

## **Report to the Cabinet**

**Report reference:** C-016-2010/11

**Date of meeting:** 19 July 2010



**Epping Forest  
District Council**

**Portfolio:** Leader

**Subject:** Gypsy & Traveller Development Plan Document - Revocation of the Direction.

**Responsible Officer:** Ian White (01992 564066).

**Democratic Services Officer:** Gary Woodhall (01992 564470).

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### **Recommendations/Decisions Required:**

- (1) To inform all site owners, relevant Town and Parish Councils, known local residents' associations and the local travelling community of the decision of the Minister for Decentralisation to revoke the direction which had required this Council to prepare a separate gypsy and traveller Development Plan Document (DPD);**
- (2) To cease further work on the Gypsy and Traveller DPD immediately;**
- (3) To update the Council's website as soon as is practical; and**
- (4) To publicly state that the options and issues consultation work be discontinued and reassure those who own or live in the vicinity of affected sites that the impact of this decision is to restore the identified sites to the planning status they enjoyed prior to the Direction of September 2007.**

### **Executive Summary:**

The revocation of the Direction by the Minister for Decentralisation means that it is no longer necessary for some Forward Planning resources to be concentrated on this one issue. Since its adoption, local plan policy H10A (Gypsy Caravan Sites) allows the Council to continue to consider new applications for pitches pending the preparation of a replacement development plan. Future pitch provision will be dealt with in the new development plan.

The letter from the Minister vindicates the view of the Council, officers and the local community whilst recognising the progress which has been made in meeting the needs of the travelling community.

### **Reasons for Proposed Decision:**

The Council has committed significant resources to this project since the service of the Direction in September 2007. The very controversial nature of the issue meant that the original timetable for submission of the DPD could not be met, and affected landowners and neighbours have unfortunately but effectively been left in limbo for a considerable period of time. The revocation of the Direction means that the identification of considerable numbers of potential sites as a separate exercise is no longer required.

## **Other Options for Action:**

To continue with the preparation of a separate DPD, but this would be contrary to the Council's preferred approach which has now been endorsed by the Minister. It would also divert resources from addressing the emerging "localism" agenda for development plan preparation, details of which are gradually emerging from the new Government.

## **Report:**

### The 2007 Direction and the East of England Plan target (2009)

1. In a letter dated 17 September 2007 from GO-East, the then Secretary of State for Communities & Local Government (CLG) directed the Council to amend its Local Development Scheme (LDS) to:

(a) include a Gypsy and Traveller site Development Plan Document; and

(b) start work as soon as possible with submission of the DPD for examination by 30 September 2009.

2. A revised LDS was submitted to GO-East in November 2007 although this has never been formally approved – an oversight of which GO-East is aware. The decision to revoke the Direction will necessitate further changes to the LDS, but Officers feel that this is best left until the Government's intentions about the new planning system are more firmly established.

3. A consultant was appointed in April 2008 to deal solely with the preparation of the DPD. An Issues and Options consultation document was published in October 2008, and a public consultation exercise was held from November 2008 to February 2009, including exhibitions held in areas where potential sites had been identified. The document listed 25 new potential sites, supported the expansion of 2 authorised sites, and recommended the authorisation of 4 "tolerated" sites. (It also listed 13 authorised or partially authorised sites whose extension it did not support, and 1 new, 1 temporary, 2 tolerated and 2 unauthorised sites whose authorisation it did not support). Results of the public consultation were reported to Cabinet on 21 December 2009.

4. The exercise was extremely controversial and costly, attracting very negative coverage in local and national newspapers. Much Member and officer time was expended dealing with the concerns of local residents and there is no doubt that long-term damage has been done to the relationships between the Council and the settled community. In all a total of 10,601 people responded in some way to the consultation, either as individuals, or as signatories in groups of varying sizes. The public response was overwhelmingly opposed to the use of any of the identified sites for Gypsy and Traveller pitches.

5. Specialist consultants (Myriad) were also appointed to engage directly with the local travelling community already resident within the district. DVDs were prepared for distribution to local families which described the Local Development Framework, the purpose of the "Call for Sites" exercise, the Issues and Options consultation, and how to submit planning applications. No questionnaire responses to the consultation were received from the travelling community. The chosen method of response appears to have been the submission of planning applications on some sites, whether or not their authorisation or expansion was supported by the Options consultation document. Some permissions have subsequently been granted, or Certificates of Lawful Development issued. Some permissions have been granted on appeal (often for a temporary period). Some applications have been refused. With a few applications still in the pipeline, and with the submission of others anticipated, an increase of 19 authorised pitches has been achieved, broadly as a result of the local contacts established

by Myriad during the Options consultation exercise.

6. The consultation also sought technical responses on a range of issues. Six of these were within the Council (contaminated land, flood risk, land drainage, landscape impact, Local Strategic Partnership, and noise), five from the County Council (archaeology, Gypsy liaison, highways, planning and waste disposal). Twelve external agencies were also consulted, some of these because of statutory requirements – British Waterways, the Coal Authority, the Commission for Architecture and the Built Environment (CABE), the CPRE, East of England Development Agency, EDF Energy, English Heritage, the Environment Agency, GO-East, the Lee Valley Regional Park Authority (LVRPA), National Grid and Natural England. A number of these bodies did not respond at all or indicated that they had no comments to make.

7. The volume and complexity of the consultation response made it clear that the Direction deadline of submission of the DPD by September 2009 could not be met. Officers contacted GO-East in July 2009 to explain this, and a number of meetings were held to try to agree a realistic revised timetable, given the increased pressure from the previous Government to be making substantial progress with the preparation of Core Strategies.

