

The Cabinet

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REPORT

Councillor J Noeken Cabinet Member for Planning & Economic Development

Draft Circular: Planning for Gypsy and Traveller Sites

1. Report Summary:

The following report summarises the key changes purported to be introduced by the draft circular: Planning for Gypsy and Traveller Sites. It has been published for consultation and any comments must be submitted to the ODPM by 18th March 2005. The draft Circular is attached as Appendix A.

2. Background

This circular will replace Circular 1/94: Gypsy Sites and Planning and provides updated guidance on how local planning authorities and Gypsies and Travellers can work together to ensure that sufficient sites are available to meet their needs.

The guidance is set against the background of a recognised failure of the current Circular to deliver adequate sites for Gypsies and Travellers, with a majority of planning applications for such sites being refused, whilst at the same time there being an increase in unauthorised sites.

The overarching aim of the new guidance is to ensure that Gypsies and Travellers are given the same access to appropriate accommodation as every other citizen, and that their accommodation needs are assessed as part of wider housing provision.

This approach intends to create and support sustainable communities where Gypsies and Travellers have equality of access to suitable accommodation, education, health and welfare provision and which also encourages a peaceful co-existence with local communities.

The review of Gypsy and Traveller policy is also designed to complement proposed new legislative provisions which will allow local planning authorities to issue Temporary Stop Notices to enforce against breaches of planning control. This could include preventing unauthorised encampments, whilst ensuring that issues of under-provision of sites with planning permission are addressed.

3. Key Points of the Circular

Officers would wish to highlight the following points regarding the content of the Circular:

- The definition of Gypsies and Travellers has been broadened to recognise that some individuals who have a traditional cultural preference for pursuing a nomadic habit of life may have ceased travelling, either temporarily or permanently, for reasons such as health, caring or educational requirements.
- The new circular includes advice on how local authorities should seek to engage with Gypsies and Travellers in order to build trust. It also includes advice to Gypsies, Travellers, and their representatives, as to how they should engage with the planning system.
- Under the Housing Act 2004, the needs of Gypsies and Travellers must be taken into account within local housing needs assessments. These assessments will form the key source of information enabling local authorities to assess the level of provision of Gypsy and Traveller sites required in their local development documents.

- Local Authorities will be required to identify suitable sites for Gypsies and Travellers in their development plan documents if there is an identified need for such accommodation. If the LPA is unable to meet all assessed future needs through specific site locations, they must provide a reasoned explanation in the DPD why it has not been possible. This will only be appropriate in exceptional circumstances. Sites allocated should be either controlled by local authorities or if privately owned land is allocated, there should be a realistic prospect of it becoming available for development.
- Adequate supplies of affordable land to meet Gypsy and Traveller needs are difficult to come by in rural areas. Local authorities should therefore consider including Gypsy and Traveller sites within a 'rural exception policy' in their local development documents, if an up-to-date local housing assessment demonstrates a lack of affordable land which cannot be dealt with by site-specific provision.
- Whether or not there is a need arising from the local housing needs assessment, local authorities must produce criteria based policies which will meet future or unexpected demand. Criteria based policies must be fair, reasonable, realistic and effective in delivering sites. Positive criteria should be implemented to ensure greater certainty to applicants and local residents.
- To ensure that the aims of sustainability are considered when deciding where to provide for Gypsy and Traveller sites, local authorities should first consider locations in or near existing settlements with good access to local services.
- In areas with nationally recognised designations such as Sites of Special Scientific Interest and Areas of Outstanding Natural Beauty, planning permission should only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development.
- It is essential that all sections of the community respect and observe planning controls. Where breaches of planning policies and controls occur, it is essential that quick and effective enforcement action is taken. It may be necessary to have 'emergency cover' arrangements to ensure that sites established over weekends and holidays can be quickly enforced against.
- The provisions of the Human Rights Act should be considered as an integral part of local authorities' decision making in relation to planning applications and considering enforcement action.
- Local Authorities have a responsibility under the Race Relations Act to ensure that they actively seek to promote good race relations between all racial groups in the context of Gypsy site planning.
- Annexes deal with, amongst other things, guidance to local authorities and gypsies in preparing and dealing with planning applications and give increased emphasis to the value of early engagement in pre-application discussions between the respective parties.

