

dict

Meeting	LOCAL PLAN ADVISORY COMMITTEE
Time/Day/Date	6.30 pm on Wednesday, 16 December 2015
Location	Council Chamber, Council Offices, Coalville
Officer to contact	Democratic Services (01530 454512)

All persons present are reminded that the meeting may be recorded and by attending this meeting you are giving your consent to being filmed and your image being used. You are kindly requested to make it known to the Chairman if you intend to film or record this meeting.

The Monitoring Officer would like to remind members that when they are considering whether the following items are exempt information under the relevant paragraph under part 1 of Schedule 12A of the Local Government Act 1972 they must have regard to the public interest test. This means that members must consider, for each item, whether the public interest in maintaining the exemption from disclosure outweighs the public interest in making the item available to the public.

AGENDA

Item	Pages
1. APOLOGIES FOR ABSENCE	
To receive and note any apologies for absence.	
2. DECLARATION OF INTERESTS	
Under the Code of Conduct members are reminded that in declaring disclosable interests you should make clear the nature of that interest and whether it is pecuniary or non-pecuniary.	
3. MINUTES OF PREVIOUS MEETING	
To approve the minutes of the meeting held on 29 July 2015.	3 - 10
4. COMMITTEE TERMS OF REFERENCE	
Terms of Reference attached.	11 - 12
5. GYPSY AND TRAVELLER SITE ALLOCATION DEVELOPMENT PLAN DOCUMENT: DRAFT FOR CONSULTATION	
Report of the Director of Services.	13 - 50



6. LOCAL PLAN - RISK MANAGEMENT

Report of the Director of Services

51 - 62

Circulation:

Councillor R D Bayliss
Councillor J Bridges (Chairman)
Councillor J Cotterill
Councillor R Johnson
Councillor J Legrys (Deputy Chairman)
Councillor V Richichi
Councillor M Specht

MINUTES of a meeting of the LOCAL PLAN ADVISORY COMMITTEE held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 29 JULY 2015

Present: Councillor J Legrys (in the Chair)

Councillors R Adams (Substitute for Councillor R Johnson), J Cotterill, J Hault (Substitute for Councillor R D Bayliss), G Jones (Substitute for Councillor J Bridges), V Richichi and M Specht

In Attendance: Councillors R Johnson, S McKendrick and A C Saffell

Officers: Mr S Bambrick, Mrs M Meredith, Mr I Nelson, Mr J Newton and Mr S Stanion

8. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J Bridges and R Johnson.

9. DECLARATION OF INTERESTS

Councillor J Legrys declared a non pecuniary interest in any discussion relating to Coalville, as a volunteer at Hermitage FM.

10. MINUTES OF PREVIOUS MEETING

It was moved by Councillor M Specht, seconded by Councillor J Cotterill and

RESOLVED THAT:

The minutes of the meeting held on 10 June 2015 be approved and signed by the Chairman as a correct record.

11. COMMITTEE TERMS OF REFERENCE

RESOLVED THAT:

The Terms of Reference be noted.

12. LOCAL PLAN – UPDATE

The Director of Services presented the report to members, outlining the progress to date on the Local Plan and discussions at the Advisory Committee which had led to further work and engagement with Parish and Town Councils, particularly in respect of the town centre boundaries. He added that the draft Local Plan was underpinned by evidence which was available for members to view. He stated that the work to date had been leading to this point, where a draft Local Plan was available which contained all the policies that were proposed to be included in the Local Plan.

The Director of Services invited members to discuss the proposals and make any comments on the draft Local Plan, which would be reported to the Council meeting on 15 September. He added that it would be a matter for Council to determine the content of the final Local Plan. He explained that thereafter, the agreed Local Plan would go through a formal process of public consultation and examination by an independent Planning inspector who would be appointed by the Secretary of State. The inspector would then make a series of recommendations to the Council, and hopefully adoption of the Local Plan would follow. He advised that the Local Plan would carry full weight in the planning process at that point.

The Director of Services referred members to the draft Local Plan before them and highlighted the figures identified by policy S2 in the Strategy section. He advised that these figures represented the overall level of development proposed in the plan period up to 2031. He made reference to the previous discussions which had taken place in respect of the plan period, and advised that due to the work being done on the Housing Market Area it had been agreed to restrict the plan period to 2031. He added that the policies within the Local Plan gave substance to those figures.

In respect of employment, the Director of Services highlighted the overall requirement for 96 hectares, and pointed out that there was an existing commitment for 126 hectares, which exceeded this figure. He advised that taking into account the fact that there would be some employment land lost over the plan period, there was an overall shortfall of 13 hectares. Therefore it would be necessary to allocate at least 13 hectares of additional employment land to meet the allocated requirement. He added that there were sites already across the district with planning permission which would contribute to that requirement.

The Director of Services made reference to the previous discussion at the Advisory Committee in terms of the need for flexibility in respect of the housing requirement figure, allowing for an increase in employment, particularly taking into consideration the proposal for a major strategic distribution site in the north of the district. He advised that, taking into account the existing number of dwellings already with planning permission, it was proposed to allocate one additional strategic site at Money Hill which would meet the shortfall in the overall housing and employment requirement.

In respect of affordable housing, the Director of Services referred to the options previously identified and the viability testing which had now been undertaken. He advised that following the viability testing, the proposal in the draft Local Plan was that the current market conditions be used for the affordable housing policy. This meant that for sites with 15 or more dwellings, 20% affordable housing would be required in Coalville and Ibstock, with a 30% requirement in Ashby de la Zouch and Castle Donington. He added that elsewhere in the district, the threshold would be 11 dwellings with a 30% affordable housing requirement. He stated that this sought to meet the affordable housing needs in the district whilst remaining at a level which was still viable. He added that if the levels were set higher, this could have a detrimental impact upon growth within the district.

The Director of Services outlined the requirement to provide for the needs of the gypsy and traveller community. He added that the needs assessment showed that additional sites needed to be provided. He advised that in conjunction with other Leicestershire authorities, a revised needs assessment was being commissioned, and once this was updated, it would supplement the Local Plan. He highlighted that at this stage, the Council was not in a position to identify where those sites would be located, however it was worth noting that this work was to follow. He added that failing to commit to providing these sites could affect the viability of the whole Local Plan.

The Director of Services referred to the key issues and the natural environment section on page 18 of the agenda. He reiterated that when preparing the previous Core Strategy, members were keen to stress the importance of the area of separation between Coalville and Whitwick. He advised that it was still proposed to have a policy in the Local Plan to protect this land as an area of separation.

The Director of Services highlighted the timetable set out on page 19 of the agenda, which was based on the assumption that Council would agree the Local Plan in September. He pointed out that some of the stages in the timetable would depend upon others, and in particular this would be subject to the inspector's agreement, but the Council would be endeavouring to adopt the Local plan by 2017.

The Planning Policy Team Manager drew members' attention to the draft Local Plan which was accompanied by a policies map, setting out the key policies which applied across the district. He advised that there was one additional change proposed to the town centre boundary in Castle Donington.

Councillor A C Saffell was invited to speak at this point, as his concerns related particularly to the town centre boundary in Castle Donington.

Councillor A C Saffell advised that the Planning Policy Team Manager had met with Councillor Sowter, the Chairman of the Planning Committee at the Parish Council, and with the Clerk and had walked around the town centre, discussing the current and potential future location of shops. He advised that under the current proposal, some of the shops were outside of the town centre. He added that the main street which the Parish Council would like to see included within the town centre was Clapgun Street, as there were a number of business premises there already, and most of the houses could be easily converted for business use. He added that with the shops already full to capacity and the population in Castle Donington due to increase by 50% over the plan period, the Parish Council wanted an area to which new businesses could be directed. He stated that control would be lost under the current proposals. He felt that the simplest solution would be to revert back to the current plan which had been in place for a number of years, and included the business centre of Donington Manor. He stated that if this wasn't done, business opportunities would be strangled and this was against Government policy. He added that there should be room for growth, and there wasn't any at the moment. He asked for the officers' co-operation to achieve a sensible village boundary.

The Planning Policy Team Manager circulated a plan showing the existing boundary and the revised proposal following his meeting with the Parish Council. He stated that this was an issue the Advisory Committee had discussed on a number of occasions. He added that the aim was to get the balance right by having an area to accommodate potential future growth that wasn't too large at the same time. He advised that in most cases, a smaller town centre boundary was recommended given the changes in retail requirements. He stated that it was clear from walking around Clapgun Street that this was very much a residential area at the present time. He referred to the guidance which recommended that town centre boundaries should be drawn up taking into account existing uses. He added that it must be recognised that the plan period was up to 2031 and there would be an element of churn. He felt it was reasonable to assume that some additional retail uses would be possible as a result of this natural churn. He explained that in accordance with the policy, the town centre boundary was where business uses would be directed to initially, however this did not prohibit such uses elsewhere, as a sequential approach would be taken and consideration given to whether there were any other premises within the town centre area that would be suitable. He concluded that the proposed reduced town centre boundary would still allow some flexibility in the future. He added that a retail capacity study had been undertaken, and no major issues had been identified in Castle Donington. He felt the proposal struck an appropriate balance.

Councillor A C Saffell reiterated that there were no empty properties at all in the main town centre area, whereas there were empty properties in Clapgun Street. He added that with the forthcoming increase in population, he did not want to restrict jobs. He stated that he appreciated the sequential approach could be utilised, but this could result in shops on Bondgate. He suggested that this discussion be continued, and the Parish Council put forward its own proposal. He added that the Parish Council wanted to support the local businesses if possible.

The Chairman reiterated that the Local Plan would go out for public consultation after it was debated at Council. He thanked Councillor A C Saffell for his comments which would be reported to Council.

The Chairman encouraged everyone present at the meeting to study this document and how it affected the local area, and to get involved in the consultation.

In response to a question from Councillor V Richichi, the Director of Services advised that there would be no form of consultation prior to Council, and therefore the draft Local Plan before members would be considered by Council, and any comments made at this meeting by members would be taken into account in the covering report.

Councillor J Hoult sought clarification in respect of the Bardon Grange proposal as this did not appear to be mentioned in the report. The Director of Services advised that all sites which had received planning permission in the last 18 months were recorded in the draft Local Plan as commitments, and counted toward the housing requirement figures.

Councillor J Hoult asked if the Local Plan would override a neighbourhood plan. The Director of Services advised that a neighbourhood plan would need to conform with the Local Plan strategy. For example, if the Local Plan allocated land at Money Hill for development, the neighbourhood plan could not state that there should be no development at Money Hill. He clarified that there needed to be conformity between the two and if this was not the case, the neighbourhood plan would be tested and would be found unsound.

The Planning Policy Team Manager highlighted the section in respect of neighbourhood plans on page 140 of the agenda, and also appendix 5. He advised that officers had considered all the proposed policies in the draft Local Plan and identified whether they were considered to be strategic, local or both. He clarified that neighbourhood plans had to conform to the strategic aspects of the Local Plan. He added that officers had been in regular contact with the neighbourhood plan group to advise them, and would continue to do so in the hope that the two plans could move forward in parallel.

In response to questions from Councillor G Jones, the Planning Policy Team Manager advised that there was no specific policy in the draft Local Plan for the provision of self build units as this was Government policy in any case. He added that it would be difficult to demonstrate the number of people wishing to undertake a self build, and the considerations that would apply would be the same as for any other planning application. In terms of retirement and care homes, the Planning Policy Team Manager advised that there was no specific policy, however policy H6 set out on page 69 of the agenda was concerned with housing types and mix, ensuring a balance and including provision for all sections of the community, which would include elderly persons. He added that there was no policy partly because there were no issues that the Council was aware of at this stage.

Councillor G Jones stated that he would like to see a policy in the Local Plan in respect of a minimum square footage. He added that he would have liked to see something in the draft Local Plan about self build due to the percentage of people undertaking this.

The Planning Policy Team Manager advised that there was nothing in the draft Local Plan in respect of square footage in order to retain flexibility and to avoid being prescriptive.

Councillor R Adams referred to the comments in respect of the Leicester to Burton line on page 17 of the agenda and noted that a report had been commissioned. He sought clarification on the timescales for the publication of this report.

The Planning Policy Team Manager advised that the report was due this summer; however it was not known whether it would be finalised and publicised prior to the consideration of the Local Plan at the Council meeting in September.

Councillor R Adams sought clarification on the site on Waterworks Road referred to on page 59 of the agenda. The Planning Policy Team Manager advised that it was proposed to continue with the existing allocation for housing.

The Chairman stated that he recalled a petition to the Council from children on the Greenhill estate calling for the land to be kept for recreational use. He thought that the Council had made a commitment subsequent to this petition. He asked that officers look into this matter.

Councillor R Adams referred the commitment by the Government to build affordable housing, and asked how the figures in our policy fit in with the Government proposals.

The Planning Policy Team Manager advised that the Council had to set its own policy, and added that there may well be other means of delivering affordable housing, for example through developments from housing associations. He added that the Government was keen to bring forward more public sector land. He advised the policy was set in order to establish a target figure should any major developments come forward.

Councillor R Adams felt that the affordable housing figure for Coalville was too low given the need in the area.

The Planning Policy Team Manager commented that the need was not disputed; however the policy was concerned with viability. He reiterated that an assessment had been undertaken which had advised that 20% was the maximum that was affordable at this time.

In response to a comment from Councillor R Adams, the Planning Policy Team Manager highlighted policy H6 on page 69 of the agenda, part 3 of which made reference to the fact that properties for the elderly would be provided, including bungalows.

The Director of Services added that the affordable housing policy set out on page 63 of the agenda also made the point that where bungalow provision was made, the Council would consider a reduction in the overall affordable housing requirement to encourage the provision of bungalows.

In response a question from Councillor M Specht, the Director of Services advised that under the previous process, there was an opportunity for a pre-meeting with the planning inspectorate. That opportunity no longer existed, and therefore the Council had sought advice from Malcolm Sharp, who is a nationally renowned planning advisor, and also Simon Stanion, legal advisor. He stated that both would be providing external assurance to the process and would be advising the Council on the soundness of the Local Plan.

