

GYPSY SITES AND PLANNING

4-940 Circular No.:	1/94
Date of issue:	January 5, 1994
Issuing authority:	Department of the Environment and the Welsh Office (Circular No. 2/94 of that office).
Background:	This Circular provides revised guidance on planning control and gypsy caravan sites, in light of the Government's revised policies.

Introduction

1. This Circular revises guidance on the planning aspects of sites for caravans which provide accommodation for gypsies. It applies equally to local authorities' own sites and to applications for planning permission from gypsies themselves or from others wishing to develop land for use as a gypsy caravan site. The Circular comes into effect immediately. Its main intentions are—

- to provide that the planning system recognises the need for accommodation consistent with gypsies' nomadic lifestyle;
- to reflect the importance of the plan-led nature of the planning system in relation to gypsy site provision, in the light of the Planning and Compensation Act 1991 ("the 1991 Act"); and
- to withdraw the previous guidance indicating that it may be necessary to accept the establishment of gypsy sites in protected areas, including Green Belts.

2. This Circular does not affect the advice given generally in other Departmental Circulars and Planning Policy Guidance Notes (PPGs). Those which may be of particular relevance are—

- PPG1 ("General Policy and Principles") [see now PPG1, *General Policy and Principles* (1997)];
- PPG2 ("Green Belts");
- PPG7 ("The Countryside and the Rural Economy") [see now PPG7, *The Countryside: Environmental Quality and Economic and Social Development* (1997)];
- PPG12 ("Development Plans and Regional Planning Guidance") [see now PPG12, *Development Plans* (1999)];
- PPG12 (Wales) ("Development Plans and Strategic Planning Guidance in Wales") [see now Planning Guidance (Wales): *Unitary Development Plans* (1996)];
- Draft PPG13 ("Transport");
- PPG16 and PPG16 (Wales) ("Archaeology and Planning");
- PPG18 ("Enforcing Planning Control");
- PPG (forthcoming) ("Nature Conservation") [see now PPG9, *Nature Conservation* (1994)];
- DOE Circular 1/92 (WO 1/92) ("Planning Controls over Sites of Special Scientific Interest"); and
- DOE Circular 28/77 (WO 51/77), subject to the cancellations made by this Circular (see paragraph 34).

3. The Government announced on March 31, 1993 its intention to introduce legislation to reform the Caravan Sites Act 1968 ("the 1968 Act") when Parliamentary time is available. In particular, the Government proposes to repeal the statutory duty of local authorities to provide accommodation on caravan sites for gypsies residing in or resorting to their areas. Local authorities would continue to have discretionary powers to provide such sites under the Caravan Sites and Control of Development Act 1960 ("the 1960 Act").

CIRCULAR NO. 1/94: GYPSY SITES AND PLANNING

The Government also proposes to repeal the Secretary of State's powers to "designate" an area of a local authority (for example, on the grounds that provision for gypsies in its area was adequate); to repeal his powers to direct an authority to provide more local authority sites; and to repeal his powers to pay grant to authorities for the provision of sites. Provisions implementing these proposals were included in the Criminal Justice and Public Order Bill, introduced on December 17, 1993.

4. The proposed repeal of local authorities' duty to provide gypsy sites is expected to lead to more applications for private gypsy sites. The Government recognises that many gypsies would prefer to find and buy their own sites to develop and manage. More private sites should release pitches on local authority sites for gypsies most in need of public provision.

5. "Gypsies" are defined in section 16 of the 1968 Act as "persons of nomadic habit of life, whatever their race or origin". References to gypsies in this Circular are references to gypsies in that sense. The term does not include members of an organised group of travelling showpeople or circus people, travelling together as such. Planning advice relating to travelling showpeople is given in DOE Circular 22/91 (WO 78/91).

6. Gypsies make up a tiny proportion of the population of England and Wales, but their land-use requirements need to be met. Many gypsies are self-employed people, sometimes occupied in scrap and scrap-metal dealing, laying tarmac, seasonal agricultural work, casual labouring, and other employment associated with their itinerant lifestyle. The gypsy community also includes groups of long-distance travellers who nowadays earn their living mainly from trades such as furniture dealing, carpet selling and other related occupations. Local planning authorities need to be aware of the accommodation and occupational needs of gypsies, having regard to their statutory duties, including those in respect of homelessness under Part III of the Housing Act 1985.

