

**DERBYSHIRE COUNTY COUNCIL**

**MEETING OF CABINET MEMBER – HIGHWAYS, TRANSPORT AND  
INFRASTRUCTURE**

**9 December 2014**

Report of the Strategic Director - Economy, Transport and Environment

**DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT  
CONSULTATION: PLANNING AND TRAVELLERS**

(1) **Purpose of Report** To agree a County Council response to the Department for Communities and Local Government's consultation called 'Planning and travellers: proposed changes to planning policy and guidance'.

(2) **Information and Analysis** The Government has produced a consultation on planning and travellers seeking views on proposed changes to planning policy and guidance for Gypsies and Travellers. The consultation can be accessed via [www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance](http://www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance). The proposals are intended to:

- ensure that the planning system applies fairly and equally to both the settled community and Travellers;
- strengthen the level of protection afforded to sensitive areas and the Green Belt; and
- address the negative effects of unauthorised occupation of land.

The consultation also seeks comments on new streamlined draft planning guidance for Travellers, which supports Local Authorities (LAs) to objectively and robustly assess their Traveller accommodation needs and further clarifies where Temporary Stop Notices can be used.

The consultation document proposes to tighten up:

- a) the definition of Travellers so that it only applies to those Gypsies and Travellers that still have a nomadic lifestyle;
- b) planning policy for Gypsy and Traveller sites within the open countryside;
- c) Green Belt policy in relation to Traveller sites, particularly as it relates to a Local Planning Authority's (LPA) five year pitch requirements;

- d) Green Belt Policy further so that, subject to the needs of children, unmet need and a Traveller's personal circumstances are unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.
- e) policy on unauthorised occupation of land by Travellers.

### **Local Member Comments**

All Derbyshire County Council Members were consulted on the proposed changes to the Planning and Travellers' policy and guidance. The following comments have been received:

Councillor Stuart Ellis, Elected Member for Dronfield West and Walton, '*strongly endorses implementation of all the above key points*'.

Councillor Martyn Ford, Elected Member for Etwall and Repton, comments that, '*As chair of the Local Planning Authority in South Derbyshire I fully support these proposals, fully recognising the "Rights" of Travellers, they should have the same rules, applied to them as would be applied to any other member or group in the community*'.

Councillor Irene Ratcliffe, Elected Member for Wirksworth, recognised that there was a need for Traveller sites and felt that there should be a concerted strategic look across the County for such sites. She felt that the needs of Gypsies and Travellers needed to be addressed strategically, across boundaries if necessary, in local plans.

### **Officer Comments**

Whilst the consultation states that tightening up the definition of Travellers is not about ethnicity or racial identity, and that it is simply for planning purposes that the Government believes a Traveller should be someone who travels, nevertheless it does not consider individual circumstances or that Gypsies and Travellers are ethnic groups, not a lifestyle choice. There is a significant concern, therefore, that the proposals could have a harmful effect on the cultural identity of Gypsies and Travellers. The Equalities Act 2010 affords Gypsies and Irish Travellers legal protection against discrimination, including from housing authorities. Furthermore, there may be a hidden desire of some Gypsies and Travellers who currently live in 'bricks and mortar' (permanent) accommodation to live on a Traveller site, but are unable to do so. If the definition is tightened, there is a danger that it will encourage more settled Gypsies and Travellers to travel in order to come within revised definition of travellers, resulting in more unauthorised encampments.

It is considered appropriate that the existing 'Planning policy for traveller sites' (March 2012) should be amended to reflect the provisions of the National

Planning Policy Framework (NPPF), which seeks to accord significant protection to sensitive sites, such as those protected under the Birds and Habitats Directive and/or sites designated as Sites of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty or within a National Park. The settled community would be very unlikely to gain planning permission for new dwellings within these sensitive areas, due to the likely significant harm they would have on such sensitive sites and/or their setting. It is considered to be appropriate, therefore, that planning policy for Travellers should be set on the same footing.

In the same way as fairness should apply to planning policy for Traveller sites in sensitive areas, it is appropriate that fairness should apply to policy for Traveller sites within the open countryside. The NPPF indicates that LPAs 'should avoid' new isolated homes in the countryside unless there are special circumstances, such as the essential needs of agricultural workers or where development would re-use redundant or disused buildings. In this context, it would be unfair, therefore, for the test for Traveller sites in the open countryside to be stricter than policy for housing for the settled community. The existing wording in 'Planning policy for traveller sites' (paragraph 23) that "*Local planning authorities should 'strictly limit' new traveller site development in open countryside*" should remain as it is unless Government also proposes to apply the 'very strictly' control policy requirement to the development of housing in the countryside as set out in paragraph 55 of the NPPF.

The Government announced through Written Statements of 1 July 2013 and 17 January 2014 that *'unmet need, whether for traveller sites or for conventional housing is unlikely to outweigh harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the Green Belt'*. In this context and with the added special protection given to Green Belt by Government, it is appropriate that the absence of an up-to-date five year supply of deliverable sites should be removed from 'Planning policy for traveller sites' as a significant material consideration in the grant of temporary permission for Traveller sites within Green Belt Areas. It is also appropriate, therefore, that the Government should amend Green Belt and Housing Policy in the NPPF to reflect the fact that the absence of a five year housing land supply of deliverable sites would not weigh in favour of granting permission for new housing sites in the Green Belt. Paragraphs 49 and 87-90 of the NPPF should be amended to this effect.

In the context of fairness, applications from the Traveller communities should be treated in the same way as the settled community or any other developer. This includes the clear principle that the previous record of the applicant is not a material consideration. Therefore, the proposal to tighten up policy to make it clear that intentional unauthorised occupation should be regarded by decision

takers as a material consideration that weighs against the grant of planning permission should not be pursued.

Annex A of the consultation proposes updated planning guidance to be laid before Parliament. With minor amendments and alterations, it is felt that the new streamlined draft planning guidance forms a reasonable basis for LAs to objectively and robustly assess their Traveller accommodation needs.

(3) **Financial Considerations** There are no financial considerations associated with this report.

(4) **Legal Considerations** The recommendation in this report is made in the context of the County Council's responsibilities and services under the provisions of the Localism Act 2011 and Planning and Compulsory Purchase Act 2004.

### **Other Considerations**

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

(5) **Key Decision** No.

(6) **Call-in** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(7) **Background Papers** Held on file within the Economy, Transport and Environment Department. Officer contact details - David Dale, extension 39810.

(8) **OFFICER'S RECOMMENDATION** That the Cabinet Member authorises officers to respond to the Department for Communities and Local Government's consultation on 'Planning and travellers: proposed changes to planning policy and guidance', as set out in the report.

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Environment**