

# Heine Planning Consultancy

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CONSULTATION PAPER ON PLANNING AND TRAVELLERS  
SEPTEMBER 2014

## General comment

The following strike you about this consultation exercise

- a) Failure of the Government to explain their reasoning for the changes proposed. They do not sit comfortably with the Introduction to this consultation exercise. The actions of the Secretary of State to recover many appeals and overrule his Planning Inspectors does little to address the inequalities faced by the Traveller communities. The Government is not delivering a planning system that is fair and equal. The Government is seeking to very strictly limit new Traveller sites in open countryside at a time when more and more housing is being built for the settled community outside settlements.
- b) The confused message being issued by Government. Council's are repeatedly told to take stronger enforcement action in respect of unauthorised Traveller development yet many aspects of these proposed changes would be unenforceable and would only give rise to serious problems for Councils to deal with.
- c) The unfairness of these proposals. No doubt many Councils will view this as their 'Get Out of Jail Free' card. The Government is simply rewarding those who have failed and neglected Traveller issues and this will only serve to put greater pressure on the few Councils where provision has been made.
- d) The failure to draw parallels with other aspects of planning and, in particular the actions of many in the settled community who carry out unauthorised development and blatantly flaunt conditions, thereby undermining the system.
- e) Failure to engage with the Travelling community. None of my clients have any idea this exercise is taking place. As a consultancy representing Travellers I have not been engaged. I have not been invited to any Government organised events to discuss or explain this. I have not been sent a list of any of the oral hearings. It would not be difficult for CLG to compile a list of those who are actively involved in working on behalf of Travellers. 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. I do not agree with the proposed amendment because the definition is wrong to place so much emphasis on the need to travel and ignores the other social and cultural factors that define a Traveller.

It is already very difficult for authorities to enforce personal conditions. Most have no idea who is living on sites and no way of knowing.

The current definition is far from satisfactory. It places undue emphasis on the need to travel at a time when

- a) There are many single parent households not able to travel for work.
- b) The change is prejudicial to those who cannot travel for work (ie the elderly, the disabled and those in poor health)
- c) Policy has encouraged families to be settled

- d) Education authorities require children to attend school and penalise those who take their children out of school
- e) There are few transit pitches and families are unable to travel for work as there are few lawful places for them to stop.
- f) The change would support the many Irish Traveller families who remain highly mobile. It would serve to displace settled families, freeing up pitches for Irish Travellers. Sites would then need to be found for those forced to return to a roadside existence. Given the experience of many who went into housing in the mistaken belief/ promise sites would be found I am very doubtful Travellers displaced from sites would accept housing as an alternative as experience has shown it is a trap from which many struggle to escape.

The proposed amendment would be unenforceable. I 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 is only going to encourage more unauthorised roadside encampments-which national guidance since 2006 has sought to reduce. This seems a backward step.

It is inequitable to introduce this provision when agricultural workers can apply for and occupy housing in the countryside when they are no longer employed in agriculture/ forestry. The same rules should apply to them as for Travellers if the Government is truly committed to a fair and equitable planning system.

**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 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.

Relaxation of rules on gaining licences for scrap metal work.

Relaxation of rules on gaining casual work from calling.

Relaxation of rules concerning school attendance for Traveller children

**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?**

a) Amending the definition on the 2006 regulations would provide a consistent approach however it is important to ensure that this does not mean that the needs of those who have given up travelling permanently are no longer assessed as it is important that accommodation needs are identified. I struggle to understand why we have two different definitions. I struggle to understand why local authorities allocating pitches on local authority run sites can offer pitches to those who are ethnically Gypsy-Travellers without consideration of their travelling way of life but those applying for private sites have to demonstrate a travelling way of life.

b) Travellers do not understand the official definition. To them their way of life is more about living in caravans, with their extended family and their animals (horses, dogs, chickens) and their culture and not just about travelling for work. Those who are young, look after children and the elderly, are disabled, infirm or elderly and

unable to work, do not regard themselves any less a Traveller than the men (and a few women) who still travel for work. To suggest otherwise appears not only insensitive but insulting and demeaning. It suggests that the disabled, young, those you care and/ or are elderly no longer matter or count in society. Clearly the needs of all Travellers should be assessed due to their cultural aversion to living in bricks and mortar and need for caravan sites.

**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?**

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 5 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?**

I 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?**

In most circumstances I do agree, especially where applications are made speculatively or by Travellers who already have alternative accommodation. But the same approach should apply to all development including that by the settled community.

In my experience there are fewer examples of unauthorised occupation and we have been successful in explaining to Travellers the need to apply for permission first, and await the decision before pulling onto ground. But I fear the temptation to occupy land before permission is sought could be on the increase again due to

- a) the failure of Councils to deliver on their promises and identify land for Traveller sites

- b) the failure of a few Council's 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.**

I do agree- but to no greater extent than any other unauthorised development. The Planning System has provision to address this with retrospective applications and enforcement action. In my 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.

The Government very conveniently overlooks the extent to which others carry out unauthorised development. Inspectors have been known to point this out to objectors. I did a freedom of information request from the Planning Inspectorate to establish how many enforcement appeals processed by PINs concerned Travellers. I list the details below. It is about time the Government face up to the honest truth and stop trying to seek political mileage of this issue. The settled community are equally at fault. Why do you not chastise Councils for doing more to prevent all the abuses carried out by others?

