

Report to District Development Control Committee

Date of meeting: 29 June 2011

Subject: Current provision of pitches for Gypsies and Travellers



**Epping Forest
District Council**

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Recommendation(s):

- (1) To note the current position regarding the numbers of authorised and unauthorised (including tolerated) pitches within the district;**
- (2) To recommend what action to pursue, including the use of enforcement powers, concerning the following unauthorised and tolerated pitches:**
 - **Devoncott, Carthagen Estate;**
 - **Richards Farm, Sedge Green;**
 - **Opposite Oakwood, Tylers Cross;**
 - **Rosewood, Tylers Cross;**
 - **Horsemanside Farm, Stapleford Abbots.**

Report Detail

1. The CLG consultation on 'Planning for traveller sites' was considered at Planning Scrutiny Panel on 14th June. The significant changes being proposed include:

- replacing two Circulars (ODPM 1/2006: Planning for Gypsy and Traveller Caravan Sites and CLG 04/2007: Planning for Travelling Showpeople) with one Planning Policy Statement which will have the over-riding aim of ensuring fair treatment for those in traveller and settled communities "who play by the rules";
- aligning Gypsy Roma Traveller (GRT) pitch provision more closely with guidance in PPS3 which deals with permanent housing provision – this includes (a) removing 'normally' from the description of GRT pitch provision in the Green Belt so that, in future, it will be classed as 'inappropriate development', and (b) asking local authorities to plan for a five-year supply of GRT pitches;
- enabling local planning authorities to make their own assessment of need for the purposes of planning (in line with the proposed abolition of regional spatial strategies and all associated housing and GRT pitch targets);
- limiting the opportunities for retrospective planning applications, in relation to any form of development; and

- asking local planning authorities to “treat favourably” GRT pitch applications for temporary permission in the absence of an identified five year supply of such sites.

2. In the rest of this report ‘pitch’ means an area on a site for a GRT household to live, and it can therefore consist of one or more caravans. Planning permission can be granted for pitches or caravans, so that they are described as ‘authorised’, but the terms were used more loosely in earlier years and, on some of the more long-established sites, there can still be some confusion about whether one caravan equates to one pitch.

3. Government has used the percentage of unauthorised pitches (ie without permission) of the total number of pitches (ie authorised and unauthorised) in a local authority area as a key measure to assess the level of unmet need. These percentages are derived from the biannual (January and July) caravan counts which are reported to CLG, but it is recognised that there are difficulties in calculating pitch numbers from what is essentially a count of caravans. The persistence of a figure above 25% in this district led to the service of the Direction by the last Government requiring the preparation of a separate Development Plan Document (DPD) on GRT pitch provision.

4. The separate records kept by the Environment and Street Scene Directorate (caravan counts and site licenses) and the Planning and Economic Development Directorate (planning application and appeal decisions) have recently been amalgamated. Analysis of the combined records shows the following:

- between January 2006 and January 2011, the number of authorised pitches increased from 72 to 108 (the increase actually started between January and July 2008). The distribution by parish of the 36 new authorised pitches is Nazeing – 23 (on 5 sites); Roydon – 12 (on 4 sites); and 1 in North Weald;
- the distribution of the 108 pitches is Roydon – 42 (on 15 sites); Nazeing – 41 (on 6 sites); Ongar – 16 (on 1 site, the only public one in the district); Stapleford Abbots – 5 (on 2 sites); North Weald 2 (on 2 sites); and Moreton, Bobbingworth and the Lavers and Waltham Abbey have 1 pitch each;
- the number of authorised caravans is more variable, ranging from 92 in January 2010 to 132 in January 2011, reflecting the continuation of the traditional way of life of the travelling community. The average January figure (6 counts) is 103, while the July average (5 counts) is 80, suggesting that more travelling is done in the summer;
- between January 2006 and January 2008, the number of unauthorised caravans was fairly constant (50 – 60), but since July 2008 (44) has fallen (post January 2011) to 25. The distribution of these is Roydon – 10 (on 5 sites); Nazeing - 14 (on 5 sites) and Stapleford Abbots – 1;
- the current unauthorised caravan figure includes (a) 6 caravans on two sites which have temporary permission (both being recent appeal decisions) and (b) 3 caravans on a site in Carthagena Estate in Nazeing (Devoncot) which have been treated as ‘tolerated’, although no formal decision has been taken on this site.

- it is not possible, without detailed information on all individual cases, to establish whether each unauthorised caravan equates to a pitch. The percentage of unauthorised caravans can, however, be calculated in the same way as for pitches (see para 3) with caravans with temporary permission being classified as unauthorised. The results are as follows:

<u>Caravan Count Date</u>	<u>Unauthorised % of total caravans</u>
January 2006	33
July 2006	37
January 2007	36
July 2007	36
January 2008	39
July 2008	39
January 2009	43
July 2009	39
January 2010	32
July 2010	31
(post) January 2011	16

The significant drop between July 2010 and now is primarily due to the permanent permission (on appeal) being granted for the Holmsfield Nursery site in Meadgate Road Nazeing. The site had temporary permission for 8 pitches comprising 26 caravans, and these moved from being officially unauthorised to authorised as a result of the appeal decision.

5. The increase in the number of authorised pitches, with the consequent reduction in the number (and eventually percentage) of unauthorised caravans, is linked to an increase in planning applications from the GRT community, and this in turn is linked to the public consultation exercise (November 2008 to February 2009) run for the DPD required by the previous Government's Direction. During that period, officers also encouraged the submission of applications on unauthorised and tolerated sites in meetings with site owners and in discussions with some planning agents.

