

PLANNING COMMITTEE

28 JUNE 2011

REPORT OF THE TEMPORARY HEAD OF PLANNING

A.11 CLG Consultation – Planning for Traveller Sites

1.0 Background

On 29 August 2010, the Secretary of State for Communities and Local Government announced the Government's intention to withdraw the existing traveller planning circulars (Circular 01/2006: Planning for Gypsy and Caravan Sites; and Circular 04/2007: Planning for Travelling Showpeople) and replace them with a new, shorter, 'light touch' Planning Policy Statement (PPS) for Traveller Sites. In April 2011, the Government published a paper on this issue, including a draft of the proposed PPS, for public consultation with a deadline for comments of 6th July 2011.

A draft response to the consultation is currently being prepared and will be circulated to Members in advance of the Planning Committee meeting.

The main purpose for producing a new policy is to:

- Address the perception that current policy treats travellers more favourably than those wishing to build normal housing, particularly in the Green Belt;
- To better reflect the Government's new approach toward more local decision making, its intention to abolish regional strategies and the intention to have shorter and fewer Planning Policy Statements;
- To facilitate the traditional nomadic way of life for travellers whilst respecting the interests of the settled community;
- Increase the provision of traveller sites to meet the identified need and thus reduce the likelihood of unauthorised encampments; and
- Ensure that travellers have suitable access to education, health, welfare and employment infrastructure.

The main changes from the previous guidance are:

- More reference to the term "traveller", for which the definition will cover gypsies, travellers and travelling showpeople;
- Local authorities will need to set targets in their development plan for 'pitches' (for gypsies and travellers) and 'plots' (for travelling showpeople) to address their accommodation needs;
- These targets will be based on robust assessments of likely needs over the lifespan of the development plan, in light of historical demand;

- The development plan should set out criteria which will guide the allocation of specific sites to meet identified needs (or which can be used to determine planning applications in areas where there is no identified need);
- Through their development plans, local authorities will need to enable continuous delivery of traveller sites for at least 15 years from its date of adoption (in the same way that housing growth is planned);
- Local authorities will also need to identify a five-year supply of specific 'deliverable sites' for travellers in any one year (in the same way that housing growth is planned); and
- If local authorities are not in a position to identify a five-year supply of deliverable sites six months after the new planning policy comes into force, they should grant temporary planning permissions.

The consultation paper sets out 13 questions on which the government is specifically seeking views.

2.0 Consultation questions

Definitions

The draft PPS proposes to use the term "traveller" to combine the current planning definitions of "gypsies and travellers" and "travelling showpeople". The first question in the consultation paper is concerned with the retention of those definitions:

"Q1 Do you agree that the current definitions of 'gypsies and travellers' and 'travelling showpeople' should be retained in the new policy?"

For the purposes of planning, "gypsies and travellers" means "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." In a similar fashion, "travelling showpeople" are defined as "members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who, on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age, have ceased to travel temporarily or permanently, but excludes Gypsies and Travellers as defined above."

We are aware from consultation with local people that some people object to those who have permanently ceased to travel being covered by such a definition. The view of many is that once a traveller has ceased travelling, they are no longer a traveller and should therefore be considered part of the resident community like everybody else and accommodated within traditional housing.

However, this does raise fundamental questions over the merit in providing 'permanent' sites and perhaps favours the provision of publicly-owned and run 'transit sites' for temporary/seasonal use for which this Council has no suitable land. It may also lead to an increase in unauthorised encampments if travellers object to giving up their traditional way of life just because they have ceased travelling. This view also raises potential conflict with the 2004 Housing Act which does require (legally) that the permanent accommodation

needs for travellers of addressed through the planning system. As there does not appear to be any attention from the government to change the provisions of the Housing Act, we see no merit in objecting to the proposed definition.

Assessment of Need

Instead of being bound by regionally-set requirements, the government proposes to give local planning authorities the power to set their own targets for 'pitch' and 'plot' provision in their Local Development Frameworks or Local Plans, based on robust evidence of local need in the light of historical demand. A 'pitch' refers to a pitch on a gypsy and traveller site (see definition above) and a 'plot' means a pitch on a travelling showpeople site, which may need to be larger to accommodate the storage of equipment.

The second and third questions of the consultation relate to assessment of need.

“Q2: Do you support the proposal to remove the specific reference to Gypsy and Traveller Accommodation Needs Assessment in the new policy and instead refer to a “robust evidence base”?”

“Q3: Do you think that local planning authorities should plan for “local need in the context of historical demand”?”

Critically, the evidence of local need will not necessarily have to follow the prescriptive methodology of Gypsy and Traveller Accommodation Needs Assessment (GTAA) as set out in previous guidance.

