

Friends, Families and Travellers submission to ODPM on Planning for Gypsy and Traveller Sites Consultation paper.

FFT welcomes the introduction of a new circular and the generally positive tone of the document. If its intent is carried through then this should mean the development of equality of access to suitable accommodation, consistent with their needs, for Gypsies and Travellers.

We are however concerned that the history of provision has consistently failed to meet these needs. It will require resolution on behalf of the ODPM to ensure that these proposals are carried through by the relevant local authorities. A Task Force, after the model developed in the Irish Republic, may be of assistance in maintaining vigilance over, and assisting with, the various aspects of implementation.

We are glad that there is recognition that Planning Circular 1/94 is acknowledged as having failed in its stated intent -

‘to provide that the planning system recognises the need for accommodation consistent with gypsies’ nomadic lifestyle’.

The planning system needs to respond in a positive and realistic way to the plurality of need of Gypsies and Travellers. In this context the system will be required to develop policies and systems which provide for the needs of Travellers and Gypsies who are sedentary and for those who travel. Without a clear recognition of these twin needs the system will yet again fail to deliver. Apart from the problems caused to the travelling population a failure to deliver will inevitably result in further needless public expense and conflict revolving around issues characterised as ‘unauthorised camping’. Within the aegis of the Human Rights Act accommodation should be culturally congruent. The central paradox at the heart of the planning debate over what can be termed Gypsy and Traveller issues revolves around the application of concepts developed for sedentary bricks and mortar dwellers to a mobile population.

In the end results on the ground are what matters. It should be the expectation that Gypsies and Travellers should be able to get planning permission on suitable sites at first application and not be turned down out of hand and have to go through the appeals system. Most successful planning outcomes for Travellers and Gypsies come at present via the appeals system. We are glad that the proposed new circular aims to ensure that the planning system recognises, protects and facilitates the traditional lifestyle of Gypsies and Travellers. It would seem that, given the very small number of people being dealt with here (less than 1% of the population), this aim should be achievable. It will in our view require considerable changes of heart by those who administer the system at local, regional and national level and by decision makers. There will need to be a significant educational programme to lessen conflict and increase understanding on all sides if the proposals are to deliver sites on the ground within a reasonable period. Investment in such a programme will be repaid by the lessening of conflict and reduction of public costs over evictions and legal actions.

The best way to ensure a positive response of the planning system to the needs of this population group is indeed a proper assessment of need in a region, county or district. However that need should take account of the plurality of that need, for example,

some people will want to have their own sites but there will be others who prefer to rent either from a statutory authority or from private individuals. Others will continue to live nomadically, occasionally camping in customary locations, all year round or at least for part of it. There will also be variety in terms of sizes of sites required which should be taken into account by the planning authorities. Assessment of need protocols will have to make thorough consultation with the 'consumers' (that is Gypsies and Travellers) a priority and a central plank of any strategy developed. Failure to make effective and realistic consultations, rather than 'token' efforts, will inevitably result in a system which fails to meet the real needs of the target group.

Definition

Whilst we are very pleased to note that the new definition of those covered by this circular now recognises the needs of Travellers and Gypsies who have stopped travelling because of educational, social or health reasons we are very concerned that the new definition is unnecessarily restrictive. It excludes those who cannot meet the concept of belonging to a cultural tradition, although they may follow one. A definition arranged around the central concept of nomadism regardless of race or origin whilst catering specifically for those who follow, or are part of, a cultural tradition has much to recommend it. Our preferred definition would include ' , or others', after 'caravans'. This should ensure that 'non-ethnic' Travellers – including, for example, second and even third generation New Travellers - have a fair shot at the planning system. Many New Travellers and others qualify as having a nomadic habit of life and numerous planning appeals have recognised this. It goes against any sense of natural justice or fairness to exclude this small group from the new planning arrangements. They are in the process of building their own cultural tradition. Inevitably not all those who pursue a nomadic life will meet this definition. Social inclusion policies will still need to address the accommodation preferences and needs raised by some encampments. Eviction policies have not resolved and never will resolve these issues in a satisfactory manner.

Although we are aware that Travelling Showpeople are covered by separate circular that is next in line for review we would like to take this opportunity to express our concerns over the difficulties which this group faces in gaining appropriate accommodation through the planning system. Many of the comments made on this draft circular will no doubt also apply to planning issues impacting on Showpeople. We would like Showpeople to be added to the new definition.

Local Housing Assessments and Assessment of Need

This key source of information will very much determine both local and regional strategies.

