

## **Cabinet – 10 February 2021**

### **Options for a transit site within Walsall.**

**Portfolio:** Councillor Andrew, Deputy Leader & Regeneration

**Related portfolios:** Councillor Garry Perry, Deputy Leader & Resilient Communities  
Councillor Bal Chattha, Personnel & Business Support  
Councillor Stephen Craddock, Health & Wellbeing

**Service:** Place & Environment

**Wards:** All

**Key decision:** Yes

**Forward plan:** No

#### **1. Aim**

- 1.1. To provide a transit site to support the Gypsy, Roma and Traveller (GRT) community and to mitigate the community disruption and cost impact of unauthorised encampments (UEs).

#### **2. Summary**

- 2.1. The Economy and Environment Overview and Scrutiny Committee set up an Unauthorised Encampment Working Group which reported back on the 20<sup>th</sup> February 2020. The report made a number of recommendations including the development of a Gypsy, Roma and Traveller (GRT) transit site.
- 2.2. In April 2020 and again in November 2020, Lord Greenhalgh, Communities Minister, wrote to local authority chief executives to highlight the support needed by some members of the GRT communities. A transit site, whether temporary or permanent, would provide a location which would better facilitate the Council's offer to the GRT community.
- 2.3. This report considers the following options:
  - Option 1 - Do nothing

- Option 2 - Create a temporary transit site at Narrow Lane
- Option 3 - Create a permanent transit site at Narrow Lane
- Option 4 - Look for alternative sites

### 3. **Recommendations**

- 3.1. That Cabinet approve Option 2 and consequently, the submission of a planning application to construct a temporary traveller transit site at Narrow Lane.
- 3.2. That, subject to planning approval, Cabinet approve a budget of £160k for the construction of a traveller transit site in accordance with the planning consent.
- 3.3. That Cabinet delegate authority to the Executive Director for Economy, Environment and Communities in consultation with the Deputy Leader of the Council, to award a contract for the provision of a traveller transit site at Narrow Lane.
- 3.4. That Cabinet delegate authority to the Executive Director for Economy, Environment and Communities to enter into the contract, and to subsequently authorise the sealing, signing or variation of any deeds, contracts or other related documents for such services, within the approved budget envelope.

### 4. **Report detail - know**

#### ***Context***

- 4.1. The Economy and Environment Overview and Scrutiny Committee set up an Unauthorised Encampment Working Group to establish a long-term strategy to reduce the numbers of UEs in the borough and to explore options for a transit site.
- 4.2. In gathering its evidence, the working group spoke with representatives from different organisations and invited the National Federation of Gypsy Liaison Groups (NFGLG) to take part in discussions.
- 4.3. The working group noted that there is a shortage of transit sites across the country. A critical factor underpinning the poor outcomes experienced by the community is the lack of lawful sites on which to establish encampments. Without lawful sites, the community continues to face evictions, which disrupts schooling, access to healthcare and employment.
- 4.4. In 2020 there were 53 unauthorised encampments (UEs) in the Borough, 33 on Council Land and 20 on private land (which were dealt with by the

respective landowner). The number UEs has varied significantly from year to year, averaging around 60 per year over the last 8 years. Typically, each UE costs the Council around £8.5k although this does not include the costs incurred by the Police, partner organisations and the potential opportunity costs such as investments by businesses or loss of income.

- 4.5. Quality homes are a key element of any thriving, sustainable community. This is true for the settled and Gypsy, Roma and Traveller (GRT) communities alike. In conjunction with the National Planning Policy Framework, DCLG's Planning Policy for Traveller sites sets out the Government's aim to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.
- 4.6. Construction of a transit site will allow the Police to use powers, prescribed in section 62 of the Criminal Justice & Public Order Act 1994, to move UEs to transit sites. These section 62 powers can only be used if the transit site is located within the borough and managed by either the Council or Housing Association.
- 4.7. The working group recommended that a set of criteria should be used to assess the suitability of potential transit sites. These criteria are detailed at **Appendix A**.

***Option 1 – Do nothing.***

- 4.8. If the Council decides to do nothing, it will have to continue to manage UEs in the community setting. In some instances, this creates a risk of increased community tensions. More widely, there are the ongoing challenges and costs arising from the occupation of unsuitable sites, lacking the facilities to support the basic day to day needs of the GRT community.
- 4.9. It should also be noted, whilst the Covid-19 pandemic continues to impact the region and indeed the county, management of an outbreak within a UE would be more difficult if an appropriate location, that supports self-isolation, is not identified.
- 4.10. From April 2021, the Council propose to employ bailiffs as part of their response to UEs due to the potential risks to Council staff arising from community tensions. The cost of managing UE's in 2021/22 using the Council's new process is estimated to be £245k in bailiff costs and £70k in clean-up costs.

