

# **Traveller Law Reform Project Email newsletter number 3**

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## **Housing and Regeneration Bill**

### **Bill in Committee stage**

The Housing and Regeneration Bill is now being examined in detail by a Committee of MPs. Amendments to the Bill can be proposed by Committee members and by the Government. The department for Communities and Local Government is consulting local authorities and Gypsy and Traveller site residents on Clause 272, which introduces security of tenure for residents of local authority Gypsy and Traveller sites. These consultations may lead to Government amendments to Clause 272. The Public Bill Committee examining this Bill is due to finish its work by the end of January, and then the Bill will go to the House of Commons for its Third Reading before going to the House of Lords.

Andy Slaughter MP, a member of the All Party Parliamentary Group on Gypsy and Traveller Law Reform, is on the Committee looking at this Bill. He will try to ensure that issues of concern to Gypsies and Travellers are aired.

### **Social housing**

The Traveller Law Reform Project believes that the Government should include local authority and Registered Social Landlord Gypsy and Traveller sites in the definition of 'social housing' contained in the Bill. At present they are excluded from it. If they were included in it, they would enjoy the protection afforded by the proposed Regulator of Social Housing.

### **Security of tenure**

The security of tenure offered by Clause 272 to residents on local authority Gypsy and Traveller sites has been warmly welcomed. Clause 272 brings local authority Gypsy and Traveller sites under the Mobile Homes Act 1983. At present these sites are excluded from that Act. There is, however, some concern over matters of detail. In January, the Traveller Law Reform Project will produce a commentary on how the Mobile Homes Act 1983 might affect local authority Gypsy and Traveller site residents. The following comments may be revised in that commentary.

- There is some concern about how the rights of pitch assignment in the Mobile Homes Act 1983 might affect local authority needs-based pitch allocation policies. It might be necessary to include in Clause 272 of the Housing and Regeneration Bill some wording enabling a local authority to make sure that the right to assign a pitch did not prevent Gypsies and Travellers in desperate need from having access to pitches.
- We believe it is important to stipulate that the express terms of an agreement between a site resident and the local authority which owns the site should include enforceable standards equivalent to local authority housing, with specific obligations on repairs and maintenance.
- We believe that it should always be possible for disputes between a site resident and the local authority which owns the site to be heard in the county court – it should not be possible for a pitch agreement to substitute arbitration by a person appointed by the site owner. Currently the MHA allows arbitration to take the place of the right to go to court if arbitration is part of the pitch agreement.
- Residents must also have the right to take action in the courts against site owners who do not enforce the conditions of agreements and thus expose residents to the effects of other residents breaking those conditions. Poor site management can make life very difficult for site residents and they should have the right to challenge it.

## **Security of Tenure petition**

It is still worth registering your support for security of tenure on local authority run Gypsy and Traveller sites by signing the petition at [http://www.travellerslaw.org.uk/tenure\\_petition.htm](http://www.travellerslaw.org.uk/tenure_petition.htm). The more signatures the petition gets, the stronger the voice of site residents is against those who oppose security of tenure, and the stronger the Government's position will be in making sure that security of tenure is introduced.

The Traveller Law Reform Project plans to hand in the petition at 10 Downing Street and in Parliament in February.

## **Planning Bill**

The Planning Bill received its second reading in Parliament on 10 December. The Bill and explanatory notes can be found at <http://services.parliament.uk/bills/2007-08/planning.html>. The Traveller Law Reform Project plans to produce a briefing on this Bill by the middle of January and there will be more information in the next TLRP newsletter.

## **Infrastructure Planning Commission**

The Bill introduces a new planning system for major infrastructure projects of national significance, such as power stations, power lines, reservoirs, harbours, railways, motorways and airports. Planning decisions on such projects would be taken by a Infrastructure Planning Commission. During the debate at second reading, concern was expressed by Labour as well as Opposition MPs that the Bill takes too much power away from local people. If the Bill is to be passed, however, Traveller Law Reform Project will find out whether it would be possible to include a national network of transit sites in the transport projects which an Infrastructure Commission would be asked to approve.

