TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

20 October 2008

Report of the Director of Planning Transport and Leisure

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 GYPSY AND TRAVELLER – RELATED MATTERS

Summary
This report recommends a response to SEERA's consultation on alternative pitch distributions around the South East and considers the local planning implications of the proposals and development control implications of some recent appeal decisions.

1.1 South East Plan - Gypsy and Traveller Partial Review – Issues and Options Consultation

1.1.1 I reported to your meeting in June on progress with SEERA's partial review of the South East Plan dealing with Gypsies, Travellers and Travelling Showpeople. SEERA is in the process of preparing this review with the aim of providing strategic planning advice on the level and distribution of Gypsy and Traveller accommodation across the South East. This is in accordance with Government Guidance in Circular 01/2006. SEERA is now at the stage of publicly consulting on options for the distribution of pitch requirements throughout the region.

1.1.2 To inform this process, SEERA invited all local authorities in the South East to supply it with advice on pitch distribution in the light of the results of the Gypsy and Traveller Accommodation Assessments (GTAAs) and other planning considerations. In Kent it was agreed that this advice should be provided on a County-wide basis though a Joint Member Steering Group (on which the Council is represented by the Cabinet Member for Planning and Transportation). SEERA required two options to be generated: one (Option A) based upon local need as identified through the GTAAs and the other (Option B) based upon other planning considerations with a view to creating a more equitable distribution across the County.

1.1.3 The original advice submitted in October last year was audited and considered by SEERA and revised advice was then sought from local authorities in April this year. The revised advice included a figure of 14 pitches for Tonbridge and Malling under Option A (ie the GTAA requirement) and 20 pitches under Option B (though

the Council did have some outstanding concerns about the way in which that Option had been generated). The Joint Member Steering Group also made strong representations that in taking the matter forward to public consultation SEERA should include additional options that more fairly distribute requirements across the region, having regard to the fact that virtually half the total pitch requirements of the region were located in Kent and Surrey.

1.1.4 In the light of that advice, and having taken on board the views of the Kent Joint Member Steering Group, SEERA is now consulting on four distributional options.

- **Option A** – new spaces should be provided as close as possible to where Gypsies and Travellers currently live, but this may not be where they want or need to live. Under this option, some local authorities in the region will have no pitch requirement and there are marked differences between Counties across the region.

  Kent – 320 pitches **T&MBC – 14 pitches** (24 caravans)

- **Option B** – new spaces should be provided in the same general area where Gypsies and Travellers currently live but with neighbouring Councils sharing the duty to provide new spaces, but there will still be some authorities that provide none. This option takes account of a number of factors including the protection of the environment and accessibility to schools, hospitals and other services, etc. There are still some marked differences across the region.

  Kent – 320 pitches **T&MBC – 20 pitches** (34 caravans)

- **Option C** – seeks a more equitable distribution across the region. It is based upon half of all new spaces being in the same general areas where Gypsies and Travellers currently live, but with the other half spread across the region.

  Kent – 241 pitches **T&MBC – 14 pitches** (24 caravans)

- **Option D** – is a half-way house between Options B and C and seeks to redistribute only a quarter of pitches around the region.

  Kent - 281 pitches **T&MBC – 17 pitches** (29 caravans)

Notes: Options C and D are based on a redistribution of Option B. Each pitch is intended to accommodate one household (households have on average 1.7 caravans).

1.1.5 There appears to be a sound case for seeking a more equitable distribution of pitches around the region. Otherwise, future provision will merely perpetuate the existing distribution which may well not reflect local need. On the other hand, the preference of Gypsies and Travellers may be to stay in the areas where they are

already located. In the case of Tonbridge and Malling, the pitch requirements of Option C are co-incidentally exactly the same as for Option A and therefore the Council could quite reasonably support Option C which would be meeting local needs and still allow for some regional redistribution. On the other hand, Members may feel that if there is to be a regional redistribution then the actual requirements for Tonbridge and Malling (ie Option A) should likewise be redistributed on a pro-rata basis. If this were to be the case then the proportional pitch requirement for Tonbridge and Malling would be reduced to 10 or 11 pitches.