***Option 2 – Build a temporary transit site at Narrow Lane***

- 4.11. A temporary transit site would allow the Council the opportunity to assess the effectiveness of transit provision in managing unauthorised activity. It would also offer further time to confirm the most suitable site for longer term, permanent provision within the borough. As far as possible, the proposed design encompasses infrastructure that can be easily removed and reused.
- 4.12. A high-level desktop review of 583 development sites has been carried out on the basis of the criteria detailed at **Appendix A**. This review and a further evaluation based on a refined set of criteria, has identified Narrow Lane, adjacent to the junction of Darlaston Road and Pleck Road, as a potentially suitable transit site.
- 4.13. The brownfield site is owned by the Council and is not currently in use although the site was previously utilised as a compound for highway works. Planning permission would be required to develop a transit site at this location, as it would at any other location.
- 4.14. The site area is 0.48Ha, which can comfortably accommodate six caravans and 12 accompanying vehicle spaces, meeting with the NFGLG preference for fewer, smaller transit sites rather than one single site. As there would be no designated pitches, there would be flexibility to accommodate alternative combinations.
- 4.15. The site is situated near to local amenities and in close proximity to a range of primary and secondary school provision that is Ofsted rated “Good” and “Outstanding”. Furthermore, the site offers access to healthcare, welfare and employment in the immediate surrounding area.
- 4.16. The site is located within Flood Zone 1 and approximately 290m from the nearest higher risk area. It allows for the provision of safe and direct access to the A4038 (Darlaston Road) and is less than 2 miles from M6 Junction 9. Bus services can be accessed close by and there are rail links from both Bescot Stadium Station and Walsall Station.
- 4.17. Costs associated with this option are:
- £55k on design work and surveys (excluding any additional works identified by the surveys or arising from the planning process).
  - £105k for the construction of the site.
  - Operational costs, including management, utility provision and maintenance costs will be off-set by rental payments from the site occupants.
- 4.18. The impact on the revenue costs for bailiffs and the clean-up of council owned land is largely unknown. An initial assumption of a 20% reduction in

bailiff costs and a £30k reduction in clean-up costs has been used. The temporary arrangement will present the opportunity to ascertain more accurately the impact on revenue expenditure.

- 4.19. The delivery of temporary transit provision could, within a reasonably short timescale, facilitate the Council's offer of support to the GRT community whilst giving them a safe and secure place to stay. It would also give the Council and the Police the opportunity to use new powers to address unauthorised incursions when the need arises.
- 4.20. **Appendix B** details the proposed site layout for a temporary transit site.

### ***Option 3 – Build a permanent transit site at Narrow Lane***

- 4.21. The suitability of the site is described above. However, rather than applying for a temporary consent, an application could be made for a permanent consent.
- 4.22. Costs associated with this option are:
- £55k on design work and surveys (excluding any additional works identified by the surveys or arising from the planning process).
  - £310k for the construction of the site.
  - Operational costs, including management, utility provision and maintenance costs will be off-set by rental payments from the site occupants.
- 4.23. As noted in respect to Option 2, the impact on revenue expenditure is largely unknown. The first 12 to 24 months of permanent site operation will provide an opportunity to more accurately determine the likely revenue saving in the long term.
- 4.24. **Appendix C** details the proposed site layout for a permanent transit site.

### ***Option 4 – Recommence a search for a more appropriate site***

- 4.25. Further work could be carried out to identify the most suitable location for a transit site. This could involve expanding the search criteria and include land not currently in the Council's ownership with a view to finding a more appropriate site.

- 4.26. It is important to note that such a search would delay the provision of appropriate transit facilities for the GRT community. There are also no guarantees that a more appropriate and viable alternative could be found.
- 4.27. The costs associated with this option would be determined by the breadth of the search and the extent of the evaluation criteria to be considered. Further work would be needed to extend the search, in addition to acquisition costs, planning costs and the costs associated with laying out the site and rendering it suitable for the use.

