

KENT COUNTY COUNCIL

GYPSY AND TRAVELLER ADVISORY BOARD

AGENDA

**Friday, 5 December 2008, at 10.00 am
in the Darent Room, Sessions House,
County Hall, Maidstone**

Ask for: **Geoff Mills/Andy Ballard**
Telephone: **(01622) 694297/694297**

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes of meeting - 2 September 2008 (Pages 1 - 4)
4. The Application of the Mobile Homes Act 1983 to Council-Run Traveller Sites (Pages 5 - 16)
5. South East Regional Assembly- Partial Review of South East Plan - Consultation Over Pitch Distribution Options (Pages 17 - 28)

Peter Sass
Head of Democratic Services and Local Leadership

Thursday, 27 November 2008

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.



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KENT COUNTY COUNCIL

GYPSY AND TRAVELLER ADVISORY BOARD

MINUTES of A meeting of the Gypsy and Traveller Advisory Board held in the Darent Room, Sessions House, County Hall, Maidstone on Tuesday, 2 September 2008.

PRESENT: Mrs A D Allen (Chairman), Mr R B Burgess, Mr M J Fittock, Mr M J Harrison, Mr I T N Jones, DL, Mr S J G Koowaree and Mr F Wood-Brignall

ALSO PRESENT: Mr M J Angell, Lead Member for Adult Social Services

IN ATTENDANCE: Mr W Forrester (Head of Gypsy & Traveller Unit), Miss C Highwood (Director - Resources), Ms J Robson (Head of Language & Traveller Achievement Service), Mr A Casson (Operations Manager) and Mrs C Mellors (Advisor Refugee & Traveller Achievement)

UNRESTRICTED ITEMS

1. Membership –
(Item. 1)

The Board noted that Mr M J Harrison had replaced Mr J B O Fullarton.

2. Election of Chairman and Vice-Chairman
(Item. 3)

Election of Chairman

Mr R B Burgess proposed and Mr F Wood-Brignall seconded that Mrs A D Allen be appointed Chairman, carried unanimously.

(Mrs Allen there upon took the Chair)

Election of Vice-Chairman

Mrs A D Allen proposed and Mr SJ Koowaree seconded that Mr A H Bowles be elected Vice Chairman, carried unanimously .

3. Minutes - 22 April 2008
(Item. 5)

- (1) RESOLVED that the Minutes held on 22 April 2008 were correctly recorded and that they be signed by the Chairman.
- (2) Mrs Allen asked if any further information or updates had been produced for paragraph **2, 4b** of the minutes. Mr Forrester said that the issue of security of tenure would be covered within this meeting however a further consultation paper had not yet been produced by Government.

- (3) Mrs Allen asked if there was further information on paragraph **3, section 4** of the minutes regarding the progress of the introduction of a Gypsy and Traveller Health Passport. Mr Forrester said that this issue was being looked at by NHS but he was not aware of any further progress.

4. Update: National Strategies: Gypsy, Roma and Traveller Achievement Programme
(Item. 6)

Report by Managing Director (Children, Families & Education)

(1) This report updated Members on the National Strategies of the Gypsy Roma and Traveller Achievement Programme and Kent Local Authorities contributions as a pilot authority.

(2) Jenny Robson said that the County Council had joined in the second year of the pilot project and was working in collaboration to support five targeted schools. It was stressed that the aim of the programme was to improve the quality of provision and rates of attendance, reduce exclusions and raise attainment, for Gypsy, Roma and Traveller children.

(3) During discussion Members praised the content of the report and the achievements that had been made, especially in the rates of attendance.

(4) Mrs Allen suggested that the report should be added as a subject on the Head Teachers Conference and Jenny Robson said she would follow up opportunities for dissemination.

(5) Following further discussion, the Advisory Board:

- (i) noted the progress made by the pilot Schools
- (ii) noted that a further report on the pilot of the Gypsy Roma and Traveller Achievement Programme would be submitted at the end of the academic year 2008/09

5. Update: Gypsy Roma and Traveller History Month 2008
(Item. 7)

Report by Managing Director (Children, Families & Education)

(Carol Mellors was present for this item)

(1) This report updated the Board on the activities that had taken place in Kent to celebrate Gypsy, Roma and Traveller History Month (GRTHM) in January 2008.

(2) Carol Mellors explained the aims of the GRTHM were to:

- Explain the history and culture of the communities

- To challenge myths and break down barriers
- To celebrate the richness that these communities contribute to everyday life

(3) The emphasis on the month was led by the local community, and Jake Bower, a Gypsy Journalist had co-orientated the planning and promotion of the month within the South East.

(4) A number of activities had taken place within Kent Schools and KCC Libraries & Archives. Hawkhurst Film Club had promoted a film called 'Kino' and a Magazine was designed and funded by the Department for Children, Schools and Families.

(5) Mrs Allen asked if once the Library stands had been finished with, whether these could be made available to schools as a resource. Mr Fittock suggested that if appropriate the film 'Kino' be shown during a promotion week on Kent TV. It was agreed both these suggestions would be followed up.

(6) After further discussions, the Board noted the report and the programme for Gypsy, Roma and Traveller History Month 2009.

6. Regional Assembly Additional Pitch Allocations 2006-16 (Item. 8)

Report by Mr O Mills, Managing Director, Kent Adult Social Service

(1) This report brought the Board up to date with the Regional Assembly Autumn 2008 consultation on the new pitch allocations for inclusion in the South East Plan.

