

London Borough of Bromley

Report No.
ES05040

PART 1 - PUBLIC

Agenda
Item No.

XX

Title: **PLANNING FOR GYPSY AND TRAVELLER SITES**

Decision Maker: **Development Control Committee** Decision Date: **08 Feb 2005**

Decision Type: Non-Urgent Non-Executive Non-Key

Budget/Policy Framework: Within policy and budget

Chief Officer: Chief Planner

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Ward: All

1. SUMMARY

The Government has published a draft circular on planning for gypsy and traveller sites. The intention is to replace and update the current guidance in Circular 1/94. The period of consultation expires on 18th March 2005.

2. RECOMMENDATIONS

2.1 Members views are requested.

3. COMMENTARY

- 3.1 Present national guidance on gypsies and travellers is contained in Circular 1/94 "Gypsy Sites and Planning". A draft circular to replace Circular 1/94 is now out for consultation. The new guidance is considered necessary because the advice in Circular 1/94 has failed to deliver adequate sites over the last 10 years (para 2).
- 3.2 The advice in the draft circular covers the procedures to be followed to identify and make provision in development plans to cater for gypsy and traveller accommodation.
- 3.3 The key parts of the guidance including changes proposed to the current advice in Circular 1/94 are as follows:-

1. A change to the definition of gypsy.

The new definition reads as follows:

"a person or persons who have a traditional cultural preference for living in caravans and who either pursue a nomadic habit of life or have pursued such a habit but have ceased travelling, whether permanently or temporarily, because of the education needs of their dependant children, or ill-health, old age, or caring responsibilities (whether of themselves, their dependants living with them, or the widows and widowers of such dependants), but does not include members of an organised group of travelling show people or circus people together as such."

It now includes situations where gypsies stop travelling for health, or educational reasons or because of caring responsibilities.

2. A requirement that local authorities identify suitable sites for gypsies and travellers in their development plan documents.

The local housing assessment process will be the key source of information enabling local authorities to assess the level of provision that is required. Under provisions introduced by the Housing Act 2004 when local housing authorities produce a local housing assessment they will need to take into account the need of gypsies and travellers. Development Plan Documents (DPDs) should allocate sufficient sites to ensure that the pitch requirements in the Regional Housing and Spatial Strategies are met. The Statement of Community Involvement to be prepared by local planning authorities should include details of how the gypsy and traveller communities have been involved.

3. Improved guidance on drafting the criteria against which applications for sites will be judged.

The existing circular said that criteria should be clear and realistic. The new guidance strengthens this advice to say that they should be fair, reasonable, realistic and effective in delivering sites.

The draft circular in Annex C lists criteria which are regarded as fair reasonable and those which are regarded as unacceptable. An example of a criteria which is suggested to be unacceptable is

- "the site shall not encroach into the countryside.

The reason that this is unacceptable is because “this is unrealistic. Such policies have been used to thwart site provision.”

4. The circular reminds local authorities of the issues of Human Rights and Race Relations.

In particular the draft circular advises that Romany Gypsies and Irish Travellers have been recognised by the courts as being distinct ethnic groups protected by the Race Relations Act 1976.

5. The draft circular includes advice to local authorities and to gypsies, travellers and their representatives on how the system should operate.

Annexe E reminds local authorities that “planning officers and planning department staff should act in a professional manner and not discriminate on the grounds of race. They should treat enquiries from gypsies and travellers sympathetically and even handedly.”

Annexe F is guidance for gypsies and travellers. It reminds applicants of how the planning system operates and of the fact that in Green Belt or other areas of special protection, the likelihood of getting planning permission is lower.

The draft circular contends that “early engagement should help in the identification of suitably located sites and a reduction in unauthorised encampments and developments” (para 7),.

6. The draft circular main intentions are listed at para 10. they are:-

- to increase significantly the number of Gypsy and traveller sites with planning permission in order to address under-provision;
- to recognise, protect and facilitate the traditional lifestyle of Gypsies and Travellers;
- to identify and make provision for the resultant land and accommodation requirements.
- to help or avoid Gypsies and Travellers becoming unintentionally homeless;
- to reflect the status of Gypsy and Traveller accommodation as a part of wider housing provision;
- to create and support sustainable, integrated communities where Gypsies and Travellers have equality of access to suitable accommodation, education, health and welfare provision, and where there is mutual respect between all communities for the rights and responsibilities of each community and individual;
- to promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites;
- to underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;

- to ensure that DPDs include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively; and
- to reduce the number of unauthorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this circular.

