



# Gypsy and Traveller Corporate Policy

July 2009



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# Contents

# Introduction

## 1 Introduction

**1.1** The purpose of this document is to provide a policy upon which the Council balances the needs of the settled and travelling communities in a fair and equitable way. It is aimed at managing the perceptions, expectations and understanding of the local community and Gypsy and Travellers of the Council's responsibilities in dealing with Gypsy and Traveller issues.

# Introduction

## Background

### 2 Background

**2.1** This document sets out Swale Borough Council's Corporate Policy for Gypsies and Travellers including the strategic aims, operational objectives and managerial policies that will guide routine operational procedures and the Borough Council's responsibilities for bringing forward permanent sites and transit sites.

**2.2** The Borough of Swale traditionally has had one of the largest Gypsy and Traveller populations within Kent and the South-East of England. Gypsy's and Travellers have been long established within the area, historically related to traditional seasonal agriculture, however these traditional patterns of work are changing and the Gypsy and Traveller community has become generally more settled and engaging in work patterns which require less mobility. Nevertheless there are historical and cultural links between Swale and the Gypsy and Traveller communities.

**2.3** Gypsies and Travellers are a recognised ethnic minority under the Race Relations (Amendment) Act 2000 and Circular 01/2006 with the recognised right to live a traditional and nomadic lifestyle. Local Authorities have responsibilities for dealing with health and education, potential tensions between settled community and the travelling community and the environmental issues arising from site identification or managing unauthorised sites.

**2.4** A recent Gypsy and Traveller Needs assessment, undertaken in August 2006 as part of the South East Plan Partial Review by the South East Regional Assembly, found:

- 72.7% of Gypsy and Traveller households classify themselves as Romany Gypsies (21.3% as English Gypsies and 5.5% as Irish Travellers)
- 21.4% of Gypsy households living on sites had concerns about health and safety
- 28.9% of Gypsy households include someone with a disability of long term illness
- 48% of households planning to move wanted to remain local
- 11% of households indicated that they had a family member who would be looking for independent accommodation within the next 3 years
- 93% of households indicated that they would prefer to live on a permanent site of which a vast majority wanted to live in a rural location
- There is an identified need for additional pitches within Swale with a large percentage of existing pitches with temporary permission affording little security to the inhabitants.

**2.5** Throughout Kent and Medway a partnership approach has been established between the County Council, District Council's, the Police and other key agencies for dealing with Gypsy and Traveller issues. The site management model operated in Kent is acknowledged as an example of good practice. Swale Borough Council is committed to its role within the partnership and that as far as possible the needs of the local Gypsy and Traveller community are fully considered without giving rise to any significant adverse impacts on the surrounding community. It is considered that this strategy document will provide a basis upon which to open up a wider discussion with the Local Strategic Partnership with the aim of co-ordinating action to address the issues raised.

## Background

# Strategic Aims and Objectives

## 3 Strategic Aims and Objectives

**3.1** Swale Borough Council's Corporate Plan 2008 sets out four inter related corporate priorities covering the whole Borough

- Regenerating Swale
- Creating a cleaner and greener Swale Borough Council
- Promoting a safer and stronger community
- Becoming a high performing organisation

**3.2** These strategic goals require working together with partners and the local community to solve problems and to provide a quality service by valuing diversity, inclusion and equality of opportunity for all. The Diversity Forum, of which Swale Borough Council is a member, is one of many tools to achieve these strategic goals.

**3.3** Gypsy and Traveller issues cut across many of the Council's priorities for action as set out in the Corporate Plan, for example:

- Gypsies and Travellers suffer from some of the worst levels of health and low levels of educational achievement;
- Historical tensions can exist between residents and Gypsies and Travellers due to unauthorised encampments, mutual misunderstanding and different cultural traditions;
- Unauthorised encampments can give rise to adverse environmental issues such as littering, fly tipping, and anti-social or criminal behaviour.

**3.4** Within the Council's Corporate Equalities Strategy 2008, 'Towards a Fairer Swale', priorities for action have been set out aimed at reducing tensions between the Gypsy and Traveller and settled communities. This Strategy sets out the actions, role and responsibilities for the Council and how it intends to influence other partners as a community leader to tackle the above issues with a future for a borough where people from all backgrounds can live together peacefully with the aims of:

- Promoting mutual trust and understanding
- Respecting everyone's rights
- Removing barriers to health, education and other services
- Developing cohesive communities by ensuring all communities adhere to their responsibilities

**3.5** These aims are underpinned by the following objectives:

- To comply with its duties under the Race Relations Act 2000 to tackle racism and promote good race relations between the settled community and Gypsies and Travellers;
- To tackle social exclusion issues relating to Gypsies and Travellers;
- To protect land and facilities at risk of unauthorised encampments;
- To work with other local authorities and the Regional Planning Authority to agree an equitable distribution of permanent and transit sites to meet the shortfall of suitable pitches.
- To work with the Regional Planning Authority and the Gypsy and Traveller community to meet their accommodation needs.

## Strategic Aims and Objectives

## Site Provision

### 4 Site Provision

#### BACKGROUND

**4.1** There is a corporate commitment to supporting sustainable communities and a good supply of affordable housing including social rented housing to address housing needs. This applies to Gypsy and Traveller communities as well as settled communities.

**4.2** Swale Borough Council as the Local Planning Authority is required to identify sites to meet the needs of Gypsy and Travellers. As part of this process an assessment of the accommodation needs of Gypsies and Travellers needs to be undertaken approximately every 4/5 years. The latest Gypsy and Travellers Needs Assessment was completed in 2007 and a summary of the results have been included in para 2.4

**4.3** The Needs Assessment has been used as the basis for informing the South East England Regional Assembly (SEERA), the then Regional Planning body, now SE Partnership Board to determine the number of pitches that need to be allocated within the District up to 2016 and beyond. SEERA during 2008 undertook a consultation on pitch distribution based on the Needs Assessment and redistributive options based on environmental constraints. The Council's views on the consultation were reported to the Council's Executive in November, 2008 which supported a distribution and allocation which took into account the environmental constraints of the Borough and therefore, the lower end of the provision options put forward.

