

Draft Response by the Gypsy and Traveller Law Reform Coalition to the ODPM Consultation Paper Planning for Gypsy and Traveller Sites

1/ The draft consultation paper on planning for Gypsy and Traveller sites makes a number of recommendations which address concerns raised by the Gypsy and Traveller Law Reform Coalition (G&TLRC) raised in the ODPM policy review and present a marked improvement on circular 1/94.

The G&TLRC welcomes:

A change to definition of Gypsy. The new definition recognises that Gypsies may stop travelling either permanently or temporarily for health or educational reasons or because of caring responsibilities.

A requirement that local authorities identify suitable sites for Gypsies and Travellers in development plan documents. Only exceptionally will it be acceptable to meet needs by specific criteria for identification of sites without identifying specific sites.

Improved guidance on drafting the criteria in development plans against which applications for sites not allocated in the plan will be judged. The existing circular said that criteria should be clear and realistic. The new guidance strengthens this advice saying they should be fair, reasonable, realistic and effective in delivering sites.

The section on local authorities' responsibilities under the Race Relations Act.

Advice on how local authorities should seek to engage with Gypsies and Travellers to build trust.

References to affordability, decent site location and access to services and avoidance of marginal space.

However, we have some concerns which we wish to raise, some suggestions which we wish to forward and requests for greater clarification regarding some aspects of the draft circular. Some of our concerns go beyond the scope of the circular but have a relevance to the government's new planning/accommodation policies and the Gypsy/Traveller community.

2/ The new definition of Gypsy removes many of the needless anomalies which caused great stress as a result of councils challenging Gypsies' nomadic status because they were too ill or old etc to travel. However, the definition talks of 'traditional cultural preference for living in caravans' which seems to exclude New Travellers.

3/ We welcome the apparent pro-active role local authorities have to take in housing needs assessments. We hope this lays the new policies of councils open to challenge even long after they have been formulated where they have failed to consult. We feel the circular should elaborate on means by which councils can develop trust and consultation procedures with their local Gypsy/Traveller community (Annex E) and refer councils to areas which are models of good practice in developing dialogue with the Gypsy/Traveller community and means by which this has been achieved. Annex E suggests that councils consider producing not only leaflets but other media such as videos and audio visual to ensure that Gypsies and Travellers understand the new planning processes and are encouraged to enter into early discussions with planning officials regarding early planning applications. Likewise we call upon the ODPM to produce similar materials to assist in this process or which councils can use or adapt in the task of making these new planning processes readily understandable to people who may have poor/minimal literacy.

Statements of Community involvement (SCIs) will set out how councils intend to involve groups in the planning process and consultations. SCIs (para 22) will be scrutinized by planning inspectors to ensure that such consultation and involvement will take place. We hope that where Gypsies and Travellers are unhappy with SCIs some mechanism will be available whereby they can lodge their dissatisfaction with councils and even the planning inspectorate.

With reference to the early stages of preparing RSSs and DPDs, para 21 of the draft circular declares ‘Gypsies and Travellers should also be proactive in ensuring that they engage with local planning authorities to ensure their views are taken into account’. We hope that the ODPM will organize or give generous support and assistance to initiatives to train Gypsies and Travellers/and their representatives on a regional and national level to understand the new planning system and be made aware of their rights. To this end we recommend that the ODPM in association with Regional Housing Boards organize a series of regional training events which bring together representatives of the Gypsy/Traveller community, planning officials and other stakeholders. Not only will this raise awareness of the new planning system but it will forge useful links between different stakeholders.

We strongly believe that a national Gypsy/Traveller Task Force would be of assistance in helping the Government and councils develop good dialogue with Gypsies and Travellers and raising their awareness of the workings of the new planning system (see para 12 of this submission).

4/ With regard to the transitional arrangements, it is useful that local authorities are being required to undertake what one might call ‘interim needs assessments’ for Gypsy and Traveller sites, and to produce the results in the documentation for appeals. We call upon the ODPM to consider adding to the list, details of Gypsy and Traveller families who move from caravans to settled accommodation and vice versa? Obviously there have been movements in the past, resulting in a large though unquantified Gypsy and Irish Traveller population in housing. It is accepted by the courts, that many Gypsies have a cultural aversion to living in bricks and mortar,

though another possible reason is that some Gypsies require space adjacent to their dwellings for commercial activity, which is not normally available in social housing. Gypsies and Irish Travellers also want to live in close proximity to their extended families, a preference which is easier to satisfy on a caravan site. We presume that local authorities will be asked to make inquiries about these preferences when they assess the needs of Gypsies and Travellers as part of the housing needs assessment.

5/ The transitional arrangements should suggest that the local authorities should get on with the task of identifying suitable land for sites immediately. Why should this be left until they have to produce the DPD (Draft Planning Document)? The new planning system may take several years for councils to identify a sufficient number of sites. We believe it would be preferable for local authorities in areas under pressure from unlawful developments, to identify suitable locations for sites immediately, instead of merely reacting to each successive application on land which is more or less unsuitable. This would enable families facing eviction and homelessness the option of securing land where development would be approved. It would also enable families and councils to avoid a number of legal challenges and enter into a process of land exchange (land swap) where Travellers can vacate land, considered inappropriate for development, for land where permission would be granted. The Government has stated such arrangements are a matter for councils to consider on a voluntary basis but has expressed concerns about the price differentials in such land exchanges. We believe the differentials can be minimised by councils using their powers of compulsory purchase to create affordable parcels of land.

