



Department for
Communities and
Local Government

Planning and travellers: proposed changes to planning policy and guidance

Consultation response



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1. Introduction

- 1.1 On 14 September 2014, the previous Government commenced consultation on proposed changes to national planning policy, Planning Policy for Traveller Sites and guidance. This document sets out how the present Government intends to proceed.
- 1.2 This Government is equally committed to ensuring fairness in the planning system. The proposals seek to ensure that the planning system applies fairly and equally to both the settled and traveller communities; to further strengthen protection of our sensitive areas and Green Belt; and to address the negative impact of unauthorised occupation.
- 1.3 The consultation highlighted concerns that some groups were seemingly able to secure planning permission in inappropriate locations; a perception that fuelled community tensions and served to undermine public confidence in the planning system as a whole.
- 1.4 This Government is clear in its commitment to increasing the level of authorised traveller site provision in appropriate locations to address historical undersupply and to meet current and future site needs.
- 1.5 Local authorities should plan positively and actively to address their accommodation needs, objectively and robustly assessing their site needs and then identifying and updating annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites to meet those needs.
- 1.6 Since the introduction of Planning Policy for Traveller Sites three years ago, the Government had become increasingly concerned that it was not providing sufficient protection for our sensitive areas and Green Belt. Furthermore this Government continues to hear about the problems caused by a minority of travellers who ignore planning rules and occupy sites without applying for planning permission.
- 1.7 The consultation sought views on a number of proposals to amend national planning policy and Planning Policy for Traveller Sites to address these issues.
- 1.8 In addition, and in line with the aim to make the planning system simpler, clearer, and easier for people to use, the consultation also asked for comments on updated guidance to support local authorities to robustly assess their traveller accommodation needs. This guidance would replace the 2007 guidance on assessing Gypsy and Traveller accommodation needs.

2. Consultation responses

Overall summary

2.1 The consultation was undertaken between 14 September 2014 and 23 November 2014. There were 771 responses to the consultation. Members of the traveller community represented the largest group of respondents (423 responses), which included 398 responses submitted in the form of postcards.

2.2 There was also strong representation from parish / town councils (73 responses); members of the public (57 responses); representative or voluntary sector bodies / charities (53 responses) (which included some traveller groups and organisations and those that work on their behalf); and local / district councils (52 responses). The following is a breakdown of the profile of responses:

- Travellers (55%)¹
- Parish / town councils (10%)
- Members of the public (7%)
- Representative or voluntary sector bodies and charities (7%)
- Local / District Councils (7%)
- County Councils / County Borough Councils (4%)
- Unitary Councils (2%)
- Others (8%)

2.3 In addition, to ensure the consultation engaged effectively with the traveller community, the previous Government also held four oral hearing sessions attended by travellers and their representatives (including lawyers and planning consultants), and Travelling Showpeople representatives.

2.4 Many of the councils responding broadly welcomed these proposals. Many people responding raised matters more generally about the provision of traveller sites, including some not directly relevant to the proposals on which the Government was seeking views.

2.5 Annex A provides a summary of responses: all responses were considered and this Government would like to thank everyone who took the time to respond.

¹ Included 398 postcards sent by travellers and those expressing support for them.

3. The Way Forward

- 3.1 The Government's objectives are to ensure fairness in the planning system; protect sensitive areas and the Green Belt; and address problems caused by the unauthorised occupation of land.
- 3.2 The Government recognises the requirement for the planning system to facilitate the way of life for travellers, while respecting the rights of the settled community, and re-emphasises the importance of local authorities planning to meet their traveller site needs by identifying a suitable 5 year supply of deliverable sites.
- 3.3 Ministers have considered each proposal in light of their Public Sector Equality Duty under section 149 of the Equality Act 2010 and in light of the Family Test. The Government believes that ensuring greater fairness in the planning system may also assist with reducing antagonism between the settled and traveller communities, thereby helping to foster good relations.
- 3.4 The Government recognises that that some of the proposals will have an impact on an identified racial group: i.e. Gypsies and Travellers and persons with other protected characteristics within that racial group (such as age, disability and gender). This impact was taken into the balance in determining how to proceed.

Addressing under-supply

- 3.5 The Government acknowledges that many consultation responses referred to the lack of available authorised sites being a cause of some of the issues the proposals were seeking to address. The Government wants local authorities to ensure that they plan for their traveller communities. Latest statistics show that in January 2015 there were 593 more caravans on authorised sites than the year before. Planning Policy for Traveller Sites makes clear that local planning authorities should, in producing their Local Plan, identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets.

