

Decision Maker: **Development Control Committee**

Date: **28th June 2012**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **OPTIONS PAPER FOR GYPSIES & TRAVELLERS AND TRAVELLING SHOWPEOPLE**

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Ward: Biggin Hill, Bromley Common and Keston, Cray Valley East, Darwin

1. Reason for report

- 1.1 The Local Development Plan Advisory Panel (LDPAP) agreed in May that work undertaken in preparation of the Core Strategy will be incorporated into a Bromley Local Plan to comply with the Government's Planning Reforms. This report sets out the preferred strategy and options in relation to Gypsies and Travellers, which will form the major part of the Living in Bromley section of the Local Plan. Development Control Committee is asked to agree the policy approach set out in this report for incorporation in the Local Plan Options and Preferred Strategy Consultation document. The Executive will be asked to agree this document for consultation in the early autumn.
- 1.2 Local planning authorities have a statutory duty to assess accommodation needs of travellers and for the preparation of Local Plans. The preferred options, set out in the report to the LDFAP and repeated in this report are in accordance with guidance, meet local needs and will enable swift and effective action to be taken against unauthorised encampments and developments. They address part of the "Living in Bromley" theme in the Bromley Core Strategy Issues Document, published in 2011, and the response to it from consultees.

2 RECOMMENDATION

- 2.1 That the options set out in this paper and recommended by the Local Development Plan Advisory Panel be endorsed as "Preferred Options" in the forthcoming Local Plan consultation document.

2.2 Site Options

Option 1: Further expansion of existing Local Authority sites

Recommendation: Preferred Option

Option 2: Existing sites without permanent permissions

(i) Saltbox Hill site.

(ii) Layhams Road. .

(iii) Hockenden Lane.

Recommendation: Preferred Options

2.3 Options for Future Provision

Option 3: Criteria based Policy

(i) Consider first the potential of existing sites

(ii) Consider applications for new sites subject to criteria

Recommendation: Preferred Options

2.4 Transit Site Options

Option 4: To work with sub region to secure a transit site

Recommendation: Preferred Option

2.5 Options for Travelling Showpeople

Option 5: To work with sub region to address future provision for Travelling Showpeople

Recommendation: Preferred Option

Option 6: Criteria based Policy

(i) Consider first the potential of existing sites.

(ii) Resist new sites but consider the expansion of the existing sites subject to criteria

Recommendation: Preferred Option

Corporate Policy

1. Policy Status: New Policy: Evolving Local Plan Policy
 2. BBB Priority: Children and Young People Excellent Council Quality Environment Safer Bromley:
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Financial

1. Cost of proposal: Estimated Cost Cannot be quantified at this stage. :
 2. Ongoing costs: Potential rental income:
 3. Budget head/performance centre: Traveller site maintenance
 4. Total current budget for this head: CR £45,000
 5. Source of funding: Existing revenue budget 2012/13
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Staff

1. Number of staff (current and additional):
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Boroughwide
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Views are being invited and will be reported verbally at committee.
2. Summary of Ward Councillors comments: To be reported verbally at committee

3 COMMENTARY

Background

- 3.1 Gypsies and Travellers have traditionally stopped in Bromley whilst working in and travelling through the borough. Historically gypsies moved between farms in Bromley and Kent picking fruit and vegetables in the summer, hops and potatoes in early autumn. As traditional forms of work diminished travelling patterns changed both nationally and locally. More recently Irish travellers have also visited the Borough. The 1960 Caravan Sites and Control of Development Act prohibited caravans from common land. With fewer stopping places much of the Gypsy and Traveller population became settled and placed in social housing stock. St Mary Cray has one of the largest settled housed Gypsy populations in the UK.
- 3.2 Of those who retain a nomadic lifestyle the majority are Romany Gypsy families, based chiefly on two Council sites in the Cray Valley. There are also a number of Irish Travellers on temporary sites across the Borough.
- 3.3 There is also a community of Travelling Showpeople in Layhams Road. Show people are a community of self employed business people who travel the country, often with their families, holding fairs. They do not in general share the same culture or traditions as Gypsies and Travellers

Legislative and Policy Framework

National

- 3.4 In March 2012 the Government published “Planning Policy for Traveller Sites” (PPTS) to be read in conjunction with the National Planning Policy Framework (NPPF).
- 3.5 The PPTS states that the “*overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.*”

