

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 5 JULY 2011

Title:

**CONSULTATION ON CLG DRAFT PLANNING POLICY STATEMENT ON
PLANNING FOR TRAVELLERS**

[Portfolio Holder for Planning: Cllr Adam Taylor-Smith]
[Wards Affected: All]

Summary and purpose:

This report sets out Waverley's proposed response to a consultation by the Department for Communities and Local Government on a new Planning Policy Statement (PPS) on Planning for Travellers.

How this report relates to the Council's Corporate Priorities:

The PPS on Planning for Travellers impacts on all of Waverley's Corporate Priorities.

Equality and Diversity Implications:

The Gypsy, Traveller and Travelling Showpeople communities are one of the largest ethnic minority groups in the borough. The PPS highlights a number of issues which will help enhance equality of access to services and accommodation.

Resource/Value for Money implications:

There are no financial implications as a result of this report.

Legal Implications:

There are no legal implications arising from this report.

Introduction

1. In April 2011 the Government published for consultation the draft Planning Policy Statement (PPS) 'Planning for traveller sites'. This draft PPS sets out the Government's policy on traveller sites and is a material consideration to be taken into account in development management decisions. The draft policy statement is intended to replace Circulars 01/2006: Planning for Gypsy & Traveller Caravan Sites and 04/2007: Planning for Travelling Showpeople.
2. This follows the decision to revoke regional strategies following the General Election in 2010, which removed the requirement to make a regional assessment of site provision. As a result, work was abandoned on the partial review of the South East Plan which was considering district level allocations

for site provision. Following legal challenge, the regional strategies were reinstated, but are due to be removed through the Localism Bill, likely to be enacted in early 2012.

3. While planning guidance in July 2010 emphasised the need for Councils to continue to deliver on local development frameworks, this has been with the knowledge that further planning policy changes could be expected.
4. The draft guidance builds on existing statutory obligations for local authorities to assess accommodation needs of the Gypsy, Traveller and Travelling Showpeople community. It requires local authorities to plan for sites over a reasonable timescale, to identify appropriate sites and to maintain appropriate levels of supply.
5. The consultation is open for responses from 13 April to 6 July, a period of 12 weeks.

The Consultation

6. The draft policy statement is a concise document setting out the Government's objectives for traveller sites and setting out 8 policies for preparing an evidence base, LDF policies and development control policies. The consultation sets out 13 questions seeking comments on specific parts of the draft PPS document. The Council's proposed response on these questions is set out in Annexe 1.
7. The overarching objective of the Government is to ensure fair and equal treatment for travellers that facilitates their traditional way of life while respecting the interests of the settled community.
8. The duty to assess accommodation needs for accommodation of Gypsies and Travellers under the Housing Act 2004 remains, but rather than this leading to a regional assessment and re-allocation of responsibility for provision, it will be up to individual councils to determine how they will meet housing needs, including traveller sites. Councils will set their own targets for pitches and plots which address permanent and transit site needs in the light of 'historical demand'.
9. While it will still be necessary to ensure that the targets are evidence-based, there will be no specific guidance on how to achieve this, and councils will be able to reach their own decisions on the type and volume of evidence on which to rely. Councils will be expected to engage in a substantive consultation process at an early stage, and local plans will be subject to Examination in Public – a process in which the development plan is reviewed by an independent planning inspector.
10. The overall strategy is intended to result in an increase in authorised provision in appropriate sites over a five-year period. The government believes that this will be achieved through a combination of the light touch planning policy and a range of incentives and safeguards.

