

South Norfolk Gypsy and Traveller DPD Examination

Response to the Inspector’s Preliminary Questions and Comments

1. This paper sets out the Council’s response to the Preliminary Questions and Comments raised by Simon Emerson, the Inspector appointed by the Secretary of State. Chapter 1 of the Inspectors comments sets out the background and process. Chapters 2 to 7, along with an Annex relating primarily to the Accommodation Needs Survey, contain various queries and comments about the DPD. They are responded to in turn below, which should be read in conjunction with the Inspector’s comments.

2. Legal and Regulatory Requirements

Habitat Regulations and Protected European Sites

- 2.1. In paragraph 2.1 of your statement, you question whether there has been any consideration of the DPD in relation to the Habitat Regulations and protected European sites. A scoping report was carried out on the Sustainability Appraisal. Furthermore, the site selection criteria included a criterion which eliminated any sites which had an adverse impact on sites with national designations. This by implication would have ensured that the sites selected would not have an adverse effect on any site with a European designation. Natural England were consultees on all stages of the site selection process, including the scoping report for the Sustainability Appraisal. They made no comments on the scoping report and have not objected to any specific element of the DPD.

Saved Policies

- 2.2. The paragraph 2.2, you note that the DPD should have included a list of saved local plan policies which would be superseded by the DPD. No such list has been included as there are no saved policies that will be superseded. Policy HOU23 was not one of the policies in the South Norfolk Local Plan to be saved. It was incorrectly shown in the withdrawn Regulation 27 document.

Style and Wording of the Document

- 2.3. In paragraph 2.2, you note that the development control policy in the submitted DPD would be better termed a development management policy. We would have no objection to this change of wording.
- 2.4. In paragraphs 2.3 and 2.4 you raise a number of queries regarding the wording and style of the document. We would be happy to adjust the wording as suggested and to work with Inspector to achieve this. It is noted that in paragraph 2.2 you refer to a possible list of Proposed Changes which could be used to achieve this.

- 2.5. In paragraph 2.5 you query the size of the proposed allocations. Their size allows for flexibility in terms of the site layout, to provide plenty of room for landscaping, and also for ancillary land such as for the grazing of horses. In the specific case of the Earsham allocation there is also a need for buffer zones with adjoining land uses. This can be seen in the site layouts submitted in Appendix 6 of the submission document. In the case of the site at Stanfield Road the site size is also as a consequence of the size of the land offered to the Council by the landowner (land ownership has subsequently changed).
- 2.6. You also query in paragraph 2.6 the minutes of the meeting of the Council on 25 January 2010 where it is noted that the Council resolve to support revisions to the development management policy criterion relating to residential amenity. The reasons for this are detailed in the Cabinet report of 14 December 2009. We would therefore seek to place this on any list of Proposed Changes. In response to your concern that this proposed revision to the criterion would be unreasonable, we would note that this wording was the result of extensive consultation and this is reflected in the Regulation 27 representations received on this issue.

3. The scale and nature of accommodation needs to be met

Definition of Gypsies and Travellers

- 3.1. The definition of a Gypsy or Traveller in Circular 01/2006 is the most up to date national definition of Gypsies and Travellers available in a planning document. In the absence of a Local Plan policy this national policy is used by South Norfolk Council for development management decisions. Furthermore, it should be noted that use of this definition has never been raised as an issue by the Government Office.

Existing Provision and Identified Need

- 3.2. In response to your queries in paragraph 3.2, there were 25 authorised pitches as of 1 January 2006, 18 of which were social provision at the Roundwell site at Costessey. The remainder were small private sites most of which are subject to an occupancy condition.
- 3.3. In paragraph 3.3 you query the reasoning as to why the allocations are to be for social rent with provision by the private sector on allocated sites excluded in the DPD.
- 3.4. Six additional private pitches have been provided since 1 January 2006, and we have counted these towards the overall requirement of 28 pitches in the period 2006-2011. We consider that there is a pressing need for pitches provided for social rent as evidenced by the waiting list kept by South Norfolk Council.