The Legal Advisor explained that the advice to the Council was work in progress at the moment, and That this would address both the issue of soundness and the legal duty to co-operate with neighbouring authorities on strategic cross-boundary issues.

In response to a question from Councillor M Specht, the Planning Policy Team Manager advised that there were instances elsewhere where a neighbourhood plan had been adopted prior to a Local Plan.

Councillor M Specht commented that he was somewhat shocked at the previous Advisory Committee meeting that the housing allocation had increased from 7,000 to 10,700 dwellings; however it appeared that this was a good thing for North West Leicestershire as this was only due to the number of jobs anticipated.

In response to a question from Councillor M Specht, the Planning Policy Team Manager advised that a specific site had been identified on the policies map for Measham as a reserved site for the Measham Waterside proposal.

The Chairman asked the Ashby members to comment on the proposal to double the housing numbers at Money Hill.

Councillor J Hoult commented that the number of dwellings was not a concern; local residents were worried about the Nottingham Road entrance.

Councillor G Jones felt that the general view of the Ashby Town Councillors was that this would be the preferred route for the expansion. He commented that he would like to think there would be a fair bit of imagination used on the Money Hill site and hoped the planners could think outside the box, as something different was wanted. He added that perhaps serious consideration needed to be given to relocating Ivanhoe college, and perhaps using this area for affordable housing for the elderly. He added that this needed a lot of thought. He considered that most people in Ashby de la Zouch were not too much against the development itself, but just the traffic onto Nottingham Road.

The Director of Services referred to policy H3 outlined on page 60 of the agenda and clarified that in respect of the access the policy made it clear that there should be three accesses, the primary being off the A511, the secondary being Smisby Road, and the Nottingham Road being limited vehicular access. This had been included in the policy in response to the concerns raised by members.

Councillor G Jones commented that given the size of the development, he did not consider three accesses to be adequate, especially considering the additional employment uses proposed at the site.

Councillor J Hoult stated that it would be really appreciated if an area could be incorporated into the town where workers could park all day. He added that Ashby de la Zouch currently has no village hall. He asked if this could be included as it was lacking.

The Planning Policy Team Manager highlighted policy H3a which referred to a range of infrastructure provision, including community facilities.

Councillor J Hoult commented that car parking was direly needed.

The Chairman noted that there were some members of public present who were wanting to speak. He invited questions from the floor.

Mr D Bigby, Ashby Town Councillor, referred to the analysis in the document in respect of employment land, which made the assumption that 45 hectares would be lost to other uses during the plan period, mainly for housing. He commented that if this was the case, there would be sufficient land for additional 900 houses. He asked why this was not included in the housing allocation figures.

The Planning Policy Team Manager advised that, when considering employment land, it was realistic to assume that not all of it would remain for employment use. He added that there was no scientific way of assessing what might be lost, so officers had looked back over the last 10-15 years. Conversely, in terms of the housing allocation, this had not been taking into account because there could be no certainty that this would happen, and when the Local Plan reached the inspection stage, the inspector would require certainty.

Mr D Bigby expressed the importance of the developer viability assessments in respect of affordable housing provision. He asked if these would be made public in future so people could work out for themselves whether the affordable housing provision was appropriate. He stated that he would like to see this included in the Local Plan if it was legally possible.

The Head of Planning and Regeneration explained that the developer viability assessments contained commercially sensitive information that would be useful to competitors, so under the principles of Freedom of Information, they would be exempt from the Act. He stated that he expected to continue to keep those reports private; however this is not the same as reporting the key messages.

Mr A Sowter, Castle Donington Parish Councillor, asked how viability testing was carried out and whether the Council had the authority to have the developer audited to demonstrate that they can afford what they proposed.

The Head of Planning and Regeneration advised that some consultancies had started to carry out valuation exercises to verify the assumptions made. The Council asked the District Valuer to give their expert opinion as to whether the values and costs were viable. If not, negotiations would continue with the developer.

Mr C Tandy, Ashby Civic Society, stated that the housing distribution for the district was heavily loaded towards Ashby de la Zouch, which would obviously put a huge strain on the infrastructure of the town in terms of the, road systems, education and the River Mease. He commented that hopefully these issues would be addressed in the sustainability appraisal and asked when this would be available to the public.

The Planning Policy Team Manager stated that he hoped it would be available in the next few days.

Mr C Tandy made reference to the Money Hill applications which were both going to appeal far before the Local Plan was issued. He asked if the Council would be putting those conditions on the road system serving the Money Hill estate.

The Head of Planning and Regeneration explained that this was not part of the planning applications that were appealed.

Ms J Tebutt, Coalville resident, commented that she was conscious the Local Plan would significantly increase the number of houses required per annum. She asked whether the Council perceived this would affect the housing land supply and asked what provisions could be built into the Local Plan to ensure that developers did not try to exploit the 5 year housing land supply.

The Planning Policy Team Manager stated that once the Local Plan was adopted, the housing requirement would be established, and the key issue was to ensure that the sites which were permitted then proceeded to be developed to ensure the Council could continue to demonstrate a 5 year housing land supply.

Ms J Tebutt asked whether it was the case the current SHMA figures could be safely worked to until the ink was dry on the Local Plan.

The Planning Policy Team Manager stated that his advice would be to work on the higher figures, as this was safer.

Mr Yates, Ashby de la Zouch resident, asked why policy EC2 had been disregarded, and what extra implications would the adoption of the Local Plan have on planning applications.

The Director of Services advised that as the Local Plan progressed through the stages it would carry more weight, and at this stage, the draft Local Plan still has limited weight. He added that it was not the case that in September, the Council agreed the Local Plan and then current applications were influenced by this. He explained that there may be

some influence and regard had to the Local Plan, but this would need to be cautiously done throughout the process.

In respect of policy EC2, that site had been identified as land owners and developers had been invited to put forward land, and suggestions were quite limited. Officers felt that this site could be developed particularly as part of a larger mixed use site. He explained that the employment use at the site would be partly dictated by the developer and the current market. He stated there was no evidence to suggest that there was a need for smaller units at this time to meet local need.

The Legal Advisor stated that in terms of the relevance of the draft Local Plan on decision making, it would be wrong for the Council to ignore it altogether as was it a material consideration, and regard needed to be had to it. He added that it was a matter for the Council to determine what level of weight was given to it. Until the Local Plan underwent public consultation and the level objection to it in particular was known, he advised that the Council should not afford much weight to it as it was a preliminary view only.

The Chairman reiterated to the members of public present that they should keep in touch with their local elected member on this matter, or anyone on the Advisory Committee. He thanked those present for attending and asking questions.

The Chairman referred members to the recommendation as set out in the report.

RESOLVED THAT:

The draft Local Plan be noted.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 8.00 pm

LOCAL PLAN ADVISORY COMMITTEE TERMS OF REFERENCE

Purpose of the Local Plan Advisory Committee

To enable cross-party discussion, guidance and support for the development of the North West Leicestershire Local Plan.

Role of the Local Plan Advisory Committee

- To consider and comment on documents that relate to the North West Leicestershire Local Plan including (but not restricted to) policy options, draft policies and evidence prepared to support the Plan.
- To make recommendations as required to Council in respect of the North West Leicestershire Local Plan.
- To monitor progress on the preparation of the North West Leicestershire Local Plan.
- To provide updates to other Members who do not sit on the Local Plan Advisory Committee.
- To consider and comment on responses to plans being prepared by other local planning authorities as part of the Duty to Cooperate.

Membership of the Local Plan Advisory Committee

- The Advisory Committee will be constituted in accordance with the proportionality provisions contained within The Local Government and Housing Act 1989.
- The Council's Substitution Scheme will apply.
- The Advisory Committee will select a Chair at its first meeting of each civic year.
- Other members may be invited to attend and participate in meetings of the Advisory Committee in a non-voting capacity at the discretion of the Chair.
- The Advisory Committee meetings must have at least 3 members to be quorate.

Operation of the Local Plan Advisory Committee

- Council Procedure Rule 4 will apply to the Local Plan Advisory Committee
- The Advisory Committee will meet at least once every two months, but will meet more frequently where necessary to enable continued progress on the North West Leicestershire Local Plan.
- The Advisory Committee will have no direct decision-making powers but will consider documents and information relating to the Local Plan and make recommendations to Council. Any such report will include specific comments and issues raised by the minority group.
- The Advisory Committee will be supported by the Director of Service and officers in the Planning Policy Team.
- Meetings will be organised, administered and minuted by Democratic Services with agendas and minutes being made available on the Council's website.
- The Portfolio Holder may attend as an observer.

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LOCAL PLAN ADVISORY COMMITTEE – 16 DECEMBER 2015

<p>Title of report</p>	<p>GYPSY AND TRAVELLER SITE ALLOCATION DEVELOPMENT PLAN DOCUMENT: DRAFT FOR CONSULTATION</p>
<p>Contacts</p>	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Director of Services 01530 454555 steve.bambrick@nwleicestershire.gov.uk</p> <p>Head of Planning & Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p> <p>Planning Policy Team Manager 01530 454677 ian.nelson@nwleicestershire.gov.uk</p>
<p>Purpose of report</p>	<p>To outline for Members proposals to formally commence the preparation of a Gypsy and Traveller Site Allocations Development Plan Document as part of the North West Leicestershire Local Plan and to undertake consultation in respect of what the document might contain and to issue a call for sites.</p>
<p>Council Priorities</p>	<p>These are taken from the Council Delivery Plan: Value for Money Homes and Communities</p>
<p>Implications: Financial/Staff Link to relevant CAT Risk Management</p>	<p>None</p> <p>None</p> <p>A failure to prepare a timely Gypsy and Traveller Site Allocations Development Plan Document could affect the soundness of the North West Leicestershire Local Plan as it could be concluded that the Local Plan does not meet the district's objectively assessed needs for housing. Furthermore, not providing a range of sites for the Gypsy and traveller community could be seen as discriminatory under the Equalities Act 2010 and would also make it difficult to resist proposals for the provision of sites in the absence of an agreed strategy.</p>

Equalities Impact Screening	A full equality impact assessment has been prepared.
Human Rights	European Convention on Human Rights art.8 imposes a positive obligation on the State to facilitate the Gypsy and Traveller way of life.
Transformational Government	Not applicable
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory
Comments of Deputy Monitoring Officer	The report is satisfactory
Consultees	Local Plan Project Board
Background papers	<p>National Planning Policy for Traveller Sites https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457420/Final_planning_and_travellers_policy.pdf</p> <p>Leicestershire, Leicester and Rutland Gypsy and Traveller Needs Assessment Refresh (2013) https://www.nwleics.gov.uk/files/documents/leicester_leicestershire_and_rutland_gtaa_refresh_may_2013/Leicester%2C%20Leicestershire%20and%20Rutland%20GTAARefresh%20-%20May%202013.pdf</p> <p>North West Leicestershire Local Plan: Draft for Consultation https://www.nwleics.gov.uk/files/documents/north_west_leicestershire_local_plan_draft_for_consultation_september_20151/Final%20Draft%20September%202015.pdf</p> <p>Equalities impact assessment of the Gypsy and Traveller Site Allocation DPD: Draft for Consultation</p>
Recommendations	<p>THAT THE ADVISORY COMMITTEE:</p> <p>(i) NOTES PROPOSALS TO COMMENCE PREPARATION OF A GYSPY AND TRAVELLERS SITE ALLOCATIONS DEVELOPMENT PLAN DOCUMENT;</p> <p>(ii) NOTES THE PROPOSAL TO ISSUE A CONSULTATION PAPER AND CALL FOR SITES IN JANUARY 2016; AND</p> <p>(iii) COMMENTS ON THE DRAFT CONSULTATION PAPER.</p>

1.0 BACKGROUND

- 1.1 There is a shortage of authorised sites for Gypsies and Travellers at a national, regional and local level and as a consequence many Gypsies and Travellers have no option but to live on unauthorised and/or unsuitable sites. If sites can be identified through the planning process it will prevent the need for illegal encampments which often cause conflict with the settled community.
- 1.2 North West Leicestershire District Council has a duty to assess, identify and plan to meet the district's housing needs including those of gypsies and travellers and travelling showpeople. When plan-making, local planning authorities are required to identify and update annually, a five year supply of specific deliverable sites and to also identify a supply of specific, developable sites or broad locations for the following five to ten years.
- 1.3 It is intended for these needs to be met through the production of a Gypsy and Traveller Site Allocations Development Plan Document (DPD). The DPD will identify sites for gypsy, travellers and travelling showpeople in a sustainable way which balances meeting the accommodation needs of these groups and the protection of the natural and built environment.
- 1.4 As a first step in the preparation of a Gypsy and Traveller Site Allocations DPD, a consultation paper has been prepared (Appendix A) to provide an opportunity for residents, landowners, businesses, organisations and stakeholders with an interest in provision for Gypsies, Travellers and Travelling Showpeople to give their views on a number of key issues regarding accommodation needs and the identification of potential sites.

2.0 THE DRAFT NORTH WEST LEICESTERSHIRE LOCAL PLAN

- 2.1 The North West Leicestershire Local Plan Draft for Consultation published in September 2015 sets out the Council's strategic approach to meeting the accommodation needs of Gypsies and travellers and travelling showpeople at Policy H7 (see Appendix A). Policy H7 therefore provides the context for the preparation of the Gypsy and Traveller Site Allocations DPD by setting out the minimum accommodation need that is required to be met in North West Leicestershire and criteria for the identification of sites and safeguards existing sites. Policy H7 also sets out the intention to prepare a Gypsy and Traveller Site Allocations DPD as means of identifying a range of sites to meet the identified need.
- 2.2 Consultation on the Draft Local Plan ends on Monday 30 November 2015. This postdates the preparation of this report so any consultation feedback on this policy area will be reported verbally by officers at the Advisory Committee meeting.
- 2.3 There is an on-going risk that the North West Leicestershire Local Plan may not be found sound due to the way in which it addresses the accommodation needs of travellers. This issue has recently been highlighted in Essex where, in May 2015, the interim findings of the Inspector examining the Maldon District Local Development Plan concluded that it was not sound because the Plan's policy for the provision of travellers' accommodation does not identify accurately the need for pitches and does not identify specific sites to meet the requirement (see Appendix B). In particular, the Inspector said that 'that there are well founded reservations about the Council's track record in producing evidence of need for, and then delivering, traveller sites.' The Inspector was also concerned about 'a serious adverse outcome in equality terms for the protected Romany Gypsies and Irish Travellers

racial groups'. The Inspector was not convinced about Maldon District Council's commitment to the preparation of a separate Traveller Local Plan. Subsequently, following a request from Maldon District Council, the Secretary of State has exercised powers under section 21(4) of the Planning and Compulsory Purchase Act 2004 to direct that the Maldon District Council Local Development Plan is submitted to the Secretary of State for approval. This is an unprecedented action from which the outcome is currently awaited and if there is any change in circumstances this will be reported verbally at the meeting of the Advisory Committee.

