

Gypsy and Traveller sites

Hugh Richards

7 October 2021 - 10:00 to 11:30



Why are we where we are? (or how did we get into this mess?)

- Unauthorised encampments
- Local plans not up-to-date
- Planning by appeal
- Community tension
- Political football
- Not enough sites
- Hours in court



The Gypsy and Traveller community

- Romany Gypsies have been in Britain since at least the 16th century. Irish Travellers since at least the 19th century.
- They are a particularly vulnerable minority.
 - They constitute separate ethnic groups protected as minorities under the [Equality Act 2010](#) engaging the Public Sector Equality Duty under s149.
 - They are noted as experiencing some of the worst outcomes of any minority across a broad range of social indicators (see, for example, Department for Communities and Local Government, *Progress report by the ministerial working group on tackling inequalities experienced by Gypsies and Travellers*, 2012, and Equality and Human Rights Commission, *England's most disadvantaged groups: Gypsies, Travellers and Roma*).
- A nomadic lifestyle is an integral part of Gypsy and Traveller tradition and culture.
- While the majority of Gypsies and Travellers now reside in conventional housing, a significant number (perhaps around 25%, according to the 2011 UK Census) live in caravans in accordance with their traditional way of life. The centrality of the nomadic lifestyle to the Gypsy and Traveller identity has been recognised by the European Court.

- The centrality of the nomadic lifestyle to the Gypsy and Traveller identity has been recognised by the European Court.
- In consequence, “*special consideration should be given to their needs and their different lifestyle*” and, to that extent, there is a positive obligation on states to facilitate the Gypsy way of life
- In the UK, there is a long-standing and serious shortage of sites for Gypsies and Travellers. A briefing by the Race Equality Foundation found that Gypsies and Travellers were 7.5 times more likely than White British households to suffer from housing deprivation (Race Equality Foundation, *Ethnic Disadvantage in the Housing Market: Evidence from the 2011 census*, April 2015).
- The lack of suitable and secure accommodation includes not just permanent sites but also transit sites.
- This lack of housing inevitably forces many Gypsies and Travellers onto unauthorised encampments.

Providing sites

- For centuries the commons provided lawful stopping places for people whose way of life was or had become nomadic.
- Caravan Sites and Control of Development Act 1960:
 - s23 - power to close common land to travellers
 - s24 - power to open sites to make up for the loss
- The statutory duty to secure adequate provision of accommodation for Gypsies introduced under the Part II of the Caravan Sites Act 1968 existed from 1970 to 1994 yet failed to achieve its objectives.
- The radical reforms of 1994, which moved from public-sector provision of Gypsy sites to self-help in the form of Gypsy applications for their own sites backed up by development plan policies that would achieve this, have been no more successful.

Circular 1/94 – a brave new world?

- the land-use requirements of Gypsies have to be met
- LPAs have to be aware of "the accommodation and occupational needs of Gypsies".
- At an early stage in the preparation of development plans LPAs should discuss Gypsies accommodation needs "with the Gypsies themselves, their representative bodies and local support groups".
- Repeal of the duty under Part II of the Caravan Sites Act 1968 makes it all the more important that LPAs make adequate Gypsy site provision in their development plans, through appropriate locational and/or criteria-based policies
- “Local Plans and Part II of unitary development plans should wherever possible identify locations suitable for Gypsy sites, whether local authority or private sites.”
- “Where this is not possible, they should set out clear, realistic criteria for suitable locations, as a basis for site provision policies.”

Current planning policy for meeting the need for G&T sites – NPPF and PPFTS

- NPPF (2021):
 - #35a – a ‘sound’ local plan seeks, as a minimum, to meet the area’s objectively assessed needs.
 - #60 – “the needs of groups with specific housing requirements”
 - #61 – the needs of “different groups in the community should be assessed”.
 - fn27 – “Planning Policy for Traveller Sites sets out how travellers’ housing needs should be assessed for those covered by the definition in Annex 1 of that document.”
- So, for (ethnic) Gypsies and Travellers the needs that must be assessed and met are for:
 - Those covered by the definition in PPFTS
 - Those outside that definition.

