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30 November 2018

To: All Councillors

As a Member or Substitute of the **Community & Environment Committee**, please treat this as your summons to attend a meeting on **Monday 10 December 2018 at 6.00pm in the Council Chamber, Town Hall, Matlock.**

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sandra Lamb'. The signature is fluid and cursive, with a large initial 'S' and 'L'.

Sandra Lamb
Head of Corporate Services

AGENDA

1. APOLOGIES/SUBSTITUTES

Please advise Democratic Services on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence and substitute arrangements.

2. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by electronic mail) **BY NO LATER THAN 12 NOON OF THE WORKING DAY PRECEDING THE MEETING.**

3. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.

4. GYPSIES AND TRAVELLERS – DISCHARGE OF HOMELESSNESS DUTY

3 - 7

To consider an update in respect of a Gypsy and Traveller family who have presented themselves as homeless and to determine an appropriate course of action in order to discharge the Council's statutory duties under the Homelessness Reduction Act 2017.

Members of the Committee - Councillors Jason Atkin, Richard Bright, Sue Bull, Martin Burfoot, Albert Catt, Ann Elliott, Chris Furness, Susan Hobson (Vice Chairman), Vicky Massey-Bloodworth, Tony Morley, Dermot Murphy, Joyce Pawley, Mike Ratcliffe, Lewis Rose OBE, Andrew Statham, Colin Swindell, Jo Wild (Chairman)

Substitutes - Councillors Deborah Botham, Jennifer Bower, David Chapman, Tom Donnelly, Richard FitzHerbert, Steve Flitter, Alyson Hill, Angus Jenkins, Jean Monks, Garry Purdy, Irene Ratcliffe, Mark Salt, Jacquie Stevens, John Tibenham, Philippa Tilbrook

COMMUNITY AND ENVIRONMENT COMMITTEE
10 DECEMBER 2018

Report of the Chief Executive

GYPSIES AND TRAVELLERS – DISCHARGE OF HOMELESSNESS DUTY

PURPOSE OF THE REPORT

To update the Committee in respect of a Gypsy and Traveller family who have presented themselves as homeless and to determine an appropriate course of action in order to discharge the Council's statutory duties under the Homelessness Reduction Act 2017.

RECOMMENDATION

1. That the Committee acknowledges and accepts its duties and responsibilities to Gypsies and Travellers under the Homelessness Reduction Act 2017.
2. That in response to the Council's duties and responsibilities to Gypsies and Travellers under the Homelessness Reduction Act 2017, the Committee agrees to the provision of a temporary tolerated site on land at Tintis Yard off Station Car Park, Matlock Bath, pending the identification of a more appropriate, permanent solution.

WARDS AFFECTED

All Wards outside the Peak District National Park

STRATEGIC LINK

The District Council's duties under Planning and Housing legislation underpin its corporate objectives in relation to the whole of the District.

1. BACKGROUND

- 1.1 At a meeting held on 29th September 2016, Council accepted its duties and responsibilities towards Gypsies and Travellers under housing and planning legislation. At a meeting held on 15th November 2018, the Community and Environment Committee resolved to initiate as quickly as practicable a search of land in private ownership and / or offered for sale on the open market with the intention of the District Council purchasing a suitable site subject to Council approval. That process is currently underway.
- 1.2 Following the resolution of the Community and Environment Committee on 15th November 2018, matters have progressed quickly and the Council is now in receipt of an application for homelessness.

2. THE HOMELESSNESS REDUCTION ACT 2017

- 2.1 On 3rd April 2018 the Homelessness Reduction Act 2017 came into force. The Act puts a legal duty on Local Authorities to offer more support and provide free advice to all residents within the local area.
- 2.2 The Act introduces a fundamental change to the way the Council delivers homeless support and advice services and focuses on providing assistance earlier and the prevention of homelessness. New legal duties mean that the Council must:-
- provide advice and carry out prevention work so that, where possible, people can be supported to remain in their current home;
 - offer everyone who is homeless or at risk of homelessness access to meaningful help, irrespective of their priority need status, as long as they are eligible for assistance; and
 - carry out prevention and relief work for anyone threatened with homelessness within 56 days.
- 2.3 Under section 175(2) of the Housing Act 1996, applicants are homeless if the accommodation available for their occupation is a caravan, a houseboat or other movable structure and they do not have a place where they are entitled, or permitted, to put it and live in it. If a duty to secure accommodation arises in such cases, the Housing Authority is not required to make equivalent accommodation available (or provide a site or berth for the applicant's own accommodation). However, the Housing Authority must consider whether such options are reasonably available, particularly where this would provide the most suitable solution to the applicant's accommodation needs.
- 2.4 The circumstances described above are particularly relevant in the case of Gypsies and Travellers. Where a duty to secure accommodation arises but an appropriate site is not immediately available, the Housing Authority may need to provide an alternative temporary solution until a suitable site, or some other suitable option, becomes available. Some members of the Gypsy and Travelling Community may have a cultural aversion to the prospect of 'bricks and mortar' accommodation and, in assessing such cases, the Housing Authority should seek to provide suitable accommodation which is suitable for the person to whom the duty is owed. However, where the Housing Authority is genuinely satisfied that there is no prospect of a suitable site for the time being, there may be no alternative solution to an offer of bricks and mortar accommodation. Housing Authorities must give consideration to the needs and lifestyle of applicants who are Gypsies and Travellers when considering their application and how best to discharge a duty to secure suitable accommodation, in line with their obligations to act consistently with the Human Rights Act 1998 and, in particular, the right to respect for private life, family and the home; as well as their duties under section 149 of the Equality Act 2010.
- 2.5 The District Council is currently in a situation where, in accordance with the 2015 Gypsy and Traveller Accommodation Assessment, we have a requirement to provide 6 pitches by 2019 and a further 3 pitches by 2034 within the Derbyshire Dales (outside the Peak District National Park). At the present time, we have no pitch provision in the Derbyshire Dales outside the Peak District National Park. We are, therefore, not in a position to discharge our statutory duties under the Homelessness Reduction Act 2017 by directing Gypsy and Traveller families to a designated site (temporary or otherwise).

