

---

## **PLANNING FOR GYPSY AND TRAVELLER SITES - CONSULTATION**

### **1 SUMMARY**

- 1.1 This report seeks Members' views on a review of Circular 1/94 "Gypsy Sites and Planning". A response is required by 18th March 2005
- 1.2 A copy of the consultation paper has been placed in the Members' Library. In addition, the document has been reviewed by the Gypsy/Traveller Sub-Committee; the Sub-Committee's views will be circulated prior to the meeting.

### **2 BACKGROUND**

- 2.1 This consultation paper fulfils the Government's commitment to review the policies on Gypsies and Travellers. It is the Government's view that a review is long overdue, since it is apparent that Circular 1/94 has failed to deliver adequate sites for Gypsies and Travellers over the last 10 years.

### **3 SUMMARY OF PROPOSALS**

- 3.1 The main changes proposed to current policies are:
- a new definition of "Gypsy";
  - a requirement that Local Authorities identify suitable sites for Gypsies and Travellers in Development Plan documents;
  - improved guidance on the criteria against which proposals for non-allocated sites will be considered;
  - clarification of the role of local housing assessments;
  - information about the Race Relations Act;
  - advice on engaging Gypsies and Travellers; and
  - advice on how Gypsies and Travellers should engage with the Planning system.

#### **Definition of "Gypsy"**

- 3.2 The key change proposed in the draft Circular is to clarify that Gypsies and Travellers can still be classified as such, even though they may have given up their nomadic habit.

#### **Local Housing Assessments**

- 3.3 Local Housing Assessments are highlighted as the key source of information enabling Local Authorities to assess the level of provision required.

#### **The Development Plan**

- 3.4 Documents prepared by Local Planning Authorities will be expected to allocate sufficient sites to ensure that pitch requirements are met. It should be noted that pitch requirements will be included in the Regional Spatial Strategy.

**Consultation**

- 3.5 The new planning system requires Local Authorities to undertake extensive consultation with all stakeholders prior to finalising policies and proposals. The draft Circular reinforces this requirement and explains that consultation should start at an early stage and that communications should be direct and accessible.

**Development Plan Documents**

- 3.6 Where there is an assessment of unmet need, suitable sites should be identified in DPD's. However, sites should only be allocated if they are in Local Authority ownership or there is a realistic likelihood that they will be made available for Gypsies and Travellers.

**Sites in Rural Areas**

- 3.7 The draft Circular suggests that Local Authorities should consider a rural exceptions policy, since Gypsies and Travellers very often find difficulties in finding sites in rural areas.
- 3.8 There is clear advice, though, about Green Belts: new Gypsy and Traveller sites are likely to be inappropriate development. However, criteria based policies in Local Development Documents should not attempt to impose a blanket ban on sites in the Green Belt.
- 3.9 The draft Circular goes on to recognise that finding a site or sites may be difficult in Green Belt areas and Local Authorities may therefore wish to consider a limited alteration to the defined Green Belt boundary to meet an identified need.

**Mixed Use Sites**

- 3.10 Planning Authorities should, wherever possible, identify sites suitable for mixed residential and business uses, since many Gypsies and Travellers run their businesses from their caravans.

**Sustainability**

- 3.11 In deciding on suitable sites, where a need is identified, Planning Authorities should consider first locations in or near existing settlements, with access to local services.

**Human Rights**

- 3.12 The draft Circular makes clear that Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned, both Gypsies and Travellers and local residents and to whether it is necessary or proportionate in the circumstances.