### ***Other considerations***

- 4.28. The Council and West Midlands Police will update their protocol on the Management of UE's to ensure it is appropriate for any new arrangements if options 2 or 3 are approved.
- 4.29. If the Council approves options 2 or 3 there will be a need for an amendment to the capital programme. This amendment will need approval by Full Council.
- 4.30. The adoption of options 2 or 3 allows for more effective support for members of the GRT community, including a better opportunity to support healthcare, welfare and education needs.
- 4.31. A transit site would not eliminate UEs or all the associated bailiff and clear up costs. The required speed and availability of police resources may mean the Council needs to take its own enforcement action, however costs should be significantly reduced.
- 4.32. The site must be managed by either the Council or a Housing Association to be considered a transit site and facilitate the Police in using their section 62 powers.
- 4.33. Consideration needs to be given to the sustainability of the Council's injunctions against unnamed persons. The Council has an excellent record of achieving appropriate injunctions, but their future cannot be guaranteed. If injunctions were not in place the length of time for eviction would be increased which could increase community tension and cost. The legal implications are outlined in greater detail below.

### ***Council Corporate Plan priorities***

- 4.34. Providing a transit site supports the following Council priorities:
- People
    - People live a good quality of life and feel that they belong

- People know what makes them healthy and are encouraged to get support when they need it.
- People have increased independence, improved health and can positively contribute to their communities.
- Communities
  - Housing meeting all peoples' needs is affordable, safe and warm.
  - People are proud of their vibrant town, districts and communities.
  - Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion.
- Children
  - Children thrive emotionally, physically and mentally, and feel they are achieving their potential.
  - Children grow up in connected communities and feel safe everywhere.
  - Children have the best start and are safe from harm, happy, healthy and learning well.

4.35. The transit site will enable a more focused level of support across these priorities within a Resilient Communities approach.

## **Risk Management**

- 4.36. If the decision is made to do nothing, the Council would be the only Black Country authority without a transit site creating operational, financial and reputational risks. Operational risk from a lack of resources within the authority and within West Midlands Police to manage transit sites which, as evidenced this year, is proving increasingly challenging. Financial risk through increased pressure on service budgets to manage the operational risk. Reputational risk both from a failure to provide a transit site and the increased tensions in our communities.
- 4.37. If the decision is made to develop a transit site, there are a number of risks will need to be managed. Failure to secure planning permission would impede development meaning that the immediate progression of a planning application and associated consultation is essential. Linked to this, a failure to communicate effectively with both the GRT and settled the communities, local businesses and other key stakeholders could not only impact the planning process but also have a reputational impact on the Council. Although there was some initial engagement by the working group with the

NFGLG, a bespoke communications plan will be required to mitigate these risks.

- 4.38. Site usage is not something that can be easily predicted and in neighbouring boroughs demand for transit sites has been low and in one case, non-existent. Nevertheless the provision of satisfactory site management arrangements need to be assured to ensure adequate service provision to both the GRT community and the local settled community.
- 4.39. In respect to the construction of the site, initial surveys have commenced in respect to the site topography, ecology and service connections. However any unchartered services, unidentified geological issues or unforeseen disruption to progress on site could result in additional cost and an extended programme for delivery.
- 4.40. Finally, if the decision is taken to recommence a search for a more appropriate site, there is no guarantee that such a site will be identified. If such a site can be identified, there would be financial risks associated with the negotiation of the lease or purchase of the site that would need to be considered

### ***Financial Implications***

- 4.41. Cabinet are asked to consider three options in relation to transit sites in the borough.
- 4.42. Option 1 (do nothing) will incur increased costs due to the proposed use of Bailiffs to deal with UEs in the borough. The additional cost net off small savings from clear up costs due to the use of the bailiff model will be in the region of £215k. Expenditure will vary year on year subject to the number of UEs in the borough and on Council owned land. The 2021/22 cost would need to be funded from earmarking of current year's reserves for 2021/22 with an adjustment to the medium term financial plan required for 2022/23 onwards to meet the ongoing costs.

