Winchester City Council

David Hayward
Havant Borough Council
Civic Offices
Civic Centre Road
Havant
PO9 2ER
United Kingdom

16 August 2023

Dear David Hayward

Thank you for your cooperation so far with the Winchester City Council Local Plan Review and your response to the draft plan Regulation 18 consultation. As you know, the Council has a statutory duty under the Planning and Compulsory Purchase Act 2004 (as amended) to maintain an up-to-date Local Development Scheme (LDS) which currently states that the Council are due to consult upon the Regulation 19 document this year. Unfortunately, this timeline is no longer achievable due to a number of factors that are outside of the Council's control. Reasons for this have been set out within a recent Cabinet report and described in recent press release that can be found here: Local Plan timetable reviewed and work outlined to produce a sound plan - Winchester City Council

On the 10 August, our Members resolved to amend the timetable for the Local Plan review[1] consequently adjusting the Regulation 19 consultation timing until quarter 2 of 2024. The updated timetable can be found in Appendix 2 of the following link to the Cabinet report: https://democracy.winchester.gov.uk/documents/g4402/Public%20reports%20pack%2010th-Aug-2023%2010.00%20Cabinet%20Committee%20Local%20Plan.pdf?T=10) – issues concerning Gypsy and Travellers and the Duty to Cooperate/Statement of Common Ground highlighted by PINS during a Local Plan advice meeting are outlined below.

Gypsy and Traveller / Travelling Showpeople (GTTS) Accommodation

One particular issue the Council wishes to address is that of Gypsy and Traveller accommodation need. As part of the previous Local Plan, a Gypsy and Traveller DPD[2] was prepared in order to support policy on site delivery within the district. Though helpful in accommodating the assessed need through safeguarding, expansion, and allocation of sites, the document and evidence base used to inform the need has since

[1] https://democracy.winchester.gov.uk/documents/g4402/Decisions%2010th-Aug-2023%2010.00%20Cabinet%20Committee%20Local%20Plan.pdf?T=2

[2] https://www.localplan.winchester.gov.uk/LibraryAssets/attach/130/_rebrandGypsy-and-Traveller-DPD-adoption-version-11-.pdf

undergone an update (due to the passage of time) to support the Local Plan review. In addition to this, a key piece of the evidence base to establish need, that has been updated, is the Gypsy and Traveller Accommodation Assessment.

Gypsy and Traveller Accommodation Assessment (GTAA)

As part of the review of the Local Plan, Opinion Research Services (ORS) were appointed to prepare a Gypsy and Travellers Accommodation Assessment (GTAA)[3]. The GTAA breaks down the overall GTTS need into 4-year bands. The current need takes into account unauthorised pitches, pitches with temporary planning permission, concealed and doubled-up households and movement from bricks and mortar in the first 4 years. The total net new household formation is then applied proportionately across the remaining 4-year bands. The GTAA identifies an overall need for:

- 115 pitches for for Gyspy and Travellers that met the PPTS planning definition of a traveller
- 85 pitches for Gypsy and Travellers that at the time of preparing the GTAA did not meet the planning definition of a traveller
- 27 plots for Travelling Showperson's

Gypsy and Traveller Pitch Deliverability Assessment

ORS were also appointed to prepare a Pitch Deliverability Assessment (PDA)[4] with the objective to provide advice on the suitability, availability, and achievability of any existing private Gypsy and Traveller sites (with permanent planning permission) to assist in meeting the identified accommodation needs (as outlined above) for Gypsies and Travellers.

The PDA recommended a potential solution to meet the need for circa. 20 additional pitches is via intensification/expansion; this could be achieved through either site allocation or could come forward as windfall development. It is assumed that the remainder of the need (i.e., the assessed need of those meeting the definition within the PPTS) could be delivered through the windfall process. The Council have also carried out a number of Call for Sites exercises, resulting in only a single site that unfortunately, does not appear to have significant development potential.