**4.4** SEERA submitted their pitch distribution recommendations to the Secretary of State in April 2009. Government will then undertake formal consultation on the chosen option which will then be followed by hearings undertaken by independent inspectors. Following recommendations made to Government, a further consultation will be undertaken before formal adoption in the summer of 2010. Once formally adopted, the Council will have a clear understanding of the scale of site provision it would be expected to meet and to consider when bringing forward future planning policy and guidance. The pitch recommendation put forward by SEERA allocates 28 pitches and 2 transit pitches to Swale, however given the level of need and the stage reached in the planning process the Council considers these figures to be the base level minimum.

**4.5** The current Swale Borough Local Plan Policy sets the criteria for assessing potential Traveller and Gypsy sites, the Local Plan Inspector acknowledges that the approach does not conform with Circular 01/06 (Appendix B) and states that the Council should review the policy as a matter of urgency through the LDF processes. Appendix A sets out the current Swale Borough Local Plan Policy H4 - Providing Accommodation for Gypsies and Travelling Showpersons.

**4.6** For the purposes of this policy, the Council will be looking to what provision should be made over the next 5 years taking into account the SEERA review. Whilst the Council acknowledges that Circular 01/2006 recommends site allocations be provided via a Development Plan Document, it is mindful that such a DPD is not currently within the Local Development Scheme three year programme. Given the urgent nature of Swale's Gypsy and Traveller identified need it is thought best to provide certainty and clarity of policy position as soon as possible given the current insufficiency of the current Local Plan Policy H4 and to ensure the Council is able to take a fully informed and appropriate stance regarding development control decisions.

## Site Provision

**4.7** Furthermore until SEERA and the Government conclude on the level of pitch distribution, the Council believes it would be premature to bring forward site allocations through a sound Development Plan Document as part of the Local Development Framework (LDF) for two reasons. Firstly, the wide range of site provision currently being considered (22 to 64 pitches for Swale Borough) means that it is not possible for the Council to understand or identify the scale of pitches required and secondly, through the site assessment process detailed in this policy, it may be possible to bring forward a significant proportion of the lower range number of pitches over next 3 to 5 years on a site by site basis through the planning application process. This would therefore, negate the need to go through the lengthy and resource intensive programmes associated with preparing a specific Gypsy and Traveller DPD document and future site allocation could be incorporated into the future Core Strategy DPD, if required. This in itself would be a much quicker process resolving the urgent need for site within the Borough.

### Current provision within the Borough

**4.8** The latest position regarding the number of Gypsy and Traveller pitches is recorded in the Gypsy and Traveller Monitoring Report produced and updated every 6 months and will be published on the Council's web site. This identifies the number of permanent sites with planning permission, the number of sites/pitches with temporary permission and the number of unauthorised tolerated sites. As of June 2008, since the publication of Circular 01/06 (the base date for the GTAA study) there were:

- 10 permanent caravan (6 pitches) granted permission;
- 30 caravans (18 pitches) on temporary permitted sites.
- It should also be noted that there are 23 caravans (14 pitches) on tolerated sites as at June 2008.

### Short term requirements

**4.9** Kent County Council, in conjunction with Swale Borough Council, is currently looking at how best to replace the Three-Lakes managed site at Sittingbourne adjacent to the Eurolink industrial estate. The site currently accommodates 14 Pitches (24 single or double caravans) and KCC are looking to replace these pitches onto one or more sites with planning applications possibly being brought forward in 2009. In these circumstances, KCC will be the determining Planning Authority. It is likely that the sites brought forward will be a straight replacement of the existing provision and it is therefore, unlikely to contribute significantly to meet the further identified needs set out in the Needs Assessment.

**4.10** Following discussions with the Police and Kent County Council's Gypsy and Traveller unit, there is known to be a core group of 10 gypsy and traveller households (equivalent to 14 pitches) who travel around the Borough staying on unauthorised sites. These incursions account for a significant majority of unauthorised encampments. Therefore, subject to finding appropriate sites, there is a strong case for attempting to identify site(s) to accommodate their needs. This should have the consequence of significantly reducing the level of unauthorised encampments in the area. It is proposed that a study of potential sites should be carried out jointly with Kent County Council, primarily reviewing KCC and SBC owned land, although private sites could be included where an opportunity from landowners are identified. Gypsy and Traveller groups and organisations will be consulted as part of the study of potential sites to ensure that they met the needs and requirements of future occupants. The results of that initial assessment will be used

## Site Provision

to produce a shortlist of sites upon which more detailed assessment can be undertaken and public consultation can take place in the Summer/Autumn of 2009. Any land owned by SBC short listed would be assessed to ensure its allocation did not conflict with other corporate objectives.

**4.11** Private landowners would not be precluded from submitting planning applications for Gypsy and Traveller use on their land in advance of the survey.

**4.12** Additionally, those sites which have been granted temporary planning permission following the publication of the Governments circular on Gypsy and Traveller sites in early 2006 (Circular 01/06), are due for renewal from early 2009. It is considered that given the good track record of the Council for permitting small permanent sites and a pro-active approach to meeting the urgent needs as set out in the policy above, the approach/guidance set out in this document should provide the sound basis for considering the planning merits of the renewal applications as they are submitted.

**4.13** The Council will instigate early pre-application discussion with Gypsy and Traveller communities in advance of the expiry of temporary permissions to ensure all options for dealing with their needs can be explored and considered before any renewal planning applications are submitted.

