

**CABINET MEETING: 15 SEPTEMBER 2016**

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**MEETING HOUSING NEED UNDER THE HOUSING (WALES)  
ACT: GYPSY AND TRAVELLER SITE ASSESSMENT**

**REPORT OF DIRECTORS OF COMMUNITIES, HOUSING &  
CUSTOMER SERVICES & CITY OPERATIONS**

**AGENDA ITEM: 7**

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**PORTFOLIO: HEALTH HOUSING AND WELLBEING (COUNCILLOR SUSAN  
ELSMORE)  
TRANSPORT, PLANNING AND SUSTAINABILITY  
(COUNCILLOR RAMESH PATEL)**

**Appendices 1-2 of this report are exempt from publication because they  
contain information of the kind described in paragraph 16 of Part 4 of  
Schedule 12A to the Local Government Act 1972**

**Reason for this Report**

1. To outline progress in undertaking the Gypsy and Traveller Site Assessment and to set out a proposed way forward for meeting the housing need of the Gypsy and Traveller community in Cardiff.

**Background**

2. The Council is required, under Part 3 of the Housing (Wales) Act 2014, to undertake a Gypsy and Traveller Accommodation Assessment and to make provision for sites where the assessment identifies an unmet need for Gypsy and Traveller pitches.
3. Cabinet in January 2016 approved the submission of the Gypsy and Traveller Accommodation Assessment (GTAA) to Welsh Ministers for approval and endorsed the proposed Gypsy and Traveller Site Selection Criteria, which were used to assess potential sites.
4. Following ongoing discussion with Welsh Government officers which resulted in some amendments to the report, the Council has now submitted its final GTAA and is awaiting the decision on ministerial approval. The most significant change to Cardiff's previous GTAA is a reduction in the short-term (5 year) need for pitches from 64 to 48 pitches, and a reduction from 87 to 72 pitches to 2026.

5. In relation to funding the provision of sites, there is a Welsh Government grant available of £1.6 million per annum. In order to meet the needs identified in the GTAA, the sites will need to be delivered on a phased basis so the Welsh Government Grant meets the full cost of delivering the necessary pitches.
6. As set out above, the Housing (Wales) Act 2014 also introduces a statutory requirement on the Council to meet the need for Gypsy and Traveller accommodation as identified in the GTAA. The Deposit LDP proposed a new Gypsy and Traveller site of 65 permanent pitches at Seawall Road, Tremorfa to meet the short-term need identified in the previous April 2013 GTAA. However, due to concerns raised in relation to flood risk, the LDP Inspectors appointed to examine the Plan instructed the Council to remove the site from the Plan, and to prepare a position statement setting out how the Council intended to meet this unmet need.
7. The position statement submitted to the Inspectors sets out a comprehensive and inclusive process to address the need for additional pitches over the next two years. The first phase is the identification of suitable sites to meet identified short and long-term.

### **Potential Site Identification**

8. Prior to the commencement of the assessment, potential sites were identified across the city from analysis of the following potential sources:
  - **Existing authorised and unauthorised sites, and sites subject to full, temporary or personal consents or certificates of lawful use** – An investigation was undertaken of the potential to regularise, implement, intensify, or extend existing Gypsy and Traveller sites and permissions.
  - **Sites owned by Gypsies and Travellers** – Sites identified by Gypsies and Travellers during the fieldwork interviews were followed up, and key Gypsy and Traveller representatives known to the local Gypsy and Traveller community were contacted to identify any additional sites.
  - **LDP Candidate and Alternative sites** – All Candidate sites submitted in 2010, and Alternative sites submitted in 2013, were reviewed to check if any privately-owned land was available for Gypsy and Traveller use. Publicly owned Candidate sites were deemed potentially available and discussions were undertaken with private promoters to determine availability.
  - **Surplus public sector land** – All Council and Welsh Government landholdings were reviewed and discussions were held with Council officers and other public stakeholders to establish potential sites for the survey.

- **Strategic sites and potential urban extensions** – The scope for identifying land within larger housing allocations to meet the objective of achieving mixed and balanced communities has been investigated.
- **Sites owned by Housing Associations (RSLs)** – Housing associations were contacted to assess whether they had any potential sites.
- **Private Landowners** – A Call for Sites was undertaken by contacting local agents and landowners to identify any potential from land held by private landowners or large estates.

