

Subject:	Traveller Site Allocations Policies		
Date of Meeting:	7th October 2014		
Report of:	Executive Director of Environment, Development and Housing		
Contact Officer:	Name:	Rachel Chasseaud	Tel: 291837
	Email:	rachel.chasseaud@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE/ NOT FOR PUBLICATION**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Council operates a Transit Site for Travellers at Horsdean in Patcham. The Council has also been awarded planning permission to develop 12 permanent pitches for Travellers at Horsdean.
- 1.2 The Transit Site Allocations Policy (appendix 1) has been reviewed and an Allocations Policy for our Permanent Traveller Site (appendix 2) has been developed.
- 1.3 The policies have been developed with regard to Communities and Local Government best practice guides, the Traveller Commissioning Strategy 2012, Equality Act 2010, Mobile Homes Act 2013, Human Rights Act 1998 and the relevant housing and planning legislation.

2. RECOMMENDATIONS:

- 2.1 That the Environment Transport and Sustainability Committee approve the Traveller's Transit Site Allocations Policy.
- 2.2 That The Environment Transport and Sustainability Committee approve the Traveller's Permanent Site Allocations Policy.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The council currently has a Transit Site for Travellers at Horsdean with 23 Transit pitches 10 of which are currently operational. Following redevelopment of Horsdean there will be 21 transit pitches. These are likely to be available from April 2016.
- 3.2 The Transit Site is provided for households who have a provable ethnic Traveller status and who have a nomadic lifestyle. Those who are not nomadic (save if they have stopped travelling due to ill health; children or; old age) are not entitled to be defined as Travellers for the purposes of the legislation and so are not eligible for a place on the site. Pitches are offered on a first come first served

basis, under a weekly licence agreement which is renewable for up to 12 weeks. Rent and service charges are payable on a weekly basis.

- 3.3 In the revised policy we have clarified the eligibility criteria to ensure that we are providing this very limited resource to those who require it and to enable us to manage the site as effectively as possible. All adults in the household must now provide photographic identification. Applicants must be in transit with no alternative temporary stopping place or accommodation in the city and they must have a clear rent account.
- 3.4 We have also clarified the circumstances in which we would exclude people from the transit site, for example where we would consider there to be anti-social behaviour. We have also explained the process for communicating these decisions and how to make an appeal. These provisions are made in order to enable effective and safe management of the transit site.
- 3.5 Brighton & Hove City Council has not had a permanent Travellers site before. In developing the proposed permanent Allocations Policy we undertook research with other social Landlords and this has informed our policy.
- 3.6 We will be providing 12 permanent pitches at Horsdean and these will provide Secure Tenancies for 12 households. These will initially be offered as Introductory Tenancies for a period of 12 months in line with the council housing Tenancy Policy.
- 3.7 We have developed a 'needs based' Allocations Policy which loosely mirrors the methodology of the statutory Gypsy and Traveller Accommodation Assessment (GTAA) to ensure that the pitches will be allocated to those Traveller households who are most in need of a permanent pitch and who were identified as needing a permanent pitch in Brighton and Hove through the GTAA. The GTAA process reflects a nationwide exercise in assessing housing need, with local authorities up and down the country going through the same exercise. In particular this process can identify local need.
- 3.8 For this reason points are weighted towards 'Locally Known' ethnic Travellers who have lived in the city for 3 out of the past 5 years. This will enable us to try to meet the need of local ethnic Travellers but should also lead to a reduction in trespass within the city. It will also enable other services such as Education and Health to work with and help improve outcomes and life chances for those Traveller families who have lived in the city for many years and who have always been homeless.
- 3.9 Need is also assessed on the basis of health and educational needs and the number of children and older people in each household. References are also required and will be taken into consideration.

