



Report for: ACTION
Item Number: 8iv

<b>Contains Confidential or Exempt Information</b>	NO – Part I
<b>Title</b>	<b>Consultation: Planning and Travellers</b>
<b>Responsible Officer(s)</b>	Nick Davies, Head of Strategic Commissioning for Adult Social Care and Housing
<b>Contact officer, job title and phone number</b>	Simon Hurrell, Head of Planning, tel 01629 685712
<b>Members reporting</b>	Cllr Derek Wilson and Cllr David Coppinger
<b>For Consideration By</b>	Cabinet
<b>Date to be Considered</b>	30 October 2014
<b>Implementation Date if Not Called In</b>	Not applicable
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Travellers, planning, fairness, Green Belt, unauthorised occupation of land, planning guidance

### Report Summary

On 14 September the Department for Communities and Local Government published a consultation on planning and travellers. The link to the report is:

[https://www.gov.uk/Government/uploads/system/uploads/attachment\\_data/file/355840/current\\_con\\_doc\\_in\\_publication\\_format\\_140917.pdf](https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/355840/current_con_doc_in_publication_format_140917.pdf)

Local authorities and other consultees including parish councils are invited to submit their response by 23 November 2014.

The consultation deals primarily with planning policy. It invites comments on (*inter alia*):

- Travellers who have ceased to travel and how they should be treated, in planning terms, in the same way as the settled community
- Further measures to ensure robust protection of the Green Belt and other safeguarded environments.

The report outlines the questions raised by Government and suggests a response in each case.

<b>If recommendations are adopted, how will residents benefit?</b>	
Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Residents will know that the Royal Borough takes traveller-related planning policies very seriously and in particular will note its agreement to strengthen planning approach towards travellers in the Green Belt	Once the Government's proposals are introduced as legislation

## 1. Details of Recommendations

### RECOMMENDATIONS: That Cabinet:

- (i) Notes the Government's consultation on *Planning and travellers* and a response made
- (ii) Delegates the final wording of the response to the Lead Member for Planning and the Head of Planning and the Lead Member for Adults Services and Health and the Head of Strategic Commissioning for Adult Social Care and Housing, and
- (iii) Agrees the Royal Borough's response is sent to all parish councils.

## 2. Reason for Recommendation(s)

The consultation sets out a number of questions, together with a draft revised planning guidance for travellers (included at Appendix A). The report below takes each question in turn, gives some commentary and suggests a response.

**Q1 – Do you agree that the planning definition of travellers should be amended to remove the words or permanently to limit it to those who have a nomadic habit of life? If not, why not?**

*Comment:* for planning purposes the current definition of 'gypsies and travellers' and 'travelling showpeople' used in the 2012 *Planning Policy for Traveller sites* includes those who, for whatever reason, have ceased to travel temporarily or permanently. Royal Borough recognises that many of the traveller families with which it has contact enjoy the way of life traditionally associated with their communities, but that many in fact have long since ceased to be nomadic; they are permanently or semi-permanently settled on a particular site in a particular location. Good examples are found at the two publicly controlled traveller sites at Mill Place and Pool Lane, and the community at Feathers Lane, Wraysbury. By excluding those travellers who have permanently ceased to travel will bring them into the same planning criteria that are used to determine all proposals for residential development. However it is important that the Royal Borough's planning policies are consistent as between different groups of residents and it is right therefore that travellers who have ceased a nomadic life should be treated in the same way as the settled community.

*Suggested response:* The Royal Borough agrees with this suggestion in respect of permanent sites, where many travellers have resided for long periods and are well integrated in the community, and who should be subject to the same planning policies as the settled community. The Royal Borough will continue to enforce robustly against unauthorised traveller developments and encampments, regardless of whether the occupants follow a nomadic way of life or not.

**Q2 – Are there any additional measures which would support those travellers who maintain a nomadic habit of life to have their needs met? If so, what are they?**

*Comment:* The Government suggests that local authorities can provide transit sites *per se*, or by using planning conditions on authorised sites which restrict, say, the times of year when the sites can be used, or the maximum length of stay of a traveller family. In the Royal Borough there are a large number of short term incursions which are dealt with by the Environmental Protection team. There is no doubt about the demand for temporary space. Often it is the case that the unauthorised traveller occupation could easily become longer term were it not for the prompt action of the Authority and private landowners. It is difficult to see how such an approach could be used effectively, except where the Authority itself were to provide the temporary pitches, or in partnership with other agencies.