**4.14** The Council will resist the loss of existing caravan sites, or their change of use, which have the potential to be allocated as suitable Gypsy and Traveller sites. This will apply to existing Gypsy and Traveller sites, as well as caravan sites which are not currently occupied by Gypsies and Travellers and those with or without a Gypsy and Traveller occupancy condition. Site suitability of these sites will be assessed through the site assessment pro-forma.

### **Evidence base for site-assessment pro-forma**

**4.15** Included as Appendix C is the proposed Council's site assessment pro-forma. This has been prepared so as to identify sites that are both suitable for the travelling and settled communities, balanced against environmental considerations. The pro-forma has been informed by an evidence base formed by the North Kent Gypsy and Traveller Assessment 2007 (GTAA), together with national planning policy guidance and the CLG Good Practice on Designing Gypsy & Travellers Sites May 2008 (referred to as the 'Good Practice' hereafter). This section outlines the links between the pro-forma and this evidence base and sets out general principles and local issues that affect its use on the selection of sites.

### **Overarching principles of site selection**

**4.16** As indicated by Good Practice, the Council accepts that no site should be identified for Gypsy and Traveller use that would not be appropriate for ordinary residential dwellings, although exceptional circumstances where no other suitable sites are available. It also accepts the following principles, identified by Circular 01/2006, which are important when assessing the suitability of any given site:

- The means of access, availability of transport modes and distances from services;
- The promotion of integrated co-existence between the site and local community;
- Easy access to general practitioner and other health services;

## Site Provision

- Access to schools;
- Ground conditions and levels of land;
- Not locating sites in areas of high flooding risk.

**4.17** In accordance with the Circular, the Council will also have regard to the need to select sites that can provide visual and acoustic privacy, with characteristics sympathetic to the local environment. When selecting sites, the Council will also give consideration to the relatively high density of children likely to be present.

**4.18** The Council will, in accordance with Good Practice, identify, where possible, sites near to housing for the settled community as part of significant mainstream residential developments and major regeneration projects.

**4.19** For further considerations relating to site layout, access and orientation, site services and facilities and health, safety and accessibility see the CLG Good Practice [www.communities.gov.uk/publications/housing/designinggypsiesites](http://www.communities.gov.uk/publications/housing/designinggypsiesites)

**4.20** Available evidence suggests it is appropriate for the Council to set out a number of important matters that should act as local principles when considering the pro-forma. Local issues which form part of the assessment process included in the pro forma are:

- Geographical / locational specific issues
- Family connections
- Access to employment and services
- Size of site
- Environmental assets such as AONB and other site designations

**4.21** Appendix C sets out the more detailed considerations in respect of each item.

### Other issues to consider

**4.22** Renewal applications will be determined against the remaining relevant parts of Adopted Local Plan Policy H4 and Circular 01/2006 taking into account the actual experience of the running of the site over the temporary period and the views of Appeal Inspectors in the original decision as well as a site assessment based on the pro-forma set out in Appendix C.

**4.23** As mentioned earlier, the Council intends to undertake a full review of potential sites during summer 2009, it is possible that the Council may need to consider renewal applications for temporary sites in advance of the completion of the review. The Council would wish to avoid such circumstances and will aim to discuss the programme for renewal temporary permissions with prospective applicants.

**4.24** The site assessment will review how well the sites have established themselves within the local communities and whether there are any unacceptable environmental impacts. Through this process it may be possible to identify early opportunities for granting permanent planning permission in advance of the renewal date and therefore, contribute to the overall provision that would be required by the South East Plan.

## Site Provision

**4.25** Similarly, it is proposed to undertake a review of all current tolerated sites i.e. those sites without the benefit of planning permission whether permanent or temporary. For those tolerated sites that have been in situ for more than 10 years, there could be a case for regularising such sites through the submission of certificates of lawfulness. In these circumstances, the landowner or the Gypsy and Traveller community could be invited to submit such certificates. Should this not be possible, the Council could consider submitting such certificates should it felt that this was the most appropriate way forward.

**4.26** The Needs Assessment and the preferred option submitted from SEERA to Government both identify the need for a transit site within the Sittingbourne / Canterbury / Herne Bay area. This will require joint working with Canterbury City Council and progress will need to be reported to the Council.

**4.27** The preferred option submitted from SEERA to Government identifies the need for 2 pitches for Travelling Showpersons. The Council will consider working jointly the neighbouring authorities to provide sites for Travelling Showpersons and progress will need to be reported to the Council.

**4.28** Should further sites be required in the medium to long term to meet South East Plan requirements, the Council may need to proceed through site identification through the formal Development Plan Document (DPD) as part of the Local Development Framework. The programme for such a DPD would need to be incorporated into the Council's Local Development Scheme once the SE Plan District pitch distribution has been adopted by the Secretary of State.

**4.29** The major benefits of the above approach would be to:

- reduce the number of unauthorised encampments for at least the next 5 years;
- demonstrate to the Government and Planning Inspectorate that the Council is continuing and strengthening its robust and responsible approach to meeting Gypsy and Traveller needs in the short to medium term and therefore more able to defend planning appeals on adhoc planning applications;
- provide an opportunity through a separate Development Plan Document should it be required to meet the longer term Gypsy and Traveller needs requirement set for Swale post 2011 up to 2026;
- to meet the immediate housing needs of the Gypsy and Traveller community.

**4.30** Whoever owns the land, the planning application process will ensure that the considerations of the Gypsies and Travellers and the settled community are taken into account by undertaking extensive consultation with both communities on any proposed site and setting out clear policies for site management and community safety.

# Site Provision

# Management Policy and Procedures

## 5 Management Policy and Procedures

**5.1** The Council will seek to meet its obligations with respect to the strategic objectives and aims by working as an employer, service provider, partner and community leader.

