

## **Discussion Paper**

The proposal of land swap involves the exchange of land occupied by Travellers, which is deemed to be on an inappropriate location and where permission has not been granted, for land, which is considered suitable for site development.

### **Background**

In 1994 the duty that had existed on councils since 1968 to provide sites was repealed and replaced with circular 1/94. This circular asked councils to identify land suitable for site development. However, many councils have ignored this guidance. There is a national shortage of site provision. Research for the Office of the Deputy Prime Minister '*The Provision and Condition of Local Authority Gypsy and Traveller Sites in England*' by Pat Niner of the University of Birmingham in 2002 demonstrated that there was a need for the provision of between 2000 and 2500 additional transit pitches and between 1000 and 2000 additional permanent pitches by 2007.

As a result of councils failing to identify land it has led to a situation where Travellers are buying land and seeking retrospective planning permission. Travellers and councils have entered into long protracted legal battles regarding retrospective planning applications. In some cases these legal bills have reached figures as high as £500,000 for some councils challenging single sites. Evictions have also proven costly for councils some costing as much as £150,000.

For the Traveller community this situation has been bewildering. Rather than live on the side of the road many feel that the only chance they have of securing a place on a site is to seek retrospective planning permission. Their arrival though is often met with hostility and alarm, tensions which are inflamed by a hostile or misinformed local and national media. For many Traveller families, especially those with limited literacy skills, the legal process is a daunting experience and one wrought with anxiety. For some families that process ends in them losing their home and having to return to life on the road, which naturally has a negative impact on their access to services and health.

An estimated 20 % of the Gypsy and Traveller community live on unauthorised sites. They have poor access to services, and NHS sponsored research shows a high infant mortality rate and lower life expectancy. Some families who have been evicted will eventually be worn down by such hardships on the road. Some will again purchase land and seek planning permission.

A range of organisations such as the Commission for Racial Equality, National Farmers Union, Association of Chief Police Officers and Local Government Association wish to see a statutory duty to provide and facilitate sites. A duty to facilitate means helping Travellers to identify land for self purchase and develop their own sites. Many Travellers will favour taking this route, which would mean no cost to councils.

The Government has conducted a policy review into this area and proposals to increase site provision are expected to be made. However, in the interim there are

many families locked into legal wrangles over retrospective planning applications or for whom their application has failed and for now councils are tolerating their occupation of sites. Land swap could be of assistance in these situations for some families.

## **Land Swap**

If councils were able to persuade Traveller families to exchange land on contested sites where planning applications had failed or were likely to for another piece of land that did not disadvantage a family in terms of hazards and access to services and it was land they were happy to move onto, then a mutually beneficial solution could be found.

Some critics would claim that this is rewarding individuals who have broken planning law but to reiterate a point that has been made already, these families have taken such action because councils themselves breached planning guidance by not following circular 1/94.

One obstacle is that there will be a difference in the value of a piece of land where an application has failed and a piece where an exchange might take place and permission would be granted. If the difference in value was not too great and the site offered was attractive then many families would take advantage of this offer as it will save them the anxiety of protracted legal contests and homelessness. The price difference could be minimised by councils using their new powers of compulsory purchase (Compulsory Planning and Purchase Act 2004) to buy land and parcel off to Travellers at affordable prices. The council would receive ownership of the vacated Traveller site.

In some cases price differentials could be bridged through some form of loan or by families offering some form of environmental service to the wider community, possibly utilising their forestry, landscaping and construction skills.

If the settled community were aware of the benefits of such exchanges then there is no reason why there should be major objections. It is a measure that would only be available to those families who have suffered from the present policy regime. Following the introduction of new Government proposals in regional spatial strategies Traveller families should not be able to participate in such a land swap scheme where councils have assessed need and addressed Traveller accommodation needs.

Under the Homelessness Act councils have to find Travellers made homeless as a result of failed planning applications alternative accommodation. This usually takes the form of an offer of housing or temporary bed and breakfast accommodation. However, Travellers have an aversion to 'bricks and mortar' accommodation and it is therefore a highly inappropriate alternative. Land swap would allow councils to offer Traveller families a culturally appropriate alternative.

On the 20<sup>th</sup> of October land swap was discussed in the debate on the Housing Bill. Lord Bassam, on behalf of the Government expressed some concern about cost differentials, which this paper addresses. However, the Government did not discard the notion out off hand and felt it was a matter, which local authorities could explore.

### **Lord Avebury**

"Has the ODPM given any thought to the idea of the land swap, which was mentioned briefly on the previous occasion? It would enable these families at least to escape paying more for the second piece of land than they receive from selling the first. That may be seen in some quarters as compensating people who broke the planning laws, but they would have done so only because, at the time, it was the only alternative to moving from one roadside to the next every few weeks. It is in the public interest, moreover, to encourage the return of land to a conforming use, particularly in the green belt. Thirdly, it would help to avoid the human disaster and expense which occurs every time there is an eviction where families could not afford to abandon their investment and start again".

### **Lord Bassam replied**

"There are problems here because of the differential in costs. However, we are of the opinion that it is up to local authorities to decide how to proceed, and if there is to be good co-operation, it is up to the local authorities to sort that out for themselves. We do not need legislation to do that; in fact I would suggest that this is an area in which voluntary agreements and arrangements are best developed".

*(This paper is merely a discussion paper and does not represent the views of the Gypsy & Traveller Law reform coalition)*