

COUNCIL
02 SEPTEMBER 2020

Report of the Director of Regulatory Services

GYSIES AND TRAVELLERS

PURPOSE OF THE REPORT

To update the Committee in respect of a Gypsy and Traveller family who have presented themselves as homeless and in relation to the work that has been undertaken to identify potentially suitable permanent sites. To determine sites to take forward for development as both permanent and temporary Traveller sites.

RECOMMENDATION

1. That Council acknowledges and accepts its duties and responsibilities to Gypsies and Travellers under the Homelessness Reduction Act 2017.
2. That Council notes the results of the extensive search for a suitable permanent site.
3. That Council determines which, if any, of the listed sites should be taken forward for development as a permanent Traveller site.
4. That Council determines which, if any, of the listed sites should be taken forward as a temporary Traveller site, whilst the permanent site is progressed.
5. That subject to the outcome of recommendations 3 and 4 above, authority be delegated to the Director of Housing to prepare and submit applications for planning permission in respect of a permanent site and/or a temporary site.
6. That a further report be brought to Council following the applications for planning permission, to provide updates and to outline the financial implications of the proposal.

WARDS AFFECTED

All Wards outside the Peak District National Park.

STRATEGIC LINK

The District Council's duties under Planning and Housing legislation underpin its corporate objectives in relation to the whole of the District. The delivery of a permanent Traveller site is a specific priority for the Council within its Corporate Plan, under the theme of 'Prosperity: Supporting better homes and jobs for you'.

1. BACKGROUND

- 1.1 'Traveller' is a generic term used to describe groups of people whose lifestyle or culture is rooted in a nomadic way of life.

- 1.2 Gypsies and Travellers are a part of British life and have been so for many centuries. They make up a very small minority of the wider population. Some Gypsies and Travellers live in caravans or other vehicles and follow a lifestyle that is nomadic, or semi-nomadic, in that it involves travel for at least part of the year.
- 1.3 Gypsies of Romany origin (English, Welsh, Scottish and European Travellers) and Irish Travellers live in Derbyshire, or use many parts of Derbyshire as traditional stopping places and have done so for hundreds of years. Other Travellers are also found within the County.
- 1.4 Romany Gypsies are an indigenous ethnic minority group, which is thought to have originated in India. Their language is Romanes. Irish Travellers are an indigenous, nomadic ethnic minority group found in Ireland and Britain. Their language is Cant or Gammon, although they predominantly speak English.
- 1.5 New Travellers are former house-dwellers who now travel. They are not a recognised ethnic group. Many New Travellers have been travelling for a number of years and some have children who have only ever known a travelling lifestyle.
- 1.6 Travelling Show People are people who organise and run fairgrounds. A Show Person will often refer to him/herself as a Traveller. However, the term Show People is used to differentiate people who organise fairgrounds from other travelling communities.
- 1.7 The work of Derbyshire authorities with the various travelling communities is co-ordinated through the long established Derbyshire Travellers Issues Working Group (TIWG). This is an officer group that brings together all of the Derbyshire district and borough councils, Derby City Council, Derbyshire County Council, Derbyshire Constabulary, the health community, the Environment Agency and Derbyshire Gypsy Liaison Group.
- 1.8 TIWG has produced a guidance document that sets out the commitments of the various partner agencies. In relation to the district and borough councils, these relate to statutory functions, such as dealing with planning enquiries, receiving homelessness applications and managing both authorised and unauthorised Traveller encampments.
- 1.9 The document recognises that providing these services often involves making difficult decisions, but commits TIWG members to treating all sections of the community fairly.
- 1.10 The most recent significant work co-ordinated through TIWG has been the Derbyshire and East Staffordshire Gypsy and Traveller Accommodation Assessment undertaken in 2014/2015 and currently being updated. This work is explained in more detail in the section relating to the Local Plan below
- 1.11 The Derbyshire Dales District Council area does not currently contain an authorised Traveller site. However, from time to time, unauthorised sites appear in the District. Sometimes these sites are established on land that is owned or administered by the District Council and it is these sites that the District Council has a duty to manage. Sites established on the public highway are managed by the Highway Authority which, in our case, is usually Derbyshire County Council.

- 1.12 In addition to the temporary encampments of Travellers who are passing through the District, the District Council is also aware of one family group of Gypsies with an accepted local connection to the area. The particular circumstances of this family are such that they wish to access a permanent site within the District on which to live. At the present time no such site is available and as a consequence they also travel around the District, moving from site to site. Because of their circumstances this family's encampments are often lengthier than those of Travellers who are 'passing through' and they often occur on land that is administered by the District Council.
- 1.13 In dealing with these different forms of Traveller encampments the District Council must have regard to a number of legal duties and these are set out in the following sections of the report.

