



Department for
Communities and
Local Government

Response form: Consultation: planning and travellers

We are seeking your views to the following questions on proposed changes to planning policy and guidance, to:

- ensure that the planning system applies fairly and equally to both the settled and traveller communities
- further strengthen protection of our sensitive areas and Green Belt
- address the negative impact of unauthorised occupation

And

On proposed planning guidance on assessing traveller accommodation needs and use of Temporary Stop Notices.

How to respond

The closing date for responses is 23 November 2014.

This response form is saved separately on the DCLG website.

Responses should be sent to PPTS@communities.gsi.gov.uk.

Written responses may be sent to:

Owen Neal
Planning Policy for Traveller Sites Consultation
Department for Communities and Local Government
Fry Building
2 Marsham Street
London
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Part 2 About you

i) Your details:

Name:	Michael Hargreaves
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ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

Organisational response
Personal views

iii) Please tick the box which best describes your organisation

Local/ District Council
Unitary Authority
County Council
Parish/ Town Council
Traveller
Public
Representative body/ voluntary sector/ charity
Non Departmental Public Body
Other

(please specify):	Planning consultancy - much of work with Gypsies and Travellers
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Would you be happy for us to contact you again in relation to this questionnaire?

Yes No

Questions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Ensuring fairness in the planning system

Question 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?

Yes No

Comments

Background

The starting point for the consultation is that the planning system is unfair – that in some ways non Gypsies and Travellers are disadvantaged. This is outrageous. The system is unfair, but against Gypsies and Travellers. That it starts where it does shows how out of touch Ministers and the Department have become with the reality for local authorities and Gypsies and Travellers.

The starting point should be to recognise that Gypsies and Travellers are the most disadvantaged ethnic minorities in this country,¹ and that the critical shortage of culturally appropriate accommodation lies behind many of the other inequalities – stress, poor mental health, early death, limited literacy and poor school attendance. All those inequalities would be reduced if as a society we could address the profound shortage of accommodation.

Policy needs to be based on an understanding that the principle reason for the shortage of accommodation is the unwillingness of local planning authorities to plan for and grant approval for adequate accommodation, as a series of policy statements going as far at least to Circular 1/94 have required them to do. This resistance is because of the unpopularity and prejudice against Gypsies and Travellers among some sections of local communities, which means it is politically difficult for councils to approve applications that should be approved. And getting permission is lengthy, complex, expensive and stressful for Gypsies and Travellers, typically taking many years to gain a full, secure permission, itself a major inequality.

We also need to recognise, as the long term records of the caravan counts show, that progress is being made. Over the last 20 years there has been a significant drop in unauthorised caravans – from 3,800 in Jan 1994 to 2,800 in Jan 2014 – and as a proportion halved – from 29.5% to 14.6%, and a major increase in caravans on privately owned authorised sites from 3,300 in Jan 1994, 25.1%, to 10,000 in Jan 2014, 51.3%.

This means that policy changes, which will make it harder to allocate sites and gain planning permission (and the group of proposed changes taken together will make it substantially harder, effectively impossible in many parts of the country) are going in the wrong direction.

¹ See the comprehensive survey, Inequalities experienced by Gypsy and Traveller Communities: a review, Cemlyn et al for the EHRC, 2009

Already decision making for Gypsies and Travellers is too burdensome and complicated for both applicants, and local planning authorities. Determining whether travelling has been ceased temporarily or permanently will complicate things further. Resources need to go into new provision, not lawyer's pockets!

Changing the definition so it will be harder, and more expensive to get permission won't reduce the strong demand there is for land under their own control where Gypsies and Travellers can live a culturally appropriate life, but will mean only the most affluent, and most persistent can get permission.

By making it more difficult to get permission it will increase the risk of unauthorised development, which Ministers claim not to want.

The Gypsy status definition

The existing definition is anachronistic, prejudicial and too narrow.