Ensuring fairness in the planning system

Change of planning definition

- 3.6 The Government notes that responses from the traveller community and their representatives raised concerns about the new definition, and its possible impact on their traditional way of life. The Government has also noted that the change was supported by the majority of local planning authorities who expressed a view. Many shared the Government's view that the new definition would be – and seen to be – fairer. This was supported by evidence that the permanent occupation of some sites by some travellers causes resentment amongst the settled community.
- 3.7 The Government has therefore decided that the words “or permanently” should be removed from the definition of “travellers” in Annex 1 of Planning Policy for Traveller Sites. For the avoidance of doubt, this change applies to both “Gypsies and Travellers” and “Travelling Showpeople” as defined in Annex 1 of Planning Policy for Traveller Sites. The Government believes it is fair that if someone has given up travelling permanently then applications for planning permission should be considered as they are for the settled community within national planning policy rather than Planning Policy for Traveller Sites. When applying the new definition, local planning authorities will

need to be mindful of Article 8 of the European Convention on Human Rights and the best interests of the child.

Change of housing definition

- 3.8 Section 8 of the Housing Act 1985 requires local authorities to assess the housing needs of their district. Section 225 of the Housing Act 2004 requires that this assessment includes an assessment of the accommodation needs of Gypsies and Travellers. Secondary legislation (the Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006) defines Gypsies and Travellers for the purpose of section 225.
- 3.9 The Government sought views on aligning this definition with the new one proposed for planning purposes. It notes that many of the comments made about the change to the planning definition were made in response to this proposal. The Government will when parliamentary time allows seek to amend primary legislation to clarify the duties of local authorities to plan for the housing needs of their residents.

Traveller Accommodation Needs Assessments

- 3.10 The Government acknowledges the range of issues raised regarding the amendments to guidance, including that the guidance overall was inadequate for the purpose, and that shorter guidance could lead to inconsistent approaches across the country. Responses identified individual elements of the assessment (such as calculating housing formation growth) as matters on which they would welcome more advice.
- 3.11 The Government has considered these responses very carefully, and has taken account of the key points in the updated guidance. It is for local planning authorities to consider the particular needs of their own areas and the revised, streamlined guidance focuses advice on the main elements all authorities should consider when undertaking their assessments. It is for authorities to consider this and decide how this should be tailored to the needs of their areas. The Government will lay before Parliament a proposal to revoke “Gypsy and Traveller Accommodation Needs Assessments – Guidance” (2007). Subject to that the Government will publish new guidance on traveller accommodation needs assessments.
- 3.12 The Government also intends cancelling further outdated guidance on enforcement as some of this has been superseded by the March 2015 guidance to local authorities and the police on powers available to them to tackle unauthorised encampments as well as by up-to-date Planning Practice Guidance. We are therefore cancelling the following documents: “Guide to effective use of enforcement powers – Part 1” (2006), and “Guide to effective use of enforcement powers – Part 2” (2007), as well as “Designing Gypsy and Travellers Sites – Good Practice Guide” (2008).
- 3.13 The Government has put Local Plans at the heart of the planning system, enabling local authorities to consider their specific local needs for all in their local communities, including the needs of travellers. The revised streamlined guidance, together with the updated on-line planning guidance, provides advice on the key elements local planning authorities should consider in preparing needs assessments, which they can tailor to the specific circumstances of their areas.
- 3.14 As with planning guidance, the Government will keep this material under review to ensure that guidance is relevant and up to date.

Temporary Stop Notices

3.15 The consultation also included consideration of further guidance on the use of Temporary Stop Notices.

3.16 In March 2015 the previous Government updated Planning Practice Guidance to make clear that in some circumstances it may be appropriate to use a Temporary Stop Notice where unauthorised development has occurred on land not owned by those living on it.

Protecting sensitive areas and the Green Belt

3.17 The Government places the highest importance on our Green Belt, and remains committed to protecting other sensitive areas and our open countryside more generally. The Government wishes to ensure that the planning system safeguards these areas.

Protection for sensitive sites

3.18 The National Planning Policy Framework and Planning Policy for Traveller Sites must be read in conjunction with one another and both as a whole. To ensure the special protections given to sensitive areas are given full consideration, the previous Government proposed amending Planning Policy for Traveller Sites to include sections replicating the relevant parts of the Framework.