Definition of *Gypsy, Travellers, and Travelling Showpeople*, PINS Advice, and Unmet Need

The recent *Smith* decision by the Court of Appeal which determined that the planning policy definition of Gypsies and Travellers discriminates against disabled and elderly members of the community[5] has led the Council to seek advice from the Planning

[3] https://www.localplan.winchester.gov.uk/LibraryAssets/attach/112/2022-10-31-Winchester-GTAA-Final-Report.pdf
[4] https://www.localplan.winchester.gov.uk/LibraryAssets/attach/113/2022-10-31-Winchester-Pitch-Deliverability-Assessment-Final-Report.pdf
[5] Lisa Smith v Secretary of State for Levelling Up, Housing & Communities & Anor. - Find case law (nationalarchives.gov.uk)

Inspectorate as part of a Local Plan review advisory session. Although the decision runs contrary to the definition set out within Annex 1 of the PPTS[6] (notwithstanding para. 134 of the judgement confirms the decision relates specifically to the case and does not amend the current definition) no further guidance update has been published. The Council understands from speaking to the *Department of Levelling up, Housing and Communities* that Ministers are currently considering their response to the judgement. Should an amendment occur to the existing definition of Gypsy and Travellers to align with the *Smith* decision, the Council will review the implications of this as necessary.

Based on advice received from an Inspector at the recent PINS Advisory meeting, the Council is aiming to assess the impact of the court decision in terms of overall need and will need to be able to demonstrate at the examination how all potential sources of supply have been exhausted. The Inspector further advised the Council to raise this matter with neighbouring authorities to establish if they might be willing or able to take some of the unmet Gypsy and Traveller need through the Duty to Cooperate.

Consequently, the Council requests your response under the Duty to Cooperate on whether your authority might be in a position to assist with meeting the need set out within the GTAA given that the Council is currently unable to identify how this need can be met. For this purpose, it would be helpful to consider the following:

- Whether your authority is in a position to assist, and the mechanism through which this could be delivered
- If your authority is able to assist in meeting some of the Council's Gypsy and Traveller need, how much of this need would it be able to deliver
- Details of suitable sites in your plan area to meet the need, and a possible timeline for delivery
- The stage you are at in the plan-making process

The Council requests that you review the above information and respond accordingly confirming your authority's position and whether it is able to assist in the Council's delivery of Gypsy and Traveller sites. It is appreciated that your authority may not be in a position to do so but given the Duty to Cooperate requirements including the demonstration of the soundness test that will allow the Council to proceed to the examination of the Local Plan, could you please provide appropriate evidence (such as land availability assessments) to sufficiently demonstrate why your authority cannot assist.

Duty to Cooperate and Statement of Common Ground (SoCG)

You will be aware that under the Duty to Cooperate requirements, the Council must engage with neighbouring authorities on strategic cross-boundary matters, looking to resolve these through a Statement of Common Ground. The Council has entered into a number of SoCG with different authorities and is in the process of reviewing these to establish their appropriateness. In the event that the existing SoCG is adequate, it would be necessary in order to meet Duty to Cooperate obligations, to note that

[6] Title (publishing.service.gov.uk)

meetings have taken place and that both parties agree to the adequacy of the existing SoCG (in the context of the passage of time), with other SoCG requiring an update.

The Council is therefore going to contact you shortly with proposed dates to set up Duty to Cooperate meetings with the intention of entering into a SoCG.

The Council would like to work with you in a constructive manner to identify a list of matters and help us to identify any issues that you feel would be appropriate to be included in the SoCG. Further to this, it would be appreciated if you could provide contact details for the relevant officer leading on your Duty to Cooperate.

The Council appreciates your assistance in these matters and would like to thank you in advance for your response. It is requested that a response is received by Monday September 11.

Should you have any issues with the above, or would like to discuss matters prior to meeting, please do get in touch with either myself or Adrian Fox [redacted]

Yours sincerely

Adam Bennett
Strategic Planning Officer

Winchester City Council
Colebrook Street
Winchester, SO23 9LJ

[redacted]