11. The planning policy statement applies to Gypsies, Travellers and Travelling Showpeople but the term traveller has been used to cover all groups. The level of guidance in current policy statements will be eliminated.
12. While it rejects the regional basis of assessment, the Government does acknowledge the degree of success that has been achieved by cooperation between local authorities. While councils are encouraged rather than specifically required to collaborate on provision for travelling communities, it is made plain that the duty to cooperate, as set out at present in the Localism Bill [clause 90] will apply, with local planning authorities required to cooperate on the preparation of development plans with each other and with other bodies exercising statutory functions.
13. Councils will be required to set local pitch and plot targets and to identify specific sites that will support continuous development of accommodation for at least 15 years, coupled with the identification of 'deliverable sites' that will meet need in the first five years of the development plan.
14. It recommends that criteria based policies should be set to guide land supply allocations. This is consistent with the current approach in the Council's Preferred Options Draft Core Strategy.
15. A six month transitional period will run from the date of publication of the final new policy to allow time for councils to review their existing policies. If councils cannot demonstrate an up-to-date five year supply of deliverable sites at that point, they will be required to consider applications for the grant of temporary planning permission favourably. At present, current circulars say that "substantial weight" should be given to unmet need when considering whether to grant temporary permission to a traveller site.
16. The reorganisation of policy and requirement to develop a five year plan is expected to lead to a real short term reduction in available sites. The Government hopes that new sites will come forward as a result of the financial incentives created by the availability of site grant and the New Homes Bonus. The draft Planning Policy also contains a number of provisions that apply to use of land in rural areas which may assist councils in identifying suitable sites.
17. In relation to plan making the draft PPS (paragraphs 12-13) states 'When assessing the suitability of sites in rural or semi-rural settings, local authorities should ensure that the scale of such sites does not dominate the nearest settled community.'
18. Local planning authorities should strictly limit new development in open countryside that is away from existing settlements or outside areas allocated in the development plan. However, they should recognise that some rural areas may be acceptable for some forms of traveller sites.
19. The guidance indicates that if there is a lack of affordable land to meet need, rural exception sites should be considered. Rural exception sites should only be used for affordable traveller sites in perpetuity. A Rural Exception Site Policy should seek to address the needs of the local community by

accommodating households who are either current residents or have an existing family or employment connection, whilst also ensuring that rural areas continue to develop as sustainable, mixed, inclusive communities.

20. Policy E (Traveller sites in the Green Belt) sets a general presumption against development in the Green Belt. Green Belt boundaries are only to be altered in exceptional cases, through plan-making process and not in response to a planning application.
21. In relation to Development management policies, the draft (paragraphs 20-25) states:

“Local planning authorities should consider the following issues when considering planning applications for traveller sites:

 - a) the existing level of local provision and need for sites
 - b) the availability (or lack) of alternative accommodation for the applicants
 - c) other personal circumstances of the applicant
 - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
 - e) that they should determine applications for sites from any travellers and not just those with local connections.”

Implications for Waverley

22. The Gypsy, Traveller and Travelling Showpeople needs assessment for Waverley was carried out in 2007 in line with the Housing Act 2004 and the Circulars published in 2006 and 2007. This covered accommodation needs for the period 2006-2011.
23. These findings were to be coordinated at regional level through regional strategies and each council given a site allocation as the basis for provision in its area. Following the abandoned review of the South East Plan, no target was set for Waverley. The preferred options draft of the Core Strategy proposes a criteria-based approach rather than a specific target. In terms of site allocations as suggested in the draft PPS, this would be carried out at the Site Allocations DPD stage rather than the Core Strategy. The Council will need to take a view whether it is appropriate to set a target through the Core Strategy.
24. Work is currently taking place to review the supply of Gypsy, Traveller and Travelling Showpeople sites across Waverley. The draft guidance indicates that authorities will be expected to work together to assess need. Officers have already begun work on a county wide basis to agree a common methodology for a needs assessment and to agree what a “robust evidence base” should consist of.

Next Steps

25. The Government will be considering the comments it has received as it draws up the final PPS for publication. The new policy once adopted – expected to

be summer 2011 – will run on an interim basis until it is absorbed into an overarching National Planning Policy Framework from April 2012.

Recommendation

It is recommended that the Executive respond to the consultation setting out its concerns on the guidance note and the issues that impact on Waverley's communities as set out in Annexe 1.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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ANNEXE 1

Proposed response to consultation questions on draft PPS on Planning for Travellers

Q1 - Do you agree that the current definitions of “gypsies and travellers” and “travelling showpeople” should be retained in the new policy?

Yes. Whilst the existing definition should be retained the proposal set out at para. 3.7 to use the term 'traveller' to encompass Gypsies and Travellers and Travelling Showpeople is inappropriate. These two groups have very differing requirements in the planning system and have different lifestyles and work patterns. Travelling Showpeople have never been called 'travellers' previously. It has been common practice where a "shorthand" term is required to use the acronym 'GT&TS', this makes it clear two distinct but connected groups are being dealt with.

