



RTPI

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Ref: P2007/04/02

Sent via email to: gypsies-consultation@communities.gsi.gov.uk

25 April 2007

Dear Ms Lynch,

**ROYAL TOWN PLANNING INSTITUTE RESPONSE:
REVISED PLANNING GUIDANCE IN RELATION TO TRAVELLING SHOWPEOPLE**

This letter sets out the Royal Town Planning Institute (RTPI) response to your consultation on revised planning guidance in relation to Travelling Showpeople.

The RTPI is a membership organisation representing over 20,000 spatial planners. It exists to advance the science and art of town planning for the benefit of the public. The National Association for Planning Enforcement (NAPE) is a body in association with the RTPI, representing planners and other professionals engaged in the enforcement of planning control. Its views are incorporated into this combined response, as are those of the RTPI's Irish Policy Officer who is also responsible for Gypsy and Traveller and related policy issues.

This response has been published on the RTPI website at <http://www.rtpi.org.uk/item/222/23/5/3/> and may be used by you without further reference to the RTPI or NAPE.

continued: >

1. This letter sets out a general response to the proposed draft circular. It also responds to the five questions raised in your covering letter of 29 January 2007.

General Response

2. The RTPI is pleased to submit the following observations in general response to the draft circular.
3. The RTPI agrees the wisdom of replacing Circular 22/91 given its failure to achieve adequate site provision, and supports the need for specific guidance related to Travelling Showpeople for the reasons set out in the draft. Publication of the proposed Circular will have the potential to benefit Travelling Showpeople. It will assist local authorities and other stakeholders to deliver sites for Travelling Showpeople.

Key Planning Issues

4. The RTPI considers that it is important that Travelling Showpeople and Gypsies and Travellers are accommodated on different sites, particularly as each of the communities has different and quite distinct site and accommodation requirements.
5. The major planning issues emerging from the use and development of land by Travelling Showpeople are likely to be:
 - 5.1. land use competition, with traditional Showpeoples' sites being taken without adequate replacement by more lucrative built forms of development;
 - 5.2. land use conflict between use by Showpeople and adjacent users of land;
 - 5.3. emerging needs for more permanent 'winter sites' for Showpeople, used for periods longer than 28 days, responding to the need to stand down and repair equipment and to provide for more permanent and sustainable access to educational, health and social services by Showpeople; and
 - 5.4. the specialist need for mixed use sites that combine aspects of transport, storage, repair workshop and accommodation uses, in appropriate locations.
6. The draft circular is considered to identify these issues and broadly to respond well to them.

Definitions

7. In considering the draft circular, NAPE raised concerns at the conflation of the accommodation needs of Travelling Showpeople and the accommodation needs of Gypsy and Traveller communities. For planning purposes, NAPE and the RTPI more broadly are clear that Showpeople are culturally distinct from Gypsy and Traveller Communities and have commensurately different accommodation needs that need to be considered distinctly.
8. The Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006 (under the Housing Act 2004) provide as follows:

Meaning of Gypsies and Travellers for the Purposes of Section 225 of the Housing Act 2004

2. For the purposes of section 225 of the Housing Act 2004 (duties of local housing authorities: accommodation needs of gypsies and travellers) "gypsies and travellers" means—

(a) persons with a cultural tradition of nomadism or of living in a caravan; and

(b) all other persons of a nomadic habit of life, whatever their race or origin, including—

(i) such persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently; and

(ii) members of an organised group of Travelling Showpeople or circus people (whether or not travelling together as such).¹

9. NAPE and the RTPi consider that this conflation of Gypsies and Travellers' accommodation needs with those of Travelling Showpeople is not necessarily appropriate. It has led the draft circular into some complication around accommodation needs assessment, where, quite correctly, it then suggests that '[t]ravelling Showpeople's own needs and requirements, as set out in this Circular, should be separately identified in the [Gypsy and Traveller Accommodation Needs Assessment].'ⁱⁱ Whilst we recognise that changes to the Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006 are beyond the scope of the current consultation, we do suggest that the value and effect of the conjoined definition be re-considered at such time as the regulations are reviewed. However, in the meantime, we accept that the circular as drafted represents a pragmatic solution to a complicated definitional issue spanning practice in the fields of planning and housing.