To help achieve this, Government’s aims in respect of traveller sites are:

- *that local planning authorities should make their own assessment of need for the purposes of planning*
- *to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- *to encourage local planning authorities to plan for sites over a reasonable timescale*
- *that plan-making and decision-taking should protect Green Belt from inappropriate development*
- *to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- *that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- *for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- *to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- *to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- *to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*

- *for local planning authorities to have due regard to the protection of local amenity and local environment.”*

3.6 Policy B of the PPTS deals with targets and advises that

8. Local planning authorities should set pitch targets for gypsies and travellers and plot targets for travelling showpeople which addresses the likely permanent and transit site accommodation needs of travellers in their area, working collaboratively with neighbouring local planning authorities.

3.7 Policy E of the PPTS deals specifically with traveller sites in Green Belt. It reiterates previous Green Belt policy in relation to travellers advising that:

14. 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.

The NPPF does however indicate how traveller sites can, in exceptional circumstances, be defined as sites inset within the Green Belt and specifically allocated as traveller sites only.

15. Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only.

Regional and Local

3.8 The London Plan (2011) advises that Boroughs should set targets for provision based on robust evidence of local need, ensuring that the accommodation requirements of Gypsies and Travellers (including Travelling Show People) are identified and addressed in line with national policy in coordination with neighbouring boroughs” (Policy 3.8i, para 3.5). The London Plan does not itself set a target for any Borough.

3.9 The Bromley UDP (2006) Policy H6 sets criteria for the use of land by Gypsies and Travellers but does not set a target for provision.

Developing Bromley’s Future Plans

3.10 The Bromley Core Strategy Issues Document, published in 2011, outlined the issues related to Gypsies and Travellers. This was published before National Guidance was updated in March 2012 and the Localism Act became law. These important changes to National Guidance will need to be reflected in Bromley’s Local Plan.

Assessing Bromley's Need

3.11 The London Plan (2011) advises that local authorities “will set targets for provision based on robust evidence of local need.” The EiP Panel Report to the Mayor recognised that the high levels of past provision in LB Bromley has the effect of inflating apparent need (para 3.140)

3.12 The Government guidance “Planning policy for traveller sites” (CLG March 2012) advises in para 6.

“In assembling the evidence base necessary to support their planning approach, local planning authorities should:

- b) pay particular attention to early and effective community engagement with both settled and traveller communities (including discussing travellers' accommodation needs with travellers themselves, their representative bodies and local support groups)*
- c) co-operate with travellers, their representative bodies and local support groups, other local authorities and relevant interest groups to prepare and maintain an up-to-date understanding of the likely permanent and transit accommodation needs of their areas over the lifespan of their development plan working collaboratively with neighbouring local planning authorities*
- d) use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions.*

3.13 Bromley has commissioned several studies of Gypsy and Traveller sites:-

- GL Hearn sites study (2003)
The study noted that there were 34 caravans on authorised sites and commented that there was an unmet need for 21 pitches.
- WS Planning – assessment of accommodation needs (2005)
The bi annual count increased from 23 to 60 caravans (equating to a demand for 38 pitches) during the preceding 5 years (1999 – 2004). The assessment pointed to a need for around 25 permanent pitches and 10 transit pitches.
- A London-wide Gypsy and Traveller Needs Assessment (GTANA) 2008
Published in March 2008 by Fordham Research this provided the background for the draft London Plan. The GTANA estimated a need for 119 pitches between 2007 - 2017 (including 79 pitches to accommodate a theoretical demand from Gypsies and Travellers living in brick and mortar accommodation). Although pitch targets have been deleted from the London Plan, giving local authorities the responsibility to determine the right level of site provision, the GTANA produced a target of 19 pitches to 2012 and a further 12 pitches to 2017.

All of these studies looked across the Borough but acknowledged that realistically new sites could not be accommodated within the built up area.

Current Provision and Additional Demand for Pitches

3.14 Details of Gypsy and Traveller pitches and Travelling Showmen's Plots are set out in the table in Appendix 1.

Pitches Currently Occupied in Bromley

3.15 Authorised Pitches

There are currently up to 62 pitches with permission in Bromley (LA and private pitches).