<b>Option 1 Do Nothing</b>	<b>Year 1 21/22</b>	<b>Year 2 22/23</b>	<b>Total</b>
<b>Revenue</b>			
UE response Bailiff Costs	£245,000	£245,000	£490,000
UE response Clean up	£70,000	£70,000	£140,000



Site operation (management, utilities, routine maintenance and provision of temporary welfare facilities)	£0	£0	£0
Site rental income	£0	£0	£0
<b>Total Revenue</b>	£315,000	£315,000	£630,000
<b>Expenditure</b>			
<b>Potential Funding</b>	(£100,000)	(£100,000)	(£200,000)
Clean & green clear up budget			
<b>Revenue Unfunded</b>	<b>£215,000</b>	<b>£215,000</b>	<b>£430,000</b>

- 4.43. Option 2 (temporary transit site at Narrow Lane) requires capital expenditure of £160k and revenue expenditure of £512k over two years. Capital funds have been identified to fund the capital expenditure. There is currently £200k revenue and £40k will be recovered from the tenants leaving an unfunded revenue balance of £272k. The table below shows details of the total spend, the funding currently available and the additional/unfunded expenditure that is required.
- 4.44. The likely impact on revenue costs remains largely unknown. An initial assumption of a £49k (20%) reduction in bailiff costs and a £30k (40%) reduction in clean-up costs has been applied..
- 4.45. The unfunded shortfall on revenue is recommended to be funded from earmarking of current year's reserves.

<b>Option 2</b> Temporary Site	<b>Year 1</b> <b>21/22</b>	<b>Year 2</b> <b>22/23</b>	<b>Total</b>
<b>Capital Investment</b>			
Design (inclusive planning application submission)	£39,000	£0	£39,000
Site Surveys	£16,000	£0	£16,000
Construction	£105,000	£0	£105,000
<b>Total Capital</b>	<b>£160,000</b>	<b>£0</b>	<b>£160,000</b>
<b>Revenue</b>			
UE response Bailiff Costs	£196,000	£196,000	£392,000
UE response Clean up	£40,000	£40,000	£80,000

Site operation (management, utilities, routine maintenance and provision of temporary welfare facilities)	£20,000	£20,000	£40,000
<b>Total Revenue</b>	<b>£256,000</b>	<b>£256,000</b>	<b>£512,000</b>
<b>Potential Funding</b>			
Capital Programme 2021/22 – Health and safety	(£160,000)	£0	(£160,000)
Revenue - Reduction in clean-up costs	(£100,000)	(£100,000)	(£200,000)
Site rental income	(£20,000)	(£20,000)	(£40,000)
<b>Revenue Unfunded</b>	<b>£136,000</b>	<b>£136,000</b>	<b>£272,000</b>
<b>Capital Unfunded</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>
<b>Unfunded balance to be funded by reserves</b>	<b>£136,000</b>	<b>£136,000</b>	<b>£272,000</b>

- 4.46. Option 3 (permanent transit site at Narrow Lane) requires capital expenditure of £365k and revenue expenditure of £512k over two years. Capital funds have been identified to fund the capital expenditure. There is currently £200k revenue and £40k will be recovered from the tenants leaving an unfunded revenue balance of £272k. The table below shows details of the total spend, the funding currently available and the additional/unfunded expenditure that is required.
- 4.47. As with Option 2, the extent to which Option 3 will reduce the bailiff and clean ups costs is largely unknown. An initial assumption of a £49k (20%) reduction in bailiff costs and a £30k (40%) reduction in clean-up costs has been applied. This would be refined in the first 12 to 24 months of operation.
- 4.48. The unfunded shortfall on revenue is recommended to be funded from earmarking of current year's reserves for 2021/22 with an amendment to the medium term financial plan from 2022/23 onwards to incorporate an on-going budget to meet this on-going commitment.

<b>Option 3</b> Permanent Site	<b>Year 1</b> <b>21/22</b>	<b>Year 2</b> <b>22/23</b>	<b>Total</b>

<b>Capital Investment</b>			
Design (inclusive planning application submission)	£39,0000	£0	£39,000
Site Surveys	£16,000	£0	£16,000
Construction	£310,000	£0	£310,000
<b>Total Capital</b>	<b>£365,000</b>	<b>£0</b>	<b>£365,000</b>
<b>Revenue</b>			
UE response Bailiff Costs	£196,000	£196,000	£392,000
UE response Clean up	£40,000	£40,000	£80,000
Site operation (management, utilities, routine maintenance and provision of temporary welfare facilities)	£20,000	£20,000	£40,000
<b>Total Revenue</b>	<b>£256,000</b>	<b>£256,000</b>	<b>£512,000</b>
<b>Potential Funding</b>			
Capital Programme 2021/22 – Health and safety	(£332,000)	£0	(£332,000)
Capital –Willenhall Travellers Site (current year allocation)	(£33,000)	£0	(£33,000)
Revenue - Reduction in clean-up costs	(£100,000)	(£100,000)	(£200,000)
Site rental income	(£20,000)	(£20,000)	(£40,000)
<b>Revenue Unfunded</b>	<b>£136,000</b>	<b>£136,000</b>	<b>£272,000</b>
<b>Capital Unfunded</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>
<b>Unfunded balance to be funded by reserves</b>	<b>£136,000</b>	<b>£136,000</b>	<b>£272,000</b>