7/ Regarding affordability the circular states (para 32) that councils should consider including a 'rural exception policy' in the relevant LDD (Local Development Document) where there is a lack of affordable land. This is an important point and we would welcome greater clarification on the mechanics of this. Again in order to promote affordability we would recommend that councils use their powers of compulsory purchase to create affordable land for Traveller site development. Also councils could consider establishing loan systems whereby Travellers can pay councils back to purchase land. Measures such as these will avoid price inflation whereby land becomes too expensive for most Traveller families and minimises the danger of land speculators buying strips of available and designated land and attempting to sell plots on unreasonable terms. There is a danger that price inflation, if unchecked, will discourage families from trying to secure land for site development, through the new processes of the planning system. There is a need for more detailed advice and guidance on creating affordable sites. We strongly suggest that support is given to some of these proposals on a trial basis as pilot projects run by councils but monitored by the ODPM.

We have also noted that John Prescott MP, Secretary of State at the ODPM, declared at the Labour Party conference in 2004 that Labour would help create affordable housing by releasing government owned land for development. We hope that this will be extended to the Gypsy and Traveller community for site development.

8/ Local authorities are reminded of their duties under the Homelessness Act. As the law stands, they would not have to consider revision of their homelessness strategies for three years, notwithstanding the fact that hardly any of the 157 authorities which had homeless Gypsies in their area even mentioned Gypsies in their initial

strategies. Could you not strengthen paragraph 18, by adding a reference to the homelessness strategies under the 2003 Act, and the need for local authorities to check that their initial strategies were compliant with the Act?

9/ Annex C (6) states that sites should not be located on significantly contaminated land but this does not rule out locations near or adjoining motorways, power lines, landfill sites or railway lines or motorways anymore than it does for conventional housing. The ODPM will be aware though that in the past a significant number of public sites have been located in highly marginal space. We ask for the Government to be highly vigilant about the quality of the land identified for public and private sites. Where councils fail in due consideration of identifying appropriate land swift intervention by the Government will set an invaluable precedent. However, if councils do identify hazardous land, which unfortunately will be likely in some cases, and there is no intervention then other councils will follow such examples and large numbers of Travellers will be consigned to living in highly marginal space, which will have a negative impact on their social inclusion and general life chances. A Task Force may be of assistance in ensuring such vigilance is maintained. The circular should make it clear that the Secretary of State will use their powers of intervention where inappropriate land is identified for development.

10/ The Secretary of State has various powers of intervention in the new planning system. Annex D (9) describes for example how under section 21 (1) of the Planning and Compulsory Purchase Act 2004 the Secretary of State has the power to modify the draft DPD. If they fail to do so the Secretary of State can under section 21 (4) of the Act direct that the relevant part of the document be submitted to him for approval. Furthermore, where a local planning authority has not prepared a DPD in the first place then under section 26 (2) of the Act the Secretary of State can direct them to prepare the necessary document; if they fail to do so then ultimately the Secretary of State can exercise their default power under section 27 and identify the necessary sites, proceed to an examination, and then approve the document. Councils in the past have proved to be reluctant to fulfill the most minimum of requirements regarding Gypsies and Travellers. It is likely that many councils will attempt to shirk their new responsibilities. The Secretary of State will therefore have to use their powers of intervention at the earliest possible opportunity. Swift intervention will set an example and will encourage councils to meet their responsibilities. However, failure to intervene on a sufficient level will lead to large numbers of councils shirking their responsibilities and many of the ills associated with the present planning system will continue.

11/ On a more general level we still contend that the new planning guidance and Regional Spatial Strategies should be complemented by a statutory duty to provide/facilitate sites. The report by the Institute for Public Policy Research (Moving Forward, 2004, page 40) declared that such a duty would send out a clear message to councils and reinforce the effectiveness of Regional Spatial Strategies, if such strategies were effective the need for such a statutory duty would with time fall away. This measure is still supported by the Commission for Racial Equality, National Farmers Union, Local Government Association amongst others. It should also be noted that the recent ODPM Select Committee report on Gypsy/Traveller accommodation, after reflecting on the Government's proposals re Regional Spatial Strategies, continued to advocate the need for a duty. We hope that after the election that the Government will reconsider this option or failing that introduce the amendment

tabled by Lord Avebury to the Housing Bill in October 2004 which proposed that the Secretary of State may, if at any time it appears to him to be necessary to do so, give directions to a local housing authority, requiring it to exercise its powers under S 24 of the Caravan Sites and Control of Development Act 1960, to provide such sites for Gypsies, for the accommodation of such numbers of caravans, as may be specified in the directions. The Secretary of State would not give any directions under subsection (1) unless either:

(a) there were Gypsy caravans on unauthorised sites in the area of the local authority at the previous January count, or

(b) Gypsy families had been evicted from unauthorised sites in the area of the local authority during the previous calendar year.

This would come into operation on the day two years after the publication of the Housing Act, thus giving councils ample time to respond to new government guidance and other requirements and recommendations related to Gypsy/Traveller accommodation.

12/ We also welcome the fact that the ODPM Select Committee recommended the creation of a Task Force on Gypsy/Traveller issues. In a recent letter from John Prescott MP, Secretary of State at the ODPM to Rodney Bickerstaffe, Prescott stated that this proposal was being actively considered by the ODPM. Such a Task Force will allow Gypsies and Travellers and other stakeholders to actively advise the Government and civil servants on the effectiveness of the new planning circular and other measures to increase site provision. The Task Force would facilitate constructive input into further refinement of these measures and empower Gypsies and Travellers helping them to further develop key policy formulation skills.