- 2.4 To mitigate the risks to the North West Leicestershire Local Plan, detailed work on a Gypsy and Traveller Site Allocations DPD must be well advanced at the time of the examination of the Local Plan especially with regard to the identification of sites.

3.0 GYPSY AND TRAVELLER ACCOMMODATION NEEDS

- 3.1 The provision of sites should be based on up-to-date evidence of need. The Leicestershire, Leicester and Rutland Gypsy and Traveller Needs Assessment Refresh (2013) provides an estimate of additional numbers of pitches and plots required in the district for the period from 2012 to 2031.
- 3.2 A "pitch" refers to a space on a gypsy and traveller site, whilst a 'plot' refers to a space on a 'travelling showpeople' site (sometimes referred to as a 'yard'). This terminology differentiates between residential pitches for "gypsies and travellers" and mixed-use plots for "travelling showpeople", which may / will need to incorporate space or to be split to allow for the storage of equipment as well as residential accommodation.
- 3.3 For the period up to 2031 the assessment identifies a need in North West Leicestershire for a total of 68 permanent pitches and 20 transit pitches for Gypsies and Travellers and 9 Travelling Showpeople plots. The Needs Assessment Refresh forms the basis of the accommodation requirements set out in Local Plan Policy H7.
- 3.4 At September 2015, there were 67 private traveller pitches (mostly authorised sites with permanent planning permission) and one public pitch in the district (see Appendix C). Since then, the supply of pitches has reduced as the result of two Lawful Development Certificate applications (Refs: 15/00528/CLE and 15/00534/CLE) having been granted at sites in Sinope. In both cases, the permitted gypsy caravan sites have been occupied by non-travellers for over ten years. The effect of these two decisions is to reduce the supply of private traveller pitches by around 36 pitches. However, it is understood that the 2013 needs assessment assumed that these sites were occupied by Gypsies or travellers and that as the forecast of needs was partly based on existing supply it may have artificially inflated the calculated needs at that time.
- 3.5 A planning application (Ref: 15/00717/VCI) to increase the number of caravans from three to eight at an existing site at Shortheath Road, Moira is undetermined at the time of writing this report. There are five Travelling Showpeople's site in North West Leicestershire accommodating around 21 plots.
- 3.6 A new planning policy document for Gypsies and travellers was published by the Department for Communities and Local Government in September 2015. Among the various revisions, the National Planning Policy for Traveller Sites amends the planning definition of "traveller" and "travelling showpeople" for planning related purposes so that it

excludes those who have permanently ceased from travelling. The requirement for local planning authorities to set pitch targets for gypsies and travellers and plot targets for travelling showpeople remains. As noted in a separate report to the Advisory Committee in respect of the Housing and Planning Bill 2015, local authorities in England will no longer have to assess Gypsies' and travellers' housing needs in a separate category to other residents. However, until such time as the Bill becomes an Act there is still a need to undertake a separate assessment of needs.

- 3.7 The revised definition of “traveller” could change the assessment of the numbers of pitches and plots required, while the supply of pitches has changed significantly since the Needs Assessment was last prepared as outlined above. Accordingly, the Council is working collaboratively with other local planning authorities in the Leicester and Leicestershire Housing Market Area to update the pitch targets for gypsies and travellers and the plot targets for travelling showpeople. It is anticipated that this update will be completed in summer 2016. This approach will help maintain and provide a robust and up to date evidence of need that may give rise to revisions to Local Plan Policy H7 and inform the emerging Gypsy and Traveller Site Allocations DPD.

4.0 SITE ALLOCATIONS

- 4.1 Notwithstanding the need to update the pitch targets for gypsies and travellers and the plot targets for travelling showpeople, the Council will need to identify a supply of specific deliverable sites and specific developable sites or broad locations for growth. Specific sites would be identified on a proposal map with a clear site boundary, whilst broad locations would be shown on the proposal map as a general area within which a site would later be identified.
- 4.2 Options for the way in which future pitch/plot requirements may be met include (but are not limited to):
- Intensification of existing authorised sites (i.e. by allowing more ‘pitches’ or ‘plots’ on a site but without extending the site)
 - Expansion of existing authorised sites on to adjoining land
 - Allocation of new sites
- 4.3 In view of the current identified scale of need it is unlikely that accommodation needs can be met without allocating new sites. As a consequence the proposed consultation provides an opportunity for individuals, organisation and stakeholders who may have an interest in provision for Gypsies, Travellers and Travelling Showpeople to suggest sites that may be suitable for allocation. A ‘Call for Sites’ form will be provided setting out the key information sought from respondents.
- 4.4. To identify as wide a range as possible of Gypsy and traveller sites and broad locations for development, the Council should not simply rely on sites that they have been informed about through the ‘Call for Sites’ process. Other types of sites and sources of data that may be relevant in the assessment process may include:
- Planning permissions for housing that are unimplemented;
 - Planning applications that have been refused or withdrawn;
 - Sites submitted as part of the Council’s Strategic Housing and Employment Land Availability Assessments that are unlikely to be taken forward for development through the emerging Local Plan;

- Land in the Council's ownership;
- Public sector land that is surplus, or likely to become surplus;
- Vacant and derelict land and buildings;
- Land safeguarded, severed or otherwise affected by infrastructure projects.

4.5 Potential sites will be considered for their suitability, deliverability and availability. They will be assessed using the criteria for the identification of sites set out in Local Plan Policy H7. It is then anticipated that a shortlist of potential sites will be identified and these will be subject to a further public consultation.

5.0 NEXT STEPS

5.1 It is proposed to formally commence preparation of the Gypsy and Traveller Site Allocations DPD the consultation paper set out at Appendix A be published in January 2016.

5.2 An eight-week consultation period will be advertised on the Council's website and residents, landowners, businesses, organisations and stakeholders who may have an interest in provision for Gypsies, Travellers and Travelling Showpeople will be contacted directly. Consultees will include Leicestershire County Council, adjoining county and local planning authorities, parish councils, representatives of the Gypsy, traveller and Travelling Showpeople communities, the Leicester and Leicestershire Multi-Agency Travellers Unit and specific consultees such as the Highway Agency, Environment Agency, English Heritage and the Coal Authority.

5.3 It is anticipated that a summary of the responses received will be reported to the Local Plan Advisory Committee following the consultation. Thereafter it is important, for the reasons set out in paragraph 2.4, to ensure that significant progress has been made (to include the identification of potential sites) in the preparation of the Gypsy and Traveller Site Allocations DPD prior to the examination of the North West Leicestershire Local Plan (currently anticipated to be in September 2016).

North West Leicestershire District Council

Gypsy and Traveller Site Allocation Consultation (January 2016 – March 2016)

1.0 Introduction

- 1.1 The shortage of authorised sites for Gypsies and travellers and travelling showpeople is a national, regional and local issue which often leads to unauthorised developments in many parts of the country. This situation creates a considerable amount of uncertainty for both travelling and settled communities, with decisions being made through the appeals process.
- 1.2 North West Leicestershire District Council has a duty to assess, identify and plan to meet the districts housing needs including those of Gypsies and travellers and travelling showpeople. This duty includes identifying suitable sites and when plan-making local planning authorities are required to identify and update annually, a five year supply of specific deliverable sites and to also identify a supply of specific, developable sites or broad locations for the following five to ten years.
- 1.3 The North West Leicestershire Local Plan will plan to meet these needs and it is the current intention for this to be done through the production of a specific Gypsy and Traveller Site Allocations Development Plan Document (DPD). It will identify new sites for gypsy, travellers and travelling showpeople, in a sustainable way which balances meeting the accommodation needs of these groups and the protection of the natural and built environment.
- 1.4 The District Council is inviting the submission of information regarding potential sites to meet the needs of the gypsy, traveller and travelling showpeople community as well as representations about how we might best plan to meet these needs

Purpose of this Consultation Paper

- 1.5 This consultation paper provides an opportunity for all individuals, organisations and stakeholders with an interest in provision for Gypsies, traveller and travelling showpeople to give their view on a number of key questions set out in this paper, including a summary below. However please note that the issues listed are not exhaustive and if you consider there to be additional issues that are relevant to this issue please let us know.
- 1.6 Background Information is also provided, to assist in forming your response. **Appendix 1** provides the planning policy context and **Appendix 2** details the evidence of local need.

KEY QUESTIONS
1. Apart from the Needs Assessment Refresh and the planned Update is there any other evidence of future need that we should be aware of?
2. Should the District Council seek to identify sufficient sites for the period up to 2031, or

should sites initially be identified for a shorter period?

3. What are your suggested approaches to site provision?

4. Do you agree that a series of smaller sites would be preferable to a larger site?

5. Should the document include a Rural Exception Site Policy for Gypsy and Traveller and Travelling Showpeople Sites?

6. Can you suggest any sites that you consider suitable for use as transit sites?

7. Are you aware of the level of affordable accommodation needed? i.e. the need for sites that are not privately owned?

8. What are your suggested approaches to site management?

- 1.7 The Council is also undertaking a “Call for Sites” in which the Council is seeking assistance in the identification of potentially suitable land for future Gypsy, Traveller and Travelling Showpeople sites. Details of sites must be submitted using the [SITE PROPOSAL FORM](#) attached to this paper.

CALL FOR SITES

Please submit details of any sites that you consider suitable for use as either a Gypsy or Traveller site or a Travelling Showpeople Site

How to Respond

- 1.8 The period for making any representation is for a period of eight weeks from 29 January 2016 to 21 March 2016. **Representations must be submitted no later than 5.00pm on 21 March 2016.**

- 1.9 Representations may be made in writing or by way of electronic communications, giving your name and address, to the following address;

Planning Policy Team
 North West Leicestershire District Council
 Council Offices
 Coalville
 Leicestershire
 LE67 3FJ
 Email: planning.policy@nwleicestershire.gov.uk

- 1.10 Copies of this consultation document are available on the Councils website at xxxx. Alternatively you can request a copy by contacting the Planning Policy Team at the above address.

1.11 Please note that responses cannot be treated as confidential and must be provided in a lawful way. The Council will not consider offensive and/or racist representations. Where a response is considered to be racist/offensive the Council will write to the respondent explaining that it is unlawful and cannot be considered or disclosed. Where a response is considered to be racist/offensive but also contains non racist/offensive material, the Council will write to the respondent explaining that only the non racist content will be considered or disclosed.

2.0 Background

2.1 Local authorities must assess and meet the accommodation needs for all sections of its community, including gypsies and travellers and travelling showpeople, and also identify a supply of deliverable and developable sites to meet the need. In producing its Local Plan the authority must identify and update annually a supply of specific deliverable¹ sites sufficient to provide five years worth of sites against their locally set targets. A supply of specific developable sites or broad locations should then be identified for the following five years and where possible for a further five years.

2.2 National Planning Policy for Traveller Sites (2015) also provides the following and amended planning definition of “traveller” and “travelling showpeople” for planning related purposes and is defined in Appendix 1. The definitions now exclude those who have permanently ceased from travelling.

2.3 As in most other areas of the County there is currently a shortage of authorised sites in the district and historically there has been a poor level of provision. Lack of provision has already been considered at a number of recent appeals against the refusal by the District Council of planning permission for sites for gypsies and travellers and has been cited by Planning Inspectors as a reason to grant permission contrary to local wishes.

2.4 Lack of accommodation not only results in accommodation needs not being met but also leads to unauthorised developments i.e. sites that have been established without planning permission. This can then lead to significant cost to the Council incurred through enforcement processes and other actions that may be necessary such as site clearance. The setting up of unauthorised sites can also become a source of tension between the gypsy and traveller community, the settled population and the local authority, as well as result in uncertainty for all. The identification and allocation of suitable sites would provide a degree of certainty for the Gypsy, traveller and travelling showpeople community and the settled population. It would also provide certainty when planning applications are determined.

2.5 The allocation of sufficient land to meet the identified need will

- ensure that sites are developed in the most suitable locations,
- strengthen the Councils position at any appeals,

¹ To be considered deliverable, sites should be available now, offer a suitable location for development now and be achievable with a realistic prospect that development will be delivered on the site within five years and in particular that development of the site is viable (Source: (Planning Policy for Travellers - 2015).

- help to reduce tensions between the travelling community and the settled population
- improve the opportunities for the gypsy and traveller community to access support and services.
- strengthen the Council’s ability to enforce against unauthorised sites in a more speedy and efficient way and so reduce pressures upon the public purse
- reduce the number of unauthorised sites and associated costs

3.0 KEY QUESTIONS

What is the Identified Need?

- 3.1 The provision of sites should be based on up-to-date evidence of the need. In our case the [Leicestershire, Leicester and Rutland Gypsy and Traveller Needs Assessment Refresh \(2013\)](#) (subsequently referred to as the Needs Assessment Refresh thereafter) provides an estimate of additional numbers of pitches and plots required in the district for the period from 2012 to 2031. For the period up to 2031 the assessment identifies a need for a total of 68 permanent pitches and 20 transit pitches for Gypsies and travellers and 9 travelling showpeople plots, within the district.
- 3.2 A “pitch” refers to a space on a gypsy and traveller site, whilst a ‘plot’ refers to a space on a ‘travelling showpeople’ site (sometimes referred to as a ‘yard’). This allows there to be differentiation between the two, as a travelling showpeople plot may need to incorporate storage space for equipment due to the nature of their work, as well as space for residential accommodation.
- 3.3 In light of the revised definition of “traveller” and “travelling showpeople”, the assessment of the number of pitches and plots required could change. Accordingly, the Council is working collaboratively with other local planning authorities in the Leicester and Leicestershire Housing Market Area to update the pitch targets for gypsies and travellers and update the plot targets for travelling showpeople. This approach will help maintain and provide a robust and up to date evidence of need.

