

Consultation: planning and travellers

Response by Timothy Jones

Q1. Since 2006 the definition of “*gypsies and travellers*” in town and country planning in England has been: “*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.*”

The consultation paper proposes removal of the words “*or permanently*”. That means that people who cease travelling permanently because of “*educational or health needs or old age*” will be taken out of the definition. There will be few (if any) who cease travelling permanently for educational reasons. That means that most (if not all) of those who suffer from this change would be those whose health is sufficiently bad or who are sufficiently old to cease travelling permanently. In other words the most ill, most disabled and the oldest will suffer from it. How that can possibly be justified, whatever one’s point of view on other matters, is beyond me.

In housing legislation the old and the ill are considered in greater need (all other things being equal) than others and the following have a “*priority need*” for accommodation under the Housing Act 1996 s189 (1)(c): “*a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside*”. The proposal would mean that, while the old and the most ill in house-dwelling population in need of accommodation would be treated more favourably, their equivalent in the Gypsy and Traveller population would be treated less favourably. My answer to the consultation paper’s Question 1 is:

“No, it is inhumane. It would severely disadvantage the most ill and most disabled and the oldest in the Gypsy and Traveller community. If this proposal were adopted, applications for pitches to enable old or seriously ill Gypsies to live close to their family would be more likely to be refused.”

Q2. Additional measures that would support those Gypsies and Travellers who maintain a nomadic habit of life to have their needs met would be:

(1) Central government assistance to Gypsy and Traveller support groups to provide the same level of testing of Gypsy and Traveller Accommodation Needs Assessments as house-builders are able to afford to check housing needs assessments.

(2) There should be recognition in planning policy that Gypsies and Travellers are mainly rural people who are likely to need sites in the countryside. In particular sites should in principle be allowed in countryside that has no national designation in districts that have failed to meet the needs of Gypsies and Travellers.

Q3. The 2006 regulations should not be amended to bring the definition of “gypsies and travellers” into line with the proposed definition of “travellers” for planning purposes. Rather the planning definition should be amended to the current 2006 definition. The needs and culture of traditional Gypsies and Travellers should be respected. Those who have been forced into housing by decades of failure to provide for their cultural needs should not be prevented from returning to their culture. All accommodation needs should be assessed, but that does not require amendment of legislation. It is already covered by s8 of the Housing Act 1985 as read with s225 of the Housing Act 2004 (and indeed the Chronically Sick and Disabled Persons Act 1970 s3). What is needed is enforcement of existing duties.

Q4 Subject to three points I see no objection in principle to protection of the most sensitive categories of land. These points are:

- (1) This should be clearly limited to these and not extended, for example, to local designations;
- (2) Gypsies and Travellers should not in any respect be treated less favourably than house-dwellers; and
- (3) Allowance is made for the fact that some National Parks, e.g. South Downs, are traditional Gypsy areas.

Q5. I take question 5 to be about those categories of land that are not covered by questions 4 and 6, that is that it is about countryside that is not areas protected under the Birds and Habitats Directives, Sites of Special Scientific Interest, Local Green Spaces, Areas of Outstanding Natural Beauty, National Parks, the Broads and Green Belts. It would make it more difficult for Gypsies and Travellers to gain planning permission anywhere in the countryside, not just in those areas that the most sensitive. That, of course, raises the questions, “where are Gypsies and Travellers to go?” and “Where is the non-countryside land that would be (1) affordable and (2) not subject to even greater local opposition than current sites?” Given that Most Gypsies and Travellers are rural people that might suggest inside

villages and shire towns. That would not be financially possible and I doubt whether it would be politically possible.

My answer to question 5 is:

No. Gypsies and Travellers are a predominantly rural people. In most districts only available and affordable land is in the open countryside. Decades of trying to find sites have shown that that the most likely locations where they can be found are in open countryside. The Secretary of State's apparent preference for sites inside villages and shire towns is unrealistic, both because of the high cost of land there and because of the level of local opposition that it would be likely to generate.