1.1.6 **Transit Sites** The Circular also indicates that SEERA should seek to distribute the need for transit sites to each District, but SEERA has found it impossible to do this in a robust way due to the lack of data. It has identified a need for 8 sites or stopping places in Kent as a whole but cannot justify a distribution below that level. It therefore asks whether the South East Plan should simply delegate the final distribution of transit sites to local Councils working in consultation with the Gypsy and Traveller Community. Under the circumstances, that seems to be the only practical way forward.

1.1.7 **Travelling Show people.** Travelling Show people, including circus people, are self-employed business people who travel in pursuit of their livelihoods, running fairs and shows. However, they require a home base with sufficient land to store and maintain fairground equipment and sometimes animals. There is one site in this Borough, at Constitution Hill Snodland, which is safeguarded for this purpose in the LDF.

1.1.8 Belated Government advice also requires the South East Plan to address the needs of Travelling Showpeople. Because of the lateness of the advice, the needs of Travelling Showpeople were not addressed in the GTAAs. A special study was subsequently undertaken in Kent but its findings were inconclusive due to the low numbers involved and poor response rate. The Guild of Travelling Showpeople has identified 42 homeless Showpeople families throughout the South East but has been unable to attribute them to any particular area.

1.1.9 SEERA has sought to apply the same approach to the distribution of this need around the region. This would mean that on the basis of Option A (local need) there would be no additional requirement for this Borough, but under Options B, C or D there would be a need for one additional plot for a Show person family in the Borough. This conclusion does not seem credible, since Showpeople families do not, as a matter of practice, tend to be located in isolation. They normally form part of a travelling group. It would seem that further work is required, in consultation with the Guild of Travelling Showmen, to understand the particular needs of the 42 homeless families and that an arbitrary distribution of this need is meaningless.

1.1.10 **What happens next?** The deadline for comments on the Options is 21 November. The Issues and Options are to be subject to a Stakeholder Consultation event organised by Kent County Council on behalf of SEERA at

Oakwood Park on 27 October. There are also to be a series of small exhibitions/displays being mounted around the region. The Joint Member Steering Group is to meet on 10 November to discuss the matter and to see whether there can be a Kent-wide view. Any views expressed by this Council can therefore be framed in the light of the discussion at the Joint Member Steering Group.

1.1.11 SEERA will then consider the response to consultation and aims to finalise its proposals for submission to Government in April next year. There will then be a stage of formal consultation on the draft Plan followed by an Examination in Public before independent planning inspectors. It is anticipated that the Plan will be approved by Government some time in 2010.

1.2 Local Planning Implications

1.2.1 The Council is not statutorily bound to bring forward a Development Plan Document (DPD) as part of this LDF specifically to allocate land to meet the needs of Gypsies and Travellers until the South East Plan is approved. However, once approved, the Circular makes it clear that the number of pitches set out in the South East Plan will need to be translated into site-specific allocations in a DPD. Such allocations must be demonstrably deliverable, which means that they must either be owned by the Borough Council or another public body committed to its implementation or by a Gypsy family or other land owner prepared to promote a Gypsy site. In this respect, the Circular makes it clear that the aim should be, so far as possible, to help Gypsies and Travellers to provide for themselves, to enable them to secure the kind of sites they need but in locations that are acceptable in planning policy terms.

1.2.2 The LDF Core Strategy must include a criteria-based policy that will be used to guide the allocation of sites and deal with planning applications in the meantime. This the Council has done in the form of Core Policy CP20 which, inter-alia, indicates that, in meeting any need that might be identified in the South East Plan, first consideration will be given to the limited expansion of one or both of the two existing publicly controlled Gypsy sites in the Borough (Coldharbour and Windmill Lane).

1.2.3 The Circular indicates that where there is clear and immediate need, for instance evidenced though the presence of significant numbers of unauthorised encampments or developments, local planning authorities should bring forward DPDs containing site allocations for Gypsy accommodation in advance of regional consideration of pitch numbers. Under these circumstances, the GTAA will be one of the sources of information that the Council should consider when assessing the required level of provision.

1.2.4 The Under Secretary of State for Communities and Local Government has recently written to all authorities asking what progress is being made with meeting the needs of Gypsies and Travellers and I attach at **Annex A** a copy of my response. That letter reiterates the Council's current position as set out in its

approved Local Development Scheme (LDS) (April 2007). The LDS acknowledges that there may be a need to prepare DPD dealing with the issue of Gypsy and Traveller accommodation but only once the district-wide requirement is finalised in the South East Plan. This stance reflects the fact that the GTAA and caravan count do not indicate that the need is so pressing that a dedicated Gypsy and Traveller Accommodation DPD needs to be produced at an early stage, particularly if those needs can be met in another way. Indeed, my preference would be to progress such matters, if necessary, as part of a first review of the Development Land Allocations DPD on which I would expect work to commence in 2010.

