

Report to the Local Development Framework Cabinet Committee



**Epping Forest
District Council**

Report reference: *LDF-001-2008/09*
Date of meeting: *20 April 2009*

Portfolio: Planning and Economic Development

Subject: Regional Spatial Strategy Single Issue Review on Gypsy and Traveller Accommodation – Proposed Response

Responsible Officer: Andrew Lainton (01992 564482).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

That members agree this report as the Epping Forest District Council response to the Secretary of State's consultation on her response to the Draft East of England Plan Single Issue Review on Gypsies and Travellers accommodation – following the findings of the Examination in Public panel earlier this year.

Executive Summary:

The East of England Regional Assembly (EERA) published a proposed Single Issue Review to the East of England Plan (EEP) in 2008. The review covered proposed district level pitch requirements for Gypsy and Traveller accommodation, and for Travelling Showmen. Following a period of public consultation an Examination in Public (EiP) by an independent inspector took place late last year. The EiP panel published its report early in December 2008 and proposed lowering the additional pitch requirement for Epping Forest District by 2011 from 49 to 39. In March 2009 the Secretary of State (SoS) published her response and proposed changes for consultation. This includes lowering the Epping Forest District target by a further 5 to 34 because of what are described as "delivery problems" in the District.

Reasons for Proposed Decision

The further reduction in the 2011 target to 34 pitches is considered to be reasonable in the context of local need within the district.

Other Options for Action

While a case could be made for arguing for a further reduction, officers believe it is unlikely that this would be accepted by the Secretary of State, given all the evidence that was considered at the EiP.

Report:

The Single Issue Review

1. In February 2006 EERA commenced a single issue review of the EEP to address the accommodation needs of Gypsies and Travellers.

2. The single issue review was required to:
 - (a) Address the pressing need for regional policy to assist local authorities in the East of England in identifying the appropriate number and location of Gypsy and Traveller caravan sites through their Local Development Frameworks;
 - (b) Conform with ODPM Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites), which states that Regional Spatial Strategy (RSS) revisions should "identify the number of pitches required (but not their location) for each local planning authority in the light of local authority Gypsy and Traveller Accommodation Assessments (GTAAs) and a strategic view of needs across the region"; and
 - (c) Reflect The Housing Act 2004 and The Planning and Compulsory Purchase Act 2004.
3. EERA has worked with local authorities across the region to identify the number of additional pitches that are required. In addition to this, EERA commissioned research (in partnership with Communities and Local Government (CLG) and other regional bodies) to assess the local authority Gypsy and Traveller Accommodation Assessments and to propose a method of translating regional pitch need into pitch provision. The results of the CLG/EERA research and advice from local authorities informed the content of an Issues and Options document which was widely consulted on in Mid 2007ⁱ. In light of the responses received to that consultation, results of additional research and further advice received from the local authorities, EERA approved a revised draft policy (H4) "Provision of Pitches for Gypsy and Traveller Caravans" for Submission to the Secretary of Stateⁱⁱ.

The Examination in Public (EiP)

4. The EiP took place in the week beginning 20 October 2008 and was carried out by an independent panel of three planning inspectors, appointed by the Secretary of Stateⁱⁱⁱ. A planning consultant presented Epping Forest District Council's views.
5. The EiP Panel Report was submitted to the Secretary of State on 17 December 2008^{iv}. It gave a green light to the policy and target levels with a number of changes. It also proposed an approach of redistributing provision levels from some districts with very high levels of existing provision (such as Basildon) towards other districts.
6. On the issue of Green Belt the panel found that there was very little evidence to support EERA's contention that in districts with tightly drawn green belt boundaries sites could be found outside the green belt. One of the main reasons for this is high land costs (para. 3.39). The panel considered that the regional requirements would provide the necessary 'very special' circumstances for development in the Green Belt (para 3.40) as follows:
 - (a) the urgent and compelling objective of making authorised provision for the reasons as stated in circular 1/2006 including to improve health and education services and to avoid the harm from unlawful camping;
 - (b) the benefit to delivery that will be achieved by a wider distribution of sites;
 - (c) providing sites in a spread of locations, and achieving better fit with planning considerations such as access to employment;
 - (d) Equity between local authorities; and

(e) Closer alignment with housing and employment development with the settled community in order to facilitate access to jobs and services.

