

KIM CRESSWELL

**DCLG PLANNING AND TRAVELLERS CONSULTATION SUBMISSION FROM
KIM CRESSWELL**

Dear Sir/Madam,

As a 'New Traveller' and as a person with direct experience of the realities of Gypsy and Traveller planning applications I would like to make a **Response to Consultation: planning and travellers as follows:**

Please note that this response will need to be read in conjunction with the Consultation paper at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/355840/current_con_doc_in_publication_format_140917.pdf

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.

It is at present so difficult to follow a nomadic way of life that most Gypsies and Travellers are unable to do so. There are no stopping places, few transit sites, no emergency sites and families on the roadside face constant eviction.

(See, for example, Hargreaves and Brindley, 2011, "Planning for Gypsies and Travellers: The Impact of Localism", Irish Traveller Movement). Families have therefore been forced into housing because there aren't enough sites. Those who are on sites cannot easily travel due to the risk of losing their pitch. Nevertheless, the vast majority of people who call themselves or are known as Gypsies or Travellers are referring to an ethnic and cultural identity which is very meaningful to them, and looking forward to the possibility that their children will be able to live a way of life that respects their caravan-dwelling culture. One impact of this proposed change will be that families will have to move onto unauthorised encampments so that they are counted as needing a pitch.

This will increase the social exclusion which has been demonstrated by many studies of health and educational standards.

Cemlyn et al. reported in 2009 that:

"Niner (2004a) found that in the absence of culturally-specific accommodation (predominantly residential Gypsy and Traveller sites), the shortfall in accommodation is met by unauthorised encampments which often fail to provide even remotely adequate living standards for Gypsies and Travellers, and which perpetuate social exclusion through a lack of access to education and health care. In an influential report from the Institute for Public Policy Research (IPPR), Crawley (2004) emphasised the appalling inequalities experienced by Gypsies and Travellers in relation to health and education, and called for the development of a high-level unit, advised by a Traveller Task Force, to oversee the delivery of adequate sites (specifically through local development frameworks) within the new planning regime which was coming into force at that time."

(Cemlyn, S. et al., 2009, "Inequalities experienced by Gypsy and Traveller communities: a review", University of Bristol, Buckinghamshire New University, Friends, Families and Travellers)

That the situation has not improved is demonstrated by recent reports:

· Ryder, Cemlyn and Acton, 2014, *Hearing the Voices of Gypsy, Roma and Traveller Communities: Inclusive Community Development*, Bristol: Policy Press

· Lane, Spencer and Jones, 2014, *Gypsy, Traveller and Roma: Experts by Experience*, Anglia Ruskin University and the Joseph Rowntree Foundation

·British-Irish Parliamentary Assembly, 2014, *Travellers, Gypsies and Roma: access to public services and community relations*

·Ryder and Cemlyn, 2014, *Civil Society Monitoring: on the Implementation of the National Roma Integration Strategies* Decade of Roma Inclusion Secretariat Foundation

To quote the National Federation of Gypsy Liaison Groups, “The NFGLG found that mainstream policies in the areas of discrimination, accommodation, education, employment and health have consistently failed Gypsies and Travellers in the past and are continuing to fail these communities today”.

Ryder and Cemlyn moreover identified a worsening of the situation as a result of policies being implemented by the coalition government which increase the likelihood of exclusion. The proposed change will make it even less likely that the historic under supply of sites which is mentioned in paragraph 1.1. of your Introduction will be successfully addressed. Another impact will be that a panning system which is already heavily biased against Gypsies and Travellers will become even more unjust. The above-mentioned report explained that: “Over 90 per cent of planning applications for private (usually self- or family-owned) Gypsy sites are refused at first hearing, often following orchestrated campaigns by aggrieved (sedentary) local residents, though permission is overwhelmingly granted on appeal (CRE, 2006a; Williams, 1999).” The figure of 90 per cent is supported by recent research carried out by the National Federation of Gypsy Liaison Groups.

Applying a definition that depends on nomadic lifestyle can and does lead to the ridiculous situation that a parent may qualify but, if their planning application is successful, their children will not. (Traveller Movement, 2014, “*A Place to Call Home*” : *Case study, page 12*) This will mean that Gypsy and Traveller children will have no future as Gypsies and Travellers.

This proposal clearly discriminates against the elderly, women who may have suffered a relationship breakdown, single parents and people with ill health and disabilities and ignores the cultural preferences of people who are unable to travel but are unable to sustain their way of life in conventional bricks and mortar housing. This amounts to 'enforced assimilation' of Gypsies and Travellers.

For the government to assume that the cultural preferences of Gypsies and Travellers can only be measured by how much time they spend moving is telling of a lack of understanding and empathy to a culture different to their own.

To force, for example, elderly people into conventional housing because they are too old to travel, when they have lived a 'life on the road' is inhumane.

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?

