

Report of Chief Planning Officer

Report to Development Plan Panel

Date: 18 July 2017

Subject: Leeds Site Allocations Plan – Negotiated Stopping Sites for Gypsies & Travellers

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): ALL		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. It is acknowledged that there is a shortage of authorised sites for Gypsies and Travellers (G&T) in Leeds, which has historically led to increasing incidence of unauthorised encampments. This can create tensions between the settled and G&T communities and does not meet the housing needs of Travellers. The issue is being addressed positively via the Site Allocations Plan (SAP), which allocates and safeguards sites for Gypsies and Travellers in three ways: a) Council managed sites, b) private run sites and c) sites for negotiated stopping.
2. The Core Strategy identifies a requirement for 9 negotiated stopping pitches to meet the needs of those G&T families who are stopping temporarily in Leeds for a specific Leeds based reason e.g. to visit their family. The approach taken in the SAP is not to identify and allocate specific sites to meet this need, but rather to provide a responsive management approach, which is case specific and avoids fixed transit sites with a regular turnover of temporary residents becoming problematic for their neighbours.
3. In order to support the Site Allocations Plan at Examination, and ensure that the policies within it are effective, there is a need to provide clarity on a responsive management approach to negotiated stopping. A draft implementation approach is provided as "*A management approach to negotiated stopping for short term Gypsy and Traveller visitors to Leeds*" at **Appendix 1**.

Recommendations

4. Members are recommended to endorse the approach outlined in Appendix 1 “A management approach to negotiated stopping for short term Gypsy and Traveller visitors to Leeds” and request that the Chief Planning Officer and Director of Resources and Housing approve the approach as a protocol with immediate effect and submit it as background evidence to the Site Allocations Plan.

1. Purpose of this report

- 1.1. To seek Members views on a draft management approach to the negotiated stopping needs of Gypsies and Travellers (G&T). This approach is set out in a note entitled *“A management approach to negotiated stopping for short term Gypsy and Traveller visitors to Leeds”* at **Appendix 1**, which is intended to support operational activities in relation to specific Council services including: housing, planning, enforcement, asset management and health and well-being.

2. Background

- 2.1. It is widely accepted that there is a national shortage of authorised sites for Gypsies and Travellers. This has led to increasing incidence of unauthorised encampments, which can create tensions between G&T and the settled community. It is also well recognised that G&T are amongst the most socially excluded groups in society and independent national research confirms the link between the lack of good quality accommodation and poor health and education outcomes. The Government acknowledge that G&T are being held back by some of the worst outcomes of any group across a range of social indicators on housing, health, education, incidence of hate crime and access to employment¹.
- 2.2. Between 2003 and 2010 Leeds City Council spent £2 million on eviction and clear up costs associated with unauthorised encampments. Locations of unauthorised encampments became increasingly inappropriate and land used for previous camps was barricaded and unsightly.
- 2.3. In 2011 the City Council published the findings of the Neighbourhoods and Environment Scrutiny Panel into Gypsy and Traveller site provision. Included in the 12 recommendations, the Scrutiny Panel suggested that the authority should conduct a pilot ‘negotiated stopping’ scheme and provide permanent pitch provision via the Site Allocations Plan. As part of the pilot negotiated stopping scheme the Kidacre Street site in City and Holbeck was identified. This site has subsequently been granted planning permission for 10 years and forms a part of the Council’s Site Allocations Plan.
- 2.4. The Adopted Leeds Core Strategy was supported by a needs assessment (carried out in collaboration with Leeds Gypsy and Traveller Exchange (Leeds GATE) during 2014). This sets the need for 62 G&T pitches in Leeds up until 2028 of which 9 pitches are for negotiated stopping needs at any one time. The Core Strategy also contains a criteria-based policy (Policy H7) to help take decisions on planning applications for G&T accommodation and provisions to safeguard new provision where appropriate.
- 2.5. The Site Allocations Plan, which was submitted to the Secretary of State on 5th May 2017, proposes a range of new and safeguarded sites for Council-run and private pitches to help address Core Strategy needs, although there remains a shortfall of private pitch provision against Core Strategy requirements. The Site Allocations Plan does not allocate negotiated stopping pitches; it notes in paragraph 2.68 that *“...Publically managed sites for negotiated stopping are provided so as to ensure that Leeds has a managed approach to Gypsies and Travellers who have a Leeds connection but who only require pitch provision for short periods of time each year*

¹ (2012) Department of Communities and Local Government, [Progress report by the ministerial working group on tackling inequalities experienced by Gypsies and Travellers](#)

and are travelling the remainder of the year. The Council will work to identify a pool of sites which can be made available at short notice e.g. currently vacant sites pending another future use, which are preferable to the roadside or more sensitive areas where temporary stopping has occurred in the past e.g. on parks and playing fields. This pool of sites will be an operational management issue for Environment & Housing.”