(2) Mr Forrester explained that the reasons for the public consultation were to seek responses on specific options. The report produced for this meeting only referred to option two, as the other fell outside the remit, however Mr Forrester advised the Board of the additional:

- Planning considering
- How will it be different if needs are met fairly

(3) Mr Forrester said it was vital that Kent and Medway authorities worked closely together in order to identify the need for sites, work up proposals for public sites, as well as manage unauthorised encampments and unauthorised developments in the interim.

(4) Mr Angell said he was concerned that the figures in the report were not sufficiently clear and requested further information on the location of the existing pitches.

(5) Mr Forrester said that an additional column would be added to the appendix on the existing permitted provisions and where the sites were located. He said the figures provided by the County Council did in fact go further than what the Region Assembly Board required.

(6) After further discussion, the Board noted the contents of the report and endorsed the approach. The Board noted a further report would be submitted to next meeting.

7. Security of Tenure on Public Traveller Sites
(Item. 9)

Report by Mr O Mills, Managing Director, Kent Adult Social Service

(1) This report briefed the Board on proposed new legislation, the plans for consultation on its details, and the impact for Kent Gypsies and Travellers.

(2) Mr Forrester said that the Housing and Regeneration Act 2008 had recently received Royal Assent and publication of a further consultation was expected specifically on the issues around succession to sites on death and the rights to assign pitches to others. In practice, on public sites, once the Act had been brought into force it would affect all new agreements. A response to the consultation paper would be prepared and a copy circulated to members of the Board.

(3) In response to a question about the waiting list figures which had recently increased, Mr Forrester said he would circulate the detail of these figures to Members once they had been collated.

(4) Following further discussions the Board noted the contents of the report.

By: Oliver Mills, Managing Director, Adult Social Services

To: Gypsy and Traveller Advisory Board – 5 December 2008

Subject: **THE APPLICATION OF THE MOBILE HOMES ACT 1983 TO COUNCIL-RUN TRAVELLER SITES**

Classification: Unrestricted.

Summary: Proposed response to a Government consultation on which parts of the Mobile Homes Act 1983 should be included in future agreements between Councils and those who live on Council-run Traveller sites.

Recommendations

Members of the Gypsy and Traveller Advisory Board are asked to support a KCC response to the consultation as detailed in the report below, and in particular:

- a) to oppose assignment of plots on publicly-run Traveller sites being permitted by law, recognising that such assignment could be introduced locally, by site or area, if circumstances make it desirable.
- b) to support succession to plots on death, but not allowing pitch agreements to be inherited under the wills, or on the intestacy, of existing licensees or those with pitch agreements in the future.
- c) to support the following proposal for the introduction of new pitch agreements across all council-run Traveller sites in England: **“Authorities should have to make new plot agreements by a set deadline; if they did not, then the new implied terms would be added in on that date.”**
- d) to make the additional comments on the consultation as detailed in the report below.
- e) to support circulation of the KCC response to other Councils in Kent, in time for them to support it or use it for a response before the 19 December deadline.

Background

1. At the last meeting of this Board, Members received a report on the passing of the Housing and Regeneration Act 2008, which will make most or all of provisions of the Mobile Homes Act 1983 apply, for the first time, to agreements between councils and Gypsies and Travellers who live on Traveller sites run by those Councils.

2. As allowed by the Act, the Communities and Local Government Department is now consulting on proposed changes, and responses must be received by 19 December 2008.

3. A summary of the consultation, showing the key questions and suggested options is attached at Appendix 1. However, Question 12 of the consultation invites comments on other matters on which there should be transitional provisions. The whole consultation document can be accessed on the weblink:

<http://www.communities.gov.uk/publications/housing/implementingmobilehomesact>

4. Discussions have already taken place or are planned with the Countywide Officer Group, within the Gypsy and Traveller Unit, who manage 8 of Kent and Medway's 17 Council Traveller sites and other Kent and Medway Site Managers (who manage the other 9). There are also plans to get the views of people on people on sites managed by the Gypsy and Traveller Unit.

Key Areas of consultation

A – Assignment of Agreements

5. CLG suggests two alternative options. Either (1) it should not be possible for existing licensees to sell on the caravans on their plots and assign their pitches or (2), if they wish to do so, the landlord Council should be able to refuse the request because of the need in the area for pitches for those on the waiting-list.

6. There is a third option (3), which is the position in the Mobile Homes Act itself, which is to allow assignment of pitch agreements, unless the Council can reasonably refuse permission for assignment because of information or evidence it has about the individual to whom the assignment is due to be made.

Discussion

7. It is worth noting that a Council can introduce its own assignment arrangements, if it wishes, either for one or more of the sites it manages. What is being discussed here is what the law should specify as the minimum requirement.

8. Data for applications for the eight sites managed by KCC shows that, during the past five years, 159 households have applied to and been accepted on KCC's site waiting list. 78 households have subsequently been allocated plots. A considerable number of applications result in the applicant losing touch with the Unit, or not renewing their application annually. Some at least probably acquire accommodation elsewhere.

9. Allocations to vacant pitches are currently made under the allocation policy, which is attached as Appendix 3, and where allocation is made primarily on grounds of greatest need, but also allows applications to be refused on specific "management considerations" grounds.

10. The number of site waiting-lists applications, although high, almost certainly do not reflect the full scale of need. The same is true with ordinary housing applications not reflecting the scale of housing need. Therefore, the potential demand for sites currently managed is clearly greater than the numbers applying for pitches.

