

Draft WG Circular

PLANNING FOR GYPSY, TRAVELLER AND SHOWPEOPLE SITES

INTRODUCTION

1. This circular provides updated guidance on the planning aspects of identifying sustainable sites for Gypsies and Travellers. It also outlines how local planning authorities and Gypsies and Travellers can work together to achieve this aim. It supersedes advice contained in Circular 30/2007 "*Planning for gypsy and traveller caravan sites*", Circular 78/91 "*Travelling Showpeople*" and Circular 76/94 "*Gypsy Sites Policy and Unauthorised Camping*" which are hereby cancelled.

DEFINITION

2. The definition of 'Gypsies and Travellers' for the purposes of this Circular is contained within section 108 of the Housing (Wales) Act 2014. Gypsies and Travellers means:
 - (a) Persons of a nomadic habit of life, whatever their race or origin, including –
 - (i) 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 show people or circus people (whether or not travelling together as such); and
 - (b) All other persons with a cultural tradition of nomadism or of living in a mobile home.
3. The intention of the above definition is to ensure that ethnic Romani Gypsies and Irish Travellers are included. Members of these communities do not necessarily need to demonstrate a continued nomadic habit of life to be considered to be Gypsies or Travellers.
4. The definition also includes Travelling Showpeople, as well as those from any ethnic group who follow a nomadic habit of life. New Travellers could also be captured by the definition if they can demonstrate a cultural tradition of nomadism or of living in mobile homes.

5. Travelling Showpeople are self-employed business people who travel the country holding fairs, chiefly during the summer months. Although their work is of a peripatetic nature, Travelling Showpeople nevertheless require permanent sites for the storage of their equipment and for residential purposes. Such sites are often called yards or Winter quarters by Showpeople themselves. Nevertheless, these sites must be available for occupation all year round.
6. Most Showpeople are members of the Showmen's Guild of Great Britain and are required by the Guild to follow a code of practice on the use of their sites. Membership of the Guild provides Showpeople with exemption from the site licencing requirements of the Mobile Homes (Wales) Act 2013 when they are travelling for the purposes of business, or where they occupy Winter quarters on the land with equipment for some period between the beginning of October in any year and the end of March the following year. However, they only enjoy permitted development rights under Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 when travelling for the purpose of their business. They are, therefore, required to seek planning permission to establish all other sites.

GYPSIES AND TRAVELLERS – A CONTEXT

7. The Well-being of Future Generations (Wales) Act 2015 sets a framework for local authorities across Wales to ensure the 'sustainable development principle' (meeting the needs of the present without compromising the ability of future generations to meet their own needs) is met. Section 4 of the Act puts in place a number of well-being goals which authorities are to seek to achieve in order to meet this principle. These goals include achieving 'a Wales of cohesive communities', containing attractive, viable, safe and well-connected communities, and 'a Wales of vibrant culture and thriving Welsh language', containing a society that promotes and protects culture, heritage and the Welsh language.
8. Housing is a fundamental issue that affects the lives of people across Wales, including our Gypsy and Traveller communities. The Welsh Government seeks to ensure a wide choice of accommodation is available to meet the needs of all members of the community. It is reflective of the Government's commitment to ensure equality of opportunity for all sections of the community and in this instance, Gypsies and Travellers should have equal access to culturally appropriate accommodation as all other members of the community.
9. The Welsh Government's '*Travelling to a Better Future: a Gypsy and Traveller Framework for Action and Delivery Plan*' ("the Framework") sets the Welsh Government's vision for the inclusion of these communities in Welsh society. The Framework also seeks to ensure that the needs of Gypsies and Travellers are assessed, planned and implemented in a more strategic way.

