



Response to

DCLG Consultation: planning and Travellers

London Gypsy and Traveller Unit

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The London Gypsy and Traveller Unit is actively supporting Gypsies' and Travellers' involvement in the development of local, regional and national planning policy. LGTU has supported members of the community to make representations and take part in the consultation on the Planning Policy for Traveller Sites in 2011, as well as the current consultation on changes to this policy and guidance.

The Unit is both a community development organisation and a regional strategic organisation. It seeks to support Travellers and Gypsies living in London, to have greater control over their lives; to influence decisions affecting their lives; to improve their quality of life and opportunities available to them; and to challenge the discrimination they routinely experience. It uses this detailed local and regional experience to contribute to national consultation and debate, and has done so over the past 30 years.

LGTU has wide experience of accommodation issues. It was actively engaged in fighting roadside evictions, negotiating tolerated sites and campaigning for official sites in North and East London throughout the 'eighties and early 'nineties during which time eight new sites were built.

When the Criminal Justice Act of 1994 repealed the duty to provide sites and increased eviction powers, roadside families were forced into housing and many boroughs began to close sites. LGTU fought these closures. It also started an advice service for housed Travellers to respond to the loss of extended family support for these often very young families; the difficulties of coping with bricks and mortar living; and the hardships of temporary accommodation.

Since 2004, LGTU has been actively supporting residents in the development of the four 'Olympic replacement' sites and those on the site to be relocated because of Crossrail, as well as working for the provision of new sites under the Housing Act. Over the past two years LGTU has been monitoring the implementation of the Planning Policy for Traveller Sites in the London Boroughs, has challenged local authorities which do not meet the requirements and has supported Gypsies and Travellers to take part in public consultations.

Throughout, the London Gypsy and Traveller Unit has continued to work with young Gypsies and Travellers on sites and in housing.

This submission has been informed by our long term involvement with the Gypsy and Traveller community both on sites and with those in houses as well as the specific feedback at consultation meetings on the PPTS and proposed changes.

1. The consultation process

We would wish to start our response by raising a number of concerns regarding the consultation process. We believe these proposals are very sensitive and have a potential to damage the Gypsy and Traveller community from a wide range of perspectives. Therefore we would have considered a fair approach to the consultation would have been for DCLG to reach out and engage actively with Gypsies and Travellers, rather than simply publish the documents online and expect interested parties to contact them. The online medium is not accessible to a large part of the Gypsy and Traveller community, and it is unclear whether DCLG has publicised this information in other media for better access. We would have expected that given the importance of this consultation and the nature of the community it targets, DCLG should have gone to significant lengths to disseminate the information to community members on sites, housing and unauthorised camps. Despite our efforts to publicise the proposed changes within the Gypsy and Traveller community we have come across many Gypsies and Travellers at this late stage in the consultation who are not aware of the Government's proposals.

Secondly, the main consultation document is very confusing in its own right, particularly in what regards the questions. We suspect this is because the proposals are not very clear and their implications in practical terms are not understood by DCLG. We would also criticise the 'easy read' version of the consultation paper, which uses technical language and requires some planning expertise to be properly understood. This is in no way suitable for the wider Gypsy and Traveller community.

We believe the consultation has put a huge burden on the community and voluntary sector and support workers, who over the last two months have had to stretch their very limited resources to digest the consultation paper, do outreach work to explain the proposals to community members and mobilise them to respond to the consultation in conformity with the format prescribed by DCLG. We appreciate the fact that DCLG has accepted to take into consideration other forms of response, such as postcards and online forums, but we are concerned about how these will be actually recorded and logged for the purposes of producing a consultation report. We would criticise the wording of the questions, and the prescribed 'yes' or 'no' format. The questions are very ambiguous and highly technical, which makes it prohibitive for Gypsies and Travellers and most support organisations who do not employ a planning expert to respond in a meaningful way.