2 DUTIES AND RESPONSIBILITIES

- 2.1 At its meeting on 29th September 2016, Council formally accepted its duties and responsibilities towards Gypsies and Travellers under housing and planning legislation, and endorsed the principle of development of land at Watery lane, Ashbourne as a permanent Gypsy and Traveller site. In particular the Council recognised its duties under Homelessness legislation towards a specific Traveller family, who had been resident within the district for many years, but who did not have a site on which they could legally place their caravans.
- 2.2 **Homelessness:** Under section 175(2) of the Housing Act 1996, applicants are homeless if the accommodation available for their occupation is a caravan, a houseboat or other movable structure and they do not have a place where they are entitled, or permitted, to put it and live in it. These circumstances are particularly relevant in the case of Gypsies and Travellers. Where a duty to secure accommodation arises but an appropriate site is not immediately available, the Housing Authority may need to provide an alternative temporary solution until a suitable site, or some other suitable option, becomes available. Some members of the Gypsy and Travelling Community may have a cultural aversion to the prospect of 'bricks and mortar' accommodation and, in assessing such cases, the Housing Authority should seek to provide suitable accommodation which is suitable for the person to whom the duty is owed.
- 2.3 A Gypsy or Traveller can ask the Local Authority for help with housing if they live in a caravan or mobile home and there is nowhere they are legally allowed to park it.
- 2.4 As with any resident, when Gypsies or Travellers approach the Council to make a homelessness application, there are 5 legal tests. These tests are:-
- *Homeless* - a person will be considered legally homeless if he / she has no accommodation which is available and reasonable for him / her to live in or, for example, nowhere legal to park a caravan.
 - *Eligibility* - certain people who arrive in this Country or who are returning from a period living abroad do not qualify for housing under homelessness law.
 - *Priority Need* - homeless applicants are only entitled to housing assistance if they are in priority need. To be in priority need, an applicant will need to show

(for example) that he / she is living with a dependent child or vulnerable due to age, physical or mental illness or disability.

- *Intentionality* - an applicant may be considered 'intentionally homeless' if he / she has deliberately done something which has resulted in the loss of their home. The definition of 'intentionally homeless' is complex and the Local Authority must look at each case individually, taking all circumstances into account.
- *Local Connection* - an applicant would usually be expected to have lived in the area for at least 6 months during the previous year, or for not less than 3 years during the previous 5 year period, work or have family links to have a local connection. If an applicant has no local connection to any area the duty to help secure accommodation lies with the housing authority that received the application.

2.5 If Gypsies or Travellers are legally homeless the Local Authority must offer them suitable accommodation. Suitable means suitable accommodation for the person to whom that duty is owed. Local Authorities must consider that there are cultural aversions to conventional bricks and mortar housing and that there is a positive obligation to act so as to facilitate the Gypsy and Traveller way of life, without being under a duty to guarantee it in any particular case. If a Gypsy or Traveller was offered conventional housing rather than a pitch or was offered a pitch when conventional housing was required he or she could seek to challenge this offer under homelessness law.

2.6 **National Planning Policy:** The National Planning Policy Framework (NPPF) establishes that local planning authorities, through their Local Plans, should identify and meet objectively assessed housing needs based upon adequate, up-to-date and relevant evidence. Furthermore, there is a requirement for local planning authorities to have a clear understanding of housing needs in their areas and to address the need for all types of housing, including Travellers' housing needs.

2.7 In August 2015, the then Department for Communities and Local Government (DCLG) revised the 'Planning Policy for Traveller Sites (PPTS)'. 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 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 show people or circus people travelling together as such*'.

2.8 The Government's 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.

2.9 To help achieve this, Government's aims in respect of Traveller sites are:

- That Local Planning Authorities make their own assessment of need;
- That Local Planning Authorities working collaboratively, develop fair and effective strategies to meet need through the identification of land and sites;
- That Local Planning Authorities plan for sites over a reasonable timescale;
- To promote more private traveller site provision;

- 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 Plans include fair, realistic and inclusive policies;
- To increase the number of traveller sites in appropriate locations, 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 the local environment.

2.10 **Local Plans and Plan Making:** Local Plans must be prepared with the objective of contributing to the achievement of sustainable development. To this end they should be consistent with the policies in the NPPF, including the presumption in favour of sustainable development and the application of specific policies in the Framework, and with published Planning Policy for Traveller Sites (PPTS).

2.11 Local planning authorities are required to set pitch targets for Gypsies and Travellers and plot targets for travelling show people, which address the likely permanent and transit site accommodation needs of Travellers in their area, working collaboratively with neighbouring local planning authorities.

2.12 In producing its Local Plan, a local planning authority should:

- Identify and annually update a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets;
- Identify a supply of specific, developable sites, or broad locations for growth, for years 6 to 10 and where possible for years 11 to 15;
- Consider production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area;
- Relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population's size and density;
- Protect local amenity and environment.

2.13 The Derbyshire and East Staffordshire Gypsy and Traveller Accommodation Assessment (GTAA) undertaken in 2014/2015 indicated that 9 pitches were required in Derbyshire Dales in order to meet the needs of the Gypsy and Traveller community over the Local Plan period. That requirement is broken down such that 6 pitches are required to be provided within the first 5 years and then 1 pitch every subsequent 5 years.