10. The Framework includes a commitment from the Welsh Government to work with local authorities to deliver new Gypsy and Traveller sites. This commitment is addressed through the availability of Sites Capital Grant funding for the development of new sites. Changes to legislation through the Housing (Wales) Act 2014 and the Mobile Homes (Wales) Act 2013 have also supported this objective.
11. The provision of Gypsy and Traveller sites is one of several key issues that need to be addressed through the plan making process. Where a lack of appropriate sites and insufficient provision exists within local authority areas, this has a significant detrimental impact on the lives of Gypsies and Travellers. Delivering appropriate Gypsy and Traveller site accommodation will have a beneficial impact on the communities' ability to access other essential services. Delivery of appropriate site accommodation for Gypsy and Traveller communities could also have a beneficial impact on the settled community by reducing the number of legal challenges and costs incurred in challenging unauthorised encampments.
12. Some Gypsies and Travellers may 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 temporary stopping places where Gypsies and Travellers may legally stop in the course of travelling.
13. Delivering more Gypsy and Traveller sites, whether public or private, is an issue for local authorities to address, as they have to find local solutions for local needs. The Welsh Government has developed a suite of supporting information encompassing grants and guidance documents¹ which will aid local authorities to meet their responsibilities in relation to accommodation provision for Gypsy and Travellers.

¹ References to Welsh Government guidance documents on Gypsies and Travellers can be found at Annex A.

DUTY TO PROVIDE SITES

14. The Housing (Wales) Act 2014 places a legal duty upon local authorities to ensure that the accommodation needs of Gypsies and Travellers are properly assessed and that the identified need for pitches is met. Local authorities are required to exercise their powers under section 56 of the Mobile Homes (Wales) Act 2013, as far as necessary, to ensure Gypsy and Traveller sites are provided for the unmet need. This does not necessarily mean that additional local authority owned sites will be required but where they are needed the local authority is responsible for ensuring they are provided.
15. In order to be able to properly assess the accommodation needs of Gypsies and Travellers, section 101 of the Housing (Wales) Act 2014 introduces a requirement for local authorities to carry out an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to its area. Such assessments are to be carried out at least every 5 years after adoption of the initial assessment in 2016. They must be subject to consultation with Gypsies and Travellers and be submitted to the Welsh Ministers for approval, along with a report detailing how the assessment was carried out. Detailed Welsh Government guidance has been published which local authorities must have regard to in preparing such assessments, titled: 'Undertaking Gypsy and Traveller Accommodation Assessments (GTAA's) guidance'.
16. Planning Policy Wales (PPW) states that local authorities are required to assess the accommodation needs of Gypsy families and have policies for the provision of Gypsy sites in their development plans.
17. The findings of the GTAA will be a key consideration in the plan making, monitoring and review process for an authority's Local Development Plan (LDP). The GTAA will form part of the LDP evidence base that will be subject to public scrutiny through the plan preparation process and public examination. It will be a matter for the Inspector appointed to examine the LDP to consider the weight to attach to any emerging GTAA and how it relates to the development plan before them.

18. This planning circular outlines the importance of:

- involving Gypsies and Travellers proactively in the GTAA and planning process via Community Involvement Schemes in LDP preparation and ensuring communication is direct and accessible;
- considering potential site sustainability, including access to suitable community facilities for occupiers;
- guidance for Gypsies and Travellers making planning applications;
- how local authorities working together regionally to prepare GTAAs may be of benefit in identifying accommodation needs and suitable site provision during the planning process;
- local planning authorities identifying suitable locations in development plans for permanent and transit sites that meet the needs of Gypsies and Travellers;
- including a criteria-based policy in development plans that will provide a clear and fair rationale for the determining of Gypsy and Traveller site planning applications;
- considering specific Gypsy and Traveller Exception Sites; and
- local authorities' responsibilities under Equality and Human Rights legislation and case law.

19. By utilising this Circular and the two Welsh Government guidance documents detailed below, local authorities should be equipped with the tools to undertake the accommodation assessment and to meet the identified pitch needs.

