

**ECONOMIC DEVELOPMENT &  
CULTURE COMMITTEE**

**Agenda Item 60**

Brighton & Hove City Council

<b>Subject:</b>	<b>DCLG Consultation: Proposed Changes to Planning Policy Statement for Traveller Sites</b>		
<b>Date of Meeting:</b>	<b>15 January 2015</b>		
<b>Report of:</b>	<b>Executive Director Environment, Development &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Sandra Rogers Senior Planning Officer</b>	<b>Tel: 29-2502</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The purpose of this report is to confirm the council's response to the Government's consultation on proposed policy changes to the Planning Policy Statement for Traveller Sites.
- 1.2 The Planning Policy Statement for Traveller Sites (PPTS) was first published March 2012 alongside the National Planning Policy Framework (NPPF). It sets out national planning policy for traveller sites and as such must be taken into account in the preparation of development plans and in the determination of planning applications.

**2. RECOMMENDATIONS:**

- 2.1 That the officer responses set out in Appendix 1 of this report be confirmed as the Council's response to the consultation exercise and that Department for Communities and Local Government (DCLG) are notified to this effect.

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 In September 2014, DCLG issued a consultation exercise seeking views on a series of proposed policy changes to the PPSTS. The closing date for responses was 23 November 2014. Appendix 1 of this report sets out the council's response forwarded to DCLG and is subject to formal endorsement by this committee.

- 3.2 The proposals set out in the consultation relate primarily to changes to the PPTS, although some would involve changes to wider national planning policy. The key changes comprise:
- a) amending the definition of Gypsies and Travellers and Travelling Showpeople for the purposes of planning policy to exclude those who have ceased travelling on a permanent basis.
  - b) Strengthening the protection for sensitive areas and for the Green Belt through a series of measures;
  - c) Clarifying that intentional unauthorised occupation of land (unauthorised development of sites) should be a material consideration that weighs against the grant of planning permission.
  - d) Clarifying that, in exceptional cases, where a local planning authority is burdened by a large scale unauthorised site which has significantly increased their assessed need and their area is subject to strict and special planning constraints, there is no assumption for them to meet their assessed traveller needs in full.
  - e) Introducing updated, streamlined statutory guidance for assessing Gypsy and Traveller accommodation needs.

### **Amending the definition of Gypsies and Travellers and Travelling Showpeople.**

- 3.3 The government considers that, for planning purposes, a ‘traveller’ should be someone who travels. The government’s view is that where Gypsies and Travellers have ceased to travel then they should be treated no differently to members of the settled community.
- 3.4 The current definition of Gypsies and Travellers in the 2012 PPTS specifically includes those Gypsies and Travellers that for reasons of health, education or old age, *‘have ceased to travel temporarily or permanently’*. The consultation proposes to delete the words *‘or permanently’* from the definition which would mean that those Gypsies and Travellers and Travelling Showpeople who have stopped travelling permanently, for whatever reason, would no longer fall within the definition, for planning purposes. Such persons would not have their accommodation needs assessed under the PPTS and, as a result, would not be eligible for a place on a Gypsy or Traveller site brought forward through planning to meet the assessed need for Gypsy and Traveller sites.
- 3.5 In these cases, the consultation suggests that a planning application for a site would be considered in the same way as an application for a caravan site from the settled community e.g. a park home. It is not at all clear, from the consultation, how the accommodation needs of Gypsies and Travellers who have ceased travelling on a permanent basis would be assessed.

- 3.6 Appendix 1 recommends that the council's response (to Q.1 and Q.2) should be to not support the proposed change to the definition. There are concerns that this proposed change to the definition could raise human rights issues and have equalities implications. Furthermore, the proposed change could have a number of unforeseen consequences including the increased incidence of unauthorised encampments where Gypsies and Travellers are 'forced' to maintain a travelling lifestyle to retain their identity for planning purposes.
- 3.7 The consultation further proposes a change to primary legislation (under Housing Regulations) to bring the definition of Gypsy and Traveller in line with the proposed change to the planning definition. Again, the response at Appendix 1 (Q.3) recommends that the council should not support this change.