2.14 Therefore in order to comply with the requirements of Planning Policy for Travellers Sites the Derbyshire Dales Local Plan made provision for 6 pitches over the first 5

years of the Plan period, as well as identifying the approach to addressing the needs beyond that 5 year period. The first 5 years of the Plan period have passed and as yet no pitches have been provided.

- 2.15 To put these requirements into context, Table 1 below outlines the pitch requirements for all authorities that participated in the Derbyshire and East Staffordshire GTAA, over the period 2014-2034:

Twenty Year Gypsy and Traveller Pitch Needs Summary 2014 - 2034			
	Existing Provision 2014	Additional Provision 2014 – 2034	Provision Required at 2024
Amber Valley	0	10	10
Bolsover	17	17	34
Chesterfield	2	2	4
Derby City	17	31	48
Derbyshire Dales	0	9	9
East Staffordshire	13	11	24
Erewash	0	1	1
High Peak	0	0	0
North East Derbyshire	23	15	38
Peak District National Park	0	0	0
South Derbyshire	63	38	101
Total	135	134	269

Table 1: Gypsy and Traveller Pitch Requirements 2014 – 2034

- 2.16 **Managing Unauthorised Encampments:** As stated earlier, some Travellers follow a nomadic or semi-nomadic way of life; travelling around the country and living in caravans or other vehicles. Often they travel in order to obtain work. At present there are more caravans in circulation than there are legally authorised places on which they can stop. At any one time there are estimated to be in the region of 3,500 Traveller caravans on unauthorised sites in England. Hardly any of these could be accommodated on existing authorised sites specifically provided for Gypsies and Travellers.

- 2.17 Unauthorised encampments vary significantly. In terms of size they can range from a few vehicles to groups with over 100 caravans; from locations that are hidden away and unobtrusive to neighbours, to sites that are highly visible and intrusive; from those where no-one on the site causes any nuisance to those where many cause nuisance, crime and anti-social behaviour; and from groups that leave an area cleaner than they found it to those who leave the land damaged, with large amounts of fly tipping and domestic waste.

- 2.18 Geographically the counts of unauthorised encampments consistently show the highest numbers of Traveller caravans on unauthorised sites in the Eastern, Southeast and Southwest regions. Very generally the patterns reflect traditional areas of resort for Gypsies and Travellers and work opportunities in various contracting (eg aspects of the building trade, garden and tree work), trading (eg carpets and furniture) and seasonal agricultural work.
- 2.19 Within the Derbyshire Dales the number of encampments is generally low. The last 13 counts are summarised in Table 2 below:

Date	Number of Encampments	Number of Caravans
January 2020	1	9
July 2019	1	9
January 2019	1	6
July 2018	2	12
January 2018	0	0
July 2017	1	6
January 2017	1	5
July 2016	0	0
January 2016	1	5
July 2015	2	10
January 2015	1	4
July 2014	1	6
January 2014	0	0

Table2: Derbyshire Dales Traveller Counts

- 2.20 However, it should be noted that these figures represent the numbers of encampments and caravans on 2 specified dates during each of these years only.
- 2.21 Unauthorised encampments in the Derbyshire Dales at other times of year are recorded by the District Council's Environmental Health team. The District Council operates a reactive service, so records are only made when reports are received, but this represents the best monitoring of unauthorised encampments throughout the District.
- 2.22 The lead role in managing an unauthorised encampment is usually taken by the owner of the land on which the encampment is sited. So, on land owned by the District Council that lead is taken by Council officers. On highway land the lead role is taken by the highways authority, usually Derbyshire County Council, and on private land the lead would be taken by the private land owner. The objectives of managing an unauthorised encampment are to balance the needs of the Travellers with those of the settled community whilst the encampment is active, to keep the site clean, to consider the welfare needs of the Travellers and ultimately to recover possession of the land.
- 2.23 Unauthorised encampments within the Derbyshire Dales largely fall into 2 categories: those involving the one local family group and those involving groups who are travelling through the District. Those involving the family group tend to occur at a few locations, either on car parks or roadside sites. Those involving other groups are less predictable but do tend to occur on car parks. Therefore it can be seen that the

majority of unauthorised encampments do require intervention from the District Council.

- 2.24 To illustrate the scale of the issue, the number of encampments during the last 3 financial year has been broken down by location and by type (ie those associated with the family and those not) in Table 3 below:

Year	Family	Other
2017/18	4 ABC	3 Matlock Bath
	2 Matlock Bath	2 Matlock
	2 Rowsley	1 ABC
	1 Sudbury	1 Ashbourne
		1 Wirksworth
	Total = 9	Total = 8
2018/19	4 Ashbourne	1 Ashbourne
	2 ABC	1 Darley Dale
	2 Matlock Bath	1 Doveridge
	1 Rowsley	1 Matlock
	1 Cromford	1 Matlock Bath
		1 Wirksworth
	Total = 10	Total = 6
2019/20	2 Matlock Bath	4 ABC
	2 ABC	3 Matlock Bath
	1 Rowsley	1 Doveridge
		1 Matlock
	Total = 5	Total = 9

Table 3: Derbyshire Dales Unauthorised Encampments

- 2.25 Table 3 is most useful in terms of identifying the locations of the most regular unauthorised encampments, which tend to be the 2 Matlock Bath car parks, Matlock Station car park and the ABC. Encampments at Rowsley were those where the family was directed there and were therefore not unauthorised.