*Suggested response:* The Royal Borough recognises the demand for temporary pitches, a constantly recurring issue for Environmental Protection, Planning enforcement and private landowners. The council though does not see how such provision could be used effectively unless it was prepared to make such provision itself, possibly in partnership with another agency or landowner. There are no such plans for this at present.

**Q3 – Do you consider that a) we should amend the 2006 regulations to bring the definition of “gypsies and travellers” into line with the proposed definition of “travellers” for planning purposes, and b) we should also amend primary legislation to ensure that those who have given up travelling permanently have their needs assessed? If not, why not?**

*Comment:* The Royal Borough, for the purposes of preparing reviews of gypsy and traveller accommodation (GTAA) needs, uses the definition in the 2012 *Planning Policy for Traveller Sites*. The Government proposes to amend the definition of ‘gypsies and travellers’ as used in the relevant regulations to bring it into line with the ‘planning’ definition set out in question 1 above. The effect of this would be to limit consideration ‘to those who have a nomadic lifestyle’.

The council prepared a GTAA in 2012 and is undertaking a further GTAA this year, in partnership with neighbouring authorities. Restricting the meaning of ‘gypsies and travellers’ as proposed would be helpful in planning terms, but would leave a significant number of non-nomadic travellers in the Royal Borough.

The Government asks whether the needs of the non-nomadic travellers should continue to be assessed (much as at present in the Royal Borough through the GTAA). The indirect suggestion is that the non-nomadic traveller community should be treated, for planning purposes, in the same way as the settled community. There is often resentment locally that travellers can appear to have an advantage; this was an argument heard frequently in the public consultation on the ‘Datchet 2’ proposed traveller site and in the recent planning applications.

In the Royal Borough there is also a substantial number of non-traveller occupiers of temporary, usually caravan, accommodation; these are construction workers attracted by the vibrant Thames Valley economy and the construction jobs that go with it. Current planning enforcement work involves [2] of these sites; the start of the M4 Smart Motorway project in 2016 will doubtless give rise to expanded demand.

Using a more restricted definition in enforcement work could help focus attention on travellers where in fact it is non-traveller, temporary workers who give rise to greater impact on local communities.

*Suggested response: The Royal Borough agrees with the focus for planning purposes on the genuinely nomadic; the needs of the non-nomadic traveller community are no different to those of the settled community and the council will respond to them accordingly.*

**Q4 – Do you agree that Planning Policy for Traveller Sites be amended to reflect the provisions in the National Planning Policy Framework that provide protection to these sensitive sites? If not, why not?**

Comment: the Government proposes to clarify that the relevant parts of the National Planning Policy Framework (NPPF) e.g. SSSI will apply to the provision of traveller sites. The clarification is not in respect of Green Belt sites, but see Question 5 below.

*Suggested response: This clarification is welcome.*

**Q5 – Do you agree that paragraph 23 of Planning Policy for Traveller Sites should be amended to “local authorities should very strictly limit new traveller sites in the open countryside”? If not, why not?**

*Comment:* The Government proposes to strengthen the requirement to safeguard the character and beauty of the countryside. There is no reference here to Green Belt, preferring a generic description which would be applicable nationally and which would be a matter for endless speculation and value judgement. Strengthening of the requirement in the Green Belt though would be welcome; this would require applicants to work harder to prove very special circumstances and in the Royal Borough would effectively negate the possibility of there being new traveller sites in the Green Belt. The consultation makes no mention of areas at risk of flooding – it didn't need to as the 2012 guidance makes it clear that sites vulnerable to flooding are inappropriate for traveller sites - but including these areas within the stricter definition would also be welcome.

*Suggested response: The Royal Borough supports this proposal.*

**Q6 – Do you agree 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 in the areas mentioned above? If not, why not?**

*Comment:* local planning authorities are obliged to ensure the provision of a five-year supply of traveller sites (the provision of course is not necessarily by the LPA). The Royal Borough will be reviewing site provision and need next summer, in line with the assessment considered by Cabinet in January 2013. This will include an assessment of the need for temporary permissions. The Government is concerned about the development of traveller sites in special protected areas and in Green Belts, as indicated above. But there is pressure for temporary consents and the lack of a five-year supply carries weight. The consultation suggests that, in regard to applications for temporary consents, the lack of a five-year supply should *not* carry weight for traveller sites in special protected areas and the Green Belt. Experience in the Royal Borough – Braywick Stables for example – suggest that this change would be welcome.

