
REPORT TO:	Environmental and Development Services Committee	AGENDA ITEM: 8
DATE OF MEETING:	3rd March 2005	CATEGORY: DELEGATED
REPORT FROM:	Deputy Chief Executive	OPEN:
MEMBERS' CONTACT POINT:	Ian Bowen (5749)	DOC:
SUBJECT:	Consultation Paper on Planning for Gypsy and Traveller Sites	REF:
WARD(S) AFFECTED:	All	TERMS OF REFERENCE: ES03

1.0 Recommendations

- 1.1 That the contents of the draft Circular be noted, and that a response be issued to ODPM setting out this Authority's comments and concerns as set out in this report and in particular:
- The Council welcomes the recognition that the lack of information on needs is a failing of the current system
 - The draft Circular does not appear to adequately recognise that there will be a significant delay in achieving the stated objectives
 - The draft Circular promises the publication of separate guidance on undertaking assessments of need but this has not been forthcoming. The draft Circular is less than clear over the mechanism for achieving co-ordination with Regional Strategies and assessment at a wider level than individual districts.
 - The draft Circular leaves Local Planning Authorities in a vacuum in the interim period of not less than two years effectively whilst the assessment is carried out with expectations on it that cannot be delivered
 - The Circular should advise a cautious approach to the release of new sites by local planning authorities and planning inspectors at appeal in circumstances where there are genuine planning objections to a proposal and where the local authority can demonstrate that a needs assessment under the terms of the Circular is underway or is programmed to get underway.
 - In particular, the need for gypsy sites should not be seen to overrule the normal presumption that the countryside should be protected for the benefit of all so enabling it to remain an important natural resource, contributing to national and regional prosperity to be enjoyed by all.

2.0 Purpose of Report

- 2.1 To inform members of, and seek views on, a draft Circular 'Planning for Gypsy and Traveller Sites' issued for consultation by the Office of the Deputy Prime Minister (ODPM). This Circular will replace current Circular 1/94.
- 2.2 Responses are required to be submitted by 18th March 2005. A copy of the document has been placed in the Members' room and can also be accessed on-line at www.odpm.gov.uk [in the 'consultation papers' area of the 'Planning' section].

3.0 Detail

- 3.1 In line with Circular 1/94, the draft Circular continues to advise on the procedures to be followed in ensuring that the planning system recognises, protects and facilitates the traditional lifestyle of gypsies and travellers.
- 3.2 However, the Government considers a new Circular necessary in the light of evidence that the system has failed to deliver adequate sites in many areas of England over the last 10 years. Since the issue of Circular 1/94 and the repeal of local authorities' duty to provide sites, the number of planning applications for private sites has increased. The majority of these, however, have been refused.
- 3.3 The overall objectives therefore include significantly increasing the number of gypsy and traveller sites with planning permission through the allocation of new sites in development plans on a needs basis, reducing the number of unauthorised encampments, and making enforcement more effective where local authorities have complied with the Circular.

Key Changes Proposed

- 3.4 The key changes being proposed are as follows:
- A change in definition to recognise that gypsies may stop travelling, either permanently or temporarily, for health or educational reasons or because of caring responsibilities
 - A requirement that local authorities identify suitable sites for gypsies and travellers in development plan documents, rather than relying on general locational criteria
 - Updated guidance on criteria for inclusion in development plans against which to test planning applications on sites not allocated in the plan (i.e. windfall sites)

- Introduction of a 'rural exceptions' policy into development plans to address shortages of a supply of affordable land to meet local gypsy and traveller needs
 - A requirement to produce local housing assessments together with an explanation of how these will assist local authorities to quantify the level of need for gypsy accommodation.
- 3.5 The changes are being made to coincide with the radical reforms to the planning system, and the enactment of the Housing Act 2004 which requires local housing authorities to include gypsies and travellers in their local housing needs assessments and to take a strategic approach to meeting those groups' needs as part of their wider housing strategies.

4.0 Officer comments

4.1 Undoubtedly the national shortage of gypsy sites and the lack of information on needs is a failing of the current system and to the extent that the draft Circular seeks to remedy these, it can be welcomed. In this regard, the provision of decent and appropriate accommodation to meet the needs of gypsies and travellers is an essential objective in the same way that it is for the settled community. Accordingly, it is reasonable to seek to identify and allocate sites enabling both the gypsy and settled communities to be fully involved in the plan-led process. This will be helped enormously by the requirement for the local Housing Authority to co-ordinate with planning and other departments, the development industry, regional bodies, the community and other stakeholders in producing robust evidence based local housing needs assessments.