3. IDENTIFICATION OF A PERMANENT SITE

- 3.1 In June 2015 planning permission was granted for the change of use of land to Traveller site with 4 no. family pitches at Watery Lane, Ashbourne (application 15/00181/FUL).
- 3.2 In order to meet the requirements of the PPTS to provide a 5 year supply of sites for Gypsies and Travellers, there is a need to accommodate a total of 6 pitches in the Derbyshire Dales in the period 2014-2019. In this regard, land at Watery Lane was of sufficient size to accommodate this requirement. Policy HC6 of the Adopted Derbyshire Dales Local Plan reflects this position.
- 3.3 At the Cabinet Member Meeting for Council Services on 31 October 2016, Derbyshire County Council formally agreed to the allocation of 0.3 Ha of land at Watery Lane, Ashbourne as a Gypsy and Traveller site in the Derbyshire Dales Local Plan.
- 3.4 In accordance with the resolution of the Council on 29 September 2016, the then Corporate Director undertook initial discussions with representatives of the County Council in regard to the formulation of heads of terms for a lease agreement for a period of 25 years. The lease to be a Full Repair and Maintenance Lease.

- 3.5 During these discussions the County Council indicated that appropriate provisions would need to be included in the lease to accommodate any future opportunities for an A515 Ashbourne by-pass to be constructed.
- 3.6 It was agreed that a detailed management and maintenance agreement setting out how the site would be operated and maintained would need to be formulated and agreed with the County Council prior to the finalisation of any lease agreement.
- 3.7 At its meeting on 26th January 2017, Council resolved that a sum of £10,000 be made available to draw up a design specification for the Gypsy and Traveller site, that this specification be used to invite tenders for the development of the site, that all opportunities for external funding to assist with the development be explored and that authority be delegated to the then Corporate Director to agree appropriate heads of terms for the Council to become the leaseholder of the Watery Lane site. Those heads of terms were in the final stages of being agreed prior to the County Council elections in May 2017. Following a change in political control, the Watery Lane option was removed from discussion and all negotiations to secure its provision were terminated by Derbyshire County Council.
- 3.8 On 12 July 2018 the Community and Environment Committee considered an updating report which noted that the site at Watery Lane, Ashbourne was no longer available due to the fact that the County Council had indicated (Cabinet Report 26th April 2018) that the acquisition or disposal of property in their ownership which may be impacted by a future A515 by-pass for Ashbourne should be suspended. This decision was further confirmed to the District Council by the Executive Director and Leader of the County Council at a meeting held with the Leader of the District Council, the Chief Executive and the Director of Regulatory Services on 22 July 2019.
- 3.9 This decision directly impacted upon the District Council's ability to provide a Gypsy and Traveller site at Watery Lane, Ashbourne despite the Council securing an allocation of land in the Adopted Derbyshire Dales Local Plan (Policy HC6). In the meantime, the District Council has failed to deliver against its requirement to provide 6 Gypsy and Traveller pitches by 2019 and has continued to experience unauthorised encampments in locations such as Bakewell, Matlock Bath, and Ashbourne.
- 3.10 At a meeting held on 15th November 2018, the Community and Environment Committee resolved to initiate as quickly as practicable a search of land in private ownership and/or offered for sale on the open market with the intention of the District Council purchasing a suitable site subject to Council approval. That process has now been concluded.
- 3.11 Following the resolution of the Community and Environment Committee on 15 November 2018, matters progressed quickly in that the Traveller family submitted a homelessness application which was accepted by the Council. The basic circumstances in relation to this application were that although the family had caravans in which to live, they had no land on which they could legally site these caravans. The acceptance of this application has placed a duty of the Council to provide a series of temporary tolerated sites for the family whilst the search for a permanent site has continued. The circumstances of this family are considered in the early parts of this report.
- 3.12 In accordance with the Committee resolution on 15 November 2018, consultants were appointed to undertake a search of open market / privately owned land holdings across the district (outside the Peak District National Park) to determine a suitable

site. The consultant's formal report was received in February 2019 and identified 7 sites that were on the market at the time of the research. These sites were: an area of meadow land at Winster, the Woodyard at Homesford, Mayfield Road Service Station at Ashbourne, Thatch Meadow Barn at Brassington, land at Smith Hall Lane at Hulland Ward, land at Fenny Bentley and Leys Farm at Ashbourne. Each of these sites was evaluated against the criteria contained in Policy HC6 of the adopted Derbyshire Dales Local Plan and all other practical considerations, and were discounted for the following reasons.