- 36 pitches on two Council Owned sites in the Cray Valley.
- 2 private authorised pitches at a site in Croydon Rd (148), Keston.
- a further private site in St Mary Cray, known as “Chalk Pit” has an established use certificate for up to 25 caravans (not providing standard pitch utility blocks).

All of the Local Authority pitches are currently occupied. The private site (Chalk Pit) is currently unoccupied and the Croydon Road site is currently the subject of an appeal to increase the number of pitches.

3.16 Pitches with Temporary Permission.

There are 13 temporary permissions due to expire over the next 2 – 3 years.

- 10 pitches on 4 adjacent sites in Layham’s Rd, close to the Croydon borders, occupied by Irish Travellers These sites will have been occupied by the Gypsies and Travellers for over 10 years.
- 3 pitches on two sites in Hockenden Lane, Cray Valley.

3.17 Expired Temporary Permissions

- Salt Box Hill – this long standing site has been occupied for over 17 years. The previous temporary permission for 2 pitches (4 caravans) has expired and the site will therefore require a fresh planning application.

Unmet Need

3.18 The total unmet need on the basis of the sites with temporary and expired permissions (outlined above) and the three studies into need all point towards a need for these 15 pitches.

Waiting List Data

3.19 There are 8 outstanding applications for a pitch on the waiting list for the Council’s sites. These applications include

- 2 families currently in bricks and mortar accommodation
- 5 expanding families on existing sites.
- 1 family currently living by the roadside in Brighton

Year	Applications on the waiting list	Plots becoming vacant to re- let
2008	12	1 (Star Lane)
2009	14 (reduced to 6 in 2010 after refurbishment and addition of 2 new plots at Old Maidstone Rd)	8 (Old Maidstone Road)
2010	6	1 (Star Lane)
2011	8	2 (Old Maidstone Road)

Total Current Need

3.20 There is a need for 15 pitches to cater for long established families currently without permanent planning permissions for their sites. The small number of applications on the waiting list and the degree to which these constitute “need” would support the overall assessments of pitches required.

Representations Received in Response to the Core Strategy Issues Document

The Bromley Gypsy Traveller Project (BGTP)

3.21 BGTP provide advice, support and information for Travellers in Bromley, they suggest that the best way to protect the environment would be to prevent unauthorised incursions by ensuring sufficient pitches by allowing the expansion of existing sites or allocation of new sites (on Green Belt if no other land is available). Their response raises the following points:

- Gypsies & Travellers living in Bromley should not be forced onto the road or into bricks and mortar housing.
- Temporary pitches should become permanent
 - Layhams Road. These travellers are established in the area with their children in schools just across the borough boundary in New Addington.
 - Two pitches in Hockenden Lane with only temporary permission.
- Appeals
 - There is currently a site in Keston with an appeal. This shows a local need.
- Future need on pitches
 - The two authorised sites at Old Maidstone Rd and Star Lane are well occupied. Over the period of the Core Strategy (20yrs) there will be significant pressure for additional pitches from within the existing Gypsy & Traveller community as the children grow and have their own families.
- The Council should investigate needs from Gypsies & Travellers who now live in houses, but who have a psychological aversion to bricks and mortar.
- In addressing areas of multiple deprivation (e.g. the Cray Valley) the Council should take account of the particular needs of the settled Gypsy & Traveller community.

Friends, Families & Travellers (FFT)

3.22 FFT, a national charity that works on behalf of all Gypsies and Travellers, comment that Bromley should adhere to the assessment produced by the GTAA of need, including Travellers who are inappropriately housed, and the specific Borough target be met and delivered in a reasonable time frame.

- They note that given the high cost of land in London it is likely that the large majority of pitches will need to be treated as affordable and suitable means of delivery of pitches on the ground developed.
- They suggest a trajectory for delivery to at least 2017 and a criteria based policy which will help guide allocations and to meet unexpected demand.
- They also highlight that whilst organisations such as FFT and Traveller Law Reform Project (TLRP) can comment on planning policy this is no substitute for consultation with local Gypsies and Travellers.

Individual response from a member of the public

3.23 “The small proportion of Gypsy and Traveller community desiring to live in caravans should be accepted. Adequate space should be allocated as was following the good work done by Eric Lubbock (Lord Avebury)”

Travelling Showmen

3.24 The Travelling Showman’s Ground (Yard) has recently been increased in size from 23 plots (occupied by 16 extended families) to 29 plots (10/00281). The Travelling Showman’s Guild confirmed that this would meet their accommodation needs until 2017.