11. There are various reasons for this. One is the contact that families have with each other. Many will know if a plot is going to become vacant, and applications may well rise when there is one. Conversely, unless families are in dire need for accommodation, they are unlikely to apply for most or all of the sites managed, and, if they are in dire need for accommodation, they will not want to be on a long list. There is also the issue of compatibility of families. Applicants rarely apply for a site where they have no relatives, friends or contacts. That is also an issue that dissuades those from communities like Irish Travellers from making applications, although they are treated in the same way as any other applications, and their applications welcomed.

12. If assignment is not mandatory under the law, then those applying for site pitches know they have a better chance of being offered a vacant plot, based primarily on their need for one.

13. If assignment under (3) is allowed, then the link between offers of pitches and need for them will be broken, and this will work heavily against those families in greatest need. It would also effectively allow sale of pitches, because caravans could be sold on.

14. Assignment under options (2) or (3) could be confusing for people, and it would involve a series of potentially complex decisions, open to challenge, by Councils.

15. In conclusion, option (1) comes out as the clearest and best option under the law, with the possibility of it being modified locally, where required.

Recommendation

16. It is therefore **recommended** that KCC should oppose assignment of plots on publicly-run Traveller sites being permitted by law.

Additional comment

17. Once there are additional sites to meet needs, it would be possible to allow assignment of pitches for individual sites, or across an area or county, on the terms we decide.

B – Succession to plot agreements

18. Up to now, there have been no rules on Council Traveller sites on who should succeed to a plot on the death of the licensee.

19. In practice, where a couple are joint licensees, and one of them dies, the other will usually take over the licence.

20. However, where someone is a sole licensee, or a sole surviving one, and they die, then it is important to have standard rules about succession to the plot agreement.

Discussion

21. The consultation document does not ask questions about the Mobile Homes Act succession arrangements, but there are some important points that need to be clarified. These include:

a) The list of people who could succeed to the plot includes a “spouse” or “civil partner”, but there many couples in the Romany Gypsy and other Traveller communities who are not legally married, but who are married as far as their community is concerned. It is important that they are able to succeed to the plot agreement.

b). On the death of someone from the Romany Gypsy community, their caravan and all their belongings are customarily burnt. Should this be their main living caravan, then it is important that the survivor who takes over the pitch can live in a new caravan on the pitch.

22. The question asked in the consultation document is whether, if there is no one to succeed to the plot, the pitch agreement can be inherited by the person entitled under the deceased licensee's estate. This would be either under a will, or under the rules for intestacy, if there is no valid will.

23. One difficulty with that proposal is that the person entitled to inherit may or may not be eligible to, or wish to, live on the site themselves (they may or may not be a Gypsy or Traveller) and they may well have perfectly good accommodation elsewhere.

24. A second difficulty is that it could lead to delays during probate, a vacant plot which would need to be protected, until the issue is resolved, and loss of income to the landlord council.

Recommendation

25. It is recommended that KCC support succession to plots on death, but not allowing pitch agreements to be inherited under the wills, or on the intestacy, of existing licensees or those with pitch agreements in the future.

26. Therefore, a pitch to which no-one is entitled to succeed would come back into the pool that the Council can allocate to someone on the waiting-list.

The way that new plot agreements replace current licences

27. There is just one other important matter for discussion from the consultation document, the question of whether:

a) Authorities should have to make new plot agreements by a set deadline;* if they did not, then the new implied terms would be added in on that date; or

b) Current licences should have all the new implied terms automatically added in to them from the date this part of the Act comes into force.

28. To avoid the confusion of current licence agreements having lots of extra implied terms added in to them automatically, it is **recommended** that option a) should be pursued.

Other matters

29. Most of the remaining questions asked in the consultation appear to be much less significant, and it is recommended that all the options suggested are agreed to.

30. However, it is recommended that KCC's response to the consultation also comments on other matters of detail, referred to in this agenda item.

* some time after a date in the middle of 2009, when these provision are likely to come into force.

Recommendation

31. Members of the Gypsy and Traveller Advisory Board are asked to support a KCC response to the consultation as detailed in the report above, and in particular

- a) to oppose assignment of plots on publicly-run Traveller sites being permitted by law, recognising that such assignment could be introduced locally, by site or area, if circumstances make it desirable.
- b) to support succession to plots on death, but not allowing pitch agreements to be inherited under the wills, or on the intestacy, of existing licensees or those with pitch agreements in the future.
- c) to support the following proposal for the introduction of new pitch agreements across all council-run Traveller sites in England: **“Authorities should have to make new plot agreements by a set deadline; if they did not, then the new implied terms would be added in on that date.”**
- d) to make the additional comments on the consultation as detailed in the report below.
- e) to support circulation of the KCC response to other Councils in Kent, in time for them to support it or use it for a response before the 19 December deadline.

Bill Forrester
Head of Gypsy and Traveller Unit
(01622) 221846

APPENDIX 1 – SUMMARY OF THE PROPOSED CHANGES

Annex A

Summary of issues for consultation

Applying the Mobile Homes Act provisions to local authority Gypsy and Traveller sites

Assignment (paragraphs 21 – 30)

We have identified two options for dealing with the issues raised about assignment by the current shortage of authorised sites:

- do not apply the right of assignment to local authority Gypsy and Traveller sites; or
- require that in considering whether to approve a proposed assignee, local authorities must consider the needs of Gypsies and Travellers in their area as well as those of the proposed assignee.

Question 1: Which of these two options do you think the Government should pursue to deal with the issues raised by the right to assignment on local authority Gypsy and Traveller sites? Please explain why.