*Suggested response: the Royal Borough agrees that the lack of an up-to-date five year supply of deliverable sites in considering applications for permanent and temporary permission is not regarded as a significant material consideration.*

**Q7 - Do you agree with the policy proposal that, subject to the best interests of the child, unmet need and personal circumstances are unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances? If not, why not?**

*Comment:* the Government believes that unmet need and personal circumstances can outweigh harm to the Green Belt, and that these factors can justify very special circumstances. However, the Government believes that substantial weight should be given to ‘the best interests of the child’, and that these best interests should feature in any assessment of a planning application. In the Royal Borough, the needs of children have been taken very seriously at Shurlock Road, and the GTAA, by looking at the demographics of the traveller community, will also identify *children’s* needs for education, health care and so on. But residents would expect the council always to prioritise the protection of the Green Belt.

*Suggested response: the Royal Borough agrees that, subject to the best interests of the child, unmet need and personal circumstances are unlikely to outweigh harm to the Green Belt.*

**Q8 - Do you agree that intentional unauthorised occupation should be regarded by decision takers as a material consideration that weighs against the grant of permission? If not, why not?**

*Comment:* the Royal Borough is a target area for travellers, both travelling through (very frequent incursions in Majors Farm Road in Horton, for example,) and seeking permanent settlement (Shurlock Road). Typically unauthorised development or encampment, for whatever length of period, are in the Green Belt or open countryside. Only rarely are they in urban areas – the incursion at Stafferton Way for example, although this is still Green Belt land. The Royal Borough has resolutely taken action to remove unauthorised incursions, whether through Environmental Protection, or through the use of planning enforcement powers. Any further strengthening of the council’s planning response is welcome.

*Suggested response: the Royal Borough agrees that intentional unauthorised occupation should be regarded as a material consideration that weighs against the granting of planning permission.*

**Q9 – Do you agree that unauthorised occupation causes harm to the planning system and community relations? If not, why not?**

*Comment:* there is little doubt that unauthorised occupation does cause harm to the planning system (which is regarded by residents as ineffectual in dealing with these incursions swiftly) and to community relations, in terms of loss of amenity, noise, waste and rubbish, traffic, a fear for security, unreasonable, sudden and short-lived demands on public services, and so on. It is also incumbent on the LPA to be alert to unauthorised occupations that are far from public gaze – they will have a reduced impact on amenity but will often harm the Green Belt; there are [alleged to be] examples on the Drift Road in Bray.

*Suggested response: the Royal Borough agrees that unauthorised occupation causes harm to the planning system and to community relations.*

**Q10 – Do you have evidence of the impact of harm caused by intentional unauthorised occupation? (And if so, could you submit them with your response.)**

Comment: the harm to the local community and to the planning system caused by the unauthorised development at Shurlock Road, Waltham St Lawrence is well documented. The harm has included:

- mistrust and fear,
- continued disquiet and concern amongst the immediate settled community
- noise,
- impact on the openness of the Green Belt,
- impact on residential amenity,
- a mistrust of the planning system which is perceived to be wholly ineffective in its ability to enforce against unauthorised development,
- an inability for some residents to sell their houses, and
- A burden on council tax-payers in terms of direct and indirect costs of legal action, planning enforcement and community support.

There has been a series of court actions and decisions by the council to take direct action to remove the development, but despite the best efforts of the council to bring the development to an end, after nearly five years the development remains. A briefing note will be attached to the council's response.