3.25 The Panel Report into the London Plan Examination in Public (EiP) indicated that Travelling Showmen’s Plots should be provided sub regionally, with 10 pitches to be provided in the south east sub region.

Future Needs of Currently Resident Travellers

3.26 PPTS Policy H highlights the need for planning authorities to demonstrate an up-to-date five year supply.

3.27 Gypsy and traveller household growth is expected to be 3% a year, whilst the need arising from travelling showpeople is expected to increase at 1.5% a year. (CLG Preparing Regional Spatial Strategy reviews on Gypsies and travellers by regional planning bodies (2007) - referred to in the draft replacement London Plan para 3.15).

3.28 The Travelling Showpeople’s Guild have confirmed that the recent permission satisfies their needs until 2017.

3.29 With regard to Gypsies and Travellers the calculation based the existing number of occupied pitches in the borough (authorised and unauthorised) 54 this would lead to a requirement for a further 8.6 pitches by 2018. In the first instance expansion opportunities within the existing sites should be expected to address this need.

Enforcement

3.30 In addition to establishing the appropriate level of pitch provision the guidance also requires Local Plans to address effective enforcement of planning policy.

3.31 Speeding up the enforcement process helps to keep costs down. Enforcement action will be quicker and more effective, and a wider range of powers can be used, where appropriate authorised provision is made for Gypsies and Travellers within the area. (“Guide to effective use of enforcement powers” ODPM 2006).

3.32 Unauthorised siting tends to fall into two main categories.

- Unauthorised developments where the land is within the ownership of the Gypsies and Travellers, where the intention is to settle with static mobile homes as a permanent family base from which to travel. These developments tend to be dealt with by the Planning Department either through the consideration of a planning application or enforcement action.
- Unauthorised encampments where the Gypsies and Travellers arrive on land, not within their ownership, as part of their travelling lifestyle, usually during the summer months. The length of stay being dependant upon the speed and ability of the authorities to move them on. These incursions tend to take place in open public spaces (e.g. park land or car parks).

Enforcement against Unauthorised Developments

3.33 The Localism Act prevents the process being drawn out:-

- the Council can refuse to determine an application for which there is a pre existing enforcement notice (issued before the application was received)
- where an enforcement notice is served during the period for determining a retrospective application appeals cannot be lodged on the grounds that planning permission should have been granted (although it can be pursued under other statutory grounds)
- the Council may apply to a Magistrates Court for a Planning Enforcement Order (PEO) within 6 months of a breach of planning control coming to its knowledge. If granted the Council then has a year to commence enforcement action.

Unauthorised Encampments

3.34 Over recent years Bromley has tended to deal with 3 – 5 unauthorised encampments per year. These encampments have a detrimental effect on relations between the settled and travelling community. Council takes a robust response to these encampments on public land. On average and having undertaken all necessary checks as per the legal guidelines it takes approximately 3-4 days before the travellers are moved on.

3.35 Private landowners do not have the same responsibility as the police and local authorities to consider the welfare issues. Where private bailiffs are used the landowner can regain possession of their land “using no more force than is reasonably necessary”.

Preventing Unauthorised Encampments

3.36 The financial and environmental costs of defensive barriers at potential locations would be significant. The Borough’s parks alone have some 20 or 30 car parks.

3.37 The “Guide to effective use of enforcement powers” (ODPM 2006) advises that if the local authority has identified a location in the vicinity which would be much less damaging or obtrusive, unauthorised campers could be encouraged to move to this location. (e.g. transit site). This may not be limited to official residential and transit sites; it might also include particular locations which have been identified in the district where Gypsies and Travellers can stop for limited and agreed short periods of time, without having any adverse impact on the settled community.

3.38 The Panel report into the London Plan Examination in Public suggested that a Londonwide provision of 20 pitches should be broadly evenly distributed amongst the 5 sub regions.

4 OPTIONS

4.1 In order to facilitate effective enforcement and in response to the PPTS the Council needs to consider options to meet current need of up to 25 pitches and “demonstrate an up to date 5 year supply of deliverable sites”. Additionally this paper sets out Policy options for Gypsies and Travellers and Travelling Showpeople to address the longer plan period.

