

Roundtable report: Challenging and improving planning policy for Gypsies and Travellers

Jo Richardson | February 2020

This report is an account of the discussions at a roundtable event; ‘Challenging and improving planning policy for Gypsies and Travellers’, hosted by the All Party Parliamentary Group on Gypsies, Travellers and Roma, on the 17 October 2019 in parliament. Participants of the event included those from civil society organisations, parliamentarians, private planners, a representative from the Planning Inspectorate, from a Housing Association and an academic (the report author). The meeting was chaired by Marc Willers QC.

Context

There is a significant shortage of Gypsy and Traveller sites in England. Gypsies and Travellers who do not have a site to live on, or stop on, are effectively homeless. Without a home, they cannot access schooling or healthcare; and this has a detrimental effect on health and wellbeing. The situation appears to have worsened since the effects of Planning Policy for Traveller Sites (2015) have drastically reduced pitch requirements (Cottle et al, 2019). At the same time as councils are showing reduced numbers in Gypsy and Traveller Accommodation Assessments (GTAAAs), some are also reporting increased numbers of unauthorised encampments in their applications for injunctions – contrary pictures of need and encampment data in the same local authorities in some places. The lack of oversight, by government, on whether councils are at the least including five-year rolling supply of potential land for sites in development plan documents, is compounding the obfuscation and delay in provision.

Key Issues

- There is contrary evidence provided by some local authorities, on the one hand with GTAAAs showing zero need for new sites, but on the other asking the courts for an injunction based on an increasing number of unauthorised encampments. This approach seems to reflect double standards, it is confusing and does not help Gypsies and Travellers or authorities plan for sites.
- It is nearly impossible for Gypsies and Travellers to travel in order to prove their Gypsy status under planning law, because there are insufficient places to stop along the way.
- The lack of permanent and transit sites has an adverse impact on wellbeing for Traveller families who are living in precarious and insecure conditions.
- There are possible solutions and some councils are trying approaches like ‘negotiated stopping’ as a way to provide temporary accommodation.

Recommendations

- Government should recognise the negative impact of the change in Planning Policy for Traveller Sites (2015) and remedy the national planning policy in light of this.
- Further research needs to be undertaken on the ‘data gap’ produced by councils (particularly the 37 with an extant injunction) - between reducing GTAA need while at the same time supplying evidence to court, for injunctions, which says unauthorised encampments are increasing.

- The Government should reintroduce pitch targets and a statutory duty onto local authorities to meet the assessed need for Gypsy and Traveller sites.
- A Gypsy and Traveller Accommodation Strategy should be written by the Ministry of Housing, Communities and Local Government (MHCLG), with a clear line of oversight, scrutiny and action in the cases of councils who do not include supply of sites in development plan documents.
- Councils should be encouraged to work together to deliver sites, similar to the Regional Spatial Strategies regime, which was starting to see co-operation across authority borders.
- The Government should ring-fence funding for local authorities to build Gypsy and Traveller sites.

Introduction

“You’ve got to prove you’re a Gypsy – for planning purposes, you have to prove you’re moving, but you can’t stop anywhere. Just crazy.”

Tom, Romany Gypsy

A number of challenges are evident at various stages in the planning and delivery process for Gypsy and Traveller sites. Firstly, it is difficult to ensure robust and accepted evidence on the numbers of site pitches needed by Gypsies and Travellers residing in, or resorting to, an area. Recent research published by the Equality and Human Rights Commission (Cottle et al, 2019) shows that since a change in the definition of Gypsies and Travellers for planning purposes (Planning Policy for Traveller Sites, 2015), there has been a significant negative impact on the process for site delivery. At the time of writing this report, a consultation on hardening provisions in the Criminal Justice and Public Order Act (1994) was announced by the government (Gov.uk, 2019)¹ which would cause further negative impact on the ability of Gypsies and Travellers to find accommodation as they travel around the country. Secondly, even where there is a clear accommodation need identified, not enough councils are including sites in plans – in spite of a requirement to show a five-year rolling land supply by planning authorities. Third, when sites are identified, there can be very hostile debate in objection to the proposed plans as a result of a history of negative discourse (Richardson, 2006 and 2014; Richardson & Ryder, 2012).