An Independent Task Group set up by the Department for Communities and Local Government, and reporting in 2007 concluded that:

“real improvements cannot be made while the provision of authorised sites remains woefully inadequate for the needs of Gypsies and Travellers.”

This remains the case, and there has been some incentive for local authorities to respond. The proposals in this proposed Planning Policy Guidance remove what few incentives there were, and fail to propose monitoring of local authorities' provision for Gypsies and Travellers to ensure that those limited duties that do remain are fulfilled.

I feel that the government must reconsider its proposals, which will significantly worsen an already very difficult and stressful environment for both Gypsies and Travellers and Local

Authorities who seek to fulfil their public sector equality duty under S149 of the Equality Act 2010 as well as upholding and enforcing planning policy.

Relevant to the current duty to foster good relations, the Independent Task Group pointed to the myths and misinformation that fuel local opposition to the provision of sites:

“The most significant stumbling block is opposition from members of the settled community, fuelled by negative perceptions of living near to a Gypsy and Traveller site.

“A key challenge, then, must be to address those fears. This may be a difficult task, but it is not a hopeless one. Work undertaken by the Joseph Rowntree Foundation on the experience of neighbours of three newly established Gypsy and Traveller sites showed that, a year after the development had been completed, members of the settled community said that most of their concerns had been entirely groundless. These are the stories that need to be told, and developers – whether local authorities, Registered Social Landlords or Gypsies and Travellers themselves – must be ready to tell them.” I can back this comment up with personal experience.

Relevant to the upholding and enforcement of planning policy the ITG wrote:

“At the heart of the issue lies the provision of adequate, decent quality accommodation to meet the needs of Gypsies and Travellers. During the lifespan of the Task Group, we met with several local authorities with differing policies on enforcement. It became obvious that those authorities that had already made progress on site provision had better results than those that resorted only to enforcement action. To take perhaps the clearest example, Bristol City Council saw enforcement costs fall from around £200,000 to less than £5,000 per year following the provision of a transit site costing £450,000. With the Commission for Race Equality citing estimates of around £18m spent on enforcement action every year, new sites in many areas will effectively pay for themselves in the short to medium term.

“Conversely, even the most effective enforcement team will only be able to apply a sticking plaster to a gaping wound if site provision is inadequate.”

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) No

I 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, which states:

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

1. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

This proposal would also be in breach of article 27 of the International Covenant on Civil and Political Rights, which states:

“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

b) No meaningful assessment of need could possibly take place in a context which by refusing to acknowledge people’s ethnicity or cultural preference, the government prevented needs from being met.

Q4 – 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? If not, why not?

No

The designations mentioned already have sufficiently strong protection.

It is inequitable that developers should be allowed to build huge new developments on the Green Belt (5,600 dwellings approved last year, according to Glenigan Construction Insight) while the small-scale and low impact sites proposed by individual Gypsy families are specially targeted in this planning policy guidance.

It is noted that the lack of a 5 year planned supply of sites/pitches is currently one of the most significant material considerations for approval of sites in the Green Belt and other designated areas. If sufficient sites were provided, the problem would not arise. Removing this policy without first ensuring that need is met by supply will worsen homelessness among Travellers, which is already significantly higher than that of non-Travellers.

It should also be noted that due to chronic and historic under provision there were not sites included which represented the existing presence of Gypsies and Travellers in these designated areas when they were first designated. This substantial need must be met before change of policy is considered.

Q5 – 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?

No

A site in open countryside may be the only land which is available and affordable and such a setting is also consistent with tradition and culture. It has been found that a “buffer zone” between a Traveller site and residential areas minimises the fears and antagonism between the site residents and the local population. In rural areas, such as West Dorset, where about 76% of the district is designated ANOB, it is unrealistic to suggest that sufficient site provision could be found outside designated areas but not in open countryside either. Recommended development sites within existing settlements are highly sought after and as there is a larger profit margin in house building and there is much prejudice towards Gypsies and Travellers from Parish Councils, proposals for new sites would very rarely, if ever, be agreed upon within existing development zones.

Q6 – 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? If not, why not?

No

Everyone needs to live somewhere, and if local authorities are not providing sufficient sites, Gypsy and Traveller families are left with little choice if they seek to educate their children and care for those with health and social care needs. If this was to be removed then there would be absolutely no incentive for the LPA to identify more 'appropriate' sites.

Q7 – 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 any other harm so as to establish very special circumstances? If not, why not?

No

The statement about the best interests of the child at 3.11 has very sinister undertones as LPAs could use the threat of removal of children to force families into housing (and therefore removing their 'Traveller status' under the proposed changes) rather than identifying suitable sites.

If the best interests of children were to be fully considered, policy should encourage the approval of small-scale family sites, in order that there might be more security for Gypsy and Traveller Families, and any children needing foster parents able to care for them and adequately respect their ethnicity might be found placements within the Gypsy and Traveller community.

