

**REPORT OF JENNY CLIFFORD, HEAD OF PLANNING, ECONOMY AND REGENERATION**

**GYPSY AND TRAVELLER PITCH PROVISION**

<b>Cabinet Member</b>	Cllr Richard Chesterton
<b>Responsible Officer</b>	Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

**Reason for Report:** To respond to Scrutiny Committee's request for a report on the position of the Council over gypsy and traveller pitch provision.

**RECOMMENDATIONS:** That the report be noted.

**Relationship to Corporate Plan:** Priorities within the 2016 – 2020 Corporate Plan are economy, homes, community and environment.

**Financial Implications:** None.

**Legal Implications:** The Council is required to have a 5 year supply of deliverable sites, as well as developing fair and effective strategies to meet longer term needs. The Council also has a public sector equalities duty (PSED) under the Equalities Act 2010.

**Risk Assessment:** Where five year supply cannot be demonstrated, this should be treated as a "significant consideration" when considering applications for temporary pitches, although it does not confer a presumption that temporary pitches should automatically be made permanent. The Council's decisions could be judicially reviewed if it fails to fulfil its PSED.

**Equalities:** The PSED duty under the Equalities Act 2010 provides that a public authority must in the exercise of its functions have due regard to the need to eliminate discrimination advance equality of opportunity and foster good relations between those who share protected characteristics and persons who do not share it. Both Romany Gypsies and Irish Travellers have protected characteristics (of race) under the Equalities Act 2010

**1.0 NATIONAL PLANNING POLICY FOR TRAVELLER SITES.**

- 1.1 The Government published the Planning Policy for Traveller sites (PPTS) in August 2015. It sits alongside the National Planning Policy Framework and provides specific advice on planning for traveller sites, and replaces earlier advice dated 2012. The PPTS defines gypsies and travellers as:

*'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.'*

In determining whether persons fall within this definition, the PPTS advises consideration should be given to:

- a) whether they previously led a nomadic habit of life

- b) the reasons for ceasing their 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.
- 1.2 The PPTS requires Councils to assess the need for traveller sites, by working collaboratively and developing fair and effective strategies to meet need through the identification of land for sites. Mirroring the NPPF, Councils are required in their local plans to maintain a rolling 5 year supply of deliverable sites and to identify specific developable sites or broad locations for years 6-10 and where possible years 11-15.
  - 1.3 Criterial based polices (as opposed to clear allocations) should only be relied upon where there is little identified need.
  - 1.4 The PPTS also provides guidance on the location of traveller sites. Councils should seek to ensure peaceful and integrated co-existence between sites and the local community, promote collaboration and access to health and education, and reduce the need for long distance travelling and environmental damage caused by illegal encampments. Sites should show proper consideration for the effects of matters such as noise and air quality on health and wellbeing of travellers, avoid placing undue pressure on local infrastructure and services, should not be located in flood risk areas and reflect the extent to which traditional lifestyles can contribute to sustainability (e.g. whereby some travellers live and work in the same location).
  - 1.5 In determining planning applications, Councils should consider the existing level of provision and need, availability of alternative sites and applicants' personal circumstances.
  - 1.6 Where a Council cannot demonstrate a five year supply of sites, this is a "significant material consideration" for applications for temporary planning permissions (although there is no presumption that they should automatically be made permanent).
  - 1.7 Conversely, the PPTS seeks to "very strictly limit" sites in open countryside away from exiting settlements or outside areas allocated in the development plan and ensure that sites due to their scale do not "dominate" the nearest settled community.
  - 1.8 The 2015 PPTS changed the definition of "traveller" for planning purposes to exclude people who have permanently ceased travelling. On this basis "bricks and mortar accommodation" for people who have *permanently* ceased a nomadic lifestyle is subsumed into the general housing need. The change in definition is being challenged through the courts, on the basis that it is discriminatory, particularly against Gypsies and Travellers who are old, disabled, in serious ill health or caring for others.
  - 1.9 The PPTS distinguishes between "gypsies and travellers" and travelling show people. This report considers gypsies and travellers.
  - 1.10 Whilst the PPTS defines travellers without reference to ethnic origin, it is worth noting that both Romany Gypsies and Irish Travellers have protected characteristics (of race) under the Equalities Act 2010, and Section 149 of the act creates a public sector equality duty for local authorities.
- 2.0 ASSESSMENT OF MID DEVON'S NEED FOR GYPSY AND TRAVELLER ACCOMMODATION.**
- 2.1 Mid Devon's current assessment of need for gypsy and traveller accommodation (GTAA) was carried out on a sub-regional level, reflecting the cross boundary nature of the housing market area and was published in March 2015. It assessed the stock

of accommodation (53 residential pitches at a 2014 baseline) and assessed need arising 2014- 2034.

