



The Traveller Movement

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Traveller Movement submission to the Department of Communities and Local Government consultation on planning for Traveller sites

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Introduction

The promised public consultation on the proposed changes follows a 2012 consultation on planning policy for Gypsies and Travellers and is, says the Minister, both a result of a “4-fold increase” in the numbers of unauthorised caravans between 2000 and 2009, and an attempt to introduce “fairness” into the planning system.

We are extremely worried that the proposals will increase squatted unauthorised encampments –which we believe are the main issue concerning local authorities, including the police – and also the main source of tensions between local residents and Travelling groups.

The proposals aims to both change the definition of Gypsies and Travellers so that very few will be eligible to live on or develop Traveller sites, and to make Traveller site provision almost impossible, especially in authorities with large areas of green belt or “open countryside”. Traveller site development in urban areas is already extremely difficult because of the lack of affordable land. There is already evidence that the proposals have given some ‘green belt’ councils the justification to draw back from their duty to ameliorate the dire shortage of Traveller site provision in their area, and rely on neighbouring councils to meet their statutory need.

The claim by Minister Brandon Lewis that there was a “four-fold” increase in “unauthorised caravans” between 2000-2009 is disingenuous. It is a manipulation of the official caravan count that actually shows that the total numbers of unauthorised caravans has dropped over that period and have since decreased by a third to 2,633, at the latest count in January 2014.

As a result of these proposals we strongly believe that what has been a decrease in unauthorised caravans and a slow but steady increase in site provision will be dramatically reversed.

That reversal will be dramatic because of the 1,656 unauthorised caravans on land that Gypsies and Travellers own (most of whom are applying for permanent permission to stay) plus the 1,018 unauthorised caravans currently on temporary permissions, a vast majority will end up ‘on the road’ and living on squatted land. The costs to councils from dealing with these, both social and economic, will increase exponentially.

If passed and enacted at a local level, the proposals are also likely to run into legal challenges. According to the DCLG's own equalities assessment for redefining Gypsies and Travellers:

"This proposal would impact on those Gypsies and Travellers who have given up travelling permanently for whatever reason, but in particular on the elderly who no longer travel due to reasons related to ill-health or disability. Similarly, it would also impact on children and young people including those with disabilities or special educational needs who use a settled base in order to access education; as well as women who have ceased to travel in order to care for dependents."

The Society of Planning Officers are also concerned about the proposed change to the definition of Gypsies and Travellers, which they believe "will place an unnecessary burden on local authorities and has potential for legal challenge." Catriona Riddell, the Society's Strategic Planning Specialist also said that "the proposed changes to the definition of 'travellers' which distinguishes between travellers that travel and those that have ceased to travel will be very difficult to apply in practice."

There is also a moral argument to consider as well as a legal, financial and practical one. The proposals are an attempt to eradicate one of the UK's most established indigenous ethnic minorities through forced assimilation and particularly infringe the human rights of the most vulnerable Gypsies and Travellers.

Problems with the consultation

There has been a failure to engage with the Travelling community. The consultation is also based on a false premise – that the planning system favours Gypsies and Travellers and that there has been a "four-fold" increase in "unauthorised caravans".

Many Gypsies and Travellers are also still unaware that this consultation is taking place.

Would it not have been better for the Government to first ask those working with Travellers where we think the problems rest and how we think the system could be improved? The current system is far from perfect but many of these proposals suggest a poor understanding of how it is working, where it is failing, and the real concerns of the public.

Q1 Do you agree that the planning definition of travellers should be amended to remove the words 'or permanently' to limit it to those who have a nomadic habit of life? If not why not?

No.

The proposed amendment would be unenforceable. We fail to see how local authorities/ decision makers would be able to decide if families had ceased to travel temporarily. It is not clear:

- a) How long is considered temporary and the type of evidence required to demonstrate that a nomadic lifestyle had been abandoned?
- b) What would happen if permission was granted because travelling had ceased temporarily and it never resumed?

- c) How much travelling would be necessary to regain Traveller status?
- d) What would happen to many families now settled on sites in accordance with the current definition but who might not meet any change to that definition?

In the absence of sufficient and suitable transit site provision, this proposal is only going to encourage more unauthorised roadside encampments; which national guidance since 2006 has sought to reduce.