- 3.10 Both the Transit Site Policy and the Permanent Site Policy require that applicants must have provable ethnic Traveller status. The reason for this is to preserve a very limited resource for those households who have a strong cultural and historical link to the Traveller lifestyle rather than those people who might be living in trailers as a lifestyle choice or because they have no choice and are homeless. Under the Equality Act there must be a protected characteristic to obtain ethnic status as a Traveller such as Gypsies, Roma and Irish Travellers. Planning Law also refers to those who have a nomadic lifestyle who move in relation to work and who only stop travelling for health and welfare reasons. Given the marginalisation faced by ethnic travellers, which is generational and the duties under the Equality Act, we feel that prioritising the need of ethnic travellers is paramount
- 3.11 A waiting list for permanent pitches will be opened from 1st November 2014 if the Allocations Policy is approved at this committee.
- 3.12 A Tenancy Policy will be developed for the Permanent Traveller Site and this will be the subject of a future report.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Consideration has been given to having a permanent Allocations Policy with no local connection criteria. However this would mean that pitches would be offered to Travellers who do not live and work and have their children in school in the city and so we would not be meeting the needs of local residents and are less likely to address the associated trespass. This approach is therefore not recommended.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Consultation has been carried out with Friends Families and Travellers (FFT), with the Irish Traveller Women's Group and with the officers Joint Working Group.
- 5.2 The Traveller Women's Group considered feedback is that the permanent site should be for ethnically defined Travellers only.

FFT raised concerns that limiting pitch allocation to ethnically defined Travellers only risks discrimination. . If they refer to new travellers with an ancestry of ethnic travellers, then they are not barred from the site, they simply need to evidence their ethnicity to a reasonable level. If they are referring to non-ethnic travellers, then we are not clear on what basis discrimination is claimed. As yet the situation of non-ethnic travellers has been described by the European Court as a lifestyle choice. They do not appear to have any protected characteristics which would sit within the Act. On this basis we do not agree it is discriminatory. In exceptional circumstances an individual circumstances can be considered

- 5.3 The policy originally awarded additional points for those over 70 years on the basis of vulnerability due to age. Feedback from FFT and the Traveller Women's Group was that this was too high due to the lower life expectancy rates in the

Traveller community. The policy has been revised to reflect this and the age requirement for points in this category reduced to 60 years.

- 5.4 The Traveller Women's Group considered the limitation to applicants over 18 years to be restricting, that it is not uncommon for Travellers to marry and start a family below this age. This has not been revised in the policy because it is a legal requirement that tenancies only be available to those over 18 years. The alternative would be that the tenancy would have to be held in trust for that person. It effectively means no enforcement can be taken against the person under 18 should it become necessary. This matches the policy of housing management in relation to tenancies for the under 18's.
- 5.5 The Traveller Women's Group considered that the period of residence in the city to qualify as a 'locally known' Traveller was too low; that the allocation of pitches should reflect the need of those Traveller households who are established in Brighton and Hove and have their children in school here. The policy has been revised to further reflect this and the period of residence to qualify for these points has been increased from 2 to 3 years out of the last 5 years
- 5.6 The officers Joint Working Group is comprised of a number of agencies who deal with unauthorised encampments including the police. The group approved of the policies particularly noting the need to use the facilities to reduce unauthorised encampments with a view to reducing community tension. Further agreement about the importance of clear site rules and consequences to the breach of these rules to ensure effective and safe site management.

6. CONCLUSION

- 6.1 The council is required to have policies that explain the process by which pitches are allocated at our owned and managed Traveller's sites.
- 6.2 The attached policies are recommended as they would make best use of the limited resource available to us and ensure that the council meets the needs of the local Travelling community as highlighted in the Gypsy and Traveller Accommodation Assessment.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

The cost of office time relating to the production, implementation and monitoring of the Travellers Site Allocations Policy will be met from the existing Traveller Liaison Team revenue budget within the Housing General Fund.