7. Specifically with regard to provision targets in Essex and Southend-on-Sea, the panel did not accept the request from EFDC to base targets on the Draft Essex, Southend on Sea and Thurrock Gypsy and Traveller Accommodation (GTAA) assessment then being prepared, as it had not yet been completed or published. The panel considered that any new GTAA should form the basis for a formal review of the strategy covering provision levels post 2011.

8. Specifically with regards to Epping Forest District the panel found that the strategic review of green belt and provision for urban extensions around Harlow may provide some scope for 'contributing to the needs arising in both districts' but not in the first phase (to 2011) (para. 4.19).

9. This Council's argument that the approach adopted in the draft policy overestimated need because of the unusually aged nature of the local Gypsy and Traveller community was accepted by the panel (para. 4.20) with support coming from the local Myriad survey finding that a third of respondents saw no need for new pitches for their families.

10. In addition to the constraint of the Green Belt the panel accepted this Council's arguments that the amount of land not covered by constraints such as nature conservation designations is fairly low (para. 4.21). The panel also noted the high concentration of existing pitches in the Nazeing area and a recent Secretary of State decision that sites within the built up area would be unlikely to be suitable because of amenity and affordability concerns. The panel therefore recommended that the requirement be lowered by 10 pitches to 39 by 2011. This would accordingly lower the requirement in subsequent years.

The Secretary of State's Response

11. The Secretary of State has considered the recommendations in the panel's report. Her Proposed Changes to the draft policy on Gypsy and Traveller accommodation in the East of England and her Decisions on the recommendations of the EiP Panel were issued on 27 March 2009. They are now subject to eight weeks public consultation with a closing date for responses of 17:00 on 22 May 2009.

12. A Sustainability Appraisal, Habitats Regulations Assessment and a Non-Technical Summary were also published on 27 March.

13. Key elements of the Proposed Changes in large part followed the recommendation of the panel and include:

(a) increasing the numbers of additional pitches to be provided in the East of England by 2011 from 1,187 to 1,237 and treating them as minima;

(b) provision for 160 transit site, and 184 Travelling Showpeople, pitches in the region by 2011; and

(c) slightly lower pitch requirements for Basildon and Epping Forest Districts, recognising the particular delivery challenges in those areas.

14. Copies of the Proposed Changes and Decisions have been sent to the local authorities, MPs and MEPs in the East of England. The documents will also be made

available for public inspection in libraries across the region and can be downloaded via the online consultation^v.

15. The only significant changes to the panel's recommendations are the lowered targets for Epping Forest and Basildon and the transfer of the differences to other districts (in this case the requirement for East Hertfordshire District is increased by 5). The Secretary of State simply states that the reasons for the changes are those as stated in the panel report and the 'particular delivery challenges' in this District.

16. Clearly the arguments put forward by EFDC, including that some nearby districts need to do more to 'pull their weight', have to a great degree been accepted. That comment is against the background of the significant level of provision already made, and being made, in this district. The Council had argued that level of provision, if based on the evidence of the draft GTAA, should be around 35 pitches. If constraints in the District, and the need for other districts to provide more, were accepted the target could even have been reduced to around the mid 20s.

The Draft Essex and Southend-on-Sea Gypsy and Traveller Accommodation Assessment 2008/2009

17. Since the EiP, work on the GTAA has progressed and a draft has been prepared but not yet published. It agrees with the panel about the overall level of need in the county, but looks at a number of alternative approaches towards its distribution.