**5.2** Gypsies and Travellers can face many barriers to accessing services and the Council will take steps to help address these barriers so they can get access to the services they need.

### Promoting Race Relations

**5.3** Relationships between the traveller and settled communities can often be undermined both through prejudice and as a result of unlawful encampments often leading to adverse impacts on the quality of life of individuals and families. The Council is fully committed to its duty under the Race Relations (Amendment) Act 2000 to tackle discrimination and promote good relations, and will:

- Promote good practice where there has been successful integration of traveller communities and respond to instances of prejudice in a proportionate and balanced manner that is appropriate in the circumstances;
- The Community Cohesion and Equalities Officer will; 1) act as the liaison between the traveller and settled communities with the aim of emphasising the need to respect cultural traditions of the travelling community and the travelling community to respect the standards and interests of the settled community; 2) Facilitate liaison with local gypsy representatives and ensure equality impact assessments are completed for all the main functions and policies of the Council and promote fair treatment, 3) Through the Council's co-ordination role of the Local Strategic Partnership Community Cohesion Group, ensure that all public sector agencies are working together to improve the economic, social and environmental well being of Gypsies and Travellers and the settled community;
- Develop a Community Tension Monitoring system to act as an early warning mechanism for issues that could develop into wider conflicts with the community, working with our partners to address any concerns and issues that arise;
- Use of Street Community Wardens to take prompt action where there are instances of anti social behaviour or work with the Police to tackle criminal activity.

### Customer Service and Policy Development

**5.4** The Council provides a range of services that Gypsies and Travellers may wish to access or may impact on them. The Council will aim to treat all communities in a manner that ensures equality of opportunity and will therefore ensure:

1. The equalities strategy and policies of the Council will make explicit reference to Gypsies and Travellers and are taken into account when undertaking Equalities Impact Assessments of policies, procedures and provision of services;
2. Appropriate behaviour and customer service from Staff when dealing with Gypsy and Travellers;
3. Gypsies and Travellers are appropriately consulted on any policy or service developments which potentially could impact upon their communities;

## Management Policy and Procedures

4. That help is given to access services provided by other agencies e.g. Kent County Council education, PCT etc;
5. That officers and Members involved in Gypsy and Traveller issues undertake relevant training.

### Council Tax Liability and Rent and/or Council Tax Benefits

**5.5** Gypsies and Travellers who settle on sites, be it legally or not, are processed in exactly the same way as any other resident of a dwelling. Usually, Travellers are notified to the Council Tax Section by a member of the public or are identified as settled on a site by the Council Tax Inspector whilst on his normal rounds of the Borough. An attempt is always made to contact the residents initially but if information is not forthcoming, the caravans or mobile homes are usually reported to the Valuation Office Agency to include them in the Valuation List. Judgement is used as to whether it is worth pursuing entry into the Valuation list as experience has shown that once we have tried and serve bills the caravans then move off site.

**5.6** Once in the list and once residents names are established, Council Tax bills are generated. If payment is not made enforcement action is taken as it would be in any other case. It should be noted that the majority of caravans/mobile homes are banded at Band A.

**5.7** As for council tax liability, Gypsies and Travellers are assessed for benefit entitlement in the normal way. Those on the County Council sites would be eligible for rent allowance benefit. Those on sites where a council tax liability has been established and council tax bills issued would be entitled to claim for council tax benefit.

### Unauthorised Encampments

**5.8** On occasions, unauthorised encampments can give rise to significant tensions within local communities and anti social behaviour and the fear of crime. It is therefore, imperative that unauthorised sites are dealt with in a way which limits either the actual or potential negative impacts on the settled community whilst at the same time maintaining the Council's commitment to social inclusion and community cohesion with regard to Gypsies and Travellers. The Community Tension Monitoring system will enable partners to work together more easily and promptly minimising the potential for tension between the Gypsy and Traveller community and the settled community. The Community Tension Monitoring system will be used to monitor all communities involved.

**5.9** The Council has a duty to take into consideration the welfare needs of those encamped before any action is implemented. The Council will also impress on the traveller community the need to respect the interests of the settled community particularly in relation to noise disturbance and other anti-social behaviour. Where substantive welfare needs have been identified, the Council will require sites to be tolerated for a period of time. During this period the Council will commit itself to appropriate communication/liaison with the settled community. This will include:

- Informing the Council of new incursions through the use of information bulletins;
- Informing the Customer Services Centre so they are able to respond effectively to public enquiries;
- Use of the Council's website to promote awareness and understanding.

## Management Policy and Procedures

**5.10** In accordance with the Good Practice issued jointly by the DETR and Home Office in October 1998, the parties to this Protocol recognise that temporary encampments may be allowed to remain where conditions are suitable. The Government guidance (as revised in July 2000) states that "... in the absence of specific welfare needs, Authorities should consider the following when seeking to balance the needs of Gypsies/Travellers and the settled communities:

- The nature, suitability or obtrusiveness of the encampment;
- The size of the group, their behaviour and the level of nuisance;
- The number, validity and seriousness of complaints".

**5.11** Decisions to evict Gypsies and Travellers from Local Authority land are taken using Section 77 of the Criminal Justice and Public Order Act 1994 and/or seeking a possession order from the County Court under Part 55 of the Civil Procedures rules. The decision on which legislation is used will be taken with due consideration of the facts of the individual encampment. Once agreed the eviction process can take several weeks during which time the protocol will be used to maintain communication and liaison with the communities involved.

**5.12** Appendix D sets out criteria included in the Kent County Council / Medway Council / District Councils of Kent/ Kent County Constabulary / Kent Health Authority – 'A Management Protocol for Unauthorised Encampment on Local Authority Land in Kent and Medway' and is used to decide whether to evict.