4. Officers Comments

Officers consider that the following points should be noted in relation to Salisbury District:

- The change to the definition of who should be regarded as a Gypsy or a Traveller has arisen in part because of recent Court judgements recognising that Gypsies and Travellers who may wish to 'settle' at one particular site should not lose their Gypsy and Traveller status as a result; also it reflects more awareness of the diverse ways of life of the Gypsy and Travelling community.
- If the housing needs assessment demonstrates that Salisbury District needs more Gypsy and Traveller sites then suitable allocations will have to be identified within the relevant development plan document to cater for that need, unless the council can show exceptional reasons why sites cannot be allocated and it can explain other measures it will take to address the identified need. Any housing needs assessment should be discussed with WCC as it may be appropriate and more cost effective to undertake a County based assessment.
- The adequacy of site allocation within the development plan documents and its basis in an up to date assessment of need will therefore be a key material consideration in the determination of future planning applications. A shortfall in site allocation in relation to identified need within the District and/or a failure to address the need in other ways is likely to lead to it being much more difficult in future to justify refusing permission for sites or taking enforcement action against unauthorised sites. This would in turn increase the likelihood of such sites obtaining permission on appeal to the Planning Inspectorate.

- Conversely, if there is adequate provision to meet future demand within the development plan it will enable to take a more robust stance with unauthorised encampments and enforce against their further development by using the proposed new Temporary Stop Notice powers and secure their eventual removal.
- Whether or not the housing needs assessment demonstrates that the District has a sufficient number of Gypsy and Traveller sites to meet the identified need, the council must produce criteria based policies in order to meet future or unexpected demand. Thus the allocation of sites in the development plan documents is not intended to prevent 'windfall' sites, which are not identified/ allocated in the development plan, from gaining planning permission, if the relevant policy criteria are met. The present policy, H34: Gypsy Sites is effective in setting out the criteria by which sites will be assessed. In order to fulfill the additional objectives of this circular, this policy can be expanded upon in its future review and subsequent inclusion within the local development framework.
- Acquisition of land by Gypsies and Travellers does not require planning permission. Only when the land is developed, i.e. by stationing caravans on the land, is permission required. In the interim period leading up to incorporation of the housing needs assessment into the development plan documents, the council will be expected to show that it has considered other sources of information, such as incidences of unauthorised encampments and waiting lists for public sites, to assess the required level of provision, before refusing a planning application.
- Current provision and management of Gypsy and Travellers sites is undertaken by Wiltshire County Council. In Salisbury they presently have 3 residential sites with a total of 60 residential pitches and one transit site of 12 pitches. Vacancies are limited and WCC do hold a waiting list. In future, the County's role is likely to be limited to issues related to the provision and maintenance of sites.
- There is a small number of privately-owned sites where the occupiers have obtained planning permission. In terms of the current levels of unauthorised encampments, officers are aware of a total of less than ten 'permanent' pitches throughout the district where such uses are currently occurring, one of which being the subject of a current appeal against an Enforcement Notice. Additionally there is a number of instances every year of 'transient' encampments, Gypsies and Travellers pass through the district on their way elsewhere.
- Homelessness applications amongst Gypsy and Travellers are relatively low, primarily due to their wish to remain on a site unless there are medical reasons for requiring more suitable accommodation.
- In Salisbury District's Statement of Community Involvement, it is intended to make greater provision for 'hard to reach' groups and this will include Gypsy and Traveller groups. This should help to ensure that the needs of these groups are met through early, positive engagement with the planning system.