Site	Reasons
Winster	Outside the Derbyshire Dales planning area, doubtful access provision, lack of services, within flood risk zone
The Woodyard	Previously refused permission on appeal, located away from local amenities, known to be unacceptable to the family on reasons of safety
Mayfield Road Service Station	Likely to have detrimental impact on neighbouring amenity, subject to planning application as housing site, land not available at reasonable cost
Thatch Meadow Barn	Likely to have detrimental impact on neighbouring amenity, located away from local amenities
Smith Hall Lane	Located away from local amenities, thought to provide some potential if site could be divided, but subject to potential use of the rest of the site
Fenny Bentley	Outside the Derbyshire Dales planning area, likely to have detrimental impact on neighbouring amenity
Leys Farm	Existing housing site, likely to have detrimental impact on neighbouring amenity

Table 4: Sites on the market February 2019

- 3.13 A 'call for site' was also put out through the District Council's media network in March 2019 and this remains 'live' on the District Council's website. So far this resulted in 2 sites being put forward, one at Derby Road, Ashbourne and the other in Swadlincote. The site at Derby Road is currently a care home and is surrounded by residential accommodation, and the site in Swadlincote is outside of the District Council's area. Therefore neither site is considered to be suitable for development as a permanent Traveller site.
- 3.14 Consideration was also given to another area of land at Watery Lane, Ashbourne, which is within the District Council's ownership. However, this land is subject to a restrictive covenant that specifically prevents the land from being used for the siting of caravans. The other party to those covenants confirmed that they were not prepared to release them and therefore this land could not be taken forward either.
- 3.15 Given the limitations of the land known to be on the market, additional work was commissioned from consultants, making use of a slightly different methodology. This work started from the principle of identifying suitable sites, whether they were on the market or not, and then approaching the land owners in order to identify if any would be willing to work with the District Council to develop the site, or to sell the site to the District Council for development.
- 3.16 Initial recommendations from the survey work suggested that the best chance of finding a landowner who might be willing to work with the Council is likely to be based on a hierarchical approach. In the first instance it was suggested that public sector landowners, such as Government departments and agencies, and local government

might form the most co-operative partners, followed by utility companies, the private sector and then agricultural landowners. To facilitate the search it was recommended that the District Council contacted the public sector bodies to ascertain whether they had any land within the area that might be surplus to their needs and then engaged the consultants to undertake further work to check the suitability of any potential site and to progress matters towards a possible sale or lease. Council officers contacted the public sector bodies identified, citing the principles of the One Public Estate programme, but no positive response was obtained.

- 3.17 The consultants also produced a long list of sites that they considered might be suitable from the point of view of the Travellers concerned. Each of these sites was informally evaluated by the Council's Development Management Team and the long list was reduced to a short list of 5 sites, including those in public sector ownership, that were thought to have the potential to be supported in Planning terms. Each of the landowners was approached and only one was prepared to work further with the Council on this issue. The site concerned is the Peak Fuels site at Watery Lane, Clifton

4. POTENTIAL OPTIONS FOR A PERMANENT SITE

- 4.1 At the time that the work outlined above was completed this enabled the Council to identify 3 sites for consideration.

- 4.2 Subsequently, a further site has become available for consideration. This is a parcel of land at Knabhall Lane, Tansley that had been subject to adverse possession. That is, although the Council believed that it owned the site, it was occupied by another party and subject to legal action to bring it back under the control of the Council. That action has now been concluded and the land is now available for consideration. That being the case, there are now 4 sites that might be considered to be suitable for development as a permanent Traveller site. These are:

- Old Station Close car park, Rowsley;
- Land at Middleton Road, Wirksworth;
- Peak Fuels site, Watery Lane, Clifton;
- Land at Knabhall Lane, Tansley.

The sites are discussed in more detail below.

- 4.3 **Old Station Close** car park is the site that has been used as a temporary tolerated site for the Traveller family. It has the advantage of being owned by the District Council but is also operational land, in that it is intended to provide a parking facility for local residents and those working on, or visiting the industrial estate on which it is sited. Reports from a number of firms on the estate have indicated that the presence of the encampment has meant that visitors have been unable, or unwilling to use the car park, which has resulted in on-street parking, which has, in turn, prevented delivery vehicles from being able to access the businesses. It is thought that any development of this site into a permanent site would need to incorporate alternative off-street parking.

- 4.4 This site is also located on the line of the potential extension of the Peak Rail line and on the White Peak Loop cycle way, which would need to be protected in any development of the site.

- 4.5 Without prejudice to any future planning application, advice from the Development Management team is that the site is in a relatively sustainable location near to a main arterial road with some local services provided within Rowsley. However the site is

safeguarded from other permanent uses by local plan allocation S7 and is also not considered suitable for long-term usage because the site is accessed across a public car park and is heavily shaded and enclosed by tall mature trees at close quarters.