Q2 - Do you support the proposal to remove specific reference to *Gypsy and Traveller Accommodation Needs Assessments* in the new policy and instead refer to a “robust evidence base”?

Yes. Local Planning Authorities are now being encouraged to ensure that the evidence base in support of development plan documents is proportionate to the subject matter. The problem with the previous GTAA advice is that it resulted in GTAA's containing information that was not required to assess need. However it would be helpful if good practice guidance (rather than prescription) could be issued that just deals with the process of calculating need so that consistency is achieved across the country. This guidance needs to be short, clear and simple to avoid different interpretations, it also needs to be produced quickly if Local Planning Authorities are going to be able to make use of it.

Q3 - Do you agree that where need has been identified, local planning authorities should set targets for the provision of sites in their local planning policies?

Yes.

Q4 - Do you think that local planning authorities should plan for “local need in the context of historical demand”?

No. The difficulty with this is that it is not clear what 'historical demand' actually means. It will be open to interpretation whether historical demand relates to the past 5 years or 20 years or even longer. Circumstances change over time and it would therefore be better to consider current unmet need and projected requirements, such as those created by population growth. Historical demand does not necessarily reflect current need.

Q5 – Do you agree with the proposal to require local planning authorities to plan for a five-year supply of traveller pitches/plots?

No. There is a risk that providing a five year supply will attract Gypsies & Travellers and Travelling Showmen to an area if other local planning authorities are taking longer to allocate sites.

There is a problem with applying the same principles that are used for general housing supply to Gypsy & Traveller and Travelling Showmen (GT&TS). With general housing supply Local Planning Authorities (LPAs) are required to have a five year supply of deliverable sites, (generally those with planning permission), and a 15 year supply of developable sites which will not have permission and may not be allocated. Allocation will be done through the Strategic Housing Land Availability Assessment (SHLAA) process. Allocations will only be made if sufficient deliverable and developable sites have not been identified in the SHLAA. The method of GT&TS site provision is very different. Once a site has planning permission it is likely to be implemented immediately (unlike residential permissions which often take a year or two to implement) and it will therefore be very difficult to actually maintain a five year supply.

The PPS is asking LPAs to use the development plan process to allocate sites, which will be essential, as GT&TS will not be able to compete for other housing sites on the open market.

The process of allocating GT&TS sites is therefore different from identifying deliverable and developable housing sites. The PPS should be revised to make it clear that sufficient sites should be identified (allocated where required) to meet the need and not to require what this Council believes would be an artificial and impossible to maintain five year supply.

With regard to Policy B in the draft PPS, para 9 c) - Local Planning Authorities should be able to take account of sites they have granted planning permission for, where such permissions have been temporary pending an allocations DPD.

Q6 - Do you agree that the proposed wording of Policy E (in the draft policy) should be included to ensure consistency with Planning Policy Guidance 2: *Green Belts*?

Yes. It is appropriate to remove the word "normally" to ensure consistency with PPG2-Green Belts.

However this Council is concerned about the suggestion in the draft PPS that sites can be removed from the Green Belt to enable allocations to be made. Whilst such an action is possible on the edges of urban areas and settlements that are excluded from the Green Belt by amending the boundary, it is not possible to remove sites from the Green Belt where they do not abut urban areas or settlements. It is a well established principle that small 'holes' should not be created in the Green Belt to allow allocations.

However there are other examples that might be more appropriate to consider, for example the approach used to identify Major Developed Sites or the settlements washed over by the Green Belt within which limited infilling is possible.

It should be made clear that allocations can be made by defining a site boundary without removing the site from the Green Belt.

Q7 - Do you agree with the general principle of aligning planning policy on traveller sites more closely with that on other forms of housing?

No. There are very distinct differences between the way that other forms of housing are provided (see comment on question 5 regarding the five year supply) and Gypsy & Traveller and Travelling Showmen's sites are provided. Also the requirements of the occupants of such sites are very different to general housing provision. The differences between such types of provision and the differing lifestyle and work patterns should be fully recognised and taken into account.

Q8 - Do you agree with the new emphasis on local planning authorities consulting with settled communities as well as traveller communities when formulating their plans and determining individual planning applications to help improve relations between the communities?

Yes. However, it should be recognised that the settled community is more likely to be interested when specific sites have been identified, which is very similar to the situation that pertains with ordinary housing.