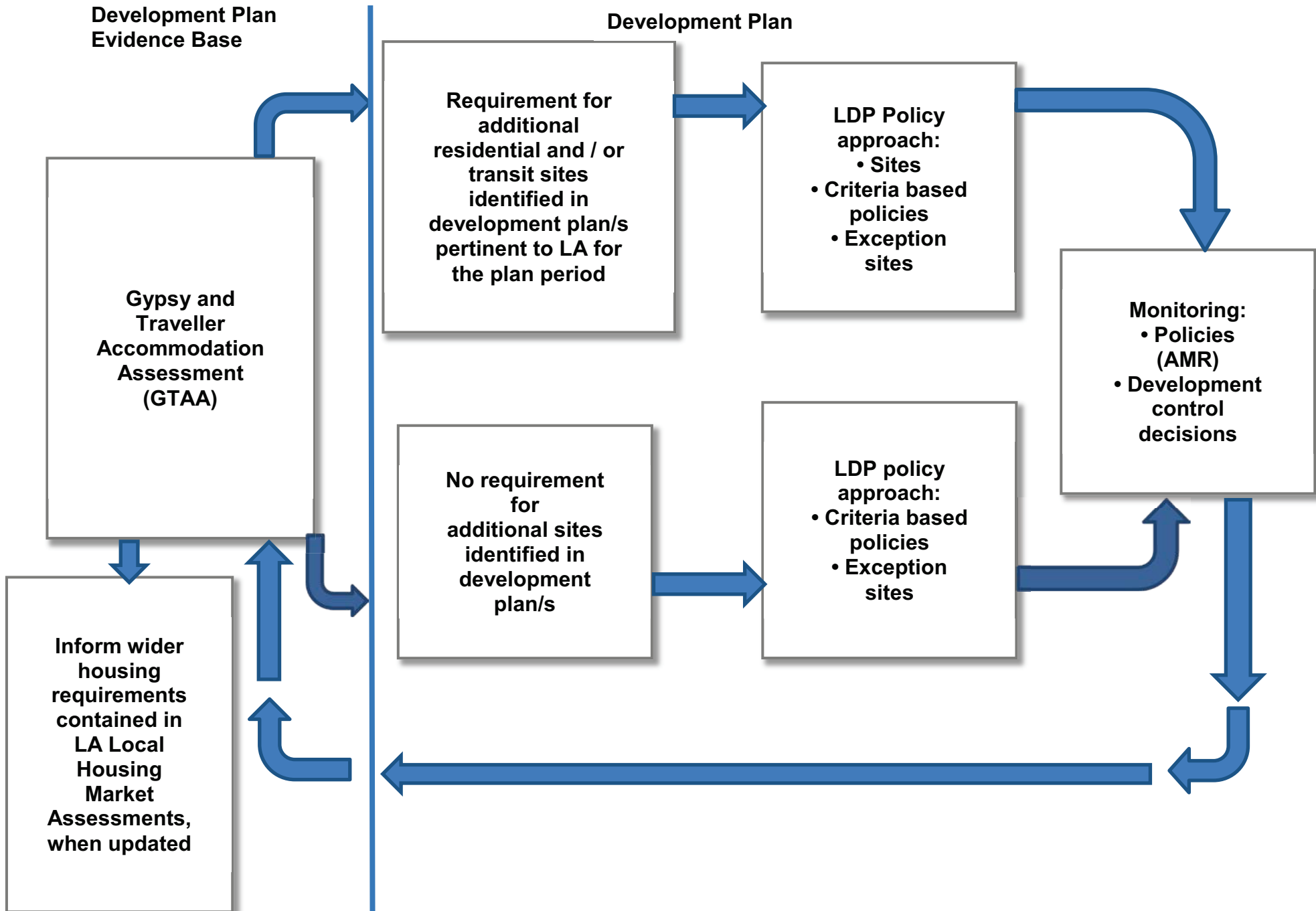
- Undertaking Gypsy and Traveller Accommodation Assessments Guidance²; and
- Designing Gypsy and Traveller Sites in Wales³.

20. An overview of the planning process to be followed by local authorities when making provision for Gypsy and Traveller caravan sites is set out in Diagram 1.

² See Annex A for further information.

³ See Annex A for further information.

