



The Planning Inspectorate

Report to Herefordshire Council

by David Smith BA (Hons) DMS MRTPI
an Inspector appointed by the Secretary of State

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Herefordshire Travellers' Sites Development Plan Document

The Plan was submitted for examination on 27 February 2018

The examination hearings were held on 22 May 2018 and 18 March 2019

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Non-Technical Summary

This report concludes that the Herefordshire Travellers' Sites Development Plan Document provides an appropriate basis for the planning of traveller sites in the County, provided that a number of main modifications are made to it. Herefordshire Council has specifically requested me to recommend any main modifications necessary to enable the Plan to be adopted.

All the main modifications were proposed by the Council and were subject to public consultation. In one case I have amended the detailed wording. Their inclusion in the Plan is recommended after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Correcting the need for gypsy and traveller pitches to 19 pitches for the 5 years between 2018 and 2023 and to 30 pitches over the plan period;
- Allocating a further site for 4 pitches at Bosbury;
- Identifying Stoney Street, Madley as a possible future growth location;
- Confirming that the Core Strategy review will consider the longer term unmet needs of those meeting the definition within the Planning Policy for Traveller Sites as well the needs of travellers outside of it; and
- Changes to the detailed general policies for traveller and showpeople sites to ensure that they are fair in facilitating the traditional and nomadic life of travellers whilst respecting the interests of the settled community.

Introduction

1. This report contains my assessment of the Herefordshire Travellers' Sites Development Plan Document (TSD) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (NPPF) (paragraph 182) makes it clear that in order to be sound, a local plan should be positively prepared, justified, effective and consistent with national policy.
2. A revised NPPF was published in July 2018. It includes a transitional arrangement in paragraph 214 whereby, for the purpose of examining this Plan, the policies in the 2012 NPPF will apply. The TSD has therefore been considered against national policy in the NPPF of 2012 as well as the Planning Policy for Traveller Sites (PPTS) of 2015.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The pre-submission publication of the TSD of November 2017 was published for consultation in the same month and is the basis for the examination.

Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council has requested (PS17) that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, which all relate to matters discussed at the examination hearings, are necessary. The MMs are referenced in bold and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal of them. They were subject to public consultation between 1 May and 12 June 2019. I have taken account of the consultation responses in coming to my conclusions and have made an amendment to the detailed wording of MM13 to give clarity.

Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. It submitted a submission policies map (A2) showing the proposed traveller sites in the TSD. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, the allocation of an additional site as an MM requires changes to be made to correspond with the location map. When the Plan is adopted, the Council will therefore need to update the policies map in order to comply with the legislation and to give effect to Policy TS8.

Assessment of Duty to Co-operate

7. The Council has been in dialogue with neighbouring authorities in both England and Wales by means of meetings and other officer contact. The upshot is that other planning areas expect to be able to meet their own needs for traveller

sites and there has been no request for Herefordshire to meet unmet need from elsewhere. There are no unresolved strategic cross boundary issues.

8. Overall I am satisfied that the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate enshrined in section 33A of the 2004 Act has therefore been met.

Assessment of Soundness

Background

9. The Herefordshire Local Plan Core Strategy was adopted in October 2015. Within it, Policy H4 deals with traveller sites and contains criteria to establish when proposals for sites will be supported. It also indicates that the accommodation needs of travellers will be provided for through a development plan document which will include site specific allocations. The TSD is intended to fulfil that policy expectation.
10. The Core Strategy establishes that, for the purposes of Policy H4, travellers are those who fall within the definition of "gypsies and travellers" at Annex 1 of the PPTS. Section 124 of the Housing and Planning Act 2016 refers to people residing in or resorting to the district with respect to the provision of sites on which caravans can be stationed. That group includes "cultural" travellers who are outside the PPTS definition. The intention is for their needs to be dealt with in a more holistic fashion through the review of the Core Strategy. The purpose of the TSD is to make provision for travellers who meet the PPTS definition in accordance with the current Core Strategy. The Plan is not fundamentally undermined by not catering for others. However, this is not clear in the supporting text and should be made explicit in order that the Plan is effective. This is addressed by **MM1** and **MM2**.
11. Paragraph 5.1.23 of the Core Strategy details what the travellers' sites document should include. There has been some slippage in the timetable and some of the matters have not been progressed as originally envisaged. Nevertheless, overall the TSD is consistent with the adopted development plan as required by Regulation 8(4) of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