Applicants for planning permission have to show they travel to find work. But they need somewhere permanent to live precisely because it is almost impossible to live a nomadic life. The closure of the commons following the Caravan Sites and Control of Development Act, 1960, the punitive measures against encampment introduced through the Criminal Justice and Public Order Act 1994, the failure of councils to provide transit sites, and the anti Gypsy racism among some sections of the community, which means Travellers on the roadside are subject to abuse and worse, mean it is not possible or safe to live a nomadic life. So to get somewhere to live, which Gypsies and Travellers need because a nomadic life is no longer possible, they need to show they travel. This is a Catch-22.

'Gypsy status' confines Gypsies and Travellers to limited, traditional, low earning, and insecure occupations. The increasing sophistication of economic activity, administrative controls such as the Scrap Metal Dealers Act, 2013 and universal mobile phones mean few Travellers obtain employment by knocking on doors. The more economically successful are particularly vulnerable to losing gypsy status.

It is prejudicial against women. Apart from market trading, the types of employment likely to qualify for 'gypsy status' like tree cutting, ground work, roofing, and tarmac are male dominated. This restricts women to home-making and caring for children and older relatives, and leaves them vulnerable to losing that status if a relationship breaks down. It is limiting for young people. In a recent planning appeal,² a 17 year old Gypsy girl, whose family's 'gypsy status' had been recognised because of the children's educational needs and who had spent much of her life on the family's site, lost that status because she worked in a local supermarket.

It is more difficult for housed Travellers, many of whom were driven into housing because of the absence of sites. Although many are content, others are isolated, show high levels of stress and poor health, a significant number have a psychological aversion to living in houses, or would simply prefer to return to a more culturally appropriate way of life.

The existing, let alone the proposed revised definition are racist because they deny the ethnicity of Romany Gypsies and Irish Travellers as minorities protected under equalities legislation. These proposals are part of a process of denying the profound sense of identity there is among Romany Gypsies and Irish Travellers, and replace it with a wholly administrative definition.

This approach is underlined by the continuing practice of not using initial capital

² Planning Inspectorate reference 2185676 paragraph 56

letters in regard to Gypsies and Travellers, something you would not dare do in regard to Jews and Sikhs.

In the way that it makes it more difficult for Gypsies and Travellers to achieve culturally appropriate accommodation in many cases it will lead to decisions which are contrary to the Article 8 of the European Convention right to a home, and in ways that disproportionately impact on certain ethnic groups and women contrary to Article 14, which prohibits discrimination.

'Gypsy status' adds to negative media and popular perceptions. The practice of referring to Gypsies and Travellers with the initial letter in lower case suggests their ethnic status is questionable. Identity is questioned, (How can they be Travellers if they don't travel?) rather than their ethnic distinctiveness accepted and respected, as has increasingly been the case over time for other minorities.

The proposed definition will add to the complications in determining planning applications, the burdens of which are already one of the significant inequalities that Gypsies and Travellers suffer from.

What would work better?

As recognised in the Chapman case,³ living in caravans is an integral part of Gypsy life, which the Government and councils have a duty to facilitate. It is now almost impossible to live a nomadic life without a safe home base. We need to end the discrimination against Travellers and Romany Gypsies being denied their right to a home that reflects their culture by failing an anachronistic and discriminatory and impossible test. That is the essential issue.

I support the proposal of the National Federation of Gypsy Liaison Groups of adding a phrase equivalent to the *persons with a cultural tradition of nomadism or living in a caravan* strand of the Housing Act, but including specific reference to Romany Gypsies and Irish Travellers. This would result in a definition on the lines:

*'For housing and planning purposes gypsies means:
Gypsies and Traditional Travellers meaning persons with a cultural tradition of nomadism or of living in a caravan, including Romany Gypsies and Irish Travellers whether they live in houses or caravans;
Members of an organised group of Travelling Showpeople or circus people (whether or not travelling together as such); and
Other persons of a nomadic habit of life, whatever their race or origin, including such persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently'*

Reference to a cultural tradition gets round the difficulties of a purely ethnic definition, which would raise sensitive issues of who was and was not a Gypsy or Irish Traveller, of how many grandparents you would need, while specifically including those groups.