**5.13** Any decision made by the Council would need to be lawful, reasonable, proportionate, consistent, transparent and balanced. The Council's Environmental Reaction Team would seek the Head of Environment and Amenities agreement to tolerating sites in consultation with the Head of Development Services and ensure all actions arising are in accordance with the Council's enforcement policy and the Unauthorised Encampments Protocol.

**5.14** The Council will not usually take action to remove unauthorised campers on private land, although it will take steps to identify the land owner and inform them of the incursion as soon as practicable.

**5.15** Under section 61 and 62A-E of the Criminal Justice and Public Order Act 1994, the Police have powers to evict. Section 61 powers are used only in exceptional circumstances where:

- Unauthorised campers have caused damage to land and property;
- There is evidence of threatening, abusive or insulting language or behaviour to the owner, his family or his agent
- Where there are more than 6 vehicles (whether or not in a fit state of repair) on the land.

**5.16** If there is evidence of the above, the Police will then consider whether the seriousness of the breach warrants action and that such action is proportionate, reasonable and sustainable.

**5.17** Section 62A-E use is dependant on whether alternative pitches are available at other reasonable convenient local caravan sites. If such pitches are available the Police can direct campers to leave the site immediately.

## Management Policy and Procedures

**5.18** Having assessed the welfare needs of the Gypsies and Travellers as set out in paragraph 3.9, the Council may conclude that the most reasonable course of action is to tolerate the encampment in the short term. The special needs of the traveller community will need to be addressed including the requirement for urgent health care for a child. The decision to tolerate a site will be recorded in writing. Where a tolerated site is acceptable, the code of conduct set out in Appendix E will apply and the Community Cohesion or the Anti Social Behaviour Officer will ensure that this is circulated to all family units in the traveller community and the settled community.

**5.19** The Head of Environmental Services and Amenities will be responsible for ensuring the protection of vulnerable sites (i.e. those sites that would be susceptible to unauthorised access by travellers) within the District. This will involve the compilation and updating of all vulnerable sites with a record of the protection measures taken. These sites will be regularly patrolled by the Park Rangers and Open Space Officers, Street Wardens and Enforcement Officers. Private owners of land adjacent to Borough Council owned sites will be encouraged to protect their land from incursions.

# Monitoring Strategy and Review

## 6 Monitoring Strategy and Review

**6.1** It is proposed that a bi-annual report is published by the Executive Member for Sustainable Planning and Culture in January and July setting out the level of unauthorised encampments and the actions taken in the previous year. This will be accompanied by the Gypsy and Traveller Monitoring report setting out the latest position on the number of pitches in the Borough. Undertaking of monitoring the report will occur every six months and reported to the Executive Member, a full report is expected to be taken to Executive on an annual basis including any review this policy.

**6.2** There will be a need to undertake a further review of the Gypsy and Traveller Area Assessment in 2011/12 jointly with the north Kent Authorities.

**6.3** It is intended that the Policy document be reviewed on an annual basis.

## Monitoring Strategy and Review

# Policy H4 of the Swale Borough Local Plan

## A Policy H4 of the Swale Borough Local Plan

Policy H4 states:

**A.1** The Borough Council will only grant planning permission for the use of land for the stationing of homes for persons who can clearly demonstrate that they are gypsies or travelling showpersons with a genuine connection with the locality of the proposed site, in accordance with 1. and 2. below.

For proposals involving the establishment of public or privately owned residential gypsy or travelling showpersons sites:

- there will be a proven need in the Borough for the site and for the size proposed;
- the site will be located close to local services and facilities;
- there will be no more than four caravans;
- the site will be located close to the primary or secondary road networks;
- in the case of a greenfield site, there is no suitable site available on previously developed land in the locality;
- the site is not designated for its wildlife, historic or landscape importance;
- the site should be served, or capable of being served, by mains water supply and a satisfactory means of sewage disposal and refuse collection;
- there is no conflict with pedestrian or highway safety;
- screening and landscaping will be provided to minimise adverse impacts;
- no industrial, retail, commercial, or storage activities will take place on the site;
- use of the site will not give rise to significant adverse impacts upon residential amenity, or agricultural or commercial use, of surrounding areas; and
- the land will not be in a designated flood risk area.

Additionally to 1. for proposals for short term stopping places:

there will be a planning condition to ensure that the length of stay for each caravan will be no longer than 28 days with no return to the site within 3 months.

# Policy H4 of the Swale Borough Local Plan

# Abstract from the Swale Borough Local Plan Inspector's Report (Policy H4)

## **B Abstract from the Swale Borough Local Plan Inspector's Report (Policy H4)**

'The Council has taken the view that the only realistic way forward for this Local Plan is to continue with a criteria-based policy, such as is currently proposed in Policy H4. Having given this matter very careful consideration I, too, see no feasible alternative to the Council's suggested approach. I accept that the Council cannot fully take on board all the points in the Circular, for the obvious reason that the necessary assessments have not yet been undertaken. Moreover, as this matter was not the subject of any objections pursued by inquiry appearance, there was no opportunity during the course of the inquiry for any revisions or amendments to the policy to be discussed and agreed.'

'Although I accept that this is a somewhat unsatisfactory situation, I consider that the most appropriate way forward is to retain the policy as currently drafted, but to recommend some additions to the supporting text to highlight the fact that the Council is reviewing the policy as a matter of urgency, in the light of Circular 1/2006. This additional text will also need to explain that any proposals which come forward before the new LDF policy is in place will be assessed in the light of the new Circular, and that this latest Government guidance and advice will be a material consideration to be afforded greater weight than Policy H4 in the development control process if there are areas of conflict.'