Paragraph 3.18 of the consultation suggests that Local Planning Authorities (LPAs) should "pay particular attention to early and effective community engagement ... when formulating their plans and determining planning applications". Whilst it is accepted that such engagement is essential for development plan work it is unnecessary to refer to this in the context of planning applications. Consultations on applications can only occur when an application is submitted and will follow laid down procedures in the LPA's Statement of Community Involvement. Early engagement is not possible or indeed appropriate.

Q9 - Do you agree with the proposal in the transitional arrangements policy (paragraph 26 in the draft policy) for local planning authorities to "consider favourably" planning applications for the grant of temporary permission if they cannot demonstrate an up-to-date five-year supply of deliverable traveller sites, to ensure consistency with Planning Policy Statement 3: *Housing*?

No. This proposal for transitional arrangements seems to introduce a new type of 'planning consideration' where the planning merits of a proposal are reduced in importance. There may be very good reasons why a particular site is unacceptable, for example highway safety or biodiversity considerations. The PPS should make it clear that there should be no requirement to "consider favourably" where other planning considerations dictate otherwise. In the case of sites within the Green Belt it should still be necessary to demonstrate that Very Special Circumstances exist.

Q10 - Under the transitional arrangements, do you think that six months is the right time local planning authorities should be given to put in place their five-year land supply before the consequences of not having done so come into force?

No. A 6 month time period is unrealistic. Local Planning Authorities, especially in the South East of England, were waiting on regional allocations before revisiting accommodation assessments. However, in view of the Government's decision to revoke the Regional Spatial Strategy, there are to be no regional allocations. Existing needs information is out of date and new accommodation assessments will be required. Updating this information, preparing a draft site allocations document and taking it through examination is likely to take up to 24 months rather than six months.

Q11 - Do you have any other comments on the transitional arrangements?

No.

Q12 - Are there any other ways in which the policy can be made clearer, shorter or more accessible?

Yes. Care must be exercised in removing the Circulars and references listed at para. 3.23 of the consultation. If documents are not carefully assessed there is a risk of a 'policy vacuum'.

Policy B: paragraph 9 d) in the draft PPS is unclear and should be rewritten.

“allow for provision to be made for other family members who may not themselves physically move their own accommodation onto the site”

Policy B: paragraph 11 a) in the draft PPS refers to “promote peaceful and integrated co-existence between the site and the local community”. Whilst the sentiments expressed can be supported, this sentence is meaningless because it does not say how this can be achieved and is out of place in a planning document.

Policy B; paragraph 11 b) refers to "promote easier access to health services" - easier than what? It should be reworded: "promote easy access...."

Policy C: - This reference to sites not dominating the nearest settled community is open to interpretation - at what point would a site dominate? 10 caravans, 20 caravans, 50 caravans or 100 caravans? This wording is also repeated at para. 22.

Policy D: It is not considered that a Rural Exceptions policy can be transferred from affordable housing to Gypsy & Traveller and Travelling Showmen's (GT&TS) sites. This is an attempt to make other housing policy fit GT&TS policy. Rural Exceptions were devised as a specific tool and only work because of other legislation and powers available to the local housing authority.

Policy H: paragraph 20 e) and 25 refers to LPAs determining “applications for sites from any travellers and not just those with local connections”. LPAs are under a duty to determine all applications, so this sentence is unnecessary. If the point is that

LPAs should not refuse planning applications just because the applicants do not have local connections, then it should say so.

Policy H: paragraph 23 a) which asks LPAs to look favourably upon applications involving the development of "untidy or derelict land" is inappropriate. An unscrupulous land owner may make their land untidy or allow it to become derelict just in the hope that it might be suitable for a traveller site. These references should be removed.

Policy H: paragraph 24 b) - suggests specifying the number of days a site can be occupied by more than the number of permitted caravans for visitors and family/community events. While this seems sensible, in reality it is difficult to see how this could be enforced.

Q13 - Do you think that the proposals in this draft statement will have a differential impact, either positive or negative, on people because of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation? If so, how in your view should we respond? We are particularly interested in any impacts on (Romany) Gypsies and (Irish) Travellers and welcome the views of organisations and individuals with specific relevant expertise. (A draft Equalities Impact Assessment can be found at Annex C.)

No comment.