
REPORT TO:	Environmental & Development Services Committee	AGENDA ITEM: 10
DATE OF MEETING:	20 November 2014	CATEGORY: DELEGATED
REPORT FROM:	Director of Community and Planning	OPEN
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SUBJECT:	Consultation Paper: Planning and Travellers	REF: NS
WARD(S) AFFECTED:	All	TERMS OF REFERENCE: EDS 17

1.0 Recommendations

- That the contents of the consultation paper be noted and;
- that the Committee Chair, in consultation with the Chief Executive be delegated to respond to the Departments for Communities and Local Government (DCLG).

2.0 Purpose of Report

- 2.1 To inform Members of, and formulate a response to, a consultation on Planning and Travellers issued by DCLG. The Consultation's proposals primarily relate to changes to *Planning Policy for Traveller Sites*, although some would apply to the settled community, involving other changes to national planning policy.
- 2.2 Responses are required to be submitted by 23 November 2014. A copy of the consultation document is available at <https://www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance>

3.0 Executive Summary

- 3.1 This report sets out proposed changes to current national policy *Planning Policy for Traveller Sites*. The proposals are currently being consulted upon and questions are included in the consultation document. Recommended responses to the questions are given below where appropriate.

- 3.2 The consultation also includes draft planning guidance for travellers, which primarily aims to direct Councils in how to objectively assess their need for Gypsy and traveller accommodation. This guidance would form the statutory guidance and once published would cancel previous guidance on the subject.

4.0 Detail

Background

- 4.1 DCLG have published a consultation on Planning and Travellers, which proposes to make changes to national policy and Planning Policy for Traveller Sites. The Government's intention remains to review in the future whether Planning Policy for Traveller Sites should be incorporated within the National Planning Policy Framework. This would be considered as part of any wider review of the Framework.
- 4.2 Furthermore, the consultation also includes updated planning guidance on how local authorities objectively assess their own traveller accommodation needs. This guidance would replace the existing guidance on Gypsy and traveller accommodation assessments.
- 4.3 The changes proposed in this consultation seek to deliver a planning system that applies equally and fairly to both the travelling and settled communities. The Government is also concerned that current policy does not provide sufficient protection for the Green Belt and other sensitive areas. The consultation also proposes new policy measures to deter the occupation of sites without planning permission.

Proposed Key Changes to Policy

- 4.4 The first key change is that, where Gypsies and travellers have ceased to travel, then they should be treated no differently to members of the settled community for the purposes of planning policy. Furthermore, in seeking to simplify the process for assessing needs of Gypsies and travellers for planning and housing purposes, amendments are required to secondary legislation to bring the 2006 regulations' definition of Gypsies and travellers into line with the one set out above.
- 4.5 At present planning policy requires that local authorities strictly limit new traveller sites in open countryside. It is proposed this be changed to "very strictly limit new traveller site development in open countryside".
- 4.6 Where an up to date five year supply of deliverable sites cannot be demonstrated, this would no longer be a significant material consideration in favour of granting temporary planning permission in areas such as the Green Belt or other specified protected designations. The lack of a five year supply would remain a material consideration but with its weight determined by the decision maker.
- 4.7 Subject only to the best interests of a child, unmet need and personal circumstances are unlikely to outweigh harm to the Green Belt, or any other harm, thereby not constituting special circumstances.

- 4.8 Intentional unauthorised occupation of land by anyone should be regarded by decision takers as a material consideration that weighs against the grant of planning permission.
- 4.9 It is suggested that policy could be amended so that in exceptional cases, where a large scale unauthorised site has significantly increased an authority's need, and their area is subject to particular planning constraints, then there would be no assumption that the local authority should plan to meet their traveller site need in full.