- 2.6. The Inspectors of the Site Allocations Plan have asked a range of initial questions on the Site Allocations Plan. One of these is *“The Council is not identifying any ‘stopping-sites’ despite an identified need. Is this approach sound?”*
- 2.7. This report and **Appendix 1** provides operational clarity to this matter, in order to address the needs of Gypsy and Traveller visitors to Leeds and so as to help ensure that the positive approach set out in the Site Allocations Plan is considered by the Inspectors to be a sound one.

3. Main Issues

- 3.1. This report focuses on a specific aspect of overall identified need for G&T provision in Leeds up until 2028 – known as negotiated stopping provision.
- 3.2. Negotiated Stopping provision is required so as to ensure that Leeds has a managed approach to Gypsies and Travellers, who have a Leeds connection but who only require pitch provision for short periods of time. They enable a flexible provision to suit the needs of the travelling community.
- 3.3. Negotiated Stopping describes an agreement reached between the local authority and G&T who wish to temporarily visit Leeds. The agreement may apply to a location that G&Ts have chosen themselves to pull onto, or it may be applied to another area of land that the City Council suggests. The agreement is a temporary ‘social contract’ which outlines the terms under which families may stay on a particular area of land, without being evicted, for a defined limited period. Gypsies and Travellers agree simple terms (such as not lighting large fires, not dumping waste and keeping animals under control). In return, the City Council agrees to provide household rubbish disposal and sanitation (e.g. skips and portaloos). The defining characteristic of Negotiated Stopping sites is that they are not permanently laid out for G&T use.
- 3.4. This approach is distinct from another form of accommodation for G&T visitors called Transit or Stopping Sites. Transit Sites are specifically developed, much like permanent sites, with hard standing, electric hook up and other fixed facilities. Residents would rent a pitch for a defined period. The defining characteristic of transit sites is that they are laid out formally for G&T use and are permanent fixtures within the local community.
- 3.5. Through the Site Allocations Plan (SAP) the Council has committed to using sites which can be made available at short notice e.g. currently vacant land pending another future use, which is preferable to the roadside or more sensitive areas where temporary stopping has occurred in the past such as on parks and playing fields. This pool of sites will be continually updated and managed by the Council over the plan period and used to react quickly to meet Negotiated Stopping needs at a given point in time.

- 3.6. The wider management and sustainability benefits of negotiated stopping are captured in Table 1 below.

Table 1: Sustainability benefits of negotiated stopping

Economic	Social	Environmental
<ul style="list-style-type: none"> • Lower incidence of illegal encampments • Reduced enforcement, eviction and clean-up costs • No requirement to develop and manage/maintain permanent 'transit' provision • Savings on police time and costs 	<ul style="list-style-type: none"> • Helps to foster good relations with the G+T community • Improvements to quality of life of G+T's (breaks the eviction cycle - no immediate threat of eviction) • Reduction in levels of nuisance and anti-social behaviour associated with encampments • Impact of temporary encampments is spread across the city 	<ul style="list-style-type: none"> • Promotes the use of previously developed land • Encampments steered away from environmentally sensitive sites • Development is temporary in nature and has no permanent impact • Encampments have a reduced impact on the environment (sanitation, refuse provision)

- 3.7. The attached management approach (**Appendix 1**) sets out the following principles:

- negotiation between the Council and Gypsy and Traveller community visitors to Leeds will be entered in to at the earliest opportunity.
- G&T visitors to Leeds who are stopping temporarily should stay no longer than 28 days.
- the use of land for G&T accommodation for longer than 28 days will require planning permission. Temporary planning permission may be sought via the development management process and will be assessed against the criteria in the Council's Core Strategy Policy H7.
- the City Council will take a decision as to the appropriateness of where G&T visitors have "pulled up" in Leeds. The Council will decide to either:
 - allow negotiated stopping on the "pulled up" site. This will depend on a range of factors around suitability, accessibility, landownership and risk
 - if the site is not suitable then the Council will identify an alternative suitable site to which G&T visitors will be directed.
- negotiated stopping sites will be used for short periods of time (i.e. less than 28 days) and will not be used again within a 12 month period. This enables a spread of opportunities for temporary sites throughout Leeds rather than in specific wards or communities. This fits with a long standing principle of the

Council to encourage smaller more distributed solutions to meeting G&T needs.