QUESTION 1
Apart from the Needs Assessment Refresh and planned Update is there any other evidence of future need that we should be aware of and that should be taken in to account?

Identification of Site Allocations

- 3.4 Local Planning Authorities must maintain a five year supply of deliverable sites against locally set targets of accommodation need. Thereafter a supply of specific developable sites or broad locations for growth should be identified for the following years 6-10, and where possible for years 11-15. Specific sites would be identified on a proposal map with a clear site boundary, whilst broad locations would be shown on the proposal map as a general area within which a site would later be identified.

- 3.5 However the Needs Assessment Refresh suggests that evidence of need should be reviewed and refreshed on a five yearly basis. Such an approach would help maintain and provide a more robust and up to date evidence of need.

QUESTION 2

Should the District Council seek to identify sufficient sites for the period up to 2031, or should sites initially be identified for a shorter period, such as up ten years (i.e. to 2022), to allow a future refresh assessment to inform site provision for years 2023 to 2031?

What is the best way to make Future Site Provision?

- 3.6 Potential options for the way in which future pitch/plot requirements may be met include:-
- Intensification of existing authorised sites (i.e. by allowing more ‘pitches’ or ‘plots’ on a site but without extending the site)
 - Expansion of existing authorised sites
 - Allocation of New Sites

QUESTION 3

a. Are the above approaches to site provision considered appropriate?
b. Are there any alternative ways in which future pitch/plots can be provided?

- 3.7 It is suggested that a series of smaller sites would be preferable to the provision of fewer larger sites, as this approach would provide greater opportunity to meet the diverse needs of separate groups.

QUESTION 4

Do you agree that a series of smaller sites would be preferable to a larger site?

Rural Exceptions Sites

- 3.8 Where there is a lack of affordable land to meet local traveller needs, local authorities are able to allocate and release sites solely for affordable Traveller sites through a Rural Exception policy. This approach is only suitable if there is a local need, and those seeking accommodation are either a current resident of the community or have an existing family or employment connection within the community. Such sites would then only be used for affordable traveller sites in perpetuity. We do not currently have any evidence of any such specific need.

QUESTION 5

Do you have any evidence of need for affordable traveller sites? If there is evidence of need should the document include a Rural Exception Site Policy for affordable Gypsy and Traveller Sites? If not what approach should we take?

Transit Sites

- 3.9 Transit sites are authorised sites which are used for short stays by Gypsies and travellers. Transit pitches are specifically to allow families travelling through Leicestershire to stop for a maximum period of three months. Pitches can be provided on existing residential sites or sites can be solely provided for transit provision. It is however suggested that transit sites should be located on main travel routes.

QUESTION 6

Can you suggest any sites that you consider suitable for use as transit sites?
--

Tenure

- 3.10 It is likely that there will Gypsies and travellers or travelling showpeople who cannot provide their own sites. Therefore, there may be a need for provision to be made by public bodies, such as local authorities or social landlords. Due to the lack of affordable provision, the Needs Assessment Refresh recommends that 50% of site provision should be affordable.

QUESTION 7

Is there any other evidence of affordable need that we should be aware of?
--

Is there any other evidence that would indicate that 50% affordable provision is not the appropriate approach?
--

Management of Sites

- 3.11 There are a number of management options to consider for future sites. One is for Gypsy and travellers and travelling showpeople to develop and manage their own sites. Family ownership can help reduce the breakdown of traditional family structures and help ensure young people and new forming households within the community are not forced to move away.
- 3.12 An alternative method of managing sites is to allow private developers/Housing Associations to make provision for the basic infrastructure required for a site before selling or renting individual pitches to Gypsies and Travellers and Travelling Showpeople. Finally the local authority could develop the site and lease the pitches or plots.

QUESTION 8

Of the above approaches to site management which is considered the most appropriate?
--

Is there any other information or examples of site management that we should be aware of?

Call for Sites

- 3.13 This is an opportunity for you to suggest any sites that you consider to be suitable for allocation as a Gypsy and traveller, or travelling showpeople sites.

QUESTION 9
Can you suggest any sites that you consider suitable for use as Gypsy and traveller sites or a travelling showpeople site?
Please submit details using the SITE PROPOSAL FORM attached to this consultation paper. Also available at [Website details to be inserted] or from the Planning Policy Team

4.0 Next Stage

- 4.1 Following the end of this consultation the responses received will be used to inform the preparation of future policies for the provision of sites for Gypsies and travellers and travelling showpeople. In addition the potential sites submitted will be considered for their suitability and deliverability. At a further date the draft policies and proposed sites to be allocated will be published for public consultation.

APPENDIX 1

5.0 Policy Context

- 5.1 This consultation paper has been prepared taking into account national policy for Gypsy, travellers and travelling showpeople.

National Planning Policy (March 2012)

- 5.2 The [National Planning Policy Framework](#) (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The NPPF sets out a threefold definition of sustainable development, covering economic, social and environmental issues, and the role of planning is to contribute to the achievement of sustainable development. One of its Core Planning Principles is for planning to identify and then meet the housing needs of an area.

National Planning Policy for Traveller Sites (August 2015)

- 5.3 [National Planning Policy for Traveller Sites](#) (PPTS) sets out the Government's planning policy for traveller sites and must be taken into account in the preparation of development plans, and is a material consideration in decision taking.

- 5.4 The overarching aim of Government 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 interest of the settled community." (para 3)

- 5.5 This document also provides a definition of gypsies and travellers:

"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."

And for travelling showpeople:

"Members of a group organised for the purpose 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 dependants' 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."

5.6 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 life
- b) the reasons for ceasing the 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.

5.7 The Government’s aims in respect of traveller sites are for local authorities to:

- make their own assessment of needs for the purpose of planning
- develop fair and effective strategies to meet need through the identification of land for sites;
- plan for sites over a reasonable timescale;
- promote more private traveller site provision whilst recognising that some travellers cannot provide their own sites
- reduce the number of unauthorised developments and encampments and make enforcement more effective.
- ensure that local plan policies are fair, realistic and inclusive
- increase the number of appropriately located sites to address under provision and maintain an appropriate level of supply
- reduce tensions between settled and travelling communities
- enable provision from which travellers can access education, health, welfare and employment infrastructure
- have due regard to the protection of local amenity and local environment

5.8 Local Plans must also include pitch targets for gypsies and travellers, and plot targets for travelling showpeople, to address both permanent and transit site accommodation needs. A five year supply of specific deliverable² sites against the locally set targets should be identified for the first five years and a supply of specific developable³ sites or broad locations should then be identified for the following five years. And:

“... if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any

² To be considered deliverable, sites should be available now, offer a suitable location for development now and be achievable with a realistic prospect that development will be delivered on the site within five years and in particular that development of the site is viable

³ To be considered developable, site should be in a suitable location for traveller site development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged.

*subsequent planning decision when considering applications for the grant of temporary planning permission*⁴. (Paragraph 25, PPTS, 2012)

- 5.9 Local Planning Authorities should very strictly limit new traveller sites in open countryside that is away from existing settlements or is outside areas allocated in the development plan. For sites in a rural areas they should respect the scale, of, and not dominate the nearest settled community nor place an undue pressure on local infrastructure.
- 5.10 In instances where there is a lack of affordable land available to meet local traveller needs, local authorities should consider allocating and releasing sites solely for affordable traveller sites. This could include the application of a rural exception site policy, an approach which would allow small sites to be used specifically for affordable traveller sites, in small rural communities⁵ that would not normally be used for traveller sites. These sites should only be used for affordable travellers' sites in perpetuity and address the needs of the local community by accommodating households who are either residents or have an existing family or employment connection.

Emerging Local Plan Policy

- 5.11 The North West Leicestershire Local Plan: Draft for Consultation published in September 2015 sets out the Council's strategic approach to meeting the accommodation needs of gypsies and travellers and travelling showpeople at Policy H7 therefore provides the context for the preparation of the Gypsy and Traveller Site Allocations DPD by setting out the minimum accommodation need that is required to be met in North West Leicestershire and criteria for the identification of sites and safeguards existing sites. Policy H7 also sets out the intention to prepare a Gypsy and Traveller Site Allocations DPD as means of identifying a range of sites to meet the identified need.

Policy H7: Provision for Gypsies and Travellers and Travelling Showpeople

- (1) Provision will be made to meet the accommodation needs of Gypsies and Travellers and Travelling Showpeople between 2012- 2031 for a minimum of:**

- **2012 – 2017: 27 pitches plus 20 transit pitches**
- **2017 – 2022: 11 pitches plus 3 plots for showpeople**
- **2022- 2027: 14 pitches plus 3 plots for showpeople**
- **2027- 2031: 16 pitches plus 3 plots for showpeople**

⁴ There is no presumption that a temporary grant of planning permission should be granted permanently.

- (2) *The required provision will be identified through the production of a Gypsy and Traveller Site Allocations Development Plan Document, taking into account the most-up-to-date Gypsy and Traveller Accommodations Needs Assessment.***
- (3) *A five year supply of deliverable sites will be identified as well as a supply of developable sites or broad locations for the following years. The following criteria will be used to guide the site allocation process, and for the purposes of considering planning applications for such sites.***
- (4) *Proposals for new sites or extensions to existing sites should meet the following requirements:***
- (a) *Be located in or near an existing settlement which has access to a range of services, such as shops, schools, welfare facilities and public transport***
 - (b) *Be proportionate to the scale of the nearest settlement, its local services and infrastructure***
 - (c) *Have suitable highway access, and is not detrimental to public highway safety***
 - (d) *Provides for adequate on-site parking and turning of vehicles as well as appropriate facilities for servicing and storage***
 - (e) *Be serviced by adequate essential services including water supply, power, drainage sewage disposal, and waste disposal facilities***
 - (f) *Be compatible with landscape, environment and biodiversity as well the physical and visual character of the area,***
 - (g) *Be compatible with the amenities of neighbouring properties and land uses.***
- (5) *Authorised, existing and new, sites will be safeguarded for Gypsy and Travellers and Travelling Showpeople groups unless they are no longer required to meet an identified need.***
- (6) *Any development provided for within this policy which discharges wastewater into the Mease catchment will be subject to the provisions of policy En2. Any such development which does not meet these provisions will not be permitted.***
- 5.12 Consultation on the Draft Local Plan ends at 5pm on Monday 30 November 2015. This postdates the preparation of this consultation paper so any consultation feedback on this policy area will be reported separately.

APPENDIX 2

6.0 Existing Gypsy and Traveller and Travelling Showpeople provision in North West Leicestershire

Background Information

- 6.1 North West Leicestershire is highly accessible by road and is at the intersections of the M1 and the A42 motorways, providing links to the north, south and south west. The A50 provides the primary east west transport corridor. Due to its location and accessibility to the road network the district is a popular destination for gypsies and travellers.
- 6.2 Survey work⁶ undertaken highlights the travel patterns of gypsy and travellers through the district and also illustrates a pattern of wider cross-county travel. Travel can be seen to occur along:
- the A50 route down from Derbyshire through to North West Leicestershire
 - the A1 route on the boundaries of Lincolnshire and Leicestershire, with travel between Grantham, Lincolnshire and up to Nottinghamshire or across to North West Leicestershire
 - travel along the M1 to Northampton

Evidence of Need for Accommodation

- 6.3 The accommodation needs for additional Gypsy and Traveller accommodation and Travelling Showpeople in the district was initially assessed in the [Leicestershire, Leicester and Rutland Gypsy and Traveller Accommodation Needs Assessment \(2006-2016\)](#). The methodology used to provide an estimate of additional pitches and plots in the district took into account a range of factors such as the movement between sites and housing, unauthorised developments and encampments, new household formation, new sites in the pipeline, survey work and assumptions professional experience.
- 6.4 These estimates are provide purely on the basis of ‘need where it arises’ i.e. estimates were calculated on the basis of the existing population in the district and does not take into account any issues relating to where this need can be met. It therefore mirrors the uneven pattern of provision and distribution across the district.
- 6.5 However due to the time that has elapsed since the above assessment a number of Leicestershire authorities commissioned DeMontford University to undertake an update and refresh of the GTAA that was published in 2007. The Leicestershire, Leicester and Rutland Gypsy and Traveller Needs Assessment Refresh (2013) as produced and published and provides a update of the findings of the original GTAA taking into account site provision that has occurred since and new data that has been collected. A similar methodology was used to calculate future estimates in that the existing population was identified and the likely future needs were

⁶ Leicestershire, Leicester and Rutland Gypsies’ and Travellers’ Accommodation Needs Assessment (2006-2016)

projected forward. For calculations looking beyond 2017 and up to 2031 the refresh study maintains the use of an assumed rate of household growth of 3% per annum for gypsy and traveller provision, and an assumed rate of 1.5% per annum for travelling showpeople.

6.6 The Leicestershire, Leicester and Rutland Gypsy and Traveller Needs Assessment Refresh (2013) provides an estimate of additional numbers of pitches and plots required in the district for the period from 2012 to 2031. It identifies the following need:

- 2012-2017: 27 pitches plus 20 transit pitches
- 2017-2022: 11 pitches plus 3 plots for showpeople
- 2022-2027: 14 pitches plus 3 plots for showpeople
- 2027- 2031: 16 pitches plus 3 plots for showpeople

For the period up to 2031 the assessment identifies a need for a total of 68 permanent pitches and 20 transit pitches for Gypsies and travellers and 9 travelling showpeople plots. The Needs Assessment Refresh forms the basis of the accommodation requirements set out in the Draft Local Plan Policy H7.