- 4.6 As the site is in Council ownership and tenure could be guaranteed, the chances of obtaining Homes England funding for the development of site would be greater.
- 4.7 It is understood that the Traveller family has previously valued this location as a temporary tolerated site. However, whilst it is accepted that the site has not been developed as a permanent site would be, they are of the view that it does not meet all their needs. In particular they would prefer a site from which they can more easily be supported by their extended family and where their health and welfare needs can be more easily accessed. To these ends they would prefer a site that was located further to the south of the district. In recent times that have also reported a number of issues of anti-social behaviour and harassment, such as damage to the caravans from stone throwing and visitations by unknown groups of men. This has led to them vacating the site on a number of occasions and is the reason why they are not currently occupying the site.
- 4.8 **Land at Middleton Road, Wirksworth** is a site that has previously been considered by Committee as a temporary tolerated site. It has the advantage of being in the ownership of the District Council. It is an area of land set back from the road between Wirksworth and Middleton and located adjacent to Stoney Wood. The site is currently overgrown with scrubby woodland vegetation, but does provide an element of hard standing underneath the immediate surface. It is not operational land, but it is well known that there is significant local opposition to its use as a Traveller site. There has been a suggestion from Wirksworth Town Council that they might be prepared to purchase the land from the District Council to incorporate it into the Stoney Wood area.
- 4.9 Without prejudice to any future planning application, advice from the Development Management team is that the site is in a sustainable location near to a wide range of services. However the site lies within both a Local Wildlife Site and Geological Site designation and is visible within the setting of an adjacent Conservation Area. These sensitivities receive protection under local plan policies PD3 and PD2 and any proposal would need to address these constraints.
- 4.10 As the site is in Council ownership and tenure could be guaranteed, the chances of obtaining Homes England funding for the development of site would be greater.
- 4.11 It is understood that the Traveller family would be very reluctant to occupy this site, due in part to the perceived local opposition and its relatively exposed aspect. However, from their perspective, the site is still not in their preferred geographical location and therefore does not assist with their family, health and welfare needs as well as they would wish.
- 4.12 **Peak Fuels, Watery Lane, Clifton** is a brownfield site located to the west of the village of Clifton, south of Ashbourne. It is currently in private ownership and has been used as a coal yard for a number of years. The site sits at a lower level to the main village, although there is one domestic property at the entrance to the site. The site has an area of approximately 0.45 Ha, so it is large enough to meet the Local Plan requirements, it is hard surfaced and there are currently a number of commercial buildings on the land. It is understood that there is an electricity supply within the site

and that mains water is available within the road outside the site. Officers are of the view that the site could be developed as a Traveller site.

- 4.13 When it was previously suggested that this site was under consideration for this purpose by the District Council, it attracted significant local opposition. It is expected that this opposition will still exist.
- 4.14 Without prejudice to any future planning application, advice from the Development Management team is that the site is a sustainably located brownfield site within easy reach of the full range of services. The development of the site would not adversely impact on amenity of other residential properties and can readily be contained within the landscape. The site performs well against plan policy HC6.
- 4.15 Following discussions with the site owner, Heads of Terms for a lease of the site have been agreed on a subject to contract basis on the following basis:
- 21 year lease at a rent of £36,000 per annum;
 - Tenants break clauses operable at years 7 and 14 (2027 and 2034) upon 6 months written notice;
 - 7 yearly rent review tied to CPI;
 - Use limited to open storage land with associated storage building, use as a travellers site or any other use within Use Classes B1, B2 and B8 of the Town and Country Planning (Use Classes Order) 1987;
 - Lease is to be contracted out under the provisions of Section 38A LTA 1954;
 - Lease subject to Planning Consent for use as a travellers site being obtained.
- 4.16 Although the Council's Valuer considers the rental value of the site to be in the region of £28,000 per annum, the site owner would only be prepared to enter into the lease at the higher value of £36,000 per annum, so this is the rent which would apply should this option be approved.
- 4.17 As the site is not in the Council's ownership, it would be necessary to secure a lease of at least 30 years in order to increase the chances of obtaining Homes England funding for the development of this site.
- 4.18 The Director of Regulatory Services has visited the site with a representative of the Derbyshire Gypsy Liaison Group, acting on behalf of the family, and she has confirmed that she believes that this site would meet the family's needs from the point of view of geography, support and security. As stated in paragraph 2.10, the site is of sufficient area to provide all the facilities required by the family.
- 4.19 **Land at Knabhall Lane, Tansley** is the site that has recently come back into the District Council's control and is located approximately 1 mile east of the village of Tansley. When occupied by a private individual the land seemed to be used as a smallholding, with chickens and pigs being kept on it. The site is now vacant. It has the advantage of being owned by the District Council and of not being operational land. However, the site is remote from facilities and as such cannot be said to meet paragraph c of Local Plan Policy HC6: Gypsy and Traveller Provision, which deals with location in terms of local amenities.
- 4.20 The site has an area of approximately 0.2 Ha, so it is likely to be large enough to meet the Local Plan requirement. There is no mains water, drainage or electricity supply

on site, so essential services would need to be provided as part of any development. In addition, the site access would need adaptation to allow access to caravans and towing vehicles.