*Suggested response: the harm to the planning system and community relations caused by the unauthorised development at Shurlock Road, Waltham St Lawrence, has been well documented in a series of court actions. A detailed briefing note will be attached to this response to DCLG.*

**Q11 – Would amending Planning Policy for Traveller Sites in line with the proposal set out in paragraph 4.16 above help that small number of local authorities in these exceptional circumstances? If not, why not? What other measures can Government take to help local authorities in this situation?**

*Comment:* the consultation does not indicate what is meant by a 'large-scale unauthorised site' but it suggested this would be a site in excess of, say, 20 family units, which could equate to say 100 people – the incursion at Stafferton Way mentioned above had 19 family units. The Dale Farm site in Essex was not a sudden incursion – it grew over time as an adjunct to another large site, which is authorised. The sudden appearance of large numbers – say 100 + - of travellers would put very significant demands on the services of the Royal Borough and other providers and is very unlikely. However, a smaller group in a rural community has a similar disproportionate affect, and the definition of a 'large scale unauthorised site' should relate to the location.

The consultation suggests that under the circumstances of a large scale incursion a local authority could put to one side its agreed plans for meeting traveller needs. The impact of changing planning policy would be academic; in practice when confronted by such an incursion the council's efforts will be concentrated on its removal, although it would recognise that once removed, the travellers themselves may still represent a threat to the local community, even where dispersed.

*Suggested response: that giving local authorities the freedom to put to one side their agreed policy for traveller site provision in the light of a large unauthorised incursion is welcome but is unlikely in practice to have any impact on the response of the authority.*

**Q12 – Are there any other points that you wish to make in response to this consultation, in particular to inform the Government’s consideration of the potential impacts that the proposals in this paper may have on either the traveller community or the settled community?**

*Comment:* there is a concern that adopting the suggested change in relation to nomadic and non-nomadic travellers may be seen to be discriminatory. For example an expansion of a settled, authorised site may well automatically be refused where the travellers concerned have been resident there for some time and the additional demand is for their children or other members of their family. A good example is Mill Place where there is evidence of overcrowding.

*Suggested response: the Royal Borough has a concern that, although the general thrust towards regarding only nomadic travellers as travellers is welcome, there could be challenges where expansions of existing, authorised sites are sought to allow for the accommodation needs of extended families.*

**Q13 – Do you have any comments on the draft planning guidance for travellers (see Annex A)?**

*Comment:* it is noted that the assessment of need now and in the future is set in the context of a local plan. Although for the Royal Borough the policy for traveller sites will be part of the emerging Borough Local Plan the work done so far in assessing need (the GTAAs in particular) and in planning for a five-year supply, has not been in that context. Dealing with travellers tends to be more immediate.

*Suggested response: the Royal Borough notes the draft guidance and awaits the publication of formal guidance.*

### **3. Key Implications**

This is not a relevant consideration.

### **4. Financial Details**

There are no financial implications.

### **5. Legal Implications**

There are no direct legal implications from this report.

### **6. Value for Money**

This is not a relevant consideration.

### **7. Sustainability Impact Appraisal**

This is not a relevant consideration.

## **8. Risk Management**

This is not a relevant consideration.

## **9. Links to Strategic Objectives**

**Our Strategic Objectives are:**

### **Residents First**

- Support Children and Young People
- Improve the Environment, Economy and Transport
- Work for safer and stronger communities

### **Delivering Together**

- Enhanced Customer Services
- Deliver Effective Services
- Strengthen Partnerships

## **10. Equalities, Human Rights and Community Cohesion**

No assessment has been produced in support of this report. However earlier reports to Cabinet have been so supported and those assessments are available on the Royal Borough's website.

## **11. Staffing/Workforce and Accommodation implications**

This is not a relevant consideration.

## **12. Property and Assets**

This is not a relevant consideration.

## **13. Any other implications:**

No other implications have been identified

## **14. Consultation**

This report has been discussed at:

Planning and Housing Overview and Scrutiny Panel on 20 October  
Officer Traveller Core Group on 8 and 22 October  
Traveller Member Working Group on 29 October.

The matter was raised briefly at the Parish Conference on 1 October when it was agreed that the RBWM response to this consultation would be shared with all parish councils (which are also invited to respond to the consultation).

## **15. Timetable for Implementation**

This is not a relevant consideration.