³ Chapman v UK [2001] 33 European Human Rights Reports 16

Question 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?

Yes No

Comments

Faster progress in planning for and delivering sites, so Gypsies and Travellers can pursue a nomadic life, with a secure cultural appropriate home base.

See the proposal for taking a more sub-regional approach to needs assessment and site identification under Q.11.

Question 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?

Yes No

Comments

I strongly support reducing the inconsistency between the housing and planning definitions, but that should be done on the basis of the revised definition I identify in my response to question 1 that recognises the cultural distinctiveness of Gypsies and Travellers.

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?

Yes No

Comments

I would support reducing the inconsistency between the housing and planning definitions by amending s.225 of the 2004 Housing Act on the basis of the revised definition that I identify in my response to question 1.

Protecting sensitive areas and the Green Belt

Question 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?

Yes No

Comments

This is unnecessary, the Government has done good work, notably through the Planning practice guidance, in simplifying and reducing the amount of guidance and policy. Local planning authorities, planning inspectors, and agents know that the provisions of the NPPF apply, and are material. It doesn't require repeating.

Question 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?

Yes No

Comments

What is this intended to achieve? Presumably fewer permissions in situations where local planning authorities or inspectors have determined that weighing everything up permission should be granted – despite the site being in the countryside.

In my experience Romany Gypsies in particular want to live in the countryside. Gypsies and Travellers like to keep horses and dogs. It is very much part of their cultural identity. The cultural aversion to living in housing is not so much an aversion to housing as such but an aversion to living in towns with people all around them.

Gypsies and Travellers won't be able to compete with house builders etc for land that is not in the countryside. So substantially barring them from living in the countryside, as this policy would seek to do, both strikes at their culture, and would make it much more difficult to acquire sites. Hence rather than the proposed amendment if we wish to gradually address the accommodation crisis we need to recognise that living in the countryside and the urban fringe is where Gypsies and Travellers want to be and need to be. I would therefore recommend replacing the first sentence of paragraph 23 with the first four sentences of Circular 1/06, which struck a careful balance between protecting the countryside and accommodating Travellers.

Question 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?

Yes No

Comments

Planning is about balance, weighing up impacts against needs. There are plenty of locations where Gypsy and Traveller development can be accommodated successfully in the sensitive policy areas listed. It should be for local planning authorities and Inspectors to determine how to strike that balance. And paragraph 25 should be retained precisely because it does put a little bit of pressure, which is badly needed, on local authorities to grant permission, if only on a temporary basis, and to prepare plans which make adequate provision.

This policy amendment would make it extremely difficult to win permission in whole swathes of the country, notably the very large area around London, which is green belt, or AONB. These are areas with relatively substantial and established Gypsy and Traveller populations. They are also economically buoyant areas. The consequences of this kind of policy would include:

- Pushing Travellers into more peripheral economic areas, which would need to accommodate a higher proportion of the Traveller communities; and
- Making it harder to address the economic disadvantage of Travellers by pushing them into less economically advantaged areas.

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

Yes No

Comments

The view that Gypsy and Traveller development will by definition be harmful to green belt is questionable. Green belt varies, it depends on the circumstances, so I would want to see paragraph 14 of PPFTS replaced with something more nuanced, which takes account of genuine environmental sensitivity.

The Government's proposed change represents a fundamental undermining of the principle that runs through the planning system that decisions are about balance. It means whatever the circumstances the harm to the green belt (which in practice will vary substantially) will outweigh unmet need and personal circumstances. This is the triumph of ideology over evidence and over humanity.

It should also be recognised that the acute shortage of culturally appropriate accommodation, and the high levels of stress, deprivation and poor health among Traveller communities mean the weight those factors need to be given will in many

cases be substantial. This is therefore also an indirect attack on Human Rights, notably Articles 8, the right to respect for private and family life and the home, and 14, the prohibition against discrimination, of the European Convention.