PPFTS

Policy definition of G&T:

- “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**, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

PPFTS – some principles

- fair and effective strategies to meet need through the identification of land for sites
- to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites
- that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective
- provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorised encampment



Types of site

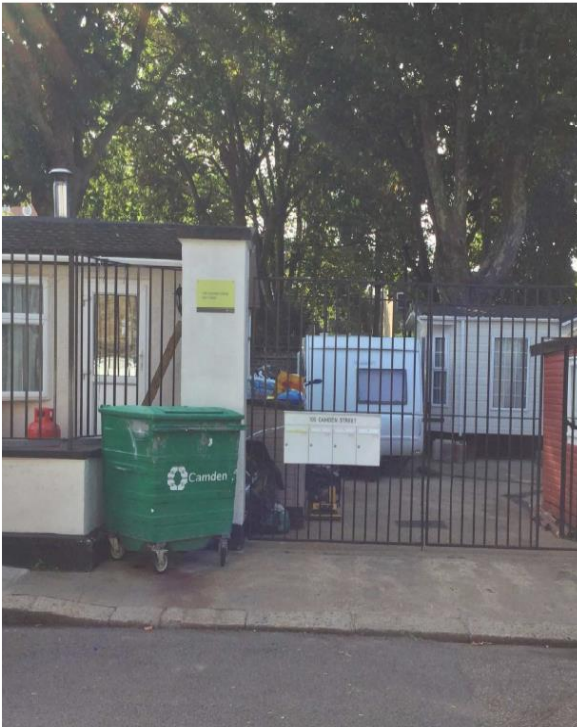
- Permanent
 - Private
 - Public
- Temporary (planning permission)
- Tolerated (no planning permission, but no enforcement)
- Transit
- Temporary stopping-place
- Negotiated stopping
- Emergency stopping-place

BRIEFING PAPER

Number 08083, 9 May 2019

Gypsies and Travellers

By Hannah Cromarty



Contents:

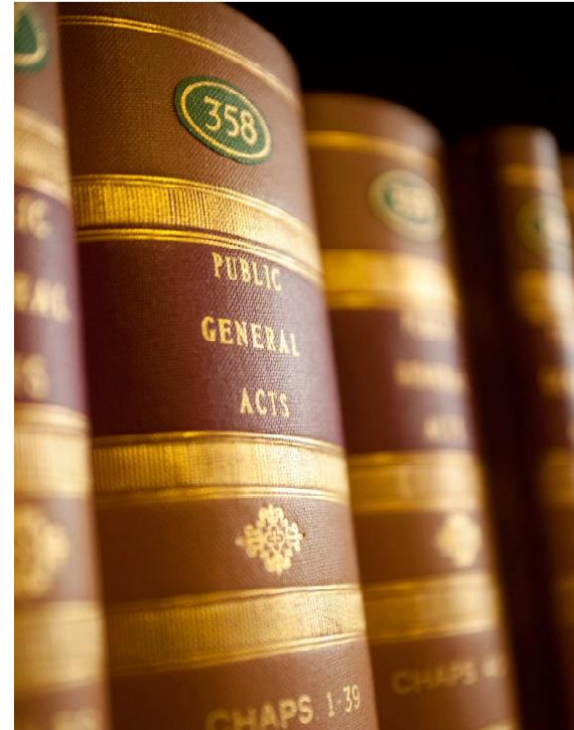
1. Who are Gypsies and Travellers?
2. Inequalities experienced by Gypsies and Travellers
3. Racial discrimination
4. Hate crime
5. Accommodation
6. Planning
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BRIEFING PAPER

Number 07005, 19 December 2019

Gypsies and Travellers: planning provisions

By Gabrielle Garton
Grimwood



Contents:

1. Planning policy for Gypsies and Travellers
2. Temporary sites
3. Enforcement powers against unauthorised development
4. Dealing with unauthorised encampments
5. Recovery of appeals relating to Traveller sites in the Green Belt
6. Number of caravans and sites

How are needs assessed?