Q2 Are there any additional measures which would support those Travellers who maintain a nomadic habit of life to have their needs met? If so, what are they?

Yes.

A network of transit sites/ accepted/negotiated stopping places in appropriate locations and acceptance that families can stop on private family sites for stays of up to 2-3 months without being in breach of planning conditions.

Q3 Do you consider that a) we should amend the 2006 regulations to bring the definition of 'gypsies and travellers' into line with the proposed definition of 'Travellers' for planning purposes and b) we should also amend primary legislation to ensure that those who have given up travelling permanently have their needs assessed? If not why not?

No.

We believe that to change the definition would be to abandon the principle that local authorities should carry out their functions in a way that serves everyone in their area, since it will prevent them from considering the needs of ethnic Travellers who live in bricks and mortar, however unwillingly. Furthermore, taken together with the proposed change to planning policy guidance, this in our view amounts to the planned destruction of a culture, and the forced assimilation of ethnic minority groups. Therefore the government would then be in contravention of Article 5 of the Framework Convention for the Protection of National Minorities.

This proposal would also be in breach of article 27 of the International Covenant on Civil and Political Rights.

No meaningful assessment of need could possibly take place in a context which refuses to acknowledge people's ethnicity or cultural preference.

Q4 Do you agree that PPTS be amended to reflect the provisions in the NPPF that provide protection to these sensitive sites? If not why not?

No.

Para 1 PPTS makes clear this policy guidance is to be read alongside NPPF. Government made clear that they hoped there would be no need for separate Traveller guidance and it would be brought in line with national guidance and (I thought) incorporated into NPPF. There is no need to add to PPTS when adequate guidance exists in NPPF.

Adequate guidance is contained in NPPF-unless that is the Government is seeking to exclude Traveller provision not only from all Green belts, but also all other sensitive sites and areas of countryside in which case the Government should make clear its hidden agenda. It is not just the sensitive areas that are excluded. Such restrictions extend across districts in such areas

because other land is too expensive and in short supply. For example, these restrictions would exclude Travellers from large areas of the country-not just the 13% that is designated Green Belt but the urban areas in districts surrounded by Green Belt. This will serve to displace need to provide to other authorities.

The implications of these proposals are not clearly explained or thought through.

Q5 Do you agree that para 23 PPTS should be amended to 'local authorities should very strictly limit new traveller sites in the open countryside'? If not why not?

No.

There is no definition of open countryside. This has been hotly debated at appeals. The countryside is not always a place of intrinsic character and beauty.

The difficulty Council's have in strictly limiting new traveller sites in the open countryside is:

- a) The lack of success in defending this policy approach at appeal, where planning permission has been refused for this same reason.
- b) Difficulty securing sites in the most sustainable locations in and around existing urban areas due to significant objection from the settled population.
- c) Difficulty securing sites which are well related to towns and villages due the cost of land which has hope value for other development

Current guidance qualifies why sites in open countryside should be strictly limited. It has nothing to do with the intrinsic character and beauty of the area. Government appears to be seeking yet another reason to restrict sites outside built up areas.

It is not clear what is meant by very strictly limit. It would be better if policy explained under what circumstances sites would be permitted. This change will only result in yet more appeals and uncertainty.

The purpose of this is unclear. Caravan sites are typical of rural areas. Rural areas are where most caravans are located (eg holiday sites, on farms, touring sites, permanent park home sites or caravan storage areas). You rarely find caravan sites within settlement areas. They are difficult to assimilate into the traditional street scene and are a low density development which is hard to locate in settlement boundaries where land values are generally high and necessitate prudent use of land.

Many Travellers also keep horses, chickens and dogs. This is integral to their traditional way of life. These uses are hard to accommodate within urban sites.

This proposed change offers little guidance as to what is meant or intended.

This will be unworkable until local authorities are all able to provide sites within settlement boundaries.

In any event this proposed change is inequitable when so much new housing is now being permitted in open countryside due to the failure of local authorities to find suitable land within urban areas to meet housing needs. Is the Government proposing to do the same for housing?

