

Winchester District Gypsy Traveller and Travelling Showpeople Development Plan Document

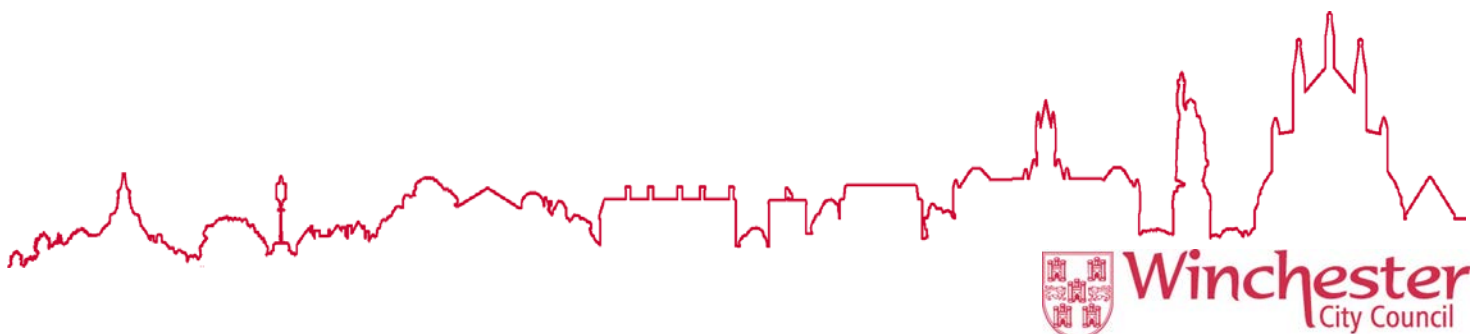
‘Traveller DPD’

Examination September 2018

Matter 1 – Legal/Procedural Requirements

Winchester City Council’s Response

WCC Matter 1



Winchester City Council
**Winchester District Gypsy and Traveller and
Travelling Showpeople DPD**

WCC Response to Inspector's Matters, Issues and Questions

<u>Matter 1 – Legal / Procedural Requirements</u>
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Question 1 – Is the DPD compliant with:

- (a) the Local Development Scheme?**
- (b) the Statement of Community Involvement?**
- (c) the 2004 Act and the 2012 Regulations?**

WCC Response:

Question 1a)

1. The Traveller DPD was identified in the Council's October 2015 and October 2016 Local Development Schemes, when it was anticipated that the DPD would identify pitch/plot targets and make appropriate allocations, with adoption expected in June 2018. Pitch/plot targets were subsequently included in Local Plan Part 2 adopted in April 2017. The latest LDS was updated and brought into effect in December 2017.
2. The DPD was submitted in accordance with the latest LDS agreed by the Council at its Cabinet (Local Plan) Committee on 4 December 2017.
<http://www.winchester.gov.uk/assets/attach/13778/2017%20Local%20Development%20Scheme11122017.pdf>

Question 1b)

3. The Council's SCI was adopted in January 2007 and provides a framework for engagement and consultation, this is currently being updated. Given the

nature of the DPD the Council sought to engage as fully as possible with the Traveller community through the use of social media and using national Traveller Groups and Organisations to assist with the promotion of the DPD. This is all documented in the Council's Consultation Statement parts 1 and 2:

[http://www.winchester.gov.uk/assets/attach/12000/Reg-18-Consultation-Statement-update-Nov-2016%20\(1\).pdf](http://www.winchester.gov.uk/assets/attach/12000/Reg-18-Consultation-Statement-update-Nov-2016%20(1).pdf)

<http://www.winchester.gov.uk/assets/attach/15721/Reg19-Consultation-Statement.pdf>

4. Officers had been advised that Travellers may not engage with Council documents, so whenever correspondence was issued, hand written envelopes were prepared where the site owner was known and any correspondence was personally addressed. The Council also specifically wrote to planning agents who had acted on behalf of travellers either in the past or currently, requesting that they advise their clients of preparation of the DPD.
5. The Council undertook an initial options consultation between March and May 2017 and as a part of that requested whether respondents were travellers or representatives of travellers. Of the 124 responses received 3.23% stated they were a traveller or travelling showperson; 3.23% were a planning agent acting on behalf of the travelling community and 0.81% were organisations representing the travelling community.

Question 1c)

6. The Council is of the view that it has complied with all legislative and regulatory requirements and associated documentation can be viewed on the Traveller DPD pages of the planning policy web site:
Soundness Self Assessment
<http://www.winchester.gov.uk/assets/attach/16573/Soundness%20Self%20Assessment%202018.pdf>

Legal Compliance Self Assessment

<http://www.winchester.gov.uk/assets/attach/16574/Legal%20Compliance%20Self%20Assessment.pdf>

Question 2 – Are the likely environmental, social and economic effects of the DPD adequately and accurately assessed in the Sustainability Appraisal (SA)?