The Consultation's Questions

- 4.10 The consultation poses a number of specific questions relating to the above. Each of these questions is set out below in paragraphs 4.11 to 4.35 together with a recommended response.
- 4.11 **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?**
- 4.12 Whilst the Council understands the reasoning behind the suggested change it is difficult to see how it may be defined i.e. at what point does it become reasonable to suggest that someone has no intention of travelling again. The further issue over this is that whilst travellers may decide to become "permanent", many will still maintain a traveling lifestyle. This is where an absolute definition would be required. It is also considered that there may be conflict with the Equality Act 2010, given that the policy is potentially restricting someone's choice of returning to a nomadic lifestyle, or that in not being able to travel due to ill health or age, by definition their ethnicity is changed.
- 4.13 **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?**

Local authorities should be required to keep records of unauthorised encampments and this information then used as a source of information for assessing traveller accommodation needs. This would provide evidence for the actual spread of pitches required – not just pitches in existing locations.

- 4.14 **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?**
- 4.15 A single definition would be helpful for planning and housing purposes and would hopefully ensure consistency between the two. Changes to the legislation should ensure that wider needs are assessed including those that no longer travel.
- 4.16 **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? If not, why not?**
- 4.17 No comment; no sensitive areas within the District.

- 4.18 **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?**
- 4.19 The change in wording is supported, however explanatory text to expound the change and what it would mean in practise would be helpful. A definition of open countryside, as opposed to countryside, would also be valuable.
- 4.20 **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? If not, why not?**
- 4.21 This change to protect the Green Belt is supported; the absence of an up-to-date five year supply should not routinely override the protection of the Green Belt.
- 4.22 **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?**
- 4.23 The change is supported; whilst the option should remain available to decision makers for personal circumstances to be a determining factor, this should be the exception rather than the rule.
- 4.24 **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?**
- 4.25 The negative effects of unauthorised development are recognised however they are not limited to the unauthorised occupation of land. It is a long-established principle that development should be assessed on the planning merits of the proposal and that a retrospective application is not, in itself, a material planning consideration. Any proposed change to this principle would need careful consideration and would need to apply to all developments and retrospective applications.
- 4.26 **Do you agree that unauthorised occupation causes harm to the planning system and community relations? If not, why not?**
- 4.27 The Council supports this assertion, whilst acknowledging harm is not limited to unauthorised occupation of land.
- 4.28 **Do you have evidence of the impact of harm caused by intentional unauthorised occupation? (And if so, could you submit them with your response.)**
- 4.29 No comment.

- 4.30 **Would amending Planning Policy for Traveller Sites in line with the proposal set out in paragraph 4.16 above help that small number of local authorities in these exceptional circumstances? If not, why not? What other measures can Government take to help local authorities in this situation?**
- 4.31 The Council agrees, however clarification is required as to what constitutes a “large scale unauthorised site” and also how the need that is unable to be met by the local authority in question should be met elsewhere.
- 4.32 **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?**
- 4.33 No comment.
- 4.34 **Do you have any comments on the draft planning guidance for travellers (see Annex A)?**
- 4.35 The present methodology for assessing the needs of travellers results in a needs assessment biased towards providing more pitches in areas that already provide the majority of pitches, when compared to the rest of the county for example. The use of waiting lists as a source of information in assessing need perpetuates this problem i.e. those areas not providing public sites cannot by definition have a waiting list, resulting in actual need being missed. A more balanced evidence base is required for needs assessments and mandatory collection of unauthorised encampment data would provide a more realistic picture of local need.

5.0 Conclusions

- 5.1 The consultation includes proposals that can be broadly welcomed, such as further protection of the Green Belt and open countryside. However other elements of the consultation, such as the change in definition of ‘Gypsies and Travellers’ for planning purposes and measures to address the unauthorised occupation of land, whilst the reasoning behind these proposals is understood, concerns remain outstanding as to what this would mean in practise.

6.0 Financial Implications

- 6.1 No financial implications

7.0 Corporate Implications

- 7.1 Meeting the accommodation needs of all sections of the community is an important part of providing ‘sustainable growth and opportunity’.

8.0 Community Implications

8.1 Planning and Traveller Sites is intended to assist the Council in supporting healthier, safer, vibrant and sustainable travelling communities in South Derbyshire.

9.0 Background Papers

9.1 None