5. **Recommendations of the Planning and Economic Development Overview and Scrutiny Panel:**

The Planning and Economic Development Overview and Scrutiny Panel considered this report at their meeting on 14th February and made the following recommendations to Cabinet:

RESOLVED – that it be recommended to Cabinet that the Planning & Economic Development Overview and Scrutiny Panel have noted the draft circular and they wish the following advice to be issued to officers:

1. That officers liaise closely with Wiltshire County Council to ensure that all the impacts and potential impacts of allocating sites for gypsies and travellers are considered including the provision of education.
2. That officers liaise with other Local Authorities in the South West region to ensure that best practice is shared and that as an authority Salisbury is aware of the impact that the policies of other authorities may have on the District.

6. **Recommendation:**

1. **That the report be noted as nothing in the consultation paper is considered by officers to require representations to be made to the ODPM unless members consider otherwise.**
2. **That the Cabinet support the resolution of the Planning and Economic Development Overview and Scrutiny Panel.**

Background Papers: Planning for Gypsies and Travellers Consultation Paper : ODPM – attached as Appx I
(Please note that the document refers to further appendices. These can be viewed at www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_033598.pdf)

Implications:

- **Financial:** No comments
- **Legal:** Comments incorporated into report
- **Human Rights:** The draft guidance introduces measures which will address Human Rights legislation
- **Personnel:** No Comments
- **Community Safety:** None
- **Council's Core Values:** Supporting the disadvantaged, being fair and equitable, communicating with the public
- **Ward(s) Affected:** All

Draft Circular: Planning for Gypsy and Traveller Sites

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Introduction

1. The Government is committed to ensuring that members of the Gypsy and Traveller communities should have the same access to decent and appropriate accommodation as every other citizen and that there are sufficient sites available to meet their needs. This Circular replaces Circular 1/94 “Gypsy Sites and Planning” and provides updated guidance on the planning aspects of finding sites for Gypsies and Travellers and how local authorities and Gypsies and Travellers can work together to achieve that aim.

2. A new Circular is necessary because evidence shows that the advice set out in Circular 1/94 has failed to deliver adequate sites for Gypsies and Travellers in many areas of England over the last 10 years. Since the issue of Circular 1/94, and the repeal of local authorities' duty to provide Gypsy and Traveller sites there have been more applications for private Gypsy and Traveller sites. However, local planning authorities has refused the majority of these.

3. A new direction is necessary to ensure that the accommodation needs of Gypsies and Travellers are addressed with the same consideration as is given to the accommodation needs of other sections of the community. This will also help to promote good community relations at the local level, and avoid the conflict and controversy associated with unauthorised developments and encampments.

4 Major changes to the planning system have been introduced by the Planning and Compulsory Purchase Act 2004 (the 2004 Act). The planning tools which the Act makes available and the associated move to more positive planning will help deliver communities that are sustainable and work better for people.

5 Regional spatial strategies (RSS) strengthen planning at the regional level. Local development frameworks (LDF) offer more flexibility to planners at the local level. Requirements for early community involvement will help to ensure plans better reflect community aspirations and can be implemented more effectively.

6. Priority setting in local plans is the responsibility of local authorities within the framework provided by national policy and the RSS. Communities will determine through their local planning authorities what the priorities are for local development. Site-based decisions and allocations are made at this local level. The local housing strategy (LHS) will show how the accommodation needs identified by the local housing assessment will be met, including those of Gypsies and Travellers. The development plan documents (DPDs) will identify the location of sites

7. The new planning system as set out in the 2004 Act places emphasis on early consultation between local authorities and the communities they serve. The aim is to ensure that plans properly reflect the needs and aspirations of all sectors of the community. In the case of Gypsies and Travellers, such early engagement should help in the identification of suitably located sites and a reduction in unauthorised encampments and developments.

8. The Housing Act 2004 requires local housing authorities to include Gypsies and Travellers in their local housing needs assessments and to take a strategic approach, including drawing up a strategy demonstrating how the accommodation needs of Gypsies and Travellers will be met, as part of their wider housing strategies.