### ***Legal implications***

#### **Gypsy Roma and Traveller (GRT)**

- 4.49. The council needs to provide a transit site for a variety of reasons. Paragraph 001 of the Planning Policy Guidance, entitled “Addressing the need for

different types of housing” (Rev. 22.7.2019) requires plan making authorities to “identify and plan for the housing needs of particular groups of people” and “the extent to which the identified needs of specific groups can be addressed”. In doing so, authorities must take into account the overall level of need (using the standard method), the extent that can be translated into a housing requirement figure for the plan period and the deliverability of the different forms of provision. Authorities must also consider the implications of their duties under the Equality Act 2010 and the Public Sector Equality Duty.

- 4.50. The Equality Act 2010 defines GRT communities as ethnic groups and, consequently, they are protected against race discrimination. Race discrimination occurs when there is unfair treatment because of colour, nationality, national origin or ethnic origin.
- 4.51. If planning authorities are unable to demonstrate a five-year supply of deliverable GRT sites, this in turn may make it more difficult for them to justify reasons for refusing planning applications for temporary pitches at appeal. The national Planning Policy for Traveller Sites (August 2015) states, “The Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.” It sets out a series of aims in respect of traveller sites including:
- a) that local planning authorities should make their own assessment of need for the purposes of planning
  - b) to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
  - c) to encourage local planning authorities to plan for sites over a reasonable timescale ...
  - f) that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective ...
  - h) to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
  - i) to reduce tensions between settled and traveller communities in plan-making and planning decisions
  - j) to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure
  - k) for local planning authorities to have due regard to the protection of local amenity and local environment

... amongst others.

### Unauthorised Encampments

- 4.52. A transit site would assist in removing unauthorised encampments which have been set up in the borough. Under the provisions of Section 62A of the Criminal Justice and Public Order Act 1994 the Police have power to move on those who have trespassed on land with vehicles. That power is, however, exercisable only if there is a suitable pitch on a relevant caravan site to accommodate the trespassers. The provision of a transit site would thus enable the Police to have greater powers to deal with those setting up unauthorised encampments on any land across the borough.
- 4.53. The Council currently has a number of injunctions in place to prevent UEs on land which it considers should be safeguarded against such use. There is a risk that if the council were to continue to be unable to provide any short term stopping place for travellers within the borough it might be refused an injunction to remove travellers who have set up an unauthorised encampment. The grant of an injunction is a discretionary remedy.
- 4.54. In a legal case this year involving the London Borough of Enfield, the High Court Judge, Mr Justice Nicklin, adjourned the application, without granting an Interim Injunction, relisting it for hearing in January 2021. Mr Justice Nicklin has also ordered 37 other councils who have obtained injunctions to deal with the problems caused by unauthorised encampments to be joined in these proceedings. Those councils include Walsall Council. The cases which have been brought by all 37 councils have been transferred for consideration by the same Judge in the Queen's Bench Division of the High Court. There is a rigorous set of directions which require us to carry out a substantial amount of work and submit documents and legal arguments to the High Court on various dates during the course of November and to attend a hearing in the middle of December. One direction from this case is to consider the Court of Appeal decisions in *Bromley LBC -v- Persons Unknown* [2020] PTSR 1043 and *Canada Goose UK Retail Ltd -v- Persons Unknown* [2020] 1 WLR 2802 and their relevance to Walsall Council injunctions. This matter has now been listed for a substantive hearing on 27 and 28 January 2021 to consider the legal issues and the court's powers to grant such injunctions. Judgment is likely to be reserved and given at a later time. It is only when judgment has been handed down that matters will become clearer.
- 4.55. This review by the High Court is a major challenge to the council's operational response to UE's and therefore it is vitally important that the council, as soon as possible, makes proper provision by way of a transit site.