- 3.5. Our public consultations have raised concerns raised about management of the sites. Through management by Registered Social Landlords (RSLs), management of the site can be controlled through tenancy agreements and also through a lead tenant, which is the case at the Roundwell site.
- 3.6. It should be noted that six additional private pitches have recently been approved at Carleton Rode and the development management policy is designed to allow for private sites to be considered. We therefore disagree that the DPD specifically excludes provision by the private sector.
- 3.7. In regard to the point raised in paragraph 3.4 as to how we intend to provide a suitable mix to meet the different ethnic and/or cultural groups, the majority of the need in South Norfolk is traditional Romany Gypsy. However, the private sites which are coming forward can help meet any demand for other ethnic and/or cultural groups.
- 3.8. It should be noted that the published DPD has been circulated to all members of the Norfolk Gypsy and Traveller Liaison Group.

4. Site Selection

The scoring of sites

- 4.1. In paragraphs 4.1 and 4.2, you query how the criteria were interpreted to arrive at the scores published for the sites. The sites were scored by members of the South Norfolk Gypsy and Traveller Working Group. Prior to visiting the sites they were briefed by officers as to how the scoring should be carried out. The scores do contain considered opinions on some criteria.
- 4.2. You query in paragraph 4.3 as to why some specific criteria contain scores that do not result in a more clear cut pattern, giving the example of the issue of whether a site is within a flood zone as a matter of fact, not judgement.
- 4.3. Whilst it is accepted that whether a site falls in a flood risk zone or not is a matter of fact not judgment and therefore would not apparently allow for a score other than 1 or 4, it should be noted that this criterion was broader than just a check as to whether it is in a flood zone. The scores also included consideration of contamination which may not be as clearly defined as whether a site falls in a flood zone. Furthermore, flood risk assessment has had regard to surface water flooding which is not necessarily recognised within the identified flood risk zones. For example, one of the sites shortlisted at Ketteringham at the Regulation 25 stage was discounted after evidence was produced showing that the site had been subject to surface water flooding in the past.
- 4.4. The scores listed in Appendix 3 were made against the criteria listed in Appendix 2 prior to the Regulation 25 consultation. These scores were then part of the subject of that consultation and can be found in the consultation document.

Identification of sites

- 4.5. In paragraph 4.5 you query how the Council first identified both the allocated sites, and the 82 listed sites more generally.
- 4.6. An initial search of sites was done at a very preliminary stage, of which there are no specific records. It was conducted by an officer undertaking a very wide trawl of sites across the corridors. Of the two allocated sites, the site at Stanfield Road was put forward by a then willing landowner and offers were made to purchase the land. Attention was drawn to the site at Earsham by someone with an interest in nearby land. No better site is currently being offered to us. It is our experience that landowners often come under real pressure from some people in the local community not to make land available at this stage. Once a site is allocated, then productive discussions are more likely.

Site selection criteria

- 4.7. In paragraph 4.6 (a) you query why the well-being of site occupants was considered as a desirable factor and not an essential factor. Whilst it may have been listed as a desirable factor, it should be noted that consideration has been given to the well-being of site occupants and this can be seen in our responses to the comments made about site specific considerations such as the further investigation conducted in response to comments about adjoining land use. This can be seen below in addressing the questions raised by the Inspector specific to the allocations and in the responses to the representations made on the matter, particularly in the Regulation 25 consultation. It is also clear that well managed sites offer a vastly better living environment than travelling between unauthorised sites as many families currently have to do.
- 4.8. The use of the criterion “Avoiding sites where there is more than minimal effect on visual and residential amenities” is raised as a concern in paragraph 4.6 (b) of your report. It should be noted that this was arrived at after extensive public consultation which attracted a high level of public interest. The consideration which led to this factor being considered as an essential factor can be seen in the Cabinet Report of 19 December 2008. In practice the result has been to rule out sites which abut the curtilage of residential dwellings.
- 4.9. This approach also reflects the conclusions of an Inspector in the case of a relatively recent enforcement appeal in South Norfolk (ref: APP/L2630/A/04/1151371) who noted that “on a typical gypsy site more than in most residential areas as much social activity takes place outside and there is considerable interaction between occupiers of adjacent family pitches and movement between the caravans, dayrooms, toilets and sheds on each site”. Whilst it is accepted that the appeal site in question was in a particularly quiet area, it should also be noted that this will be the case in most rural village communities in South Norfolk.