## **Community Infrastructure Levy**

The Bill also proposes a Community Infrastructure Levy which would mean that developers of houses, flats, offices or shops would have to pay a fee to the local authorities affected by their development to help cover the cost of the extra roads, schools, parks, hospitals and other services which would have to be provided. Such arrangements might include Section 106 agreements, where a local authority gives planning permission on the condition that the developer build, for

instance, a certain number of low-cost homes. TLRP will find out if it would be possible to ensure that site provision is also included in such agreements.

### **Changes to existing planning regulations: matters of concern**

There are a number of matters of concern in the parts of the Bill that make changes to existing planning regulations, and the Traveller Law Reform Project is taking advice on the detail of these changes. Among the concerns are the following.

**Clause 146** enables Statements of Community Involvement to be produced without independent scrutiny. At present Planning Inspectors look at submission documents. Many Statements of Community involvement currently do not mention Gypsies and Travellers. It is vital to have continuing scrutiny to make sure that schemes for community involvement take into account issues relating to Gypsy and Traveller involvement.

**Clause 150** brings forward changes which allow officers to determine certain classes of planning consent and restricts appeals to the Secretary of State.

**Clause 154** allows local authorities to decline to determine repeat applications which have been called in, and refused, or dismissed on appeal; or if two applications in a two year period have been refused and no appeal made. This could cause problems for Gypsies and Travellers who have abandoned appeals, perhaps because of lack of legal advice and representation.

The Planning Bill impact assessment published on the Communities and Local Government website (see <http://www.communities.gov.uk/publications/planningandbuilding/planningbill>) does provide for some security for Gypsy and Traveller planning appeals: secondary legislation will ensure that such appeals will not be referred to Local Member Review Boards and that the Secretary of State will normally consider that Gypsy and Traveller appeals will be hearings or inquiries and not considered through written representations alone. We must ensure that these safeguards stay in place.

### **Restriction of appeal deadlines**

The Planning White Paper which was published before the Planning Bill proposed to reduce the time limit for planning appeals when the same development is also the subject of an enforcement notice: appeals would have to be submitted within 28 days instead of the current limit of six months. This proposal is not part of the Planning Bill itself because it can be introduced through secondary legislation under existing powers. It is therefore a very dangerous threat to Gypsies and Travellers trying to get retrospective planning permission to live on their own land. There are strong reasons to object to this change: Gypsies and Travellers more often succeed at appeal than on initial application but the chance of getting competent legal advice for an appeal is drastically reduced if the time limit for an appeal is shortened so dramatically.

### **Local authorities in Wales to identify sites**

The Welsh Assembly Government announced on Tuesday 18 December that local authorities in Wales should identify sites for Gypsies and Travellers in the same way that councils in England are obliged to do under the Housing Act 2004 and ODPM Circular 01/2006. There is to be consultation with Gypsies and Travellers and local settled people over the location of such sites through the Local development Plan process.

## More money for site provision and refurbishment

On 11 December the Minister with responsibility for Gypsy and Traveller issues, Iain Wright MP, announced that £97 million would be made available for site refurbishment and construction in England during 2008-2011. On 13 December the Welsh Assembly Government announced provision of £1.7 million for site refurbishment and extension at nine Gypsy and Traveller sites in Wales.

## Olympic Sites

On 11 December, Julie Morgan MP, Lord Avebury and Baroness Whitaker of the All Party Parliamentary Group on Gypsy and Traveller Law Reform met with representatives of the Olympic Delivery Authority and the London Development Agency to discuss grave concerns over the unacceptable treatment of residents on the Clays Lane and Waterden Crescent Travellers' sites in East London as a result of Olympic Park construction. ODA and LDA representatives were defensive and some of their responses were challenged by representatives of the site residents. They nonetheless made some undertakings:

1 to deliver a written apology to the former residents of Clays Lane for a false statement made in writing by the ODA in response to a health report commissioned early this year by the London Gypsy and Traveller Unit; the false statement blamed the Travellers, rather than the dust caused by demolition work, for their own health problems;

2 to consider the possibility of commissioning an independent epidemiological study of Clays Lane residents;

3 to consider the possibility of financial compensation for the disruption caused to the Travellers at Clays Lane and Waterden Crescent during demolition work;

4 to provide Waterden Crescent residents with monthly written explanations, and three monthly verbal explanations, of work planned and in progress.