## Abstract from the Swale Borough Local Plan Inspector's Report (Policy H4)

# Pro Forma and Guidance Notes

## C Pro Forma and Guidance Notes

### Gypsy and Traveller Site Assessment Existing and Proposed

**C.1** This is the pro forma for assessing Gypsy and Traveller sites within Swale, initially for existing sites but for proposed in the future.

#### Notes on Proposed Criteria

**C.2 *General Notes:*** The impact on landscape is clearly important not only in its own right, but in terms of the economic/tourism impacts of the high value landscape of the area, especially the AONB. However, mitigation and landscaping schemes could make sites acceptable in these terms.

**C.3** Flood risk is an important issue as mobiles are single storey and much of the borough is at risk of flooding, it should also be noted that Gypsy and Travellers are already a vulnerable group when considering adverse weather impacts and this is reflected in the high mortality and sickness rates. Flood risk mitigation measures will be assessed the same as any other planning application and in consultation with the Environment Agency

**C.4** Neighbour impacts will be taken into account include distance, screening, etc. Sites will be assessed on their impact on neighbours whether that be existing caravans or the settled community. It is not considered prudent to set a minimum distance to properties as this is not normal practice for assessing housing schemes, however any potential overlooking or overshadowing will need to be addressed.

**C.5** It is important that the site meets user needs otherwise it will not be used by Gypsy and Travellers. Government guidance requires that sites are accessible to a range of services and this should be given consideration when assessing sites. The amenity of occupiers is also important and includes factors such as sources of disturbance e.g. proximity to railways, high speed road traffic and exposure to overlooking.

**C.6 *Geographical:*** The GTAA provides no locational specific evidence as to where sites should be provided within the Borough. Although there are historical concentrations of unauthorised encampments in and around Sittingbourne, this is only an indicator of need in that particular area. Existing permanent, temporary and tolerated site provision are spread more generally across the Borough, many in rural situations, suggesting a more complex picture of needs/desires by the travelling community. In the absence of more definitive evidence, the Council will consider a wide range of locations for sites, using criteria to ensure equal treatment with all housing developments in terms of their sustainable access to employment and services and their impact upon environmental assets (see below).

**C.7 *Family Connections:*** There is strong evidence in the GTAA that family connections and familiarity with the area are the predominant reasons for Gypsy and Travellers seeking a specific location. Whilst these may be material factors in favour of granting planning permission, they will not be sufficient solely to outweigh significant harm to other considerations when these occur.

## Pro Forma and Guidance Notes

**C.8 Access to Employment & Services:** Good Practice indicates that many Travellers seek sites within the rural area, but close to the main centres of population and work. Whilst this may be so in broad locational terms, the GTAA showed that most of the travelling community accessed their work outside the Borough. Like elements of the settled population, local evidence from planning applications also suggest that some gypsies and travellers seek or aspire to sites in more isolated and rural locations, with such locations further reinforced if there is already family in the locality. However, as with all housing developments, national planning objectives indicate that developments should be located in such a way as to minimise journey lengths to main centres of employment and services.

**C.9** It is also desirable for provision to be made close to other services, including those at rural settlements, with both Good Practice and the GTAA, suggesting that it is school, health services and shops that are the most valued. The Council will weigh these above access to other services where distance may be less of an issue.

**C.10 Site Size:** Circular 01/06 specifically states that site thresholds should not be applied and that cases should be considered in context, and in relation to local infrastructure and population size and density. The Good Practice however notes that whilst there is no one ideal size of site or number of pitches, the experience of site managers and residents alike suggest that a maximum of 15 pitches is conducive to providing a comfortable environment which is easy to manage. It also indicates that smaller sites of 3-4 pitches can also be successful, particularly where designed for one extended family. These can be advantageous in making good use of small plots of land, whilst retaining good standards of design and habitation. The Good Practice concludes that sites should ideally consist of up to 15 pitches in capacity unless there is clear evidence to suggest that a larger site is preferred by the local Gypsy or Traveller community.

**C.11** Locally, the GTAA also notes that the favoured site size is generally for 15 pitches or less, but with 32% of those surveyed seeking sites of 10 or less. The Council's Gypsy and Traveller count data also clearly indicates that the vast majority of provision is across small sites of 5 or less, but with some very notable exceptions.

**C.12** The Council has carefully considered whether to include a restriction on site size/pitch numbers for the assessment of sites, and whilst there is evidence to suggest a preference/desirability toward identifying small sites, some existing permanent and temporary provision is already present on larger sites. Although for new provision, the Council would normally expect provision to be made on sites of 15 pitches or less, for the assessment of existing sites, a more appropriate response likely to have a bearing on site size, will be judgements relating to environmental impact, where, it would normally be the case that, smaller-scale proposals are likely to give rise to less adverse impact.

**C.13** Where a larger site is unavoidable and acceptable, then the Council would (a) expect to see a site management plan submitted with the planning application which shall be made the subject of a S106 agreement to ensure its implementation and monitoring, and (b) steps should be taken to create small 'closes' within the site for extended families thereby retaining the sense of community and creating defensible space.

## Pro Forma and Guidance Notes

**C.14 Environmental Assets:** With the exception of land liable to high flooding risk, excluded by the Circular, the Council will not provide policy presumptions against site provision within, or proximity to, certain environmental assets, unless it is consistent with national policy and the development plan to so do. In the light of a review of this policy context, the table below indicates (a) where a policy presumption against site provision should be applied in a few locations; and (b) where special considerations are required before a site is permitted.

