



SCRUTINY BOARD (HOUSING AND REGENERATION)

Meeting to be held in Civic Hall, Committee Room 1, Leeds, LS1 1UR on
Thursday, 10th October, 2013 at 9.30 am

(No pre-meeting)

MEMBERSHIP

Councillors

B Atha Kirkstall;
D Collins Horsforth;
J Cummins Temple Newsam;
P Grahame Cross Gates and
Whinmoor;
M Iqbal City and Hunslet;
S Lay Otley and Yeadon;
V Morgan Killingbeck and Seacroft;
D Nagle Rothwell;
J Procter (Chair) Wetherby;
C Towler Hyde Park and
Woodhouse;
G Wilkinson Wetherby;

Please note: Certain or all items on this agenda may be recorded

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A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25* of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded).</p> <p>(* In accordance with Procedure Rule 25, notice of an appeal must be received in writing by the Head of Governance Services Officer at least 24 hours before the meeting).</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:</p> <p>No exempt items have been identified on the agenda.</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstances shall be specified in the minutes.)</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES</p> <p>To receive any apologies for absence and notification of substitutes.</p>	
6			<p>GYPSIES AND TRAVELLERS PITCH NEED ASSESSMENT</p> <p>To consider a report from the Head of Housing Support on the Gypsies and Travellers Pitch Need Assessment.</p>	1 - 10
7			<p>DATE AND TIME OF NEXT MEETING</p> <p>Tuesday, 29 October 2013 at 10.00am (Pre-meeting for all Board Members at 9.30am)</p>	

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Report of Head of Scrutiny and Member Development

Report to Housing and Regeneration Scrutiny Board

Date: 10TH October 2013

Subject: Leeds Gypsies and Travellers Pitch Need Assessment

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1.0 Introduction

1.1 The Scrutiny Board at its meeting on 24th September 2013 requested a report on the Leeds Gypsies and Travellers Pitch Needs Assessment.

2.0 Director's Report

2.1 A report of the Director of Environment and Neighbourhoods is attached on this matter for the consideration of the Scrutiny Board.

3.0 Recommendations

3.1 Members are asked to note the contents of the report.

4.0 Background papers¹

4.1 None used.

¹The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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Report of Head of Housing Support

Report to Scrutiny Board (Housing and Regeneration)

Date: 10th October 2013

Subject: Gypsies and Travellers Pitch Needs Assessment

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1. Purpose of Report

- 1.1. To provide Housing and Regeneration Scrutiny Board members with an officer view of the validity of the West Yorkshire Gypsy and Traveller Accommodation Assessment (GTAA) in respect of assessing Gypsy and Traveller pitch requirement.
- 1.2. To provide Housing and Regeneration Scrutiny Board members with the alternative assessment, including the methodology applied, carried out by officers to determine pitch requirement for Gypsies and Travellers.

2. Background Information

- 2.1. The 1994 Criminal Justice and Public Order (Section 80) repealed the duty, set out in the 1968 Caravans Sites Act 1968, to provide accommodation sites for Gypsies and Travellers.
- 2.2. The 2004 Housing Act (section 225) requires local authorities, as part of a wider assessment of housing need in its district, to carry out an assessment of the housing needs of Gypsies and Travellers 'residing or resorting' to its district. The local authority must prepare a strategy to meet the accommodation needs identified in the assessment.

- 2.3. The definition of 'accommodation needs' set out in section 225 of the 2004 Housing Act is provision of sites on which caravans can be stationed.
- 2.4. In 2007 the then West Yorkshire Housing Partnership commissioned Sheffield Hallam University to carry out a West Yorkshire Gypsy and Traveller Accommodation Assessment (GTAA). The West Yorkshire GTAA was published in May 2008.
- 2.5. In 2008 it was intended that GTAAs would feed into Regional Spatial Strategies (RSSs) to verify regional pitch need and local Development Plan Documents (DPDs) would identify specific sites to match pitch need set out in the GTAA and RSS applicable to Leeds.
- 2.6. The West Yorkshire GTAA calculated pitch requirement for each of the five West Yorkshire authorities for the period 2008 to 2015; with the Leeds figure being 48 additional pitches.
- 2.7. The GTAA also sought to forecast pitch requirement for the period 2016 to 2026; with an additional pitch requirement for Leeds being calculated as 38 pitches.
- 2.8. In total the GTAA calculated the Leeds pitch requirement as being 86 additional pitches for the period 2008 to 2026.
- 2.9. The Council is obliged, as part of the Core Strategy development, to submit a pitch requirement calculation for Gypsies and Travellers to cover the period up to 2028.
- 2.10. The proposed Leeds approach will be subject to Core Strategy examination in mid-October.