### Planning permission

- 4.56. As set out in the Risk Management Section, it will not be possible to carry out works, or to use the site, for the purposes of a transit site until planning permission is obtained. To do so would be unlawful and the Council cannot knowingly act unlawfully. (Art 1 Constitution) As a minimum, the planning process will take two months, with a requirement for the application to be considered by Planning Committee. It should be noted that this timeframe may be extended if it is necessary to deal with an appeal or challenge.
- 4.57. There can be no guarantee that planning permission will be granted, or that a decision to grant would not be challenged. Transit sites (temporary and permanent) are controversial planning applications, which generate considerable interest and thus greater potential for challenge.

#### ***Procurement Implications/Social Value***

- 4.58. Due to the time constraints associated with the project, outline design and site surveys have been commissioned via the Highway Infrastructure Services Contract (HISC) with Tarmac on an Option E basis [Cost Reimbursable Contract]. Subject to a Cabinet decision, this commission will be extended to include detailed design and the submission of a planning application in respect to either Option 2 or Option 3 on behalf of the Council.
- 4.59. The procurement exercise and associated contract award will be conducted in accordance with the Public Contracts Regulations 2015, the Public Services (Social Value) Act 2012 and Walsall Council's Social Value Policy and Contract Rules.

#### ***Property implications***

- 4.60. The Narrow Lane site is wholly owned by the Council and has previously been used as a site compound to facilitate the Darlaston Strategic Development Area Access Project highway improvement works in 2015.

#### ***Health and wellbeing implications***

- 4.61. Improving Health and wellbeing outcomes amongst some members of GRT communities is challenging because of a nomadic lifestyle. The provision of a temporary transit site will enable a more structured and robust approach of support which will positively impact the health and wellbeing of GRT communities. To understand the full extent to which this is the case, further negotiations and information are required in respect to access to local health and education facilities in order to ensure that the community do not become more marginalised.
- 4.62. If a Covid-19 infection was identified in a GRT Community, who were temporarily in the borough, it would be prudent to identify a transit site where

social isolation of the index case and associated contacts could be directed to protect themselves and others whilst allowing appropriate health support services to be offered.

### ***Staffing implications***

- 4.63. There are no staffing implications of this report.

### ***Reducing Inequalities***

- 4.64. The GRT community are a recognised ethnic group and are protected from discrimination. Like any other section of society, they have their own ethnic identity, differences and traditions and what is true of one group of travellers is not necessarily true for all others. All GRT groups do however share common cultural values of independence and a strong emphasis on the family group. Many still lead a nomadic or semi nomadic lifestyle; some have no fixed base and are constantly travelling between one temporary stopping place and another. Community tensions can arise between the traveller and the settled communities because of the difference in lifestyle and a lack of understanding of culture and customs.

- 4.65. Article 8 of the European Convention on Human Rights (incorporated into British law in the **Human Rights Act 1998**) protects the right to respect for private and family life and home and the right of Gypsies and Travellers to respect for their traditional way of life, an integral part of which involves living in caravans. Indeed, in *Chapman v United Kingdom* (27238/95) (2001) 33 E.H.R.R. 18, the European Court of Human Rights held that art.8 imposed a positive obligation on the State to facilitate the Gypsy and Traveller way of life:

*"96. ...The vulnerable position of gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases ... To this extent, there is thus a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the gypsy way life."*

- 4.66. Romany Gypsies and Irish Travellers are ethnic groups protected by the **Equality Act 2010**. Section 149 of that Act lays down what is known as the "public sector equality duty" and provides that:

*'(1) A public authority must, in the exercise of its functions, have due regard to the need to—(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic*

*and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it ..’*

4.67. Further to this the Equality and Human Rights Commission has noted<sup>1</sup> that:

“The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low”.

4.68. The Equality and Human Rights Commission states that:

“The broad purpose of the equality duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities. If you do not consider how a function can affect different groups in different ways, it is unlikely to have the intended effect. This can contribute to greater inequality and poor outcomes. The general equality duty therefore requires organisations to consider how they could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected into the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review.

### **Consultation**

4.69. Plans for a transit site have been developed over a lengthy period and work has been carried out through a Scrutiny working group formed by the Economy and Environment Overview and Scrutiny Committee on 20<sup>th</sup> June 2019.

4.70. The working group reported back to the Economy and Environment Overview and Scrutiny Committee on 20th February 2020 with a series of recommendations for a transit site.