Addressing unauthorised occupation of land

Question 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?

Yes No

Comments

This is to ignore the fact that the main driver of unauthorised use and development is the unwillingness of councils to provide and plan for enough accommodation, and the acute stress that causes because the nomadic way of life has been made impossible.

This is another example of the underlying ethos of this consultation, which is to 'blame the victim'. What does the Government expect if the authorities are not providing appropriate accommodation to meet the needs of the Gypsy & Traveller communities? Where are Travellers meant to go? It is already incredibly difficult for Gypsy & Travellers to achieve planning approval for sites. This would add another unwarranted punishment on communities seeking to live in a manner that is in line with their cultural heritage.

And as the long term caravan count figures show the problem is being addressed – see the answer to Question 1.

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

Yes No

Comments

Question 10: Do you have evidence of the impact of harm caused by intentional unauthorised occupation? (And if so, could you submit them with your response.)

Yes No

Comments

Question 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?

Yes No

Comments

Regional spatial strategies were effective at assessing needs at the sub-regional level and addressing the issue of imbalance between local authorities in their need to and ability to accommodate Gypsies and Travellers. Local authorities are ignoring the duty to co-operate over the geographic distribution of allocations because of the unwillingness of low need, low constraint districts to take more.

They are struggling (because of cost and capacity) to commission local needs assessments, which is holding up progress of the development plan system as a whole. I support the proposal of the RTP1 that needs assessments should be the responsibilities of counties, and groups of unitaries in metropolitan areas. This sub-regional approach to needs assessments should also apply to site identification. This would then provide an evidence base for testing how the duty to co-operate is being followed.

The policy doesn't define how large those sites are. In reality very few extant sites have more than 5 or 6 unauthorised pitches. The Government's suggested approach carries the risk of ignoring the needs of those families, and hence compounding the problems of under-provision.

It is easy to imagine that some of the cases that have inspired the drafters of this provision relate to Irish Traveller sites. My own suspicion, but there is a lack of robust research on this, is that deprivation and accommodation stress are even higher among Irish Travellers than English Gypsies. This is certainly true of accommodation stress and there are many local authorities whose public sites only accommodate English Gypsies and not Irish Travellers. It would be excellent if as an outcome of this consultation the Department could through the interdepartmental working group sponsor research on the deprivation of Irish Travellers.

Question 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?

Yes X No

Comments

Paragraph 5 of Planning policy for traveller sites (2012) states: 'The Government intends to review this policy when fair and representative practical results of its implementation have become clear'. There has been no attempt to carry out or commission an objective review of the effectiveness of the policy, and given development plan timetables, it is hasn't been operating long enough for its effectiveness and implications to be clear, so it is too early to radically review it.

To sum up:

- This is a shameful document, driven by ideology, popularism and prejudice and lacking the fairness, humanity and evidence based policy making for which Britain has in the past been known.
- Any amendments to the policy should be based on a recognition of the shocking deprivation of Gypsies and Travellers, the central role of the accommodation shortage in that deprivation, and the responsibility of local authorities for the accommodation shortage.
- It must also be based on a recognition of the cultural and ethnic identity of Gypsies and Travellers, rather than undermining them by denying that identity.
- An update of the gypsy status definition is needed, but it needs to be more flexible not less, to build in a cultural identity dimension, and policy needs to recognise the need for Gypsies and Travellers to live in the countryside and the urban fringe.

Draft planning guidance for travellers (Annex A)

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

Yes X No

Comments

The guidance is vague, completely inadequate, gives a message that robustness is of no importance, and has apparently been drafted by people who have no experience of undertaking, reviewing and applying such assessments, and makes no mention of need.

Local authorities are struggling to commission adequate needs assessments and a number that have gone to examination are being found by local plan inspectors to be inadequate.

We have detailed guidance for SHMAs and SHLAAs. Gypsy and Traveller assessments raise at least comparable methodological challenges of their own, so there is a clear need for concise effective guidance. What we have been offered is an insult to an important process, and to the people whose needs it is meant to serve.