

**DRAFT PPS – PLANNING FOR TRAVELLER SITES
(Report by Head of Planning Services)**

1. INTRODUCTION

- 1.1 The purpose of this report is to inform Members about and to recommend a Council response to the Government's 'Planning for Traveller Sites' consultation – responses are due by 6th July 2011. A Member seminar on this issue was held on 24th May 2011.
- 1.2 A response to the consultation is considered necessary as the document proposes, and would set the framework for, new Government policy on all traveller site issues. As Members may be aware the Council had commenced preparatory work on a Gypsy and Traveller Sites DPD, but decided last year that work should be put in abeyance until Government policy on this most important local issue had been clarified.
- 1.3 The matter is of significance to this Council given the widespread community concern that has already arisen regarding potential traveller sites. Two recent decisions by the Planning Inspectorate have also overturned the Council's refusal of two planning applications, thereby allowing 2 permanent pitches near Somersham and 11 pitches on a temporary basis near Bluntisham.

2. BACKGROUND

- 2.1 This draft Planning Policy Statement (PPS) was released for consultation on 13th April 2011. The Secretary of State Eric Pickles, had in August 2010 indicated that government would seek to revoke what it regarded as 'flawed guidance' on travellers and the DCLG website stated that the all the existing policy statements would be replaced with new 'light touch guidance'.
- 2.2 The draft PPS is described in the material accompanying the draft as the promised 'light touch guidance'. It has been prepared in advance of any other part of a new National Planning Policy Framework, which is scheduled to be consulted on this year and completed by April 2012. The introduction to the draft PPS says that the policy will eventually be incorporated into the Framework although it is not clear how this will be achieved.
- 2.3 The Government has also announced other measures as part of a package to ensure "fair treatment" of those in traveller and settled communities including:
- allowing for traveller sites in the New Homes Bonus scheme, to incentivise local planning authorities to provide appropriate sites
 - resuming traveller site provision grant funding from April 2011
 - setting up a cross-Government, ministerial-level working group to address the discrimination and poor social outcomes experienced by traveller communities

3. SUMMARY ISSUES

- 3.1 The package of measures put forward by the Government recognises the significant issues raised by traveller sites and identifies a way forward in addressing them. Comments are required on the draft PPS in order to suggest improvements to it.
- 3.2 The style of the draft PPS is one of 'sparse policy' with little in the way of explanatory text. It replaces Circular 01/2006 on Gypsies and Travellers and Circular 04/2007 on Travelling Showpeople which together total over 50 pages of advice, with a PPS of less than 10 pages (although the consultation document is in total 88 pages). As a PPS it may be assumed to have a greater status, and carry more weight, than that of circulars although this effect is not discussed in the consultation document.
- 3.3 Much of the guidance is the same as that which exists in the current circulars although differences arise given the proposed abolition of the regional spatial strategies (RSS) via the Localism Bill. The draft PPS sets out how Councils should plan for traveller sites in light of the loss of the previously specific RSS policy and targets.
- 3.4 It is proposed to define 'travellers' as including Gypsies and Travellers and Travelling Showpeople using definitions as they exist in the circulars. As these definitions have caused some problems it is recommended that this Council suggest that amendments are made to make the definition more workable in the difficult real world situations that LPAs have to deal with.
- 3.5 The current circulars refer to Gypsy and Traveller Accommodation Needs Assessments (GTANA) as required to form an evidence base of need for traveller sites. Although GTANA are still required under the Housing Act 2004 (and indeed Huntingdonshire District Council is co-operating with other Councils in preparing an updated GTANA under that Act), the draft PPS provides more flexibility in identifying what evidence is required to establish what is the local need for traveller sites. This increased flexibility is welcomed.
- 3.6 The setting of targets based on 'local need in the context of historical demand' is also broadly supported, however the suggested new requirement for Councils to identify a 'five year supply' of traveller sites as is required for other forms of housing is considered inappropriate. Requiring a 'five year supply' implies identifying sites in advance and monitoring them which is problematic in that suitable sites are not often put forward (unlike market housing sites) and it is likely to be difficult to get adequate monitoring information.
- 3.7 The proposed sanction for Councils not identifying a 'five year supply' is that applications for temporary traveller sites are to be 'considered favourably'. This is opposed in that it has the potential to result in poorly located sites which will in reality be very difficult to relocate. The new requirement for a 'five year supply' and the sanction of potentially having to approve applications if there is not such a supply does not seem to meet the Government's aim of having light touch guidance.
- 3.8 One of the Government's stated intentions is to protect the Green Belt. The proposal is to amend the phrasing from that in the circulars with the intention of providing greater protection. It is questionable whether the draft PPS achieves its aim, but as Huntingdonshire does not have any Green Belt, the

key concern with this is the explicit implication that other areas of 'open countryside' are therefore preferable (and acceptable) locations.