2. The Equalities Statement and evidence base

We are of the view that the Equalities Statement is fundamentally flawed. According to the Equalities and Human Rights Commission, an Equality Impact Assessment should be produced through 'sound, consistent data collection and analysis' and 'positive involvement and consultation' with the targeted groups. In this case, the ES is a set of assumptions and 'feelings' rather than a robust analysis of evidence. The fact that the ES states that DCLG will collect evidence on the likely impacts on the community during the consultation, is an approach that pre-empts meaningful contributions from any of the interested parties. The first questions should be why are these proposals necessary and whether they will improve the PPTS. Instead on analysing evidence such as the outcomes of the PPTS implementation

so far, the impact it has had so far on the Gypsy and Traveller community in a variety of accommodation situations (including permanent council owned sites and bricks and mortar housing), how much progress has been across the country to meet the PPTS requirements by local authorities etc, the ES claims without any substantive justification that the proposals will achieve a number of objectives. It is unacceptable to propose changes to something without even assessing if it has worked in the first place. Indeed, the consultation paper claims that since the implementation of the PPTS, there has been an increase in the number of planning permissions granted in the Green Belt, which is undesirable in the context of current planning policy. However, it does not go on to analyse why this has occurred. We have monitored the implementation of the PPTS in London, the South East and East, and after two and a half years from the adoption of the PPTS only a very small number of local authorities have managed to identify a 5 year land supply to meet their objectively assessed needs. From our contact with other organisations we know that this situation is very similar across the country, but since the DCLG don't monitor this, so there is a huge gap in evidence. Even from this snapshot, it is obvious that more planning permissions have been granted on unsuitable land, because LPAs have failed to indicate adequate locations for Traveller sites. The sanctions should therefore be placed on those responsible for meeting Travellers' needs under the Housing Act, not on Gypsies and Travellers who sought to make a home for their family rather than face constant evictions and the harassment they experience when travelling around.

In terms of fairness of the planning system we are appalled by the claim that Gypsies and Travellers are being favoured. Evidence gathered by agencies and community support organisations, as well as individuals clearly shows how public site provision has declined and stagnated since the 1994 Criminal Justice Act and the withdrawal of the statutory duty to provide sites. Despite introducing requirements to assess and meet the needs of Gypsies and Travellers through the Housing Act, Circular 1/06 and the PPTS, public authorities consistently fail to make the adequate provision. For Gypsies and Travellers in London for example there are virtually no options for culturally suitable accommodation. Over 80% of the community is forced to live in bricks and mortar housing, due to the chronic shortage of sites. If they want to stay in London, to keep their jobs, education options and family links, they have no other choice than to double or triple up with their relatives on sites, go into conventional housing (which usually means renting in the private sector with insecure tenancies), or set up unauthorised camps from which they get frequently evicted, often within 24 hours. This by no means compares to the rest of the city's population, although there are other highly vulnerable groups which are affected by London's housing crisis. Although local authorities have difficulties in delivering truly affordable housing, at least this form of accommodation is still on the agenda and is still regarded as desirable. Gypsy and Traveller site provision on the other hand falls at the back of any Local Plan site assessment process, where all potential land has already been earmarked for something else. Under these circumstances, it really is perverse to read a statement from central government condemning Gypsies and Travellers for having it too easy.

Already having very tight restrictions on GB land and open countryside narrows down significantly Travellers' choice of where they can live. In small towns and villages in particular, the local opposition to sites can be overwhelming and local authorities won't ensure adequate provision for Travellers due to a lack of political commitment and a reluctance from local politicians to support the delivery of sites in their area. This clearly puts

Travellers in an unequal position, where someone else always decides where they are 'acceptable' or not. This doesn't happen to any other community or land use. We strongly disagree with the government's position that the planning system is unfair to the benefit of Travellers, or with the insidious hint that Travellers are taking advantage of planning regulations. We would not see how this advantage is more than merely securing a safe and suitable home for their family.

The ES doesn't mention the Article 8 under the Equalities Act the right to respect private and family life, or the commitment made by the UK under the Framework Convention for the Protection of National Minorities Article 5. The latter is to promote the conditions for ethnic minorities to maintain and develop their culture and to preserve the essential elements of their identity and refrain from policies aimed at assimilation.