Planning Process

Accommodation Assessments

10. Practitioners may find it useful if this section of the circular included reference to other relevant methodological and practice guidance, such as the "Draft Practice Guidance: Gypsy and Traveller Accommodation Assessments". Reference could also be made to the RTPi Good Practice Note 4: Part B, Accommodation Needs Assessmentsⁱⁱⁱ.
11. Turning to paragraph 17 of the draft, given the explanation in the preamble of the need for Travelling Showpeople to accommodate both residential units and business units on the same site, it is worth stating at this stage that business requirements must be included in any GTAA calculations which translate accommodation need into likely land areas to support the allocation process. At the end of the day, GTAA figures provide the justification for the content of allocation development plan documents. However, there should be sufficient flexibility to

ensure that if a need for accommodation away from business activities arises (perhaps on the grounds of infirmity), the identified need can be satisfied appropriately.

12. The final sentence of paragraph 17 should be replaced by text similar to Paragraph 5, Annex C, which contains more specific and useful information. Whilst most showpeople belong to the Showmen's Guild of Great Britain, it is important that each authority carrying out a GTAA is advised to contact all appropriate organisations, to which their local community of travelling showpeople may belong, prior to undertaking work on the GTAA.

Regional Spatial Strategy

13. In paragraph 19, reference is made to "pitches" whilst paragraphs 20 and 22 refer to "plots". The guidance does not but should, include an explanation of these terms, and make clear the difference between the two. It is not clear whether "pitch" or "plot" or both include business activity provision.

Community Involvement

14. Paragraph 23 advises that there is an expectation of community stakeholder involvement "at an early stage" in the preparation of regional spatial strategies and development plan document. It would be beneficial to encourage authorities specifically to ensure satisfactory community participation in the GTAA process, which is the justification for the contents of RSSs and DPDs. Again, whilst not directly relevant, issues and techniques discussed in RTP1 Good Practice Note 4: Part B, Accommodation Needs Assessments may assist.

Development Plan Documents, Development Management, Enforcement & Transitional Arrangements

15. The advice to local planning authorities to bring forward DPDs containing site allocations in advance of regional allocations and GTAAs is broadly welcomed. The content of paragraph 50 (with its emphasis on pre application discussion) is particularly welcome.
16. NAPE has identified that the provisions of Schedule 2 Part 4 Class B of the GPDO (the 28 day rule for temporary uses of land) are normally adequate to provide for the temporary use of land for shows and showpeople on the road, without giving rise to the need for planning permission, to unlawful uses of land or to the need for planning enforcement. However, when one turns to consider the more particular issue of winter sites used for more than 28 days, in combination with the loss and inadequate replacement of such sites, there is potential for the unlawful use of land for winter sites to become more prevalent than it is, unless urgent action is taken to safeguard appropriate areas of land for winter site use through the local development framework and to ensure adequate replacement when traditional sites are developed. Whilst the draft circular identifies this as an issue, paragraphs 35 to 40 do not fully consider circumstances where applications need to be considered in advance of LDD preparation or approval. Paragraphs 57 and 58 on enforcement are generic and provide no additional guidance to planning authorities.
17. A possible change to the draft circular could recognise that the pressures on traditional and wintering sites can lead to a shortfall of land for Travelling Showpeoples' use. It could

emphasise the need for expedition in making land for lawful use available and that as part of this process it will be legitimate for local planning authorities to entertain applications on appropriate sites, before the core strategy or allocation DPDs to set a new policy framework are complete. Whilst paragraphs 35 to 40 make clear provision for circumstances in which LDF policy might need to be developed in advance of the RSS, they do not consider a scenario in which there is pressure to consider applications in advance of the preparation of appropriate core strategy and LDD policy. The RTPI considers that there will be circumstances in which such applications will be warranted and they should be capable of consideration and determination on their merits. They should not normally be refused on the basis of 'prematurity' in advance of the LDD preparation alone: refusal should be based on evidence of a significant likelihood of substantive harm.