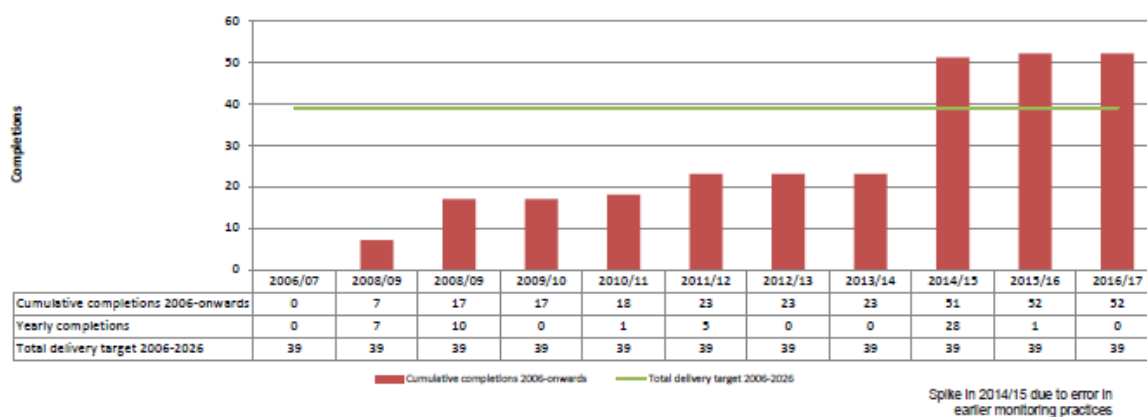
- 2.2 **This identified a need for 35 permanent gypsy and traveller pitches in Mid Devon between 2014- 2034.** It also identified a need for 34 “bricks and mortar” i.e. dwelling houses. No additional need for transit pitches in Mid Devon was identified.
- 2.3 The GTAA identified an annualised need of 3 pitches per year 2014-19, falling back to 1.2 per year after 2019. This frontloads the need, although the average yearly need over a five year Plan period is 1.8 pitches.
- 2.4 This level of need represents an increase above the 10-15 pitches that the adopted Local Plan was required to provide between 2006-26.
- 2.5 The GTAA shortly predated the publication of the government’s revised Planning Policy for Traveller sites (PPTS) in August 2015. As noted above, this redefined travellers to exclude people who had permanently ceased their nomadic lifestyle and on this basis, the 34 “bricks and mortar” units was subsumed into the general housing requirement. The Local Plan Review seeks to meet this level of need.
- 2.6 In other respects, the 2015 GTAA is considered to remain a robust assessment of need for accommodation for travelling people.

### 3.0 RECENT PROVISION OF GYPSY AND TRAVELLER PITCHES.

- 3.1 Mid Devon has created a total of 52 pitches since 2006/7. Whilst there was a spike of 28 pitches being recorded in 2014/15, this is due to previously unrecorded completions since 2006/7 being retrospectively added as a result of the GTAA’s findings. Accordingly these figures (except for 1 pitch) are accounted for in the GTAA’s base data and cannot be accounted against the 35 pitches assessed to be needed in the Local Plan Review period (2013-34).

**Table 1 Gypsy and traveller Completions: Mid Devon 2017 Monitor.**

#### Gypsy and traveller completions



- 3.2 Applications for additional pitches on existing sites can be treated as additional provision. One pitch in 2014/15 appears to be additional to the GTAA database. One additional pitch was provided in 2015/16. Since 2014, 11 pitches have gained permission either for new pitches or to regularise pitches not recorded in the GTAA. These are summarised at **Appendix 1**.

- 3.3 There is a pending application at Ashculm Corner Hemyock (17/01480). Permission has recently been granted at Stubnail Post, Oakford (17/00567). If approved these would regularise pitches which are not recorded in the GTAA database, and can therefore be recorded as part of the 5 year supply. There are also 2 pitches with temporary consent (Oak meadow, Holcombe Rogus and The paddocks, Willand, which if made permanent would add to 5 year supply. This is without prejudice to the determination of any applications, although their contribution to meeting 5 year supply is a material consideration.

#### **4.0 FIVE YEAR SUPPLY.**

- 4.1 Table 2 below shows Mid Devon's five year supply based on the above. This Indicates a need for around 24 pitches in total (17.6 travellers and 6.2 travelling showpeople).

