

From: David Brazier, Cabinet Member - Transport & Environment

Mike Austerberry, Corporate Director - Enterprise & Environment

To: Environment, Highways & Waste Cabinet Committee – 19 June 2013

Decision No: 13/00047

Subject: Variation of Traveller pitch allocations policy for Coldharbour Gypsy & Traveller site, Aylesford

Classification: Unrestricted

Past Pathway of Paper: The Countywide Pitch Allocations Policy was agreed by the Environment, Highways and Waste Cabinet Committee in July 2012. This is a proposed variation to that policy.

Future Pathway of Paper: For Cabinet Member Decision.

Electoral Division: Those living in any Member division may be affected, but in very small numbers.

Summary: This report explains why the local circumstances mean that the allocation policy for pitches on the new Coldharbour Gypsy & Traveller site should be different from the standard KCC Traveller pitch allocations policy agreed in 2012. It highlights the factors considered, the risks of challenge, and the equality implications of the proposed varied policy.

Recommendation(s): The Cabinet Committee is asked to make recommendations to the Cabinet Member for Transport & Environment on the proposed decision to vary the KCC Traveller pitch allocations policy for Coldharbour site, Aylesford as attached at appendix A.

1. Introduction

- 1.1 This is a report which proposes that the allocation of seventeen of the new pitches on the twenty-six pitch new site at Coldharbour should be allocated on a different basis to the standard allocation policy agreed by KCC last year.
- 1.2 Nine families already live on the site, and will remain living there.
- 1.3 The justification for varying the standard policy is the agreement, from when the new site was first proposed, that the new pitches were primarily to meet local need, coupled with the particular local needs which exist, including from those who have established sites, without prior consent, on Green Belt land and other areas of high planning constraint.

- 1.4. The proposed variation will not prevent any other waiting-list applicants being given reasonable preference for consideration, based on the needs for accommodation which they have. It will, however, give greater priority to those with a local connection.
- 1.5. As with any such cases, care needs to be taken that both the policy variation, and decisions made under it, comply with the various legal duties and requirements placed on one or both of the councils who are promoting this site and this proposed variation.

2. Financial Implications

- 2.1 There are no different financial implications for this decision, compared with the use of the standard allocation policy. In both cases, there are some risks of legal challenge, potentially by applicants unsuccessful in their applications for pitches on the new site.

3. Bold Steps for Kent and Policy Framework

- 3.1 This proposed decision puts the citizen in control, by meeting local accommodation needs appropriately.

It also helps to tackle disadvantage.

- 3.2 There is no specific plan or strategy within the Council's Policy Framework on this subject.

4. The Report

4.1 Relevant History

1. The pitch allocation policy for Gypsy & Traveller sites owned and managed by KCC's Gypsy and Traveller Unit was agreed by decision number 12/01920.
2. It introduced a points system for all applicants, with 20 points being awarded to applicants with a "Local Connection" to the Borough or District where the site is located that they are applying for. Applicants can apply for any one or more of the sites owned and managed. Their points may be different for different sites.
3. Other points awardable for such matters as homelessness, numbers of children, health and education issues, can, however, exceed the numbers of points for local connection.
4. During the debate at Cabinet Committee on 4 July 2012, as recorded on the webcast, the Head of the Gypsy & Traveller Unit told the Committee that the allocation policy for the Coldharbour new site pitches "may be varied from the standard policy".
5. The reason for this is that, as part of the agreement with Tonbridge & Malling Borough Council, first established in 2007, the new site has always been "primarily to meet local needs", needs as originally evidenced from a Gypsy and Traveller Accommodation Assessment jointly commissioned by four borough councils, including TMBC, and published in 2007.
6. A further Gypsy and Traveller Accommodation Assessment was commissioned by the Borough Council in 2012, and indicates higher future needs for accommodation than the 2007 study. A report on it is attached as Appendix E to this report.