9. This Circular applies equally to the development of public sites by local authorities or registered social landlords (RSLs) and to applications for planning permission from Gypsies and Travellers themselves or from others wishing to develop land for use as a Gypsy and Traveller caravan site, whether for residential or transit use, and for whatever the expected life of the site itself.

10. The Circular comes into effect immediately. Its main intentions are:

- to increase significantly the number of Gypsy and traveller sites with planning permission in order to address under-provision;
- to recognise, protect and facilitate the traditional lifestyle of Gypsies and Travellers;
- To identify and make provision for the resultant land and accommodation requirements;
- To help or avoid Gypsies and Travellers becoming unintentionally homeless;
- To reflect the status of Gypsy and Traveller accommodation as a part of wider housing provision;
- To create and support sustainable, integrated communities where Gypsies and Travellers have equality of access to suitable accommodation, education, health and welfare provision, and where there is mutual respect between all communities for the rights and responsibilities of each community and individual;
- To promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites;
- To underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- to ensure that DPDs include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively; and
- to reduce the number of unauthorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this circular.

Gypsies and Travellers - a context

11. The government recognises that many Gypsies and Travellers wish to find and buy their own sites to develop and manage. An increase in the number of approved private sites may also release pitches on local authority sites for Gypsies and Travellers most in need of public provision. However, there will remain a requirement for public site provision above the current levels. Such sites are needed for Gypsies and Travellers who are unable to buy and develop their own sites, or prefer to rent, and to provide transit sites and emergency stopping places where Gypsies and Travellers may legally stop in the course of travelling.

Definition

12. For the purposes of this Circular "Gypsies and Travellers" means

a person or persons who have a traditional cultural preference for living in caravans and who either pursue a nomadic habit of life or have pursued such a habit but have ceased travelling, whether permanently or temporarily, because of the education needs of their dependant children, or ill-health, old age, or caring responsibilities (whether of themselves, their dependants living with them, or the widows and widowers of such dependants), but does not include members of an organised group of travelling show people or circus people, travelling together as such

13. Planning advice relating to travelling show people is given in DoE Circular 22/91.

14. Gypsies and Travellers are estimated to make up less than 1% of the population of England, but only a proportion of Gypsies live in caravans. Recent Caravan Count figures show that there are around 15,000 Gypsy caravans, with around three quarters of these on authorised sites. The overall need for Gypsy and Traveller sites is therefore very small. However, this need has often proved difficult to meet.

15. Some Gypsies and Travellers have an actively itinerant lifestyle and are generally self-employed people, sometimes occupied in scrap and scrap-metal dealing, laying tarmacadam, seasonal agricultural work, casual labouring, and other employment. These traditional patterns of work are, however, changing and the community has generally become more settled with women, children and older people remaining in the same place to ensure more stable access to healthcare and education.

16. The Gypsy and Traveller community also includes groups of long-distance travellers, who earn their living mainly from trades such as furniture dealing, carpet selling, waste collection, and other related occupations. A reduction of seasonal agricultural and related work has led to more travellers working in trades which require much less mobility. A more settled existence can prove beneficial to some Gypsies and Travellers in terms of access to health and education services, and employment and can contribute to greater integration and social inclusion within local communities, although the ability to travel remains an important part of Gypsy and Traveller culture. Some communities of Gypsies and Travellers live in extended family groups and often travel as such, and this is a key feature of their traditional way of life that has an impact on planning for their accommodation needs.

17. There is a need to provide sites, including transit sites, in locations that meet the current working patterns of Gypsies and Travellers. In view of the changes in their work patterns these may not be the same areas they have located in or frequented in the past.