**Table 2 Five year Supply Requirement for Gypsies and travellers.**

	Backlog (annualised)	2017/18	2018/19	2019/20	2021/22	2022/23	Five year requirement
Gypsies and travellers	6	3	3	1.2	1.2	1.2	15.6
Travelling show people	3	1	1	0.4	0.4	0.4	6.2
Total	9	4	4	1.6	1.6	1.6	21.8

N.B backlog = Backlog should normally be met over 5 years.

- 4.2 As noted above, 2 pitches have been completed and 11 pitches have received permission since 2014, which count against this requirement. This brings the unmet requirement to 9 pitches. This number of pitches need to be provided in order to meet 5 year supply. If the 3 applications currently pending are approved the outstanding requirement would be 3 pitches.
- 4.3 It is stressed that five year supply is a rolling figure and developable pitches should be identified to provide for the identified need of 35 pitches for Gypsies and travellers over the Plan period. On this basis it is stressed that the relatively healthy provision through regularising sites does not remove the need to provide pitches in conjunction with urban extensions noted in the Local Plan (see below).

#### **5.0 DEVELOPMENT PLAN POLICY.**

##### **5.1 THE DEVELOPMENT PLAN – AND ITS STATUS.**

- 5.1.1 Planning Law indicates that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. A shortfall in general housing need cannot be used to argue a wider presumption in favour of sustainable development for Gypsy and Traveller accommodation. However the need for a five year supply of Gypsy and traveller pitches is material to planning proposals for such accommodation. There is no automatic presumption that temporary grants of permission should be granted permanently.
- 5.1.2 The current Mid Devon Local Plan is comprised of the Core Strategy (adopted July 2007), Allocations and Infrastructure Development Plan Policy (AIDPP adopted 2010) and Development Management Policies (DMP, adopted 2013). These pre-date the NPPF (apart from the DM Policies document), and the 2015 PPTS and

GTAA. Accordingly the evidence in the GTAA should carry significant weight in decision taking.

- 5.1.3 The Local Plan Review 2013-33 is currently at Examination Stage. This is a relatively advanced stage of preparation but because the Inspector has not yet carried out the examination, it still carries limited weight, particularly where policies have been objected to. Nevertheless the policies in the Plan reflect the 2015 GTAA and are therefore based on the most recently available evidence.

## **5.2 EXISTING MID DEVON LOCAL PLAN.**

- 5.2.1 Both the adopted and emerging Plans seek to provide pitches within wider urban extensions in order to ensure their connection with the community and community facilities and avoid proliferation in the open countryside.
- 5.2.2 **Policy AL/DE/7** of the AIDPP is a criteria based policy for the location of pitches in the countryside where need cannot be reasonably met elsewhere and the site is accessible by public transport within 30 minutes of a secondary school and hospital.
- 5.2.3 **Policy AL/DE/8** undertakes to provide a public site for gypsy and traveller pitches.
- 5.2.4 **Policy AL/TIV/1** is the proposal for the Tiverton Eastern Urban Extension. Criteria c) requires the provision of at least five pitches for gypsies and travellers. Similarly **AL/CU1(a)** requires at least 5 pitches at North West Cullompton as part of its affordable housing offer. Policy **AL/CRE/12 (a)** proposes the same number at Pedlerspool, Crediton.
- 5.2.5 Outline planning permission has been granted for three gypsy and traveller pitches at Tiverton Eastern Urban Extension and in accordance with the adopted masterplan these are to be located near the north-eastern corner of the site. Planning applications for the first phase of development at NW Cullompton are currently under consideration. It is intended that the gypsy and traveller pitch provision would come forward as part of the second phase. A planning application is also pending for the development of the Pedlerspool site in Crediton. As submitted, the application does not make provision for gypsy and traveller pitches as required by policy.

## **5.3 LOCAL PLAN REVIEW Now at Examination Stage.**

- 5.3.1 **Policy S3 e)** states that: "A five year supply of gypsy and traveller pitches will be allocated on deliverable sites within Mid Devon to ensure that the predicted need for traveller sites will be met. A further supply of developable sites or broad locations for growth will be identified equivalent to a further ten years of predicted growth. The Housing Authority will seek to provide a public site for gypsy and traveller pitches within Mid Devon, subject to the availability of funding".
- 5.3.2 Paragraph 2.31 of the Explanation indicates that the Local Plan Review is following the advice of the GTAA, i.e. to provide 35 pitches. The need for pitches for gypsies and travellers will be accommodated within larger housing sites, such as Tiverton Eastern Urban extension, North West and East Cullompton and Pedlerspool in Crediton.
- 5.3.3 Site specific proposals for gypsy and traveller pitches are included in several large site allocations of the Local Plan Review. These are:

**Table 3 Local Plan Review**

<b>Policy</b>	<b>Name</b>	<b>Requirement</b>
Tiv1(b)	Tiverton Eastern Urban Extension	At least 5
CU1 a)	North West Cullompton	At least 5
CU7 b)	East Cullompton	At least 10
CRE5 a)	Pedlarspool, Crediton	At least 5
Total		25

5.3.4 It is noted that the above figures total 25 pitches. Although they are not a maximum figure they leave around 9 pitches to be identified elsewhere.