6.7 For the purposes of this consultation paper and the resulting Gypsy and Traveller Site Allocation document, “pitch” means a pitch on a “gypsy and traveller” site and “plot” means a pitch on a “travelling showpeople” site (often called a “yard”). This terminology differentiates between residential pitches for “gypsies and travellers” and mixed-use plots for “travelling showpeople”, which may need to incorporate space or to be split to allow for the storage of equipment.⁷

⁷ Planning policy for traveller sites (August 2015) – Annex 1

APPENDIX 3 – Useful Web Address

[Leicestershire, Leicester and Rutland Gypsy and Traveller Accommodation Needs Assessment \(2006-2016\).](#)

[Leicestershire, Leicester and Rutland Gypsy and Traveller Needs Assessment Refresh \(2013\)](#)

[National Planning Policy Framework](#)

[National Planning Policy for Traveller Sites](#)

Interim Findings on the Maldon District Local Development Plan

David Vickery DipT&CP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Ref: PINS/X1545/429/1

Introduction

1. This document contains my Interim Findings on the soundness of the housing policies of the Maldon District Local District Plan (the Plan) at this stage of the Examination. This is not my Report under Section 20(5) of the Planning & Compulsory Purchase Act 2004. My findings concentrate on one key and fundamental aspect of soundness, namely the Plan's policy H6 for the provision of travellers' accommodation. The Plan was submitted for examination on 25 April 2014, and the housing and legal compliance hearings were held between 20 January and 4 February 2015.
2. The Council described the Plan as "*a single local development plan for the Maldon District*" (SD08). It deals with most of the District's development and infrastructure requirements in the one plan, apart from two exceptions. These are rural allocations where a later plan would allocate 420 homes out of the total of 4,430 homes in policy S2, and a later plan for traveller site allocations flowing from policy H6.
3. I held an Exploratory Meeting in July 2014 where I expressed concern about the outdated evidence base for traveller pitches and the lack of any allocations for them until later in the plan period (in paragraph 5.48 of the Plan). There were other concerns including: the methodology of the Plan's full objective assessment of housing need; the amount and rate of housing delivery; whether infrastructure could be delivered on time; the viability of the allocated housing sites; whether sufficient detail was given about the housing allocations and associated development management policies; and unclarity about the proposals for employment based on an out-of-date evidence base, with similar concerns for the retail proposals.
4. The Examination was then suspended at the Council's request, and it submitted new evidence during August and September 2014 to deal with most of my concerns. Having reviewed the new housing evidence, I decided in October 2014 to hold the housing and legal compliance hearings. The Council asked me to hold the hearings of the housing policies first because of the need to resolve how housing need in the District was to be met.
5. Since the Exploratory Meeting, the Council has been working proactively with the developers of the strategic housing sites allocated in the Plan by inviting the submission of planning applications on them, and by the production of draft Masterplans on the Garden Suburb sites at North Heybridge and South Maldon. As a consequence, the Council has already granted planning permission on sites allocated in policy S2 (c) and (g) and a S2 rural site at North Fambridge. It has applications submitted and pending on sites S2 (a),

- (e), (i) and (j). Other applications on sites S2 (d), (f), (h) and (k) are expected to be shortly submitted. The only other allocated site is S2 (b) for 300 homes. The Council has also granted planning permissions on a number of other sites which are not allocated in the Plan. Its housing land supply position is, therefore, rapidly improving.
6. The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound plan. The basis for my examination is the Pre-Submission Plan of January 2014 (SD01).
 7. In accordance with section 20(7C) of the 2004 Act the Council requested that I should, where possible, recommend any main modifications to rectify matters that make the Plan unsound.
 8. In summary, my findings are that policy H6 (Provision for Travellers), and thus the Plan, is unsound and that I cannot rectify this through recommending main modifications or by suspending the Examination to give time for the Council to resolve the unsoundness. This conclusion is reinforced by my consideration of the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010. I explain my reasons for these findings below, and also the options now available to the Council, which are to either withdraw the Plan or to receive a formal report from me under Section 20(5) of the 2004 Act recommending non-adoption.
 9. Given that this is a fundamental obstacle to further progress on the Plan I deal solely with policy H6 in these Interim Findings. Additionally, it will take time for another Local Plan to be completed, during which the planning and other circumstances are likely to have changed. Therefore, I do not consider that it would be relevant or helpful to make any comments now on the other housing and legal compliance matters because they would soon be overtaken by events.

Policy H6 – Provision for Travellers

Policy H6 – as submitted

10. The submitted policy sets out in its first table the number of permanent pitches required over most of the plan period, namely 64 pitches by 2019 and 70 pitches by 2027. The table also identifies 58 pitches as a "*LDP allocation*", although paragraph 5.47 of the Plan clarifies that these are existing pitches. The policy's second table lists these 58 existing pitches, which it calls "*designated*" sites. The policy goes on to set out four sequential criteria for considering proposals for new provision and then, lastly, a further four criteria for the assessment of proposals for traveller provision.
11. Paragraph 5.48 of the Plan explains that the policy's identified need will be met by considering proposals through the development management process using the policy's sequential criteria. In addition, it says that the Council will review the allocation and requirement for pitches "*during the plan period at an appropriate time in the future when new evidence becomes available*".
12. The evidence for policy H6 was primarily based on a 2009 Gypsy and Travellers Accommodation Needs Assessment (GTAA) (EB007) and on a critical analysis of a trend-based 2013 update by the Council (EB073).

13. There are no 'saved' policies in the Council's present 2005 Maldon District Replacement Local Plan concerning gypsies or travellers.

Policy H6 – new evidence and suggested modifications

14. Following the Exploratory Meeting, in August 2014 the Council submitted a new GTAA, dated July 2014, undertaken by the Essex Planning Officers Association (EB007b) but which involved the Council (paragraph 1.3). Table 83 of the 2014 GTAA identified a need for 32 additional Travellers pitches between 2013 and 2028 as compared to the policy's indication of a need for 12 additional pitches by 2027 (70 required minus 58 existing = 12 additional pitches). At that time the Council said that it would "*require more time to consider the conclusions and implications*" of the 2014 GTAA. It also suggested modifications to delete the policy's pitch requirements (i.e. the deletion of the first table and associated explanatory text) because these had "*been superseded by the GTAA*", and a clarification that the Council would "*undertake a formal/focussed review of policy H6 in 2016 to identify an appropriate provision for Travellers in accordance with the NPPF and associated guidance.*"
15. The Council confirmed in October 2014 that its reference to "*more time*" was to the formal review of policy H6 in 2016, and that the 2014 GTAA represented "*the latest and most robust evidence*" on pitch requirements. It also said that it would "*need to consider and take into account local circumstances and evidence*" on the 2014 GTAA as well as a possible change in the national planning definition of Travellers.
16. The Council suggested before the hearing that policy H6 should be modified to make clear that a proposal would have to be consistent with relevant national policy and guidance. At the hearing the Council told me that it had objections to the 2014 GTAA. It subsequently set these out and said that they had not been satisfactorily resolved and so further work on the 2014 GTAA was needed before an adequate evidence base could be presented. I explain more about these objections later.
17. At the time of the hearing the suggested review of policy H6 (paragraph 5.48) was not included in the January 2014 Local Development Scheme (LDS) [SD09], but the Council subsequently included it in March 2015 as a separate Traveller Development Plan Document (i.e. a Local Plan). Its LDS now says that work on this Local Plan will commence early this year, with submission expected in late 2016 and adoption anticipated in early/mid 2017.
18. After the hearing, the Council suggested further modifications to make clear that the "*designated*" sites in the policy were the identification of already existing sites, and to alter the two sets of policy site criteria by moving the sequential criteria to the end and to indicate that they form a "*preferred*" sequential approach.

The soundness of policy H6

Planning policies

19. Paragraph 4 of the National Planning Policy Framework (the NPPF) says that it should be read in conjunction with the Planning Policy for Traveller Sites (the PPTS) and that plan preparation for travellers "*should also have regard to the*

policies in this Framework (i.e. the NPPF) so far as relevant." Paragraph 1 of the PPTS says that it should be read in conjunction with the NPPF.

20. The NPPF says that Local Plans should identify and meet objectively assessed housing needs (paragraphs 14 and 17's third core principle). It goes on to say at paragraph 158 that a Local Plan should be *"based on adequate, up-to-date and relevant evidence."* NPPF paragraph 159 requires local planning authorities (LPAs) to have a clear understanding of housing needs in their area and to address the need for all types of housing. Footnote 34 to this paragraph says that the PPTS sets out how travellers' accommodation needs should be assessed.
21. Paragraph 182 of the NPPF says that I should assess, amongst other matters, whether the Plan is 'sound', three of the criteria for which are:

"Positively prepared - ... based on a strategy which seeks to meet objectively assessed development and infrastructure requirements ...";
"Justified – based on proportionate evidence"; and
"Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework."
22. The PPTS says at paragraph 4 that the Government's aims in respect of traveller sites are *"for LPAs to ensure that their Local Plan includes fair, realistic and inclusive policies"*, *"to address under provision and maintain an appropriate level of supply"*, ... and ... *"to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure."*
23. Paragraph 6 of the PPTS says that LPAs should *"use a robust evidence base to establish accommodation needs to inform the preparation of local plans."* And paragraph 8 says that LPAs *"should set pitch targets for gypsies and travellers ... which addresses the likely permanent and transit accommodation needs of travellers in their area, working collaboratively with neighbouring LPAs."*
24. In producing a Local Plan, paragraph 9 of the PPTS says that it should:

"a) identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets" and

"b) identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15."
25. Paragraph 10 of the PPTS says that there should be criteria based policies to guide both land supply allocations and, where there is no identified need, applications for proposals. Both sets of criteria *"should be fair and should facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community."*
26. Paragraph 153 of the NPPF makes clear that the Government's preferred approach is for each local planning authority to prepare a single Local Plan for its area. Additional Local Plans should only be used where clearly justified.
27. The Government consulted late last year on proposed changes to the national planning policy and guidance on travellers. The consultation proposed to

change the planning definition of travellers so that it would not include those who have ceased to travel permanently. The Council said that this change could potentially have implications for the District's requirements for additional pitches in the future. However, the Government has not yet responded to the consultation and I do not have any assessment of its potential impact on the 2014 GTAA need figures. Therefore, I can give little or no weight to this possible national policy change.

Soundness assessment and conclusions

The policy's sequential criteria

28. The sequential criteria in the policy require allocations and proposals to seek locations firstly in, or attached to, existing sites either through intensification or expansion, then to seek locations within settlements and strategic growth areas, and only then could any other suitable site be considered.
29. The sequential criteria are so strict that they would, in effect, prevent any planning application being granted permission on a site other than those in the first three criteria because it would be very difficult and time consuming for an applicant to successfully prove that none of the sequentially preferred locations were available. It would also make finding sites to allocate for travellers very difficult. I am doubtful that sites would be found in strategic growth areas given the advanced stage they have already reached, and that finding sites within settlement boundaries could similarly be difficult because this Plan tightly defines those boundaries.
30. For these reasons I conclude that the policy's sequential criteria are not fair or reasonable and that they would not facilitate the traditional and nomadic life of travellers (PPTS 10). Therefore, this aspect of policy H6 is not sound as it is not consistent with national policy in PPTS 10.
31. However, I consider that it would be possible for me to recommend a main modification to rectify this unsoundness. The Council's suggested main modifications on them would have made these policy criteria sound.

The policy's evidence base and allocations

32. At the hearing the Council said that it had not had a direct role in the production of the 2014 GTAA and that it had some objections to it. However, the Council said that it had no better figures and that the 2014 GTAA represented the latest available evidence on the policy. The Council's hearing statement on policy H6 and the 2014 GTAA said that it "*accepted that there is likely to be a higher gypsy need in the District than previously identified, hence a need to allocate new gypsy sites*" (paragraph 9.3).
33. After the hearing the Council clarified what its objections were to the 2014 GTAA. These were, in summary, that the figures of the movement from bricks and mortar to pitches and the assumption about rates of household formation were too high and did not reflect the situation locally in the District; that the waiting list figures were inaccurate, too high, and again did not reflect the situation locally in the District; and that the figures assumed public sites were fully used and would not contribute to supply in the future, which was incorrect.

34. I asked the Council how its objections might affect the need figures in the 2014 GTAA, but I did not receive sufficient information to enable me to accurately assess the overall impact. But it does seem that the objections, if correct, could reduce the 2014 GTAA need figures for the District. The Council said that further work on the 2014 GTAA was necessary before it could be satisfied that it had an adequate evidence base to present for examination, and that it wished to take into account findings from both the 2014 GTAA and its own objections to it when preparing the future Traveller Local Plan (LP).
35. As I have said, the policy's permanent pitch numbers for traveller provision were based on out-of-date evidence and cannot be relied upon, and the Council has asked me to recommend their deletion. Although there is now a submitted up-to-date 2014 GTAA which has been prepared collaboratively with neighbouring LPAs, the Council told me that it is inaccurate and requires further work. Whilst I conclude that the 2014 GTAA shows that more traveller pitches are required to be allocated in addition to those in the policy (as the Council acknowledged) there are unresolved question marks over its methodology and results.
36. The figures that I have seen all indicate that there is a past unmet need (because the 2014 GTAA need figures start from 2013) which should be met now and also a future increasing need, both of which require site allocations. In the context of traveller need in Essex, Maldon's new pitch provision requirement is higher than eight other LPAs (out of total of 14 LPAs) in the contested 2014 GTAA (Table 83). Thus, my sense of traveller need is that it is not large in numerical terms, but that a clear need exists. This is not contested by the Council which has accepted, as I said, that there is likely to be a higher need than previously identified in the submitted policy H6.
37. I consider that the policy is not justified because it is not properly based on proportionate evidence which is trustworthy and accurate. The evidence base of this policy's traveller provision is not adequate because it does not include robust or up-to-date evidence which establishes the accommodation needs of travellers as required by the NPPF (14, 17 and 158) and the PPTS (6). The Council therefore does not have a clear understanding of housing needs in its area, contrary to paragraph 159 of the NPPF.
38. The consequence of this is that the Plan does not address the need for all types of housing (NPPF 159), and the pitch numbers that it sets out in policy H6 for travellers are incorrect (PPTS 8). The Plan does not identify a supply of specific deliverable traveller sites sufficient to provide five years' worth of sites, or identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15 (PPTS 9). Policy H6 is not, therefore, consistent with national policy.

