difficult to quantify what the CLG see as 'largescale' in this respect.

IMPLICATIONS OF REPORT

39. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	x	Customer Services	
Human Resources		Equality and Diversity	x
Legal	x	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

40 There are no direct financial implications associated with this report.

COMMENTS OF THE MONITORING OFFICER

41 The new Policy document changes the position on Gypsy and Traveller sites. The Council are obliged to follow the policy in force at the point of making a decision. The new definition of Gypsy and Traveller leaves sufficient uncertainty around the GTAA to warrant suspending the progress of the local policy on gypsy and traveller sites until such time as Guidance has been issued and the impact of these changes is understood.

GARY HALL
CHIEF EXECUTIVE

Background Papers			
Document	Date	File	Place of Inspection
Central Lancashire GTAA	June 2015	web	http://chorley.gov.uk/Pages/AtoZ/Examination-news.aspx
Planning and travellers: proposed changes to planning policy and guidance: consultation response – Department for Communities & Local Government	31 August 2015	web	https://www.gov.uk/government/publications/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance-consultation-response
Planning Policy for Traveller Sites – Department for Communities & Local Government	31 August 2015	web	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457420/Final_planning_and_travellers_policy.pdf

Report Author	Ext	Date	Doc ID
Peter McAnespie	5286	14 September 2015	

Appendix 1- Revised Planning policy for traveller sites – August 2015

The changes are highlighted in bold below.

Para 12 In exceptional cases, where a local planning authority is burdened by a large-scale unauthorised site that has significantly increased their need, and their area is subject to strict and special planning constraints, then there is no assumption that the local planning authority is required to plan to meet their traveller site needs in full.

Para 16 Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. **Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.**

Para 24. Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travellers and not just those with local connections

However, as paragraph 16 makes clear, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

25. Local planning authorities should **very** strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

Para 27. If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permissions. **The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).**

Annex 1

Para 1. For the purposes of this planning policy “gypsies and travellers” means: *Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.*

Previous definition included those who had ceased to travel “permanently”.

Para 2. In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life**
- b) the reasons for ceasing their nomadic habit of life**
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.**

Para 3. For the purposes of this planning policy, “travelling showpeople” means:

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 dependents’ 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.

Previous definition included those who had ceased to travel “permanently”.