

Commentary on the Planning Reform and Housing and Regeneration Bills

The Government is planning two Bills for the next session of Parliament which could have a helpful impact on Gypsies and Travellers. If the published Bills do not contain clauses which would benefit Gypsies and Travellers, it is important that Gypsies and Travellers and their supporters work with sympathetic MPs and Peers to ensure that beneficial amendments are added.

The following comments are based on the consultation papers issued in preparation for the publication of the Bills, the Government's Draft Legislative Programme published by the Cabinet Office in July and a CLG news release issued on 14 September.

Housing and Regeneration Bill

This will merge the Housing Corporation, which distributes funds to housing associations to build new social housing, and English Partnerships, which plans housing projects in new growth areas.

It will also implement the recommendations of the Cave Review of Social Housing Regulation, policies responding to John Hills' assessment of social housing, and respond to the implications of the 2004 European Court of Human Rights ruling on security of tenure for Gypsies and Travellers on council-run sites.

Planning Reform Bill

This Bill will implement the main proposals from the planning White Paper, in particular, establishing a new separate planning system for major infrastructure projects and simplifying the planning system for minor home improvements. In many cases formal planning permission will no longer be required. It will also address underperformance of planning authorities and examine ways to address that under-performance.

Gypsies and Travellers

Both Bills will present an important opportunity to draw attention to and address some of the flaws that exist in new Gypsy and Traveller accommodation policies contained in the Housing Act 2004 and ODPM Circular 01/2006. Although these policies are in their early stages there are a number of major problems that are clearly evident and could frustrate successful delivery:

- Public and local authority opposition means that it is highly unlikely that anything near the 5,000 pitches estimated to be needed by 2007 in the Niner report (2002) will materialise. Apart from political intransigence this stems from three sources - lack of timely delivery of site allocations documents, lack of deliverable and affordable sites and lack of mechanisms to aid that delivery.
- It seems likely that it will be especially difficult to develop the 2,000 - 2,500 transit pitches that Niner estimates are needed, given the huge opposition to transit proposals in Crawley (2006) and Hastings (2007). Southampton Council, however, successfully located and gave planning permission for a transit site recently and their techniques for getting a site located and delivered are worthy of attention.

- Gypsy and Traveller support groups also believe that as land is identified for site construction its cost will prove prohibitive for many Gypsies and Travellers, who will also find it difficult to secure conventional loans.

How Can These Problems Be Addressed?

1 The Housing and Regeneration Bill

The Housing and Regeneration Bill will contain clauses on Gypsy and Traveller site security of tenure following the recommendations of the European Court for Human Rights in the case of *Connors versus UK* (2004).

Groups like the Local Government Association still believe that a statutory duty on local authorities is needed on local authorities to provide/facilitate sites. This duty would complement the existing policies on Gypsy and Traveller accommodation. A statutory duty is likely to strengthen the resolve of local authorities to proceed with site development and be a useful tool in justifying such action in the face of hostile opposition.

Amendments at different stages of the Bill

As the Government's intention is to embark on a major programme of social housing, it should explicitly encompass Gypsy and Traveller sites, including more extensive activity of Housing Associations via the Housing Corporation and the new homes agency.

1.1 Hypothecated Funding

Action - There is considerable merit in hypothecated funding from the Housing Corporation for Gypsy and Traveller sites. The Government argues that there is considerable unused financial capacity for bricks and mortar accommodation arising partly from potential borrowings by Housing Associations against existing stock. This is not possible for Gypsy and Traveller sites, so a new start will have to be made with ring-fenced funding made available through the Housing Corporation or its successor body.

Action – Gypsy and Traveller sites with a cost per pitch of less than half that of conventional housing (e.g. ca £100,000 per pitch for local authority sites as opposed to £210,000 average house price) represent very good value for money. As low cost options they also have the potential for an early pay-back period so that original funding can quickly be recycled for future build to meet accommodation needs from future population growth. There is a strong argument for granting an exemption to the restriction of social housing grant only to councils developing through an ALMO or other vehicle so that councils themselves can make use of the social housing grant in site development. The current Gypsy sites grant will cease after a few years and in any event is insufficient for potential demand. There will be a continued need for funding for social accommodation delivered through local authorities. This possibility should continue to exist for those authorities prepared to build and run Gypsy and Traveller sites.