5.3.5 **Policy DM7 Traveller Sites** sets out a criteria based policy to meet this need:  
*“Planning applications for gypsy and traveller pitches, including pitches or plots for travelling show people, will be permitted where:*

- a) Suitable onsite facilities will be provided including space for children’s play;*
- b) The proposal will have suitable environmental quality for residents including non-isolating boundary treatments; and*
- c) Occupation will be limited to those who meet the Government’s published definition of gypsies and travellers, including travelling showpeople.*

*Where development proposals are considered under S13 (Villages) local services can be accessed without the use of a car.*

*Where development proposals are considered under S14 (Countryside), the need cannot be met on another suitable site in Mid Devon which has consent or is allocated for gypsy and traveller pitches.*

*Sites with associated employment or storage elements may be permitted where there is specific justification and the location of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement”.*

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**Circulation of the Report:** Councillor Richard Chesterton

#### **List of Background Papers:**

Mid Devon Local Plan <https://www.middevon.gov.uk/residents/planning-policy/mid-devon-local-plan/>

Local Plan Review <https://www.middevon.gov.uk/residents/planning-policy/local-plan-review/>

Gypsy and traveller accommodation assessment 2015 final report  
<https://www.middevon.gov.uk/media/114028/devon-partnership-2015-gtaa-final-report.pdf>

## **Appendix 1: Assessment of Permissions for Gypsy and Traveller Pitches since 2013.**

**The following permissions appear to be part of the GTAA baseline and are therefore not included in the 5 year supply calculation:**

13/01115/FULL - 1 pitch, The Paddock, Willand,  
14/00476/FULL - 1 pitch Djangos Rest Cullompton  
14/02055/FULL - Langarra, Dean Hill Road, Willand. Permission granted 20 April 2015 to allow 11 static residential caravans and 5 touring caravans (in place of 8 statics and 8 touring approved under 11/00515/Full). Site noted in GTAA and no net increase from 2011 consent).

**The following permissions appear to be additional to the GTAA (and therefore part of the 5 Year Supply)**

**16/01132/FULL 6 and 7 The Corbett, Red Ball, Burlescombe:** 4 pitches. Permission granted 18<sup>th</sup> November 2016. One pitch (of the 4 approved) was noted as being occupied in 2016 i.e. post dating the GTAA.

**16/01133/FULL - 5 The Corbett, Burlescombe** 5 pitches. Permission granted 18<sup>th</sup> November 2016. This application sought to retrospectively retain five pitches.

**16/00490/FULL Land at Muxbeare Lane, Willand** (also 14/01918/FULL). 1 new pitch completed 2015/16.

**17/00567 Stubnail Post, Oakford.** Variation of condition (1) of Appeal decisions A & B: APP/Y1138/C/10/2139560 & 2139561 and Appeal decision C: APP/Y1138/A/10/2133187 granting temporary planning permission to allow permanent residence of the site. Permission 12 October 2017. Permission granted 12<sup>th</sup> October 2017. This site is not recorded as part of the GTA baseline and contributes to five year supply.

**The following application is pending and if approved would count towards 5 year supply.**

**17/01480/CLU Ashculm Corner, Hemyock.** Certificate of Lawfulness for the existing use of 2 caravans in breach of condition (3) of planning permission 01/00451/FULL for a period in excess of 10 years. Whilst the site has consent for Gypsies and travellers, the pitches in question do not appear to be recorded in the GTAA baseline. Decision pending.

**The following temporary consents are not part of the stock in the GTAA so would be counted towards five year supply if made permanent:**

**14/01284/FULL Oak Meadow, Holcombe Rogus TA21 0NE** Approved 7/11/14 Siting of Temporary Gypsy Pitch (To be Discontinued from use by 7/11/19).

**14/00779/FULL Land and Buildings at Stubnail Post Oakford** Approved 11/07/2014 Siting of temporary pitch for 5yrs (To be Discontinued by 11/07/2019). Previously granted temp 3yrs, not previously noted, allowed temp for another 5yrs. (See current application above).

**13/00777/FULL Land at The Paddocks, Willand;** Refused 10/10/2013, Appeal allowed 14/08/2014 Siting of temporary Gypsy Pitch for 5yrs (To be discontinued by 14/08/2019).