Justification for an additional Local Plan

39. The Plan proposes to deal with traveller provision by reviewing the allocation and requirement for pitches during the plan period. The Council said during the Examination that this would be done by an additional Traveller LP as set out in its LDS. Therefore, I next consider whether this additional Local Plan is clearly justified (NPPF 153 and Planning Practice Guidance [PPG] ID 12-012).

40. The PPG gives as examples of additional Local Plans a separate site allocations document or an Area Action Plan, both of which would flow from the evidence and guiding policies contained in an overall single Local Plan and would thus be discrete areas of additional, consequential, detailed work. The Planning Inspectorate has accepted the submission of Core Strategies for examination on the basis that work on them has already been started and that any additional Local Plans, such as a site allocations document, would be securely founded on the Core Strategy's evidence and strategic guiding policies.
41. The Council said that this additional Local Plan was necessary for two reasons. Firstly, because it would take considerable time to review the latest evidence, to consider its implications, and to undertake further site assessment work and local consultations if new allocations are required. And secondly, flowing from the first reason, the Council therefore did not wish to delay further the adoption of other important strategic policies in the Plan such as housing growth and infrastructure delivery (paragraph 9.6 of its policy H6 Statement).
42. The first reason is a tacit acknowledgement by the Council that it has not complied with national policy in the production of the submitted Plan. The Council has not produced adequate, up-to-date and relevant evidence on traveller provision. Consequently, it does not have a clear understanding of housing needs in its area and the Plan does not address the need for all types of housing. The Plan does not set out robust targets or pitch numbers to guide a later additional Local Plan.
43. Provision for travellers is an important and vital component of this Plan because it deals with housing provision in the District. The failure to produce a Plan which is positively prepared, justified, and consistent with national policy on traveller provision is not the "clear justification" required by national policy for additional Local Plans in accordance with NPPF 153. This failure cannot be used as a justification for a later additional Local Plan.
44. The Council further explained at the hearing its second justification for a later additional Traveller LP. It said that delaying the Plan would not be in the public interest due to the consequential delay in meeting the need for market and affordable homes. It referred to the court case of *Grand Union Investments Ltd v Dacorum Borough Council*¹ as setting out the importance of having a Local Plan in place to take uncertainty out of the system even though a housing need assessment had not been properly completed. In that case, the examination had concluded that the housing needs for the settled community had not been fully assessed for the plan period, but that the assessment and allocations that were in the Plan were sufficient to meet the need until a review took place. The Court agreed with that approach.
45. The Dacorum case can be distinguished from the present case on its facts. This is because, firstly, it dealt with the market and affordable housing land needs for the settled community and not with travellers' housing needs. And, secondly, because in Dacorum there were sufficient allocations to last until later in the plan period by which time, if the allocations turned out to be inadequate, the review would have been completed. In this case there are no

¹ *Grand Union Investments Ltd v Dacorum Borough Council* [2014] EWHC 1894 (Admin) (12 June 2014)

allocations of sites for travellers which will cover the period until the Traveller LP has been completed.

46. I am not convinced that there is a public interest which provides a clear justification for an additional Travellers LP for three main reasons. Firstly, the public interest is determined by the Government which has set out its policies on national priorities taking account of economic, environmental, social and other factors. The Government has decided that Local Plans should meet objectively assessed needs (NPPF 14). For housing needs in Local Plans, LPAs should have a clear understanding of all the various elements of those needs and address them, and this includes the housing needs of travellers (NPPF 158 and the PPTS). The public interest does not, therefore, allow for the exclusion of travellers' housing needs in a Local Plan's overall assessment of housing needs as has been done here.
47. Secondly, the housing land supply for the settled community would, in any event, still increase. As I have noted previously, the Council is working proactively with the developers and landowners of most of the proposed housing allocation sites in the Plan and it has produced draft Masterplans for the two Garden Suburbs. Some planning applications have already been granted permission and more are soon to come forward for consideration. Thus, the Council is already implementing the Plan's allocations for market and affordable homes and so any delay in meeting the housing needs of the settled community would be minimal.
48. And, lastly, it would not be in the public interest to set a precedent for the exclusion of traveller housing need evidence and provision in a Local Plan which deals with overall housing needs. It could encourage other LPAs to avoid producing or submitting robust evidence on the assessment of travellers' housing needs and/or to avoid making difficult decisions on the allocation of any required traveller sites or pitches.
49. Evidence submitted during the Examination by local people highlighted that that, despite pressure to do otherwise, the Council has repeatedly not addressed traveller site allocations in a responsible manner; that it has ignored national planning policies on travellers' accommodation for many years; and that traveller provision in the District has primarily been by planning appeal. The July 2014 Exploratory Meeting and subsequent suspension was caused partly by my serious concerns about policy H6, to which the Council responded by submitting the 2014 GTAA. The Council now criticises its submitted 2014 GTAA as being inadequate. And the Council's future Traveller LP was only included in its LDS after I raised the point at the hearing session.
50. It does appear, therefore, that there are well founded reservations about the Council's track record in producing evidence of need for, and then delivering, traveller sites. Given this, I am not convinced that the Council will actually deliver an additional Traveller LP on time or possibly even at all. That history of past poor performance on this issue adds weight to my finding that there is not a clear justification for an additional Local Plan on this subject.
51. I am aware that my colleagues in some other examinations have taken a different course of action and have agreed to a later additional Traveller LP.

But in the cases that I am aware of my colleagues have had adequate evidence of traveller housing needs which enabled them to make recommendations which could set clear targets and pitch numbers required over the plan period to guide the additional Local Plan. That is not the case here as there is no objective assessment of need or development requirements for housing travellers. Moreover, I have reservations that the Council is fully committed to the production of an additional Local Plan for travellers' needs, and I consider it more likely than not that travellers' housing needs would remain unfulfilled.

52. I consider, therefore, that the reasons put forward by the Council are not a clear justification as required by the NPPF (153) and the PPG for travellers' provision to be undertaken in a later additional Local Plan.

Conclusions

53. I consequently conclude that the Plan is not sound because policy H6:

- is not **positively prepared** in that it does not meet objectively assessed needs or development requirements for housing for travellers;
- is not **justified** by proportionate evidence as what evidence there is either is out-of-date or cannot be relied upon; and
- is not **consistent with national policy** because it does not deliver sustainable development in accordance with the NPPF or with the PPTS.

54. I also conclude that there is no clear justification as required by paragraph 153 of the NPPF for the Plan's proposal to set out traveller provision in an additional Local Plan at a later date. This is an additional reason for me to conclude that the Plan and policy H6 is not sound.

Potential Main Modifications and other remedies

Main Modifications

55. I have considered whether I could recommend main modifications to rectify the unsoundness. The lack of adequate evidence means that I would have to recommend a main modification to delete the pitch requirement numbers (70 pitches by 2027) in the submitted policy because that is based on out-of-date and unreliable evidence of need. I cannot modify policy H6 to set revised pitch number requirements to meet traveller housing need over the plan period because there is no robust or adequate evidence of that need.
56. I cannot modify the policy to allocate sites for travellers for two reasons. Firstly, because I do not have any dependable figures which quantify the housing need over the plan period. And, secondly, because I have no knowledge of, or evidence of, any possible sites or pitches which could be allocated. In short, without a reliable, up-to-date and robust evidence base I have no justification or basis for recommending any main modifications which might set out pitch number requirements or site allocations.

57. The Inspectorate's '*Procedural Practice*'² for Local Plan examinations notes that there will be some plans which are "*incapable of being made sound through main modifications*" (paragraph 11). Paragraph 4.27 similarly says "*there could be circumstances where the Plan is so flawed that it is in effect irreparable.*" I consider that to be the case for this Plan due to the serious soundness failings in its policy H6.
58. I conclude that it is not possible for me to recommend any main modifications which would remedy the identified unsoundness, except for those suggested by the Council which would make the selection criteria fair and to delete the present pitch requirements, although this would not address the other unsoundness issues I have identified.

Suspension of the Examination

59. Another option would be to suspend the Examination, either in whole or in part (for policy H6) to allow the Council time to either allocate sufficient traveller allocations in this Plan to 'tide over' provision until the new Traveller LP is produced, or to set out the required pitch numbers over the plan period.
60. Allocating sites would require a very long suspension of the Plan (either in whole or in part just on this policy) in order to provide the evidence of need, to find and assess potential sites, to carry out further sustainability appraisal work, and to consult upon those sites selected. Both the Inspectorate's and my own experience is that that this would take at least one and a half years (which matches the Council's own LDS estimate), but it could take longer.
61. The Inspectorate's '*Procedural Practice*' advises (paragraphs 8.11, 8.12 and 8.16) that any delay beyond six months usually indicates that the Plan should be withdrawn and re-submitted, and that it is generally inappropriate to try to rectify a seriously flawed document through suspension. I consider that advice to be directly applicable here, whilst appreciating that in other circumstances Inspectors have permitted longer suspensions.
62. A partial suspension just on policy H6 would not comply with Government advice in the NPPF and the PPTS that housing in a Local Plan should be dealt with as a whole so that the LPA has a clear understanding of overall needs, and so it can meet and address those needs comprehensively. As I have said, the Council is in the process of proactively granting planning permissions on its strategic housing allocations, and thus the opportunity of finding traveller sites within those areas will be lost if the traveller evidence and allocations are not progressed. The key point is that the allocation of traveller sites needs to be considered at the same time as the other settled community housing allocations, not one after the other, so that both are co-ordinated and so necessary infrastructure can be provided.
63. During such a long suspension the evidence base for all the other policies in the Plan (e.g. for market and affordable housing, employment and retail needs) would age and potentially become out-of-date, and thus it is possible that these would need to be updated and the relevant policies modified. The Examination has already been provided with a large number of updates to

² A public document available on the Planning Portal at:
<http://www.planningportal.gov.uk/planning/planningsystem/localplans>

evidence, such as that on the 2012-based household projections for England 2012-2037 published in February 2015, and the SHMA is currently on its third edition. It is already difficult for participants to understand the new evidence, updates to existing evidence, and consequential suggested modifications since the Plan was submitted in April 2014. Any more would be very confusing.

64. Paragraph 8.16 of the Inspectorate's '*Procedural Practice*' says that a delay to commission new evidence suggests that the evidential base for the Plan is not sound and that it risks, as I believe is likely to occur here, major changes to the submitted Plan. Making what might be significant modifications to change the Plan could be unfair to those who engaged on the basis of the Plan as submitted and who might be denied the opportunity to affect the Plan's strategic direction, and thus its consequent detail, at its early formative stage.
65. This Examination has already been suspended once in July 2014 to enable the Council to try to resolve traveller evidence and allocations, and it has failed to do so. I have seen nothing to convince me that another suspension would produce the required action by the Council to comply with clear Government policies on meeting housing need and travellers' accommodation.
66. A variation would be to suspend the Examination (in whole or in part) to enable the Council to set out only the required pitch numbers to meet traveller housing needs over the plan period. This would not take as long, but it would still take an appreciable length of time, probably in the region of one year or more allowing for further sustainability appraisal work and public consultation. However, my objections expressed in the paragraphs above would apply to this suspension option as well. And, crucially, this option would do nothing to allocate travellers' sites and pitches.
67. I conclude that suspending the Examination, either in whole or in part, for lengthy periods of time whilst the Council attempted to resolve the soundness failures in policy H6 would be contrary to Government planning policies on housing need in the NPPF and the PPTS, and to the Inspectorate's '*Procedural Practice*' for examinations. It would not be fair to travellers in current and future housing need as their need for sites or pitches would not be properly planned in a co-ordinated, comprehensive fashion.

Equality Act 2010

68. Policy H6 relates to the provision of sites or pitches for Travellers, some of whom will be Romany Gypsies or Irish Travellers, each of which is a distinct racial group, and who form a racial group for the purposes of Section 9 of the Equality Act 2010. These groups are ethnic minorities that experience poor social outcomes and discrimination, and they are severely disadvantaged when compared to the general population in terms of accommodation, health, life expectancy, infant mortality and education. Research has shown that the lack of authorised traveller sites perpetuates many of these problems. Equality duties under the Equality Act are an integral and important part of the mechanisms for securing the fulfilment of the aims of anti-discrimination legislation.³

³ All from *Moore & Anor v Secretary of State for Communities and Local Government & Ors* [2015] EWHC 44 (Admin) (21 January 2015).

69. Policy H6 will particularly affect this racial group because it does not propose to allocate any pitches or sites and because it introduces criteria for assessing the merits of proposals and allocations for pitches and sites.

The Public Sector Equality Duty (the PSED)

70. In exercising my function as the person appointed by the Secretary of State to carry out this independent examination of the Plan, I have given particular attention to ensuring that I comply with the Equality Act, particularly section 149 on the PSED.
71. The PSED under section 149 requires me to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation (and other prohibited conduct); to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to foster good relations between people who share a protected characteristic and people who do not share it.
72. In considering the PSED I have directed myself to the wording of the Equality Act and the tests set by the Courts. The Council submitted a Legal Opinion on the application of the Equality Act with particular reference to the Moore court case⁴ and other representors also submitted their views, all of which I have taken into account.
73. There are two possible decisions to consider under the PSED. The first is the impact of the housing policies in the Plan if it were to be adopted. In this decision policy H6 would include the two main modifications that I have previously discussed, both of which were suggested by the Council – one to remove the pitch number requirements because of the lack of evidential justification, and one to make the site selection criteria fair. Because there is no adequate evidence of housing need for travellers the policy could not set an overall specific requirement over the plan period for sites or pitches, and nor could it allocate sites or pitches to meet travellers' housing needs. These tasks would be carried out in the later Traveller LP.
74. The policy's effect would be a serious disadvantage to travellers because there would be no assessment of their housing need and no provision of sites or pitches to meet that housing need. Thus there would be no certainty that sufficient sites for travellers' housing needs could be found in the District in suitable locations. Paragraph 25 of the PPTS says that where an up-to-date 5-year supply of deliverable gypsy and traveller sites cannot be demonstrated then that is a significant material consideration when considering applications for the grant of a temporary permission. But that temporary provision is not intended to be a substitute for permanent traveller allocations in a Local Plan, and nor is there any guarantee that its application would fully mitigate the lack of allocated sites or pitches.
75. Dealing, at least in the short term, with travellers' housing needs through individual planning applications would mean, at best, uncertainty and delay in the provision of homes and, at worst, that some travellers would be unable to find the home they need in the District until a new Traveller LP is produced and sites are allocated. The latter scenario is highly likely from past

⁴ As for footnote 3 above.

experience of traveller provision in Maldon.

