

Changes to Government planning policy on traveller sites

Planning Policy Committee Thursday, 18 January 2024

Report of: Chief Planning Officer

Purpose: For information

Publication status: Open

Wards affected: All

Executive summary:

The government updated the Planning Policy for Travellers in December 2023 with a revised definition for Gypsy and Travellers. The definition has reverted back to defining travellers as all those of travelling background, not just those who are currently travelling.

A new Gypsy Traveller Accommodation Needs Assessment (GTANA) has been commissioned by the authority which will provide an up-to-date need figure based on this updated definition.

This report supports the Council's priority of:

Creating the homes, infrastructure and environment we need

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Recommendation:

That the new definition of gypsies and travellers (made in the Government's December 2023 update of the Planning Policy for Travellers) be noted.

1. On 19 December 2023, the government updated its planning policy for traveller sites. The update comes alongside the government publishing its long-awaited response to the consultation it ran on the National Planning Policy Framework in 2022. The updated paper can be viewed at: [Planning policy for traveller sites - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/121422/nppf-2023.pdf)
2. This updated government policy must be considered in the preparation of development plans. It is also a material consideration that applies to planning decisions being taken now by the Council and also by Planning Inspectors.
3. Local planning authorities preparing plans for and taking decisions on traveller sites should also have regard to the policies in the National Planning Policy Framework ('NPPF' so far as they are relevant).
4. The only change in this government policy paper is to the definition of gypsies and travellers. The definition reverts to defining travellers as all those of travelling background, not just those who are currently travelling. This follows the judgment in the Court of Appeal in the case of *Lisa Smith v SSLUHC & Ors* [2022] EWCA Civ 1391 ('Lisa Smith case'), which upheld claims that the government's planning policy definition discriminated unlawfully against those who had been forced to give up their nomadic lifestyle due to disability or old age. As such, the definition used in the Planning Policy for Traveller Sites adopted in 2012 will once again apply. This amendment was effective from 19 December 2023 for plan-making and decision-taking. Footnote 1 of the updated government policy paper provides a glossary to address unlawful discrimination, and defines that for the purposes of planning policy, "gypsies and travellers" means:

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
5. The definition excludes "members of an organised group of travelling showpeople or circus people travelling together as such", according to the glossary. In determining whether persons are Gypsies and Travellers, the glossary also reads, "consideration should be given to whether they previously led a nomadic habit of life; the reasons for ceasing their nomadic habit of life; and whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances."
6. The government intends to review the approach to this area of policy and case law in 2024.

Key implications

Implications for Tandridge District Council

7. The change to the definition has implications for the Council.
8. A new Gypsy Traveller Accommodation Needs Assessment (GTANA) has been commissioned by the authority which will provide an up-to-date need figure. This is due to be published in mid 2024. Whilst there was an intention to provide for 'cultural' need further to the examiner's comments, the change to the definition now provides clarity as to which need should be addressed leaving no room for interpretation.
9. Reverting to the 2012 definition will strengthen the case for better provision of sites and safe stopping places for the gypsy and traveller community. The GTANA will not prohibit gypsies and travellers with disability, carers or the elderly from being included within the forthcoming accommodation needs assessment.

Comments of the Chief Finance Officer

The Council to continues to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term.

The expenditures associated with the production of the new Gypsy Traveller Accommodation Needs Assessment (GTANA) are supported by the Section 151 Officer provided they are undertaken within the existing approved Local Plan expenditure envelope and it demonstrably delivers value for money for the Council.

In conjunction with Planning Policy, the costs will continue to be planned and monitored within the envelope.

Comments of the Head of Legal Services

As set out in this report, [new guidance](#) has been published in response to an October 2022 Court of Appeal ruling. Notably, in the Lisa Smith case, the court upheld claims that the government's planning policy definition of Gypsies and Travellers at the time discriminated unlawfully against those who had been forced to give up their nomadic lifestyles due to disability or old age.

The case had focused on the government's planning policy for traveller sites 2015 document, which excluded those who have ceased to travel by reason of infirmity or advancing years from the definition of Gypsies and Travellers. In particular, that elderly and disabled Gypsies and Travellers (who were no longer travelling) had to rely on general planning policy was felt by the court to be inherently a disadvantage.

In determining whether persons are Gypsies and Travellers, the glossary provides "consideration should be given to whether they previously led a nomadic habit of life; the reasons for ceasing their nomadic habit of life; and whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances."

Therefore with the recent changes being implemented to planning policy, an up-to-date GTANA for the Council is required, as evidence to inform the planning process.