## 16. Appendices

Appendix 1: Annexe A (from the consultation) – Draft planning guidance for travellers

## 17. Background Information

*National Planning Policy Framework*, March 2012, Department for Communities and Local Government

*Planning Policy for Traveller Sites*, March 2012, Department for Communities and Local Government

*Gypsies and Travellers in the Royal Borough*, 23 April 2012, Presentation to the Housing and Planning Overview and Scrutiny Panel

Reports to Cabinet in May, June, September 2012 and January 2013

*Traveller sites in the Royal Borough*, a policy framework approved at Cabinet on 13 December 2012

## 18. Consultation (Mandatory)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
<b>Internal</b>				
Cllr Burbage	Leader of the Council	08/10/14	09/10/14	Throughout
Cllr Wilson	Lead Member for Planning	06/10/14	08/10/14	Throughout
Cllr Cox	Lead Member for Environmental Services	06/10/14		
Maria Lucas	Head of Legal Services	06/10/14	16/10/14	Throughout
Cllr Coppinger	Lead Member, Adult Services and Health	06/10/14	07/10/14	
Anna Stamper	Finance Partner	06/10/14		
Mike McGaughrin	Managing Director	06/10/14		
Nick Davies	Head of Strategic Commissioning for Adult Social Care and Housing	06/10/14	08/10/14	
Craig Miller	Community Protection and Enforcement Service Lead	06/10/14		
Christabel Shawcross	Strategic Director of Adults and Community Services	06/10/14		
Cathryn James	Strategic Director of Operations	06/10/14		
Suki Coe	Development	06/10/14	07/10/14	Throughout

	Manager			
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### Report History

<b>Decision type:</b>	<b>Urgency item?</b>
Key decision	No

Full name of report author	Job title	Full contact no:
Simon Hurrell	Head of Planning	01628 685712

# Annex A - Draft planning guidance for travellers

## 1. Why assess traveller accommodation needs?

Travellers are members of our communities and have particular accommodation needs. Planning Policy for Traveller Sites requires that local authorities use a robust evidence base to establish accommodation needs to inform the preparation of Local Plans and make planning decisions. Robust evidence on traveller accommodation needs will be important in securing a sound Local Plan.

When undertaking a review of housing needs in their district under Section 8 of the Housing Act 1985, Section 225 of the Housing Act 2004 requires that local housing authorities carry out an assessment of the accommodation needs of Gypsies and Travellers (as defined in Statutory Instrument 2006/3190) residing in or resorting to their district.

## 2. How should local authorities assess current traveller accommodation needs?

Local authorities should take account of travellers specific accommodation needs which relates to:

- their nomadic lifestyle
- their preference for caravan-dwelling
- movement between housing and caravans
- their preference for mixed use caravan sites
- the absence of a market for sites owing to lack of site provision or local hostility

And, consider their type of accommodation need in relation to:

- private sites
- sites owned by a Registered Provider
- affordable housing occupied by travellers
- other housing occupied by travellers
- different types of site e.g. transit sites

Local authorities should assess needs for different types of travellers, whatever their race or origin, taking account of their different traveller lifestyles and cultures.

Local authorities should engage both the local traveller and settled communities and involve other local authorities to assess their traveller needs as part of the

Duty to Cooperate. The area to be covered by the assessment will largely depend on travel and movement patterns.

### **3. How should local authorities assess future traveller accommodation needs?**

Local authorities should establish:

- The change in the number of traveller households that have or are likely to have accommodation needs to be addressed over the Local Plan period
- Broad locations where there is a demand for additional pitches
- The level, quality and types of accommodation and facilities needed (eg sites; housing)
- The demographic profile of the traveller community obtained from working directly with them
- Caravan count data at the local level
- Whether there are different needs at different times of the year – travelling is usually concentrated during the summer

### **4. What sources of information could local authorities use in assessing traveller accommodation needs?**

- Caravan count data maintained by the Department for Communities and Local Government – e.g. number of caravans and the types of site on which they are located
- Site management information – eg site waiting lists; pitch turnover; length of licenses; transfer applications
- Information on private authorised sites – number of caravans permitted on each site; type of planning permission; restrictions on occupancy
- Information from recent applications, whether successful or unsuccessful, or enforcement action
- Data from other service providers – eg health and education
- Information gathered by traveller groups or representative bodies eg the Showmen's Guild
- Data from surveys of traveller accommodation needs

### **5. Can a Temporary Stop Notice be used on land not owned by travellers?**

Yes. It may be appropriate in some circumstances for the local planning authority to issue a Temporary Stop Notice where the breach of planning control has occurred on land owned by a third party, including the local authority or another public authority.