## Site Assessment Progress

9. The Site Selection Criteria, endorsed at Cabinet in January 2016, is included as Appendix 3 to this report and set out assessment criteria around three main headings relating to availability, site suitability and achievability. Availability considerations include whether the site is genuinely available long term and there are no legal issues. Site suitability considerations include a comprehensive list of policy and physical constraints, and deliverability considerations relate to the consideration of total cost (including any abnormal costs) to ensure it does not prejudice the ability to develop the site.
10. Since the Site Selection Criteria were approved at Cabinet in January 2016, good progress has been made in undertaking a city wide search for land which could be suitable for Gypsy and Traveller sites). However, the assessment is not yet fully complete; indeed it has reached the point where there is a clear need to further investigate technical aspects identified in the agreed methodology.
11. In this respect, more detailed technical investigations, particularly flood risk assessments, are considered prudent to fully establish the extent of risk at this stage, along with the potential scope of mitigation measures and any other relevant site-specific technical matters. This work will be carried out in liaison with Natural Resources Wales and take account of the most up to date information with regard to flood risk data.
12. It is, therefore, considered that it would be premature to conclude the site assessment process until these detailed technical investigations have been carried out as referenced above. Indeed, identifying a site(s) prior to such studies being undertaken is considered to introduce significant risk. For example, issues could later emerge (in relation to flood risk and potential for effective mitigation) when more detailed work is undertaken which could undermine decisions taken without this information in place at the outset.
13. The Council clearly has an obligation to progress the site assessment as soon as possible; however, this needs to be balanced against the need to find the best possible site for the community. Confidential legal advice is attached in Appendices 1 and 2.

14. There remains a firm and absolute commitment to comply with the requirements of the Housing (Wales) Act 2014, and a further report will be presented to Cabinet as soon as practicable.

### **Next Steps**

15. It is proposed that further technical work is undertaken as described in paragraphs 10 to 14, and that a report is taken back to Cabinet in no longer than 12 months' time which summarises the technical investigations along with overall conclusions.
16. In parallel with the ongoing technical investigations, the Council will continue to research best practice across the UK so that an exemplar site is delivered for the 21<sup>st</sup> century in terms of design, community integration and community facilities. Examples of best practice researched to date are included in Appendix 4, which shows the site layout and photographs from two recently developed Gypsy and Traveller sites at King's Meadow in Brecon and Greenfield Way in Weston-Super-Mare.

### **Reason for Recommendations**

17. To seek Cabinet's endorsement of the proposed further technical investigations in order to report back within 12 months' time.

### **Financial Implications**

18. Any technical studies as identified in the report will need to be undertaken from existing revenue budgets and be used to inform the suitability of the site, including consideration of any abnormal costs, land acquisition and potential Welsh Government funding to meet the costs of the development of additional pitches on any recommended site compared to alternatives.
19. This report proposes a further report be brought back for Cabinet consideration to allow the site assessment criteria to be fully determined as described, during which time the full financial implications will need also to be considered.

### **Legal Implications (including Equality Impact Assessment where appropriate)**

20. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

21. The Council have a legal duty under the Housing (Wales) Act 2014 to carry out an assessment of the accommodation needs of Gypsies and travellers residing in or resorting to its area. The Council has a duty to consult such persons as it considers appropriate.
22. Following the assessment the Council must prepare a report which contains details of how the assessment was carried out, details of the consultation and details of the accommodation needs identified by the assessment. The Council must submit the report to the Welsh Ministers for approval.
23. If the approved assessment identifies needs within the Council's area with respect to the provision of sites on which mobile homes may be stationed' the Council must exercise its powers under section 56 of the Mobile Homes (Wales) Act 2013 so far as may be necessary to meet those needs.
24. The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics.
25. Protected characteristics are: Age, Gender reassignment, Sex, Race – including ethnic or national origin, colour or nationality, Disability, Pregnancy, Maternity, Marriage and civil partnership, Sexual orientation, and Religion or belief – including lack of belief.
26. A decision to implement the proposal has to be made in the context of the Council's Equality Act public sector duties.
27. An Equality Impact Assessment has been carried out and was appended to the Report to Cabinet on 21<sup>st</sup> January 2016. The purpose of the Equality Impact Assessment is to ensure that the Council has understood the potential impacts of the proposal in terms of equality so that it can ensure that it is making proportionate and rational decisions having due regard to its public sector equality duty.
28. The decision maker must have due regard to the Equality Impact Assessment in making its decision. The decision maker must also have regard to certain other matters when making its decision as outlined in the Statutory Screening tool.
29. Further confidential legal advice is attached in Appendices 1 and 2.