This Council is in a position where it is looking to move away from the target of 21 pitches to 2021, as prescribed by the soon to be abolished East of England Plan, and promote a lower target of 7 pitches to 2021 as derived from the 2009 Essex Gypsy and Traveller Accommodation Needs Assessment. Whilst there is significant local objection to having any traveller sites in virtually any location within the Tendring District at all, the reality is that 7 pitches is a small requirement when compared with the pressure that other authorities are under; particularly those closer to London.

The Council needs to consider whether it thinks the 2009 Needs Assessment can be considered to be a “robust evidence base” and thus whether further local analysis is required. The risk of the latter approach (other than the cost, to the Council, of commissioning further studies) is that a new piece of evidence could quite conceivably identify a higher need than envisaged in the 2009 Needs Assessment.

We would note that the 2009 Needs Assessment was commissioned jointly by a number of Essex authorities (thus demonstrating the ‘duty to cooperate’ being promoted through the emerging Localism Bill) and prepared by a reputable consultant who also prepared this Council’s Strategy Housing Market Assessment.

Therefore, for the purposes of responding to this consultation exercise, whilst we would suggest that the flexibility to enable Councils to prepare studies following their own mythologies is welcomed, it may not necessarily mean this Council will want to review the “robust evidence” that has already been prepared.

The government is suggesting that any assessments of local need should be undertaken ‘in the context of historical demand’. For Tendring, much of the historical demand has been seasonal; i.e. encampments have been set up for a temporary period of time, often during the busy holiday period, where seasonal job opportunities arise in locations like Clacton and Walton-on-the-Naze.

There is not a great deal of anecdotal evidence to suggest that there has been a historical demand for permanent accommodation, demonstrated by the fact that there are only 5 authorised permanent pitches and a small number of unauthorised pitches in the Tendring District. This is also reflected in the Essex GTAA by the relatively low number of pitches projected for the next 10 years.

Equally, for travelling showpeople, the historic demand is low and even the East of England Plan only set a target of 103 additional plots for the whole of Essex to 2016, of which most were expected to be in the Thurrock, Chelmsford and Basildon areas.

Therefore we do not see any major issue, in principle, with targets being informed by intelligence on historic demand.

Planning for sites over a reasonable timescale

An objective of the draft policy is to increase the number of sites with planning permission in order to address under-provision. The new policy proposes that Local Authorities will be required to set targets for traveller sites for a 15 year period but ensure that, in any one year, the authority can identify a 'five-year supply' of sites. In line with permanent housing, the 5 year supply should identify sufficient deliverable sites to meet need in the first years of the Development Plan. This means such sites must be available now, suitable and achievable. The Government feels that this will make the delivery of pitches more likely. Where there is no identified need, criteria-based policies should be included in the Development Plan to provide a basis for decisions in cases where applications nevertheless come forward.

The fourth and fifth questions of the consultation document are:

“Q4: 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?”

The policy requires that sites be identified to enable a continuous delivery of sites for at least 15 years from the date of adoption. This is a major change from the previous guidance which only required sites to be identified to meet whatever the Regional Plan set out.

This Council has already sought to follow this approach by setting a target of 8 pitches in the draft Core Strategy and Development Policies Document (published for consultation in October 2010) which can now be revised to 7 following the grant of permission, on appeal, for one pitch at Crockleford Heath. However, under the East of England Plan, authorities were only required to provide sites up to 2021. The draft policy suggests planning for 'continuous' growth over a longer period of time which suggests that a further 3-4 pitches might be needed in the 5 year period 2021-2026 or, if we continue to plan to 2031 through the LDF, 7 additional pitches between 2021 and 2031.

Critically, the new policy does suggest that local authorities need to allow for provision to be made for other family members who may not themselves physically move their own accommodation onto the site.

Without a target, it will be impossible to legitimately control the provision of traveller sites and each case would have to be considered purely on its merits; a position the Council has been in for many years and which has caused significant unease within our communities.

The only concern about setting a target is whether that target ought to be interpreted as a minimum (as is currently the case for housing) or whether it can legitimately be treated as a maximum. The view of local people is that any target should be a maximum not to be

exceeded; however, because the government is keen to increase the supply of authorised traveller sites and wants to see a consistent approach to housing and traveller site provision, we suspect that such targets will be treated as a minimum.

However, if we follow the 'plan-led' approach and identify specific sites for travellers, there should be no reason why targets should be exceeded to the degree that might cause local concerns. In the Council's response to the consultation exercise, we would suggest raising this as an issue for clarification.

“Q5: Do you agree with the proposal to require local planning authorities to plan for a five-year supply of traveller pitches/plots?”