Development plans

7. At an early stage in the preparation of structure plans, local plans, and unitary development plans ("development plans"), it will be important for local planning authorities to be ready to discuss gypsies' accommodation needs with the gypsies themselves, their representative bodies and local support groups. A list of some relevant addresses is given in Annex A. Other important sources of advice are County Council Gypsy Liaison Officers. Planning departments may need to consult other departments and agencies with an interest, particularly highways authorities. 4-941

8. In preparing or amending their development plans, local planning authorities should indicate how they have taken account of their duty under the 1968 Act to make adequate provision for gypsies residing in or resorting to their areas. They should set out their land-use policies and proposals for fulfilling that statutory duty, for as long as it remains.

9. After the proposed repeal of this duty, local planning authorities should continue to indicate the regard they have had to meeting gypsies' accommodation needs. Repeal of the statutory duty will make it all the more important that local planning authorities make adequate gypsy site provision in their development plans, through appropriate use of locational and/or criteria-based policies. Structure plans and Part I of unitary development plans should continue to set out broad strategic policies, and provide a general framework for site provision. Local plans and Part II of unitary development plans should continue to provide detailed policies.

10. It is important that policies for gypsy site provision are set out clearly in development plans to avoid any potential for disagreements with the settled population which might otherwise arise because of inappropriate location or inadequate explanation of proposed development. With such policies in

CIRCULAR NO. 1/94: GYPSY SITES AND PLANNING

place in plans, there will be more certainty for all concerned when planning applications are determined by local planning authorities or appeals are considered by the Secretary of State.

Provision and location of sites

4-942 11. In deciding what level of provision is necessary, it is essential for authorities to have up-to-date information and to maintain records of trends through regular counts, particularly where the gypsy population varies appreciably. When preparing their development plans, authorities should take into consideration the number of gypsy caravans in their areas, particularly the six-monthly counts by local authorities, which are collected and published by the Department of the Environment and the Welsh Office. This information will also help determine the geographical distribution of caravans, and different needs between summer and winter months. Authorities should also consider making full use of the registers of unused and under-used land owned by public bodies as an aid to identifying suitable locations. Vacant land or surplus local authority land may be appropriate. Locations awaiting development in the future may also be suitable for a limited period.

12. Local plans and Part II of unitary development plans should wherever possible identify locations suitable for gypsy sites, whether local authority or private sites. Where this is not possible, they should set out clear, realistic criteria for suitable locations, as a basis for site provision policies. They should also identify existing sites which have planning permission, whether occupied or not, and should make a quantitative assessment of the amount of accommodation required. A tradition of sites occupied by gypsies and the demonstration of a local need will help authorities to make proposals for sites in suitable locations.

13. As a rule it will not be appropriate to make provision for gypsy sites in areas of open land where development is severely restricted, for example, Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest, and other protected areas. Gypsy sites are not regarded as being among those uses of land which are normally appropriate in Green Belts. Green Belt land should therefore not be allocated for gypsy sites in development plans. PPG2 gives guidance on Green Belt policy.

14. In deciding where to provide for gypsy sites, local planning authorities might, for example, consider locations outside existing settlements, but within a reasonable distance of local services and facilities, e.g. shops, hospitals and schools. Sites on the outskirts of built-up areas may be appropriate, provided that care is taken to avoid encroachment on the open countryside. Many sites may be found in rural or semi-rural settings, but care needs to be taken to ensure consistency with agricultural and countryside policies, including those set out in PPG7 on the protection of the best and most versatile agricultural land.

15. Sites, whether public or private, should be identified having regard to highways considerations; this may be achieved through early contact with Regional Operating Units of the Department of Transport, or, in Wales, the Welsh Office Highways Directorate [now respectively the Department of the Environment, Transport and the Regions and the National Assembly for Wales]. Guidance on access is given in draft PPG13 ("Transport"). In setting their policies, local planning authorities should have regard to the potential for noise and other disturbance from the movement of vehicles to and from the site, the stationing of vehicles on the site, and on-site business activities.

16. Many gypsies prefer to run their businesses from the site on which their caravans are stationed. Local planning authorities should, wherever

CIRCULAR NO. 1/94: GYPSY SITES AND PLANNING

possible, identify in their development plans gypsy sites suitable for mixed residential and business uses, having regard to the safety of the occupants and their children. If mixed sites are not practicable, authorities should consider the scope for identifying separate sites for residential and for business purposes in close proximity to one another. Some sites or parts of sites unsuitable for residence might be suitable for parking vehicles or storing materials.