We are also concerned that this consultation document does not meet the requirements of the Public Sector Equality Duty (PSED), which requires public bodies to have 'due regard' to how they can eliminate discrimination, advance equality of opportunity and foster good relations. This is a positive obligation requiring a proactive response in order to achieve these aims.

3. Response to the consultation questions

We will respond to the consultation questions as follows, despite being uncomfortable with the wording and intention of most of them, as they are biased against the Gypsy and Traveller community. We won't provide straight 'yes' or 'no' answers to some of the questions, because we don't think they are that straightforward and the detailed explanations are necessary. We would appreciate if the officers analysing these responses take the time to record these details rather than simply log them as pro or against. The consultation paper is very ambiguous and therefore it's difficult to gage the clear intention and potential implementation of some of the proposals.

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

We strongly oppose the proposed change to the definition of Travellers for planning purposes. This is clearly coming from a failure to understand the Gypsy and Traveller community and culture, and is against the way Travellers would define themselves.

Gypsies and Travellers responding to this consultation have made it very clear that the definition should not place so much emphasis on leading a nomadic lifestyle for economic purposes, as it overlooks the most important aspects of the Travelling way of life which are cultural and social. Most Gypsies and Travellers have been forced to stop travelling through the various policies imposed by the Government over the years. A lack of transit sites, the closure of traditional stopping places, a wide range of drastic enforcement powers given to local authorities have made it impossible for Travellers to keep having a nomadic lifestyle in the sense described by the government.

Those Travellers who live on permanent sites still consider themselves nomadic, but are aware of the constraints disabling them to travel, even just for holidays or visiting family. Most of the Gypsies and Travellers who live in conventional housing are there against their will, because of the lack of choice for culturally suitable accommodation, and they would move on sites if this would be possible.

We believe the proposed definition is unworkable from a number of practical reasons:

- It's not clear how Gypsies and Travellers will have to demonstrate they are leading a nomadic way of life and what it means to stop travelling 'temporarily'.
- It will be very difficult and resource intensive for local authorities to assess case by case if people meet these requirements.
- It is unclear how the definition will apply within families, to children who have grown up on permanent sites or in housing, but would need to be considered as needing pitches in order to carry out living within their culture.
- It is unclear how the proposal would affect existing Traveller sites if their residents don't fit the definition. Would these sites still be safeguarded under the Planning Policy for Traveller Sites? How will current waiting lists and allocation procedures be affected?

The proposed definition is highly prejudicial against old people, people with disabilities, children, single parents, all of whom cannot maintain an active Travelling lifestyle.

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, there is a wide range of measure which would help meet the needs of Travellers who are nomadic. We would point out however that 'nomadic' should be defined in a wider sense, taking into account the ethnic, cultural and social dimensions, instead of the interpretation given by the Government of simply 'travelling for work'.

The following suggestions would support Gypsies and Travellers irrespective of whether they fit into the government's narrow definition or not:

- An increase in overall site provision, in particular public authority sites. Looking at evidence from the implementation of the Caravan Sites Act (1968) ODMP Circular 01/06 (2006) and the Planning Policy for Traveller Sites (2012) it is obvious that the only way local authorities will meet the needs of Gypsies and Travellers is through imposing a statutory duty to build more sites.
- Provision of sufficient transit sites and stopping places.
- Local authorities should all have in place protocols for dealing with unauthorised encampments, following good practice examples such as Leeds City Councils policy of 'negotiated stopping' which was developed in partnership with Leeds GATE. These should seek to support Gypsies and Travellers passing through the area to access healthcare, education and services.
- Restrict enforcement powers available to local authorities and stop criminalising the Gypsy and Traveller community.