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

The comments of 4.1 and 4.2 clearly show how out of touch the Government are when it comes to the 'real life' of many Gypsy and Traveller families. Many families do not intentionally seek to 'ignore planning rules and occupy land without planning permission.' but are forced into situations of which they have no choice by the lack adequate site provisions, inequalities in the planning system (90% of Gypsy and Traveller planning applications are turned down opposed to 10% of settled communities applications) and lack of guidance and help from LPAs. This proposal is also inequitable when compared with applications from other types of developments ie in the cases of 'certificates of lawful use'. The government is using deliberately inflammatory language here to attempt to justify persecution of Gypsies and Travellers by making out that unauthorised encampments and developments are a bigger problem than they realistically are. A Freedom of Information request to the planning inspectorate dated September 2014 clearly demonstrates that actual enforcement action taken against Gypsies and Travellers is a very small proportion (see below). The proposals made by the government are disproportionate to reality.

2009-2010 all enforcements received 3470 of those 167 G&T
2010-2011 " " " 3480 " " 233 "
2011- 2012 " " " 3013 ' 158 "
2012-2013 " " " 2682 " " 110 "
2013-2014 " " " 2624 " ' 81 "
-03/09/14 " " " 1220 " " 39 "

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

No, we can not agree that unauthorised occupation causes harm to the planning system and community relations. There are many short term, small encampments in 'tolerated' or 'negotiated' locations which are actively welcomed by the settled communities. Unauthorised encampments are a symptom of the planning system's failure to meet Travellers' needs. As described in the response to question 2, it is poor community relations that lead to harm caused by unauthorised occupation, not the other way round.

Q10 – Do you have evidence of the impact of harm caused by intentional unauthorised occupation? (And if so, could you submit them with your response.)

No

On the contrary, we are aware of a number of peaceful occupations which, although unauthorised, have led to acceptance and support by the local community, and enabled Traveller children to settle and flourish in school. It is telling of a strong bias that with this question the government is seeking to gather evidence of harm due to perceived 'intentional' unauthorised occupation rather than seeking a balanced evidence base.

Q11 – Would amending Planning Policy for Traveller Sites in line with the proposal set out in paragraph 4.16 above help that small number of local authorities in these exceptional circumstances? If not, why not? What other measures can Government take to help local authorities in this situation?

This proposal is not based on robust evidence, and would create a perverse incentive to local authorities to argue that their case was exceptional, and they should therefore be able to evade their responsibilities. We consider that adequate enforcement powers already exist. The only realistic answer to solving the rare occurrence of over intensification of large sites is to ensure that there is adequate site provision on a national level. To consider this proposal at this time is to 'put the cart before the horse'.

Q12 – 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 proposed policy change would have adverse impacts on disabled and chronically ill people, older people and children, particularly children with disabilities. It would also impact disproportionately on single women, who are more likely to be caring for dependants and less likely to be able to engage in employment suited to a nomadic lifestyle.

Even more families will be pushed into housing and denied their ethnic culture and way of life.

For the Gypsy and Traveller communities the impact will be that they will need to move onto unauthorised encampments in order to be counted as needing a pitch. This is likely to have an adverse effect on community relations. In times when community relations are poor – or poorer than usual – large encampments become more likely, in order to provide protection from perceived external threats. This is likely to further escalate tensions.

For the settled community, the housing crisis will become even more acute, as the settled community seeks to accommodate in bricks and mortar a group of people for whom it is a punishment, rather than a dream, as well as those families who genuinely want to be housed.

This proposed planning policy guidance would create a situation in which a family could under no circumstances remain within the law and also plan to provide their own site. In order to qualify for planning permission for a Traveller site, they would need to be nomadic, which could make employment opportunities insecure, and could have a negative effect on the education, health and well-being of their children, as well as leading to unauthorised encampments and constant evictions. If the family nevertheless managed to save sufficient funds to purchase their own land and settled on it, in order to meet their basic survival needs, as well as following their traditional way of life, they would become ineligible for planning permission.

I have found that the language used in the governments consultation document is blatantly inflammatory and biased. The government seems to be implying that Gypsies and Travellers are somehow 'favoured' by the current planning policy – which at a 'grass roots' level is clearly not so and this is shown statistically. The government is using very small and exceptional occurrences to justify draconian measures against all Gypsies and Travellers – the government provides no evidence to back up it's speculative claims of 'harm caused'. This kind of behaviour from the government is perpetuating prejudice and making the provision of appropriate sites even more difficult at a local level.

The DCLG Caravan Count Data (shown below) clearly demonstrates that, from 2004 to 2014, numbers of caravans on unauthorised sites have been consistently dropping, while numbers of caravans on authorised sites have been consistently rising. We believe that the introduction of these proposed changes may reverse these statistics.

Please send an acknowledgement of receipt of this response.

Yours faithfully,

Kim Creswell (Ms)