Site characteristics and services

17. Given the variety of occupations in which gypsies are engaged, there is no simple profile of an ideal gypsy site, but there are a number of characteristics which may help local planning authorities to identify appropriate sites, whether publicly or privately owned. Three main types of site are referred to here for guidance: (1) sites for settled occupation; (2) temporary stopping places; and (3) transit sites. Even families who settle on sites may travel periodically, especially during the summer months, so there is often a need for transit sites for gypsies who are passing through a particular area. 4-943

18. Descriptions of various kinds of site are given for illustrative purposes in Annex B. For all kinds of site, consideration must be given to vehicular access from the public highway, as well as provision for parking, turning and servicing on site, and road safety for occupants and visitors. Landscaping and planting with trees and shrubs will help sites blend into their surroundings, give structure and privacy, and maintain visual amenity.

19. Private sites for settled occupation are generally small, accommodating pitches for individual or extended families without on-site business activities. Small sites can often be less obtrusive. Temporary stopping places and transit sites might also be small, except on routes frequented by those gypsy groups which travel in large numbers.

Applications

20. In order to encourage private site provision, local planning authorities should offer advice and practical help with planning procedures to gypsies who wish to acquire their own land for development. Wherever possible, gypsies should be encouraged to consult authorities on planning matters before buying land on which they intend to camp and for which planning permission would be required. Pre-application discussions are particularly important to avoid misunderstanding. The aim should be as far as possible to help gypsies to help themselves, to allow them to secure the kind of sites they need, and thus help avoid breaches of planning control. In particular, questions of road access, the availability of services, potential conflict with statutory undertakers or agricultural interests, and any significant environmental impacts should be resolved at the earliest opportunity. 4-944

21. Where a development plan contains policies relevant to a proposal for a gypsy site, authorities must determine the planning application in accordance with the plan unless material considerations indicate otherwise. If the plan is not relevant, applications should be determined in the light of all material considerations. Authorities should recognise that they may receive applications from gypsies without local connections which could not reasonably have been foreseen in their development plan policies. **Authorities should not refuse private applications on the grounds that they consider public provision in the area to be adequate, or because alternative accommodation is available elsewhere on the authorities' own sites.**

22. As with any other planning applications, proposals for gypsy sites

CIRCULAR NO. 1/94: GYPSY SITES AND PLANNING

should continue to be determined solely in relation to land-use factors.¹ Whilst gypsy sites might be acceptable in some rural locations, the granting of permission must be consistent with agricultural, archaeological, countryside, environmental, and Green Belt policies (see paragraphs 2, 13 and 14, above). The aim should always be to secure provision appropriate to gypsies' accommodation needs while protecting amenity.

23. The appropriate use of *planning conditions* can enable some development proposals to proceed where it might otherwise be necessary to refuse permission. Conditions should be imposed only where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. General advice on the use of conditions is given in DOE Circular 1/85 (WO 1/85) [see now Circular 11/95, *The Use of Conditions in Planning Permissions*]. A number of measures may be introduced to overcome planning objections to particular proposals. These might include ensuring adequate landscaping, and limiting which parts of a site may be used for business operations, in order to minimise the visual impact and limit the effect of noise. In certain circumstances, conditions might also be appropriate to specify the maximum number of days for which gypsy caravans might be permitted to stay on a transit site.

24. In some cases, for example where the applicants themselves propose to use a site for only a limited time, or where land is to be redeveloped on some occasion in the future, it may be appropriate to impose a condition allowing use for only a specified period. But unless such circumstances prevail, permission should generally be given for an indefinite period.

25. Where an authority's planning objectives cannot be achieved by imposing a planning condition (because, for example, they relate to development roads or buildings other than those covered by the planning application), it may be appropriate to enter into a *planning obligation* under section 106 of the Town and Country Planning Act 1990 ("the 1990 Act") (as substituted by section 12 of the 1991 Act). Advice on the use of such obligations is given in DOE Circular 16/91 (WO 53/91 ("Planning Obligations")) [see now DOE Circular 1/97, *Planning Obligations*].

Enforcement

4-945 26. If planning permission is required but not obtained for a gypsy site and the local planning authority are considering possible enforcement action, they should be guided by the policy advice in PPG18 ("Enforcing Planning Control"). Local planning authorities should regard gypsies in the same manner as small businesses when considering possible enforcement action. The existence or absence of policies for gypsy sites in development plans could constitute a material consideration in matters of enforcement.