3. Main Issues

- 3.1. Leeds City Council has never accepted the findings of the West Yorkshire GTAA and government guidance has made clear that such a position is feasible.
- 3.2. In July 2010, the Secretary of State for Communities and Local Government wrote to local authority Chief Planning Officers stating the following:

3.2.1. How do we determine the level of provision for travellers' sites?

Local councils are best placed to assess the needs of travellers. The abolition of Regional Strategies means that local authorities will be responsible for determining the right level of site provision, reflecting local need and historic demand, and for bringing forward land in DPDs. They should continue to do this in line with current policy. Gypsy and Traveller Accommodation Assessments (GTAAs) have been undertaken by all local authorities and if local authorities decide to review the levels of provision these assessments will form a good starting point. However, local authorities are not bound by

them. We will review relevant regulations and guidance on this matter in due course.

- 3.3. In March 2012, the government issued updated guidance, 'Planning Policy for Traveller Sites' that set out the need for local authorities to 'make their own assessment of need for the purposes of planning' and 'develop fair and effective strategies to meet need'.
- 3.4. Leeds City Council officers believe that the West Yorkshire GTAA was framed using flawed methodology. Namely, that pitch need was calculated on the basis of a Gypsy and Traveller expressing a preference for pitch based housing rather than an assessment of unmet housing need.
- 3.5. Officers from Leeds City Council believe that the assessment of pitch need should be framed around the following two principles:
 - 3.5.1. Number of Gypsies and Travellers approaching the Council, by registering a housing or planning application, because they require pitch based accommodation.
 - 3.5.2. . Number of such Gypsies and Travellers who the Council considers, following a housing needs assessment being carried out, can have their housing need met solely through the provision of pitch based accommodation.
- 3.6. The authors of the West Yorkshire GTAA interviewed 198 Gypsy and Travellers households across the sub-region. The interviewees were asked to express their accommodation preference (Table 4.19) on a scale 1 to 10. This expression of accommodation preference was used to calculate pitch need. 10% of the interviewees described themselves as home-owners. Using the methodology employed in the GTAA, such households were able to express a preference for pitch based accommodation and this would feed into the pitch need calculation.
- 3.7. The GTAA calculated that there was 400 Gypsies and Travellers living in 'conventional housing' within the West Yorkshire sub-region; with 160 such households living in Leeds. These figures were arrived at through the interviewing of 73 people who lived in 'conventional housing'; with 30 of those living in Leeds. The GTAA states that it adopted a 'pragmatic approach to identifying households in bricks and mortar accommodation' which 'relied on the local knowledge of stakeholders and community interviewers'. Officers from Leeds City Council do not believe that this was a satisfactorily scientific method of calculating pitch requirement.
- 3.8. The residence of a Gypsy or Traveller household in 'conventional housing' is not automatically, because of cultural heritage or preference, an instance of unmet housing need. There will be a number of reasons why Gypsies and Travellers choose to live in 'conventional housing'. It could be a definite choice on the part of a household or a decision as a result of an absence of sufficient pitch based provision. By approaching the Council, to make a

housing or planning application, a Gypsy or Traveller is expressing that their housing needs are not being met and that they want pitch based accommodation. The Council can thereafter make an assessment of their housing need and how this can be addressed.

3.9. The GTAA (Appendix G) states the following in respect of calculating pitch need from 2016 to 2026:

The RSS period runs to 2026 and the estimates provided here serve only as a guide to what the situation *might* look like in terms of the number of pitches required to accommodate new household formation over that period. There are obvious problems in projecting pitch estimates well into the future.