We are concerned about having to plan for a five-year supply of traveller pitches or plots. Unlike for regular housing development, where it is clear that population growth and other factors will necessitate an on-going supply of new homes, there is no evidence to suggest that this will be the case for travelling communities. Future generations may not wish to continue the traditional nomadic way of life and therefore it might be better to make an initial allocation of land for travellers to meet the evidenced need but thereafter consider proposals for expansion on their merits or new up-to-date evidence.

Travellers' Sites and the Green Belt.

The current Circular 01/2006 states that new sites in the Green Belt are 'normally inappropriate development'. It is stated that this has resulted in a situation where applications for traveller sites are being treated more favourably than applications for permanent residential development within the Green Belt. The Government therefore proposes removing the word 'normally' which will mean that applications for traveller sites will be treated in the same way as applications for permanent development with both considered 'inappropriate development' in the Green Belt.

The sixth question of the consultation asks:

“Q6: 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?”

Assuming the thrust of PPG2 is retained within any consolidated 'National Planning Policy Framework' it makes sense that proposals for traveller sites in the Green Belt should be treated in the same way as proposals for new housing in the Green Belt.

With that said however, there is a concern that because many traveller communities set up encampments around the outskirts of London for the best possible access to employment opportunities (sometimes in Green Belt locations), taking too strict an approach may result in increasing the demand for traveller sites further out into places like Essex.

Reduce tensions between settled and traveller communities

The government proposes aligning planning policy on traveller sites more closely with that for other forms of housing. This should achieve "fair play with everyone being treated equally and even-handedly".

The consultation also suggests, in the interests of further reducing tensions, that local planning authorities need to pay particular attention to early and effective community engagement with both settled and travelling communities when formulating their plans and determining planning applications. The documents states "The new focus on consultation with settled communities will increase meaning people are more supportive of

development. It will also enable local planning authorities to obtain a balance of views to enable them to make their decisions, and reduce opposition to development based on misunderstanding and lack of information”.

The 7th and 8th question relate to these two proposals:

“Q7: Do you agree with the general principle of aligning planning policy on traveller sites more closely with that for other forms of housing?”

In principle, this should be welcomed. However we still envisage this causing tension between traveller communities and the residents of our towns and villages because the policy would be to direct traveller sites toward existing centres of population (i.e. ‘sustainable’ locations) where there is greater access to existing facilities and infrastructure, including public transport.

In our experience, there are some communities who object most vociferously to traveller sites and who would actually prefer them to be given preferential treatment to be located in a remote rural area, as far away from residential areas as possible.

“Q8: Do you think the new emphasis on local planning authorities consulting with both settled and the traveller communities when formulation their plans and determining individual planning applications will reduce tensions between these communities?”

We are concerned that no matter how much public engagement is undertaken to discuss the individual merits of particular proposals, there is a strong element of the resident population that will resist, as a matter of principle, any suggestion that a traveller site will be located near them.

Increased public consultation often only increases tensions between the residents of an area and travellers. Ultimately local planning authorities will be accused of ‘ignoring’ the resident population if it chooses to support a traveller site in a particular location, notwithstanding the level of engagement and education that has taken place.

Transitional Arrangements

The planning policy statement would come into effect immediately. Local Authorities would have six months to demonstrate an up-to-date five year supply of deliverable sites. If the Local Planning Authority cannot demonstrate this level of supply it should consider favourably applications for the granting of temporary planning permission for travellers’ sites. There are three questions associated with these transitional arrangements:

“Q9: Do you agree with the proposals in the transitional arrangements policy (paragraph 26 of the draft policy) that asks 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?”

See comments in response to Question 5 where we do not agree with having to maintain a 5-year supply of sites.

“Q10: 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?”

Q11: Do you have any other comments on the transitional arrangements policy?

We consider that the proposed six-month period is too short for most local authorities to put their development plans in place. Furthermore, this is not consistent with general housing policy for which there is no prospect of temporary permissions.

Consolidating and streamlining policy

The government believes that the PPS will be a shorter and clear statement of policy that the two Circulars it is proposed to replace and hence will contribute to a more effective and streamlined planning system with which local planning authorities and developers can more easily engage. The last two consultation questions are:

Q12: Are there any other ways in which the policy can be made clearer, shorter or more accessible?

We consider that the policy should provide a clearer definition of the terms “local need” and historical demand” would help local authorities to have a consistent basis from which to calculate future pitch targets. This could also address the confusion that appears to exist between these terms and the guidance for determining planning applications.

Q13: Do you think that the proposals in this draft statement will have a different impact, either positive or negative, on people because of age, disability, gender realignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation? If so, how in your view should we respond?

No.

3.0 Recommendation

That the Planning Committee considers the draft response to the consultation exercise to be submitted to Communities and Local Government before 6th July 2011.