Succession (paragraphs 31 – 38)

Where there is no spouse or family member living with a resident when they die, the MHA enables the person that inherits the caravan (either through a will or, if there is no will, under the laws of intestacy) to sell it and assign the agreement.

Question 2: Do you agree with the proposal that the provision in the MHA relating to succession, where no family member is living with a resident when they die, should not be applied to local authority Gypsy and Traveller sites, whichever option we decide to pursue in respect of assignment generally?

Re-siting a caravan (paragraphs 49 – 50)

Question 3: Do you agree with the proposal to amend the implied terms to enable local authorities to require a resident on one of their Gypsy and Traveller sites to move their caravan to a pitch on another site, as well as another pitch on the same site, for example when they need to carry out repairs to the pitch?

Question 4: Do you agree with the proposal to amend the implied terms to clarify that local authorities will continue to be responsible for repairing any amenities provided by them on the pitch as well as the base (or hardstanding)?

Site owners responsibility for repairs (paragraphs 51 – 52)

Question 5: Do you agree with the proposal to amend the definition of “essential repair and emergency work” in the implied terms to specify that these works include repairs to amenities provided by the local authority, as well as the base (or hardstanding)?

Moving from licences to agreements (paragraphs 57 – 73)

We have identified two options for moving from a position where existing residents have licences under the CSA to one where they have agreements under the MHA:

- local authorities would be required to make agreements under the MHA with existing licence holders by a specified date. If a local authority failed to make an agreement by the specified date, residents would be deemed to have agreements from that date which include the terms of their licence; or
- all existing licences would be deemed to be agreements to which the MHA applies from the date section 318 of the HRA is brought into force.

Question 6: Which of the two options do you think is the better option for moving from licences to agreements? Do you agree with the assessment of the pros and cons of each option? Is there a further option which we have not identified?

Breaches of licence relevant to the agreement (paragraphs 77 – 78)

Where a term of the licence has been breached and the local authority has written to the resident before the agreement is made, asking them to remedy this breach within a certain timescale, we propose that the local authority should be able to apply to the court to terminate the agreement once it is made, without writing to the resident again as the implied terms would require. However, the local authority would only be able to do this where the term of the licence that had been breached was also in the agreement.

Question 7: Do you agree with this approach to breaches of a licence relevant to the agreement?

Overpayments (paragraph 79)

Question 8: Do you agree with the proposal that residents should also be able to use the implied terms to recover any payments made under a licence that might cover the period after an agreement is terminated?

Pitch fees (paragraphs 80 – 84)

Question 9: Do you agree with the proposal that if a licence includes a review date for the pitch fee, this date should continue to be the review date in the agreement? Do you also agree that if no review date is included in a licence then the last review date for the purposes of calculating the change in RPI should be a year prior to whatever review date is included in the agreement?

Question 10: Do you agree with the proposal to delay applying the implied term in the MHA that makes the presumption about pitch fee changes and the RPI to Gypsy and Traveller site owned by county councils until after the DWP has made the changes necessary to resolve the anomaly in the way housing benefit is paid for these sites?

Improvements proposed before agreement (paragraphs 85 – 86)

Question 11: Do you agree that where a local authority has already consulted residents on proposed improvements to a site prior to an agreement being made they should not have to consult them again, as the implied terms would require?

Question 12: Do you think there are any other implied terms under the MHA which may require transitional provisions?

APPENDIX 2 – CURRENT GYPSY AND TRAVELLER UNIT ALLOCATION PROCEDURE

KCC Gypsy and Traveller Caravan Sites Allocation Policy and Procedure

Aim

Our aim is to ensure allocations are made according to the needs of applicants, and to ensure effective management of sites and protect the interests of other residents. The Gypsy Unit aims to treat all applicants and all applications fairly.

Applications for Plot Allocation and the Waiting List

If you want to go on to our Site Waiting List (for a pitch or new pitch on any one or more of the sites we manage) you must fill out – or ask us or someone else to help you fill out – this form. We will let you know, in writing, that we have got your form and respond to any letters within 10 days. We will ask you to come to an interview so we can discuss your accommodation needs and personal details. If we cannot offer you a place on our Waiting List, we will write and let you know why within 30 days of getting your form. If we need to know more we will ask you more questions, and it may take longer. We need evidence to support information you provide on this form. You must also let us know if any of your circumstances change.

If we cannot immediately offer you a Plot on a site you want to live on, we may put you on our Waiting List for the site or sites you have named, unless we tell you why we cannot do so. We will take you off the list for any site after 12 months unless you let us know your latest details, and say that you want to remain on the list. It is up to you to keep in touch with us, by phone, letter or e-mail, so we can let you know if a Plot become available on one of your chosen sites. If you give us an address or number, we will write or ring you to remind you 11 months after you go on the list, unless you have rung us, or you

have accepted a plot offer in the meantime. The more sites you apply for, the bigger your chances of being allocated a Plot. Our form is for sites managed by Kent County Council – these are listed at the beginning of this form. Other Kent public sites especially for Gypsies and Travellers are also listed, telling you which Council to apply to. Contact them and apply direct.

Only a few Plots become available for letting each year, and some can only take a single trailer, or have limits on space or facilities, meaning that they cannot be offered to any family on the list.

We want plot offers to be fair. We need accurate and current information from you, the applicant, so we can assess need and/or possible management problems at an early stage (including comments from other services, local authorities, the Police and local knowledge). When you apply, you agree we can make suitable and confidential inquiries to help us decide on your application, and you agree that agencies and other organisations can give us personal and confidential information about you.