3.19 Responses highlighted that this would lead to unnecessary duplication and on reflection the Government has decided that this could cause confusion and has decided not to pursue this.

Temporary permission in the Green Belt and other sensitive areas

3.20 Current policy set out in paragraph 25 of Planning Policy for Traveller Sites states that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. Responses were clear in support of the proposal that this should not apply to sensitive areas. In order to give such areas proper protection and reduce the circumstances in which temporary permission in these areas should be granted, the Government has decided to amend what is currently paragraph 25 to make clear that it does not apply to sites on land designated as Green Belt; sites protected under the Birds and Habitats Directive and / or sites designated as Sites of Special Scientific Interest; Local Green Space; an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).

3.21 As set out in paragraphs 76-78 of the National Planning Policy Framework, local communities through Local and Neighbourhood Plans are able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.

3.22 If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should continue to be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission in other areas, but henceforth not if the site is in one of the sensitive areas listed above. However, an absence of an up-to-date 5 year supply of

deliverable sites is still capable of being a material consideration for site proposals in those areas.

Unmet need and personal circumstances

- 3.23 With specific regard to protecting the Green Belt the Government has decided to amend national policy and Planning Policy for Traveller Sites to make clear that (subject to the best interests of the child) unmet need and personal circumstances are unlikely to clearly outweigh harm to the Green Belt, and any other harm so as to establish very special circumstances. This change applies equally to the settled and traveller communities.

Protecting open countryside

- 3.24 To give greater protection to the countryside, the Government has decided to add the word “very” to what is currently paragraph 23 of Planning Policy for Traveller Sites. It will now read: “Local planning authorities should very strictly limit new traveller site development in open countryside.”

Addressing unauthorised occupation of land

- 3.25 Intentional unauthorised occupation – whether by travellers or members of the settled community – reduces the effectiveness of the planning system and undermines public confidence and trust in its functions.

Intentional unauthorised occupation

- 3.26 Unauthorised occupation of land can cause irreparable damage to the environment, endanger the safety of the occupants as well as neighbours and, in the case of developments occupied by particular groups of people, serve to sour relations between these groups and the rest of the community. It can also harm the effectiveness of the planning system and public confidence in it.

- 3.27 The consultation sought views on whether intentional unauthorised occupation should be regarded by decision takers as a material consideration that weighs against the grant of permission. Responses indicated that this was an issue of general concern and many provided evidence of the harm that can often be caused. The Government announced today a change to national planning policy to make intentional unauthorised development a material consideration that would normally be weighed in the determination of planning applications and appeals. This change applies equally to the settled and traveller communities. Local authorities have powers available to them to address illegal encampments and should make use of these where appropriate.

Large-scale unauthorised sites

- 3.28 Large-scale unauthorised sites can have a significant impact on the local area. The Government believes that such sites could place an unfair burden on the local authority affected.
- 3.29 The consultation indicates that there is only one local authority caught in this position (Basildon District Council in relation to Dale Farm). The possibility of an encampment like Dale Farm occurring again cannot be ruled out and the Government wishes to protect any authority that in future might face the same problems. The Government has decided to amend Planning Policy for Traveller Sites to make clear that in exceptional cases, where a local authority is burdened by a large scale

unauthorised site which has significantly increased their need and their area is subject to strict and special planning constraints then there is no assumption that the local authority is required to meet their traveller site needs in full.

Enforcement powers

3.30 In addition to the guidance issued in March 2015 on powers to tackle unauthorised encampments, further new guidance on enforcement powers can be found on the Planning Practice Guidance website. The absence of authorised sites in the area does not automatically mean that powers of enforcement cannot be used.

Next Steps

3.31 The Government has published an up-dated version of Planning Policy for Traveller Sites incorporating the amendments referred to above, which has effect from the date of its publication and replaces the previous version issued in March 2012. The Government has also issued a statement, which has the effect of changing national planning policy.

3.32 The Government intends to review the implementation of the revised policies to consider their impact and ensure that they effectively support those persons who have a nomadic habit of life.

Annex A

We received 771 responses to our consultation. The following is a summary of the submissions made towards the proposals.

Q.1 - 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?

Key messages included:

- Many respondents agreed with the underlying principle that where someone had given up travelling permanently then they should be treated no differently from the settled population.
- Some stated that there was no need to identify travellers separately in planning policy and raised concerns about the practical implementation and enforceability of the proposed change and argued for further guidance and an explanation of how the proposal would work.
- Some respondents communicated views on the potential impact on equality and social outcomes.