Again this highlights the flaws in the methodology and findings of the West Yorkshire GTAA.

3.10. Leeds Proposed Approach

3.10.1. The proposed Leeds approach is framed around the following principles:

- § Gypsies and Travellers should approach Leeds City Council, either by making a housing or planning application, stating that they have an unmet housing need that can only be met through permanent/long-term pitch based accommodation.
- § An individual assessment of housing need should be carried out which concludes that housing need can only be met through permanent/long-term pitch based provision.

3.10.2. Officers believe that it is a reasonable position to adopt that Gypsies and Travellers who want to access permanent pitch based accommodation managed by Leeds City Council should register a housing application for re-housing.

3.10.3. There are currently 29 live housing applications from Gypsies and Travellers who state that they want pitch based accommodation managed by Leeds City Council.

3.10.4. An assessment of unmet housing need is carried out in accordance with homeless law: Part VII of the 1996 Housing Act (as amended). A local authority has a duty to secure 'suitable' temporary accommodation, pending 'suitable' longer term accommodation being secured, if a household is deemed to be eligible for assistance (right of residence in UK), unintentionally homeless and in priority need for housing. Such a household is deemed to be statutorily homeless and awarded Band A status for re-housing by Leeds City Council.

- 3.10.5. The two key issues are whether a household is homeless and the type of accommodation, whether that is temporary or permanent, which is 'suitable' to fulfil a local authority's housing duty.
- 3.10.6. In respect of an assessment of homelessness the following points are relevant to Gypsies and Travellers:
- § Gypsy and Travellers living on 'roadside' could be homeless because they have nowhere to legally station their mobile home.
 - § Gypsy and Travellers living care of family and friends on pitch based accommodation could be homeless because they have no legal interest in the accommodation they are occupying.
 - § Gypsy and Traveller living in 'conventional housing' could be homeless if the accommodation they are occupying is considered not 'reasonable' for their occupation.
- 3.10.7. Where a Gypsy or Traveller, living in 'conventional housing', approaches the authority stating that they require pitch based accommodation then the Council will carry out an assessment of homelessness using the following tests:
- § Is the accommodation **available** to occupy on an on-going basis?
 - § Have the applicants a **legal interest** in the accommodation occupied: ownership, tenancy or licence agreement?
 - § Can the applicants **secure entry** to the accommodation?
 - § Is the accommodation '**reasonable**' for the applicant's occupation?
- 3.10.8. If the 'conventional housing' is established to be available to occupy on an on-going basis, the household has a legal interest in the accommodation and can secure entry to it; the local authority will focus on whether the accommodation is reasonable to occupy.
- 3.10.9. An assessment of 'reasonable to occupy' will have regard for relevant case law, including *Codona v Mid Bedfordshire Council*, which focused on the question of whether a Gypsy housing applicant had a 'cultural aversion' to 'conventional housing' and whether the offer of such housing, either as a temporary or permanent housing option, could be considered to be 'suitable' accommodation to fulfil duties to a homeless household.
- 3.10.10. An assessment of 'cultural aversion' to 'conventional housing' will consider a number of factors including length and history of residence (if any) in 'conventional housing', length of time/period since lived in

caravans, whether household lives a 'nomadic' lifestyle, whether this is linked to livelihood, impact of living in 'conventional housing' on health and wellbeing.