4.2 However, the draft Circular does not appear to adequately recognise that there will be a significant delay in achieving the stated objectives. This will arise for the following three reasons:

- Firstly, the needs assessments for gypsies and travellers do not currently exist in most areas of the country. The draft Circular promises the publication of separate guidance on undertaking such assessments which will set out a baseline of factors as well as a recommended methodology. Regrettably, however, this was not issued to accompany the draft Circular and at the time of writing, this had still not been published.
- Secondly, the Circular makes clear in any case that the needs surveys will need to be co-ordinated with Regional and Sub-Regional bodies so as to ensure a consistency of approach between authorities within regions. Unfortunately, the draft Circular is less than clear over the mechanism for achieving this. Some parts of the draft document suggest that assessments should be

started at the regional level by Regional Housing Boards, whilst other parts suggest that assessments ought to be prepared by local housing authorities. In recognition of the pressing need to establish robust data in Derbyshire, officers across housing, environmental health and planning departments from the district and borough councils, the County Council and representatives from the Gypsy community have already started to informally discuss how this might be approached locally. Nevertheless, there is still likely to be a significant time lag as it appears that any such assessment will need to be conducted over a full calendar year to examine trends over the four seasons. Furthermore, a 'flagship' study to be commenced shortly in Cambridgeshire is widely considered to be something of a prototype, and any Derbyshire-wide assessment is likely to look to benefit from experience gained there first. In any event, the clear impression given by the Circular is that authorities should not undertake studies in isolation as to do so would not satisfy the terms of the Circular.

- Thirdly, in the East Midlands, planning authorities will not be in a position to start making new site allocations (for whatever purpose) until the review of the Regional Spatial Strategy which will not be completed before 2007 at the earliest.

4.3 Given the above, local planning authorities will, in the short term, still be unable to make fully informed provision to meet gypsy and travellers' needs. In this context, a concern of this Authority must therefore be that the drafting of the Circular should not place local planning authorities at a disadvantage in attempting to refuse inappropriate planning applications, and sustaining those decisions at appeal in the interim where there are sound planning reasons for seeking to do so. This concern is addressed in more detail in the following two paragraphs.

4.4 Paragraphs 24 and 25 of the draft Circular describe the approach which local authorities should take in assessing planning applications from gypsies and travellers in advance of the consideration of new local housing need assessments. These state that a range of existing data should be considered including, for example, early data available from the local housing needs assessments, number and outcomes of planning applications and appeals, levels of occupancy, plot turnover, waiting lists and the ODPM twice yearly caravan counts. The draft Circular further advises that: "*Local planning authorities will be expected to demonstrate that they have considered this information, where relevant, before any decision to refuse a planning application and to provide it as part of any appeal documentation*".

4.5 Whilst it is a reasonable and positive move to ask local planning authorities to consider the above data where available, officers recommend that this paragraph requires qualification. In this regard

the Circular should advise a cautious approach to the release of new sites by local planning authorities and planning inspectors at appeal in circumstances where there are genuine planning objections to a proposal and where the local authority can demonstrate that a needs assessment under the terms of the Circular is underway or is programmed to get underway.

Other Detailed Comments and Recommended Responses

- 4.6 Paragraph 32 of the draft Circular advises on sites in rural areas and the countryside and there has been a considerable shift in emphasis compared to the current Circular 1/94. Whilst Green Belt land is offered a high degree of protection, the draft Circular advises that:

"Rural settings where not subject to special planning constraints, are acceptable in principle and local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services".

- 4.7 Officers are concerned that whilst rural settings may well be considered for allocation in development plans where a range of site options can be compared, this section of the draft Circular appears to contradict established national planning policies for the protection of the countryside and reduction in the need to travel. As drafted it risks allowing inappropriate development in visually sensitive and/or isolated countryside locations on appeal where most other forms of development would not be permitted. This paragraph should therefore be deleted.
- 4.8 Paragraphs 52–53 – these paragraphs advise that planning inspectors will consider the availability and currency of needs data in determining planning appeals. Local authorities are also advised to *"have regard to whether the absence of existing provision may prejudice enforcement action, or give rise to grounds for appeal against refusal for a new site"*.
- 4.9 This advice, in common with concerns raised above, appears to ignore the inevitable hiatus which will occur in securing robust needs data. The advice in this section of the draft Circular should therefore also be qualified in the same terms as recommended in paragraphs 4.5 above.

5.0 Financial Implications

- 5.1 None arising directly from this report. However, the introduction of the Circular and in particular the requirement for needs assessments, the allocation of sites in development plan documents and more effective enforcement will have staff time and other as yet unquantifiable cost implications.

6.0 Corporate Implications

- 6.1 The revised Circular has particular implications for the Housing, Environmental Health and Planning functions of the Council.

7.0 Community Implications

- 7.1 The Council has a duty to recognise and make provision for the land accommodation needs of all sections of the community and ethnic groups including those of gypsies and travellers and the settled population.
- 7.2 The Council's progressive attitude towards Gypsies and Travellers is worthy of note and its previous work provides an excellent foundation on which to build. The Council's "Traveller Toleration Policy", its existing and planned assessments of housing need for the travelling community and its accommodation and management of two residential sites for Gypsies within the District, all indicate the Council's commitment to appropriate provision

8.0 Conclusions

- 8.1 Whilst the publication of draft revised Circular can be broadly welcomed, there are a number of important concerns which need to be put to ODPM in response to this consultation. These are described in this report.

9.0 Background Papers

- 9.1 None other than referred to in this report.