4.71. A temporary transit site, by its nature, may require compromises in terms of build and facilities as it has a short term nature, however representatives of the GRT community have been and will continue to be engaged in supporting the build and operation of any temporary or permanent traveller site.

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## **5. Decide**

- 5.1. It is recommended that Cabinet approve the development of a temporary traveller transit site at Narrow Lane. The site complies with the acceptance criteria set out by the Scrutiny Working Group, minimises revenue costs and support the GRT community.
- 5.2. The provision of a temporary site will facilitate a better understanding of the impact a transit site will have on UEs in the borough. The lessons learned will be used to inform a future recommendations to Cabinet on the need, size and location of permanent provision.

## **6. Respond**

- 6.1. Subject to Cabinet approval of the recommended option, officers will submit a planning application for a temporary transit site at Narrow Lane. It is envisaged that the site will be operational within 2 months of the granting of planning consent, subject to any conditions that may need to be discharged prior to first use.

## **7. Review**

- 7.1. Any investment in a transit site, either permanent or temporary, needs to be measured against the following PROUD criteria:
  - Improve outcomes and customer experience through a reduction in Unauthorised Encampments and Improved health outcomes in the Gypsy, Roma, Traveller communities whilst they stop in Walsall.
  - Improve employee satisfaction and engagement by reducing the high risk work associated with unauthorised encampments.
  - Improve service efficiency and performance through delivering an effective infrastructure for supporting the Gypsy, Roma, Traveller community and putting on place a legal framework for managing Unauthorised Encampments.

## **Background papers**

Report of the Unauthorised Encampment Working Group – 20/2/2020  
Arcadis

## **Author**

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A stylized, handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Simon Neilson  
Executive Director

2 February 2020

A handwritten signature in blue ink, featuring a series of connected loops and a long horizontal stroke.

Councillor Adrian Andrew  
Portfolio holder

2 February 2021

Appendix A - Transit Site Criteria

Appendix B – Proposed Layout – Temporary Site (Option 2)

Appendix C – Proposed Layout – Permanent Site (Option 3)

## **Appendix A– Transit Site Criteria**

The Economy and Environment Overview and Scrutiny Committee Unauthorised Encampment Working Group recommended that the following criteria should be used to assess the suitability of potential transit sites:

- The site(s) should have sufficient pitch capacity to cater for different GRT Communities whilst considering the surrounding population's size and density;
- The deliverability and development viability of the site(s) should be considered including planning conditions and site ownership. In particular, feedback from the NFGLG indicated a preference for fewer smaller transit sites rather than one single site;
- Careful site management should be secured and adequate maintenance on the site(s);
- The site(s) should be situated near to local amenities to ensure that sufficient access to education, health, welfare and employment infrastructure;
- The site(s) access to local amenities and services should not overload schools and health services and be situated away from local housing estates;
- The site(s) should be attractive to users and enable support services to assist residents and reduce the health and socio-economic inequalities aid integration into the community and reduce tensions between the settled and traveller communities;
- The site(s) should be suitable, safe places to live and promote peaceful community integration with the local area;
- The site(s) should not be within flood plains with a rating of 2 – 3, as caravans would be particularly susceptible to damage from resulting flooding;
- The site(s) should be built to a moderate specification (good standard) and provide sufficient toilet/shower facilities for all families and create an enjoyable living space without requiring a disproportionate financial investment;
- There should be safe and convenient access to road infrastructure and the site(s) should be located so as to cause minimum disruption to surrounding communities;
- The site(s) selection should protect existing Green Belt land from any inappropriate development;
- The site(s) should accommodate specific welfare needs from existing GRT Communities in the area;
- The site(s) should not have an adverse impact on the local amenities and environment (such as noise, air and ground quality) for the travellers, or to any surrounding areas as a result of the development;
- The site(s) should be able to provide sufficient accommodation for travellers for up to 15 years;

- The site(s) selection should avoid conditions and constraints such as poor drainage, air/ground pollution, sharp/sloped gradients, Tree Protection Orders, Rights of Way, below ground mineshafts;
- The site(s) should have adequate storage and parking areas;
- The site(s) should have access to basic utilities such as power, water, data, telephones and mains sewage if possible;
- The site(s) boundaries should be suitably secured to ensure the safety of the GRT communities.

## Appendix B – Proposed Layout – Temporary Site (Option 2)



## Appendix C – Proposed Layout – Permanent Site (Option 3)