We know from evidence (Richardson, 2007; Richardson and Codona, 2016) that where sites are well managed by local authorities that this can have a positive impact on the wider debate. Councils and housing associations can add much to the delivery and management of sites, as part of their wider aims to deliver housing and accommodation for diverse communities. However, councils face challenges at the planning stage, through negotiation with builders and lenders, about the ‘viability’ of planned sites².

¹ <https://www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments>

² Viability arguments often relate to the potential for planning gain agreement housing – whether social housing more broadly, but particularly for Gypsy/Traveller sites – to reduce the value of market housing being built. Viability, thus, is the effect of including such housing on the size of the profit margin for developers and their shareholders.

Insufficient Planning or Delivery for Gypsy and Traveller Accommodation

Information was provided by the Gypsy community representatives from the National Federation of Gypsy Liaison Groups (NFGLG) and their host office Derbyshire Gypsy Liaison Group (DGLG) who have undertaken planning permission applications on behalf of Gypsies, Travellers and Showmen. There was compelling evidence of the personal case of one family working, over a decade, with the council to get planning permission for their own site. Over cycles of hard-fought temporary permissions, one after another, the site was finally given permanent consent following many years and moments of uncertainty and insecurity. Trying to work and support a family when one's home is in such a precarious situation, has an adverse impact. Additional evidence from the Trustee and Volunteer Co-ordinator of the NFGLG/DGLG referred to a number of ways they had been supporting families in planning for sites, and they identified a number of key challenges:

- GTAAs have reduced need for pitches, following the revised 2015 PPTS definition, it is estimated by NFGLG that 90% of ethnic Gypsies and Travellers fall outside of the new definition.
- There needs to be scrutiny more widely on the way Showmen traditions are disrupted (for example the case of a town proposal to move a bus stop which would have had the effect of shutting down a chartered fair that had been in existence for centuries).
- Councils need to have good criteria-based planning policies so that windfall sites can come forward. There are past examples of where a 'call out' for potential sites by councils have identified parcels of land for extra pitches. Moreover, local authorities rarely make five year rolling plans for sites, and there is an issue around viability of some sites where they are identified.

Friends Families and Travellers (FFT) gave evidence from a recent research project in the South East of England where the 68 local/planning authorities had been asked questions under Freedom of Information requests, to ascertain their plans for sites (Friends Families and Travellers, 2020).

“Only eight (8) out of the 68 have five-year rolling supply of sites in development plan documents. Fifteen (15) authorities were found in the FFT report not to have any identified need for new sites.”

Emma Nuttall, FFT

This finding in the FFT research is interesting to note, and was followed up by the author of this briefing, following the evidence given at the Roundtable event. One of the 15 authorities noted by FFT with zero identified accommodation needs – Epsom and Ewell (2019) were successfully granted an injunction to prevent stopping on 57 sites across the authority area in May 2019. This was a three-year injunction granted to extend a previous temporary injunction. In evidence supplied by the council to the court to secure the injunction, they reported that there had been just one “incursion” in February 2019 which was a considerable reduction compared to the 11 unauthorised encampments reported in the previous year. There is a clear data gap between the numbers

reported by authorities in evidence to the court, and numbers reported by authorities in their GTAAs.

The data gap - between reports of unauthorised encampments on the ground, for the purpose of evidencing applications for injunction, and reporting for GTAAs - needs further exploration as it demonstrates a current flaw in the planning process for sites accommodation. It is a recommendation that further research is undertaken to look at this data gap for all local authorities who have been granted an injunction to date.³

Consideration of 'negotiated stopping' in addition to site delivery

London Gypsies and Travellers gave evidence to the roundtable on their mapping project, which looks at the histories of Travellers in London, and the Negotiated Stopping project (Richardson and London Gypsies and Travellers, 2019), which promotes collaborative and innovative solutions to addressing the accommodation needs of Travellers. These projects show some of impact of the compounded issues in London. It was explained that:

"The current supply on local authority sites in London is under 500 pitches, with over 80% of Gypsies and Travellers in London living in housing. In 2008 [the London-wide] Gypsy and Traveller Accommodation Needs Assessment identified a need of around 800 pitches to be delivered until 2017. Only 10 pitches have been built since - as extensions of existing social rented sites."