76. By contrast, market and affordable housing for the settled community would have specifically allocated sites in the other policies in the Plan in accordance with an objective assessment of their housing needs and so these people, unlike travellers, would be able to relatively easily find the homes they need over the plan period. Thus the adoption of the Plan's housing policies would disadvantage travellers as compared to the settled community. This difference between the settled community and travellers in the provision of their homes in the District is directly contrary to Government planning policies, the overarching aim of which are to ensure fair and equal treatment for travellers in the provision of sites (PPTS paragraph 3).
77. The overall result of the adoption of the Plan's housing policies would not advance equality of opportunity for a home between travellers and the settled community. The Plan would not remove or minimise the disadvantages that travellers face in finding suitable sites or pitches for a home, and nor would it take the proper steps necessary to meet their housing needs. It would add to, and not eliminate, discrimination against travellers. It would not foster good relations between travellers and the settled community because of the likelihood of increased planning disputes following the submission of planning applications or enforcement against unauthorised pitches.
78. The later Traveller LP is primarily necessary because the Council has not prepared an adequate, robust and reliable evidence base of travellers' housing needs and allocations for this Plan in accordance with national planning policies. This failure therefore cannot be used as a justification for, or a mitigation of, the adverse impact of the policy on equality considerations. In other words, the fact that a later Traveller LP will be produced is not a mitigating factor because its purpose is to carry out the missing work that should have been done in this Plan.
79. For the reasons I set out earlier in my soundness assessment, I do not consider that modifications or suspension of the Local Plan would result in any beneficial impact to the protected group in terms of eliminating discrimination, advancing equality of opportunity or the fostering of good relations.
80. Because the lack of authorised traveller sites and pitches perpetuates the poor social outcomes and discrimination experienced by Romany Gypsies and Irish Travellers I regard this as being a serious adverse outcome of the policy so far as equality impacts are concerned.
81. The second decision is my conclusion that policy H6 is not sound and that I cannot rectify it by recommending main modifications or by other means, such as by suspending the examination.
82. I have concluded that there is no clear justification for an additional Traveller LP as required by Government policy. I am also not convinced that the Council has a strong commitment to the production of a separate Traveller LP for the reasons I have previously explained. There is a reasonable probability that either it would not be produced within the timescale set out in the LDS, or that it would not be produced at all.
83. Moreover, the Government intended that travellers' accommodation needs

should be considered within the context of the general consideration of overall housing needs within the District. This is so the Council has a clear understanding of those needs and so they can be addressed comprehensively and together. For instance, policy H6 expresses a preference for traveller sites to be located within strategic growth areas and this can most easily be done within a Local Plan which deals with all the housing needs for the District.

84. The decision would achieve the proper consideration of travellers' accommodation needs in the District in accordance with the Government's planning policies in a comprehensive manner by considering all housing need, addressing it, and meeting it. It is the most appropriate means available to achieve that aim, and it is fair when balanced against the disadvantage to travellers that would be suffered if the Plan's housing policies were to be adopted as the Council has proposed with its suggested modifications.
85. This decision would equally affect both travellers and the settled community in that neither group would have allocated sites to meet their housing needs. It would be a positive decision because it would ultimately eliminate discrimination and advance equality of opportunity under section 149. In the longer term the proper and fair provision of travellers' sites and pitches would lead to better relations with the settled community.
86. If the Plan's housing policies were to be adopted then the equality impact would be very serious as it would adversely affect the possibility of Romany Gypsies and Irish Travellers accommodation needs being met in the District. I consider that my decision to find the Plan's policy for travellers' accommodation unsound is the best way of now resolving that serious equality impact, and that is sufficient to outweigh any short term unfavourable equality impact that might consequently arise from my decision.

Indirect discrimination under Section 19

87. Indirect discrimination under Section 19 of the Equality Act is when a person 'A' discriminates against another person 'B' if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic (which is 'race' in this case) of person B. In layman's terms, indirect discrimination is when there is a practice, policy or rule which applies to everyone in the same way, but which has a worse effect on some protected people than on others.
88. The Plan would apply to everyone in the District but, as I have said, the housing accommodation needs of travellers would not be addressed, unlike those of the settled community. It is not for me to decide whether the Plan as submitted with the modifications proposed by the Council would indirectly discriminate – that is a matter for the Courts. But I am concerned that there is a real risk that that might be the end result if the Plan's housing policies were to be adopted. I do not come to any conclusion or finding on this point, but it is a matter to which the Council should give the most serious consideration.

Overall Findings and Future Options

89. Policy H6, and thus the Plan, has a number of serious deficiencies in relation to soundness for the reasons set out above which mean that I would have to

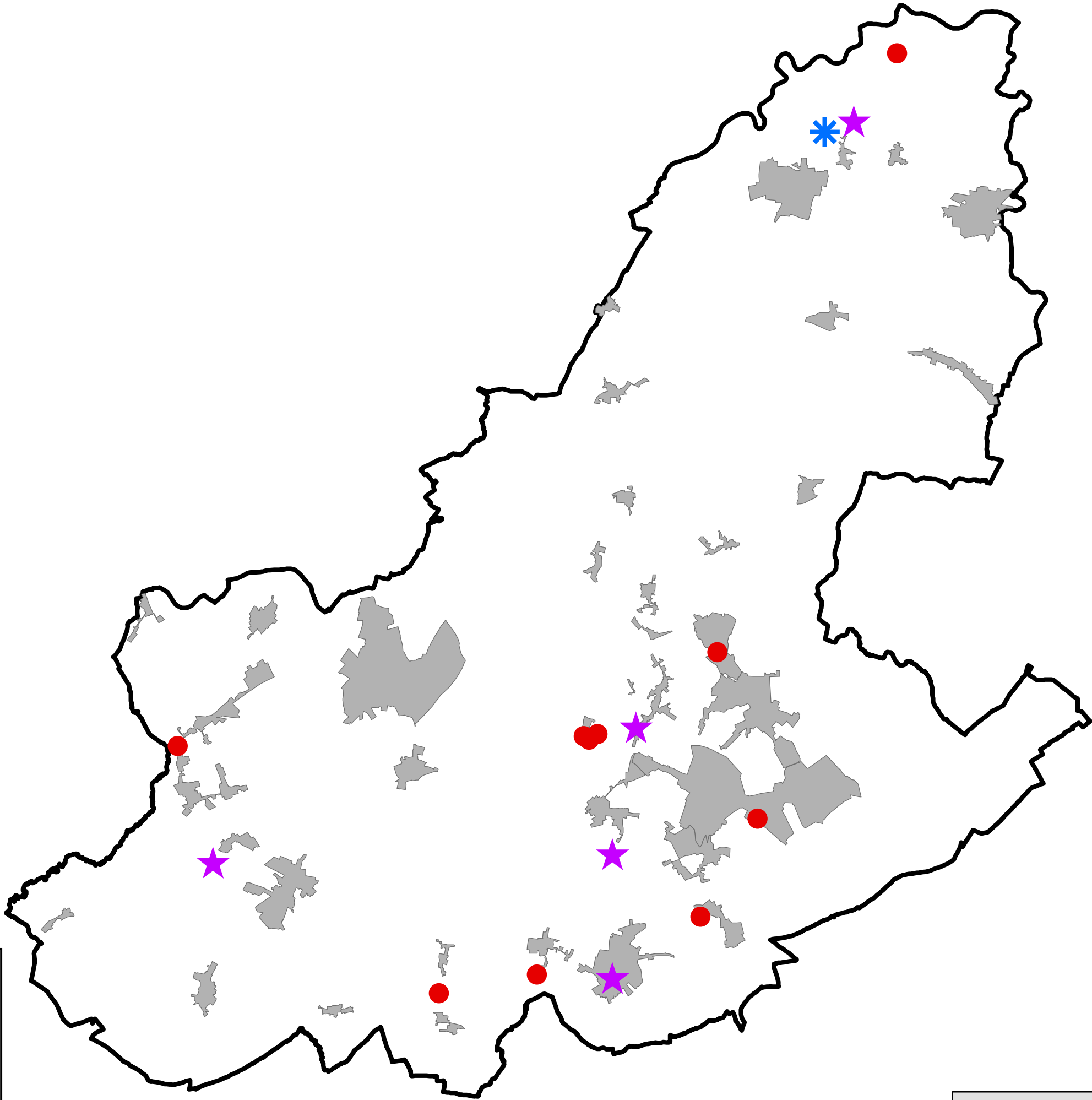
recommend non-adoption of it in any future report that I submitted under Section 20(5) of the 2004 Act. Because I do not have a reliable, up-to-date and robust evidence base I have no justification or basis for recommending any main modifications which might set out pitch number requirements or site allocations. Suspending the Examination, either in whole or in part, for long periods of time whilst the Council attempted to resolve the soundness failures in policy H6 would be contrary to Government planning policies on housing need in the NPPF and the PPTS, and to the Inspectorate's '*Procedural Practice*' for examinations. It would not be fair to travellers in current and future housing need as their need for sites or pitches would not be properly planned in a co-ordinated, comprehensive fashion.

90. I have paid due regard to the PSED under the Equality Act 2010. If the Plan's housing policies were to be adopted (with modifications) then there would be a serious adverse outcome in equality terms for the protected Romany Gypsies and Irish Travellers racial groups. That further reinforces my conclusion that policy H6 and the Plan's housing policies are not sound.
91. There are two options for the conclusion of this Examination. Firstly, the Council may choose to receive my report on the Plan, which will not deal with any other planning issues, and which, in accordance with s20 (7A) of the 2004 Act, would recommend non-adoption of the Plan.
92. Secondly, and alternatively, the Council may choose to withdraw the Plan under s22(1) of the 2004 Act and so return to the preparation stage (s33A(3)(a) of the 2004 Act). It would then be able to rectify the soundness deficiencies in any new Local Plan, taking account of concerns raised in the preparation of this Plan and in the light of any new information and evidence on the future development needs of the District.
93. I would be grateful if the Council would confirm as soon as possible (via my Programme Officer) its decision as to whether it wishes me to issue a non-adoption report or whether it wishes to withdraw the Plan. In the meantime, it would obviously be inappropriate for me to continue with the further hearing sessions on the remaining policies in the Plan which I had tentatively scheduled in my letter of 9 February 2015 (IED15) for the end of June 2015. These will not now go ahead.
94. The Council's Examination website should be updated to reflect the situation. A copy of these Interim Findings should be placed on the website and made available on request.

David Vickery

Inspector

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Key

- ★ Travelling Showpeople Private Sites
- G&T Private Sites
- ✳ G&T Public Sites
- Urban Areas

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LOCAL PLAN ADVISORY COMMITTEE – 16 DECEMBER 2015

Title of report	LOCAL PLAN – RISK MANAGEMENT
Contacts	<p>Councillor Trevor Pendleton 01509 569746 trevor.pendleton@nwleicestershire.gov.uk</p> <p>Director of Services 01530 454555 steve.bambrick@nwleicestershire.gov.uk</p> <p>Head of Planning & Regeneration 01530 454782 jim.newton@nwleicestershire.gov.uk</p> <p>Planning Policy Team Manager 01530 454677 ian.nelson@nwleicestershire.gov.uk</p>
Purpose of report	To advise members of updates in respect of government policy and legislation and how this might impact upon the Local Plan and to provide an update in respect of the management of risk associated with the Local Plan.
Council Priorities	<p>These are taken from the Council Delivery Plan:</p> <p>Value for Money Business and Jobs Homes and Communities Green Footprints Challenge</p>
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p>	<p>None</p> <p>None</p> <p>A risk assessment of the project has been undertaken. As far as possible control measures have been put in place to minimise these risks, including monthly Project Board meetings where risk is reviewed</p> <p>None</p> <p>None</p>

Transformational Government	Not applicable.
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory
Comments of Deputy Monitoring Officer	The report is satisfactory
Consultees	Local Plan Project Board
Background papers	None
Recommendations	<p>THAT THE ADVISORY COMMITTEE:</p> <p>(I) NOTES THE UPDATE IN RESPECT OF HOW CHANGES TO NATIONAL POLICIES MIGHT IMPACT UPON THE LOCAL PLAN ; AND</p> <p>(II) NOTES AND COMMENTS ON THE CURRENT RISK ASSESSMENT</p>

1.0 INTRODUCTION

- 1.1 As members will be aware, a key test in terms of the ‘soundness’ of the Local Plan will be that it is consistent with national policies.
- 1.2 It is the case that the planning system and national policies have, in recent years, undergone significant changes. Such changes are still ongoing which is problematic for the preparation of local plans in order to ensure that they are consistent with national policies. There are many examples of where local plans have had to be changed quite late on in the process to reflect changes in national policies. It is reasonable to assume that this council’s local plan may similarly be affected throughout the course of its preparation.
- 1.3 This report seeks to highlight for members some recent changes, actual or proposed, which may impact upon the local plan.
- 1.4 Changes in national policy represent a potential risk to the local plan. However, there are many other potential risks. A report to the meeting of the Local Planning Advisory Committee on 9 September 2014 set out for members the risk register that was in place for the local plan. This report provides an updated risk register to take account of changes since the earlier report, including reflecting where it is now in the process.