4.2 Site Options

Option 1: Further expansion of existing Local Authority sites (3 pitches)

Seek Government funding and submit an application for 3 pitches at the Star Lane site. (A previous permission for 3 pitches on this site lapsed in 2009) There is no additional capacity to create additional pitches at Old Maidstone Road.

Option 2: Existing sites without permanent permissions (15 pitches)

These sites are all within the Metropolitan Green Belt. Whilst the latest guidance (PPTS) makes the point that such sites are inappropriate the studies commissioned by Bromley have pointed out the difficulty in practice of finding sites other than within the Green Belt.

- (i) Saltbox Hill site. This single site contains 2 pitches for which temporary permission has now lapsed. It is occupied by one family who have been on the site for some 17 years. Their children and now their grandchildren are schooled locally they are an established part of the local community in Biggin Hill.
- (ii) Layhams Road. There are temporary permissions for 10 pitches 4 sites close to the boundary with Croydon, which will lapse in 2014 and 2015. The families are established in the area with the children schooled locally, just across the borough boundary in New Addington which provides good accessibility to other local shops and services.
 - Millies View
 - St Josephs Place (Dixon's Holdings)
 - Mead Green
 - Delany & Cash
- (iii) Hockenden Lane. There are temporary permissions for 3 pitches on 2 sites. The temporary permissions were granted on appeal on these sites in 2007 and again in 2009. Permissions on both sites expire in 2015 by which time the occupants will have lived on the sites for around 10 years making use of services in nearby Swanley.
 - Adjacent to Vinsons Cottages
 - Trunks Alley

4.3 Options for Future Provision

Option 3: Criteria based policy

Having defined the existing Gypsy and Traveller sites and those selected from Options 1 - 3 above as sites inset within the Green Belt (as indicated in the PPTS). The Council will develop a criteria based policy to address future needs and consider proposals

- (i) Consider first the potential of existing sites and sites defined through this process for use by Gypsies and Travellers, resisting further alterations to the Green Belt boundary.
- (ii) Consider applications for new sites subject to
 - open space policies
 - impact on residential amenities of neighbouring properties
 - access to services
 - not in areas liable to flood unless appropriate measures to mitigate

4.4 Transit Site Options

Option 4: To work with sub region to secure a transit site

Working with boroughs within the sub region who have a lower provision of Gypsy & Traveller pitches and Travelling showpeople plots to secure a transit site elsewhere in the sub region will assist the Council in future enforcement.

4.5 Options for Travelling Showpeople

The Travelling Showman's Guild has agreed that the provision recently made at the Keston site meets the needs for Travelling Showpeople to 2017. Only 0.43 plots required to meet the 5 year supply. No further provision is therefore required to meet the 5 year supply.

Option 5: To work with sub region to address a 5 year provision for Travelling Showpeople

Working with boroughs within the sub region to address the need for future provision for travelling showpeople. Working with sub regional partners over transit sites and plots for travelling showpeople will ensure that the responsibility for provision is shared by authorities.

Option 6: Criteria based Policy

Dependant upon sub regional negotiations the Council may develop a criteria based policy to address future proposals

- (i) Consider first the potential for the intensification of the existing sites
- (ii) The Council will resist new sites but consider the expansion of the existing sites to accommodate expansion beyond 2017 on the basis of
 - the demonstrable needs of Travelling Showpeople
 - the impact on the Green Belt
 - impact on residential amenities of neighbouring properties
 - access to services
 - appropriate measures to mitigate and flood risks

5 POLICY IMPLICATIONS

The options and preferred options will be incorporated into the Local Plan consultation. Once Local Plan is adopted planning law requires that applications for planning permission must be determined in accordance with the Development Plan (which includes the Local Plan).

6 FINANCIAL IMPLICATIONS

There will be cost associated with the provision of the additional 3 pitches (para 4.1) although at this stage it is not possible to quantify what the cost will be. In the first instance officers will seek Central Government funding to meet these costs. If this is unsuccessful the costs will have to be met from the Council budget for Traveller sites, however, this will be offset by additional revenue from the pitches.

Non-Applicable Sections:	LEGAL IMPLICATIONS, PERSONNEL IMPLICATIONS
Background Documents: (Access via Contact Officer)	National Planning Policy Framework, Planning policy for traveller sites