We applaud the intention to introduce a more robust and wide ranging assessment process – the old method of simply relying on bi-annual 'Gypsy counts' was never adequate because of severe undercounting. Some local authorities used to evict Travellers and Gypsies camped in unauthorised places from their districts just before counts to ensure that they could point to little need in their district for accommodation. Similarly many unauthorised encampments were excluded from the

counts on the basis that one officer had decided that the inhabitants were not ‘gypsies’ (sic) without any investigation of their status.

We would wish to point out that in addition to thorough and wide ranging consultations of key stakeholders and local communities there needs to be a robust examination of the past history of provision. As well as looking at past planning applications and appeals an analysis of enforcement actions against Gypsies and Travellers and evictions by local authorities (for example using sec 77 of the 1994 CJA) and by police (for example using Sec 61 1994 CJA) should help to build a truer picture of the level of need. This is reflected in point 25 and we applaud the requirement on local authorities to use such information when considering any application during the interim.

Whilst we are glad of the emphasis on consultation of Gypsies and Travellers, support groups and representative bodies, we are concerned about the requirement for Gypsies and Travellers to be proactive with local planning authorities to ensure that their views are taken into account. This may be achievable in areas where there are active local support groups or a history of positive relations but may be unrealistic in many local planning authority areas. The requirement for a proactive stance by Gypsies and Travellers could be seen as a naïve view of the situation on the ground. Local authorities could be taking enforcement or eviction action against Gypsies and Travellers who they are supposed to be consulting about their needs. We suggest that local planning authorities and councils should be advised to consider a moratorium against enforcement or eviction actions until at least the interim needs assessment process has been completed and when the need for such action is not overly pressing.

We are pleased that the Statement of Community Involvement lays a duty of local planning authorities to put in place direct and accessible communication arrangements with Gypsies and Travellers. We fear that arrangements may not bear fruit due to lack of will on the part of officers and politicians. Arrangements have to have substance not merely the appearance of activity. We are glad that SCIs will be scrutinised by Planning Inspectors but ask that a mechanism be put in place which will allow Gypsies and Travellers to express dissatisfaction with local planning authorities, or even the Planning Inspectorate, should such a situation arise.

Local authorities will themselves need to be proactive in assessing need and this will of itself build confidence and trust with the travelling community. Models are being developed which may meet the needs of this process (for example in Cambridgeshire).

In order to build trust with people who continue to travel the systematic closure of traditional sites must cease and the movement of travelling people facilitated. In this context of movement it is also clear that the number of pitches needed will always exceed the number of caravans present in a district. Merely matching pitch numbers to the numbers of caravans present at any one time will inevitably be doomed to failure. The use of designation in the past when counties were deemed to have reached their pitch targets always led to problems. These were usually experienced by a neighbouring county into whose geographic area the ‘excess population’ were evicted or ushered. We are glad that the circular implicitly recognises this difficulty by highlighting the likelihood that local planning authorities will receive planning

applications from Gypsies and Travellers without local connections and that their requirements will have to be met.

With regard to duties arising under Homelessness legislation a number of councils are arguing that they have fulfilled their duty by offering bricks and mortar housing. The new circular should close this loophole off and make it clear that housing for homeless persons includes caravan sites for Gypsy and Traveller families.

It is clear that the whole assessment process has huge resource implications for Travellers, Gypsies and their representative groups. Funding must be made available by the ODPM to facilitate this process of involvement.

We have concerns relating to timescales – deadlines for establishing regional spatial strategies are, we believe, short. There is only inadequate information available at present. Spatial strategies based on inadequate information will have knock-on effects on local planning authorities.

DPDs and location of sites

Criteria should indeed be fair, reasonable, realistic and effective but the proof of the pudding will be the achievement of sites on the ground. We are glad that the circular reminds local planning authorities that the Government has the power to intervene in the plan-making process to ensure that proposed constraints are not too great or inadequately justified. We hope that the Government will be proactive in intervening in the plan-making process where insufficient progress is being made.

The reminder to local authorities that they may dispose of land for less than best consideration is to be welcomed but they should be also reminded of their powers of compulsory purchase which could be used to create affordable land for Traveller and Gypsy sites. Councils should also consider loan systems or shared ownership scheme for sites as exists for bricks and mortar housing.

In view of the current shortage of sites and likely planning constraints on future locations there is a serious danger of price inflation because of a large demand in a limited market. This may result in potential sites being placed beyond the reach of most Traveller and Gypsy families. We hope that plans to create affordable housing by releasing government-owned land will be extended to cater for the needs for sites.

In relation to price inflation we are also concerned that there may be problems associated with identified parcels of land being bought up by those in opposition to the establishment of sites. This would effectively mean exclusion by economic means.

Transitional arrangements

We welcome the fact that local authorities will be required to consider information from a range of sources when considering an application and to include this information as part of appeal documentation.