## Task Group Final Report: The Road Ahead

The Task Group on Site Provision and Enforcement for Gypsies and Travellers launched its Final Report, *The Road Ahead*, on 11 December. It is summarised in a CLG press release at <http://www.communities.gov.uk/news/corporate/593429>.

The report broadly welcomes the present policy framework but sees difficulties in the implementation of policy and makes a number of recommendations, reproduced below.

### Recommendations

#### THE POLICY FRAMEWORK

1. All local planning authorities where there is demonstrable need for site provision – including those in regions where a Regional Spatial Strategy has not yet allocated pitch numbers to each local planning authority – should give serious consideration to proceeding with a Development Plan Document now.
2. Communities and Local Government should monitor the pace of delivery by local planning authorities. The Secretary of State should be prepared to direct local authorities which are not making adequate progress to prepare Gypsy and Traveller Development Plan Documents.
3. The Government should underline its continuing expectation that all local authorities will produce site allocations Development Plan Documents that include specific allocations for Gypsy and Traveller accommodation, unless there is clear evidence that need is not pressing.

4. It is important that the Government gives serious consideration to the implications for site provision of the transition of planning responsibilities from Regional Assemblies to Regional Development Agencies. This should include setting out explicitly how it expects regional planning to meet the accommodation needs of Gypsies and Travellers to be undertaken through the transitional period and beyond.
5. Ministers should meet Gypsies and Travellers to discuss their concerns about the different definitions of Gypsies and Travellers used for planning and housing purposes. Government time should also be set aside in the House of Commons to debate this issue openly.
6. Local authorities should ensure that their published planning enforcement policies include their approach to enforcement against unauthorised encampments and developments, and set out clearly what all members of the community should be able to expect.
7. Police services should publish their policies on dealing with unauthorised encampments, setting out clearly what all members of the community should be able to expect.
8. The Ministry of Justice should consider how capacity might be increased for specialist legal advice on planning issues, to allow developers – including Gypsies and Travellers – to access such advice within a shortened appeal period.
9. In taking forward its proposals on the regulation of enforcement agents, the Ministry of Justice should ensure that regulation covers the actions of private firms of bailiffs evicting Gypsies and Travellers from sites, and that the system provides for a complaints mechanism if standards are not met.
10. The Equality and Human Rights Commission should ensure that any local authorities who are failing in their duties under the Race Relations Act towards Gypsies and Irish Travellers and the communities in which they live are reminded of those duties; and should take robust enforcement action against any continued failure to comply.

#### Policy in action: enforcement

11. Local authorities and landowners, their enforcement agents, and the police should give clear notice of an intention to carry out an eviction, to provide an opportunity for those living on an unauthorised site to leave voluntarily; and should provide information on alternative, appropriate places to go.
12. In advance of delivering increases in permanent and transit site provision, local authorities should urgently consider the scope for emergency stopping places within their areas that can provide an alternative location for Gypsies and Travellers on unauthorised sites in dangerous or damaging locations. Such stopping places might be on local authority owned land, or delivered in partnership with other landowners, and might be facilitated using the provisions of the 1960 Caravans Act on permitted development. They should provide basic facilities on an as needed basis to enable Gypsies and Travellers to dispose of waste appropriately and prevent costly clean up exercises when people move on.
13. Where it is not expedient to take enforcement action against unauthorised encampments, local authorities should consider providing basic facilities, such as skips and chemical toilets, for a reasonable fee payable by Gypsies and Travellers on site.
14. Communities and Local Government should ensure that guidance on tackling antisocial behaviour is completed at the earliest opportunity. This should support local authorities and the police in dealing with Gypsies and Travellers' experience of antisocial behaviour either as victims or as perpetrators.