4. RECOMMENDATION

- 4.1 It is recommended that the responses to the formal consultation questions as set out in Appendix A be endorsed as the formal response of this Council to the consultation on the draft PPS: Planning for Traveller Sites.

Appendix A: Response to Consultation Questions

Background Information

The consultation document is available on the DCLG website under Travellers:
<http://www.communities.gov.uk/publications/planningandbuilding/travellersitesconsultation>

Progress on the Gypsy and Traveller Sites DPD and the SHLAA to date is on the Council's website under Planning Policy:
<http://www.huntingdonshire.gov.uk/Environment%20and%20Planning/Planning/Planning%20Policy/Pages/Gypsy%20and%20Traveller%20Sites%20DPD.aspx>

CONTACT OFFICER - enquiries about this report to Steve Ingram, Head of Planning Services, on 01480 388400

APPENDIX A RESPONSE TO DRAFT PPS: PLANNING FOR TRAVELLER SITES

1. *Do you agree that the current definitions of “gypsies and travellers” and “travelling showpeople” should be retained in the new policy?*

No. While the current definition of ‘travelling showpeople’ is accepted, the current definition of ‘gypsies and travellers’ causes difficulties in the context of any planning application as it can exclude ethnic Gypsies who have a reasonable desire to return to living in a caravan, while potentially allowing applications to be made by speculative developers. The definition should be changed to one which is more workable and easier to interpret in real world situations.

The interpretation of the current definition by the Planning Inspector in the recent appeal approval APP/H0520/A/09/2104200 in respect of two pitches near Somersham concluded that one of the intended occupants and his family did not fit the definition. This was because he had set up a local business and bought a house some years previously and therefore did not have a nomadic way of life. However, he was a Romany Gypsy, it was noted that he often travels to reach pre-arranged work laying decorative concrete driveways, and he had a clear desire to live on a caravan site which was related to his ethnicity. The interpretation taken in this appeal decision may differ from that taken by other inspectors and could be considered counter-intuitive when the person would in other circumstances be identified as a Gypsy.

In the evidence base for the draft PPS (page 49) it is noted that: ‘Although some Gypsies and Travellers travel for some of the year, the vast majority do not now travel on a daily basis all year round. Increasingly, as traditional seasonal work has declined, Gypsies and Travellers have adapted to permanent residential sites where they can more easily access a doctor, schools and other services and employment whilst maintaining the cultural traditions of being a Gypsy or Traveller’. The definition should recognise this evidence and allow people who are ethnically Gypsy to return to living on a caravan site where they have a family history of living on such sites.

The burden of proof should be on applicants that they are Gypsies or Travellers and that they need to live on a caravan site in accordance with other legislation which protects the rights of these groups. The following suggested definition is adapted from the current definition and that in the Housing Regulations 2006:

- (a) Persons who can supply evidence of their recent cultural tradition of nomadism involving living in a caravan; and
- (b) All other persons who can supply evidence of a nomadic habit of life, whatever their race or origin, including:
 - i. Such persons who, on grounds only of their own or their family’s or dependent’s educational or health needs or old age, have ceased to travel temporarily or permanently; and
 - ii. Members of an organised group of travelling showpeople or circus people (whether or not travelling together as such)

2. *Do you support the proposal to remove specific reference to Gypsy and Traveller Accommodation Needs Assessments in the new policy and instead refer to a "robust evidence base"?*

Yes. Councils should be able to decide for themselves what evidence is necessary to support its development plan documents. Gypsy and Traveller Accommodation Needs Assessments (GTANA) may not be the only evidence used to identify what provision should be made for Gypsies and Travellers in a district or city. Omitting specific reference enables appropriate flexibility as GTANA are prepared under the Housing Act 2004 and the requirements for them could be subject to change if that legislation changed. Nevertheless, a GTANA to update the existing 2006 needs assessment for this area is currently being prepared in Cambridgeshire. It is accepted that GTANA might remain the most relevant part of an evidence base if produced well and kept up to date.