Q.2 - 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?

Key messages included:

- Some considered that the adequate provision of transit sites, temporary stopping sites and emergency stopping places would support those travellers who maintained a nomadic way of life, with a greater role recommended for Government in encouraging and coordinating a national network of transit sites.
- Some felt that there should be a strengthening of cooperation between local authorities to make adequate provision.
- Concerns were raised that site provision for short stay periods did not end up as permanent accommodation and that sites were effectively managed and located close to local services and facilities. It was also felt that funding should be made available to support local authorities and registered providers to establish such provision.
- Some considered that there should be a more flexible approach to provision through the use of existing permanent sites and informal stopping places (e.g. farmer's land) to allow short stay stops.

Q.3 - 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?

Q.3 (a)

Key messages included:

- Many respondents agreed with the need for the planning and housing definitions to be the same, in order to provide clarity, consistency and a common sense approach and help to promote fairness for travellers and the settled community.
- Some sought confirmation that the term 'showperson' would also be included within the proposed definition and that travelling showpeople would be assessed under the same exercise.
- Some considered the need to look at the transition between being a traveller and a permanently settled person.
- Some felt that the "Gypsies and Travellers" definition in the 2006 Regulations was preferable to the one being proposed and that it was about who travellers were, not what they did.
- Some considered how 'permanently' could be defined.

Q.3 (b)

Key messages included:

- Many respondents agreed with the need to amend primary legislation, with some stating the need to provide the option of returning to a travelling life.
- Some respondents suggested that a failure to amend primary legislation would result in local authorities underestimating housing need.
- Some respondents sought clarification on how someone who had given up travelling could be identified, what the definition of permanent would be, and what criteria would be used to apply to someone who had given up travelling.
- Some respondents suggested that there were people who had stopped travelling, not by choice but by lack of site provision, and considered how those who no longer travelled would be treated when applying for a caravan site.

Q.4 - Do you agree that Planning Policy for Traveller Sites be amended to reflect the provisions in the National Planning Policy Framework that provide protection to these sensitive sites (set out in para. 3.1 of the consultation document)? If not, why not?

Key messages included:

- Many respondents agreed that the amendment would bring clarity to the process and some suggested that it should be extended to include other sites, such as open countryside and conservation areas.
- Some felt the amendment would be unnecessary by suggesting that those parts of the National Planning Policy Framework not replicated in Planning Policy for Traveller Sites were not relevant to traveller sites.

- Some questioned where the evidence was that local authorities were not applying the relevant provisions of the National Planning Policy Framework in dealing with traveller cases.
- Some respondents considered a need to integrate Planning Policy for Traveller Sites into the National Planning Policy Framework.

Q.5 - Do you agree that paragraph 23 of Planning Policy for Traveller Sites should be amended to “local authorities should very strictly limit new traveller sites in the open countryside”? If not, why not?

Key messages included:

- Many respondents felt that open countryside needed additional and greater protection, specifically against traveller development.
- Some questioned whether the change would make any difference, and also considered the issue of encampments near the settled community, which were the types of sites that attracted the most opposition.
- Some felt the need to recognise more strongly many travellers’ traditional links with and their need to live in rural locations.

Q.6 - Do you agree that the absence of an up-to-date five year supply of deliverable sites should be removed from Planning Policy for Traveller Sites as a significant material consideration in the grant of temporary permission for traveller sites in the areas mentioned above (set out in para. 3.7 of the consultation document)? If not, why not?

Key messages included:

- Many respondents agreed that it was right that these sites should be accorded greater protection and suggested current policy forced local authorities to grant temporary permission in unsuitable locations. It was also considered that temporary permission should not be encouraged as it provided no certainty for travellers and provided problems making good the site afterward. It was suggested that temporary permission often became permanent.
- Some considered that the same principles should apply to both traveller sites and conventional housing and that the proposal would change incentives on the part of local authorities to work towards a 5 year supply.
- Some felt that Green Belt locations were often the only viable ones and Government should recognise that.

Q.7 - Do you agree with 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 other harm so as to establish very special circumstances? If not, why not?

Key messages included:

- Many respondents agreed that the Green Belt needed more protection and this proposal should be extended to other sensitive sites. It was also considered that travellers should not be treated differently from the settled community and the best interests of children were often best served off-site.
- Others stated that each case was unique and it should be for decision takers to balance all the factors. Some felt that more guidance would be needed.
- Some considered that the needs of people should always outweigh environmental protection.