#### **Strengthening the protection of sensitive areas and Green Belt.**

- 3.8 The National Planning Policy Framework (NPPF) gives significant protection to specified 'sensitive areas' which include sites protected under the Birds and Habitats Directives and/or sites designated as Sites of Special Scientific Interest; Local Green Space, Areas of Outstanding Natural Beauty, National Parks, designated heritage assets and locations at risk from flooding or coastal erosion. These are specifically identified at footnote 9 to paragraph 14, NPPF.
- 3.9 The consultation proposes that the PPTS is amended to replicate the protection of these sensitive areas. The recommended response at Appendix 1 (Q.4) is to support this change so that there is consistency between the NPPF and the PPTS.
- 3.10 Paragraph 23 of the PPTS requires local planning authorities to '*strictly limit new traveller site development in the open countryside*'. The government wishes to strengthen this to '*very strictly*' limit new traveller site development in the open countryside. Appendix 1 (Q.5) suggests this change is not supported as it is already clear from the guidance that there should be a strict limitation of traveller site development in the open countryside away from established settlements and the additional emphasis is superfluous and not required.
- 3.11 The consultation also proposes to amend the PPTS (at paragraph 25) so that it is clear that, for sites within the defined 'sensitive areas' (as set out above) or within Green Belt land, the absence of an up to date five year supply of Gypsy and Traveller sites will no longer be a *significant* material consideration in favour of granting temporary permission. Under these circumstances, it would remain a material consideration but its weight would be a matter for the decision maker. The recommended response at Appendix 1 (Q.6) is to support this change for the defined sensitive areas (as set out in the NPPF at footnote 9) but not for Green Belt land which does not necessarily share the same intrinsic landscape, biodiversity or heritage quality /value.

- 3.12 The government is also concerned that recent planning decisions in the Green Belt have given too much weight to the personal circumstances of the occupants of Gypsy or Traveller sites compared to harm to the Green Belt. The consultation proposes that, *'subject to the best interests of the child'* only, the PPTS is amended to clarify that unmet need and personal circumstances are unlikely to outweigh harm to the Green Belt. The proposed response at Appendix 1 (Q.7) is not to support this change on the basis that Green Belt land is not necessarily designated on the basis on any intrinsic specific landscape, cultural/community or biodiversity value and that the NPPF already accepts that some limited residential development may be acceptable in the Green Belt.

### **Addressing unauthorised occupation of land**

- 3.13 The consultation paper describes 'unauthorised occupation' to occur when the owners of land set up residence without first obtaining the necessary planning permission. In planning terms, such a situation would be referred to as 'unauthorised development' and should not be confused with 'unauthorised camping' or 'unauthorised encampments', which describe a situation where Gypsies or Travellers may temporarily stop and reside on land without the landowner's permission. There have been no instances of unauthorised development of Gypsy and Traveller sites in Brighton & Hove ; but there are incidences of unauthorised encampments.
- 3.14 The government is concerned that unauthorised occupation (development) of land without planning permission undermines the planning system and fuels tension between the site occupants and the settled community. To address this, the consultation paper proposes to amend the PPTS to make it clear that intentional unauthorised occupation is a material consideration in planning decisions weighing against the grant of permission. The proposed response at Appendix 1 (Q.8) is not to support this change as it is considered to discriminate against Gypsies and Travellers and may breach the Equality Act 2010 and therefore cannot be supported. In terms of 'unauthorised development' more generally, local planning authorities do not regard the incidence of unauthorised development (whether intentional or not) as a material planning consideration that should weigh against the grant of permission subsequently sought (i.e. retrospective). In no other instance of unauthorised development (whether intentional or not) does the planning system regard this as a material consideration that should weigh against the grant of any retrospective permission sought. There are already provisions within the planning system, through the enforcement function, to address unauthorised development.
- 3.15 The government is also considering amending the PPTS so that, in exceptional cases, where a local planning authority is burdened by a large scale unauthorised site development which has significantly increased their need and

their area is subject to special planning constraints, there would be no assumption for them to meet their Gypsy and Traveller needs in full. The proposed response at Appendix 1 (Q. 11) is to support this approach and to extend it to assist those local planning authorities like Brighton & Hove which are subject to special planning constraints and also incur large scale incidences of unauthorised encampments which may inflate need assessments.