- 3.8. In identifying sites for temporary G&T accommodation under the Negotiated Stopping management approach, the City Council will make use of its Council owned land asset register. Sites will be identified which:
- are of a size which is suitable to the needs of the visitors to Leeds without encouraging further unauthorised stopping
 - satisfy a range of planning considerations including, amenity, noise, landscaping, flood risk, health and safety etc
- 3.9. The Council views Negotiated Stopping as a partnership. Keys to its success will be:
- the positive support both of Council officers and of Elected Members, including respect for the traditions and way of life of the Gypsy and Traveller community
 - direct negotiation with Gypsies and Travellers themselves, facilitated by Leeds GATE, whose role has been important and is greatly valued by the Council
 - pragmatism and compromise by both sides, motivated by the desire to ensure the Council meets and further embraces its duty under s.149 of the Equalities Act
- 3.10. The Council envisage that the process for Negotiated Stopping be applied on a case by case basis using the following sequential approach:
- decision taken to tolerate group of G&T on site that they have encamped on. Assumption could stay for up to 28 days with each household signing a negotiated stopping (setting out behaviour conditions) agreement, or if the site is considered to be unsuitable and/or unavailable then:
 - swift decision taken to direct to alternative land that is available at that point in time. Again assumption could stay for up to 28 days with each household signing a negotiated stopping (setting out behaviour conditions) agreement.
- 3.11. This managed approach does not replace the right that the Council may have to evict visitors from sites under the Criminal Justice and Public Order Act 1994 where Negotiated Stopping is not considered appropriate or is not entered into by G&T visitors to Leeds. The Council recognises that the ability to enforce against unauthorised development in Leeds is related to its proactivity in meeting the need for new provision in a number of different ways, including for negotiated stopping pitches. If the Council supports the provision of sites it will be in a much stronger position to resist inappropriate encampments.

4. Corporate Considerations

4.1. Consultation and Engagement

- 4.1.1. The approach set out above would continue the Council's recent positive activities on this issue:

- a Council Scrutiny Board Inquiry was held during 2010 and concluded that the current cycle of unauthorised encampment was not meeting the needs of Gypsies and Travellers, was leading to community tensions and was not delivering value for money in relation to use of the Council's resources. The immediate priority of the Council was to address the housing needs Leeds based roadside families.
- The Council have secured planning permission for 8 pitches at Kidacre Street for 10 years to meet immediate needs for Council-run provision.

4.1.2. The Site Allocations Plan has been prepared with the full engagement and support of Resources and Housing and wider City Development service. Resources and Housing colleagues are responsible for managing public sites and officers have provided views on the suitability of proposed permanent sites to be safeguarded and allocated in the SAP during the assessment process. They will also provide views on the suitability of Negotiated Stopping sites under the terms of the management approach in Appendix 1.

4.1.3. Active consultation with the Gypsy and Traveller community via Leeds GATE is ongoing as part of the plan making process and this implementation approach is supported by and has been prepared in liaison with Leeds GATE.

4.2. Equality and Diversity / Cohesion and Integration

4.2.1. Allocating sites for Gypsies and Travellers in Leeds raises equality issues in terms of access of different groups to housing. These issues have been addressed in previous Equality Impact Assessment screenings for Executive Board reports on the Site Allocations Plan.

4.3. Council policies and City Priorities

4.3.1. Leeds' Core Strategy Policy H7, including the provision of 9 negotiated stopping sites, anticipates releasing enough land to meet Leeds' Gypsy and Travellers housing needs, including a 5 Year Supply. Meeting Leeds' housing needs also forms part of the Vision for Leeds and the aspiration to the 'the best city in the UK'. The adopted Core Strategy takes forward the spatial objectives of the Vision for Leeds and the priorities set out in the City Priority Plans and the Best Council Plan (in particular Objective 2: to 'promote sustainable and inclusive economic growth'). Housing Growth is a City Council 'break through' project.

4.4. Resources and value for money

4.4.1. This report is concerned with ensuring that Leeds meets the needs of its Leeds-based Gypsies and Travellers and prepares a sound Site Allocations Plan in line with national policy. The management approach also ensures that costs of eviction are reduced. Between 2012 and 2017 the costs to the Council of dealing with unauthorised encampments were in excess of £800,000. A managed approach to negotiated stopping will help reduce these costs by providing appropriate pitches as an alternative to land currently being occupied and greater clarity for G&T as to where they can "pull up".