If you apply for more than one of our sites, an offer of a plot on any site cancels the other applications.

Allocation Criteria

(not in order of importance)

Special Need – This includes the following:

Urgent Housing Need – to include:

- Presently homeless or threatened with homelessness, under English law, whether a homelessness application has been made or not.
- Living in overcrowded circumstances/a victim of violence or harassment.

Vulnerability

- As assessed or advised by a Social Services or Education Authority, including currently receiving or needing support services in the area.
- Medical – as advised by a doctor, health visitor or similar medical advisor, including currently receiving or needing support services in the area.

Other Factors

- Applicant or household member has regular employment in the County or area near the site applied for.
- Can prove travelling links with the County.
- Family has a child of school age regularly attending a school within the County.
- Has immediate family within the County – defined as parent, child, sibling, grandparent or similar close relationship.

Management Considerations

The council will take due account of any potential management problems which may arise from, amongst other factors (which will be specified in any decision letter), any reasonably held belief as to incidents, especially within the previous three years, of violence, damage to site facilities or property elsewhere or nuisance or antisocial behaviour to Gypsy & Traveller families or other residents within the Council's area or neighbouring areas.

In addition, due account will be taken of the need to ensure that those who are allocated plots are compatible with other existing family groupings both within any official Gypsy & Traveller site or to residents within the locality of such a site, whether or not they have had any previous contact with each other.

Site Rules/Licence Conditions

All successful applicants will be asked to sign a licence (both applicants where the licence is joint) which sets out the rules governing the good conduct of sites and advising that a breach of the licence is likely to result in formal action being taken to seek the removal of the licensee responsible from the site. A sample copy is attached for information. Once signed, each applicant /joint applicant will be issued with a copy.

KCC Gypsy and Traveller Caravan Sites Allocation Policy and Procedure

Appeals

There is no specific appeals procedure in respect of the Council's refusal to allocate a plot or the non-inclusion of an applicant on the Council's waiting list. Any grievances can be handled via the Kent County Council's formal complaints procedure, a copy of which can be obtained on request from the Head of the Gypsy Unit, Brenchley House, 113-115 Week Street, Maidstone, Kent ME14 1RF.

Who can go on the Site Waiting List

To apply to be a licensee, you need to be all of these:

- At least 16 years old.
- A Gypsy or Traveller, either by ethnic group or under the current legal definition.
- Not "intentionally homeless" under the Housing Act 1996.

Restrictions

We have a waiting list to achieve a balance between meeting accommodation needs, managing resources and fostering an acceptable quality of life on sites in accordance with our allocation procedures. Applicants may not, therefore, be eligible if there is evidence of recent behaviour, **by an applicant or a member of their household**, likely to affect the management of the Council's site and/or adversely impact on the Site Community.

Examples of exclusions could be where an applicant, or a member of their household, has, especially recently:

- Convictions for violent or other serious offence(s).
- Convictions for drug use or drug dealing.
- Used threatening language or behaviour to any officer of a Council.
- Been subject to an injunction over violent behaviour in the past three years.
- Behaved in an antisocial manner towards neighbours.
- Supplied false or misleading information when making a Plot Waiting List application.
- Deliberately worsened their housing situation without reasonable cause.
- Moved onto one or more of our Sites without permission in advance.
- The applicant, or a member of their household, has property in Kent which they can reasonably be expected to occupy.

By: Oliver Mills, Managing Director, Adult Social Services

To: Gypsy and Traveller Advisory Board – 5 December 2008

Subject: **SOUTH EAST PLAN PARTIAL REVIEW: ‘SOMEWHERE TO LIVE’ PLANNING FOR GYPSIES, TRAVELLERS AND TRAVELLING SHOWPEOPLE IN THE SOUTH EAST: RESPONSE TO PUBLIC CONSULTATION BY THE REGIONAL ASSEMBLY (SEERA)**

Classification: Unrestricted.

Summary: This report outlines current public consultation options for the South East Plan Review on Gypsy, Traveller and Travelling Showpeople Accommodation and the merits of alternative options in providing a strategic and consistent approach across Kent. It details the discussions with other Kent authorities, and the KCC Cabinet Member response to the consultation.

Background

1. The Regional Assembly (SEERA) is required to advise Government on the scale and distribution of provision of new permanent residential and transit pitches for the accommodation of Gypsies and Travellers. This is being addressed through a partial review of the South East Plan.
2. Initial work has involved all Kent authorities, working together through Joint Officer and Member Steering Groups, to provide, at the Assembly's request, advice on two of the options (Options A and B) which are now subject to public consultation. This advice was submitted in October 2007 and revised in April 2008.
3. When submitting the advice the Joint Member Group requested that the Assembly consider additional options providing for wider distribution of pitch provision across the region and reducing the concentration of pitch provision in Kent provided for under Options A and B.

The Options for Consultation

4. Public consultation on the Gypsy and Traveller and Travelling Showpeople review commenced in September and ran until 21 November 2008. Four options were presented - all providing the same number of additional pitches (1064) for the South East as a whole SEERA has introduced two additional options (Options C and D) that provide for alternative levels of redistribution of accommodation need across the region. These would have the effect of reducing overall provision in Kent and Medway.

Option A – new pitches all provided as close as possible to where Gypsies and Travellers currently live.

Option B new pitches all provided in the same general area* but with neighbouring authorities within this area sharing the duty for providing new pitches.