- Let's listen to:

Dr Kate Rust-Ryan, Director, RRR Consultancy Ltd

Assessing the Accommodation Needs of Gypsies and Travellers across the East Midlands

Assessing the Accommodation Needs of Gypsies and Travellers across the East Midlands.

RRR Consultancy

7th October 2021

Background

- * *RRR Consultancy Ltd* has undertaken Gypsy and Traveller Accommodation Assessment (GTAA) throughout East Midlands including:
 - Bassetlaw (2019): 1 LA
 - Central Lincolnshire (2013 and 2020): 3 LAs
 - Derbyshire & East Staffordshire (2015 and 2021 ongoing): 11 LAs
 - East Lindsey GTAA (2016): 1 LA
 - Greater Nottingham (2021): 6 LAs
 - Mansfield (2017): 1 LA
 - South Kesteven & Rutland (2016 and ongoing): 2 LAs
 - West Northants (2013): 3 LAs and 2021 ongoing (1 LA)
- ...and ongoing support work for local authorities

Methodology

- * Based on good practice and planning policy
- * Background and policy context:
 - Literature review of key policies
 - Secondary data analysis
- * Stakeholder consultation:
 - Online survey
 - Telephone interviews
- * Consultation with Gypsies, Travellers, Showpeople and boat dwellers (Covid-19 safe)
- * Needs calculation and analysis

Gypsies and Travellers

* Key points:

- Provision includes private, local authority and private rental
- Need due to overcrowding and growing families
- Space varies - includes animals, vehicles and accommodation
- Need 'all-year' accommodation
- Transit provision (inc visiting family and friends)

Showpeople

- * Key points:

- Provision includes private and rental
- Need due to overcrowding and growing families
- Space for storage and maintenance of equipment
- Need 'all-year' accommodation
- Transit: stopping between events

Boat Dwellers

- * Key points:

- (Fairly) new requirement to assess needs
- Range of provision and management of waterways
- Different types of boat dwellers
- Increasing number of boat dwellers
- Need for permanent and transit moorings

Meeting accommodation need

* Some ways:

- New developments
- Expansion of private sites / yards / moorings
- Working with households and existing providers
- Develop transit locations
- Negotiated stopping policy

Thank you for listening!

- * Hugh Richards will continue with examples of his work with Gypsies and Travellers and local authorities.

Welcome back!

- Case Study – a recent enforcement appeal
- Legal Update – injunction issues

Enforcement appeal – 9 September 2021

APP/B1550/C/18/3212763 & 2 ors

- Goldsmith Drive, Rayleigh, Essex
- Rochford District Council
- 2 x EN (ops & use); 1 x s78 appeal
- 2 mobiles, 2 tourers, day room, some hard-standing (part retrospective)
- Green Belt site
- Result: A personal permission, and limited to those with G&T status. Conditions to control site layout and number of caravans.
- EN against wider area of hard-standing upheld.

Main issue – “very special circumstances”?

- Harm:
 - To openness
 - There was no other harm alleged in the reasons for refusal / issuing the EN

- Other considerations
 - “Significant” need for sites (which the LPA could not quantify)
 - Supply – the local plan (2014) identified a site. Not brought forward. No CPO. Planning to address the need and supply again in a new plan. Staff shortages. No policy for addressing ‘windfalls’. Overall, a “policy failure”.
 - No alternative. His brother-in-law needed the space on his previous site for his own growing children. Agreed that it was “pointless” going on the waiting lists for public sites in Essex.
 - Access to education and healthcare.
 - Best interests of the children.
 - Previous appeal decisions on GB sites in the District.
 - Common ground GB sites would inevitably need to be found in the next local plan.
 - Unequal approach to site delivery between G&T and the settled population.