3. TEMPORARY TOLERATED SITE

- 3.1 As outlined above, where a duty to secure accommodation arises but an appropriate site is not immediately available, the Housing Authority may need to provide an alternative temporary solution until a suitable site, or some other suitable option, becomes available. The District Council, therefore, needs to determine whether it is prepared to accommodate the Traveller family on a temporary tolerated site pending the provision of a more permanent or suitable option.
- 3.2 At the present time, the Traveller family is located at the Fishpond Meadows Overspill car park on Park Road in Ashbourne. This is a District Council owned site and whilst their stay is unauthorised, the District Council has not yet initiated any legal proceedings to secure their eviction.
- 3.3 In the event that the District Council were to initiate legal proceedings to secure their eviction, it is highly likely that the family will move to another unauthorised site which may be less tolerable in the short term by virtue of its suitability and location. The removal of the family in the absence of an alternative site may also have an adverse impact on the wellbeing of the family. Further unauthorised encampments would also create a greater cost burden on the Council in terms of enforcement and may create animosity between the Travelling and Settled Communities.
- 3.4 The Council, therefore, needs to determine its position in regard to the identification of a temporary tolerated site for Gypsies and Travellers pending the identification of a more appropriate, permanent solution.
- 3.5 Officers of the Council have initiated a search of open market / privately owned land holdings across the district (outside the Peak District National Park) to determine a suitable site in line with the decision taken by Members on 15th November 2018. In the meantime, the Council, as the Housing Authority, must comply with its duties under the Homelessness Reduction Act 2017 to carry out prevention and relief work for anyone threatened with homelessness within 56 days. This includes a duty to provide suitable interim accommodation.
- 3.6 The unauthorised encampment at Fishpond Meadows, Ashbourne has been tolerated since Sunday 4th November 2018, however, it is not considered suitable in the longer term due to its location, poor ground conditions, lack of services and its required use as a town centre car park. The Council has a duty to provide interim accommodation and, where possible, seek to provide suitable accommodation which is suitable for the person to whom the duty is owed.
- 3.7 Having regard to the limited supply of land in the District Council's ownership, members are asked to consider the suitability of the site at Tinti's Yard off Station Car Park, Matlock Bath which could accommodate the family on an interim basis. This is considered to be a more appropriate location due to the fact that it has better ground conditions, can be provided with facilities and services and provides a greater degree of safety and security for the family. This temporary solution will enable the Council to discharge its duties and responsibilities under the Act whilst Officers continue to identify a more appropriate, permanent solution. It is, therefore, recommended to utilise Tinti's Yard as a temporary site until March 2019 whereby the matter will be brought back to Committee to discuss the progress on the identification of a permanent site or a series of temporary tolerated sites which

would be suitable for short durations whilst the Council continues to finalise the details of a permanent site.

- 3.8 If Members are in agreement that this is a suitable temporary alternative, the District Council can direct the family to leave the current site, however, the District Council cannot compel the family to relocate to Tinti's Yard. If, following direction to an alternative temporary site, the family remain in situ or relocate to another unauthorised site; Officers of the Council will utilise their delegated authority to consider whether to undertake possession proceedings.

4. RISK ASSESSMENT

Legal

- 4.1 The District Council is seeking to address the lack of authorised Gypsy and Traveller Sites within the District to meet its duties under the Planning Policy for Traveller Sites 2015. In the absence of a permanent site, the District Council will be required to seek legal redress to evict unauthorised encampments on its land. This is a drain on resources and can lead to animosity between the District Council and others.
- 4.2 The report requires Members to acknowledge its duties under the Homelessness Reduction Act 2017 and determine its position in respect of the suitability of Tinti's Yard, Matlock Bath as a temporary tolerated site until March 2019. Whilst the Homelessness Application is under consideration by the Housing Authority, Members should have regard to the Council's interim duties under the Housing Acts to assist its residents where they are threatened with homelessness or are currently homeless and take reasonable steps to help an applicant secure, or, remain in 'suitable' accommodation for their occupation.
- 4.3 Eviction is a temporary solution to unauthorised encampments in the District and whilst serious endeavours are being made to find a suitable permanent site, the legal risk to the Council is medium to high in terms of its own activity and to risk of challenge should those endeavours fail. The legal risk is assessed as medium to high.

Financial

- 4.4 The cost of Officer time spent dealing with unauthorised encampments and undertaking a comprehensive site identification and evaluation exercise to identify the potential for an alternative Gypsy and Traveller site has been met from within existing budgets. The financial risk associated with this report is assessed as low.

Corporate Risk

- 4.5 The corporate risk in terms of the Council's reputation and failing to fulfil a legal obligation, is high.

5. OTHER CONSIDERATIONS

- 5.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

6. CONTACT INFORMATION

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Katie Hamill - Solicitor

7. BACKGROUND PAPERS

29 th January 2016	Report to Council (Gypsies and Travellers)
26 th January 2017	Report to Council (Gypsies and Travellers Update)
12 th July 2018	Report to Community & Environment Committee (<i>Gypsies and Travellers Update</i>)
15 th November 2018	Report to Community & Environment Committee (<i>Gypsies and Travellers Update</i>)