Main Issues

12. Taking account of the representations, the written evidence and the discussions that took place at the examination hearings I have identified four main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness and does not respond to every point raised by representors.

Issue 1 - Has the preparation of the Plan been informed by a robust evidence base to establish accommodation needs for travellers?

13. The Herefordshire Gypsy and Traveller and Travelling Showperson Accommodation Assessment Update of 2017 (A13) follows earlier work and a final report from 2015. It uses a variety of evidence sources. These include interviews with 69 gypsy and traveller households in the study area which

were undertaken in 2017 together with 20 carried out at Yoke Farm in 2014 as well as interviews with 10 travelling showperson households.

14. The first-hand evidence gained is quite extensive when compared to the total of 119 households living on traveller pitches in 2017. Moreover, the Accommodation Assessment includes all travellers irrespective of whether they meet the PPTS definition or not. Based on their travel patterns and future intentions, just over a third of households are considered to fall into this category. Given the largely primary source of the data this proportion is reasonable. These are the households that the TSD should plan for.
15. The survey was undertaken in confidence. There is therefore no reason to doubt the genuineness of the answers given to questions relating to lifestyles because of wariness about any implications that might arise. Indeed, it must be better to reach conclusions about travellers based on information gleaned from them rather than simply make assumptions. Neither is there any evidence that the questions were framed in such a way as to lead to any particular outcome.
16. A picture was painted of a large-scale loss of sites in the late 1990s and of a consequent exodus to bricks and mortar. Some of these families may now wish to return to caravan pitches in order to resume their traditional lifestyle. However, it is not easy to identify them accurately and it was not possible to interview any travellers in housing. The Accommodation Assessment relies on a figure of 20 households based on the waiting list from public sites from 2017. This is a 'snap shot' in time but provides a useful estimate although the more up-to-date figure of 27 should be used in the model.
17. The PPTS refers to local planning authorities making their own assessment of need, to locally set targets and to the provision of 5 years' worth of sites. Table 1 of the TSD is based on the Accommodation Assessment and summarises overall pitch need. However, as set out in my letter to the Council of 7 June 2018 (INS006), the TSD should assess need as at 1 April 2018 to be as up-to-date as possible on adoption and hence effective. In addition, various other detailed adjustments are required in order to prevent duplication and to give an accurate picture. When this is done the need for sites to 2023 is 19 pitches excluding those who do not meet the PPTS definition. The longer-term need to 2031 is for a further 11 pitches giving a total pitch need of 30 from 2018 to 2031.
18. Therefore the TSD incorrectly portrays the current need for traveller pitches and so the preparation of the Plan has not been informed by a robust evidence base. This should be remedied in order to provide a sound basis for future planning. **MM3, MM4, MM5** and **MM6** are recommended accordingly.
19. The Accommodation Assessment identifies a need for 9 plots for travelling showpeople by 2031. This arises from expanding households in the Ross-on-Wye area where the showpeople are currently based and is justified.

Issue 2 – Does the Plan identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against the locally set target and of specific developable sites or broad locations for growth after those 5 years?