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, the Housing Act definition of Gypsies and Travellers should not be limited to only refer to those who can demonstrate and maintain a nomadic lifestyle. We would argue that the change should be done the other way around, to align the current planning definition with the housing definition. This would ensure that Travellers who live in housing against their will due to the shortage of site provision will be adequately included in GTANAs. Many of the GTANAs conducted since 2006 fail to recognise the needs of housed Travellers due to the insufficient emphasis in policy and guidance. The 2008 London GTANA produced a figure of need which included housed Gypsies and Travellers, but this was criticised by the Mayor of London on grounds that assessing ‘psychological aversion to bricks and mortar’ was not sufficiently robust. Therefore most London Boroughs have taken a similar approach of discarding the needs of housed Travellers as being a mere ‘aspiration’.
- b) We would strongly argue that the accommodation needs of all Gypsies and Travellers irrespective of where they live should be assessed in a robust manner in order to support local authorities in their Local Plans and planning decisions. We are worried that since 2012 many of the GTANAs commissioned across the country have come up with severe underestimates of need, particularly because they fail to take into account the needs of housed Gypsies and Travellers and because they fail to engage with the community in a meaningful way.

We are concerned about the approach set out in this paper whereby there isn’t a clear proposal for the changes to the Housing Act or the process and timeline for consulting and adopting them.

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. The NPPF and PPTS should be read in conjunction, therefore there is no need to change the PPTS on this issue. The NPPF is very clear on the restrictions to development in the Greenbelt and sensitive areas.

If the Government wishes to have fairness in the planning system, the same wording should apply to any type of development, not only Traveller sites.

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. For many Gypsies and Travellers the open countryside is the only place they can afford to buy a piece of land and live peacefully. There is no clear definition of what ‘open countryside’ means and how it will be assessed. The proposal is likely to have a very negative impact on the community, as it is narrowing down significantly their choices for a

home. The Government would not take this approach for any other ethnic or minority population group, therefore the proposal is discriminatory.

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?

No. We strongly oppose this proposal. The Government seems to be looking at this the wrong way around. It is obvious that planning permissions in these protected areas have been granted more easily at appeals due to the failure of local authorities to identify the required 5-year land supply to meet Travellers' needs in their areas. It is extremely prejudiced to assume that Gypsies and Travellers try to 'abuse' the planning system and get permissions in protected areas, where in fact local councils aren't planning positively to meet their needs. Instead of blaming the community, the Government should look at evidence and introduce sanctions for local authorities who are unable to identify suitable sites for Gypsies and Travellers.

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?

No. This proposal is unreasonable, given the severe underprovision of sites across the country, lack of political will in most local councils to progress site allocations for Travellers and local opposition to Gypsy and Traveller sites in many areas. The proposal suggests that it is better to make Gypsy and Traveller homeless than to grant them planning permission. Councils have a duty to consider the best interest of the child and the particular needs of vulnerable individuals/families.

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. Most Gypsies and Travellers do not occupy land with the 'intention' to break planning regulations, but rather because they have no other options to have a safe home for their family. Again, we would stress the chronic underprovision of sites, the closure of traditional stopping places, the failure of local authorities to meet the requirements of the PPTS, the intervention of the Secretary of State in planning appeals which delays decisions sometimes by over 2 years. Under these circumstances, Travellers' only choices would be to go into housing or on the roadside.

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

We would argue that this questions should be asked about any type of unauthorised occupation, not only that by Gypsy and Traveller families. For the reasons set out above, we would point out that most Gypsies and Travellers have no other choice but to live on land they own, even without planning permission. The fact that the Secretary of State has recovered so many appeals in the last years creates massive delays in Travellers getting planning permissions, which affects many families, causing distress and financial risks.

Q10 Do you have evidence of the impact of harm cause by intentional unauthorised occupation?

Similarly to our answer above, we would argue that unauthorised occupation will often have negative impacts on the Gypsy and Traveller community itself.

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 and Smithy Fen, but the consultation paper fails to list what other examples/ authorities it has in mind. It is unclear if the Government even knows itself, given the lack of monitoring. 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.

We do not agree with any policy measure that seeks to relax requirements for local authorities when it is clear they have largely failed to meet the needs of Gypsies and Travellers over the last two decades.

Q12 are there any other points 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?