Ilinca Diaconescu, London Gypsies and Travellers

An additional level of planning requirement in the city, is that local plans have to conform with the Mayor's London Plan (2019) as well as national planning policy. The 2015 Planning Policy for Traveller Sites, which has been adopted by many councils, has not yet been adopted in the London Plan, although some London boroughs have already used the definition in refreshed individual borough GTAAs to identify zero need. The research evidence provided by London Gypsies and Travellers showed that, across London, there are two allocations in development plans for sites to be delivered by Croydon and also the London Legacy Development Corporation (LLDC). The LLDC site was adopted in 2015 but has not been delivered nearly five years on. In one further council there is an adopted plan for a social site extension of 9 pitches, and two councils with unadopted plans for 7 pitches.

Across London, there have only been 10 pitches delivered since 2008, with very few more proposed in plans. Hundreds of pitches are needed and not being delivered in the current planning context; the system is not working. Aside from this there is a requirement for councils to assess need for transit site provision. There are currently no transit sites in London. Moreover, based on the evidence of the sixteen London councils who have applied for injunctions, there is a growing number of unauthorised encampments – and yet this is not translating into evidence of need to support sites in plans, let alone new sites delivered on the ground to accommodate Gypsies and Travellers.

³ 37 as at end October 2019

Impact of the planning definition for Gypsies and Travellers

The roundtable heard evidence from Jo Richardson, one of the authors of the research for the Equalities and Human Rights Commission (Cottle et al, 2019), examining the impact of the planning definition (Planning Policy for Traveller Sites, 2015) of Gypsies and Travellers in needs accommodation assessments.

“We found a significant reduction in the number of households identified as in need of site provision. The new definition, which puts an onus on maintaining a nomadic habit, excluded those who had ceased to travel, such as the elderly, disabled or those with ill-health. In doing so, the planning guidance effectively ruled that unless members of the community were physically able to travel, they should not be counted as part of that community for planning purposes”

Jo Richardson, De Montfort University

The EHRC research (Cottle et al, 2019) found that in a sample of 20 Local Planning Authorities, assessed need was for 1,584 pitches prior to the 2015 guidance and just 345 after it was introduced. The EHRC report found that only seven of the 20 authorities gave consideration to the wider cultural requirements of ethnic Gypsies and Travellers who did not qualify, thereby in effect creating a ‘postcode lottery’ as to whether site provision would be made.

Summary of the challenges

The key challenges presented, in the evidence and research findings at the All Party Parliamentary Group roundtable, were:

- There are insufficient Gypsy and Traveller sites across the UK, to meet existing need, Gypsy and Traveller representatives at the roundtable reported the health and social impacts such accommodation has had, for many decades now.
- Changes to the planning definition of Gypsies and Travellers has resulted in a dramatic reduction in the number of pitches required in recent accommodation need assessments. Conversely some of these same local authorities are also reporting an increase in unauthorised encampments, in their court applications for injunction.
- A conundrum has occurred in the midst of the planning data gap: to be defined as Travellers under planning law, there must be proof of nomadism, and yet such a pattern of travel is impossible, without sufficient places to stop.
- The social and health impacts on Gypsies and Travellers stuck in this impossible cycle, are stark and well evidenced, for example in the Women and Equalities Committee Report (2019). It is unfortunate that the Committee did not include planning and accommodation in its remit. The APPG roundtable evidence from community representatives showed the link between precarious or insecure accommodation and an adverse impact on wellbeing.

Positive Solutions

There are potential pathways to solving the Gypsy and Traveller accommodation conundrum. The first would be to cease the regular changes to legislation, guidance and definition that presents the data gap and the impossible circularity of having to prove Gypsy or Traveller status, without being able to stop and travel in line with custom and culture. The current consultation on dealing with unauthorised encampments, is a case in point. There are sufficient legislative provisions for ‘tackling’ encampments already, but there are insufficient provisions for properly assessing need, or delivering sites.