6. The results to date have been beneficial in a number of ways. For the GRT community, there has been a significant increase in the number of authorised pitches and, hopefully, a recognition that a well-presented planning case can lead to permission being granted. From the settled community's point of view, most of these permissions relate to existing sites, including those with temporary permissions, or as extensions to those sites. The Council achieved and has since exceeded the target set by the Single Issue Review of the East of England Plan (34 additional authorised pitches by the end of March 2011). While the EEP and all its targets will shortly be abolished by the Government, the Council has clearly shown that its policy (H10A) of the Local Plan and Alterations has been very effective in finding the balance between meeting the needs of the GRT population, and protecting the Green Belt and the amenities of the settled community.

7. Officers had hoped that the remaining unauthorised or tolerated sites would be the subject of future applications to enable the Council to reach decisions on all the outstanding cases, but it now seems unlikely that there will be any new applications in the foreseeable future. A negative reaction has recently been received from occupants, via an agent, for one of the major outstanding sites of unauthorised caravans (Tylers Cross, Roydon).

8. Details of the outstanding unauthorised caravans are given below. These again include those with temporary permissions and the remaining tolerated ones. It may be that some of the figures from the January count identify caravans which were only on site for a short period. This will become apparent when the results of the July count this year are analysed (eg Horsemanside Farm) :

<u>Nazeing</u>	<u>Current situation</u>
Devoncot, Carthagen Estate (3 caravans)	Have been tolerated for some years
Auburnville, Carthagen Estate (1)	Enforcement appeal on-going
Sunnyside, Carthagen Estate (2)	Enforcement appeal on-going
Hallmead Nursery (4 pitches, up to 2 caravans each)	Temporary permission until December 2014
Richard's Farm, Sedge Green (1)	Subject of a still current 2009 application
<u>Roydon</u>	
32 Roydon Lodge Chalet estate (1)	Enforcement Notice served April 2011
38 Roydon Lodge Chalet Estate (2)	Enforcement Notice served May 2011
Opposite Oakwood, Tylers Cross (4)	
Rosewood, Tylers Cross (1)	
Rose Farm, Hamlet Hill (2)	Temporary permission until April 2016
<u>Stapleford Abbots</u>	
Horsemanside Farm (1)	

9. The paragraphs which follow discuss named unauthorised or tolerated sites and the possibility of taking enforcement action depending on individual circumstances. It should be noted that each case would be investigated in accordance with Enforcement Policy as shown on the Council's website. For any such action to be taken, (a) there would need to be sufficient evidence of a breach of planning policy and that if there is such a breach, (b) it would be expedient to take proportionate enforcement action.

10. Officers considered the Devoncott site in October 2009 and concluded that this was a low-key use of a relatively small and confined plot on an established holiday chalet estate (with some dwellings) adjacent to a holiday caravan site. The small size of the site with limited opportunity to expand, and broadly comparable impact to neighbouring land uses, mean there would be a reasonable prospect of planning permission being granted. The occupants have, on a number of occasions, been invited to make a planning application to continue the use, but they have, to date, not taken up this suggestion. Consideration has also been given to taking enforcement action, but officers feel that this would be disproportionate to any limited harm that is being caused. The site has therefore been treated as a "tolerated" one for the purposes of the biannual caravan count. Members may wish to consider whether, in the light of the potential changes being introduced by the draft PPS (including the end of retrospective permissions), a final attempt should be made to encourage the occupants to seek permission and thus authorise the site. The views

of Members are also sought if this final approach is again unsuccessful, ie do they wish to recommend that enforcement action should be undertaken.

11. Richards Farm is the subject of a 2009 application for 4 caravans which would bring the total on the site to 5. The application has not been supported by clear evidence, as the family has only two sons. Officers have had great difficulty contacting the applicant and have informed him that the application would be dealt with in its current form, unless additional information was made available by the start of this month. It is likely to be recommended for refusal on the grounds that no very special circumstances have been put forward to outweigh the harm to the openness of the Green Belt. If that recommendation is confirmed by Members, it is probable that enforcement action will proceed against the unauthorised caravan.

12. A number of the unauthorised caravans at Tylers Cross have been present for some time. There may be legitimate reasons for them being there (eg to cope with family growth), but this needs to be resolved through the granting of permissions, or Certificates of Lawful Development. Officers believe that formal approaches should be made to the occupiers of these sites, perhaps via an agent, explaining that there is a need for the planning situation to be resolved, and if no action is taken, that enforcement action will be pursued. Members should be aware that this will involve significant resources in the Enforcement Section. Tylers Cross is a large and complex site where authorised pitches have been sub-divided on a number of occasions, so there would need to be a considerable amount of evidence gathering before enforcement action could proceed. There is also a history of difficult relationships between the occupants of the site and Council officers, so effective action to resolve the planning issues is likely to be long drawn out and complex.

13. The Principal Planning Officer in charge of Enforcement advises that the costs of enforcement of the Tylers Cross cases are likely to include Counsel, the use of process servers for the service of notices (for officer safety), hearings and, more likely, Inquiries, and the use of injunctions or direct action to enforce the notices. He estimates that this would amount to the equivalent of 6 months' continuous work for one officer, which of course would have a serious knock-on effect on the ability of the section to respond to its current workload.

14. The draft PPS which is the subject of the CLG consultation heralds the end of retrospective planning permissions, tighter control of inappropriate development in the Green Belt, and an indication (with no details) of stronger enforcement powers for Councils. If the Tylers Cross site, and the other outstanding unauthorised cases, can be satisfactorily dealt with, this may lead to a further increase in the number of authorised pitches. Given the recent record of significantly increasing the number of other such pitches, officers believe that the Council will be able to present a compelling case if further incursions or encampments occur in the future, and be able to better control and manage future provision for the GRT community.