18. In one approach, based on redistributing pitches away from Basildon, it proposes 34 pitches for Epping Forest District. In another approach, based on meeting need where it arises, it proposes only 20 pitches. The research is based on questionnaire responses and, as in any such survey, the quality of the findings depends on the level of response.

19. The GTAA draft also needs to be considered alongside evidence of local need. If the number of unauthorised, including tolerated, pitches (and one refused a Certificate of Lawful Development (CLD)) in the district are added to current and expected applications and recent approvals (since the start date of the policy) to extend or intensify existing sites then this adds up to a need for 40 pitches. This includes an extra 6 pitches at Tomary (as it seems that the original consent will not achieve licensing). Temporary consents for Holmsfield Nursery and Mamelons Farm are not included as these expire after 2011 and will add to need in a later period. It should be noted that on some sites, although proposed residents are family members with local connections, they may currently be living in other districts and so will have been counted in the GTAA as requiring need in these districts rather than Epping Forest. For this reason the local 'demand' for 40 pitches may be considered on the high side as an assessment of local 'need'. For the same reason, however, granting permissions for family members with local connections, even if it reaches a minimum pitch requirement in the RSS, might not fully meet local need if there are still temporary permissions or unauthorised development which need replacement. For this reason, amongst others, the pitch requirements are no longer proposed to be 'at least' levels.

20. The assessment of local need based on current evidence therefore has a lower level of 20 pitches and an upper level of 40. The Secretary of State is effectively suggesting the transfer of a proportion of local need to East Herts District.

Conclusions

21. On this basis it is suggested that 34 pitches is not a wholly unreasonable number and that it perhaps is as low as the Council might reasonably expect, although a case

could be made on the basis of the draft GTAA for a figure closer to 20 pitches. If there was no regional target and levels were set on the basis of evidence of local need then 34 pitches would be a reasonable target. This is recommended as the proposed response.

22. Local groups and residents are able to and are encouraged to make their own responses on the regional consultation portal.

Resource Implications:

Funding for regional planning related issues is covered by the Forward planning budget.

Legal and Governance Implications:

The East of England Plan will form part of the statutory development plan once finalised.

Safer, Cleaner and Greener Implications:

No significant implications have been identified.

Consultation Undertaken:

Consultation on the Proposed Changes and Decisions runs from 30 March to 22 May (8 weeks).

Background Papers:

Consultation on Options: Development Plan Provision for Gypsies and Travellers in Epping Forest District (2008);
PPS12: Local Spatial Planning (2008);
Draft Single Issue Review- East of England Plan – Gypsies and Travellers Accommodation – as well as panel report and Secretary of State’s proposed response;
Draft Essex, Southend on Sea and Thurrock GTAA 2008/9.

Impact Assessments:

The Secretary of State has also published a Sustainability Appraisal which incorporates Strategic Environmental Assessment.

ⁱ <http://www.eera.gov.uk/What-we-do/developing-regional-strategies/east-of-england-plan/planning-for-gypsy-and-traveller-accommodation-single-issue-review-/gypsy-and-traveller-issues-and-options/>

ⁱⁱ <http://www.eera.gov.uk/What-we-do/developing-regional-strategies/east-of-england-plan/planning-for-gypsy-and-traveller-accommodation-single-issue-review-/gypsy-and-traveller-draft-policy/>

ⁱⁱⁱ <http://www.eera.gov.uk/What-we-do/developing-regional-strategies/east-of-england-plan/planning-for-gypsy-and-traveller-accommodation-single-issue-review-/gypsy-and-traveller-examination-in-public/>

^{iv} http://www.planning-inspectorate.gov.uk/pins/rss/east_of_england_gypsy/index.htm
Please note the link to the panel report has been overwritten by the secretary of state. A paper copy of the panel report has been lodged in the members room.

^v http://www.planning-inspectorate.gov.uk/pins/rss/east_of_england_gypsy/index.htm