Local Housing Assessments

18. The local housing assessment process will be the key source of information enabling local authorities to assess the level of provision that is required, particularly when preparing their local development documents. Local authorities when preparing a local housing needs assessment (LHA), must consult with key stakeholders and local communities involving both their planning and housing functions. Under provisions introduced by the Housing Act 2004 when local housing authorities produce a local housing assessment they will have to take into account the needs of Gypsies and Travellers, including the need for legal sites to station their caravans, (new guidance will be available in early in 2005). One of the tests of soundness of a Development Plan Document (DPD) will be whether it is founded on robust and credible evidence. Data from these assessments are an important part of the evidence base for Regional Housing and Spatial Strategies. Regional Housing Boards will need to work with local authorities and other stakeholders to ensure that assessments are carried out in a robust and consistent way across their region.

19. Local authorities will also need to have regard to their statutory duties, including those in respect of homelessness under Part VI of the Housing Act 1996 and to their obligations under the Race Relations Amendment Act 2000.

20. Local planning authorities should allocate sufficient sites in DPDs to ensure that the pitch requirements identified in the RSS can be met. These policies should be reviewed regularly to avoid any potential for disagreements with the settled population that might otherwise arise because of inappropriate location, in land-use planning terms, or inadequate explanation of proposed development. With such policies in place in local development frameworks 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.

Regional and local strategies - assessing need

21. It is expected that at an early stage in the preparation of RSSs and DPDs planning authorities will discuss Gypsies and Travellers' accommodation needs with Gypsies and Travellers themselves, their representative bodies and local support groups. A list of some relevant contacts is given in Annex A. Gypsies and Travellers should also be proactive in ensuring that they engage with local planning authorities to ensure that their views are taken into account.

22. Under the 2004 Act local planning authorities are required to prepare a Statement of Community Involvement, in which they will set out their policy on involving their community in preparing local development documents and on consulting on planning applications. Local planning authorities should put in place arrangements so that communication with Gypsies and Travellers is direct and accessible, and conflict and tensions are minimised. Identifying and understanding the needs of groups who find it difficult, for a number of reasons, to engage with bureaucratic

processes is essential. Providing there is mutual respect and positive engagement on both sides, each party can understand the position of others without necessarily agreeing with all aspects of it. SCIs will be scrutinised by Planning Inspectors to ensure that such consultation and involvement will take place.

23. Regional Planning Bodies (RPBs) should maintain an up-to-date understanding of the likely housing requirements of their areas which should inform the preparation and review of RSS. RPBs will work with their constituent local authorities and housing providers, and in concert with regional housing boards (RHBs) in their development of RHS. It is important that there is a common evidence base, prepared in partnership with stakeholders, in particular with housing providers, to inform the RHS, RSS, LDFs and other relevant regional and local strategies. RPBs should be prepared to justify their views fully in public at examinations of revisions to RSSs.

Transitional arrangements - before the completion of local housing needs assessments

24. In advance of the consideration of new local housing needs assessments at a regional level by the Regional Housing Board and subsequent incorporation into local development documents (LDDs) other means of assessment of need will be necessary.

25. The early data available from the local housing needs assessment will be one element of a range of information sources that local authorities should consider when assessing the required level of provision. Other sources of information could include a continuous assessment of incidents of unauthorised encampments, both short and longer-term, the numbers and outcomes of planning applications and appeals, levels of occupancy, plot turnover and waiting lists for public authorised sites, the status of existing authorised private sites, including those which are unoccupied and those subject to temporary or personal planning permissions, as well as the twice-yearly Caravan Count undertaken on behalf of ODPM. Local planning authorities will be expected to demonstrate that they have considered this information, where relevant, before any decision to refuse a planning application and to provide it as part of any appeal documentation.

26. Where there is an assessment of unmet need for Gypsy and Traveller accommodation in the area, DPDs should identify suitable locations for Gypsy and Traveller sites. In addition, to supplement the specific locations they should set out fair, reasonable, realistic and effective criteria for suitable locations in site provision policies. Specific locations must appear in the relevant DPD, so that the LPA can demonstrate how it is currently addressing identified need as well as how that need will be met through time by virtue of its policies, to ensure that it implements the RSS.