Diagram 1 - Planning for Gypsy, Traveller and Showpeople Caravan Sites



PROVIDING THE EVIDENCE BASE

21. The assessment of Gypsy and Traveller accommodation needs, and the duty to make provision for sites where the assessment identifies need, became statutory requirements under the Housing (Wales) Act 2014. The Welsh Government publication "*Undertaking Gypsy and Traveller Accommodation Assessments Guidance*"⁴ sets out the proposed process of assessing these needs and how to undertake a Gypsy and Traveller Accommodation Assessment (GTAA).
22. An important part of completing GTAAs, which will also support planning for sites, is keeping accurate records of authorised and unauthorised sites in the local authority area. Local authorities should routinely update the All Wales Caravan Count system when sites occur to ensure data is as robust as possible.
23. The GTAAs provide the key source of information enabling local authorities to assess the level of additional Gypsy and Traveller accommodation provision that is required when preparing their LDPs. These assessments may also be undertaken on a regional basis if local authorities consider it beneficial to work collaboratively (see paragraphs 26 to 27 for further information on regional working).
24. The results of the GTAA make it possible for local authorities to identify the number of Gypsy and Traveller households which require additional pitches immediately, within 5 years, and over the development plan period. This will include:
 - the types of accommodation required to meet the need (i.e. residential or transit sites, specific sites for Travelling Showpeople or Romani Gypsies/Irish Travellers etc);
 - the number of households already residing in the Local Authority in unsuitable accommodation (i.e. overcrowded, living in conventional housing with an aversion to bricks and mortar etc);
 - the level of households on unauthorised developments or on authorised sites with temporary permission, which is likely to increase the unmet need if planning permission is not granted;
 - the likely rate of net household formation (i.e. young adults needing their own pitches, migration and dissolution of households etc); and
 - the number of households with a realistic opportunity to move to preferred type of accommodation, which may free up spare pitches or bricks and mortar capacity.

⁴ See Annex A for further information.

25. Local authorities will also need to have regard to their other statutory duties, including those in respect of homelessness under Part 2 of the Housing (Wales) Act 2014 and to their obligations under the Equality Act 2010.

REGIONAL WORKING

26. There may be circumstances where local authorities would benefit from working collaboratively in order to prepare a GTAA that covers a region.⁵ This could be due to mobility between areas where neighbouring local authorities are aware that their Gypsy and Traveller populations regularly move across administrative boundaries. A regional GTAA could help to deliver a better understanding of travelling patterns and accommodation needs across local authorities. This could result in a common approach and consistency across the area in identifying need and allocating suitable Gypsy and Traveller sites in development plans. Specifically, a regional assessment could provide evidence to assist local authorities in managing unauthorised encampments, as they will be able to demonstrate that they have considered accommodation needs for transit provision on a regional basis. Working in regional partnerships may also result in cost savings and improve the data available to assess need.

27. A regional GTAA provides the evidence base on accommodation needs to inform development plan preparation. It is essential the data arising from jointly conducted assessments remains capable of disaggregation to the local authority level. This will ensure each partner retains ownership of their evidence base and can produce information that is specific to the situation within each individual local authority. As the data must be disaggregated to a local authority level, there cannot be any trade off of permanent residential sites between partner authorities during preparation of their respective development plans.

LOCAL DEVELOPMENT PLANS

Involving the Gypsy and Traveller Community

28. It is expected that at an early stage in the preparation of LDPs, local planning authorities will discuss Gypsies and Travellers' accommodation needs directly with Gypsies and Travellers themselves, their representative bodies and local support groups. It should be recognised that Gypsies and Travellers are not a single community and have different values and attitudes with differing preferences for sites.

⁵ See Annex A for further information.