2.0 NATIONAL POLICIES

Affordable Housing

- 2.1 Members will recall that at the time that the local plan was being considered by Council it was reported that the Government's proposed approach in respect of affordable housing had been successfully challenged in the High Court.
- 2.2 The Government had proposed to have a threshold above which affordable housing could be required of 10 dwellings or more. This had been taken in to account in preparing the council's draft local plan.
- 2.3 The report to Council noted that it was understood that the government was considering an appeal against the decision of the High Court. This appeal has now been confirmed following a statement from government on 28 September 2015.
- 2.4 It is not clear as to when this matter is likely to be considered by the Court of Appeal and so the matter will be kept under review.
- 2.5 In the event that the government is successful in its appeal then the local plan as drafted would (subject to considerations raised in response to the current consultation) be consistent with national policy. However, in the event that the challenge is unsuccessful then the council could consider alternative approaches which could include having lower thresholds than those currently proposed.

Provision for gypsies and travellers

- 2.6 The draft Local Plan proposes that a separate allocations Development Plan Document be prepared to identify sites for gypsies and travellers. This matter is the subject of a separate report elsewhere on the agenda for this meeting.
- 2.7 The report to Council noted that a similar approach was proposed by Maldon District Council but that the Inspector had raised concerns. Maldon Council invited the Secretary of State to intervene and the matter was then called in by the Secretary of State. It is understood that no decision has been made on this issue at this time but officers will continue to be keep it under review.

Housing and Planning Bill

- 2.8 The draft Bill was presented to parliament on 13 October 2015. It contains a number of matters which maybe of relevance to the local plan.

Starter Homes

- 2.9 Clause 3, sub section 1 states "*An English planning authority must carry out its relevant planning functions with a view to promoting the supply of starter homes in England*"
- 2.10 Starter Homes are defined as new homes available for first time buyers under 40 at 20 per cent less than the market value, with an initial price cap at £450,000 in London and £250,000 outside. Councils will have a duty to promote Starter Homes, with an option for the Government to introduce regulations to determine that councils only grant planning

permission if a specific Starter Home requirement is met. Regulations may vary this requirement for different areas.

2.11 The explanatory notes to the Bill and productivity plan indicate that this is likely to include ensuring that every "*reasonably sized housing site*" includes a proportion of Starter Homes by requiring a S106 planning obligation to be entered into.

2.12 There are a number of issues which remain to be resolved in respect of this, including:

- Will it be necessary to determine how many starter homes are likely to be required in an area and if so will this need to be done as part of Strategic Housing Market Assessment (SHMA)?
- Will there be any site threshold below which starter homes will not be required? The explanatory notes would suggest so but what does a "reasonably sized site" look like?
- What is the relationship between starter homes and affordable housing and hence any targets for both of these?
- Will having a certain number of starter homes have an impact upon viability issues? If so will this mean that affordable housing targets are secondary to provision of starter homes and so targets will be less than might have been the case?
- Could it have an impact on the overall need for housing and so require revisiting the SHMA?
- Will the proposal for starter homes result in delays to development if developers decide to wait for greater clarity on what this will involve and/or seek to amend existing agreements?

2.13 Depending upon the answers to the above questions it is possible that the approach currently envisaged in the draft Local Plan may have to change. For example, the inclusion of a target for starter homes as well as affordable homes. This will need to await passage of the Bill and then the subsequent regulations before it is clear what will be required. This could result in modifications before or during the examination stage but should not delay the Local Plan at this stage.

Self-build and custom housebuilding

2.14 There will be a new duty on councils to grant planning permission for enough sites to meet the demand for custom-build and self-build in a local authority area arising from the local self-build and custom build register which was introduced as part of the Self-build and Custom Housebuilding Act 2015. The Bill includes a clause to enable the Secretary of State to make regulations about how and when authorities can apply for an exemption from the duty.

2.15 The Bill goes on to clarify that the definition "*does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person*" – i.e. regular commercial housing developers.

2.16 The issue of self-build is addressed in the current SHMA, although the consultants were unable to point to a specific need in the housing market area or individual districts. The

need to maintain an up-to-date register of interested people will provide an indicator of need and can be fed in to any future revisions to the SHMA.

- 2.17 There does not appear to be any suggestion at this time that local plans will be expected to include any targets regarding the number of self-build homes to be provided. It is not clear whether a specific policy setting out the criteria to be used to assess proposals for self-build would be required and if so how the considerations would differ to those for general housing, unless they are to be treated as exceptions in the way that exceptions sites for affordable housing in rural areas are.
- 2.18 As with starter homes any implications for the Local Plan will only be clearer following the passing of the Bill and the publication of the subsequent regulations. This could result in modifications before or during the examination but should not delay the Local Plan at this stage.

Assessment of accommodation needs

- 2.19 It is proposed to remove clauses in the Housing Act 2007 which oblige local authorities to undertake a specific assessment of the needs for gypsies and travellers. However, it will be necessary, when authorities are carrying out a review of housing needs, to consider the needs of all the people residing in or resorting to their district, including those who reside in caravans or houseboats.
- 2.20 The Government's reason for removing the specific requirement to assess gypsy and travellers' needs separately is not clear, and nor is it clear how this might be done, for example would it be done as be part of the SHMA?
- 2.21 At this time it is considered there are unlikely to be any implications for the current local plan but that it is most likely to impact on any future assessments of need.

Local Planning

- 2.22 As proposed the Secretary of State would have additional powers to intervene in the local plan-making process or provide some clarity or additional requirements where the Secretary of State considers it appropriate to intervene. This includes " *if the Secretary of State thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document*".
- 2.22 In respect of the latter point, previous Government comments have made it clear that they expect local authorities to have local plans in place by early 2017. It is not clear as to what "in place" means nor when exactly in 2017.
- 2.23 These proposals emphasise that it is essential that the Council continues to make progress on the Local Plan as quickly as possible, whilst also having regard to the need to meet the tests of soundness.

Other matters

- 2.24 Members will be aware of the current proposals to create a combined authority across Leicester and Leicestershire. It is currently anticipated that if all of the Leicester and

Leicestershire local authorities support the proposals then they will be submitted to the DCLG in late 2015/early 2016. DCLG will then prepare an Order which could come in to law in October 2016.

- 2.25 The timing of this Order could coincide with the Examination in to the Local Plan and so there is a possibility of some uncertainty and confusion. For example, work on a Strategic Growth Plan (SGP) (which will be one of the main outcomes from a Combined Authority) will be looking to generate evidence to inform the SGP but which could also affect the Local Plan and its contents. It will be necessary, therefore, to ensure that officers working on the Local Plan are aware of all developments on the SGP so as to be aware of any potential issues and how they might impact on the Local Plan.
- 2.26 On 15 September 2015 the Planning Minister announced the setting up of a group of experts tasked with identifying ways in which the local plan process could be streamlined. The group comprises of representatives from various sectors, including one from local government. It is understood that the review will look at broad range of areas, including whether local plans seek to address too many issues and how matters such as strategic housing requirements can be better dealt. Information available suggests that the aim is to produce a report to government by the end of February 2016.
- 2.27 Clearly it is not possible to predict what proposals may result from this review, but it is reasonable to assume that it will impact upon the Council's Local Plan to some degree.

3.0 RISK MANAGEMENT

- 3.1 As noted previously, the Local Planning Advisory Committee on 9 September 2014 considered a report in respect of risk management, including the risk assessment at that point in time.
- 3.2 The risk assessment is reviewed at every monthly officer Project Board meeting.
- 3.3 In accordance with the Council's agreed Risk Management Strategy all potential risks are assessed in terms of both the likelihood of the risk materialising and its potential impact with and without any mitigating controls. Each risk is given a score with those scoring 8 or more (after allowing for mitigation controls) representing the highest risk.
- 3.4 Risks can be categorised in terms of whether they are external or internal to the Council (i.e. is the risk one which the Council can control entirely on its own or is it dependent upon the decisions and actions of external organisations) or are subject to local factors (i.e. something specific to a locality – for example the volume of responses to a consultation).
- 3.5 The current risk assessment is attached at Appendix A to this report and takes account of any changes that have occurred since the committee last considered this matter, including the fact that as the plan has progressed so some of the risks have changed or are no longer consider to be a risk.

APPENDIX A

Risk number	Risk Identified	Likelihood	Impact	Risk rating	Countermeasures	Likelihood	Impact	Risk rating
1	Loss of staff during preparation of Local Plan thus resulting in lack of resources to deliver to agreed timetable.	3	4	12	In the event of a vacancy it will be vital to ensure that it is filled as soon as possible, although this will conflict with vacancy savings built in to the budget. Taking a flexible approach to how vacancies are filled (for example by the employment of consultants/temporary staff to deal with specific tasks rather than a full time replacement) would also help although this will require careful management and would need to stay within budget.	3	3	9
57 2	New legislation, government guidance or decisions of PINs in respect of other Local Plans which affects approach being taken thus requiring additional work and hence delays.	4	3	12	Ensure that all Planning Policy team is aware of any emerging issues and guidance and immediately assess potential impact upon Local Plan. Provide updates to Local Plan Advisory Committee.	4	2	8
3	Volume and nature of responses to consultations results in need for additional work.	3	3	9	Generally the interest and expectations of public, developers and landowners in the Local Plan process is high. Consider the employment of temporary staff or redeployment of resources from elsewhere in the Planning department to assist with any capacity issues arising from consultations, particularly in respect of administrative duties so as to free up experienced planning officers.	3	2	6

	4	Insufficient budgetary resource available to undertake work necessary to support the Local Plan , including background studies and evidence gathering	4	4	16	Local Plan a key corporate priority to which budgetary provision will be attached.	1	1	3
	5	Number of significant planning applications submitted and /or appeals which require input from Planning Policy staff	3	3	9	Need to ensure that Local Plan work is prioritised and that this is communicated to staff in both Planning Policy and Development Management. Consider use of external consultants to provide assistance where appropriate. This will be managed on a case by case basis by the Head of Planning.	3	2	6
58	6	Lack of sufficient capacity available at stakeholders and Planning Inspectorate, particularly in light of recent public sector funding cuts.	2	3	6	Planning Inspectorate to be consulted on proposed programme in LDS. A Service Level Agreement will be signed when programme agreed. Ensure that stakeholders are engaged in process as early as possible. Identify key personnel within stakeholder organisations who have role to play.	2	2	4
	7	Un-prioritised corporate or external requirements impinge upon the resources available within the Planning Policy team	2	3	6	Ensure that appropriate priority attached corporately and politically to Local Plan. Ensure that issues such as progress on HS2 are monitored and any potential implications for work of Planning Policy team identified as early as possible.	1	2	2

59	<p>8</p> <p>Local politics undermines the Local plan process and confidence in the outcomes.</p>	4	4	16	<p>The final decision as to what goes into the submission Local Plan rests with the Full Council. Previous experience suggests that large numbers of members have felt disenfranchised as they have not been involved in the preparation process. To help overcome this a Local Plan Advisory Committee has been established to oversee the preparation of the Local Plan. This provides an opportunity to engage with more members and for those members on the Advisory Committee to act as champions for the Local Plan and to discuss issues within their respective groups so as to minimise the potential for lack of support when the Local Plan goes before Full Council.</p> <p>Ensure that members are made aware of the importance of having an up-to-date Local Plan in place.</p>	3	4	12
	<p>9</p> <p>Deliverability issues on development sites delay preparation and adoption of Local Plan.</p>	3	4	12	<p>Work with site promoters to identify issues early on and ensure that evidence base is comprehensive and robust. All allocations in the draft Local Plan have been subject to viability testing.</p>	2	4	8
	<p>10</p> <p>Challenge by third party that definition of the housing market area is not appropriate.</p>	3	4	12	<p>Ensure that new SHMA addresses issue of appropriateness of the HMA.</p>	2	2	4

11	Defining limits to development in draft Local Plan results in an increase in representations at consultation stage and the time to deal with these.	3	3	9	Limits to Development are defined having followed a clearly defined methodology. This should help to make dealing with responses on the limits to development easier.	3	2	6
12	New household projections published by DCLG which are significantly different to current projections.	3	3	9	Officers to review projections when published and advise of any implications.	3	3	9
13	Housing growth aspirations in Local Plan challenged as either being too high or too low.	4	4	16	<p>Ensure that in defining housing requirements that regard is had to advice in Planning Policy Guidance and to any emerging decisions from PINs elsewhere.</p> <p>Review any evidence submitted which suggest different housing requirements, including use of consultants if required.</p>	3	4	12
14	<p>Infrastructure Development Plan not developed sufficiently to provide robust evidence.</p> <p>At worst could result in soundness issue if Inspector has concerns regarding deliverability of proposals</p>	3	4	12	<p>Ensure that sufficient resource is made available, including use of consultants if required.</p> <p>Seek input from development industry to ensure that are supportive.</p> <p>Ensure that seek views and information from public utility companies</p>	2	3	6

15	Failure to comply with the Duty to Cooperate	2	4	8	<p>Ensure that all HMA authorities are consulted throughout process of preparing the Local Plan.</p> <p>Strategic Planning Group in place which provides forum for sharing information and agreeing way forward on key issues.</p> <p>Maintain a Duty To Cooperate log to demonstrate compliance with duty.</p>	2	2	4
61 16	HMA authorities raise objections to housing requirements being over and above those set out in the SHMA and the MOU	4	4	16	<p>Ensure that all HMA authorities are consulted throughout process of preparing the Local Plan.</p> <p>Meet with authorities who raise concerns to understand nature of those concerns and to explore how these can be addressed whilst recognising that the Council has to make adequate provision for new housing.</p>	3	3	9
17	Failure to progress the preparation of the Gypsy and Traveller DPD has consequences for Local Plan at examination whereby Inspector considers that Local Plan is not sound.	3	4	12	<p>Ensure that members are fully aware of the need to progress the Gypsy and Traveller DPD and get support from LPAC.</p> <p>Develop Project Plan for preparation of Gypsy and Traveller DPD.</p>	2	3	6
18	Inconsistencies between Local Plan and Neighbourhood Plans puts one or both plans at risk and/or results in delays.	4	3	12	<p>Provide advice to Neighbourhood Plan groups where requested.</p> <p>Keep Neighbourhood Plan group informed of progress on Local Plan.</p> <p>Seek regular updates on progress from Neighbourhood Plan groups.</p>	3	3	9

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