7. Tonbridge & Malling Borough has approximately eight unauthorised developments established on sites with high levels of planning constraint. All are within the Green Belt. Some other applicants on the waiting-list are currently in unsatisfactory or overcrowded accommodation.
8. Over 80% of the Borough, by land area, is Green Belt land, all the current developments that are either unauthorised because they do not have planning permission, or have temporary planning permissions that are due to expire shortly, are within the Green Belt.. Appendix E to this item details the planning background.
9. Those planning applicants and appellants submit that they have no choice but to buy land and develop, without planning consent, in such locations, to meet their accommodation needs.
10. In addition, there appear to be enough families on the current waiting-list, with genuine local connection to TMBC's area, to fill all the 17 pitches which will become available, in addition to those 9 being occupied by families already living on the site.

4.2 Consultations

1. Detailed consultation was carried out in Spring 2012 on the proposed countywide allocation policy.
2. The outcome of this consultation not only informed the process leading up to the adoption of the standard allocation policy, but it and subsequent representations have informed these current proposals for variation for these particular new pitches and their allocation.

4.3 Any legal implications of the suggested action

1. As a result of the proposed variation of the previous policy, detailed legal advice was obtained about the way in which this could be done, and the justification that would be needed.
2. That advice said that extra weighting could be given to applicants on the waiting-list, if there were credible reasons for doing so.

4.4 Any equalities implications of the suggested action

1. In addition, an Equalities Impact Assessment was conducted, to test the proposed variation of the policy against the equality considerations.
2. The Equalities Impact Assessment Screening Grid is Appendix C to this item.

4.5 Options considered and dismissed – including maintaining the status quo

1. A series of options have been considered over the past year or so.
2. The status quo would mean that all applicants were considered solely on the numbers of points they received.
3. As the waiting-list, following consultation in Spring 2012, has no geographical limits on it, this would mean that allocations would be made solely on the basis of the numbers of points, and offers would be made to a wide range of applicants from within and outside Kent.
4. The implications for Tonbridge & Malling would be that this new site, supported over the last five years by both local authorities primarily to meet local need, would meet only a small proportion of that local need, and that most of the local need would remain unmet by it.

5. In addition, unauthorised development within Green Belt would be relatively unaffected by the provision of this site.
6. A second option would be simply to favour those with local connection, regardless of other factors, changing the points award of 20 points so that those with local connection automatically had offers made to them.
7. This, however, could be unfair to those with high needs who might live in adjacent boroughs, and be entitled to “reasonable preference” in being considered for a new pitch on the site.
8. A third option is to give a priority to those with local connection, but not to the exclusion of all others.
9. The fourth option, reflected in the Local Lettings Plan, included as Appendix D, gives “first consideration” to applicants with a local connection, but then considers those on the general waiting-list, and then those who have made a special case, based on exceptional circumstances, to be included on the list.
10. This is recommended as the most proportionate option of the four considered. It gives “reasonable preference” to everyone on the waiting-list for the new pitches, while giving first consideration to those with local connection, reflecting the agreed aims of the site since it was first proposed five years ago. The Local Lettings Plan gives first preference to those on Green Belt land whose planning consent has expired, or who have no planning consent, and, in either case, can show accommodation need.

4.5 Any implications for the council's property portfolio of the suggested action

1. There are no implications for the council's property portfolio of the suggested action.

4.6 Who is likely to inherit the main delegations via the Officer Scheme of Delegation – eg does a contract need signing who is likely to do it?

The Officer Scheme of Delegation is being updated so that it covers decisions on pitch allocations, as well as other matters.

5. Conclusions

I conclude that there is adequate justification, based on the particular planning circumstances within Tonbridge & Malling, and the history of the development of the site, for there to be a variation to the standard pitch allocation policy for the new Coldharbour pitches, and that the variation proposed is the most proportionate option available.

6. Recommendation

Recommendation:

The Cabinet Committee is asked to make recommendations to the Cabinet Member for Transport & Environment on the proposed decision to vary the Traveller pitch allocations policy for Coldharbour site, Aylesford as attached at appendix A.

7. Background Documents

APPENDIX A: Proposed Record of Decision 13/00047

APPENDIX B: Allocations Policy agreed under Decision 12/01920

APPENDIX C: Equalities Impact Assessment Screening Grid

APPENDIX D: Local Lettings Plan

APPENDIX E: "A Revised Gypsy And Traveller Accommodation Assessment For Tonbridge and Malling" – Paper To Tonbridge & Malling Borough Council's Planning And Transportation Advisory Board Of 4 June 2013

8. Contact details

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