RTPI 2014
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Sent to: PPTS@communities.gsi.gov.uk

20th November 2014

Dear Mr Neal,

Re: Consultation on Planning & Travellers

Thank you for the opportunity to respond to the above consultation. The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing over 23,000 spatial planners. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

As requested, our response (below) is in the format of the Response Form. In formulating our submission we have drawn on the expertise of Members, including our NAPE Network covering planning enforcement.

Please do contact us if we can assist further.

Yours sincerely

Richard J. Blyth

Richard Blyth
Head of Policy, Practice & Research

Registered charity number 262865
Scottish registered charity number SC 037841

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
SW1P 4DF

About you

i) Your details:

Name:	Richard Blyth
Position:	Head of Policy, Practice & Research
Name of organisation (if applicable):	Royal Town Planning Institute (RTPI)
Address:	41 Botolph Lane London EC3R 8DL
Email:	richard.blyth@rtpi.org.uk
Telephone number:	020 7929 8178

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

Organisational response	X
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	X
Non Departmental Public Body	☐
Other	☐

(please specify):	

Would you be happy for us to contact you again in relation to this questionnaire?

Yes X 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 **X**

Comments

The definition actually refers to "*gypsies and* travellers".
We doubt that the amendment will effect the change that is sought, for the following reasons:

- The applicant is assumed to be the beneficiary but may be entirely different from the end-user. A principle of planning is considering the impacts of the proposal rather than *who* is going to be living there.
- The burden would seem to fall to the planning authority to prove that travelling had 'ceased permanently', but how would this be ascertained except by asking the applicant?
- An operational definition of "permanently" will be hard to arrive at.
- For similar reasons, fair enforcement will be problematic.
- A planning authority would probably have to do an Equalities Acts assessment for a Gypsy-related decision and would have to consider travellers' unique needs (and 'protected characteristics') anyway, regardless of a change in planning definition.
- A housing needs assessment of and planning for this group – alongside all others – would have to continue.

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 X No ☐

Comments

Maintaining an approach based on objectively assessed need within an individual authority, whether or not the qualifying categories are limited, still relies on an inadequate Duty to Cooperate system. A stronger sub-regional approach is needed which might be achievable, for instance, if traveller accommodation needs were made a County matter (assuming that embedded unitaries were included), with groupings of unitaries in northern conurbations. This largely corresponds to how Gypsy and Traveller accommodation assessments were organised in the recent past, and would give a stronger impetus to explore a shared solution to additional site provision.

Whilst the Section 225 of the Housing Act 2004 requires the Local Authority to undertake a review of housing needs in their jurisdiction, there is no duty imposed on the Authority to then meet that need. This may result in a lack of transit and stopping places, whether permanent or temporary. Temporary transit sites could be provided at certain times of the year where there is a known regular demand (for example in Northumberland for the period leading up to, and from, the date of the Appleby Horse Fair). This would make formal provision for those who do travel, support their nomadic lifestyle in a more controlled manner and lead to less conflict with the authorities and settled communities around unauthorised encampments. A national database of "approved" transit sites could also be helpful.

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

See comments above.

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 X No ☐

Comments

If the decision is taken to amend the 2006 regulations then primary legislation should be amended to ensure the needs of non-nomadic Travellers are considered. Any decision to give up travelling permanently may be influenced by the lack of suitable provision available, or other factors which may not preclude a change of status in the near future. If Travellers who no longer lead a nomadic lifestyle are not consulted there may be difficulty in forecasting future need as newly emerging households may wish to follow a traditional lifestyle even if their parents or relations do not.
The means by which the accommodation needs of, for example the offspring of Gypsy families who have an existing pitch but no longer travel, is unclear – will this be via the general housing needs assessment? If so this requires explicit data sharing, since Gypsy &Traveller surveys tend to

be carried out for that population as a whole, otherwise such needs will fall between the cracks.

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 X No ☐

Comments

Ensuring the alignment of the two documents is essential to support the Government's objective of ensuring a fairer and more equal application of planning rules.

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 **X**

Comments

'Open countryside' is a very nebulous concept and the precise definition will vary between plans. Plans may include almost everything that is not a cluster of (say) 10 or more dwellings or businesses as 'open countryside'. This suggestion could therefore be overly restrictive insofar as it could restrict Traveller sites from areas of low landscape quality, which are relatively concealed, yet well related to settlements and services. It would be much better if the strong presumption were related to landscape areas worthy of strong protection, rather than the more nebulous 'open countryside'. Applications for Traveller sites should be treated in the same manner as any other development activity. That said it should be noted that there is difference between permanent and transit sites in that transit sites by their nature may not be occupied for periods of time and occupations are often short term and thus have less of an impact.

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 **X**

Comments

There is a consistency issue here. Green Belt land and other sensitive areas are afforded a much greater level of protection in the planning system generally and it is right that any permission in such locations should only be granted where very special circumstances exist. The lack of a five year supply of deliverable housing sites is rarely a factor that is considered to outweigh Green Belt harm and any other harm (recently reinforced through revisions to NPPG) and Traveller sites should not be singled out to be treated differently.

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 X No ☐

Comments

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 X

Comments

This approach would undermine the opportunity for appellants to have their appeal proposal (under Ground (a)) considered on its own merits. The National Planning Policy Framework (NPPF) paragraphs 196-197 and 210 on the determination of applications & Paragraph 006 of the Planning Practice Guidance on 'Determining a Planning Application' suggests what material considerations can cover and states that "planning is concerned with land use in the public interest". It does not suggest that "intention" is appropriate. The proposal is also contradictory to what is said earlier on in the consultation document, i.e. that there is a commitment "to delivering a planning system that applies equally and fairly to all..." (paragraph 1.7) – this would require that the principles of retrospective applications / enforcement should be applied the same to all types of development.

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

Yes ☐ No ☐

Comments

Any unauthorised activity has potential to cause harm. Police and civil action are more likely to be effective.

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 X

Comments

Paragraph 5 of the *existing* Planning Policy for Traveller Sites (2012) states that "The Government intends to review this policy when fair and representative practical results of its implementation are clear". It would therefore be helpful if the evidence of the practical implementation of the Policy, which is only 2 years old, could be published to understand why the proposed changes are considered necessary.

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 ☐ No X

Comments

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

We do not have any detailed comments on the text but we question why it is considered that the changes are necessary now? Clarity and consistency would best be served by making any amends within the context of the review of the NPPF, when an appropriate section could be incorporated into the update. The comment above about acting on the basis of the collated evidence relates.
Is it the intention to incorporate the Guidance within the Planning Practice Guidance website? It seems illogical that a person searching there gets "no results" if 'gypsy and traveller guidance' is sought. In contrast, the background note there on the NPPF records that it should be read "in conjunction with the (*hyperlinked*) Government's planning policy for traveller sites".

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent and, where relevant, who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA). the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not, or you have any other observations about how we can improve the process, please contact CLG Consultation Co-ordinator.

Department for Communities and Local Government
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2 Marsham Street
London
SW1P 4DF

or by e-mail to: consultationcoordinator@communities.gsi.gov.uk