Option C - half of new pitches should be in the same general area* where Gypsies and Travellers currently live with the other half spread across the region.

Option D – most (75%) of new pitches should be in the same general area* where Gypsies and Travellers currently live with a quarter spread across the region.

* i.e. Kent and Medway

5. An objective of the S E Plan review is to take a strategic view of requirements for additional pitches. A key consideration is to tackle the scale of unauthorised sites which have no legal standing. Around 25% of existing gypsy and traveller caravans in Kent and Medway are on unauthorised sites. Over time increased provision of permanent authorised pitches should be offset by reductions in the number of unauthorised pitches. In 2007 the Government’s Task Group on Site Provision and Enforcement, concluded:

“Our primary message is that it is essential both to increase the number of authorised sites for Gypsies and Travellers and to do so quickly. Without levels of accommodation that are commensurate with need unauthorised encampments and developments and the attendant problems they can cause are not only likely, they are inevitable “¹

6. Pitch allocations for the region, Kent and individual districts under each of the options are as follows:

Table 1: SEERA Consultation: Options A – D: Kent and Medway area

District/ GTAA area	Additional pitches				Range within A – D
	Option A	Option B	Option C	Option D	
Ashford	20	32	28	30	12
Maidstone	48	39	32	36	16
Tonbridge & Malling	14	20	14	17	6
Tunbridge Wells	11	15	11	13	4
West Kent GTAA	93	106	85	96	21
Sevenoaks/ Sevenoaks GTAA	57	22	14	18	43
Dartford	33	27	17	22	16
Gravesham	16	13	10	11	6
Swale	64	31	20	25	44
Medway	12	32	24	28	20
North Kent GTAA	125	103	71	86	54

¹ The Road Ahead : Final Report of the Independent Task Group on site Provision and Enforcement for Gypsies and Travellers (December 2007)

Canterbury	32	33	26	30	7
Dover	6	24	20	22	18
Shepway	2	13	9	12	11
Thanet	5	19	16	17	14
East Kent GTAA	45	89	71	81	44
Kent & Medway	320	320	241	281	79
South East Region	1064	1064	1064	1064	0

Note: GTAA areas – groupings of authorities for which Gypsy and Traveller Accommodation Assessments have been undertaken

7. Kent and Medway accounts for almost a quarter of existing authorised pitches in the South East and almost a third (31%) of the total gypsy and traveller caravans in the region on both authorised and unauthorised sites. Under Options A and B Kent and Medway would account for the same proportion (30%) of new provision, thus continuing the degree of concentration of gypsy and traveller accommodation in the Kent area. Under Options C and D the Kent share of regional provision would reduce to 23% and 26% respectively (see Annex 1).

The Options

Option A

8. Option A reflects the findings of the 4 need assessments (GTAAs)² carried out in Kent, adjusted by the Kent authorities to ensure greater consistency between them. The revised need of 320 pitches is 66 pitches below the original outcome of the needs assessments. Under Option A provision would be strongly concentrated with Swale, Sevenoaks and Maidstone accounting for more than half (53%) of the total. However every district would make a contribution although this would be very modest in Dover, Shepway and Thanet.

9. In considering Option A a number of considerations should be borne in mind:

- Option A reflects the pattern of need and preferences identified by the needs assessments commissioned by Kent local authorities and their findings have been accepted, subject to the modifications referred to above;
- A substantial element of the need for additional ‘authorised’ permanent pitches stems from the present level of ‘unauthorised’ pitches (i.e. ‘backlog’) and thus the implied net increases in pitches is significantly less than the gross figure of 320;
- None of the GTAAs assume any future net in-movement of gypsies and travellers to the GTAA areas or Kent as a whole ;
- Plan proposals are required to be clearly evidence based if they are to meet the tests of ‘soundness’ applied to statutory development plans.

² Respectively for North Kent , East Kent , West Kent and Sevenoaks

Option B

10. Option B reflects a different distribution pattern although total provision is the same as for Option A (320 pitches). Option B takes account of a number of planning and environmental criteria:

- the incidence of significant national environmental constraints and the Metropolitan Green Belt;
- the extent of existing urbanisation;
- the scale of committed housing land supply on previously developed land;
- the extent of boundaries at urban areas unconstrained by nationally significant environmental constraints and the Metropolitan Green Belt;
- the level of planned housing provision in each district;
- the extent of areas with good accessibility to services.

11. The consultation document notes that it is a Government policy objective that responsibility for new pitch provision be shared more widely between authorities than at present³. The effect of Option B is to redistribute pitch provision within Kent towards parts of East Kent (Dover, Shepway and Thanet) Medway and Ashford and away from districts with high need assessments (particularly Sevenoaks and Swale and to a lesser degree Maidstone).

Options C and D

12. Options C and D provide for some redistribution across the region and aim to improve the choice of local authority locations available to Gypsies and Travellers. They respectively retain 50% and 75% of the district level requirements under Option B with the balance reapportioned region wide by equal weighting between two 'broad brush' criteria⁴. Under these options Kent and Medway's provision decreases by 25% and 12% respectively. Their share of total regional provision remains within a range of 23% - 26% compared with 30% under Options A and B (see Annex 1).