20. There is an immediate need for extra pitches in Herefordshire and there is an expectation in the PPTS that a 5 year supply of sites should be identified. Following on from the above findings the TSD should therefore aim to provide for at least 19 additional pitches that can be delivered in the next 5 years.
21. The Council's approach to calculating the adequacy of 5 year supply includes pitches completed since 2011 which is the start of the plan period of the Core Strategy. However, these pitches and the households living on them would have been counted as existing by the Accommodation Assessment in 2017. By that time those 20 pitches would already have been occupied and so would have formed part of the existing supply. Such a retrospective assessment does not therefore give a true picture of the current position. Accordingly the pitches permitted between 2011 and 2017 should not be used to reduce the up-to-date 5 year requirement.
22. Furthermore, the TSD assumes that the pitch requirement will be partly met by an annual turnover of 6 pitches on public sites. However, this is not realistic as it will not, in itself, create additional pitch capacity. Whilst relied upon in other examinations in South Worcestershire and Shropshire this approach does not take account of where those leaving existing pitches might move to. In fact, 3 families from one public site could 'swap' pitches with 3 families on another public site. This would give rise to an annual turnover of 6 pitches but no other families in need of a pitch would be accommodated. The reliance on turnover to meet existing needs is therefore flawed. Nevertheless, based on the evidence provided, it would be reasonable to allow for the creation of 1 net vacancy a year to reflect those likely to move into bricks and mortar from public pitches. **MM7** and **MM8** are recommended to ensure that the approach to turnover and vacancies expressed in the Plan is justified.
23. The proposed allocations in the TSD total 9 permanent pitches. Together with the net vacancy allowance the 5 year supply from 2018 to 2023 is therefore 14 pitches. The upshot is that, compared to the need over the equivalent period of 19 pitches, the Plan fails to provide sufficient sites in line with national policy. This is unsound given that the shortfall equates to about a quarter of the current unmet need.
24. In order to address this, the Council has put forward an extension to an existing site at Bosbury of 4 pitches as a means to increase capacity. For reasons given subsequently I conclude that this allocation is suitable and achievable. Table 2 setting out the list of allocated sites should be updated to reflect this in the interests of effectiveness (**MM10**).
25. Allocating this site would nevertheless not meet all the identified need as 1 pitch would be unaccounted for. The current application for the Bosbury site is nevertheless for 5 pitches and so might enable the need to be fully met. In any event, the Council has made several attempts at identifying suitable sites, including as part of the examination process, and these have not been especially fruitful. Rather than delay the adoption of the TSD for a further

search to be undertaken the balance of advantage lies in completing it now so that the proposed site allocations can be brought forward with confidence. This is explained by **MM11** and to ensure that the outcome is effective it is important to confirm that the 5 year supply figure is not a ceiling.

26. The PPTS indicates that for years 6-10 of the plan period a supply of specific, developable sites or broad locations for growth should be identified and, where possible, for years 11-15. The Council was not able to do this given the limited number of options put forward following the call for sites. However, the Council proposed a site at Stoney Street, Madley as a potential additional site for consultation in October 2018. Whilst not acceptable at this stage as an individual site, the work undertaken and evidence given at the hearing indicates that this is a broad location for growth that should be identified.
27. Furthermore, the review of the Core Strategy is due to commence at the end of 2019 and this will enable the longer-term need for pitches to be tackled. The text should be amended to commit the Council to a review of traveller sites in order to address this especially as a new site at Madley may be an option. This is achieved by **MM12** thereby ensuring the effectiveness of provision in the longer-term. Given that the imperative is to make provision to meet immediate need the absence of sites to cover the rest of the entire plan period is not a reason to find the TSD unsound.
28. For travelling showpeople some possibilities have been identified including one existing site where there may be potential for additional residential accommodation. The Showmen's Guild refers to making better use of existing sites and to the scope for more flexibility in utilising existing sites as extended families outgrow them. However, no owners have sought to bring expansion plans forward as part of the plan-making process.
29. The Council is therefore in something of a 'cleft stick' and although the need for extra plots is likely to occur over the plan period it is not immediate. The lack of identified sites in this context is therefore acceptable and Policy TS2 sets criteria for any proposals that might come forward. As the Council has exhausted all reasonable options the TSD is not unsound in relation to provision for showpeople.