4.10. You also query in paragraph 4.6 (c) as to why deliverability wasn’t a criterion. No better sites with willing landowners were found. We have and will continue to liaise with landowners and to seek and secure the allocated sites. However, we have also indicated we are willing to exercise Compulsory Purchase Order (CPO) powers as a last resort. We have used CPO powers to ensure delivery of local plan allocations, such as in the recent case of Poringland, and are of the view that should the DPD be adopted this will speed up the CPO process.

Lower Spinks Lane

4.11. In paragraph 4.7 you seek clarification of how the site at Lower Spinks Lane site was assessed, questioning why it was not assessed on the desirable factors. In fact the site was assessed on desirable factors and this can be found in the Regulation 25 consultation document. The site was reconsidered in light of comments made in the Regulation 25 consultation but was discounted after Norfolk County Council as the highway authority objected due to concerns over pedestrian movement through the A11 interchange. The County Council’s response is included as Appendix 1.

5. Site specific considerations

Land on Stanfield Road, Wymondham

5.1. In response to your comments in paragraph 5.3 about the Health and Safety Consultation Zones, the DPD reflects the zones which the Health and Safety Executive (HSE) have advised us on.

5.2. The HSE were consulted in October 2008 to ensure a site could be accommodated without falling in the consultation zones. After Goff Petroleum objected during the Regulation 25 consultation and raised the issue of the Buncefield oil depot, we forwarded their comments to the HSE. They advised that the consultation zones remain the same as before (as shown in the plan in Appendix 6 with the allocation clearly outside). They raised no concern that this was likely to change in light of the Buncefield incident. A copy of their two responses is attached as Appendix 2.

5.3. In regard to comments made in paragraph 5.5 about expansion of the operation of the oil depot, we consider that the proposed allocation is of sufficient size and distance as to not prohibit any growth of the business. We have looked to negotiate a solution that delivers and a Gypsy and Traveller site as well as allowing for the expansion of the site – it should be noted that some of the proposed uses are B1 (Office) and by definition is therefore compatible with residential uses. The Council have had pre-application discussions with Goff Petroleum (initiated by the company) about expanding the site but considers these to be confidential as is the case with all pre-application discussions.

5.4. South Norfolk Council’s Environmental Services have not conducted any specific work in regard to monitoring noise levels at the Stanfield depot site

but they were consulted and did not raise an objection or any concern based on the possibility of noise disturbance from HGV movements or any other activity at the Goff Petroleum site.

- 5.5. In response to the issue of the former railway line raised in paragraph 5.7 of your report, Policy TRA6 will be reviewed as part of the Site Specific DPD. The viability of reinstating the railway line is doubtful due to the fact that it is already bisected by the A11 to the west and the oil depot and various other developments to the east, which would necessitate significant engineering works to reinstate the line. However, even if the trackbed is to be remain protected then the site can be designed in a way that keeps the trackbed clear of permanent structures.

Site at Old Harleston Road, Earsham

- 5.6. We have consulted with South Norfolk Council’s Environmental Services over the proximity of the scaffolding business who have advised us that the provision of an earth bund should be sufficient to mitigate any noise disturbance. The proximity to the pig farm was also considered and we specifically consulted DEFRA to help ascertain whether this would raise any public health issues. They advised that “provided that the owner of the pigs has good biosecurity measures and that there is no deliberate attempt to introduce food or feed that is infected with a contagious disease to the pigs, the risk to the pigs from an animal health perspective should be low. The disposal of waste food and animal feed from the traveller site should be done in accordance with the requirements of UK legislation to ensure that the risk to other premises are kept low”. A benefit of a site developed by a RSL means that it can help assure that the site is managed to ensure that any such risk is minimised. DEFRA also advised that they are aware of several sites where outdoor pigs are kept next to lay-bys on roads in East Anglia and are not aware of any disease outbreaks on these premises due to waste left by drivers of vehicles using the lay-bys.