Q6 Do you agree that the absence of an up-to-date five year supply of deliverable sites should be removed from PPTS as a significant material consideration in the grant of temporary permission for traveller sites in the areas mentioned above? If not why not?

No.

The areas mentioned are Green Belt and other sensitive areas listed in para 3.1. The Government should name and shame all those authorities who support this proposal and reveal how many have a robust evidence base, up to date policies in place and have a five year supply of land.

This is a 'Get out Jail Free' card for the many authorities who have done nothing. This merely rewards those who have ignored national guidance. What sort of message does that send out to others?

Too many Councils abuse the temporary permission provisions. Many families have been living for years with the uncertainty of their planning situation. There are families who have had to renew consent 4-5 times. This is totally unacceptable.

Few local authorities have met their need for sites in these protected areas. They (and the Government) should not be rewarded for doing nothing. Any relaxation of policy should be accompanied by greater penalties for those who fail to deliver. There should be no relaxation of policy until authorities have addressed the need in their areas.

It is not clear what is implied by para 3.11 where it is stated that the best interests of the child 'suggest living off site rather than on-site'. This implies that Government thinks the best interest of the child might be best served if the family moved into housing. If I have understood this correctly I know of no research to support such a proposition.

Q7. Do you agree the policy proposal that, subject to the best interests of the child, unmet need and personal circumstances are unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances? If not why not?

No.

We do not agree and thankfully it would appear most Planning Inspectors also do not agree. Yet the Secretary of State continues to overrule his very experienced Planning Inspectors. Indeed in a recent case in Sevenoaks the Secretary of State chose to dismiss an appeal where his own Inspector advised it would not be reasonable or humane to refuse permission and force a young family back to a roadside existence. What sort of Government do we have that is prepared to show no compassion or reasonableness and would prefer to make a family homeless rather than chastise a Council for failing in its duties to accommodate local people with special housing needs?

Q8 Do you agree that intentional unauthorised occupation should be regarded by decision takers as a material consideration that weighs against the grant of permission? If not why not?

No.

Gypsies and Travellers who occupy their own land without planning permission are often doing it as a last resort before homelessness and the break up of their family. They do this because of

- a) The failure of Councils to deliver on their promises and identify land for Traveller sites
- b) The failure of a few Councils to determine planning applications in a timely fashion.
- c) The intervention of the Secretary of State in many appeal decisions. This is resulting in delays of over 2 years in the release of appeal decisions.

Q9 Do you agree that unauthorised occupation causes harm to the planning system and community relations? If not why not.

Neither agree nor disagree.

- a) Unauthorised occupation and development alongside is not restricted to Gypsies and Travellers. In fact it occurs to no greater extent than any other unauthorised development. The Planning System has provision to address this with retrospective applications and enforcement action. In our view it is of as much concern to local communities that appeal decisions are being delayed for 1-2 years through the intervention of the Secretary of State.
- b) The Government very conveniently overlooks the extent to which others carry out unauthorised development. Inspectors have been known to point this out to objectors. A freedom of information request to the Planning Inspectorate to establish how many enforcement appeals processed by PINs concerned Travellers. The details are listed below. It is about time the Government face up to the honest truth and stop trying to seek political milage by singling out Gypsies and Travellers. The settled community are equally at fault. Why not chastise Councils for not doing more to prevent all the abuses carried out by others?
- c) Fig 1 Results from FOI request to PINs to establish how many enforcement appeals concern Traveller cases

Year	All ENF Received	Categorised as Gypsy and Traveller
2009-2010	3470	167
2010-2011	3480	233
2011-2012	3013	158
2012-2013	2682	110
2013-2014	2624	81
-03/09/14	1220	39

Q10 Do you have evidence of the impact of harm cause by intentional unauthorised occupation?

Yes.

It is particularly distressing to most Travellers to have to put themselves in the position of moving onto land without first securing permission. It is stressful and frightening. They are often taking considerable financial risks. It is often only when they settle for the first time that they realise just how much they are despised and hated by others who are ignorant of their needs and way of life.

Local Councils do not like it because it merely serves to highlight their failure to make proper and adequate provision. It exposes failings in the system.

If the Government were really concerned by this they would ensure Councils make adequate provision. Unless and until Councils do so, Travellers may feel they have no option but to continue to occupy land without permission as they often have pressing personal needs to be settled and are fed up being repeatedly moved on by the Police.