We consider that as part of interim measures local authorities should be required to identify suitable land immediately. There is a significant risk that local authorities will

merely assess each application as it arises and will, for a number of years, essentially ignore the task of identifying suitable locations which Gypsy and Traveller families facing eviction could consider.

Local authorities should also consider identifying land, suitable for short term encampments such as verges, green lanes that have been historically used by Gypsies and Travellers and rights of way, as part of an inclusive and integrated management scheme for unauthorised encampments. The use of planning conditions could help to free up idle development land in urban areas and urban fringes for temporary sites as a form of planning gain. These could provide an ephemeral land bank.

Serious consideration should be given to land swap schemes for Gypsy and Traveller families who have failed to secure planning permission on their own land. Price differentials can be minimised by local councils using their powers of compulsory purchase to create affordable parcels of land.

Sites in Rural areas and the Countryside

We welcome recognition of difficulties faced by Gypsies and Travellers in rural areas (including the Green Belt) in securing a supply of affordable land for their needs. In view of the difficulties faced by them we expect that exceptions policies will be the rule rather than the exception where there is a need.

We very much welcome point 38, where it is recognised that rural settings are acceptable in principle. We are aware that local authorities may object to this but fail to see how Gypsies' and Travellers' accommodation needs can be met without the acceptance of this.

We are glad that point 33 recognises that Green Belt may be an appropriate place for a site or sites, and that it (point 35) recognises that Green Belt is often the only place available. In view of the historical difficulty of obtaining sites within urban areas, which is unlikely to be significantly affected by the new circular and given the demand for sites for conventional housing, Green Belt may be the only available land in districts whose non-urban land is dominantly Green Belt. This is recognised in point 34 and 35 suggesting that alterations to Green Belt boundaries may be possible. We are glad that this need is recognised but are very concerned about the length of time this will take. We suggest that existing sites without the benefit of planning permission in Green Belt and rural areas generally should have a stay of execution on enforcement actions until the process of examining the need for exceptions within Green Belts is completed. It would seem to make little sense for local authorities to evict Gypsies and Travellers from their own land under the current guidance and policies when there is every possibility of them being granted planning permission when the planning policy development process is complete. Local planning authorities in considering changes to Green Belt boundaries should consider the history of enforcement, applications and appeals on Green Belt land within their district. Such a history should be a material consideration when considering changes to the boundary.

Mixed planning use in rural area

The exclusion of rural exceptions sites from mixed use runs counter to the realities of the situation. It ignores the reality of Travellers and Gypsies seeking to create employment in forestry, horticulture, and rural skills based enterprises. This avenue of development must remain open to an already economically disadvantaged group. The creative use of planning conditions should allow this to be done.

Applications

If planning applications are to succeed then local authorities must adopt realistic and robust criteria but must also be prepared to provide advice and support to applicants. Good communication will help build capacity within the applicant community. Much of this responsibility, particularly in the absence of serious financial support for the development of voluntary groups to support and inform the process, will fall on the shoulders of local authorities. They should develop proactive systems to aid the resolution of the intractable planning problems which Gypsies and Travellers face. Simply identifying a single officer as a contact point although welcome will not be enough.

Sustainability

We welcome the recognition of the potential benefits of sites being located in reasonable proximity to GPs, health services and schools etc but are concerned that other issues of sustainability (for example transport issues) for such a small group should be given such significance. The impact nationally on sustainability (in terms of transport and resource use) of such a relatively small aggregate development, should all the needs of the Gypsy and Traveller community be met, will be very small. We suggest that such issues be given less weight in the planning process in relation to the development of Gypsy and Traveller sites.

There are strong sustainability arguments to allow mixed use sites in rural areas with a horticultural, rural craft or forestry focus.

The rotational use of traditional sites is an eminently sustainable process when properly and inclusively managed.

Enforcement

Given that changes to planning policies and site identification by local planning authorities will take a considerable amount of time consideration should be given to an amelioration of the enforcement regime during this interim period.

These potential and emerging policy changes should become a consideration in any decision relating to enforcement action and the benefit of the doubt given to Travellers and Gypsies in the interim until appropriate policies have emerged.

We are glad that par 53 mentions that absence of existing provision is a consideration when considering enforcement action.

Monitoring

In addition to measuring success rate of applications for Traveller and Gypsy sites against other types of residential development local authorities should compare the rate with their past performance. Given an overall success rate in the past of around 10 per cent for initial applications by Gypsies and Travellers there should be a marked improvement on implementation of the new planning circular if it meets its aims.

Such data should be amalgamated for the regions and sub-regions given that some districts will have very few applications and statistically in the short run only regional data will be able to be relied upon. This will necessitate the collection of data, for say the last tens years, on applications, enforcements and appeals on a district basis. Regional amalgamation will enable comparisons with past performance to be made.

