

Report to the LDF Cabinet Committee

Report reference: LDF-001-2009/10

Date of meeting: 10 September 2009



**Epping Forest
District Council**

Portfolio: Planning and Economic Development

Subject: Draft Sustainability Appraisal/Strategic Environmental Assessment of the Options Consultation document for new pitch provision for Gypsies and Travellers

Responsible Officer: Ian White (01992-564066)

Democratic Services Officer: Gary Woodhall (01992-564470)

Recommendations/Decisions Required:

- (1) To agree that the Draft Sustainability Appraisal (SA) /Strategic Environmental Assessment (SEA) of the Options Consultation document is published for public consultation to inform the preparation of the Gypsy and Traveller Development Plan Document;**
- (2) To agree the procedures for consultation;**
- (3) To note the progress with the initial evaluation of the “omission” sites suggested as a result of the Options consultation.**

Executive Summary:

Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA) help to identify potentially significant environmental, economic and social issues arising from development or land use proposals, such as increased pitch provision for the travelling community. The two exercises, which are normally combined, must be subject to public consultation. The SA/SEA and the responses to the consultation will inform the future stages of preparation of the Gypsies and Travellers DPD.

The SA/SEA of the Consultation on Options document has been produced by the Spatial Planning Group of Essex County Council, acting as consultants to EFDC. It is a background technical report whose conclusions on strategy or specific sites are not necessarily endorsed by this Council.

Consultation arrangements for the SA/SEA are proposed.

49 alternative or “omission” sites have been suggested for pitches for the travelling community as a result of the Options consultation.

Reasons for Proposed Decision:

Consultation on SEA is a requirement of European law.

Other Options for Action:

To consult at a later date, eg when the SA/SEA of the “omission” sites is completed.

Report:

1. A 2001 European Directive requires “the assessment of the effects of certain plans and programmes on the environment”. (This is known as SEA). Its main objective is “to provide for a high level of protection of the environment with a view to promoting sustainable development.” The assessment is specified as a procedure which must include (a) an Environmental Report; (b) consultation on the draft plan and the Report; (c) taking into account the Report and the results of consultation in decision making; and (d) showing how the results of the assessment have been taken into account when the plan is adopted. The Directive was transposed into English legislation by the Environmental Assessment of Plans and Programmes Regulations 2004.

2. The Planning and Compulsory Purchase Act 2004 (as amended) requires Development Plan Documents (DPDs) to undergo Sustainability Appraisal (SA) as part of the process of ensuring that they will contribute to sustainable development. This is a broader context than SEA as it encompasses social and economic, as well as environmental, factors. Whilst the requirements to produce a Sustainability Appraisal and Strategic Environmental Assessment are distinct, Government guidance considers that it is possible to satisfy the two requirements through a single approach, providing that the requirements of the SEA Directive are met.

3. There is nothing in legislation or guidance which prevents a plan-making body from carrying out its own SA/SEA on individual DPDs. Given the sensitivity of this particular topic, however, it was considered sensible to commission an external agency to carry out the SA/SEA of the Gypsy and Traveller Options document. The Spatial Planning Group of Essex County Council was appointed to that task.

4. The SA/SEA is an appendix to this report. Its content should not be interpreted or otherwise represented as the formal view of Essex County Council. Similarly, releasing the document for public consultation should not be seen as this Council’s endorsement or acceptance of its conclusions. It is a background technical document prepared independently of the Council and its function, along with the responses to its consultation, is to help in the preparation of the pre-submission DPD. It would have been preferable for the consultation on the SA/SEA to have been carried out simultaneously with that for the Options document, but this has not been possible, mainly because of the timetable originally imposed by the Direction.

5. The DPD will be subject to a final SA/SEA before it is published as the pre-submission document for the final round of consultation. That SA/SEA is not subject to consultation, but representations on the DPD can still be made on the grounds, inter alia, that the SA/SEA is flawed.

6. Public interest in the SA/SEA is likely to be considerable, given the experience with the Options consultation. The Environmental Assessment of Plans and Programmes Regulations 2004 require that the appraisals are “made available for the purposes of consultation” in accordance with the following provisions:

- Copies to be sent to the Environment Agency, English Heritage and Natural England;
- Bringing the documents to the attention of all those affected, or likely to be affected, or who have an interest in, the decisions involved in the assessment and adoption of the plan;
- Inviting all those in the first two bullet points to express their opinion on the relevant documents.