Injunctions – recent issues

- Without-notice injunctions:
 - Exceptional: defeat the purpose or literally no time.
 - Duty of full and frank disclosure. All matters of fact and law that may be adverse to the applicant. Must investigate and present the facts fairly. Facts known to the Council not just the enforcement officers.
 - Evidence must summarise the case and identify possible defences, not just produce documents.
 - Continuing duty to notify the Court of change in circumstances.
 - Personal duty on the advocate – written skeleton argument needed.
 - Full note of the hearing must be taken.

“Persons unknown”

- Impossible to name the defendants
 - Name not known, but identifiable
 - Cannot be identified
- How to describe them – so they can be served.
 - Photograph
 - Something in their possession
 - Other evidence, such as conduct.
 - Use non-technical language.
- Witness statement must explain why they cannot be identified, steps taken, description adopted, best that can be done.

Recent examples - adequate?:

- “PERSONS UNKNOWN CAUSING THE BLOCKING, ENDANGERING, SLOWING DOWN, OBSTRUCTING OR OTHERWISE PREVENTING THE FREE FLOW OF TRAFFIC ONTO OR ALONG THE M25 MOTORWAY FOR THE PURPOSE OF PROTESTING”
- “PERSONS UNKNOWN INTENDING TO LIVE ON OR CARRY OUT ACTIVITIES COVERED BY PARAGRAPH 2 OF THIS ORDER ON THE LAND OFF
- “PERSONS UNKNOWN DEPOSITING HARDCORE, BRINGING CARAVANS AND RESIDENTIALLY OCCUPYING THE LAND
- “PERSON OR PERSONS UNKNOWN RESPONSIBLE FOR ENGAGING IN A CYBER-ATTACK ON THE APPLICANTS ON OR ABOUT 12 JUNE 2021 AND/OR WHO HAS THREATENED TO DISCLOSE THE INFORMATION THEREBY OBTAINED”

What next?

- Alternative service. CPR 6.15: “the court may make an order permitting service by an alternative method or at an alternative place”.
 - “(4) An order under this rule must specify –
 - (a) the method or place of service;
 - (b) the date on which the claim form is deemed served; and
 - (c) the period for –
 - (i) filing an acknowledgment of service;
 - (ii) filing an admission; or
 - (iii) filing a defence.”
- Remember: the proposed method of alternative service must “*reasonably be expected to bring the proceedings to the attention of the defendant*”

Ongoing duties / issues

- In the period between grant of any interim injunction and subsequent trial, the claimant must identify either by name or other method the persons against whom s/he seeks a final judgment. A final order is not “contra mundum” (against the world).
- Once they are identified, apply to join them as named defendants
- Always identify the landowner – injunct him/her against “causing or permitting”.

Borough-wide G&T injunctions

- Now very difficult to get them approved!
- Bromley LBC v Persons Unknown [2020] EWCA Civ 12
 - LPA must regularly engage with the G&T community (or their reps)
 - ‘Negotiated stopping’ should be considered
 - Assess impact on G&T resorting to the borough and the area.
 - Positive action required by the LPA to respect the G&T way of life and culture
 - “The equitable doctrine of ‘clean hands’ may require local authorities to demonstrate that they have complied with their general obligations to provide sufficient accommodation and transit sites for the Gypsy and Traveller community.”

Evidence in support of injunction application

- How has the Council resolved the tension between the G&T Art 8 rights (family life) and the need for environmental / social protection in the public interest?
- Need for sites and supply. Is local policy delivering?
- What are the alternatives available?
- Equality Impact Assessment of personal / welfare circumstances
- Is this a particularly unsuitable site? Why?
- Why cannot it be tolerated for a while?
- On what terms could it be tolerated?



Thank you for listening

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