



## OPEN REPORT COUNCIL

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**Council – 4th April 2024**

### **CLARIFYING DECISION MAKING ARRANGEMENTS IN RESPECT OF GYPSIES AND TRAVELLERS**

#### **Joint Report Authors and Contact Details**

Helen Mitchell, Director of Corporate and Customer Services (Monitoring Officer)  
Rob Cogings, Director of Housing  
Steve Capes, Director of Place and Economy

#### **Wards Affected**

All

#### **Report Summary**

This report seeks to enable the Council's Community and Environment Committee to be the principal decision maker in respect of any permanent and temporary tolerated / negotiated stopping places in the District.

#### **Recommendations**

1. That the report is agreed;
2. That the Gypsy and Traveller Working Group provides reports on all its activities to a mutually agreeable timescale to the Community and Environment Committee;
3. That decisions relating to temporary tolerated / negotiated stopping places in the District are taken by Community and Environment Committee;
4. That Council notes permanent sites will be sought for allocation within the Local Plan process overseen by the Local Plan Sub Committee and endorsed, ultimately, by Council;
5. That decisions relating to permanent sites sourced outside of the Local Plan process are taken by the Community and Environment Committee;
6. That Council delegates authority to the Council's Monitoring Officer to make such amendments to the Constitution.

#### **List of Appendices**

None

#### **Background Papers**

None

#### **Consideration of report by Council or other committee**

Not applicable

#### **Council Approval Required**

Yes

#### **Exempt from Press or Public**

No

## **1. Background**

- 1.1 Council decision making in respect of matters relating to Gypsy and Travellers requires revisiting as part of a new approach agreed at Council in September 2023 with the re-establishment of the Gypsy and Traveller Working Group.
- 1.2 At Council on 27 July 2021, Council did not support a continuation of officers, under delegated authority, to move our Traveller families around temporary tolerated/negotiated stopping places.
- 1.3 Council will also be aware that a site for permanent provision allocated in the adopted Local Plan has not been brought forward.
- 1.4 The recent independent investigation report into the Hasker Farm complaint noted that the current approach to delivering its homelessness duty towards Travellers was sub optimal. In it, the investigators noted that the approach left officers exposed, there were elements of secrecy to it and it was highly unusual to have such matters reported to a meeting of Council.
- 1.5 The action plan prepared arising from the independent investigation and agreed at Governance and Resources Committee on 15 February 2024 agreed to review the delegation.
- 1.6 This paper seeks to bring clarity and proportionality to Member led decision making. It seeks to clarify existing responsibilities and to provide the public with clearer and more accountable arrangements. It also sets out the relationship with the role of the Local Plan Sub Committee and, in particular, the Gypsy and Traveller Working Group.

## **2. Key Issues**

- 2.1 There are two concurrent streams of work underway at the present time in respect of Gypsy and Traveller sites. The first is the support given to two homeless families living on temporary tolerated / negotiated stopping places across the District. The second is the search for permanent sites within the District (outside of the PDNPA).
- 2.2 The Gypsy and Traveller Working group has been established (Chair, Cllr Franks) to oversee the work of the consultants who have been engaged to identify suitable sites across the District. The output of which will be communicated to the Local Plan Sub Committee (Chair, Cllr O'Brien).
- 2.3 The terms of reference for that Working Group is yet to be agreed but a further draft will be considered, and it is hoped endorsed, at its next meeting on 12 April.
- 2.4 If Members agree to the recommendations in this report, those terms of reference will be endorsed by the Community and Environment Committee at its next meeting.

- 2.5 It is suggested to formalise the existing delegations to Community and Environment Committee as its remit befits the subject matter and its existing purpose is to 'consider specific issues or aspects of policy, procedure or service'. Specifically, to provide clarity in respect of endorsing temporary tolerated/negotiated stopping places, temporary sites or permanent sites to be sourced outside of the Local Plan process. This aligns to its existing role in respect of homelessness.
- 2.6 Moving the delegation to a smaller, politically proportionate group of members, who have gathered expertise relating to the core place-related functions of the District Council is advantageous to making good decisions in this policy area. As is the clear interface and relationship between Community and Environment Committee and its Sub Committee, the Local Plan Sub Committee.
- 2.7 It will then be the responsibility of that Committee to discharge those responsibilities and, where needed, delegate relevant operational matters to officers eg. applying for planning permission, assisting the movement of families to sites etc.
- 2.8 Matters outside of the scope of the Committee's new arrangements, that do not fall under the officer scheme of delegation will fall to other Committees and their functions as identified in the Council's constitution.
- 2.9 This clarification would not alter the need to seek Council approval on matters within its authority.
- 2.10 Moreover, it does not change the role of Council in respect of adopting the Local Plan and the permanent site(s) that will be sought for allocation within.

### **3. Options considered and Recommended Proposal**

- 3.1. Council could agree to retain the practice of matters requiring discussion and decision at Council in the knowledge that it has not yet been successful in arriving at a satisfactory temporary or permanent solution. The role of Council at Derbyshire Dales has been retained to make the most significant and lasting of strategic decisions and holding responsibilities for this policy is clearly at variance with this. Furthermore, the Local Plan will ultimately be agreed by Council as a document on the Council's Policy Framework.
- 3.2 Council could agree to confirm an officer takes relevant decisions. This is not recommended as political leadership is required on this policy area.
- 3.3 Council could endorse the conversion of the Gypsy and Traveller Working Group to a sub-committee. This is not recommended as it would duplicate some efforts between that Sub Committee and the Community and Environment Committee.

#### **4. Consultation**

- 4.1 The Gypsy and Traveller Working Group, the Chair of Community and Environment Committee, the Chair of Local Plan Sub Committee, the Leader and Deputy Leaders of the Council and CLT have all been consulted.
- 4.2 The Gypsy and Traveller Working Group were minded to support the recommendation made to empower the Community and Environment Committee to make such decisions. The decision was not unanimous.

#### **5. Timetable for Implementation**

- 5.1 If the recommendations are agreed, immediate progress would be made to implement decisions.

#### **6. Policy Implications**

None immediately arising from this report.

#### **7. Financial and Resource Implications**

None immediately arising from this report.

#### **8. Legal Advice and Implications**

This report seeks to enable the Council's Community and Environment Committee to be the principal decision maker in respect of any permanent and temporary tolerated / negotiated stopping places in the District.

There are 6 decisions recommended as part of this report, the legal risk of challenge, by judicial review, when taking the decisions as recommended has been assessed as low.

#### **8. Equalities Implications**

Gypsies and Travellers are legally recognised ethnic groups and protected from discrimination within the Equality Act 2010.

#### **10. Climate Change Implications**

None arising from this report.

#### **11. Risk Management**

The principal risk to be managed is the inability to discharge the Council's responsibilities in respect of homelessness. The risk associated with this is high and the impact is high.

#### **Report Authorisation**

Approvals obtained from Statutory Officers:-

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Paul Wilson	25/03/2024
Director of Resources/ S.151 Officer	Karen Henriksen	22/03/2024
Monitoring Officer	Helen Mitchell	28/03/2024