27. A local planning authority which, exceptionally, is unable to meet all assessed future needs through specific site locations should give in the DPD a reasoned explanation why that has not been possible and why the use of criteria is necessary to ensure adequate provision and state the detailed measures it will take to ensure that adequate provision is made during the plan period.

28. Criteria based policies will be required in the relevant DPD, whether or not there is any current need identified in the area for unallocated sites, in order to meet future or unexpected demand. Criteria based policies must be fair, reasonable, realistic and effective in delivering sites. The adequacy of any criteria will be subject to greater scrutiny under changes to the new planning system introduced by the 2004 Act. Planning policies that rule out or place undue constraints on the development of Gypsy and Traveller sites should not be included in RSSs or LDDs. The Government has the power to intervene in the plan-making process where it considers that the constraints being proposed by local authorities are too great or have been inadequately justified.

29. Local planning authorities should only allocate specific sites in DPDs if they control or own them or there is a realistic likelihood that they will be made available for that purpose. While it is accepted that identifying and allocating specific plots of land maybe more difficult than using the criteria based approach, it ensures some certainty for local people and Gypsies and Travellers. There are a number of ways in which local authorities can identify specific sites and make land available.

30. Local authorities are reminded of their discretion to dispose of land for less than best consideration where it will help to secure the promotion or improvement of the economic, social or environmental well being of the area, as set out in ODPM Circular 06/03.

31. Authorities should also consider making full use of the registers of unused and underused land owned by public bodies as an aid to identifying suitable locations. Vacant land or surplus local authority land may be appropriate.

Sites in Rural Areas and the Countryside

32. Gypsies and Travellers in rural areas usually face difficulties in securing an adequate supply of affordable land for their needs. Local planning authorities in rural areas should therefore consider including a 'rural exception policy' in the relevant LDD. This will only be appropriate where there is a lack of affordable land to meet local Gypsy and Traveller needs (as demonstrated by an up-to-date local housing assessment) which cannot be dealt with by means of provision in the LDF. Therefore, all references to "housing" in Annex B of PPG3 should be interpreted as including "caravan sites for Gypsies and Travellers".

33. National planning policy on Green Belts is set out in PPG2. There is a general presumption against inappropriate development within Green Belts. In this context, new Gypsy and Traveller sites in the Green Belt are likely to be inappropriate development. However, criteria-based policies in LDDs for the location of Gypsy and Travellers sites should not impose a total, blanket-ban on the establishment of such sites in the Green Belt. It may still be appropriate to grant planning permission if the applicant is able to demonstrate that very special circumstances exist that clearly outweigh the harm caused by reason of the proposed site being inappropriate development in the Green Belt, and any other harm. Each case should be considered on its merits in accordance with the statutory development plan and any other material considerations. But "very special circumstances" means just that. The decision maker must be able to point to circumstances which, viewed objectively, are reasonably capable of being described as "very special". Out of the ordinary educational or health needs could contribute to very special circumstances, but each case must be treated on its own merits.

34. The presence of Green Belt is likely to constrain and limit opportunities for identifying Gypsy and Traveller sites in some areas. The general extent of the Green Belt, and any proposals to alter its boundaries, should be addressed through the Regional Spatial Strategy in the first instance. PPG2 makes clear that once the general extent of Green Belt has been approved, and once detailed Green Belt boundaries have been established in adopted development plans, they should only be altered exceptionally.

35. In certain circumstances, in particular, where a local authority's area contains a high proportion of Green Belt land and no other suitable sites outside the Green Belt exist, an authority may, exceptionally, wish to consider a limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset with the Green Belt), to meet a specific, identified need for a Gypsy and Traveller site. Such a proposal should be brought forward through the plan-making process. Where a piece of land is removed from the Green Belt in this way, it should be specifically allocated in a DPD as a Gypsy and Traveller site only.