### Policy in action: site provision

15. Local authorities should give careful consideration to their communications strategy as an integral part of their plan for delivering new Gypsy and Traveller sites. This should include providing an opportunity for people to learn more about the experience of members of the settled community who are already living close to well designed and managed authorised sites.
16. Communities and Local Government should confirm that the Gypsy and Traveller Unit will continue in place to promote Government policy, and that government will maintain the level of funding provided between 2006 and 2008 for the Gypsy and Traveller site grant in real terms, throughout the CSR07 period.
17. Local authorities should, where possible, ensure that contracts for fitting and maintaining social housing also cover publicly owned Gypsy and Traveller sites. Those authorities without a housing function beyond its Gypsy and Traveller sites should work with neighbouring authorities to identify contractors who can provide good quality and value for money.
18. Communities and Local Government should coordinate work with Gypsy and Traveller community groups, the financial industry and other relevant government departments to consider the development of financial products to support Gypsies and Travellers to develop their own sites.
19. Local authorities should assess the scope to use section 106 agreements to deliver accommodation for Gypsies and Travellers as part of all new housing developments.
20. Communities and Local Government should examine the case for regulating rents paid by Gypsies and Travellers living on publicly owned sites, in line with the approach taken towards other forms of social housing.
21. In considering whether new public provision should be provided through new sites or extensions to existing sites, local authorities should take into account guidance on the appropriate size of sites. It is unlikely to be appropriate for the accommodation needs of Gypsies and Travellers to be met solely through site extensions.
22. Local authorities and RSLs should give careful consideration to the approach they will take to managing new sites as a key part of the planning process.
23. The Government should bring forward legislation in the next parliamentary session to implement the European Court of Human Rights' judgment in the case of Connors vs the UK – ie to improve security of tenure for Gypsies and Travellers living on local authority owned sites.

### Tackling social exclusion

24. The Office for National Statistics should ensure that two separate categories are included in the 2011 Census for Gypsies and Irish Travellers.
25. In advance of a change to the Census, government departments should work together to agree a consistent approach to data collection to improve understanding of the outcomes experienced by Gypsies and Travellers. In particular, the rollout of the National Health Service national records system should provide an early opportunity to improve monitoring of health outcomes.
26. The Department of Health should ensure that good practice emerging from its Pacesetters programme is disseminated widely amongst health practitioners.
27. Senior politicians at national and local level and the bodies that support them should take proactive steps to build political consensus between the main parties on the importance of increasing site provision for Gypsies and Travellers.

28. Local authorities should ensure that training on equality and diversity includes consideration of Gypsies and Travellers and of local authorities' responsibilities in relation to those communities under the race equality duty. They will also wish to consider whether dedicated training might be provided to elected members and officers to support them in operating effectively on Gypsy and Traveller related issues.
29. Local authorities should consider the scope for working with organisations representing Gypsies and Travellers to build their capacity, including as part of broader strategies for community empowerment.
30. National and local media should ensure that reporting of Gypsy and Traveller related stories is undertaken in a responsible manner. The new Equality and Human Rights Commission should challenge incidences of irresponsible reporting.
31. The Press Complaints Commission must demonstrate that complaints of racist reporting against Gypsies and Travellers are treated seriously.
32. The Audit Commission should set out how it will ensure that the Comprehensive Area Assessment will allow it to evaluate the performance of local authorities in meeting the needs of vulnerable people in their areas. This should include considering how indicators on community cohesion and race equality reflect the experience of Gypsies and Travellers.
33. Annual management letters produced by local auditors should include an evaluation of how local authorities are discharging their duties in relation to Gypsies and Travellers.

#### Monitoring progress

34. The Government should report annually to Parliament on progress on Gypsy and Traveller issues.
35. The bodies represented on this Task Group, including representatives of Gypsies and Travellers, should continue to meet on an annual basis to consider this report.

#### Majority recommendation

A minority of Task Group members felt unable to agree with the following recommendation because of concerns that there would be insufficient capacity amongst planning advisors to support developers of Gypsy and Traveller sites effectively within a shortened appeal timetable. The majority, however, felt that it would improve the effectiveness of the system and public confidence in its resilience to abuse by developers.

36. The Government should proceed with the proposal in the Planning White Paper to reduce the time limit for planning appeals when the same development is the subject of an enforcement notice.