The Government should question if it is good use of Police time to keep moving on families in authorities where there is no provision for stopping places.

Q11 Would amending PPTS in line with para 4.16 help local authorities in these exceptional circumstances?

No.

The consultation paper fails to list what other examples/ authorities it has in mind. The Government appears to be trying to justify the cost and backlash of Dale Farm which merely drew attention to the failure of one local authority.

Dale Farm was a problem of Basildon's own making. Basildon is a New Town principally for London overflow families yet Basildon repeatedly refused to recognise the needs of Traveller families who chose to stop here.

Had Basildon managed the situation from the start it would not have escalated out of control. It was a problem of their own making. We do not see why there is any need to amend PPTS to deal with one rogue authority who mis managed what was to become such a high profile case.

Few Traveller families seek large sites such as Dale Farm. There is no evidence to suggest this situation will be repeated elsewhere.

The problem we face is most need assessments refuse to address the needs of in migration because it is too difficult to calculate/ work out. Most studies ignore the needs of those families forced to leave areas due to lack of sites who may return. Yet in/out migration are recognised parameters in any housing need assessment.

The situation would have been avoided if the current Government had retained regional planning as this provided a mechanism for regional redistribution. The problem has been compounded by the abolition of regional government and decision by the present government to require local authorities to assess and address need in their own areas.

Q12: Are there any other points that you wish to make in response to this consultation, in particular to inform the Government's consultation of the potential impacts that the proposals in this paper may have on either the traveller community or the settled community?

The critical shortage of culturally appropriate accommodation is a major barrier to equality for Gypsies and Travellers in the UK.

Despite a succession of central government policies urging local authorities to make provision, these policies have consistently been ignored or watered down in their implementation at local level; a tendency that has been exacerbated by the Coalition Government's 'Localism' agenda.

There was evidence that circular 01/2006, guidance for the planning and provision of Traveller sites was slowly turning things around, with a slight but steady increase in private Traveller site developments by Gypsies and Travellers themselves. However, the proposed changes in the 2014 consultation threaten to strangle those fragile green shoots, bringing Traveller site provision to a grinding halt.

The failure to address the shortage of sites impacts on other social inequalities experienced by Gypsies and Travellers, since without a fixed home it is harder to attend school, access health and maternity care, register for a bank account etc.

The TM believes that a planning and land use definition for Gypsies and Travellers, or some form of status, is required to ensure adequate provision of culturally appropriate accommodation. Such a definition should include all ethnic Gypsies and Travellers as well as New Travellers.

The implications of significantly changing 'gypsy status' so it only applies to those 'living a nomadic lifestyle' would effectively mean no specific planning policy for Traveller sites. This would not 'level the playing field', as some critics of the guidance have claimed. Instead it would negatively impact on the already insufficient provision of Gypsy and Traveller accommodation, most likely resulting in an increase of unauthorised sites and the inequalities Gypsies and Travellers experience. It would also pose further problems as to who would then be eligible to live on already existing local authority and private sites. Although many Gypsies and Travellers now live in conventional 'bricks and mortar' accommodation, many were forced into doing so against their will, and the narrowing of existing planning guidance for Travellers would lead to further forced assimilation.

The Traveller Movement believes that these changes exacerbate an already discriminatory and anachronistic definition of Gypsies and Travellers for the purposes of determining who gets to live on a Traveller site. The majority of Gypsies and Travellers on Traveller sites; or wishing to live on Traveller sites, no longer follow the kind of nomadic life that may have been the norm when the 'gypsy status' planning category came into being in 1959. By reinforcing the requirement for Gypsies and Travellers to be "*living a nomadic lifestyle*" to be eligible for permanent sites, the proposed changes to the definition are Kafkaesque and will literally set many Gypsy and Traveller families back 60 years by forcing them back onto the roads and highways. The effects of these changes, and the increased requirement on "*decision takers to give close scrutiny*" to 'gypsy status'; will discriminate heaviest on the young, the elderly, single women and the disabled and infirm and inevitably trigger costly legal challenges.

The planning definition should be changed to bring it in line with the Housing Act definition, which should stay the same.

Ends.