Prior to the changes made in the Planning Policy for Traveller Sites (2015) there had been some success in site delivery under the previous Planning Circular 1/06. Research which looked at 405 planning appeal decisions between 2006 and 2010 (Richardson, 2011) found that the number of permissions given at appeal increased substantially (from 40% prior to implementation of Circular 1/06 to 70% during the ‘entrenched period’ of implementation of the Circular). The majority of permissions given during this ‘entrenched period’ were temporary permissions. Inspectors’ discussion on reasons for decisions showed that weight was given to evidenced need for more sites and lack of alternative accommodation. Appeals were being allowed on a temporary basis to stop the gap, until permanent sites were delivered by councils. Unfortunately, such provision has never manifested in anywhere near sufficient number. Not only does the accommodation gap remain, but the planning provisions to stop the gap are no longer available either.

The regional spatial strategy approach, along with planning guidance in Circular 1/06 that recognised the need for sites, was starting to have a positive effect. It would be useful to look again at working across boundaries in a regional or sub-regional approach. Some authorities are working collectively, and there are examples in research funded by the Joseph Rowntree Foundation (Richardson and Codona, 2016), such as in West Sussex where authorities worked across boundaries to deliver a transit site that would accommodate Gypsies and Travellers travelling through council areas. Cross-boundary working could, again, help councils to support one another to provide permanent sites to meet accommodation need.

A further approach that could work, for temporary solutions to unauthorised encampments, is ‘Negotiated Stopping’. This has been trialled in Leeds and shown to alleviate the poor social, wellbeing and health outcomes associated with homelessness and exclusion, as well as producing cost savings for the public purse (Negotiated Stopping, 2018). Research has also been undertaken in London, to examine the potential for such an approach to help deliver temporary accommodation for Gypsies and Travellers in the city (Richardson, 2019).

Conclusion and Recommendations

This report clearly highlights the challenges in current planning arrangements for Gypsy and Traveller accommodation provision. Recent changes to planning definitions (PPTS, 2015), and proposed changes to the Criminal Justice and Public Order Act (1994) create an impossible

conundrum for Travellers who are required to travel in order to prove their Gypsy status, but who are prevented from travelling because there is nowhere to stop.

It is recommended that:

1. Government should recognise the negative impact of the change in Planning Policy for Traveller Sites (2015) and remedy the national planning policy in light of this, so that a more inclusive definition, as found in Equalities and Housing legislation, is used to recognise the concept of a Gypsy or Traveller who has retired from travelling, but nonetheless needs or wishes to live on site accommodation.
2. Further research needs to be undertaken to examine the 37 local planning authorities in England with an extant injunction against unauthorised encampments, to compare data provided to the courts in injunction applications, with data recorded in GTAAs and in the biannual caravan counts.
3. The Government should reintroduce pitch targets and a statutory duty onto local authorities to meet the assessed need for Gypsy and Traveller sites.
4. A Gypsy and Traveller Accommodation Strategy needs to be written by the Ministry of Housing, Communities and Local Government, in which a clear oversight of delivery by local authorities is built in. This will help alleviate the lack of scrutiny and action to enforce the current requirement to include a five-year rolling land supply for sites in plans. Only a small proportion of councils currently include this, and far fewer have actually delivered on their plans.
5. Councils should be encouraged to work together, more, on site delivery – this had started to happen previously under Regional Spatial Strategies; and a wider view of accommodation needs with a collective approach, could help more effective delivery of sites.
6. The Government should ring-fence funding for local authorities to build Gypsy and Traveller sites.

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About us

Friends, Families and Travellers is a leading national charity that works on behalf of all Gypsies, Roma and Travellers regardless of ethnicity, culture or background.

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The APPG for Gypsies, Travellers and Roma provides a forum for parliamentarians concerned about issues facing Gypsy, Traveller and Roma communities and seeks to address these issues and challenge inequalities.

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