We have concerns that the impact of the new guidelines will be monitored solely by the number of planning appeals and by Examination in Public of local plans (p 40). Whilst both these activities are in themselves important we strongly feel that part of the monitoring and review process should include formal measurement of success rates of planning applications themselves (to be reported by local planning authorities on a bi-annual basis), measurement of the levels of planning enforcement action against Gypsy and Traveller sites (including use of temporary and full stop notices), and levels of unauthorised camping (including details of use of the various local authority and police powers of eviction). These should be published bi-annually by the ODPM (as are the 'Gypsy count figures'). They should also be compared with base-line data (as mentioned above) on planning application success rates and enforcement action rates garnered for the past ten years. This set of guidelines aim to improve the situation of Travellers and Gypsies in relation to their accommodation needs and without a comparison with past activity we fail to see how a full review and monitoring is capable of being successfully carried out.

Annex C

We are glad it is recommended that sites should not be located on significantly contaminated land and other unsuitable land. The long history of establishing sites in locations which exacerbate social exclusion has set precedence in the mind set of many local authorities which will need challenging by Government if the aim of social inclusion is to be achieved. Swift intervention by Government where councils identify inappropriate or hazardous land will set a good example.

There is in our view a strong risk of 'ghettoisation' via the planning system unless a vigilant watch is kept by central government on the distribution of parcels of land identified as being suitable for site development.

Some of the example criteria listed given rise to some concerns. We are concerned that the locational requirements in relation to existing settlements, services etc may be counterproductive and too restrictive. It may well be unrealistic to allow the imposition of such locational criteria and we would welcome amendment of such phrases given the likely local opposition which will greet any application within or close to a settlement. Perhaps criteria based policies should contain a statement that the criteria will be balanced against need.

We are concerned that there is an assumption that size is an issue as regards integration issues. Surely a minority group should not be singled out in this way. Proper attention to criteria and diversity of provision should help ease any issues which arise over size. It should be borne in mind that geographic choice of itself facilitates population dispersal.

Annex D

We welcome the mention of robustness of any assessment process. Local consultation is vital and in our view consultation of national groups although very important will be insufficient on its own. The ODPM should consider giving financial support to national and local organisations to enable them to fully take part in the assessment and planning policy development process. There are significant constraints, mainly financial, which stand in the way of voluntary organisations being able to play a full and effective part in the whole process.

We have some concerns over point 5 which could be interpreted as allowing local planning authorities to meet the pitch requirements solely by identifying land. This would also seem to allow local planning authorities to identify a single piece of marginal land to which all Traveller and Gypsy planning applications could be directed. This could open the way to the development of planning ‘red-lining’ for this minority group. We would ask that the Government tackle this potential problem by being vigilant as to how planning authorities identify land and by ensuring that alongside any land identification there is always a realistic and effective criteria based policy which will allow reasonable choice.

Traditional models of usage by nomadic groups have the benefit of allowing dispersal and choice and have the potential of avoiding inter group and inter community conflict. Studies of traditional usage would benefit the identification of suitable sites of fixed location.

We believe that the First Secretary of State should be proactive in using his default powers under section 27 to identify necessary sites when councils have failed so to do. This should be made clear to local planning authorities and his default powers should also be used to identify appropriate sites when inappropriate ones have been selected. The system as it stands would seem to allow for much bureaucratic delay.

Annex E

We welcome the advice that local authorities are expected to develop a level of trust and co-operation with the local Gypsy and Traveller community. We hope that some mechanism will be established for monitoring the attainment of this aim in the same way as the planning process is monitored.

Annex F

We are concerned that the advice to potential applicants ignores the reality on the ground. If a Gypsy or Traveller takes advice from the local authority and acquires land on which to make an application how is that applicant to pursue his application if living in a different, unauthorised site (for example at the side of the road) at risk

from eviction? We would ask that guidance is given to local planning authorities in relation to this situation giving regard to the extreme difficulties that Gypsies and Travellers have in pursuing planning applications. In the interim before the system is fully operational with appropriate needs assessments in place, appropriate policies giving fair and achievable criteria and location of appropriate land we believe that the only viable option for Gypsies and Travellers will be to purchase land and apply for retrospective planning permission.

Annex H

In relation to the benefits and costs of new arrangements FFT endorse the implementation of a suitably amended new circular. The arguments in favour of attempting to increase the success rate of planning applications by Gypsies and Travellers are overwhelming. The benefits to the community in being able to look forward to a more secure life with a more equal access to services are potentially huge. It is a necessary precursor to the successful reduction in the social exclusion suffered by this group. Without major changes to the planning system and the consequent delivery of sites we see little hope for the future. Positive change is a vital requirement that must be delivered within a reasonable period.

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