13. Options C and D reduce provision in Kent and Medway in comparison with Options A and B. Option D numbers are higher than Option C given the smaller element of regional redistribution. The effects within Kent and Medway are variable:

- In North Kent provision is lower in all districts (especially Swale) but higher than Option A in Medway;
- In Sevenoaks the C and D options are substantially lower than Option A but vary only modestly from Option B;
- In West Kent the C and D options are lower than Option A in Maidstone but higher in Ashford and at a comparable level in Tonbridge and Malling and Tunbridge Wells ;

³ SEERA : Somewhere to Live : Planning for Gypsies , Travellers and Travelling Showpeople in the South East para 6.1)

⁴ Land area free of major environmental constraints and forecast population at 2016 used as a general proxy for economic and social opportunities and access to employment and services.

- In East Kent the C and D options are significantly higher than Option A in Dover, Shepway and Thanet and only marginally different from the Option B numbers; Canterbury's figures are very similar across all 4 options.

Evaluation of Options

14. A number of factors need to be balanced in considering the merits of the options:

- How responsive are they to the local pattern of need?
- Whether, and to what degree, should provision be made in the wider region and within Kent for greater sharing of the responsibility for new pitch provision? Government advice is that this scope should be explored.
- What account should be taken of local variations in planning and environmental circumstances?
- Will the pattern of new provision be deliverable? Insufficient provision and/or an unrealistic geography for any redistribution of requirements may ultimately run counter to plan objectives, for example by continuing the difficulties often associated with unauthorised encampments and developments in areas where Gypsies and Travellers wish to stay.

15. Against these considerations each of SEERA's four options have some limitations:

Option A	Is solely needs based Need is strongly concentrated in 3 Districts Has no regional redistribution away from Kent or local redistribution within Kent
Option B	Reflects need at a county level but has no direct relationship with the local pattern of need Has no regional redistribution away from Kent
Options C and D	Provide for some regional redistribution but <ul style="list-style-type: none"> - no direct alignment with pattern of local need - strong element of redistribution within Kent to parts of East Kent - heavy curtailment of provision in districts with high need - reapportionment of the regional element is based on very broad brush criteria– rather than the more detailed and refined planning and environmental criteria that have been used locally

16. Given the above it is felt that none of the four options provide a sufficient balance between the considerations outlined in para 14 above. From a strategic perspective there are significant merits in a modified form of Option C ('Option E' as set out in Table 2). In essence this takes Option A as the starting point, retains the 'pooled' regional requirement under Option C that is reapportioned to Kent

(81 pitches) but uses the pattern of Option B, which reflects the locally based planning and environmental criteria, to distribute this within Kent (see Annex 2).

Table 2: ‘Option E’

District/GTAA area	‘Option E’	Option C	Option A
Ashford	18	28	20
Maidstone	34	32	48
Tonbridge & Malling	12	14	14
Tunbridge Wells	9	11	11
West Kent GTAA	73	85	93
Sevenoaks/ Sevenoaks GTAA	34	14	57
Dartford	23	17	33
Gravesham	12	10	16
Swale	40	20	64
Medway	14	24	12
North Kent GTAA	89	71	125
Canterbury	25	26	32
Dover	9	20	6
Shepway	4	9	2
Thanet	7	16	5
East Kent GTAA	45	71	45
Kent & Medway	241	241	320

17. ‘Option E’:

- mirrors more closely the pattern of need at district level while still providing an element of redistribution within Kent away from the localities with the highest levels of need;
- moderates the severity of impact of this redistribution on certain areas (parts of East Kent and Medway) in comparison with Option C;
- continues to ensure that all districts make a contribution to new pitch provision;
- ensures that at least 60% of district based need is accommodated in the same district where it arises notwithstanding the element of regional redistribution.

18. Only Options ‘E’ (or C) and to a lesser extent D provide for redistribution within the region. These reduce provision in Kent but increase it in some other parts of the South East (notably Hampshire and Oxfordshire and to a lesser extent East Sussex). Acceptance of the principles of ‘Option E’ (or C or D) is likely to prove contentious on a region wide basis. However this has to be viewed in the context of the varied levels of provision under Options A and B between county areas when set alongside the existing supply of authorised pitches (see Annex 1).

19. A strategic view of the most appropriate option needs to arrive at an appropriate weighting of the considerations identified in para 14 above and to reflect their consistent application on a county wide basis. Option E represents an approach to this.

Travelling Showpeople

20. The partial review has also to address the accommodation needs of Travelling Showpeople⁵. Options for these are presented separately. In Kent's case a very modest level of need over the period to 2016 under the needs based Option A is indicated (10 plots within a regional total of 234) located in North Kent (Dartford) [7] and East Kent (Canterbury and Thanet) [3]. There is no Option B with regard to Travelling Showpeople.

21. Options C and D adopt the same approach to regional redistribution as applied to the Gypsy and Traveller options but also include an apportionment for an additional 42 families whose needs have not been accounted for. Under Options C and D plot requirements in Kent and Medway rise to 23 – 30 plots (within a higher regional total of 274 plots).

22. Needs assessment surveys for Travelling Showpeople were conducted in East Kent with a separate study for the remainder of the county. The latter, in particular, proved difficult, achieving a low response rate and the robustness of the data is more questionable. It concluded that there may be a small need for additional accommodation in Dartford Borough (4 plots to 2011) but noted that this need may be capable of being met by better organisation of current site capacity. In Option A the Assembly has allowed for an element of continued household growth beyond 2011 and hence the total provision of 7 plots in Dartford over the ten year plan period.