7. Transitional arrangements before the completion of local housing needs assessments.

Local planning authorities will be expected to demonstrate that they have considered all available information before refusing a planning application. This incident of unauthorised encampments, the number of outcomes of planning applications and appeals, levels of occupancy, plot turnover and waiting lists for public authorised sites, the status of existing authorised private sites as well as the twice yearly caravan count.

8. The draft circular in Annexe 13 confirms that it does not effect the advice in other circulars, PPG, and PPS, including PPG2 – Green Belts.

Para 33 reiterates that gypsy and traveller sites in the Green Belt are likely to be inappropriate development. It goes on to state that “criteria based policies in LDDs should not impose a blanket ban on the establishment of such sites in the Green Belt”. It may be appropriate to grant planning permission if very special circumstances outweigh the harm. “But very special circumstances that. The decision maker must be able to point to point to circumstances which, objectives are reasonably capable of being described as “very special”. The only example given of very special circumstances are “out of the ordinary educational or health needs”.

Para 35 makes clear that unless very special circumstances exist the only other method of accommodating sites in boroughs with a high proportion of Green Belt land is to consider a limited alteration to the defined Green Belt boundary “which might be to accommodate a site inset with the Green Belt.”

9. Enforcement

The draft circular states that where breaches of planning control take place effective enforcement action is taken. Para 50 – “Effective planning enforcement should include arrangements to provide the same out of hours emergency cover as other environmental and public health protection services”. Surprisingly para 57 concludes that this will not have significant manpower or resource implications.

3.4 Members may well agree that an update of Circular 1/94 is required and to be welcomed. While the new draft circular concludes that it has not worked because it has failed to deliver adequate sites, Circular 1/94 has also not worked in that it has resulted in a significant increase in breaches of planning control. The new circular, while providing guidance to travellers on submitting applications, is silent on the need to obtain permission before occupation or indeed purchase of land takes place. It is recommended that the ODPM should be asked to ensure that the guidance is balanced and provides a proportionate assessment of the needs and restraints.

- 3.5 The circular extends the definition of gypsy to include situations where travelling ceases. It provides no advice or guidance on why this type of permanent development should be treated differently from other types of permanent residential development.
- 3.6 While the draft circular claims not to affect the advice in PPG2 or Green Belt, the suggestion that sites for permanent residential development could be inset with the Green Belt is clearly at odds with not only the advice in PPG2 but the existing advice on plan preparation.

4. POLICY IMPLICATIONS

- 4.1 The adopted Unitary Development Plan does not include a traveller or gypsy policy as its preparation predated Circular 1/94. At that time Bromley was a designated borough having provided the 15 pitches required to achieve this status.
- 4.2 The second deposit draft UDP included a policy in line with the advice in Circular 1/94. This policy H5 is criteria based. It reads as follows:-

POLICY H5

The Council will ensure the continued provision of existing sites for gypsies at:

- Star Lane, St. Paul's Cray and
- Old Maidstone Road

and for travelling show people at:

- King Henry's Drive, New Addington and
- Keston Showmans Park, Layhams Road

Proposals for the use of land by gypsies or travelling show people for the stationing of caravans will normally be acceptable provided that:

- (i) the proposal would meet an identified need for gypsies residing within the Borough or for travelling show people who have traditionally occupied sites locally; and
- (ii) the site is situated outside any areas of constraint; and
- (iii) the site is well-related to schools, shops, medical facilities and public transport; and
- (iv) there would be no adverse effects on the amenities of surrounding development.

When considering applications for such sites, the Council will have regard to other policies of the UDP and to the detailed design guidance set out in Supplementary Planning Guidance.

The UDP Inspector's report on this policy commented that the word "normally" should be deleted and that the Council should add supporting text to indicate how the requirements in the Circular had been met.

- 4.3 The draft circular does not make clear in the section on transitional arrangements how such a situation will be safeguarded. Clarification should be requested on this point as a policy which has been supported through the UDP process should not be threatened by the new circular guidance.

5. PERSONNEL IMPLICATIONS

- 5.1 The suggested out of hours enforcement service will have significant personnel and resource implications.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]