#### **Draft planning guidance for travellers.**

- 3.16 The government proposes to replace existing guidance and good practice guidance with updated, streamlined planning guidance for assessing Gypsy and Traveller accommodation needs. This would be consistent with the approach taken to the National Planning Policy Guidance (NPPG) published alongside the NPPF. The response at Appendix 1 (Q.11) indicates no particular comments on this.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The council could consider not responding to the government's consultation on the proposed changes to the Planning Policy Statement for Traveller Sites. However, some of the issues raised in the consultation could have implications for the council's current approach to addressing Gypsy and Traveller accommodation needs through the preparation of the City Plan Part One and actions identified in the 2012 Traveller Commissioning Strategy. As indicated above, some of the proposed changes warrant the council's support but some raise concerns regarding equalities implications and it is considered that these should be addressed by a response from the council.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 This report responds to a government consultation exercise setting out proposed changes to existing planning policy and guidance for Gypsies and Travellers (PPTS, March 2012). The consultation ran from 14 September to 23 November. The consultation paper states that the exercise complies with DCLG consultation principles. The consultation questions were discussed by council planning and traveller liaison officers in consultation with lead members. The responses set out at Appendix 1 were sent back to DCLG with the caveat that this would require formal endorsement by the relevant council committee.

#### **6. CONCLUSION**

- 6.1 The government's proposed changes to the Planning Policy Statement for Traveller Site raise some important issues regarding the definition of Gypsies and Travellers and how their accommodation needs are to be assessed and

planned for through the planning system. Should the proposed changes go ahead, then this will have important implications for how the council assesses the accommodation needs of the city's Gypsy and Traveller community.

- 6.2 DCLG will be notified of the committee's decision on whether to support the responses set out at Appendix 1 to this report.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 As noted in the main body of the report the proposed change to the definition of Gypsies and Travellers could result in an increased incidence of unauthorised encampments around the city. As a consequence, this could have additional management and cost implications.

*Finance Officer Consulted: Name Steve Barton Date: 03/12/14*

### Legal Implications:

- 7.2 Section 225 of the Housing Act 2004 places a duty upon local authorities to produce an assessment of the accommodation needs of Gypsies and Travellers. The meaning of Gypsies and Travellers for this purpose is defined in the Housing Regulations 2006. The proposed changes to PPTS would require amending secondary legislation to bring the definition of Gypsies and Travellers set out under the 2006 regulations into line with the proposed planning definition of Travellers set out in the consultation paper.

*Lawyer Consulted: Name Hilary Woodward Date: 10/12/14*

### Equalities Implications:

- 7.3 As indicated in the main body of the report and in Appendix 2, some of the proposed changes to the PPTS raise concerns regarding potential equalities impacts, namely the amended definition of Gypsies and Travellers and the proposed approach to assessing planning applications where there has been unauthorised site occupation (development). It is considered that these proposed changes may breach the 2010 Equality Act and cannot be supported.

### Sustainability Implications:

- 7.4 Sustainability considerations are central to the new planning system. Policy CP22 Traveller Accommodation in the City Plan Part One (Modifications stage) has been subject to sustainability appraisal.

Any Other Significant Implications:

- 7.5 Significant implications are noted in the relevant paragraphs above. As noted in the main body of the report the proposed change to the definition of Gypsies and Travellers could result in an increased incidence of unauthorised encampments around the city. As a consequence, this could have additional management and cost implications and potentially the risk of crime and disorder and public health implications .

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. DCLG Response Form with Brighton & Hove City Council comments.
- 2.

### **Documents in Members' Rooms**

- 1.
- 2.

### **Background Documents**

1. Planning Policy for Traveller Sites, DCLG, March 2012
2. National Planning Policy Framework, DCLG, March 2012