7. Officers propose that the document should be placed on the website and that all individuals and groups who responded to the Options consultation should be advised of its existence and a six-week period given for consultation. (The Regulations do not specify the length of time, but this is a normal period for a consultation of this sort, although again based on the experience of the Options consultation, there is likely to be pressure to extend this period.) Paper copies should also be available at all Council (and parish and town council) offices and libraries. As with the Options document, there are likely to be requests for significant numbers of paper copies to be made available. Officers do not think this is appropriate, and that full use should be made of electronic communication. There will need to be, however, a certain number of paper copies printed for those members of the public who do not have access to ICT.

8. Consideration will also need to be given to consultation with the travelling community. In its current format, officers consider that the document is inappropriate for this purpose and believe that it is probably best to distribute a significantly abbreviated version using Myriad Consultants again to effect the distribution. The shortened version should also be published on the website.

11. If the response to the SA/SEA consultation is anything like that experienced during the Options consultation, there will be a significant impact on the workload of the Forward Planning team. Members should be aware that this is likely to coincide with work on the Sustainable Community Strategy and preparatory work for the Issues and Options stage of the Core Strategy (consultation on this is currently intended for the spring of 2010). See also below about a further round of consultation on the SA/SEA of “realistic omissions” sites. A further consultation is likely at the beginning of 2010 as officers develop the Statement of Community Involvement (SCI) – another requirement of the new planning system. (A draft SCI may be presented to LDF Cabinet at the 7th January meeting.) GO-East is also starting to apply pressure about the urban extensions to Harlow, because of Government interest in delivering significant new housing numbers as quickly as possible. Officers are also involved in the review of the East of England Plan, to roll it forward to 2031. Consultation on the draft EEP 2011 – 2031 is expected to start in September 2009.

6. 49 alternative or “omission” sites have been suggested as a result of the Options consultation. Many of the suggestions did not include sufficient details for accurate identification of individual sites, and it is taking longer than expected for this information to be obtained. When the boundaries of these sites are established, they will be subject to the 21 criteria listed in Appendix 4 of the Consultation on Options document (the Area Suitability Study) to determine whether they can be considered to be realistic alternatives – in line with the flow diagram previously agreed at Cabinet on 20 April and attached as an Appendix to this report. If any of the omission sites satisfy all the criteria, or at least can be considered to be worthy of more detailed study, they will then be subject to the identical SA/SEA process, by the County Council’s Spatial Planning Group, as were the Options sites. This ensures that there is a consistent approach in the assessment of the Options and omission sites. If Members wish to deviate from this approach (applying SA/SEA to all the omission sites, irrespective of whether they satisfy the Area Suitability criteria, was considered in previous discussions at LDF Cabinet), there will need to be clear and justifiable reasons, because any lack of consistency in approach may be subject to legal challenge.

7. Officers hope to be able to report a final list of omissions sites which have come through the Area Suitability criteria to the November meeting of the LDF Cabinet. Depending on the decisions of this evening’s Committee, a start may have been made on the SA/SEA of the “realistic” omission sites, and a decision will need to be made about public consultation on the second SA/SEA. In the meantime, the owners of those sites will have to be advised by the Council that they have been suggested for use for pitches for the travelling community, and will therefore be subject to SA/SEA and public consultation. Information on ownership will

be sought from the Land Registry.

Resource Implications:

A budget of £1.3 million over a 4 year period was agreed for the preparation of the Local Development Framework, which includes this DPD, in December 2007.

There were many responses to, and questions about, the Options consultation which required a significant amount of staff time during the consultation period. Analysis of the responses is on-going and is likely to take a considerable time to complete. The same level of response could be expected from the SA/SEA consultation, with a similar impact on staff workload.

Legal and Governance Implications:

Preparation of this DPD, separate and in advance of the Core Strategy, is required by a Direction from the Secretary of State.

Safer, Cleaner and Greener Implications:

The SA/SEA process is intended to identify and address the environmental, social and economic implications of the strategies of the Options document and of the potential use of the identified sites for pitches for the travelling community.

Consultation Undertaken:

This item is about agreeing the release of the SA/SEA for consultation to meet statutory requirements.

Background Papers:

European Directive 2001/42/EC;

Planning and Compulsory Purchase Act 2004;

The Environmental Assessment of Plans and Programmes Regulations 2004 (SI 2004 No. 1633)

Practical Guide to the Strategic Environmental Assessment Directive (ODPM 2005);

Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents (ODPM 2005);

PPS12: Local Spatial Planning (2008);

Consultation on Options: Development Plan Provision for Gypsies and Travellers in Epping Forest District (EFDC 2008);

Accommodation for Gypsies and Travellers and Travelling Showpeople in the East of England (GO-East July 2009)

Impact Assessments:

Equalities and health issues should be addressed by the SA/SEA process