3. *Do you agree that where need has been identified, local planning authorities should set targets for the provision of sites in their local planning policies?*

Yes, with qualifications. It would be perverse to ignore need that the local planning authority identifies. However, there should be no requirement that sites be allocated in a DPD sufficient to meet a target, as instead the target may be met over time as 'windfall' planning applications come forward.

4. *Do you think that local planning authorities should plan for "local need in the context of historical demand"?*

Yes, with qualifications. This authority has consistently put forward the view that it should plan to meet its own local need in relation to the expressed needs of the Gypsy and Traveller population with defined local connections. However, it is possible that this will be defined in different ways by different authorities. The occasional roadside encampment having occurred in the past, for example, is not considered to be sufficient to suggest that historically there is a need to provide permanent residential sites in an area.

5. *Do you agree with the proposal to require local planning authorities to plan for a five year supply of traveller pitches/plots?*

No. The current system of planning a five year supply of housing sites against a target is feasible because authorities can choose from a wide range of areas put forward by developers which are available and deliverable. Such areas are usually logical extensions of existing urbanised areas, and are therefore more readily accepted by the general public.

Traveller sites are different to other housing sites. The local authority is not able to choose from a wide range of areas put forward (in this authority very few sites have been put forward despite calls for sites). Any proposed sites will be controversial and the logic of choosing one site above another may not be immediately obvious, even if it follows accepted sustainability appraisal techniques.

While this authority has considered publicly-owned land stocks and major development areas as possible sources of land for traveller sites (in

accordance with Circular 01/2006), suggesting that such land be used has been controversial. This authority welcomes the omission of any specific reference in this draft PPS to the need to consider such areas and to the possibility of compulsory purchase. However the implication is now that only sites which come forward from willing landowners should be considered.

Whether all the sites that come forward will realistically be deliverable is a matter that is likely to lead to considerable debate, further delaying the prospects of establishing a five year supply.

Monitoring a five year supply requires considerable work in gathering evidence of completions and forecasts of future building rates for an annual monitoring report. Gathering such information for traveller sites is likely to be much less straightforward than with major landowners.

As stated in answer to Question 3, a target for traveller sites should be addressed in a DPD but it should not be necessary to allocate sufficient sites to meet the target as sites may be found over time as planning applications come forward, and there may be insufficient numbers of good sites put forward at the plan-making stage. What is more important is for the DPD to have a strategy with appropriate policies regarding how the target is likely to be met. Monitoring could be undertaken in relation to the target without the detail required for a five year supply to be evidenced.

Overall it is considered that this proposal to have a rolling five year supply would be a considerable additional 'top-down' requirement on Councils and does not meet the Government's objective of being 'light-touch'.

6. *Do you agree that the proposed wording of Policy E (in the draft policy) should be included to ensure consistency with Planning Policy Guidance 2: Green Belts?*

No. Green Belt policy is currently contained in PPG2 and is likely to be changed in future in accordance with the government's intention to replace all policy guidance with a new National Planning Policy Framework. Including reference to the Green Belt in this PPS has the potential to introduce inconsistencies, rather than ensuring consistency.

Green Belts have historically been defined as a means of preventing urban sprawl. It should be noted that many Green Belts already contain established traveller sites as well as other individual uses and areas of previously developed land. Areas within Green Belts may not be especially sensitive from a landscape point of view, and indeed may 'score' well in any sustainability appraisal when compared to other available land in a district having regard to distances to services and other environmental factors. Extending an existing traveller site in a Green Belt or providing for an additional site may be a sustainable way of providing for local need. The situation is significantly different from housing in the Green Belt which could lead to the urban sprawl that Green Belts are drawn up to avoid. Pragmatically, it may also be necessary for Councils with large areas of Green Belt to provide for the locally needed traveller sites within the Green Belt as their choices are limited.

Although this authority does not have any Green Belt, it does have substantial areas of high quality open countryside. Draft Policy C indicates that in rural or semi-rural settings, local authorities should ensure that the

scale of the site does not dominate the nearest settled community and Policy H reiterates this while adding that local authorities should avoid placing an undue pressure on the local infrastructure. While there is scope for additional local policy, there may be a need to strengthen the PPS as it should not be inferred that traveller sites are preferable in countryside that is particularly environmentally or landscape sensitive than sites in Green Belt which are not sensitive.