18. Such applications can of course be considered as exceptions to policy, and with appropriate changes to content, the circular itself could be a weighty material consideration in such cases. The circular could indicate criteria by which such applications might be assessed, in the paragraphs from 48. These could include:
 - 18.1. the absence of relevant policy content in any draft or approved DPD;
 - 18.2. the demonstrated immediate need for appropriate accommodation land, including (for example) the existence and findings of a needs assessment undertaken for RSS and/or DPD purposes, a strong traditional association of showpeople and show provision with a particular area, high rates of unreplaced loss of traditional sites and/or increasing instances of unauthorised use;
 - 18.3. that the site the subject of an application is not subject to any presumptive planning policy that would be breached by the proposed use;
 - 18.4. that the site is appropriate to the mixed-use needs of traveling showpeople, providing both for the amenity of their accommodation and for their business needs;
 - 18.5. that the site is reasonably accessible to a range of relevant physical and social infrastructures and services and that access and provision will be broadly sustainable;
 - 18.6. that the amenity of surrounding land and uses of land is not unduly harmed (taking into account the nature and scale of the proposed use and surrounding uses and any mitigating measures that may be proposed and delivered through the imposition of conditions);
 - 18.7. that the use of the site will not result in the enduring loss of or harm to natural or cultural environment significance;
 - 18.8. that wastes, effluents and other emissions can be appropriately controlled (taking into account any mitigating measures that may be proposed and delivered through the imposition of conditions); and
 - 18.9. the arguable desirability of granting temporary permission, pending the resolution of a more certain assessment of need and/or policy framework.
19. That being said, any such change in the wording of the circular should clearly be indicated as setting out a transitional statement of policy, not to be employed in decision making once the LDF contains up to date and locally specific policy.

20. Finally, in paragraph 57, the circular should make clear that enforcement action should be taken to remedy the unlawful use of land, for example, as winter sites, unless it is clear through applying LDF policy and or a policy exception based on the circular, that a retrospective application would be likely to succeed.

Mixed Use and PPG4

21. Notwithstanding the information in PPG4, Travelling Showpeople have specific accommodation needs that are distinct from those of the business community at large. Hence local planning authorities should be encouraged to draw positively on the experience of the target communities in assessing the potential of sites for mixed use development.

Annex C: Good Practice Criteria

22. In paragraph 3, due consideration must be given to the need for security of the site, given the value of the equipment and the possibility of the need to have hazardous equipment or substances on the site. Additionally, local authorities may need to incorporate appropriate barriers to diminish the sound of machine maintenance and testing and provide for visual screening. Such enclosures and screens can be carefully managed and integrated with planting as part of a landscape plan.

Responses to Questions

23. Responses to the questions posed in your covering letter are provided below in brief terms, but should be considered in association with the relevant parts of the general response above.

Will the Circular be of benefit to Travelling Showpeople?

24. Yes.

Will the Circular assist local authorities in preparing Development Plan Documents?

25. Yes.

Is it right that Travelling Showpeople should have pitches allocated to them separately from those allocated to Gypsies and Travellers in the Regional Spatial Strategy?

26. Yes – and see paragraphs 4 to 6 above.

Is the list of contacts given in Annex A useful?

27. Yes – but the document would be improved if a ‘living’ version was placed on the CLG website, in which (for example) individual contact details were amended in real time. The list could be expanded to include additional sources providing more detailed information on specific topic areas, such as community participation in GTAs. Similarly, information could be included to signpost stakeholders to a selection of other useful organisations and documents, such as the RTPi “*Good Practice Note 4: Planning for Gypsies and Travellers in England*”.

Are there any other comments that you wish to make?

28. No – all other issues are set out in paragraphs 1 to 22 above.

Ms Hannah Lynch
Communities and Local Government

The RTPI remains ready to assist you with any questions that may emerge from this response. NAPE through the RTPI provides you with access to experience and advice from enforcement officers whose daily task is to protect the environment through effective enforcement.

If you have any questions about this response, please contact Rynd Smith on 020 7929 9478.

Yours sincerely

A digital signature in blue ink, appearing as a stylized scribble. Overlaid on the signature is the text "DIGITALLY SIGNED BY RYND SMITH" and "not for unauthorised use" in a small, grey font.

DIGITALLY SIGNED BY RYND SMITH
not for unauthorised use

Rynd Smith
Head of Policy & Practice

ⁱ RTPI emphasis

ⁱⁱ At paragraph 12

ⁱⁱⁱ http://www.rtpi.org.uk/download/616/GoodPracticeNotes4_B.pdf