1.2 Affordable Housing targets should include Gypsy and Traveller sites

The Housing and Regeneration Bill will create a new body, the Homes and Communities Agency, which will have a key role in delivering the Government's accommodation objectives. The Government intends this body to play a key role in meeting the needs of

vulnerable groups and promoting community cohesion (CLG, Delivering Housing and Regeneration, 2007, 26). Thus it is imperative that the Homes and Communities Agency ensures that it helps address the accommodation needs of Gypsies and Travellers.

Part of this remit will involve creating affordable housing, 'mixed communities' (including households from all socio economic backgrounds) and Eco Towns, and promotion of Community Land Trusts. Community Land Trusts enable communities to take control of assets. In such schemes the occupier pays rent and the CLT uses rent to repay a mortgage and meet other costs. The occupier shares in the equity created by the repayment of debt and appreciation of the home. There may be scope for this to be used for Gypsy and Traveller sites. The doubling of government funding for Growth Points, Growth Areas and Eco Towns provides opportunities to address Gypsy and Traveller site needs in these areas – for example in Cambridgeshire (an already recognised Growth Area) which has a very large need for sites.

The £8bn programme for affordable housing provides for 70,000 more affordable homes by 2010-11, 45,000 new social homes by 2010-11 and a goal of 50,000 new social rented homes a year.

Action - As Gypsy and Traveller sites should all be considered as a form of affordable housing (the view of Pat Niner in her work on RSS reviews for Gypsies and Travellers, CLG 2007) then sites should be included formally in this total and means found to integrate the delivery of social rented sites in a similar manner to bricks and mortar accommodation. With a target of over 25,000 shared ownership and shared equity homes a year, thousands more shared ownership homes through local housing companies and other forms of affordable housing, it should be clearly stated that these targets include Gypsy and Traveller sites as well as bricks and mortar housing.

Action - In debates on the Bill we need to encourage our supporters in Parliament to press Government spokespersons to give assurances that Gypsy and Traveller accommodation is part of the 'affordable housing' agenda and that sites should be delivered in Eco Towns, 'mixed communities' and through Community Land Trusts.

Action - The seven pilot Community Land Trusts to be set up should be encouraged to address any locally identified needs. Gypsy and Traveller sites are particularly suited for self-build projects with Community Land Trusts allowing for democratic ownership of land. There is a strong case to be made for the development of CLTs on a regional or sub-regional basis to focus solely on Gypsy and Traveller site provision and the new body should be encouraged to develop a series of pilot projects aimed at Gypsy and Traveller site delivery.

1.3 Planning Gain Supplement and Section 106 agreements

By facilitating and brokering accommodation development, the Homes and Communities Agency will be in a unique position to promote Section 106 agreements, where private developers could provide sites in return for consent and support for large scale developments.

Action - Planning obligations under Section 106 agreements may well be scaled back if Planning Gain Supplement (PGS) is brought in. If so, the use of PGS money for site provision will be extremely important. The Green Paper implies that PGS money is intended for roads, hospitals, schools and parks.

Action - If Section 106 obligations are not scaled back they should as a matter of course include site provision as part of their social housing element. Where local authorities fail to fulfil their obligations on Gypsy and Traveller accommodation and the Secretary of State issues directions and intervenes directly, the Homes and Communities Agency could have an important role in identifying land for site development and helping initiate construction agreements and partnerships.

1.4 Use of surplus public land

The Homes and Communities Agency will also be involved in the identification and brokerage of public land and will set out new standards for housing on surplus land to increase the number of affordable homes and bring forward sites more quickly.

Action – The Homes and Communities Agency should encompass Gypsy and Traveller sites as part of the affordable homes measures with appropriate standards for delivery. The launch of a new approach to the use of vacant land owned by local authorities has potential in part of the site delivery mechanism for Gypsy and Traveller sites.