27. Local planning authorities have a range of enforcement powers available to them where the breach of planning control is sufficiently serious to justify taking action. Two powers may be particularly appropriate. *First*, the amended "stop notice" provisions, in section 183 of the 1990 Act, now enable the authority: to serve a stop notice at the same time as the related enforcement notice; and, where circumstances justify it, to bring a stop notice into

¹ EDITORIAL NOTE: In *Rexworthy v. Secretary of State for the Environment* [1998] J.P.L. 864 the court (Malcolm Spence Q.C., sitting as Deputy Judge) was troubled by this first sentence of para. 22. It was unclear whether "solely" implied that the decision-maker was to ignore the special circumstances of gypsy accommodation, to which the circular related. One way forward would have been to adopt the simple approach urged on the court on behalf of the Secretary of State, of construing the words "land use factors" as including all material considerations, including personal circumstances, which would have made it a statement of nothing more than the law. The court found it unnecessary to go that far, but in fact appears to have adopted that construction implicitly by holding that the inspector had been misled by the circular into taking the narrow view and subordinating the particular circumstances of accommodation for gypsies to the policies in the development plan.

CIRCULAR NO. 1/94: GYPSY SITES AND PLANNING

immediate effect; and to prohibit the use of any of the land specified in the enforcement notice For a residential caravan site. *Second*, the authority may apply for an injunction, in the High Court or County Court, to restrain an actual or apprehended breach of planning control, under section 187B of the 1990 Act. An injunction can be sought irrespective of whether the identity of the person is known. Detailed guidance about these two powers is given in Annexes 3 and 4, respectively, to DOE Circular 21/91 (WO 76/91) [see now DOE Circular 10/97, *Enforcing Planning Control*].

28. Once an enforcement notice has taken effect in relation to land specified in it, the local planning authority now have improved powers (in the amended section 178 of the 1990 Act) to enter the land and carry out the requirements of the notice themselves, in default of the owner or occupier. The authority may also recover from the person who is then the owner of the land any expenses they reasonably incur in taking remedial action themselves. Guidance about these powers is given in paragraphs 49 to 51 of Annex 2 to DOE Circular 21/91 (WO 76/91) [see now DOE Circular 10/97, *Enforcing Planning Control*].

Caravan use not requiring a planning application

29. Some kinds of activity will not fall within the definition of "development" in section 55 of the 1990 Act, and will not therefore require planning permission. Any gypsy living in a dwellinghouse will not require planning permission to use a caravan within the curtilage of the dwellinghouse, provided that the purpose is incidental to the enjoyment of the dwellinghouse as such. A caravan within the curtilage of a dwellinghouse may have a number of ancillary uses for which planning permission would not be required. For example, it could be used for additional living accommodation, provided that it remained part of the same planning unit as the dwellinghouse and the unit remained in single family occupation.

Permitted development

30. There are a number of circumstances in which gypsies, like any other users of the planning system, may carry out development for which a general permission is granted by the [Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995 No. 418)] (the "[GPDO]"). Such development does not require a planning application. Types of permitted development are specified in Schedule 2 to the [GPDO]. Some types which may benefit gypsies are described below. 4-946

31. The provision on land of caravans required temporarily in connection with and for the duration of permitted operations (other than mining) being carried out on, in, under or over that land, or on adjoining land—which might include, for example, agricultural or building work—is permitted development (Class A of Part 4 of Schedule 2 to the [GPDO]).

32. The use of land for caravans may be permitted development in some of the cases, specified in Schedule 1 to the 1960 Act, where a site licence is not required (Class A of Part 5 of Schedule 2 to the [GPDO]). Such cases include—

- the use of land as a caravan site for up to 28 days a year for (a) a single caravan staying no more than two nights at any time on sites of less than five acres; and (b) for up to three caravans on larger sites;
- the use of agricultural or forestry land as a temporary caravan site for accommodation used in connection with seasonal working on that land; and
- the use of a caravan site of land forming part of, or adjoining, land where permitted building or engineering operations are being car-

CIRCULAR NO. 1/94: GYPSY SITES AND PLANNING

ried out, where accommodation is for people employed in connection with the operations.