4.5. Legal Implications, Access to Information and Call In

- 4.5.1. The periodical review of housing needs under section 8 of the Housing Act 1985 is a statutory requirement on local housing authorities. This requires local housing authorities to assess and understand the accommodation needs of people residing or resorting to their district. It includes the duty to consider the needs of people residing in or resorting to a district with respect to sites for caravans and the mooring of houseboats is part of that requirement.
- 4.5.2. National planning guidance set out in Planning Policy for Traveller Sites (2012) places a requirement on local authorities to set pitch targets for Gypsies and Travellers which address the likely permanent and transit site accommodation needs of their area. In addition to setting pitch targets local authorities are required to identify a supply of specific deliverable sites, sufficient to provide five years' worth of sites against the locally set targets.
- 4.5.3. Local authorities have a duty under the Equality Act to actively seek to eliminate unlawful discrimination, advance equality of opportunity and promote good race relations. The Act does not define race, however case law has established that Roma Gypsies and Irish Travellers are covered by the protected characteristic of race for the Equality Act 2010.
- 4.5.4. It is also important to note that case law has determined (Chapman v UK, 2001) that whilst the need for housing as part of a Gypsy or Traveller's human rights is material it does not outweigh the environmental protection or amenity of others which are key considerations in the statutory UK planning process. However, the vulnerable position of Gypsies and as a minority means that *"some special consideration should be given to their needs and their different lifestyle both in the regulatory planning framework and in arriving at decisions in particular cases...to this extent there is a positive obligation ... to facilitate the Gypsy way of life"*.

4.6. Risk Management

- 4.6.1. A comprehensive consideration of needs and a strategy to meet the need identified in the Core Strategy will greatly strengthen the ability of the City Council to respond swiftly and firmly to inappropriate unauthorised developments and encampments.
- 4.6.2. To that end, the managed approach at **Appendix 1** helps meet specific evidenced needs for G&T who temporarily visit Leeds. This in turn will help ensure that the Site Allocations Plan is considered to a sound document. This outcome would lessen the risk of further delay to the plan making process which identifies allocations for settled housing and other land uses. The approach will also reduce future costs of unauthorised eviction and help build relationships with the Leeds based G&T Community and ensure that, through ongoing negotiation, they arrive at sites which are suitable.

5. **Conclusion**

- 5.1. As part of the Site Allocations Plan process the Council has undertaken an assessment of sites to meet the accommodation needs of Gypsies and Travellers, for 62 families in Leeds with a split between private, public and negotiated stopping sites. There is a need for 9 negotiated stopping sites at any one time to be delivered on a rolling basis.

- 5.2. This report sets out a management approach to identifying suitable, available and achievable negotiated stopping sites to be used by temporary visitors to Leeds. This approach will be submitted to the Inspectors of the Site Allocations Plan so as to help ensure that the Plan is sound.

6. Recommendations

- 6.1. Members are recommended to endorse the approach outlined in Appendix 1 "A management approach to negotiated stopping for short term Gypsy and Traveller visitors to Leeds" and request that the Chief Planning Officer and Director of Resources and Housing approve the approach as a protocol with immediate effect and submit it as background evidence to the Site Allocations Plan.

Appendix 1

A management approach to negotiated stopping for short term Gypsy and Traveller visitors to Leeds

1. Background

- 1.1. This protocol has been established to address the identified need for 9 negotiated stopping pitches within the Leeds Core Strategy. Negotiated Stopping will be managed, implemented and monitored by the Resources and Housing Department in liaison with City Development.

2. Definition of negotiated stopping

- 2.1. Negotiated stopping is when an agreement is reached between a local authority and members of the Gypsy and Traveller community. The agreement may apply to a location that Gypsies and Travellers have chosen themselves to pull onto, or it may be applied to another piece of ground that the local authority itself suggests. The agreement is a temporary 'social contract' which outlines the terms under which families may stay on a particular piece of ground, without being evicted by the authority, for a defined limited period for up to 28 days.

3. Definition of a negotiated stopping pitch

- 3.1. An individual negotiated stopping pitch is an area of land for up to 2 caravans which is used temporarily for a period of up to 28 days.
- 3.2. A formula of 2 caravans per family/household is applied as a benchmark unless there is clear evidence that each family unit is notably larger or smaller than this average. Families naturally vary in size. For the operation of the management approach it is considered that 9 pitches are required to meet the needs of 9 families at any one point in time with 2 caravans per family (i.e. 18 caravans to be accommodated at any one time). Depending on the circumstances there may be flexibility where family sizes exceed 2 caravans per family unit.
- 3.3. Given the temporary and informal nature of the sites it is unlikely that individual pitches will be marked out within negotiated stopping sites.

4. Maximum number of pitches at any one time

- 4.1. In line with the Leeds Core Strategy assessed needs this management approach will be applied to a maximum of 9 pitches at any one time. Additional requests for negotiated stopping will be dealt with on their merits at the discretion of the Council with regard to the needs of the individuals at the time. The 9 pitches may be delivered on 1 single site or across a series of smaller sites at any one time.