Q.8 - 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?

Key messages included:

- Many respondents felt that this proposal should apply to all intentional unauthorised occupation and retrospective applications, and apply to the settled community as well as travellers. Some felt that it should apply just to applications involving unauthorised change of use.
- Some felt that it was hard to prove intention and asked that some clear definition of 'intentional unauthorised development' was put in place for the purposes of successful enforcement.
- Some considered that unauthorised occupation of land by travellers was a result of failure to make adequate provision.

Q.9 - Do you agree that unauthorised occupation causes harm to the planning system and community relations? If not, why not?

Key messages included:

- Many respondents felt that unauthorised occupation by travellers led to anti-social behaviour and pressure on local community services. It was also considered that the cost of clearing up and repair after unauthorised occupation, and of preventing future access, was an unfair and unnecessary burden on local authorities and others.
- Some considered that extra enforcement in connection with unauthorised occupation put excessive strain on poorly staffed planning departments, and the unrecovered cost of officer time, legal advice and representation was detrimental to council and police budgets.
- Some felt that the public perception of the planning system was harmed by unauthorised occupation and that it was unfair that a family or social grouping ignored planning rules and health and safety requirements the rest of the community had to abide by. It was also considered that unauthorised encampments

on protected (e.g. Green Belt) land, or where applications for houses had been refused, could heighten tension.

- Some considered that harm to community relations was a symptom of the system's failure to meet travellers' needs. It was felt important that their traditions and ways of life be taken into account in any actions by authorities.
- Some noted that short-term, small encampments in 'tolerated' or 'negotiated' locations were often accepted by local residents.
- Some felt that travellers should have the same rights as anyone else to purchase and own land, and were already subject to the same restrictions as the settled community.

Q.10 – Do you have evidence of the impact of harm caused by intentional unauthorised occupation?

Evidence provided by respondents covered:

- Economic costs – related to the cost incurred by local communities in taking enforcement action and the cost of clearing up after encampments.
- Environment, health & safety concerns – these covered damage to the natural / protected environment and unsafe conditions including road safety and sanitation.
- Social harm – this included examples of raised tension among the settled and the traveller communities, but also examples of the perception that unauthorised occupation, resulting retrospective applications and repeated appeals were undermining public confidence in the planning system.

Q.11 - Would amending Planning Policy for Traveller Sites in line with the proposal set out in paragraph 4.16 of the consultation document help that small number of local authorities in these exceptional circumstances (set out in paragraphs 4.11-4.14 of the consultation document)? If not, why not? What other measures can Government take to help local authorities in this situation?

Key messages included:

- Many respondents generally supported the policy in principle, but raised concerns such as whether the duty to co-operate was strong enough, whether the impact of need being passed onto adjoining authorities needed to be considered, and that clarification of key terms / principles was needed for “large scale sites”, “strict and special planning constraints” and the consequence of a local authority not being able to meet the need.
- Some considered that lots of small sites could have as much impact as one large site and under provision by one local authority could be a problem for neighbouring authorities to solve.
- Some felt that large sites were very rare and that existing enforcement powers were adequate to resolve these issues.

Q.12 - Are there any other points that you wish to make in response to this consultation, in particular to inform the Government's consideration of the potential impacts that the proposals in this paper may have on either the traveller community or the settled community?

This was an open question and views provided were wide-ranging.

Overall there was a strong theme of support for an equal approach being taken in planning terms to travellers and to the settled community, but also that the cultural needs of some travellers should be understood and planned for.

This often related specifically to concerns about development in the Green Belt or in the open countryside. There were also strong themes around care being taken in implementation that this should not damage relationships between traveller and settled communities, and of the practical issues to be considered particularly for local authorities in terms of how the status of individual travellers could be understood and planned for.

There were views on the impact for women and children, the elderly and disabled.

Q.13 - Do you have any comments on the draft planning guidance for travellers (see Annex A of the consultation document)?

Key comments

- Many respondents appreciated that the Government was seen to be addressing a difficult issue. Some suggested amendments, such as: recognising the difficulties in obtaining accurate data, expressing flexibility in approach, clarifying the percentage growth rate to be used and making clear that there was no one single correct methodological approach.
- Some commented that more detail and clarification was needed, with further guidance from central Government.