8. Following advice received from Counsel the Council wrote to the then Secretary of State in January this year asking for a meeting to discuss the continued need for the Direction. A reply was received from the then Parliamentary Under Secretary of State on 31 March which concluded that a meeting was not necessary and that there was a continuing need for the Direction, despite the significant progress that the Council had made in increasing the provision of authorised pitches, by following a “pragmatic approach” to the consideration of tolerated sites and those with existing temporary permissions.

9. The Council commissioned the Spatial Planning Group of Essex County Council to carry out a Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA) of the Options Consultation document. A draft, intended for public consultation, was completed in August 2009 and was reported to the Local Development Framework (LDF) Cabinet Committee at its meeting on 10 September 2009. The Committee recommended that the draft SA/SEA not be consulted upon until a revised timetable for completion of the DPD had been received from GO-East. That recommendation was ratified by Cabinet on 12 October. Without public consultation the draft SA/SEA and its findings have little formal standing.

10. The Single Issue Review (looking only at Gypsy and Traveller pitch numbers) of the East of England Plan was published in July 2009. This gave the Council the target of 34 additional pitches (creating a total of 128) by the end of March 2011 and indicated that provision should be made for an annual 3% compound increase for the period 2011 to 2021. The “pragmatic” approach being pursued by the Council has obviously made significant inroads into meeting this target.

#### The new approach of the Coalition Government

11. The new Secretary of State for CLG wrote to all Chief Planning Officers on 27 May announcing his intention to “rapidly abolish Regional Spatial Strategies and return decision making powers on housing and planning to local councils. Consequently, decisions on housing supply (including the provision of travellers’ sites) will rest with Local Planning Authorities without the framework of regional numbers and plans.” The Secretary of State also said that Local Planning Authorities and the Planning Inspectorate should “have regard to this letter as a material planning consideration in any decisions they are currently taking.” A letter dated 6 July 2010 from CLG’s Chief Planner announced the revocation of Regional Strategies with immediate effect.

12. In the light of this not unexpected but very significant change, the Leader wrote to the new Secretary of State on 2 June requesting the early withdrawal of the Direction and justifying this by the progress the Council had made towards meeting the East of England Plan target. The Minister for Decentralisation replied on 6 July, although the letter was not received until 12 July, revoking the Direction. He commented that:

*"It is the view of this Government that local councils are best placed to meet the requirements of their residents, be they from the settled or travelling community. Despite the difficulties the Direction has placed on the authority, you have shown that the Council has taken a responsible approach to meeting the accommodation requirements of travellers in the district. I do not hesitate, therefore, in agreeing to your request to withdraw the direction."*

13. This decision, coupled with the revocation of Regional Spatial Strategies and their associated targets for housing and pitch provision, completely removes the need for the Council to continue work on the separate Gypsy and Traveller DPD. This important decision should be communicated to all affected landowners, relevant Town and Parish Councils, known local residents' associations and the travelling community as soon as possible. The Council's website should also be updated as soon as practical.

14. Current planning applications (eg at Mamelons Farm and Holmsfield Nursery) or anticipated ones at Tylers Cross Nursery and Kiln Road, North Weald will be considered under the provisions of policy H10A of the Local Plan. Guidance accompanying the 6 July letter from CLG indicates that local authorities will be responsible for determining the right level of site provision for Gypsies and Travellers, reflecting local need and historic demand, and for bringing forward land in DPDs. They should continue to do this in line with current policy, although the Government will review relevant regulations and guidance on this matter "in due course". If local authorities decide to review the levels of provision, Gypsy and Traveller Accommodation Assessments will form a good starting point, although local authorities are not bound by them.

15. The Council has already offered to share not only its experience of this exercise but the clear and reasoned responses of the many individuals and groups to the proposals so that any future planning guidance or policy can be more reflective of the needs and expectations of both the settled and the travelling community. However for those who own land identified in the consultation document or who live adjacent to such sites it is important to state that the removal of the Direction means that this Council can and will discontinue the consultation exercise. The Council will restore the "level playing field" that the local community demanded and deserved. The Council should also restate its pragmatic approach to dealing with individual applications as endorsed by the Minister's letter. As such there is no justification for continuing to identify these sites, thus returning them to the planning status that they enjoyed prior to the service of the Direction.

#### **Resource Implications:**

Cessation of any further work on the separate DPD will allow Forward Planning to concentrate its resources on continuing to build the evidence base, and to produce the Core Strategy for the new planning system to be introduced by the Government. Gypsy and Traveller site provision will form part of the broader housing section of the Core Strategy and related Local Development Framework documents.

#### **Legal and Governance Implications:**

This is a time of potentially significant change for the development plan system, so it is not possible at this stage to identify particular implications.

**Safer, Cleaner and Greener Implications:**

None identified

**Consultation Undertaken:**

Communication with the new Secretary of State

**Background Papers:**

Letter from the Secretary of State dated 27 May.

Letter from the Leader to the SoS dated 2 June.

Letter and attachments from the CLG Chief Planner dated 6 July.

Letter from the Minister for Decentralisation dated 6 July (received 12<sup>th</sup> July).

**Impact Assessments:**

Risk Management

The lifting of the Direction and the anticipated removal of regional targets mean that there is no risk in not proceeding with the DPD, particularly in the light of the significant increase in authorised sites which has been achieved through the “pragmatic” approach.

Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council’s general equality duties, reveal any potentially adverse equality implications?* No

*It is not felt that these decisions require separate impact assessment. Future applications will continue to be considered in the light of current human rights and equality legislation.*

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

*What equality implications were identified through the Equality Impact Assessment process?*  
None

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
N/A