Action - The minimum agreed standards for developments as part of the Homes and Communities Agency's role in bringing forward publicly owned surplus sites for housing will include a minimum of 50% affordable homes. This standard should include the provision of a minimum proportion of sites for Gypsies and Travellers, reflecting local need for pitches as a proportion of total local affordable housing need.

1.5 Local housing companies

Action - The fourteen new local housing companies should take on part of the delivery of affordable accommodation for local Gypsies and Travellers as part of their remit and such provision should be formally made part of the remit of any future local housing companies.

1.6 Brownfield sites

Action - The target of 60% of new homes on brownfield land should explicitly include a due proportion for Gypsy and Traveller sites. The new agency should work with local authorities to develop robust strategies for the provision of sites on brownfield land. This is particularly important in London and other large cities.

1.7 Co-ordinating role of the Homes and Communities Agency

Action - The new agency should take on a co-ordinating and enabling role in relation to the development of Gypsy and Traveller sites. In the same way that CLG contains a Gypsy and Traveller unit, the new agency should contain a Gypsy and Traveller sites unit to promote site development alongside bricks and mortar housing development. The government should give a commitment to ensure that Gypsy and Traveller site provision will be part of the remit of the new homes agency.

1.8 Additional Sanctions

The Institute for Public Policy Research issued a report in 2003 entitled *Moving Forward*. Page 45 recommends that a Regional Housing Board, controlling local authorities' access to funds for all their social housing, could make receipt of some of a local authority's funding conditional on providing necessary sites for Gypsies and Travellers.

Action - Is there scope in the Housing Bill for this proposal or other financial penalties to be raised? An alternative proposal would be for councils who fail to deliver sites to receive a lower star rating for accommodation from the audit commission.

1.9 Mortgages

The Government intends to improve the way the mortgage market works including more affordable long-term fixed rate mortgages.

Action - specific measures should be introduced so that Gypsies and Travellers are included within this for funding for sites and land for self-build schemes or similar proposals.

1.10 Helping First Time Buyers

A range of initiatives is proposed:

- provision of 25,000 more shared ownership and shared equity homes funded by the Housing Corporation
- support for councils to build additional shared ownership homes on their land through new Local Housing Companies
- delivery of more shared ownership homes on public sector land without grant
- increased opportunities for social tenants to buy a share in their own home
- expansion of the range of open market HomeBuy products to offer 17.5% Government equity loans which can be used by any lender to help first time buyers.

Action - all of these may have some application to first time Gypsy and Traveller site buyers. Other proposals include equity loans by Housing Associations and use of shared equity models to deliver new supply, which may also be applicable. Consideration should therefore be extended to the particular circumstances of Gypsy and Traveller first time site buyers.

1.11 Delivery Issues

Homes for the Future states that the CLG, local government and English Partnerships are working with the Prime Minister's Delivery Unit to design a delivery mechanism to ensure that this cross-government programme for housing is realised.

Action: There is an opportunity to design delivery modes for Gypsy and Traveller sites as part of the remit of the Delivery Unit. The development of delivery modes would give a clear lead, help prevent each local authority having to re-invent the wheel as regards site delivery, and help prioritise site delivery. The Government clearly wants local authorities to play a stronger role in addressing the accommodation needs of all their residents as part of their strategic housing role. There is a clear opportunity here for the Government to make it clear that 'all their residents' include Gypsies and Travellers. There is a real opportunity for inclusiveness given a clear lead from the Government.

1.12 Local delivery vehicles (LDVs)

LDVs have been used to bring together local authorities in order to improve prospects and pace of housing delivery - for example Cambridgeshire Horizons brings together five local authorities.

Action - It would seem to make sense to use such LDVs to help deliver much needed Gypsy and Traveller sites as part of their remit. There may be a case to be made for a series of LDVs to be set up to facilitate site provision in line with partial RSS reviews. The Government should investigate and report on the potential for delivery through LDVs.

1.13 Apprenticeships

The Government is calling for an expansion in apprenticeships and other forms of training in the construction industry.