Issue 3 – Are the criteria based policies fair in facilitating the traditional and nomadic life of travellers whilst respecting the interests of the settled community?

30. Policies TS1 and TS2 contain criteria relating to traveller pitches and plots for travelling showpeople respectively. They both contain more detailed provisions than Policy H4 of the Core Strategy but there is some overlap. However, such duplication does not make them unsound. The lists of criteria are lengthy but they cover issues of design, landscaping, access, amenity and other environmental considerations that reflect the NPPF and the PPTS. Judgements as to whether particular descriptors in the criteria are met will inevitably be required on a case-by-case basis but this does not detract from the general clarity the policies give about the expectations for new sites. Plans should provide a practical framework to enable decisions to be made rather than leave applications to be negotiated in an ad hoc manner.

31. However, in Policy TS1 matters relating to health and safety requirements are for site licensing. In addition, the requirements to explore the delivery of an on-site community building and provide details of animals kept and of grazing are overly onerous and unrelated to the provision of a residential pitch. Policy TS2 should make clear that development will be supported in certain circumstances rather than encouraged. Furthermore, the gradient of the site and its size is a matter for any applicant and referring to "suitable" access to the strategic road network does not convey what is meant. Main modifications to remedy these deficiencies are therefore recommended as **MM13** and **MM14** in the interests of effectiveness and so that the policies are justified.
32. Subject to them the policies are fair in facilitating the traditional and nomadic life of travellers whilst respecting the interests of the settled community.

Issue 4 – Are the proposed allocations justified, are they deliverable and do they contain sufficient detail?

33. The TSD allocates 9 permanent pitches on 4 sites at Grafton, Lower Bullingham, Bromyard and Pembridge. These would all be created on Council-owned land either within or as extensions to existing public sites. Given this the pitches would be suitably located and there are no overriding objections in relation to access, flooding, heritage assets or any other matter. Allocations TS4 – TS7 are therefore justified and the individual policies provide sufficient detail to guide their development.
34. Funding has been agreed for 3 pitches at Grafton and Bromyard and the monies for the other sites will be sought over the next 2 years. The Council will be making an application to Homes England for funding from the Shared Ownership and Affordable Homes Building Programme 2016-2021 to supplement or replace the Council's own contribution. Planning permission will be required in some cases but there is a reasonable prospect that the allocated sites could be completed and delivered within 5 years.
35. There is an existing permission for 2 pitches on the site at Bosbury. The extra 4 private pitches proposed would extend the site to the north but it is extremely well screened so that the impact on the largely rural surroundings would be minimal. There is a listed building approximately 200m away which should not be impacted by the proposed scale of development.
36. Within the Parish there is a relatively high concentration of traveller sites compared to the whole county. This amounts to about 10% of the pitches within around 1% of the area of Herefordshire. However, the Council estimates that traveller households would amount to about 5% of those in the Parish so that the scale of sites would not dominate the nearest settled community contrary to paragraph 14 of the PPTS. Moreover, relationships are currently good and there is no apparent reason why this could not be perpetuated here thereby promoting a peaceful and integrated co-existence.
37. There is concern that local schools and health facilities are already over-subscribed and that the new pitch residents, coupled with other commitments nearby, would exacerbate the situation. Whilst it is right to have regard to the cumulative impacts the additional 4 pitches would be likely to have a modest effect and would not in themselves lead to over-loading. In any event, the

Council's evidence is that services are not stretched to breaking point and any necessary infrastructure contributions could be sought at application stage.