36. In areas with nationally recognised designations (Sites of Special Scientific Interest, National Nature Reserves, National Parks, Areas of Outstanding Natural Beauty, Heritage Coasts, Scheduled Monuments, Conservation Areas, Registered Historic Battlefields and Registered Parks and Gardens), as with any other form of development, planning permission for Gypsy and Traveller sites should only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development.

37. Local landscape and local nature conservation designations should not be used in themselves to refuse planning permission for Gypsy and Traveller sites. Planning applications for site development in such areas should be assessed against criteria based policies set out in LDDs.

38. Sites on the outskirts of built-up areas may be appropriate. Sites may also be found in rural or semi-rural settings. Rural settings, where not subject to special planning constraints, are acceptable in principle and local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Sites should respect the scale of and not dominate the nearest settled community serving them. They should also avoid placing an undue burden on the local infrastructure.

39. In some cases, perhaps involving previously developed (brownfield), untidy or derelict land, wherever situated, the establishment of a well-planned or soft-landscaped Gypsy and Traveller site can be seen as positively enhancing the environment and increasing openness.

Mixed planning use

40. Some Gypsies and Travellers run their businesses from the site on which their caravans are stationed. Local planning authorities should, wherever possible, identify in their DPDs Gypsy and Traveller sites suitable for mixed residential and business uses, having regard to the safety and amenity of the occupants and their children, and neighbouring residents. 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 parts of sites unsuitable for residence might be suitable for parking vehicles or storing materials, provided the overall site is suitable for residential use. Mixed uses are not permitted on rural exception sites where development is only permitted for affordable housing in perpetuity.

Applications

41. In order to encourage private site provision, local planning authorities should offer advice and practical help with planning procedures to Gypsies and Travellers who wish to acquire their own land for development. Gypsies and Travellers should consult local planning authorities on planning matters before buying land on which they intend to establish any caravan site, for which planning permission will almost always be required. (More guidance on both of these aspects is contained in Annexes E and F.)

42. Pre-application discussions are particularly important to avoid misunderstanding and subsequent problems over planning permission. Constructive and positive engagement on all sides will promote trust and may help to avoid breaches of planning control. The aim should be as far as possible to help Gypsies and Travellers to provide for themselves, to allow them to secure the kind of sites they need, but in locations that are appropriate in planning policy terms. This will help to avoid breaches of planning control, and enable firm enforcement against such breaches. 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.

43. Local planning authorities should recognise that they may receive applications from Gypsies and Travellers without local connections that could not reasonably have been foreseen in their local needs assessment and should therefore also have criteria-based policies in their LDF against which to consider such applications.

44. Local planning 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 or because the applicant has no local connection. But they are entitled to refuse private applications in locations that do not comply with planning policies, especially where the authority has complied with this guidance and proceeded properly to ensure needs identified by local housing assessments are being met.

Sustainability

45. Issues of sustainability are important and should be considered in the round not just in terms of transport mode and distances from services. Such consideration should include the promotion of peaceful and integrated co-existence between the site and the local community, the wider benefits of easier access to GP and other health services and children attending school on a regular basis, and the provision of a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment.

46. In deciding where to provide for Gypsy and Traveller sites, local planning authorities should first consider locations in or near existing settlements with access to local services eg shops, doctors and schools.

47. Sites, whether public or private, should be identified having regard to highways considerations. 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. However, projected vehicle movements for Gypsy and Traveller sites should be assessed on an individual basis for each site. Proposals should not be rejected if they would only give rise to only modest additional daily vehicle movements and the impact on minor roads would not be significant.

Planning conditions and contributions

48. The appropriate use of planning conditions or obligations can enable some development proposals to proceed where it might otherwise be necessary to refuse permission. Further advice is contained in Annex G.

Enforcement

49. The Government's aim is to ensure that planning policies and controls are respected by all sections of the community and that where breeches occur effective enforcement action is taken.

50. It is essential for local planning authorities to act quickly in responding to breaches of planning control where appropriate. Caravan sites can be established outside normal working hours, overnight, or at weekends. Effective planning enforcement should include arrangements to provide the same out of hours emergency cover as other environmental and public health protection services so they can respond in a timely manner.