Table C.1 Environmental assets

Location	Evidence	Reason/Considerations
<b><i>(a) Location not suitable for site provision</i></b>		
National and International Designated Sites of Biodiversity and Geological Interest	Government Guidance (PPS9) and Policy E12 of the Swale Borough Local Plan 2008	Need will not override international/nationally importance of the site and will result in significant harm to biological and/or geological interests.
Areas identified as being at high flooding risk (Zones 2 & 3)	Government Guidance (PPS25) as indicated by the Council's Strategic Flood Risk Assessment.	Sites available outside areas of high risk and single storey accommodation at too high a risk.
<b><i>(b) Locations where special considerations would be required</i></b>		
The Kent Downs Area of Outstanding Natural Beauty	Government Guidance (PPS1 & 7), Policy E9 of the Swale Borough Local Plan 2008, Kent Downs AONB Management Plan and Swale Landscape Character Assessment and Guidelines 2005	Gypsy and Traveller sites are not precluded from AONB's but consideration over whether the development goes against the objectives of the designation will be given. Proposals should protect and enhance the AONB.
Local Landscape Designations (Special Landscape Areas and Areas of High Landscape Value)	Government Guidance (PPS7), Policy E9 of the Swale Borough Local Plan 2008 and Swale Landscape Character Assessment and Guidelines 2005	Whilst considering the needs of local communities, proposals should protect and enhance the areas qualities
Local Biodiversity Designations (County Wildlife Sites, Local Nature Reserves, Ancient Woodland)	Government Guidance (PPS9), Policy E12 of the Swale Borough Local Plan 2008	Need for site outweighs interest and adverse impacts compensated and mitigated
Listed Buildings/Conservation Areas/Scheduled Ancient	Government Guidance (PPG15/16), Policies E14-16 of the Swale Borough Local Plan 2008	See government guidance and development plan policies

## Pro Forma and Guidance Notes

Location	Evidence	Reason/Considerations
Monuments/Archaeological Sites		
Sites within 1.5km of National and International Designated Sites of Biodiversity and Geological Interest	Government Guidance (PPS9) and Policy E12 of the Swale Borough Local Plan 2008	Need for site outweighs interest and adverse impacts compensated and mitigated

**C.15** Below are the six criteria of assessment. These will be used for the basis of an assessment form to be completed when visiting existing or prospective sites.

1. Site availability – for example, whether the site owner is willing to sell, and whether the timescales for provision are appropriate
2. Site suitability - e.g. in terms of pollution/contamination, flood risk, safe access arrangements and parking provision.
3. Impact on character and appearance of the locality – assessment of impact on urban or rural area and landscaping
4. Impact on areas or features designated (for example, AONB, Conservation Areas, Sites of Special Scientific Interest and Scheduled Ancient Monuments)
5. Impact on amenity of proposed residents, nearby residents or adjoining land users
6. Sustainability of the location assessment of access to services, e.g. shops, public transport, Doctors and schools.

**C.16** Each criterion has been broken down into positively phrased assessment questions. Each site will receive a mark of one for each assessment with a positive response and those sites which score the highest will be the most suitable to allocate as permanent sites, however each site will be assessed on its own merits and on a case by case basis.

**C.17** Below are general observations which should be noted when assessing sites, they are for information purposes only and will not be included when assessing the suitability of any site.

Table C.2 Site assessment pro-forma

	Comments
Parish	
Full Address	
Capacity of site to provide for approx caravans	
Is the site within SSSI, European Site, Natural Conservation or Biodiversity site,	

# Pro Forma and Guidance Notes

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	Comments
AONB, Listed Buildings/Conservation Areas/Scheduled Ancient Monument, Local Designated Wildlife Site or Local Landscape Designation?	
What landscape character area does the site fall within and what are the relevant guidelines given by the Swale Landscape Character Assessment?	
Does the location meet the needs of the prospective occupiers?	
Is the site existing or proposed?	
Is there potential for disturbance to proposed occupiers e.g. Railway lines, industrial uses, busy roads?	
Any planning issues relating to cumulative impact of successive sites within the same area?	

Table C.3 Site availability

Site Availability	Tick if answer is Yes
Public/SBC/KCC ownership?	
Is there a willing landowner?	
Are the applicants in ownership?	
No restrictive covenants or known legal problems?	
Likely to be deliverable?	

Table C.4 Site suitability

Site Suitability	Tick if answer is Yes
Utilities in place or easily provided?	
Water (Taps etc)	
Electricity	
Gas	
Drainage/Sewage (mains or cess pit?)	

## Pro Forma and Guidance Notes

Site Suitability	Tick if answer is Yes
Is site flat and stable surface?	
If uneven, is there a flat surface around proposed residences?	
Is site away from cliff edge/coastal erosion?	
Is site outside flood zone 3 & 2?	
Is site away from contaminated land?	
If land is contaminated, is remediation viable?	
Is site on previously developed land?	

Table C.5 Access and Parking

Site Access and Parking	Tick if answer is Yes
Is there a flat, usable access to the site?	
If not, could one be provided?	
Are the surrounding roads usable? e.g. not unmade, not dirt tracks and passable in bad weather?	
Are there parking areas on the site?	
If not, can they be provided?	
Is there space for turning vehicles?	
Is there space for servicing or large vehicles?	
Is there pedestrian access to the site?	
Are there footpaths/bridle ways across the site?	
Are any proposed accesses away from neighbouring residences?	
Is there minimal anticipated noise and disturbance from an access close to dwellings?	

Table C.6 Landscaping

Landscaping	Tick if answer is Yes
Is the site enclosed in any way or screened from the road/residences?	
Is there any existing landscaping features e.g. trees, hedgerow, fences?	
If not, can these be provided?	

# Pro Forma and Guidance Notes

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Landscaping	Tick if answer is Yes
Are there any landscaping measures proposed?	
Is the site within an urban area or settlement?	
If not is the site within close proximity (2km) to an urban area or settlement?	

Table C.7 Impact on amenity

Impact on amenity	Tick if answer is Yes
If any overlooking is anticipated, can it be resolved e.g. landscaping?	
Are the proposed residences more than 6m from other residences on site or neighbouring?	
Is the site away from operational land e.g. car parks, industrial uses?	