29. A list of relevant contacts is provided in Annex A but a local knowledge base should be developed by the local authority and the voluntary sector, about the different communities within and travelling through the area. For example some local planning authorities use the results of regular consultation presented by site management officers, Gypsy and Travellers contact officers and multi agency forums.
30. Local planning authorities should ensure they proactively include Gypsies and Travellers in the LDP process to ensure that their views are taken into account. This will help avoid tensions and conflicts that could arise if unauthorised developments take place. Guidance on unauthorised camping can be found in “*Guidance on Managing Unauthorised Camping*”⁶.
31. Section 63 of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to prepare their LDP in accordance with a Community Involvement Scheme (CIS), in which they will set out their policy on engaging with their community in preparing LDPs. Local planning authorities should put in place arrangements so that communication with Gypsies and Travellers is direct and accessible to ensure conflict and tensions are minimised. Face to face consultation is likely to be the most effective means of gathering the views of these communities.
32. It should be recognised that Gypsy and Traveller communities are not organised in such a way that it is easy to identify who might represent the interest of any particular community, so developing local knowledge and trust is important. Identifying and understanding the needs of groups who find it difficult, for a number of reasons, to engage with planning processes is essential. One such difficulty is a lack of resources. As with all other sections of the community, local planning authorities should consider what funding sources are available for such groups. One potential source of assistance that could help Gypsy and Traveller communities to participate more effectively in the planning system is Planning Aid Wales (contact details are included at Annex D of this circular).
33. Each CIS as part of the Delivery Agreement for the LDP will need to be agreed with the Welsh Government. It is up to each local planning authority to decide whether to include consultation and involvement of Gypsy and Traveller communities as part of the submitted CIS, depending on the issues arising in their local area. If a local planning authority fails to identify engagement with any Gypsy and Traveller communities where it should have, that authority would be at risk of failing to comply with procedural tests that must be adhered to for a LDP to be adopted.

⁶ See Annex A for further information.

Identifying Gypsy and Traveller Sites

34. Where a GTAA identifies an unmet need, local planning authorities should allocate sufficient sites in LDPs to ensure that the identified pitch requirements for residential and / or transit use can be met. Local planning authorities will need to demonstrate that sites are suitable and deliverable in the identified timescales. With such policies in place there will be more certainty for all concerned when planning applications are determined.
35. When identifying sites the local planning authority should work with the Gypsy and Traveller community. This should include encouraging Gypsies and Travellers and private landowners to put forward candidate sites as part of the LDP preparation process (LDP Manual⁷).
36. Issues of site sustainability are important for the health and well being of Gypsy and Travellers not only in respect of environmental issues but also for the maintenance and support of family and social networks. Consideration may include:
- opportunities for growth within family units;
 - the promotion of peaceful and integrated co-existence between the site and the local community;
 - access to health and education services;
 - access to utilities including water and waste services;
 - access by walking and cycling, public transport and private motor vehicles;
 - suitable nearby or on-site safe play areas;
 - contribution to a network of transit sites which reduce the need for long-distance travelling or unauthorised encampments;
 - not locating sites in zone C2 risk of flooding and only considering sites for location within zone C1 risk of flooding in line with guidance contained in TAN 15⁸, given the particular vulnerability of caravans; and
 - regard for areas designated as being of international, national and local importance for biodiversity and landscape - see paragraphs 58-59 below.
37. 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 e.g., education settings, health services and shops.

⁷ See paragraph 5.3.4 of Local Development Plan Manual. Edition 2. August 2015. Welsh Government.

⁸ Technical Advice Note 15: Development and Flood Risk. July 2004. Welsh Assembly Government.

38. All sites considered as options for a site allocation in a LDP must have their social, environmental and economic impacts assessed in accordance with the requirements of sustainability appraisal. (Section 3 of the LDP Manual introduces the process; section 5 explains the process with regard to Evidence Gathering and Objectives; and section 6 explains the process in Strategic Options and Preferred Strategy). When considering sites for allocation in LDPs local planning authorities will also need to have regard to the following Welsh Government guidance documents:

- Designing Gypsy and Traveller Sites in Wales⁹;
- Managing Gypsy and Traveller Sites in Wales Guidance¹⁰; and
- Undertaking Gypsy and Traveller Accommodation Assessments Guidance.¹¹

39. 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 give rise to only modest additional daily vehicle movements and/or the impact on minor roads would not be significant.

40. Permanent residential pitches should be for residential purposes only and economic activity on pitches should not be encouraged. Economic activities on pitches can lead to health and safety, pollution and environmental concerns. However, local authorities may wish to consider the provision of designated working space in a separate part of the site, where there is a demonstrable reason why specific on-site facilities need to be provided. For example, Showpeople sites are likely to require separate facilities for the storage and maintenance of fairground rides.