- 3.10.11. All assessment of homelessness, including those relating to the housing needs of Gypsies and Travellers, need to be carried out by looking at the specific circumstances of a person or household. The Council cannot adopt a 'blanket policy', such as deciding that every Gypsy and Traveller living in 'conventional housing' is or is not suitably housed, because this would 'fetter' the Council's discretion to make personalised assessments.
- 3.10.12. This emphasises the need to calculate pitch requirements through the tangible evidence of housing applications and housing needs assessments.
- 3.10.13. If a household is established to be statutorily homeless then the local authority would need to secure 'suitable' temporary accommodation for them pending 'suitable' longer term accommodation being secured.
- 3.10.14. Officers believe that, as a general principle, longer term housing need for statutorily homeless Gypsies and Travellers, who have a 'cultural aversion' to 'conventional housing', can only be met (and housing duty discharged) through the offer of pitch based accommodation, on a site designated for Gypsies and Travellers, with maximum security of tenure.
- 3.10.15. This commitment is over and above the legal requirement with there being no legal duty to provide accommodation site for Gypsies and Travellers since the enactment of section 80 of the 1994 CJPO and the Codona decision whereby Mid Bedfordshire Council were not obliged to provide pitch based accommodation, even though 'cultural aversion' to 'conventional housing' was accepted, because the law did not require the authority to do so.
- 3.10.16. The award of statutory homeless status is therefore the key determinant of pitch requirement. Of the 29 current housing applications from Gypsies and Travellers, who have expressed a desire for pitch based accommodation, 19 have been awarded statutory homeless status. The Council has accepted that they have a 'cultural aversion' to 'conventional housing' and their long-term housing need can only be met through permanent pitch based accommodation.
- 3.10.17. A pitch requirement of 19 is therefore the current assessment of need. The provision of 12 additional pitches at Cottingley Springs will substantially address this need. The calculation of 19 pitches is substantially lower than the GTAA assessment of 48 additional pitches by 2015.

3.10.18. A composite annual growth rate of 5% has been applied which results in a calculation of 42 pitches by 2028 – the end year of the Core Strategy. This compares with the GTAA calculation of 86 pitches by 2026.

3.10.19. A 5% composite annual growth rate equates to 121% growth rate over the 15 years up to 2028.

3.11. Legal Advice

3.11.1. Planning Services sought counsel advice on the proposed methodology to assess Gypsy and Traveller pitch need. The advice received was that the approach was reasonable provided that each application was assessed on its individual merits and that no 'blanket policy' was applied in respect of assessing need including 'cultural aversion' to conventional housing.

3.12. Planning Applications

3.12.1. The current assessment of 19 pitches, and 42 pitches by 2028, relates to housing managed by Leeds City Council. This calculation will be augmented by pitches delivered through planning applications: land owners seek planning permission to use land to station residential caravans.

3.12.2. Again the assessment of need is based upon applications made. The Council has received one application, in Allerton Bywater, comprising the stationing of 3 caravans.

3.13. Positive Approach to Planning for Gypsy and Traveller Pitch Need

3.13.1. Officers believe that the approach adopted by Leeds City Council does represent a commitment to 'plan positively' as required in the March 2012 government guidance.

3.13.2. Leeds City Council is establishing a definite link between the assessment of pitch requirement, Core Strategy, Gypsy and Traveller DPD and addressing unmet housing need. Leeds City Council is the only West Yorkshire authority that has identified a site for pitch development, and made a planning application. Making a planning application is a demonstration of the commitment to plan positively rather than a theoretical commitment set out in a Core Strategy.

3.13.3. Officers would echo the point made in the West Yorkshire GTAA that assessing pitch need in the longer-term future (2026 in respect of the RSS and 2028 for the Core Strategy) is challenging. Officers would therefore stress that the assessment of pitch numbers is subject to on-going review and could change. Nevertheless, the principles that a Gypsy or Traveller should express an interest in pitch accommodation,

through a housing or planning application, and that a housing need assessment is carried thereafter seem sound for the long-term.

4. Conclusion

- 4.1. Officers believe that the methodology applied in the West Yorkshire GTAA was flawed in that it calculated pitch requirement on expressed housing preference rather than assessed housing need.
- 4.2. The report has highlighted that the GTAA concedes that assessing pitch requirement up to 2026 (two years before the end of the Core Strategy period) cannot be calculated in a wholly scientific way.
- 4.3. The rationale proposed by officers is based upon the number of Gypsies and Travellers who have expressed an interest in securing pitch accommodation, by registering a housing application, and having an assessment of their housing need thereafter. Officers believe that this is a more satisfactory approach than basing need on an expressed housing preference.
- 4.4. Officers have noted the obligation to adopt a 'positive' approach to planning for Gypsy and Traveller housing need. Officers would put forward the view that Leeds having a current planning application for additional pitches is a more 'positive' approach than the other West Yorkshire authorities that have not made this progress in attempting to meet housing need.

5. Recommendation

- 5.1. Members are asked to note the content of the report.