Fig 1 Results from FOI request to PINs to establish how many enforcement appeals concern Traveller cases

<b>Year</b>	<b>All ENF Received</b>	<b>Categorised as Gypsy and Traveller</b>
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 there failure to make proper and adequate provision. It exposes failings in the system.

In very few cases are others affected. Most Travellers know to find land well away from peoples' homes for this very reason. For most interested parties the only real concern is whether their houses will be worth as much and will they be able to sell their properties if there is a Traveller site in their district. It is not uncommon for objectors to state that they do not object to the caravans but does it have to be called a Traveller site? It is the label not the land use that is of concern. Most object because they themselves are unable to secure permission for more development at their own property (ie extend within the Green Belt). I suspect some are worried their own unauthorised development will be exposed by the attention brought by some development nearby (eg extensions of their own gardens into countryside areas, occupying buidlings in breach of conditions or without permission or their own erection of

overlarge out buildings without permisison etc). Given half the chance it would appear most would do the same. Ironically they do not really care about the Green Belt or other designation / protection and freely admit that they would like more development themselves. The double standards revealed by most 'objectors' is often unbelievable.

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?**

This concerns large scale unauthorised sites such as Dale Farm. Prior to Dale Farm there were issues with Smithy Fen in Sth Cambridgeshire but in the 15 years I have been dealing with Traveller issues I can not recall any other similar situations. The consultation paper fails to list what other examples/ authorities it has in mind. It is unclear if Government even knows itself. 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. The Government should perhaps contrast its approach to Dale Farm with the situation at Minorca Lane Bugle, in Restormel in Cornwall where there is a huge concentration of caravan dwellers, mainly overseas workers.

Dale Farm was a problem of Basildon's own making which is why, I suspect, there is very little sympathy from other authorities in this case. 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. It would appear the New Town philisophy was selective.

Had Basildon managed the situation from the start it would not have escalated out of control. It was a problem of their own making. I 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.

Of course the situation might 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 ponts 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?**

Yes-it is most unfortunate that this consultation exercise seeks to perpetuate many of the myths and misunderstandings about the Traveller community. Perhaps the Planning Inspectors should be asked to disclose the underhand dirty tricks played by the settled community who will distort the truth and exaggerate their case in order to strengthen their objections to any new site. This Government can not cover up its ongoing failure to address the needs of Travellers by trying to amend policy. To my mind each planning appeal is an opportunity to educate and inform the general public. In my experience we now have far fewer objectors at many appeals than we used to and many are now a lot more critical of Councils and the Government for failing to ensure the planning system addresses

this situation. The Government is missing a trick here. Local people are now far more aware of the failings of the plan led system because so many exceptions have had to be made for housing schemes on land in open countryside and even in the Green Belt. It is easy to try and blame Travellers because they are unable to defend themselves. But the general public are not that stupid and they are increasingly aware of where the problem really lies and becoming more supportive and understanding of the problems faced by Travellers and a lot more critical of local councillors for not addressing this.

**Q13 Do you have any comments on the draft planning guidance for Travellers in Annex A**

This appears as a bit of an afterthought. It reads like something someone drafted in 30 minutes and quickly appended. It is very limited in detail. Para 1.13 states that this guidance would replace the previous Administration's guidance on assessing GTAAs. It would be a big mistake to revoke the 2008 guide to designing sites and 2007 guide to need assessments unless and until there has been proper debate on this matter. Annex A is far too superficial for such an important subject. One wonders if Government really understands and appreciates the process. Until and unless these need assessments are done in a coordinated fashion, using the same methodology, there will always be concerns about double counting. The current system is expensive and inefficient. Many studies are overlong and include irrelevant questions and opinions that really count for little. However many also include a very helpful checklist of known sites and the planning status of these sites. There is however inadequate consultation on the findings. Many are done and adopted separate from the local plan process.

I fail to see why we could not do one national survey, using one agreed methodology, at one time, to record where all Travellers are and where they want to be, to determine what need exists for more plots.

It is not helped when individual Ministers issue statements on aspects of report preparation without considering the wider issues.

There is urgent need to determine the appropriate household formation rate.

The guidance in Annex A Draft Planning Guidance for Travellers is woefully deficient however I fully support the statement that stresses the need to assess need for different types of Travellers taking into account their different lifestyles and cultures and the need (s3) to consider quality of accommodation and facilities, as well as level and type, as most authorities treat this as a numbers exercise and fail to have regard to qualitative aspects of provision ie need to provide choice, need to consider whether existing provision is adequate and worthy of inclusion. Far too many Travellers are living in cramped, overcrowded and sub standard conditions.

The biannual caravan count is a joke. Far too many authorities fail to do this properly. They have no idea if caravans counted are occupied or by whom. They fail to count caravans using holiday caravan sites or families living in caravans behind houses or on farms. For obvious reasons families travelling abroad are omitted.

**Temporary Stop Notice**

I am unclear why this is included in the Annex at the end of the discussion on need assessments.

It is not clear what is intended by the statement 'the area to be covered by the assessment will largely depend on travel and movement patterns'. I have no idea how this will be achieved or will help.