



**REPORT TO:** Planning Portfolio Holder

18 November 2014

**LEAD OFFICER:** Director, Planning and New Communities

---

## **Government Consultation on Planning for Travellers**

### **Purpose**

1. To agree the Council's Response to the Government consultation: 'Planning and travellers: proposed changes to planning policy and guidance'.
2. This is not a key decision because it is responding to a Government consultation.

### **Recommendations**

3. It is recommended that the Portfolio Holder agrees the response to the consultation questions set out in the report.

### **Reasons for Recommendations**

4. This Government consultation addresses a range of issues related to planning for Gypsy and Traveller and Travelling Showpeople sites. Proposed changes to the definition of travellers for planning purposes would impact on the way accommodation needs are assessed. It is therefore recommended that the Council responds to the consultation, as it will impact on the way the Council plans for Gypsy and Traveller Pitches and Travelling Showpeople plots in the future.

### **Background**

5. The Government is consulting on proposed changes to planning policy and guidance related to planning for Gypsy and Traveller and Travelling Showpeople sites. The consultation document states that the Government is committed to increasing the supply of authorised sites, but says changes are needed to the planning system to apply planning rules fairly to both the settled and traveller communities. In particular, the consultation proposes changes to the statutory planning definition of travellers to exclude those who have permanently ceased to travel, to give greater emphasis on protecting the Green Belt and the countryside, and measures to assist Councils in dealing with unauthorised occupation of land.

### **Considerations**

#### **Proposed Changes to the planning definition of travellers**

6. The Government proposes to amend the planning definitions of Gypsies and Travellers, and Travelling Showpeople, to exclude those who no longer travel. Current policy requires that those who have ceased travelling permanently for reasons of health, education or old age to be treated the same as those who continue to travel. The Government considers that an application from those who have given up travelling permanently should be treated no differently to an application from the settled population when applying for a permanent site i.e. not in the context of the Government's Planning Policy for Travellers. Under the new definition, the document states that decision takers should give close scrutiny to whether the applicants are in fact living a nomadic lifestyle.
7. This would change the planning definitions that have been in place since the Circular 01/2006 Gypsies and travellers, removing the words 'or permanently': *'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'*. A similar change is proposed to the planning definition of Travelling Showpeople.
8. The consultation proposes to change the definition used for Housing Needs Assessments (Assessment of Accommodation Needs Meaning of Gypsies and Travellers England Regulations 2006) to be consistent with the planning definition. It would also add a requirement for Councils to assess the housing needs of those who have permanently given up travelling.

*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?*

9. *Proposed Response:* The Council would not object to measures to provide clarification regarding definitions, but further information is required on how changing definitions would be applied, and the implications for those who continue to live a nomadic lifestyle, and those whose cultural preference is to live in a caravan but who would be no longer covered by the definition.
10. The established definitions have been in place for over eight years. Their practical interpretation has been established through planning practice (appeals, legal cases etc.). Clear guidance on the interpretation of revised guidance will be needed, as there is potential for ambiguity regarding permanence, which could result in more planning appeals, and legal challenges, creating uncertainty and potentially costs for all involved if this is not provided. Clear guidance on the methodology to assess whether someone complies with the new definition is needed from the outset.
11. Like any community there will be a variety of needs to be considered. In assessing accommodation needs for gypsies and travellers, it is unclear how the sources of information suggested, i.e. the caravan count, will help to identify only those that have 'ceased to travel temporarily' as opposed to the existing definition of those that have 'ceased to travel temporarily or permanently'.
12. Clear guidance on how to assess and plan for the needs of those who no longer travel is necessary. The Equalities Statement accompanying the consultation notes that further consideration is needed on how this process will work in practice.

*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?*

13. *Proposed Response:*
14. Identifying suitable available and deliverable sites is challenging. It is important the burden of providing sites is not focused on only a small number of local authorities, particularly where extensive provision has already been made. This would help deliver a network of sites across the country. This was previously established through regional plans, it is unlikely that the Duty to Cooperate will achieve the same ends.
15. The government could take further steps to provide practical solutions for delivery. This includes supporting Local Authorities to deliver Gypsy and Traveller sites through large scale new communities such as new towns if there is an identified need. The government should also consider how other schemes could help deliver sites to meet traveller needs, such as the Right to Build.

*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, and b) we should also amend primary legislation to ensure that those who have given up travelling permanently have their needs assessed?*

16. *Proposed Response:* Making planning and housing definitions consistent would help the needs assessment process, making it easier for a single needs assessment process to meet the needs of both purposes. As highlighted in the response to question 1, further consideration is needed on how this would be applied in practice.

### **Protecting Designated Sites**

17. The National Planning Policy Framework accords significant protection to designated such as Sites of Special Scientific Interest or Local Green Space. To ensure these special protections are given full consideration, the Government proposes amending Planning Policy for Traveller Sites to include sections replicating the relevant parts of the Framework.

*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?*

18. *Proposed response:* The change to make guidance consistent is supported.