## **RECOMMENDATIONS**

It is recommended that Cabinet:

1. Agree to undertake further technical investigations as outlined in paragraphs 10 to 14

2. Delegate authority to Directors for Community, Housing and Customer Services, and City Operations in consultation with appropriate Cabinet Member(s) to report back to Cabinet with the findings of the technical studies along with overall conclusions on the site(s) considered most appropriate to meet the need for Gypsy and Traveller accommodation outlined in this report within 12 months

**Sarah McGill**  
**Andrew Gregory**  
**Directors**  
**9 September 2016**

*The following appendices are attached:*

**Appendices 1-2 of this report are exempt from publication because they contain information of the kind described in paragraph 16 of Part 4 of Schedule 12A to the Local Government Act 1972**

3. Gypsy and Traveller Assessment Site Selection Criteria
4. Example of best practice in delivering new Gypsy and Traveller sites

*The following background papers have been taken into account*

1. Gypsy and Traveller Accommodation Assessment February 2016
2. Designing Gypsy and Traveller Sites Guidance, Welsh Government, May 2015
3. Circular 30/2007 Planning for Gypsy and Traveller Caravan Sites, Welsh Government, December 2007

**Gypsy and Traveller Accommodation Assessment February 2016****1. Availability**

- Council owned or landowner (public or private) is willing to sell to Council
- Site will be available for use as a Gypsy and Traveller site long term (at least 21 years)
- No **legal or ownership problems** such as:
  - i. Multiple ownerships
  - ii. Ransom strips
  - iii. Tenancies
  - iv. Operational requirements

**2. Site Suitability****Policy Constraints**

- Not within an **international designation** (SPA, SAC, Ramsar)
- Does not compromise the objectives of **nationally or locally recognised designations** (SSSI, SINC, LNR, RIGS, SLA, Ancient Monuments, Listed Buildings, Conservation Areas, Archaeologically Sensitive Areas, Registered Historic Parks and Gardens and locally listed buildings).

**Physical Constraints**

- Acceptable and safe access to
  - the **road, footpath and public transport network** (in case of transit site would need to be the primary highway network)
  - **local services and facilities** (education, health services, shops, employment, leisure, recreation, churches and other religious establishments) including consideration of the views of the Gypsy and Traveller community.
  - **utilities** (water, drainage sewerage, waste collection, electricity, gas, telecoms, etc.)
- **Air quality** and **noise** levels are acceptable
- Not at in a C2 **flood** zone or in a C1 flood zone that cannot be mitigated
- Not located on **unstable land**
- Not located on **contaminated land** which cannot be mitigated
- Not located in close proximity to **hazardous installations** or **water bodies** such as docks, rivers and canals unless effective mitigation in place
- Not located on high quality **agricultural land** (1, 2 3a)
- Unacceptable impact on **landscape, biodiversity** or **historic environment**
- **Noise** levels are acceptable
- Can meet other planning requirements