We have made these points in the introductory sections of our response, but we would summarise the key consequences these changes are likely to have:

- Councils will fail to assess the real need for pitches and will reduce the number of pitches needed even further.
- The proposals will exacerbate the gross underprovision of pitches which already exists
- Increase in unauthorised camps
- Increased overcrowding on sites
- Increased homelessness
- Breakup of community , increased isolation , loss of cultural identity
- Difficulties in examining local plans by planning inspectors, due to the ambiguities of the proposals, particularly around assessing need.
- High costs to local authorities which will have to review their needs assessments and check case by case the evidence people might bring to demonstrate they are Travellers under the new definition.

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

We believe the guidance proposed in Annex A is inadequate for the purposes of conducting GTANAs. It is unclear how it will also replace guidance on site design and management, given it makes no reference to these matters. Does the Government consider this guidance to be unnecessary because they foresee there will be no more new site provision following the proposed changes?

It is also unclear whether local authorities will have to conduct new GTANAs to conform to the new definition. We would warn that this will cause waste of public money to commission new studies despite not having delivered on existing ones and even further delays in producing local plans which address the needs of Gypsies and Travellers. We consider this approach to be counterproductive, as most local authorities over the past two years have tried to comply with the PPTS requirement to have needs assessments in place and they will have to do this exercise all over again.

The guidance proposed here is extremely superficial and has very little connection with the reality on the ground. The Government clearly has no understanding of Gypsy and Traveller needs and seems to have not consulted with any experts in this field before producing the guidance. We cannot see any positive additions or improvements this guidance brings as opposed to the existing one. We are extremely concerned this would only water down the figures of need across the country which already over the past two years have been severe underestimates.

We are concerned that in many cases the Gypsy and Traveller Accommodation Needs Assessments which form the evidence base to support Traveller pitch targets and site allocations in Local Plans are inadequate and unnecessarily costly to the public purse. Results around the country indicate a significant underestimation of need and thus the failure to provide much needed accommodation for this community. We know that successful GTANAs are undertaken in close connection with local Gypsy and Traveller communities and support groups, who have the best knowledge of the existing population and their needs. In areas where Local authorities which commission GTANAs have little contact with Gypsies and Travellers or local support groups there is a high risk of the community being reluctant to take part and further they can misunderstand the importance of this research for the future of their families.

We wish to make the following recommendations to what the guidance should contain:

- In order to meet the robust evidence required, the review of planning policy guidance regarding GTANA methodology would be improved by stressing the importance of community outreach and engagement with support agencies and by providing more robust standards for collecting first hand evidence, instead of desktop research.
- Local ethnic monitoring: Increasing this monitoring in public services would aid significantly in understanding local need and would enable researchers to ask only those questions in GTANAs which are necessary.
- Impact assessment on planning policy and guidance: A robust impact assessment, analysing the potential consequences of any revisions would highlight in advance the difficulties local authorities face when planning to meet the accommodation needs of Gypsies and Travellers.
- Local stakeholders: Involving all stakeholders through innovative community approaches is likely to deliver positive results and reduce local resistance and increasing deliverability of new site provision.
- The planning definition of Travellers: The Government to ensure it engages in a wide ranging and meaningful consultation with the Gypsy and Traveller community and support agencies on any proposed changes to this definition.
- We stress the importance of reaching out to Gypsies and Travellers living in bricks and mortar accommodation due to a lack of site provision. Most often they have the

most urgent need for site accommodation, as they tend to be in unsuitable and temporary private housing. As is well documented by Pat Niner (University of Birmingham) Professor Margaret Greenfields (University of Buckingham) and Philip Brown (University of Salford) such experiences result in vulnerability due to isolation , local victimisation and inability to deal with the authorities exacerbated by lack of literacy skills . It affects families at many levels, particularly in terms of health, education, support and family life.

- We consider that GTANAs should be conducted in a balanced and considered manner. Interviews should be carried out with sensitivity to peoples' personal situations, preferences and availability. Questionnaires which are successful are designed in consultation with the community and support groups, in order to ensure a balance between rigor and accessibility. Best results are obtained through offering multiple chances to take part, not just one site visit or focus group. This helps ensure maximum attendance and input.
- The most effective surveys ask relevant questions including the need for nomadic roadside stopping, public provision and private provision, and do so in a respectful manner, ensuring the information gathered is going to be used effectively to deliver outcomes.