Licensing

33. Under the 1960 Act, a caravan site, whether or not it is for gypsies, is likely to need a site licence. The district or borough council is responsible for issuing the site licence and must do so once planning permission is granted. The licence will contain conditions which specify how a particular site should be regulated and equipped in the interests of health, safety and amenity. Details of the licensing conditions may be discussed while the application for planning permission is being considered, so that the licence can be issued as soon as permission is granted.

Cancellations

34. Paragraphs 4, 5, 32 and 44-94 (inclusive) of the Appendix to, and the Annex of, DOE Circular 28/77 (WO 51/77); the response to recommendation 4.13(d) in DOE Circular 57/78 (WO 97/78); paragraph 7 of Annex D to PPG12; and paragraph 4 of Annex D to PPG12 (Wales); and remaining paragraphs 11 to 14 of Development Control Policy Note 8 ("Caravan sites") are hereby cancelled.

Financial and manpower implications

35. This Circular repeats and revises existing guidance. Its contents are not expected to have significant manpower or resource implications for local planning authorities in advance of proposed legislative changes repealing the authorities' duty to provide gypsy sites. Planning applications will continue to attract planning application fees.

ANNEX A

SELECT LIST OF RELEVANT ORGANISATIONS

- ~~4-947~~ Advisory Council for the Education of Romany and Other Travellers (ACERT): General Secretary: Mrs M. Whiffin, Moot House, The Stow, Harlow CM20 3AG. Tel: 01279 418666
British Romany Union: General Secretary: Mr O. T. Odley, The Reservation, Hever Road, Edenbridge, Kent TN8 5DJ. Tel: 01732 866139
Consortium of Romany and Traveller Groups: c/o Miss J Day, Shelter, Third Floor, Sterling House, Fairfax Street, Bristol BS1 3HY. Tel: 01594 564529
Gypsy Council for Education, Culture, Welfare and Civil Rights: President: Mr P. Mercer, 3 The Travellers' Site, Oxney Road, Peterborough PE1 5NX. Tel: 01733 347112. Chair: Mr C. Smith, 10 Main Road, Hart Road Caravan Site, Thundersley, Benfleet, Essex SS7 3QH. Tel: 01268 774977
National Association of Teachers of Travellers: Co-ordinator: Ruth Dewhirst, c/o Braybrook Professional Centre, Amos Lane, Wednesfield, West Midlands WV11 1ND. Tel: 01902 305989
National Gypsy Council: President: Mr H. Smith, Greenacres Caravan Park, Hapsford, Helsby, Warrington WA6 0JS. Tel: 01928 723138
National Romany Rights Association: President: Mr E. Frankham, 8 Reid Way, King's Lynn, Norfolk PE30 2LL. Tel: 01553 775172
The Romany Guild: General Secretary: Mr T. Lee, The Caravan Site, 50-56 Temple Mills Lane, London E15 2ER. Tel: 0181-555 7214

CIRCULAR NO. 1/94: GYPSY SITES AND PLANNING

Romany Institute: Dr Kendrick, 61 Blenheim Crescent, London W11 2EG.
Tel: 0171 727 2916
Society of Travelling People: Mr T. B. O'Doherty, 7 Upper Wortley Road,
Leeds, West Yorkshire LE12 4LB. Tel: 0113 2638035

ANNEX B

CHARACTERISTICS OF SITES

(for illustrative purposes only)

1. The ideal sites for long-term use will have access from properly surfaced roads. Individual pitches might have hardstandings for existing caravans, and additional parking space for extra caravans, cars and lorries, where necessary. There may need to be working spaces, and areas for clothes-drying and other domestic purposes, and a safe playing area for children. A reasonable level of services would be expected, including electricity and drinking water supplies, washing facilities, sewage disposal, and regular refuse collections. Each pitch would have access to its own drinking water supply and sanitation. Suitable means of marking site boundaries would include fencing or natural vegetation such as hedges or trees. Spare capacity would enable the accommodation of visiting families passing through an area or attending family events. **4-948**
2. The better temporary stopping places will have a hard-surfaced entrance or access road, hardstanding for caravans and vehicles, a convenient drinking water supply, a means of sewage disposal, and a refuse collection point. A typical site might have an impassable barrier such as hedging or an embankment to delineate its boundaries.
3. For transit sites, some provision to minimise impact and avoid health hazards should include a refuse collection point, access to a drinking water supply, and sewage disposal. A drained and stable surface, particularly at entrances and where vehicles and caravans are likely to be parked, might also be desirable.