### **Proposals for Sites in Open Countryside**

19. Paragraph 23 of Planning Policy for Traveller Sites requires local planning authorities to strictly limit new traveller site development in open countryside. The Government wishes to strengthen this to reflect the importance of accounting for the intrinsic character and beauty of the countryside. The Government proposes to strengthen the current onus on authorities to "strictly limit new traveller site development in open

countryside" to "very strictly" limit such developments. It should be noted that elsewhere in the Planning Policy for Travellers, guidance is provided on sites in rural areas and the countryside (as opposed to open countryside). This is not proposed to be changed.

20. *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"?*
21. *Proposed response:* Given the existing wording of the Planning Policy for Travellers, the practical implications of this wording change are unclear.

### **Proposed Changes to Planning Guidance related to Green Belt – 5 year land supply**

22. Currently, a failure to show an up-to-date five-year supply of deliverable traveller sites is a "significant material consideration" when considering applications for temporary permission. The consultation proposes that in the Green Belt this would be merely a "material consideration", with its weight a matter for the decision-taker.
23. *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?*
24. *Proposed Response:* The change is supported, as it would increase consistency of planning policy. The Government recently clarified through changes to National Planning Policy Guidance that housing need in itself was not an exceptional circumstance. Green belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan.

### **Proposed Changes to Planning Guidance related to Green Belt – Personal circumstances**

25. The Government proposes to amend the Planning Policy for Traveller Sites to provide that, subject to the best interests of a child, unmet need and personal circumstances are unlikely to outweigh harm to the Green Belt and any other harm when considering whether there are very special circumstances for development in the Green Belt.
26. *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?*
27. *Proposed Response:* The policy proposal is supported as it provides consistency with wider planning policy.

### **Addressing unauthorised occupation of land**

28. The consultation seeks views on whether "intentional unauthorised occupation" by anyone "should be regarded by decision takers as a material consideration that weighs against the grant of permission". It seeks views and evidence on whether

unauthorised occupation causes harm to the planning system and community relations.

29. *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?*
30. *Proposed Response:* This is supported, however, the planning system judges each application on its merits, including retrospective applications. As the Consultation document highlights, if intentional occupation is taken into account in planning decisions, it will be important this is applied fairly. This would mean changes to other planning guidance, not just the Planning Policy for Travellers.
31. *Questions 9 and 10: Do you agree that unauthorised occupation causes harm to the planning system and community relations? Do you have evidence of the impact of harm caused by intentional unauthorised occupation?*
32. *Proposed Response:* The Council is aware of occasions when the unauthorised occupation of land has caused community tensions. In such cases the actions of a small minority have impacted on wider relations between the settled and traveller communities, and led to perceptions of unfairness. The Council could supply evidence to support this.

### **Impact of Large Scale unauthorised Sites on Needs**

33. The Consultation proposes that for a small number of authorities in exceptional circumstances, where "a large-scale unauthorised site has significantly increased" a council's need, and the area is "subject to strict and special planning constraints", it would not need to "plan to meet traveller site needs in full".
34. *Question 11&12: 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? What other measures can Government take to help local authorities in this situation?*
35. *Proposed Response:* South Cambridgeshire District Council has historically experienced situations where large scale unauthorised sites have increased need significantly in a short period of time, which can become self perpetuating in terms of need. This can create significant challenges for a local planning authority, and should be a material consideration when planning for needs. The proposed change is therefore supported.

### **New Draft Planning Guidance for Travellers**

36. The Consultation proposes updated planning guidance to support councils in objectively and accurately assessing their own traveller needs. This would replace a range of previous guidance documents.
37. *Question 13: Do you have any comments on the draft planning guidance for travellers?*

38. *Proposed Response:* Updated guidance on requirements of needs assessments is helpful, given the changes in the planning system that have taken place since the publication of earlier guidance. It is not clear how the changes to definitions proposed earlier in the consultation have been addressed in the guidance, including for those who have ceased travelling. Further clarification would assist understanding of these significant changes. It is also not clear why the 'Designing Gypsy and Traveller Sites - Good Practice Guide' is proposed to be cancelled, as it is not directly related to need, but provides useful information when planning for site delivery.

### **Options**

39. Alternative options would be for the Council not to respond, but given the potential impact of the proposals this is not recommended.

### **Implications**

40. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered: -

#### ***Legal***

41. Changes in planning guidance would have implications for planning decision making.

#### ***Equality and Diversity***

42. The government have published an equalities statement alongside the consultation.

### **Consultation responses (including from the Youth Council)**

43. The Housing Team, Development Control, Legal, and Equalities Officer have all been consulted in order to develop proposed responses in this report.

### **Effect on Strategic Aims**

**Aim 3** - We will make sure that South Cambridgeshire continues to offer an outstanding quality of life for our residents

44. The proposed changes would impact on the way planning policies are implemented in the district.

### **Background Papers**

Where [the Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) require documents to be open to inspection by members of the public, they must be available for inspection: -

- (a) at all reasonable hours at the offices of South Cambridgeshire District Council;
- (b) on the Council's website; and
- (c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of South Cambridgeshire District Council.

The Government's consultation: 'Planning and travellers: proposed changes to planning policy and guidance' can be found here:

<https://www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance>

**Report Author:** Jonathan Dixon – Principal Planning Policy Officer  
Telephone: (01954) 713194