5. Who qualifies for Negotiated Stopping?

- 5.1. The Council will consider whether families meet the basic criteria for Negotiated Stopping. The basic criteria will be satisfied if the answer to the following questions must be yes before Negotiated Stopping agreement can be entered into:
 - does the group consist of 9 or fewer families?

- do the group intend to stay in Leeds district for 28 days or fewer?
- are the group willing to engage with the Council and sign up to a negotiated stopping agreement?

5.2. There will be a presumption in favour of negotiation with all Gypsies and Travellers. The Council will negotiate with every G+T group who encamp in Leeds. If it is clear that certain groups/individuals do not wish to negotiate with the Council then they will not be suitable for negotiated stopping.

6. Who will negotiate

6.1. Officers from Housing Support will negotiate with the G&T visitors, with a final decision on the negotiated stopping agreement being taken by the Head of Housing Support. The police will also be involved in the negotiations and be made aware of the negotiation at the earliest opportunity. In addition, Leeds GATE, health visitors and other partners who do or might have contact with families should have an opportunity to contribute to discussions about the appropriateness of negotiation and facilitate discussions where relevant.

6.2. The offer of negotiation should be suggested to any family or group of families unless there are strong reasons presented not to.

7. Site suitability criteria

7.1. If where G&T have stopped does not meet the suitability criteria the Council will seek to identify an appropriate site. The Council will work to identify land using its own land holdings, which are could be made suitable for potential Negotiated Stopping sites. The aim is to have a discrete pool of sites that are considered relevant at a given point in time which provide for a range of geographical locations and site sizes. The sites will be available for negotiated use at short notice and be available to the Head of Housing Support. The list will not be a publically available document as the availability of sites will change continuously.

7.2. The Council will then enter into an agreement with the G+T group to move to the identified negotiated stopping site for a temporary period.

7.3. This approach sets out specific criteria, which broadly aligns to national and local planning policy, whilst balancing this against the temporary nature of the Negotiated Stopping sites. This criteria will be applied City-wide as follows. Negotiated Stopping sites should:

- be vacant (no operating use on the site or expected to be in use for the proposed duration of the encampment)
- preferably be an existing flat area of hardstanding but grassland may be appropriate in some circumstances
- be safe for the occupants (with no dangerous buildings/structures, obvious health and safety hazards)
- have reasonable access to public transport, health care, schools, shops and local services, but this may depend on the length of the stay and will be discussed as part of the negotiated stopping agreement

- once used for temporary G&T use not unduly dominate an adjacent settled community
- be a defensible space or easily made defensible (to prevent uncontrolled expansion of encampment)
- have no impact on Public Rights of Way
- be sited outside flood zone 3 or the functional flood plain
- not be sited on sensitive areas of land (see below)
- no excessive amenity concerns for the Gypsy or Traveller group or the surrounding community which cannot be mitigated through agreement

7.4. Sensitive areas of land:

- Green space identified in the Local Plan or Local Green Space Designations (Neighbourhood Plans)
- Civic spaces
- Private land without consent of the owner, including operational car parks
- Nature Conservation Designations: Leeds Habitat Network, SSI's, Local Nature Areas, SEGI's, Local Nature Reserves where Negotiated Stopping sites have potential to harm intrinsic environmental or ecological assets

8. What the Council will provide

8.1. The Council will provide the following facilities to ensure that negotiated stopping sites are suitable, safe and secure:

- refuse facilities;
- toilets; and
- measures to contain the site, where necessary.

8.2. The Council will also provide a named liaison officer between the families and the local residents and Ward Members.

8.3. The Council will also facilitate a Negotiated Stopping agreement between the Council and the families involved including: conditions on behaviour, tidiness of the site, approach to animals, length of stay, clear guidelines on the lighting of fires and other matters which are necessary to ensure the amenity of the G&T visitors to Leeds and any neighbouring properties or residents whose amenity may be affected by the temporary use of land.

9. Groups which do not meet the Negotiated Stopping basic criteria

9.1. G&T encampments which do not meet the criteria to qualify for negotiated stopping, such as groups larger than 9 families will be dealt with using the existing Council processes for unauthorised encampments. This usually involves recovering land

possession. Families who decide to stay in Leeds for an indefinite period will be directed to make a housing register application to the City Council for a permanent pitch.

10. Monitoring

- 10.1. This managed approach to Negotiated Stopping will be monitored. Initially this will be undertaken on a six monthly basis to address issues with implementing this policy. Subsequently the approach will be monitored annually by Housing Support.