6. Deliverability and flexibility

Delivery

- 6.1. In response to your queries raised about ownership and site acquisition in paragraph 6.2, both current landowners are unwilling to promote their land for use as a Gypsy and Traveller site. The site at Stanfield Road, which is now owned by Goff Petroleum who own the nearby oil depot, was previously under the ownership of Derek Cooper. The site at Earsham is owned by Nicholas Meade who also owns surrounding land.
- 6.2. We were offered the site at Stanfield Road by the former owner and we did make an offer for the land. Negotiations reached an advanced stage, however this bid was not successful. The site was shortlisted as a suitable site before it was acquired by the current landowner.

- 6.3. You also raise a number of queries about how we intend to secure delivery of the sites in paragraph 6.3. It is considered that the RSL would apply for funding from Government, as was the case in developing the site at Harford. RSLs have expressed an interest and have demonstrated, in the case of Harford, that they can deliver. In response to the point raised in point (c), it had been the intention of the Council to work-up a timetable for pursuing a CPO in the event of a favourable decision from the Inspector. A draft timetable will be prepared for the examination. The Council has made estimates of the likely cost of acquisition and development of the site at Stanfield Road. However, this is commercially confidential. Such work has not, at this stage, been carried out in regard to the site at Earsham but could be prepared if the Inspector required it.
- 6.4. In response to point (e) of paragraph 6.3, funds have been secured from Government grants to purchase the sites.
- 6.5. Consideration of the implications of the use of CPO powers has been considered formally in reports presented to Cabinet and Full Council. Paragraph 12.2 of the Cabinet Report on 29 June 2009 notes that current negotiations with the landowners suggest that the Council will need to use its powers of CPO to acquire the proposed sites. This was repeated in paragraph 6.2 of the Cabinet Report of 27 July 2009 and paragraph 6.2 of the Cabinet Report of 14 December 2009. The latter two reports were also considered by members of Full Council.

Flexibility

- 6.6. In response to your comments in paragraphs 6.5 & 6.6, work on the Site Specifics DPD is to follow shortly. This does allow for a second opportunity to identify sites for Gypsy and Travellers. In addition, recent planning applications suggest it is reasonable to expect further planning applications for private sites. There is, however, clearly a need for sites now and this DPD is designed to enable that need to be met in advance of work being carried out in the Site Specific DPD.

7. Development Management Policy

- 7.1. In response to your comments in paragraph 7.1, the Joint Core Strategy (JCS) gives a very broad strategy and does not contain detailed development management policies.
- 7.2. No decision has been made at this stage as to how the Council’s involved in the emerging JCS will approach development management policies for Gypsies, Travellers and Travelling Showmen as queried in paragraph 7.2 of your report. It is, however, likely that development management policies will be co-ordinated but until this time it is considered that the Council needs its own policy.
- 7.3. Finally, all Councils have now resolved to submit the JCS to the Secretary of State and the document was formally submitted on 5 March 2010.

Annex to Note

The Inspector raised a number of very specific questions relating to the Accommodation Needs Survey July 2006 and the Regional Spatial Strategy. His questions are in bold text with our responses underneath.

A.1 Paragraph 15.3 states that evidence shows a need for between 32 and 44 pitches to address current accommodation needs.

- a) Is this meant to refer to permanent sites only or a mix of permanent and transit sites?**
- b) In either case, what figures in the survey lead to this conclusion?**

If 15.3 refers only to permanent sites, how does the recommendation in paragraph 16.1 of 3 new sites of 6-8 pitches each (giving a minimum of 18 pitches and a maximum provision of 24 pitches) met the identified need?

A1a) Refers to permanent sites.

b) The conclusion was based on a range of sources, not just those in the survey but also separate interviews.

c) The recommendation in paragraph 16.1 gives a recommendation of up to 32 permanent pitches (up to 16 in the area around the A47 Norwich Southern By-pass, up to 8 pitches in the Waveney Valley and up to 7 pitches in the Wymondham area) which is consistent with paragraph 15.3. Subsequently, the RSS set a minimum pitch provision of 28 pitches.

A.2 Paragraph 10.4 refers to over 20 locations across South Norfolk regularly used by gypsies and travellers and goes on to suggest that these form specified geographical corridors. (Further elaborated in paragraph 10.5.) The accompanying map shows about 31 parishes within which there have been encampments.