7. *Do you agree with the general principle of aligning planning policy on traveller sites more closely with that on other forms of housing?*

Yes, with qualifications. The specific needs of Romany Gypsies, Irish Travellers and Travelling Showpeople are such that there is a significant difference in the type of accommodation sought compared to other forms of housing. However, it is accepted that as a general principle planning policies should apply to all.

8. *Do you agree with the new emphasis on local planning authorities consulting with settled communities as well as traveller communities when formulating their plans and determining individual planning applications to help improve relations between the communities?*

Yes. This authority seeks, as a matter of good practice, to consult with settled communities as well as traveller communities.

9. *Do you agree with the proposal in the transitional arrangements policy (paragraph 26 in the draft policy) for local planning authorities to “consider favourably” planning applications for the grant of temporary permission if they cannot demonstrate an up-to-date five year supply of deliverable traveller sites, to ensure consistency with Planning Policy Statement 3: Housing?*

No. The draft PPS does not examine the issues surrounding temporary permissions which have been granted following the guidance set out in Circular 01/2006. Temporary permissions tend to provide neither the security sought by the occupants, nor the environmental outcomes sought by the surrounding settled communities. Conditions requiring the standard of landscaping expected in respect of a permanent permission, for example, may not be able to be imposed. The Council is also faced with the difficulty at the end of the temporary period of ‘ensuring’ relocation and the practical reinstatement of the site. For this authority, of the 17 pitches which have been granted temporary permission and implemented in accordance with Circular 01/2006, 5 pitches have had their temporary permission renewed before the expiry date (the remaining sites have not yet reached their expiry date) and no sites have relocated. A recent appeal decision APP/H0520/A/09/2117105 allows for 11 more temporary pitches in what the inspector considers to be a generally unsustainable location without any recognition of the fact that after families have established themselves on the site, any proposed relocation will raise substantial obvious issues.

As stated in answer to Question 5, this authority does not agree with the proposal to have to demonstrate a five year supply and therefore this scenario need not apply.

Decisions should be made on all planning applications based on their particular merits and there should not be any suggestion that temporary

applications should be 'considered favourably'. Such a phrase could be seen to be providing travellers with special rights in a similar way to Circular 01/2006 which states that 'substantial weight' should be given to unmet need when considering temporary permission. Arguably the proposed wording is more likely to result in the grant of permissions than that in the current Circular. The inclusion of this phrase is not considered to be consistent with Planning Policy Statement 3 on Housing as there is nothing in that PPS relating to temporary permissions in the same way, and the consideration of all other housing applications is done in the context of all the relevant policies. Suggesting that there will be situations where temporary applications will, in effect, be approved even if they are deficient, will maintain rather than dispel the 'widespread perception that the system is unfair and that it is easier for one group of people to gain planning permission' referred to in the Ministerial foreword to this draft PPS.

10. *Under the transitional arrangements, do you think that six months is the right time local planning authorities should be given to put in place their five year land supply before the consequences of not having done so come into force?*

No. Local planning authorities will not be able to identify a five year land supply within 6 months. The process of identifying a target will require the production of new evidence in accordance with the finalised PPS and consideration of this through a DPD process. As stated in answer to Question 5, this authority does not agree with the proposal to have to demonstrate a five year supply. If the Government decides to pursue this, two years is a minimum timescale for delivering a DPD which will be subject to intense public scrutiny.

11. *Do you have any other comments on the transitional arrangements?*

No.

12. *Are there any other ways in which the policy can be made clearer, shorter or more accessible?*

In addition to the matters raised earlier, this authority is concerned at the parts of the draft PPS which indicate that local connections should not be considered (apart from in respect of land that would be managed by a Registered Social Landlord). This means that while a target will be based on local need that sites may be taken by other travellers thereby leaving those that the target was identified to cater for potentially without sites.

Policy F and Policy H are also of concern in that they imply that business use should be provided for on many if not all traveler sites. These should also be re-phrased to make it clear that decisions can be made allowing for a residential traveller pitch with no provision for business use where business is inappropriate on the site due to its location or environmental constraints.

The Council also notes that this policy is meant to be incorporated into the new National Planning Policy Framework but it is not clear how this will be done. The policy would be clearer, shorter and more accessible if it is part of the Framework rather than a stand-alone addition.