51. In considering enforcement action local authorities should be guided by the advice in PPG 18 ("Enforcing Planning Control"). Further advice on the enforcement powers available to local planning authorities and their use can be found in DoE Circular 10/97 (Enforcing Planning Control: Legislative Provisions and Procedural Requirements); DoE Circular 18/94 (Gypsy Sites Policy and Unauthorised Camping); the Good Practice Guide for Local Planning Authorities on Enforcing Planning Control published by the Department of the Environment in 1997; and in the Guidance on Managing Unauthorised Camping published jointly by ODPM and the Home Office in February 2004. Advice on the new temporary stop notice provisions introduced in the 2004 Act is currently subject to consultation.

Appeals

52. There will be occasions when LPAs refuse planning permission for Gypsy and Traveller sites. A Planning Inspector considering any subsequent appeal will take into account all material considerations, which should already have been addressed at the application stage. These will include the existing and planned provision of and need for sites in the area, the accuracy of the data used to assess need, the methodology employed in the assessment and how up-to-date it is, information on pitch availability on public and private sites; personal circumstances and alternative accommodation options.

53. Local planning authorities should have regard to whether the absence of existing provision may prejudice enforcement action, or give rise to grounds for appeal against refusal of an application for a new site.

Human Rights

54. The provisions of the European Convention on Human Rights should be considered as an integral part of local authorities' decision-making - including its approach to the question of what are material considerations. Local planning authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned, both Gypsies and Travellers and local residents, and whether it is necessary and proportionate in the circumstances. Before considering the question of proportionality, authorities are reminded that it is also necessary to establish that the chosen remedy is the one which causes least interference with the rights in question, in order to serve an overriding public interest. Any facts that may be relevant should be established and considered before determining planning applications. Gypsies and Travellers should co-operate by responding to requests for relevant information. If there is any doubt about the application of provisions of the Convention in particular cases, legal advice should be sought.

Race relations

55. Section 19A of the Race Relations Act 1976 (RRA 1976) prohibits racial discrimination by planning authorities in carrying out their planning functions. In addition, the majority of public authorities, including local authorities, have a general duty under the RRA 1976 as amended by the Race Relations (amendment) Act 2000 to actively seek to eliminate unlawful discrimination and to promote equality of opportunity and good race relations in all they do. In line with their race equality scheme (legally required under the Race Relations Act 1976 (Statutory Duties) Order 2001) local authorities should assess which of their functions are relevant to race equality and monitor these functions and policies to see how they impact on different racial groups. When policies are changed or new ones introduced, authorities should assess and consult on their likely impact, and where an adverse impact is identified which cannot be justified, changes should be made. It is particularly important that authorities consider all the racial groups served by

the authority in order to see any particular impact that their policies may be having. Romany Gypsies and Irish Travellers have been recognised by the courts as being distinct ethnic groups, protected by the RRA 1976. It is also important that authorities actively seek to promote good race relations between all racial groups in the context of Gypsy site planning.

Monitoring

56. Local planning authorities should monitor and critically analyse the success rate of applications for sites for Gypsies and Travellers against those of applications for other types of residential development, including all types of housing and other types of caravan site, and assess the results of such analysis to inform policy development. In order to ensure that they can identify any adverse impact on race equality, LPAs should monitor applications from Gypsies and Irish Travellers. The Commission for Racial Equality recommends that authorities use the Census 2001 categories for ethnic monitoring but that where particular groups have been identified in the area covered by the authority, additional sub-categories should be added. Gypsies and Irish Travellers could be added as a sub-category of 'White Other'.

Financial and manpower implications

57. This Circular clarifies and expands on the existing legislative framework and explains the impact of the new planning system introduced by the 2004 Act. Its contents are not expected to have significant manpower or resource implications for local planning authorities other than those already signalled by the introduction of changes from the new Act.