38. Consequently the site at Bosbury is suitable and is necessary to meet the need for additional pitches. An application has been submitted for the land. This has been revised to propose 5 additional permanent pitches so the indication from the site owner is that the allocation is deliverable. **MM16** is therefore recommended to confirm the allocation and to include necessary guidance about access and landscaping at Policy TS8.
39. There are currently no transit pitches in Herefordshire. The proposed site (TS3) is adjacent to the A49 at Leominster and would provide 5 pitches to be occupied on a short stay basis to address unauthorised encampment issues. Such provision has the support of West Mercia Police (PS11) who consider that there is an urgent need for temporary stopping places in the county. The site itself is well located being immediately adjacent to the strategic road network and within relatively close proximity of the facilities in the town. Existing vegetation could also be retained to provide some screening and privacy.
40. About 70% of unauthorised encampments in Herefordshire between 2015 and 2017 comprise 5 caravans or less and could therefore be accommodated on the proposed site. The incidence of concurrent events is not frequent. The site is in the north of the county and occurrences are spread across it rather than being concentrated around Leominster. Whilst a second facility around Ross-on-Wye would be desirable it is better to make some provision rather than none. Indeed, once the availability of a transit site in Herefordshire becomes known amongst the traveller community it may be that travel plans would be altered to take advantage of it. The capacity and location of the site may not cover every eventuality but it would address most of the likely transit accommodation needs of travellers in line with the PPTS.
41. Access to the site would be gained directly from the A49 via an existing field gate just to the north of a roundabout and adjacent to a pedestrian crossing. The number of movements on and off the site would be comparatively few. Highways England raises no objections but the geometry of the access and forward visibility from the northbound A49 would need to be adequate. To minimise risk, consideration should be given to directional signage, further site fencing, vegetation treatment and a traffic management plan. These matters can be covered at the detailed application stage but should be included in the policy and supporting text to ensure that the site is developed effectively. This is addressed by **MM15**.
42. Funding to provide for the temporary stopping places will be pursued by the same route as the permanent pitches. In addition, the Council has retained capital receipts from the sale of a previous emergency stopping place which provides confidence that the site is deliverable. Indeed, subject to the main modifications recommended all the proposed allocations are justified, deliverable and contain sufficient detail.

Public Sector Equality Duty

43. In undertaking the examination, I have had due regard to the equality impacts of the TSD in accordance with the Public Sector Equality Duty, contained in section 149 of the Equality Act 2010. This, amongst other things, sets out the

need to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not.

44. The TSD is directly aimed at gypsies and travellers who are a group with a protected characteristic because of race and others may be included because of age, disability or for other reasons. Promoting equality and social inclusion was one of the objectives identified in the Sustainability Appraisal. The Plan allocates additional sites for travellers having regard to identified needs and so should directly benefit those with protected characteristics. In this way the disadvantages that they suffer would be minimised and their needs met in so far as they are different to those without a relevant protected characteristic.
45. No provision is made for those with a protected characteristic outside the definition of gypsies and travellers in the PPTS. However, as explained previously, that is not the focus or intent of the TSD and so its provisions in this respect are proportionate. There is also no compelling evidence that the TSD would bear negatively on them or others in this category.

Assessment of Legal Compliance

46. My examination of the legal compliance of the Plan is summarised below.
47. The TSD has been prepared in accordance with the Council's Local Development Scheme of January 2015.
48. Consultation on the TSD and the MMs was carried out in compliance with the Council's Statement of Community Involvement of January 2017.
49. Sustainability Appraisal has been carried out and is adequate.
50. The Habitats Regulations Assessment concludes that because of the distance of most habitats sites from the proposed traveller sites and the very small scale of development, there is unlikely to be any significant effects on them including the River Wye Special Area of Conservation. Natural England agree with this finding on the basis that the TSD is in line with the Core Strategy.
51. In conjunction with the Core Strategy and as it includes site allocations that may reduce the need for long-distance travelling and possible environmental damage caused by unauthorised encampment, the TSD contributes to the mitigation of, and adaptation to, climate change.
52. The TSD complies with all relevant legal requirements, including the 2004 Act and the 2012 Regulations.

Overall Conclusion and Recommendation

53. The Plan has a number of deficiencies for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
54. The Council has requested that I recommend main modifications to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Herefordshire Travellers' Sites

Development Plan Document satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

David Smith

INSPECTOR

This report is accompanied by an Appendix containing the Main Modifications.