WCC Response:

7. Consultants Enfusion have been appointed by the Council since 2007 and have undertaken an SA of the DPD utilising the SA Framework originally developed for Local Plan Part 1 and updated and refined for both Local Plan Part 2 and the Traveller DPD. This has ensured a consistent approach to the application of the SA objectives across the District and through the policy evolution of the District's DPD's .
8. Paragraph 1.5 of the Traveller DPD summarises the SA/SEA/HRA process.
9. All existing traveller/travelling showpersons sites have been assessed through the SA process, even though the opportunity to mitigate any impacts through policy expression is limited given the DPD only allocates a small number of sites for Traveller use. Where the DPD includes a site allocation policy, this will have picked up any recommendations from the SA report, for example site W017 in the draft DPD allocating land at Ourlands East of Mayles Lane, Knowle for 3 pitches includes specific reference to the need for a landscape framework to be submitted given the location of the site within a countryside gap and for any intensification to be resisted again given the site's sensitive location.
10. Some very specific comments were received to individual sites and these were reported to the Council's Cabinet (Local Plan) Committee on 4 December 2017. In particular Shedfield PC queried the locational description of sites. Some confusion had arisen over the description of site W085 Gravel Hill.

11. In summary, the postal address for site W085 refers to Gravel Hill, Shirrell Heath, Shirrell Heath lies within the parish of Shedfield. The site lies within the countryside gap between Waltham Chase, Shirrell Heath and Swanmore, and Swanmore is considered to be the nearest settlement in terms of access to facilities etc. Hence the site was originally listed under 'Swanmore' in the July 2017 version of the SA, but then listed under the parish of Shedfield in the November 2017, in response to representations received.
12. Whilst the site description may have been amended the consultants were provided with detailed site plans so any assessments through the SA process were accurately undertaken for the correct site. This matter is specifically referred to at para 6.4 of the November 2017 SA.
13. Given the number of sites, these were grouped into clusters to allow for a comparative appraisal of site options albeit all were in use for Traveller purposes, this also avoided the need for excessive matrices, and limited reporting to the significant effects found, as required by the SA/SEA Directive/Regulations. Therefore, each site was tested in its own right against the SA framework, albeit then grouped into clusters for ease of reporting. This is demonstrated in the various schedules throughout the SA which specifically refer to Traveller site reference number W0XX - to allow for the identification of individual sites.
14. The SA has highlighted matters that need to be incorporated into policy to mitigate any identified potential negative impacts.
15. Some of the representations that refer to the SA disagree with the findings and query the detail of the assessments. The SA was carried out by independent consultants and undertaken using professional judgement, supported by the baseline information and wider Traveller evidence base. Where minor errors have been highlighted these have been corrected and it is important to note that these did not significantly affect the overall findings of the SA.

16. However, the nature of the SA will inevitably result in queries from those representing sites that have not been allocated or those objecting to sites, disagreeing with the details of the assessments. But, as stressed in the SA report, the results alone do not form the site selection process and it is a combination of factors that have resulted in the identification of which sites to specifically allocate, rather than dictating it. The SA also provides a valuable check on detailed policy expression to ensure these cover the necessary environmental, social and economic requirements. It is also important to remember that the NPPF and NPPG uphold the principles of proportionality and this is a strategic level assessment of a DPD rather than a project level Environmental Impact Assessment.

Question 3 – How has the SA been reported?

WCC Response:

17. All iterations of the SA have been published on the Council's Traveller DPD webpages, under the relevant stage of DPD preparation. Section 4-6 of the November 2017 version summarises the SA process.

18. The SA for the draft DPD was published alongside the Regulation 18 consultation held for 8 weeks commencing 10 July 2017.

19. Responses received to this consultation were considered by the Council's Cabinet (Local Plan) Committee CAB 2965(LP) held on 4 December 2017.

20. The SA for the Regulation 19 version of the DPD was published on 10 January 2018 for 6 weeks and responses have been summarised the Regulation 22 statement published with the submission documents of the DPD.

Question 4 – Does the SA test the DPD against all reasonable alternatives?

WCC Response:

21. The Council already has two policies relevant to the provision of Travellers pitches/plots – Policy CP5 in LPP1 and Policy DM4 in LPP2, therefore the role of the DPD was specifically to identify sites to meet the requirements of these policies.

22. The Council has held four specific ‘calls for sites’ for sites for traveller purposes, initially through LPP2, then through the initial consultation on the scope and content of the DPD held October – December 2016, followed by the options consultation in March 2017 and consultation under Regulation 18 in July 2017. Despite this no sites were submitted that were not already in use for traveller occupation. Therefore the SA tested all existing sites expressed as 41 options through the SA process and reported accordingly. The SA is clear that a ‘do-nothing’ scenario was not an option as the numerical requirement for the number of pitches/plots over the period 2016 – 2031 as evidence by the GTAA and set out in Policy DM4 as the identified need was required to be fulfilled.