Action - Given problems faced by Gypsy and Traveller youth in the education system and the involvement of Gypsies and Travellers in the construction industry, Government training schemes for the industry should seek to include Gypsy and Traveller young people and be designed and delivered accordingly.

1.14 Unheard voices

The Green Paper exhorts local planning authorities to listen to the 'unheard voices' of young people wanting to get a rung on the housing ladder, and not just to people already there who want to prevent more local house-building.

Action - Gypsies and Travellers should be included among those whose voices are usually not heard, and should be.

2. The Planning Reform Bill

It is evident that the enhanced eviction powers promised in the Anti Social Behaviour Bill (2003) and planned changes to the Temporary Stop Notice regulations may not entice local authorities to build sufficient transit sites. The Government needs to rethink its whole strategy on this issue.

In 1982 the Government set up an inquiry into the accommodation needs of highly nomadic Travellers and this recommended a chain of Government run sites along the major motorways. The report by Smith, D, Gmelch, S & Gmelch, G (1982) was entitled *The Special Accommodation Needs of Irish and Other Long-Distance Travellers: Report of research conducted for DoE and the Welsh Office*. The report's central recommendations were not acted upon.

Action - A national network of Gypsy and Traveller transit sites run by a specialist RSL or accommodation agency or local authorities, using state owned land, could count as a major infrastructure project and thus be referred to in the Planning Reform Bill.

The Planning Reform Bill aims to improve actual community engagement in planning and encourage a more joined up approach. It recognises a need to address poor performance generally in the delivery of planning documentation and hence delivery of development land for housing. The existing Local Government Act 1999 allows for local authorities to be designated as 'planning standard authorities' and the local government white paper proposes a streamlined ladder of engagement and intervention for poorly performing authorities. Organisations like the IDeA and the Planning Advisory service will provide peer challenge to local authorities to ensure that best practice is followed and good performance achieved. Where underperformance against national indicators is apparent

the relevant Government Office with local service inspectorates will be able to form a view on what further intervention is necessary. The Secretary of State can take the actions specified and lay down a clear timetable for compliance. Further failure could trigger further actions including statutory directions.

Action - Gypsy and Traveller planning provision should be made part of the Outcomes-Targets Indicators Frameworks as outlined in the local government white paper of 2006. This aspect of planning performance should be identified as one of the 200 improvement targets. This will involve setting a national standard for policy delivery and site allocation within an agreed timeframe. These can be agreed locally via Local Area Agreements resulting in a set of local priority targets. This issue is also included in the Green Paper *Homes for the Future*. The CLG is preparing a Joint Improvement Strategy which will be agreed by local and central government and which will help achieve local delivery of services, amongst other things. The strategy will be a key component of the arrangements being put in place to support the delivery of ambitious Local Area Agreements. There seems no *prima facie* case why Gypsy and Traveller site provision and delivery should not form part of Local Area Agreements. This would have the positive benefit of setting targets for local authority planning provision delivery and targets for delivery on the ground.

Action - Local planning incentives should include Gypsy and Traveller site policy delivery and site allocations as part of a basket of policy-related outcome quality measures upon which a substantial component of the Housing and Planning Delivery Grant funding would be allocated. The measures relating to Gypsy and Traveller accommodation should be defined by the regional planning body in accordance with the RSS objectives.

3. Other Issues

Building for Life

The Building for Life standard was launched in 2003 to encourage good design standards.

Action - It should be extended to encompass Gypsy and Traveller site design. A revision of delivering 'Great Places to Live' to encompass Gypsy and Traveller sites may be appropriate. There is no reason why good design standards should not be set in the same way as for housing. It would effectively mean mainstreaming the current developing CLG guidance on site design (though the thrust of this is for local authority run and owned sites).

The Decent Homes Programme

This will continue and the Government expects that 95% of social housing will be made decent by the end of 2010.

Action - The Government should set similar expectations and a set of standards for existing local authority Gypsy and Traveller sites and provide necessary funding to bring all existing sites up to standard. This would include a thorough national review of accommodation conditions on all local authority, other RSL and privately rented sites.

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