Table C.8 Sustainability of location

Sustainability of location	Tick if answer is Yes
Is the site within a reasonable distance (2km) to a settlement which offers local services and community facilities? If not, what distance?	
Is the site within a reasonable distance (2km) to the following services?	
Nursery/Primary School?	
Secondary School?	
Doctors? Primary Health Care?	
Dentists?	
Food/Clothes and other shops?	
Public transport links e.g. bus stops/train station	

N.B. Distance of 2km is used as recommended in PPG13 for all housing as a reasonable walking distance.

# Pro Forma and Guidance Notes

## Extract from Management Protocol

### D Extract from Management Protocol

***Extract from ‘A Management Protocol for Unauthorised Encampment on Local Authority Land in Kent and Medway – Approved July 2002, Kent County Council/Medway Council/District Councils of Kent/Kent County Constabulary/Kent health Authority’.***

*Subject to the local policy of the authority concerned (Parish Councils are not “local authorities” for this purpose) and consideration of the welfare of the individuals, all unlawful encampments will normally be removed, if*

1 The nature, suitability or obtrusiveness of the encampment requires it, because the land is

- *(or forms part of) a business/retail park/market*
- *(or forms part of) school grounds or a school playing field or is adjacent to and interfering with the proper functioning of a school*
- *(or forms part of) a recreational facility such as a public park, football pitch or picnic site*
- *unreasonably close to housing*
- *(or forms part of) a public car-park/park and ride*
- *designated as requiring special protection due to wildlife, landscape or archaeological considerations or is a site of special scientific interest (SSSI)*
- *an area which, by its nature, gives rise to a health and safety risk e.g. through pollution or flood risk.*
- *(or forms part of) a highway.*

2 The size of the group or the behaviour of the trespassers makes it necessary because

- *Of the number of vehicles in relation to the surrounding environment*
- *There has been fouling or dumping*
- *There has been intimidatory behaviour by one or more of the trespassers*
- *There is evidence of damage to the property, land or environment*
- *Animals belonging to trespassers have not been kept under control*
- *Horses belonging to trespassers have been causing nuisance or danger*
- *The same land has been occupied by others within the preceding three months*
- *Statutory nuisance has arisen.*

*Criminal or anti-social behaviour (where the latter could lead to action under the Crime and Disorder Act 1998) will be reported to the Police, who will consider use of any of their powers under the criminal law which are appropriate.*

*Where waste tipping coincides with unauthorised encampment, there are no effective sanctions to make those tipping financially liable for the costs of clearance, so moving people on as speedily as possible, subject to welfare considerations, is the only current remedy.*

## Extract from Management Protocol

### 3 The number, validity and seriousness of complaints against the encampment justifies such a decision

*The local authority will operate with sensitivity to all parties, but cannot allow the continuation of encampments where there is clear evidence of good reason for complaint.*

*In making the decision as to whether to allow short term toleration, the Local Authority must also consider all needs, including any that the Gypsies/Travellers may present, such as a requirement for urgent healthcare or child protection assessment.*

### 4 The lack of negotiations or the breaking of agreements justifies such a decision

*In considering whether to tolerate the occupation, or continued occupation of a site, the authority concerned will take into account the willingness or otherwise of the occupant(s) to negotiate acceptable periods of occupation and standards of behaviour. The unwillingness to negotiate and/or failure to abide by agreements for both time and standards of behaviour will normally be taken as a reason for early eviction.*

# Code of Conduct for Unauthorised Encampments

## E Code of Conduct for Unauthorised Encampments

Figure 1 Code of Conduct



### Code of Conduct for Unauthorised Encampments

**When unauthorised encampments occur on Kent County Council land, the Council will:**

- **visit** to ask you about your circumstances and to offer general **advice/assistance**.
- give you a chance to tell us about any specific welfare factors that you feel should be taken into account before a decision is made about the future of the encampment.

Many locations will **never** be acceptable for camping. In some circumstances the Council will grant a period of tolerated stay. When such a stay is permitted, be mindful that you are effectively guests of both the Council & the local community, and behave accordingly. By staying on Council land you agree to abide by the rules set out below.

- **Do not litter or dump rubbish.**  
This includes domestic waste and trade waste, such as scrap metal and tree loppings.
- **No anti-social and threatening behaviour.**  
Do not allow members of your family to vandalise property or be a nuisance to the local population.
- **Be quiet**  
When encamped within earshot of residential properties do not run generators after 10pm, or before 7am and do not engage in noisy work activities during the hours of darkness.
- **Do not go to the toilet in public view, and do clear up afterwards.**
- **Keep groups small.**
- **Keep all animals under control.**  
Dogs should be kept tethered & quiet and all mess should be removed daily.
- **Park vehicles safely & do not obstruct public highways or rights of way.**
- **Do not re-occupy the same land within a 3-month period.**
- **When you leave, please ensure that it is to a place at least 2 miles away.**
- **Respect the local community!**

If anyone causes a nuisance, or is anti social or abusive to anyone or identifiably involved in criminal activity or dumping of rubbish, in most cases we are likely to evict and we will always seek to prosecute as quickly as possible.

Criminal activity will always be reported to the Police.

Evidence of fly-tipping will always be reported to the Environment Agency or District Council Environmental Health Section.




# Code of Conduct for Unauthorised Encampments

# **Contacting Swale Borough Council**

Please contact:

Planning Policy Manager  
Swale Borough Council  
Swale House, East Street  
Sittingbourne  
Kent, ME10 3HT

**Planning Policy Team 01795 417023**  
**Email [Idf@swale.gov.uk](mailto:Idf@swale.gov.uk)**

If you would like further hard copies or alternative versions (i.e. large print, audio, different language) we will do our best to accommodate your request. Please contact the Council at the above address.