23. The Council is therefore of the view the SA has tested all reasonable alternatives.

Question 5 – Have any concerns been raised about the SA and what is the Council’s response to these?

WCC Response:

24. This matter is covered by the Council’s response to Question 2 above.

Question 6 – Have the requirements for Strategic Environmental Assessment been met?

25. The Council via its consultants Enfusion has undertaken an integrated appraisal approach through the SA/SEA/HRA. Therefore, all documents

reported and published cover the required elements of each appraisal process and assessment.

26. Specifically Appendix 1 of the SA Report signposts how the SA has met with the requirements of the SEA Regs.

Question 7 – Is the Council satisfied that the Habitats Regulations Assessment is adequate and complies with the relevant legislation?

27. The HRA of the DPD, did not identify any likely significant effects on European sites and their designated features. Only one small, established traveller site was identified (site W011 for 1 pitch, to be safeguarded under Policy TR1) within close proximity to a European site (River Itchen SAC) and it was not considered likely to result in any of the identified threats to the SAC. Such a conclusion was supported by Natural England through the statutory Regulation 19 consultation (15 January – 26 February 2018).
28. The DPD has also been specifically amended in response to comments received by Natural England at draft DPD stage to list those sites that would fall under the area of the District covered by the Solent Recreation Mitigation Partnership, where a financial contribution is required from new development permitted towards the implementation of the mitigation strategy.
29. References in the DPD to the 2010 HRA Regulations have been updated to 2017 at the request of Natural England.
30. A further HRA statement has been prepared (SA3) which updates the HRA and clarifies compliance particularly with regard to the recent Court of Justice of the European Union judgment.

Question 8 – How have issues of equality been addressed in the DPD?

WCC Response:

31. The Council has undertaken an Equalities Impact Assessment at draft and publication stages of the DPD, in accordance with the Council's legal duties under the Equalities Act 2010.

32. The Council is aware of the criticism of the DPD and the suggestion that the DPD is fundamentally flawed on the basis of lack of compliance with the Public Sector Equality Duty. The Council does not consider this is the case and takes its Equality duties seriously, and publishes its EqlA's on its website at <http://www.winchester.gov.uk/about/equality-impact-assessments>
33. The Council is in the process of updating a range of its workforce and associated policies and will generate an action plan in due course to ensure these are kept up to date and any recommendations fulfilled in a timely manner. The Council's committee reporting procedures now includes reference to equalities and a draft equality policy is in progress.
34. Given the specific nature of the DPD, and the requirement to comply with national planning guidance and legislation the Council does not consider that its DPD is flawed. The key issue being raised relates to the definition of travellers, the Council has followed National Planning Guidance set out in the Annex to the PPTS, throughout preparation of the DPD.

Question 9 – Are there any updates or changes to the Schedule of Proposed Modifications (CD8)?

WCC Response:

35. The Council proposes to clarify Policy TR5 and its explanatory text, to reflect that this applies to sites that receive a permanent consent after adoption of the DPD:

Proposed Further Modification :

Paragraph 4.15

‘It is recognised that during the plan period there may be a demonstrable need for an additional pitch/plot on those sites safeguarded or allocated through this DPD, to meet the changing needs of the households on the sites. *This includes sites which are granted permanent planning consent after the adoption of this DPD, as these are also safeguarded by policy TR1.*’

Policy TR5

‘The Local Planning Authority will consider proposals for additional provision of pitches/plots through intensification within sites covered by Policies TR1 – TR4 above...’

36. The Council is aware of the requirements under PPTS para 11 for criteria based policies to be included as a basis for decision making. The Council has covered this under Matter 5 and concludes that this could appropriately covered by the insertion of an additional paragraph along the lines of :

Proposed Further Modification :

To add a new sub-heading and paragraph after paragraph 4.19 of the DPD as follows:

Planning Applications

Proposals for traveller accommodation should accord with the policies of this DPD and other relevant policies in Local Plans Parts 1 and 2, particularly policies CP5 and TR6. Where there is not a sufficient supply of pitches/plot requirements to meet the identified by policy DM4 remain to be met, permission may exceptionally be granted for sites in the countryside, where residential development would not otherwise generally be permitted by policy MTRA4. Where identified traveller needs have been met, such as now is the case for gypsies and travellers, no such exception is justified and proposals for traveller accommodation should be located in accordance with policies DM1 and MTRA3, in a consistent way to other housing. Proposals should continue to meet the policy criteria relevant to traveller sites, particularly those in policy TR6.