41. There may also be situations where Gypsies and Travellers need to store equipment used in their work or require grazing land and the local planning authority will have to decide if the provision of such space is possible and ensure adequate separation from residential areas.

⁹ See Annex A for further information.

¹⁰ See Annex A for further information.

¹¹ Refer to Chapter 5. Further information on this document can be found at Annex A.

42. Where Gypsies and Travellers require additional space for commercial activities they should be encouraged to pursue private leasing agreements for nearby space and/or facilities. Local authorities that have commercial land for rent, for example garages, could make these lists available to site residents wishing to pursue this option and should work proactively with Gypsies and Travellers to find suitable alternative facilities.
43. In appropriate circumstances local planning authorities may impose conditions to limit the proportion of a Travelling Showmen's site which may be covered by fairground equipment, and the hours during which such equipment may be tested, in order to safeguard local amenity. However, local planning authorities should avoid imposing conditions prohibiting either residential use or the maintenance of equipment (or unduly restricting the hours during which this activity can be carried out), as such conditions would effectively nullify the benefit of any permission for a permanent Travelling Showmen's site.
44. Where a local authority experiences unauthorised encampments due to Gypsies and Travellers 'passing through' an area and the authority has an inadequate supply of transit pitches, temporary stopping places should be identified for short-term occupation. Temporary stopping places help to reduce unauthorised encampments preventing social, economic or environmental issues whilst facilitating the traditional Gypsy and Traveller way of life. Temporary stopping places must make provision for waste disposal, water supply and sanitation at a minimum.¹² However, if a local authority is experiencing a significant number of unauthorised encampments, providing sustainable transit sites would be required rather than temporary stopping places.

¹² Refer to Chapter 7 of the Designing Gypsy and Traveller Sites in Wales document; further details on which can be found at Annex A.

45. There are a number of ways in which local planning authorities can identify specific sites and make land available:
- Local authorities have 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.¹³
 - Authorities should also consider making full use of any registers of unused and under-used land owned by public bodies as an aid to identifying suitable locations. Vacant or under-used local authority land may be appropriate.
 - Authorities should also consider whether it might be appropriate to exercise their compulsory purchase powers to acquire an appropriate site.
 - Co-operation between neighbouring local authorities can provide more flexibility in identifying transit sites.
46. A local planning authority which, exceptionally, is unable to meet all assessed future needs through specific site locations should give in the LDP a reasoned explanation why that has not been possible supported by relevant evidence. It must explain what criteria will be used to ensure adequate provision and state the detailed measures it will take to ensure that adequate provision is made during the plan period.

Criteria based policies

47. Criteria based policies will be required in the LDP, whether or not there is any current need identified in the area, in order to meet future or unexpected demand. Criteria based policies must be fair, reasonable, realistic and effective in delivering sites. Planning policies that rule out or place undue constraints on the development of Gypsy and Traveller sites should not be included in LDPs.
48. Annex B contains guidance on good practice criteria. The Welsh Government has the power to intervene in the plan-making process where it considers that the constraints being proposed by local planning authorities are too great or have been inadequately justified.

Gypsy Traveller Exception Sites

49. Gypsies and Travellers often face difficulties in securing an adequate supply of land for their needs. Where a local need for Gypsy and Traveller accommodation is identified, local planning authorities should consider whether it is appropriate to include a “Gypsy Traveller Exception Site policy” in the relevant LDP.

¹³ As set out in National Assembly for Wales Circular 41/03, “Local Government Act 1972: General Disposal Consent (Wales) 2003, Disposal of land in Wales by Authorities for less than Best Consideration”.

50. Exception site policies for Gypsies and Travellers should operate in accordance with the requirements set out in PPW. In applying the Gypsy Traveller Exception Site policy, local planning authorities should consider in particular the needs of Gypsy and Traveller households who are either current residents or have an existing family or employment connection.
51. Sites on the outskirts of built-up areas or countryside locations may be suitable as exception sites. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Over rigid application of national or LDP policies that seek a reduction in car borne travel would not be appropriate as they could be used to effectively block proposals for any Gypsy and Traveller Site in a countryside location. Sites should be considered in context and in relation to the local infrastructure, population size and density to ensure they are in proportion to local settled communities.
52. In some cases, perhaps involving previously developed (brownfield), untidy or derelict land, the establishment of a well-planned Gypsy and Traveller site (e.g. one which incorporates appropriate soft landscaping) can be seen as positively enhancing the environment and increasing openness.

