

**SOUTH EAST ENGLAND COUNCILS
EXECUTIVE COMMITTEE MEETING**

Date: 12 November 2014

Subject: Draft response to CLG Gypsy & Traveller Consultation

Report of: Heather Bolton, SEEC Director



Recommendations:

SEEC Executive members are asked to:

- i) Discuss and agree key points that SEEC should make in its response to CLG’s current consultation: Planning and Travellers
- ii) Agree that the final response is approved by the SEEC leadership team to meet CLG’s 23 November deadline.

1. Introduction

- 1.1 At SEEC’s September Executive, members supported a response to CLG consultation on Planning and Travellers. This follows earlier SEEC representations to CLG, including a meeting with Minister Brandon Lewis, asking for greater powers to help councils enforce both short term and long term unauthorised use of land by Gypsies and Travellers.
- 1.2 Section 2 sets out draft points for a response. Member views are invited on these and any additional factors to include. Specific examples of local difficulties are welcome to help illustrate the problems faced by councils. Consultation closes on Sunday 23 November. Additional information or examples for inclusion in SEEC’s response should be sent to heatherbolton@secouncils.gov.uk by noon on Wednesday 19 November 2014.

2. Scope of consultation and response

- 2.1 The consultation is built around 13 proposals and questions. These are summarised below with suggested outline responses in bullet point format:
 - 2.1.1 **Changing the definition of Gypsy and Travellers (GT) for planning purposes.** CLG propose that GT who have ceased to travel temporarily or permanently should be treated for planning purposes in the same way as the settled community. For example, applications for permanent GT sites should be treated the same as applications from the settled community – ie not considered under Planning Policy for Traveller Sites (PPTS). PPTS would only apply to those who have a nomadic lifestyle.
 - Support principle of equal treatment for everyone in the planning system but changes must not open councils to legal challenge. There needs to be clarity on how a council establishes beyond doubt whether a particular group has stopped travelling. Any new burdens for councils in gathering suitable evidence must be fully funded by government.
 - 2.1.2 **Extra measures to support the needs of GT who maintain a nomadic lifestyle.**
 - Ensure councils are incentivised to deliver transit sites and have powers to limit and enforce length of stay on transit sites. This will make sure space is available for those who maintain a travelling lifestyle. There also needs to be an agreed, workable definition to assess the status of ‘persons of nomadic habit of life’.
 - 2.1.3 **Amend housing regulations and primary legislation to align legal definitions of GT with the proposed planning changes.** CLG propose this will ensure those who have stopped travelling have their housing needs assessed.
 - Support the principle of simplifying and aligning definitions on condition that every step is taken to avoid costly and time consuming legal challenge to councils in implementing the change. Also important to avoid challenges to councils’ local plans based on existing housing assessments as this could both threaten delivery of housing and create extra cost burdens for councils in reviewing housing assessments.

The need for changes to regulations will depend on how the needs of GT who have ceased to travel are to be addressed under councils' housing duty – clarity is needed on whether they should be treated as a specific group or considered as part of the settled community.

2.1.4 Amend Planning Policy for Traveller Sites to reflect NPPF protection of sensitive sites

- Welcome alignment of planning policy for all applications. It would be helpful to have a single definition for housing and planning purposes to assist councils in addressing the needs of individuals who fall outside the wider 'housing' definition because they have a cultural tradition of living in a caravan and fall outside the 'planning' definition because they do not have a nomadic lifestyle. Changes should ensure the wider needs are assessed.

2.1.5 Very strictly limit new traveller sites in open countryside

- Welcome clarification of guidance on protecting green belt, open countryside, AONB, SSSI, national parks and other areas not allocated in local development plans. Support Government case that rules should apply equally to all forms of development. Councils would welcome explanatory text to support the change, for example to clarify to what extent the word 'very' alters the weight of the paragraph.

2.1.6 Remove the need for a 5 year supply of sites as a significant material consideration in granting temporary permissions for GT sites on green belt or protected land

- Welcome additional protection for recognised green spaces/ protected land and clarification of councils' ability to refuse temporary permissions in these areas and take such decisions locally on a case-by-case basis. For equity, similar provisions should be applied to all development requests, not just those from GT.

2.1.7 Deciding when a child's unmet needs or personal circumstances outweigh harm to green belt or protected land from GT sites

- Agree that, subject to the best interest of the child, unmet need and personal circumstances are unlikely to outweigh harm to the green belt/ protected land.

2.1.8 Intentional unauthorised occupation to weigh against grant of planning permission

- Support Government action that gives councils the ability to act against intentional unauthorised developments, however this should be applied to all planning matters not just those concerning GT. Also need clarity on how councils can test and establish whether occupation of a site was intentional or unintentional.
- There is a long-established principle that planning applications are determined on planning merit and against the local development plan and national policy, so the fact that an application is retrospective is not currently a material consideration. Any change to this principle would need careful consideration and would need to be applied consistently to all applications, not only one type of application.

2.1.9 Unauthorised occupation - harm to the planning system and community relations

- Agree.

2.1.10 Provide evidence of harm caused by unauthorised occupation

- In Swale long-running enforcement problems - some lasting up to 8 years - incur legal fees for the council and bring the planning system into disrepute. Despite successful court rulings, the council has been unable to secure evictions of illegal GT camps. This causes friction with the settled community.
- Chichester examples of short term illegal occupation of land illustrate costs & tensions. From February-September 2013, there were over 50 unauthorised encampments in Chichester, often with 8-10 caravans on car parks or open green space. Costs to Chichester DC were around £18,775 for removal, clean-up and other associated costs. Parish Councils spent a further £16,000. The illegal encampments also caused great tension between GT groups and the local settled community.

- Member input with additional evidence/ case studies is welcome.

2.1.11 Amend Planning Policy for Travellers to specify that in exceptional circumstances heavily constrained councils may not have to meet GT needs in full

- Member views are invited on a response to this as there will be different views across councils. Applying the principle in practice is likely to be difficult to achieve, adding to the complexity of existing Duty to Co-operate discussions. Clarity is needed on what constitutes a large scale site.

2.1.12 Other comments invited

- SEEC would also welcome Government action to help local authorities move more swiftly on short term illegal encampments – for example through changes to trespass law to make occupation of publicly owned land a criminal rather than civil offence. This would support quicker enforcement of unauthorised occupation of land.
- Stronger support for enforcement action on breaches to planning rules to avoid costly, long running disputes where councils are unable to secure evictions.
- Reinforce that many councils take a responsible attitude to meeting the needs of GT groups who have local connections.
- Member input on additional points is welcome.

2.1.13 Comments on revised Planning Policy for Travellers

- Welcome simplification/streamlining of guidance. However there remain certain areas highlighted earlier our response where greater clarity on definitions is needed to help councils avoid legal challenge and the associated costs and delays to development that this would bring.
- Member input or advice from planning technical staff is welcome on specific additional points to include.