---

**4 DISCUSSION**

- 4.1 The new Circular clarifies that Gypsies and Travellers do not change their status if they have ceased travelling, whether permanently or temporarily. This is certainly a matter of some confusion and cited on occasion as an argument against granting planning consent.
- 4.2 The Government is making it absolutely clear that a Gypsy remains a Gypsy, despite abandoning a nomadic lifestyle: in other words, Local Authorities cannot found a case against a planning proposal or in support of enforcement action on the grounds that a nomadic lifestyle has ceased.
- 4.3 In broad terms, it is considered there can be little argument against the principle of assessing need as a precursor to any decision about site allocation. However, there is concern about the methodology for assessing need. This must be realistic and robust if appropriate decisions are to be made about sites, and for these decisions to be seen to be warranted.
- 4.4 Subject to the methodology, if a need is identified, the draft Circular then requires Local Planning Authorities to allocate sufficient sites in DPDs to ensure that need is met. The allocation process is, though, subject to caveats. The Local Authority should either allocate land in its control, or ensure there is a realistic chance of the land that is allocated being made available.
- 4.5 Whilst the latter point will require an investigation to ascertain the likelihood of a site being released or made available, this is in reality little different from the process to be followed to allocate land for other uses. Clearly, there is little point in allocating land for any use unless there is some likelihood it will become available within a Plan period, but the point about land being in the ownership of the Authority is interesting and is perhaps a reflection of the difficulty that Authorities may face in identifying suitable sites where a need is identified. It will also place a resource requirement upon the Authority in terms of provision and layout.
- 4.6 If an immediate need for a site allocation is not identified, Local Planning Authorities are nevertheless required to include a criterion based policy in their DPDs against which proposals for sites can be considered. The Replacement Rochford Local Plan already includes such a policy. Not surprisingly, the Circular states that policies should not be used to impose a blanket ban against site provision.
- 4.7 The draft Circular confirms that Gypsy and Traveller sites are likely to be inappropriate development in the Green Belt. This is to be welcomed, since it provides a clear statement that national policy on Green Belts has not altered. That having been said, as with any proposal for development in the Green Belt, it may be that special circumstances could be demonstrated. However, the Circular says that "very special circumstances" means just that!

- 4.8 If a need was to be identified in a Green Belt District like Rochford, there is a certain inevitability that a site allocation could only be found on Green Belt land. In this situation, the Circular states that land could be removed from the Green Belt and allocated for a Gypsy and Traveller site in a DPD: this arrangement would follow the same path as the allocation of a site for any use, housing, employment land, etc. A DPD allocation would be subject to public consultation and possible examination in public.
- 4.9 There is little doubt that Gypsies and Travellers operate businesses from their caravans. That being the case, the advice that mixed use sites will usually be most appropriate makes some sense. However, the business uses Gypsies and Travellers are involved in tend to be many and varied and mixed use sites could inevitably have impacts on adjoining owners, on road safety issues and so on. This is especially likely to be the case when the comments about sustainability are taken into account, since this assessment would require sites to be close to existing services.
- 4.10 Finally, it is absolutely essential that in all matters relating to possible site allocations or consideration of action against unauthorised encampments, that Local Planning Authorities take a measured approach, particularly in respect of Human Rights legislation. The Circular advises that such matters should be considered before determining planning applications and, if contemplating enforcement action, it is necessary and proportionate taking account of all the circumstances.
- 4.11 There is little doubt that where a need for a site or sites is identified, the process for addressing that issue will be challenging for most Districts. The key starting point, though, must be the use of a robust methodology for assessing need that everyone can trust. It then needs to be followed up by sufficient resource allocations to serve the appropriate provision.

## **5 ENVIRONMENTAL IMPLICATIONS**

- 5.1 Unauthorised encampments are likely to have negative environmental impact on the countryside. In the case of a proposed site allocation, as an assessment of environmental impact will be a key issue.

## **6 FINANCIAL IMPLICATIONS**

- 6.1 Resources will be required to undertake a needs assessment and for ongoing monitoring updates. If a site or sites are shown to be required, it is not clear whether these would be run as municipal sites or not; if that is the case, then there is little doubt there will be a financial cost to the Authority.

## **7 LEGAL IMPLICATIONS**

- 7.1 Human Rights and Racial Equality issues are important considerations.

**8 RECOMMENDATION**

8.1 It is proposed that the Committee **RESOLVES**

That, subject to comments from Members, this report forms the basis of the Council's response on the Gypsy and Traveller Sites consultation document.

Shaun Scrutton

Head of Planning Services

---

**Background Papers:-**

Planning for Gypsy and Traveller Sites, December 2004

For further information please contact Shaun Scrutton on:-

Tel:- 01701 318100

E-Mail:- [shaun.scrutton@rochford.gov.uk](mailto:shaun.scrutton@rochford.gov.uk)