- 4.21 Without prejudice to any future planning application, advice from the Development Management team is that the site performs well in terms of impact on amenity of others, flood risk, potential for on-site parking and servicing, apparent land stability, and privacy and landscaping. It does not perform well in relation to sustainability as it is on rural land some distance from the limited facilities at Tansley and several miles from Matlock. Any future occupiers of the site would be dependent on cars to access goods, services and employment as there is no public transport or pedestrian provision. It is thought that despite this clear conflict with policy HC6 in terms of a permanent site, that as the planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in relation to an application for the grant of temporary planning permission.
- 4.22 In light of the advice from the Development Management team, further advice on the issue of 5 year supply has been obtained from the Council's Legal team. This advice states that the Government's Planning Policy for Traveller Sites (PPTS) is applicable in determining planning applications for traveller sites and is supplementary to the National Planning Policy Framework (NPPF). Where the PPTS makes specific provision for Traveller sites, in aspects of policy which are also addressed by NPPF, then the PPTS will take priority thus avoiding duplication and conflict. Under the PPTS (paragraph 10), there is specific provision for local planning authorities to assess the need for Gypsy pitches, and to provide sites to meet that need, which includes the requirement to "identify, and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their local set targets". These provisions have a direct parallel in the NPPF (paragraph 73) which requires local planning authorities to "identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies."
- 4.23 Accordingly, both the NPPF and the PPTS make specific reference to the need to provide the requisite 5 year supply of deliverable housing and Traveller sites. As such the lack of a deliverable 5 year supply is a significant material planning consideration that must be taken into account. However, consideration must also be given to the ability to meet the principles of sustainable development enshrined in the NPPF. These matters can only be tested through the submission of an application for planning permission.
- 4.24 Concerns about the remoteness of the site have been expressed by the Traveller family themselves and the site is not in the family's preferred geographical location.
- 4.25 As the site is in Council ownership and tenure could be guaranteed, the chances of obtaining Homes England funding for the development of the site would be greater.
- 4.26 Taking all this information into account, Council now needs to determine which, if any, of these sites it wishes Officers to take forward for development as a Traveller site. Once this decision is made Officers will be able to prepare a planning application for submission. This will be a significant planning application and will be expected to attract much public interest and comment. The application will require consideration and determination in public, through the Planning Committee.

5 TEMPORARY TOLERATED SITE

- 5.1 As outlined above, where a duty to secure accommodation arises but an appropriate site is not immediately available, the Housing Authority may need to provide an alternative temporary solution until a suitable site, or some other suitable option, becomes available. The District Council, therefore, needs to determine whether it is prepared to accommodate the Traveller family on a temporary tolerated site pending the provision of a more permanent or suitable option.
- 5.2 At a meeting of the Community and Environment Committee on 10 December 2018, it was resolved that the Traveller family should be offered the use of the car park at Old Station Close, Rowsley. This was confirmed at a meeting of the Community and Environment Committee on 26 June 2019. The site was occupied by them until November 2019, when they moved to Bakewell in order to support a member of their family who was receiving end of life care from a Bakewell GP and a Bakewell care home. The use of this site was due to be reviewed at the February 2020 meeting of the Committee, but this review did not take place as officers were dealing with the Bakewell encampment. Therefore a further decision needs to be made as to where the Council is able to site the Traveller family whilst a permanent site is developed.
- 5.3 Options available to the Council are limited, but it is both legally and practically necessary to determine a site. Officers are of the view that the sites that may be considered for this use are:
- Old Station Close, Rowsley
 - Middleton Road, Wirksworth
 - ABC, Bakewell
 - Artists Corner Car Park, Matlock Bath
 - Land at Knabhall Lane, Tansley
- 5.4 None of these sites are perfect and all have their drawbacks. It is known that siting the Travellers on the Rowsley car park has given rise to local concern and that the Traveller family has reported incidents of anti-social behaviour towards them which have led to them vacating the site. They are currently located on Temple Road Car Park, Matlock Bath, which is not considered to be a sustainable location, especially during the summer months, as the site is required for high volumes of visitor traffic. Given the problems that the family has experienced at Rowsley, it is considered unlikely that they could be persuaded to return there, or that they would remain in-situ for long, if they did return. There is also no doubt that the use of the Rowsley car park by the Travellers displaces car parking onto the industrial estate roads, thereby making access into the estate difficult for delivery traffic. For all these reasons officers consider that this is no longer a viable site.
- 5.5 The Middleton Road site is also discussed above. The Travellers would be very reluctant to occupy this site, due to their perception that they would not be safe there. When the site was last proposed Wirksworth Town Council erected barriers to hinder entry into the site and these barriers are still in place. This indicates that the local settled community would not welcome the family in this location, which is a relevant matter to consider. From a more objective point of view, the site is overgrown with scrubby woodland and lacks facilities. It would require preparation before it could be occupied. The tree cover would hinder some of the day to day activities of the family, such as drying their washing and keeping their caravans properly aired. . The site is also very close to the local amenity sites of Stoney Wood and the star disc.