- a) On what basis have the 31 parishes been identified and how do 31 relate to the reference to 20 in paragraph 10.4?**
- b) Did some parishes have more than 1 of the 20 regularly used sites?**
- c) 22 respondents to the survey were living on unauthorised sites (paragraph 10.2); how many of these are the same as the 20 referred to in 10.4 and have all the parishes where these 22 sites are been highlighted on the map?**
- d) Of the survey responses (p11), about 2/3rds indicate a preference for *living where I am now*. Is this information consistent with or supportive off the identification of road corridors for the locations of the future sites?**

A2 a) The reference in paragraph 10.4 states that there are “over 20” locations as opposed to precisely 20.

b) Yes, some parishes do have more than one regularly used site.

c) All 22 respondents from unauthorised encampments referred to in paragraph 10.2 come from the locations referred to in paragraph 10.4.

d) It is considered consistent with the identification of road corridors for the locations of future sites as the map at the end of the Needs Survey document suggests.

A.3 P15 of the Needs Survey contains a table summarising what is described as *unauthorised encampments* (paragraph 14.2) from the bi-annual count of gypsy caravans between July 2003 and 2006. Appendix 7 of the Issues and Options Report (Supporting Document 19) has a similar table, but with separate figures for *unauthorised development* and *unauthorised encampments*. Adding these 2 figures for July 2004 and Jan 2005 gives the same total for those dates as in the Needs Survey.

- a) **Should the Needs Survey have referred to both types of unauthorised development?**
- b) **Why are there discrepancies between the total unauthorised sites in the Issues and Options Report and in the Needs Survey for the dates other than the 2 referred to above?**

A3a) The Needs Survey provided a total of unauthorised development and encampments, whilst this was broken down in the Issues and Options. It is not thought that this prejudiced the soundness of the need identified in the Needs Survey.

b) The figures do appear to contain some inconsistencies. This matter will be investigated and can be addressed at the Exploratory Meeting should you decide one is necessary.

A.4 What was the reason for the Needs Survey recommending sites for 6-8 pitches?

A4 The Needs Survey recommended sites of 6-8 pitches as a result of feedback from both the settled and the travelling community suggesting a preference for small sites. This approach is now being supported nationally, as can be seen in the Department of Communities and Local Government document “Designing Gypsy and Traveller Sites: Good Practice Guide”.

A.5 Policy H3 of the RSS July 2009 indicates that South Norfolk had 25 authorised pitches in Jan 2006. These, together with the proposed minimum addition of 28 pitches, give a minimum total of 53 pitches by 2011.

- a) **Please identify what were/are the 25 authorised pitches at the beginning of 2006 (with location - please provide a plan; number of authorised pitches or caravans; and whether any planning permissions are permanent, temporary and or personal to named occupier.**
- b) **Are the authorised sites at Jan 2006 still authorised and occupied or available for occupation by any gypsy family fulfilling the definition in Circular 1/2006? If there were not 25 authorised pitches at Jan 2006, my preliminary view is that any shortfall below 25 should be added to the minimum provision to be made by 2011.**

- c) The submitted DPD (p3, 4th para) refers to a base date of 1 April 2006, but the RSS has a base date of Jan 2006. My preliminary view is that the DPD should have the same base date. Were any sites granted permission between January and April 2006 and if so are they already mentioned among the sites in the 5th para?**
- d) The submitted DPD (p3 1st para) refers to the County Council’s site at Roundwell with 19 pitches. The Needs Survey refers to 18 pitches at Roundwell (para 10.2). The Roundwell site was refurbished in 2006 (Issues and Options, SD19, Appendix 7 pIX). Did the number of pitches increase by 1 as a result of refurbishment? What number of pitches for Roundwell was incorporated in the RSS base information?**

A5a) Details of the 25 authorised pitches are attached as Appendix 3.

b) Yes, all sites are still authorised. Those that are not occupied are available for occupation but not by any family (unless the occupation condition is varied). We can demonstrate that there were 25 authorised pitches in January 2006.

c) The DPD reflects the Monitoring year. No new pitches were permitted between January and April 2006.

d) The Roundwell site has 18 pitches. The statement in the DPD that the Roundwell site has 19 pitches is an error.