Finance Officer Consulted: Steven Bedford

Date: 01/09/14

Legal Implications:

- 7.1 There are a variety of pieces of legislation that will apply. Notable are The Mobile Homes Act 1983 and the Caravan Sites Act 1968. Of most relevance is The

Mobile Homes Act 1983 (Amendment of Schedule 1 and Consequential Amendments) (England) Order 2011.

The Acts allow for the provision of sites both transit and permanent. The Mobile Homes amendment Act 2011 retains the limited stay provisions on transit sites, but changes quite significantly the rights of those on a permanent site. It gives them near parity to a local authority secure tenant in brick and mortar accommodation. Eviction now requires a Court order in which the authority has to establish that certain criteria are met. A range of legislation determines who is and is not capable of being considered a person eligible for traveller status. The basic requirement is that they be a nomad or have stopped for prescribed reasons. However traveller does automatically passport you to having a protected characteristic under the Equality Act. The Act only applies if you are within a defined ethnic group. This excludes many travellers (those who do not have a cultural and ethnic background to their travelling). The Act provides a Public Sector Duty at s149, which is applicable to the Council. The provision of a permanent site helps with this duty. It also means that we cannot discriminate. So note is taken of the concerns raised by the traveller woman's group on age. This has not been accommodated in the policy, but this reflects the position of the Council in its bricks and mortar housing stock. By operation of law an under 18 cannot hold a legal tenancy although they may have the benefit of the beneficial tenancy. We do not consider that it is a breach of the Equality provision .

Also of some importance is s158 of the Equality Act 2010. This says - The Act does not prohibit us from taking any action which is a proportionate means of achieving the aim of enabling or encouraging persons who share the protected characteristic to overcome or minimise disadvantage, and or meeting those needs, of that group. I am of the view that if the ethnic travellers suffer disadvantage in many areas, then to give them access to stable homes, will come under the section. I believe we can justify that the sites should be for ethnic travellers but that in extremely exceptional circumstances a non-ethnic traveller might be considered for the transit site and possibly the permanent site

Lawyer Consulted: Simon Court

Date: 10th September 2014

Equalities Implications:

- 7.2 An Equalities Impact Assessment has been carried out. The Assessment informed the points system devised to ensure that pitches available on both sites are allocated to those in greatest need. The policy will allocate pitches to 12 homeless families. It is likely that all 12 of these families will be people who frequently have to encamp in parks and open spaces, which causes a great deal of community tension. The removal of 12 households from unauthorised encampments around the city should assist the council in meeting its duty to promote better community relations. The points based allocations policy will prioritise those households with serious health and welfare issues and enable more effective engagement with health and education services. Following consultation, the age qualification for additional points has been reduced from 70 to 60 years, to reflect the lower life expectancy rates within the Traveller community. Application forms will be in plain English and the ability to do in-person applications publicised to aid those with low literacy. Staff will be made available to provide support during the application process. Qualifying criteria will

be restricted to those with a provable ethnic Traveller status. There will be research conducted on van dwellers in the city and a van dweller Strategy developed.

Sustainability Implications:

- 7.3 The Allocations Policies seek to allocate pitches to those in greatest need. This will enable services to engage with some of the most socially excluded residents of the city and enable a multi-agency approach to improving health, social care and education outcomes for these households. The policies seek to meet the needs of homeless Traveller families who live in the city and in this way the hope is that Unauthorised Encampments reduce and this should reduce costs for the council.

Any Other Significant Implications:

- 7.4 Unauthorised Encampments also have a significant impact on Police Resources and can give rise to community tension and incidents of nuisance and anti-social behaviour. It is hope that if the Allocations Policies are effective in reducing trespass that this will lead to a reduction in associated crime and reduce the impact on the police.

SUPPORTING DOCUMENTATION

Appendices:

1. Transit Site Allocations Policy
2. Permanent Site Allocations Policy

Documents in Members' Rooms

1. None

Background Documents

1. Travellers Sites Allocations Policy Equalities Impact Assessments