1.2.5 The above approach had regard to the fact that, at the time, the Council was investigating with the County Council the possibility of replacing and enlarging the existing publicly owned caravan site at Coldharbour which was aimed at meeting much of the identified need in the Borough and would be in line the adopted Core Strategy. As members will be aware, this proposal has been delayed, partly due to practical design issues and fundamentally due to the cost of the proposal as compared with the available grant. If the Council is to maintain its stance on the issue of preparing a DPD then it is important that work on the Coldbharbour proposal is re-kindled and that a practical and viable solution is found. In addition, the Borough Council as Housing Authority will continue to assist Gypsy and Traveller families in housing need to access conventional social housing if this is what they would prefer. It is therefore conceivable that by these means the bulk of identified need will be met and the Council may not eventually have to prepare a DPD.

1.3 Development Control Implications

1.3.1 The Circular makes it clear (in para 45) that where there is an unmet need and no available alternative Gypsy and Traveller site provision in an area, but there is a reasonable prospect that new sites are likely to become available within a reasonable period, local planning authorities should give consideration to granting temporary permissions. Such circumstances may arise where an authority is in the process of preparing, or has a declared intention to prepare, a DPD. This is certainly the approach that has been adopted by the Planning Inspectorate in respect of two recent appeal cases.

1.3.2 In both cases the Inspectors found there to be an unmet need as identified through the GTAA. Indeed, in one case the Inspector questioned whether the need might be even greater if the Gypsies at the Hoath Wood site needed to be re-accommodated elsewhere in the Borough. He also challenged the assumptions about the scope for gypsies and travellers to move to conventional housing. Furthermore both Inspectors found uncertainty about the prospects for delivery of the Coldharbour site and one questioned, even if it was provided, whether it could confidently be relied on to meet local, as opposed to wider, need. Lastly, it was also noted that Gypsy and Travellers express needs for private rather than publicly controlled sites. Under the circumstances, temporary permissions were

granted for both proposals giving a clear sign as to the approach we can expect in the current circumstances. These decisions were predicated on the basis that the Council will be proceeding with the preparation of a DPD addressing the need for Gypsy and Traveller Accommodation in 2010. It is clear that this will need to be the case unless we can confidently demonstrate that the need has been satisfactorily accommodated in some other way. This presents the Council with a dilemma to which we will need to return to when reviewing how to address future need and supply.

1.4 Legal Implications

1.4.1 Under the Housing Act 2004 the Council as Housing Authority has to undertake a GTAA and to prepare a strategy for meeting any need that might be so identified. As Planning Authority the Council has to prepare a site allocations DPD to meet the pitch requirements identified in the South East Plan once it is approved.

1.5 Financial and Value for Money Considerations

1.5.1 The viability of the Coldharbour proposal is dependent on a partnership approach led by Kent County Council with grant funding from Government being secured during the next round of funding bids.

1.6 Risk Assessment

1.6.1 In the absence of firm proposals to meet the identified need there is a risk that ad hoc appeal decisions will continue to be lost and that permanent permissions will be granted in locations which may not necessarily be the best in planning terms.

1.7 Recommendations

1.7.1 Subject to the views of the County-wide Joint Member Steering Group, the Council:

1) supports Option C for the distribution of pitches in the South East;

2) agrees that Transit Site provision should be a matter for local determination in consultation with the Gypsy and Traveller Community;

3) considers that the matter of homeless Travelling Showpeople should be referred back to SEERA and the Guild of Travelling Showpeople for further consideration.

1.7.2 The Council's position in respect of preparing a dedicated DPD for Gypsies and Travellers be reaffirmed.

1.7.3 That the implications of the recent appeal decisions for development control be noted.

1.7.4 Efforts continue to be made to secure a satisfactory and viable solution for enlarging the public Gypsy site at Coldharbour with a view specifically to meeting locally identified need within the Borough.

The Director of Planning Transport and Lesisure confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers: contact: Brian Gates

GTAA

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Director of Planning Transport and Leisure