23. Options C and D involve higher provision in Kent (and include 7 of the 42 households not covered in needs assessments). The distribution is very dispersed (generally only 1-2 plots per district and a maximum of 5) and is of questionable realism in terms of delivery. Showpeople normally form part of a travelling group and do not tend to be located in isolation. There is no apparent locationally based needs assessment for the 42 homeless families included within the redistribution arrangements. To ensure a robust pattern of provision it is felt that further work is required to understand the particular needs of the 42 homeless families and to assess the realism of the redistribution of plot provision and the highly dispersed pattern that accompanies it.

⁵ Defined in Planning Circular 04/2007 as "Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently, but excludes Gypsies and Travellers as defined in ODPM Circular 1/2006."

Transit Accommodation Requirements

24. Government guidance⁶ is that the South East Plan should provide district level allocations for transit spaces as well as permanent residential pitches. At SEERA's request advice was provided by the Kent authorities in 2007 indicating a need for 7 transit sites or stopping places in Kent and indicating a broad distribution within the county and the size and type of facility envisaged. This drew on the distinctive information from the monitoring of unauthorised encampments that has been available in Kent since 2004. Kent authorities did nonetheless advocate that a specific study of transit need should be undertaken on a regional basis.

25. In the current consultation the Assembly notes that there is not a complete set of transit need assessments and local authority advice for the region as a whole making it impossible to allocate transit pitch provision in a '*robust and consistent way*'. 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. Whilst this would appear to be the only practical way forward in current circumstances it is important that this is approached on a wide area basis. If this is to be determined in this manner the provision required should be reviewed taking into account the current volatility in the number of encampments and the impact of increases in permanent site provision arising from this Plan.

The KCC Response to SEERA

26. The Cabinet Member for Regeneration, Kevin Lynes, following discussions with Kent and Medway Councils and the Leader of the Council, has agreed a response to SEERA, on behalf of KCC, which supports Option E above, and makes a number of other detailed points contained in this agenda item.

Next Steps

27. Following the current public consultation SEERA will select a preferred option, for submission to Government, for distributing additional pitch provision between local authority areas. This may be one of the current four consultation options or an alternative that draws upon the consultation response. Submission to Government is envisaged in April 2009. This will be followed by further public consultation and, in all probability, an Examination in Public. It is anticipated that the outcome of the partial plan review will be adopted by Government in 2010.

Conclusions and Recommendations:

28. Members of the Gypsy and Traveller Advisory Board are asked to:

- (a) note the discussions that have taken place with other Kent authorities.
- (b) note the KCC response to the consultation by the Regional Assembly

⁶ Circular 01/2006

Background Documents

Partial Review of the South East Plan: Somewhere to Live: Planning for Gypsies, Travellers and Travelling Showpeople in the South East: Public Consultation Document: September 2008

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RSS Partial Review: Gypsy and Traveller Accommodation

Annex 1: Review Options and Existing Authorised Pitch Provision in the South East

(i) Options A and B

	Existing Authorised Residential Pitches	Share of existing Authorised pitches (%)	Pitch Provision Options A/B	Share of Additional Pitch Provision (%)
Berkshire	199	11.5	78	7.3
Buckinghamshire & Milton Keynes	175	10.1	113	10.6
East Sussex, Brighton & Hove	34	2.0	47	4.4
Hampshire & Isle of Wight	141	8.1	100	9.4
Kent & Medway	441	25.4	320	30.1
Oxfordshire	222	12.8	42	3.9
Surrey	349	20.1	163	15.3
West Sussex	173	10.0	201	18.9
South East	1734	100.0	1064	100

(ii) Options C and D

	Existing Authorised Residential Pitches	Share of existing Authorised pitches (%)	Pitch Provision Option C	Share of Pitch Provision (%) Option C	Pitch Provision Option D	Share of Pitch Provision (%) Option D
Berkshire	199	11.5	78	7.3	78	7.3
Buckinghamshire & Milton Keynes	175	10.1	122	11.5	117	11.0
East Sussex, Brighton & Hove	34	2.0	59	5.5	53	5.0
Hampshire & Isle of Wight	141	8.1	205	19.3	153	14.4
Kent & Medway	441	25.4	241	22.7	281	26.4
Oxfordshire	222	12.8	88	8.3	65	6.1
Surrey	349	20.1	118	11.1	140	13.2
West Sussex	173	10.0	153	14.4	177	16.6
South East	1734	100.0	1064	100	1064	100

Source: SEERA Consultation Document: 'Somewhere To Live'

RSS Partial Review: Gypsy and Traveller Accommodation

Annex 2: Derivation of Option E

	(1)	(2)	(3)	(4)	(5)
District/ GTAA area	Option A (pitches)	50% of Option A (pitches)	Share of Option B Distribution (%)	Apportionment of regionally redistributed provision within Kent & Medway (pitches)	Option E
Ashford	20	10	10	8	18
Maidstone	48	24	12.2	10	34
Tonbridge & Malling	14	7	6.3	5	12
Tunbridge Wells	11	5	4.7	4	9
West Kent GTAA	93	46	33.1	27	73
Sevenoaks/ Sevenoaks GTAA	57	28	6.9	6	34
Dartford	33	16	8.4	7	23
Gravesham	16	8	4.1	4	12
Swale	64	32	9.7	8	40
Medway	12	6	10	8	14
North Kent GTAA	125	62	32.2	26	89
Canterbury	32	16	10.3	9	25
Dover	6	3	7.5	6	9
Shepway	2	1	4.1	3	4
Thanet	5	2	5.9	5	7
East Kent GTAA	45	22	27.8	22	45
Kent & Medway	320	160	100.0	81	241

NB Figures may not sum due to effects of rounding

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