Q6. There is a misconception (which it would help if government policy corrected) that Green Belt means greenfield. It includes previously developed land. The Secretary of State has recently granted planning permission for up to 100 new homes in the Metropolitan Green Belt in St Albans district on previously developed land (the former Building Research Establishment site). A similar approach should be adopted for Gypsy and Traveller sites.

From time to time land is removed from a Green Belt to provide for needed new houses. In order to meet the need for sites (including the expansion of existing sites), the same approach should be adopted for new Gypsy and Traveller sites, not just in theory, but also in practice – it has been talked about and mentioned in policy, but has never happened.

The Metropolitan Green Belt around London is very large, occupying a large proportion of available land in the Home Counties. Coupled with other designations such as areas of outstanding natural beauty and the South Downs National Park, this creates exceptionally severe difficulties for Gypsies and Travellers in the Home Counties. Nothing in the consultation paper faces up to these exceptionally severe difficulties.

The proposal to amend paragraph 25 in Planning Policy for Traveller Sites (which provides for the grant of temporary planning permissions) to provide that it does not apply to land designated as Green Belt and the categories of sensitive land would leave no incentive to local planning authorities that have failed (for more than 20 years now) to allocate enough land for sites to do so.

My answer to question 6 is therefore “No. This would further reduce the possibility of meeting the accommodation needs of Gypsies and Travellers. The effect of this would be especially harmful in parts of the country where, over a wide area, most available land is designated, such as in the Metropolitan Green Belt.”

Q7. 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 would give far too little weight to other personal circumstances including old age, ill health and disability. The existing practice is satisfactory and provides some incentive to local planning authorities to allocate land for sites. Weakening it would make it more likely that another generation would grow up with its accommodation needs not being met.

Q8 There is a good reason why retrospective planning applications are treated in the same way as prospective ones. Needs should be met in the best location. If a retrospective site is better than a prospective one, the former should be chosen. There is also a moral reason for not penalising retrospective applications. The current situation arises from more than 20 years of local planning authorities failing to follow central government advice and central government failing to enforce that advice. There is no reason why the weak should be penalised for doing what they have little or no choice but to do, while the powerful gain an advantage that has come about through their failings.

Q9. Unauthorised occupation may on some occasions cause harm to the planning system and community relations, but it is simplistic to stop there and to ignore the causes of unauthorised occupation. These include the failure to allocate land for sites, closure of publicly provided sites that resulted from the pre-1994 law and closures of traditional stopping places. Selecting the weak for harsh treatment while failing to act against those who have caused the plight of the weak is contrary to basic notions of justice and decency.

Q10 I don't have evidence of the impact of harm caused by intentional unauthorised occupation. On the contrary my experience is that initial fears prove unfounded and that, when the nature of Gypsies and Travellers is understood, many local people accept them as part of their community. This has been shown when applications are made to extend temporary permissions or to make them permanent. The good nature of the Gypsies or Travellers involved has become known to local house-dwelling residents and the level of local opposition has reduced massively.

Q11 Amending Planning Policy for Traveller Sites in line with the proposal set out in paragraph 4.16 might help a few local authorities on a few occasions. Unless it is coupled with strong measures to ensure the provision of alternative accommodation it would delay yet further the meeting of the needs of Gypsies and Travellers for accommodation. The government could take steps actively to enforce the duty to co-operate under the Localism Act to ensure that neighbouring authorities met some element of the increased need. A policy

that speaks of the duty to cooperate without a mechanism to enforce this would be ineffective.

Q12 The more than 20-year failure to allocate enough land for Gypsy and Traveller sites will only end if central Government takes firm measures to ensure that local planning authorities carry out their responsibilities.

Q13 It would help to list, perhaps as an annex, other bodies that represent Gypsies and Travellers, *e.g.* the National Federation of Gypsy Liaison Groups and the Irish Traveller Movement.

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