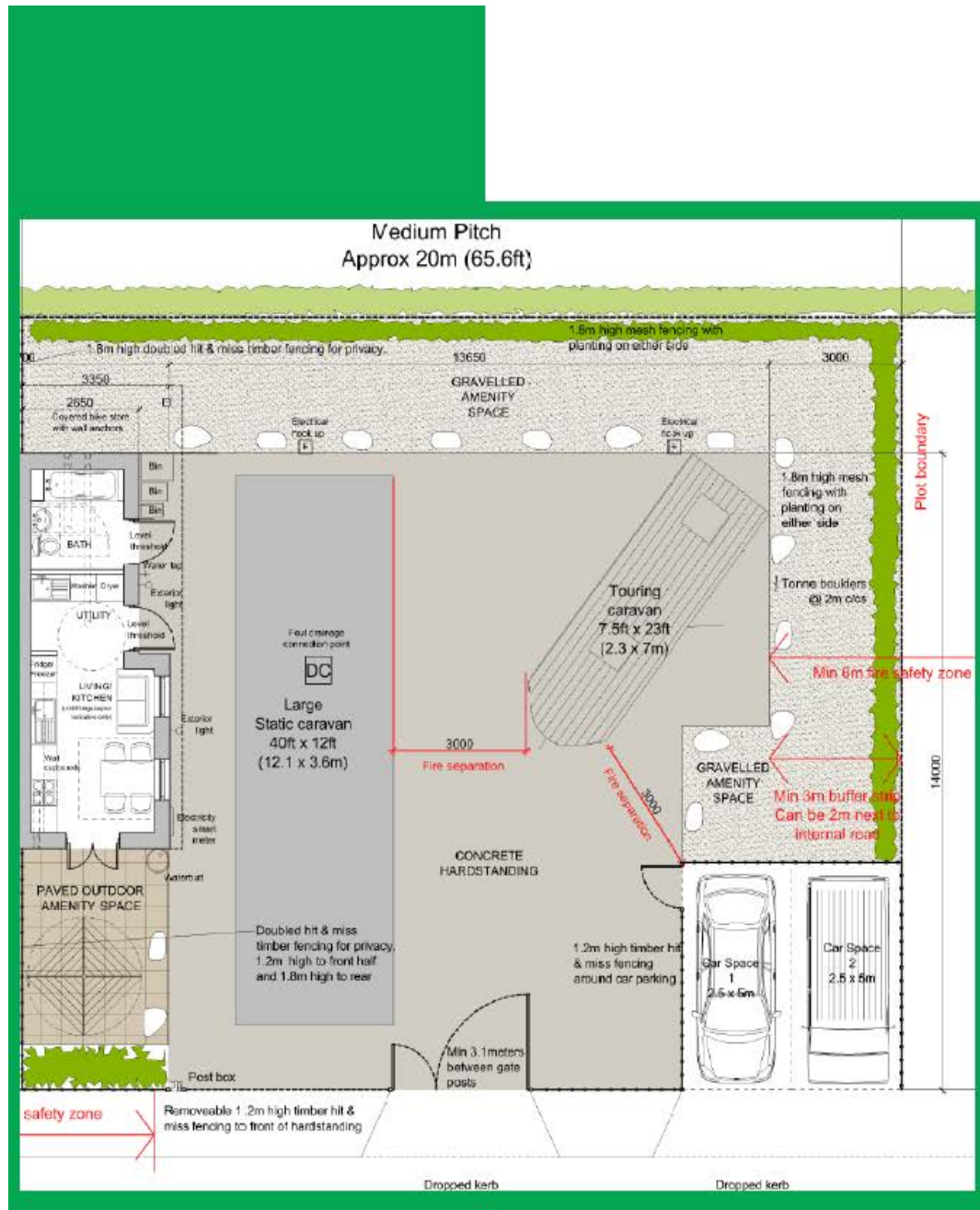
### 3. Achievability

- **Physical Constraints** identified are capable of being overcome
- **Total cost** (including any abnormal costs) does not prejudice the ability of the site to be developed.

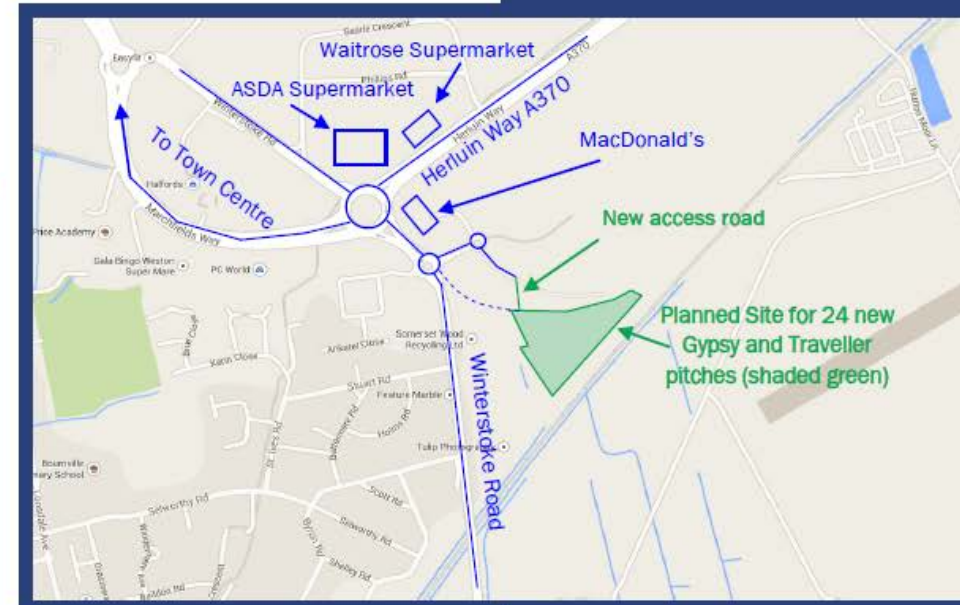


Examples of best practice in delivering new Gypsy and Traveller sites

Greenfield Way, Weston Super Mare – Site Layout and Plan



Example of medium pitch



Site location map



Site layout design

**Greenfield Way, Weston Super Mare – Photographs**







**Kings Meadow, Brecon – Photographs**