- 5.6 The ABC site has recently been occupied by the family. From a purely physical point of view, the site performs well as a temporary site for Travellers, in that there is plenty of room, it is close to the town facilities whilst being relatively remote from houses and there is decent hardstanding on which caravans may be sited. However, much of the land in this area is not owned by the Council and in allowing Travellers to occupy it the Council may well be in contravention of its tenancy agreements. In addition, the site is within the Peak District National Park, who currently do not have a need to provide a Traveller site within their Local Plan, such that obtaining planning permission may be difficult. It is also relevant to note that the site has become increasingly popular as a stopping place for Travellers other than the family to whom this report relates. Over lockdown the site was occupied by up to 40 caravans on one occasion. There is a local fear that the presence of the family attracts other Travellers to the site, which has previously made it difficult to tolerate a prolonged encampment on this site.
- 5.7 Artists Corner Car Park has not recently been occupied by Travellers. Again, from a purely physical point of view it would perform well as a temporary site for Travellers, in that there is room, it is close to facilities and there is decent hard standing. However, it is very close to permanent housing and is an operational car park. Without doubt, the presence of the family would lead to disruption of the car park use and would be likely to generate complaints from some residents. It is also a very visible site on the entrance to one of the district's major towns. Whilst it might be possible to support a site here on a very temporary basis it would be likely to become unsustainable after a relatively short period of time.
- 5.8 Land at Knabhall Lane is also discussed above. As previously stated, access to the site is difficult with a caravan and towing vehicle and there are no services on site. The site is relatively distant from facilities and this presents additional issues in relation to basic services such as access to water. However, this distance also means that the site is perhaps less likely to give rise to significant numbers of complaints. The Council currently has no other operational needs for this site.
- 5.9 Taking all this information into account, Council now needs to determine which, if any, of these sites it wishes Officers to take forward for use as a temporary Traveller site, whilst a permanent site is progressed and developed.

6 SUMMARY

- 6.1 To conclude this report, officers and consultants have now completed exhaustive searches of land owned by the District Council, land offered on the market, and land that might come forward in a call for sites. This report lists all those sites that are considered to have potential for development as a permanent Traveller site and all those that have the potential to be used as a temporary Traveller site whilst this development is undertaken. Direction is now required as to which sites should be taken forward.
- 6.2 The same issues exist that have been covered in previous reports to the Community and Environment Committee about this issue: a homeless Traveller family continues to live on a succession of undeveloped temporary sites within the District, the family's needs become more acute as they age, the settled community continues to experience the effects of these temporary encampments and of unauthorised encampments when the temporary sites fail. Without the identification and development of a permanent site these problems will continue to occur for both the Travellers and the settled community.

- 6.3 Taking forward any of the sites listed in this report is unlikely to please everyone, but if the matter remains unresolved the core issues will continue to exist and a decision will still ultimately need to be made. Therefore it is recommended that Council determines which sites should be taken forward for both permanent and temporary use and authorises officers to proceed with planning applications as necessary.

7. RISK ASSESSMENT

Legal

- 7.1 The District Council is seeking to address the lack of authorised Gypsy and Traveller Sites within the District to meet its duties under the Planning Policy for Traveller Sites 2015. In the absence of a permanent site, the temporary site will minimise the risk of legal action being taken against the Council for failing in its statutory duty to provide such a site.
- 7.2 The Council also has duties under the Homelessness Reduction Act 2017. The temporary site, reduces the risk of challenge against the Council for failing in its duties under the homelessness legislation.
- 7.3 The Council is also under a duty to protect its assets and ensure they are used for their intended purpose. Therefore eviction of illegal encampments is a necessary but temporary solution to the lack of authorised sites within the District. However due to the lack of a permanent site the risk of a legal challenge is medium to high and without the use of a temporary site to place families, the risk would be high.

Financial

- 7.4 The cost of officers' time and planning fees associated with the report recommendations can be met from within existing budgets. The financial risk is, therefore, assessed as low

Corporate Risk

- 7.5 The corporate risk in terms of the Council's reputation and failing to fulfil a legal obligation, is high.

8. OTHER CONSIDERATIONS

- 8.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

9. CONTACT INFORMATION

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10. BACKGROUND PAPERS

29 th January 2016	Report to Council (Gypsies and Travellers)
26 th January 2017	Report to Council (Gypsies and Travellers Update)
12 th July 2018	Report to Community & Environment Committee (<i>Gypsies and Travellers Update</i>)
15 th November 2018	Report to Community & Environment Committee (<i>Gypsies and Travellers Update</i>)
10 th December 2018	Report to Community & Environment Committee (Gypsies and Travellers – Discharge of Homelessness Duty)
21 st February 2019	Report to Community & Environment Committee (Gypsies and Travellers – Discharge of Homelessness Duty)
26 June 2019	Report to Community & Environment Committee (<i>Gypsies and Travellers</i>)
30 October 2019	Report to Community & Environment Committee (<i>Gypsies and Travellers</i>)

11. ATTACHMENTS

None