Monitoring LDP Gypsy and Traveller site policies

53. The Planning and Compulsory Purchase Act 2004, requires the local planning authority to produce an annual monitoring report (AMR). The AMR is the main mechanism for reviewing the relevance and success of the LDP and identifying any changes necessary. One of the main purposes of the AMR is to consider whether objectives set out in the LDP are being achieved. It requires that, where a policy specified in the LDP is not being implemented; the annual monitoring report must identify that policy. In addition, Regulation 37 (3) of the Local Development Plan (Wales) Regulations 2005, requires that the report must include a statement of:
- the reasons why that policy is not being implemented;
 - the steps (if any) that the local planning authority intend to take to secure that the policy is implemented; and
 - whether the local planning authority intends to prepare a revision of the LDP to replace or amend that policy.
54. Further guidance is contained in the Local Development Plan Manual.¹⁴

¹⁴ Refer to Section 9

MAJOR DEVELOPMENT PROJECTS

55. A major development or redevelopment project may require the permanent or temporary relocation of a Gypsy or Traveller site. When determining applications for such development, it may be appropriate to attach conditions or secure planning obligations requiring the developer to identify and provide an alternative site, providing the original site is authorised. The local planning authority should work with the developer and the affected Gypsy and Traveller community to identify a site (or sites) that would be suitable for relocating the community.
56. In proposing relocation regard will need to be paid to the social, economic and environmental needs of the Gypsy and Traveller community and the potential benefits of the relocation to the locality and the broader area. It will also be necessary to ensure that any relocation does not impact on the legal or human rights of the existing site residents.

DESIGNATED AREAS

57. National planning policy on Green Belts and Green Wedges is set out in PPW¹⁵. There is a general presumption against inappropriate development within Green Belts or green wedges. New Gypsy and Traveller sites in the Green Belt or green wedges are likely to be inappropriate development. National planning policy on Green Belts or green wedges applies equally to applications for planning permission for Gypsy and Traveller sites and other residential uses. Alternatives should be explored before Green Belt or green wedge locations are considered. Pressure for development of sites on Green Belt or green wedge land can usually be avoided if the local planning authority allocates sufficient sites elsewhere in its area, to meet identified need.
58. PPW contains national planning policy guidance on development in areas with nationally recognised designations – in respect of the statutory landscape designations¹⁶, development control¹⁷ and statutory nature conservation designations¹⁸. Any statutory duties associated with a designation must be complied with. That guidance is applicable to planning applications for any residential development within those areas, including for Gypsy and Traveller sites.
59. PPW offers further guidance on local landscape and local nature conservation designations¹⁹. However, such designations should not

¹⁵ Refer to Section 4.8 of PPW

¹⁶ Refer to Paragraph 5.3.3 of PPW

¹⁷ Refer to Paragraph 5.3.6 of PPW

¹⁸ Refer to Paragraph 5.3.8 of PPW

¹⁹ Refer to Paragraphs 5.3.2 and 5.3.11 of PPW

be used, in themselves, to refuse planning permission for Gypsy and Traveller sites.

PLANNING APPLICATIONS

60. Section 38 of the Planning and Compulsory Purchase Act 2004 (in the case of LDPs) provide that determinations of applications for planning permission shall be made in accordance with the development plan unless material considerations indicate otherwise. Other considerations for Gypsy and Traveller site applications will usually include the impact on the surrounding area, the existing level of provision and need for sites in the area, the availability (or lack of) alternative accommodation for the applicants and their specific personal circumstances.
61. 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 always 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 C and D).
62. 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. In line with guidance in TAN 15²⁰, local planning authorities should consult Natural Resources Wales about flood risk.
63. 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 information relevant to their applications.
64. Local planning authorities should not refuse applications because the applicant has no local connection. But they are entitled to refuse applications in locations that do not comply with planning policies, especially where the authority has complied with this guidance and

²⁰ Technical Advice Note 15: Development and Flood Risk. July 2004. Welsh Assembly Government.

proceeded properly to ensure needs identified by accommodation assessments are being met.

65. Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations, including:
- a.) Limiting which parts of a site may be used for any business operations, in order to minimise the visual impact and limit the effect of noise
 - b.) Specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events)
 - c.) Limiting the maximum number of days for which caravans might be permitted to stay on a transit site (not less than 4 weeks or more than 3 months).

Annex B provides further sources of information on the use of conditions in planning permissions for Gypsy and Traveller sites.

66. In considering whether to enforce against land being used as a Gypsy and Traveller site or to refuse planning permission for such use, local planning authorities should assess what effect, if any, the absence of existing site provision would have on the ability to take, and defend, such actions successfully in any subsequent appeal. Local planning authorities should have regard to the duty in Section 103 of the Housing (Wales) Act 2014 – requiring an authority to exercise its powers to meet any needs for site provision that are identified through its Gypsy and Traveller Accommodation Assessment – in deciding on an appropriate course of action to take.

ENFORCEMENT

67. It is important that planning policies and controls are respected by all sections of the community and that, where it is expedient to do so, effective enforcement action is taken by the local planning authority. The Town and Country Planning Act 1990, provides several tools to enable them to do so, including:
- Enforcement notice (s.172);
 - Breach of condition notice (s.187A);
 - Stop notice (s.183);
 - Temporary stop notice (s.171E); and
 - Injunctions (s.187B).

68. In considering enforcement action, local planning authorities should be guided by the advice in the Development Management Manual²¹. Further advice on the enforcement powers available to local planning authorities and their use can be found in:

- Enforcing Planning Control: Legislative Provision and Procedural Requirements²²; and
- Managing Unauthorised Camping guidance.²³

Temporary Stop Notices

69. Section 52 of Part 4 of the Planning and Compulsory Purchase Act 2004 (commenced in Wales) inserts sections 171 E to 171H of the Town and Country Planning Act 1990 in respect of temporary stop notices. Section 171E provides that local planning authorities can serve a temporary stop notice where they think there has been a breach of planning control, and where they consider that the activity or any part of it should be stopped immediately. This includes unauthorised Gypsy and Traveller caravan sites.

70. The ability to serve a temporary stop notice could be a useful tool where a local planning authority wants to immediately stop further development of land as a Gypsy and Traveller site to prevent its further intensification for a period of 28 days. During this time the authority is able to decide which course of enforcement action, using the other tools available to them under the Town and Country Planning Act 1990, is most appropriate to tackle the breach of planning control.

71. There is no right of appeal against a temporary stop notice and so before taking such action the local planning authority should consider their duties under the Human Rights Act 1998, as with all enforcement action, and the Housing (Wales) Act 2014. In instances where a local authority has an identified unmet need for Gypsy and Traveller accommodation, then this should form a material consideration in their decision to serve a temporary stop notice against an unauthorised site.

²¹ <http://gov.wales/topics/planning/policy/development-management-manual/?lang=en>

²² Welsh Office Circular 24/97

²³ Published by Welsh Government. Dated 2013.

APPEALS

72. There will be occasions when local planning authorities refuse planning permission for Gypsy and Traveller sites. A Planning Inspector will determine any subsequent appeal in accordance with the development plan and all other material considerations - most, if not all, of which should already have been addressed at the application stage. These will include the GTAA available, existing and planned provision of, and need for sites in the local planning authority's area, the accuracy of the data used to assess need, the methodology employed in the needs assessment and how up-to-date it is, information on pitch availability on public and private sites, personal circumstances and alternative accommodation options.

HUMAN RIGHTS AND EQUALITY OF OPPORTUNITY

73. The provisions of the Human Rights Act 1998 which incorporates the European Convention on Human Rights into domestic British law should be considered as an integral part of local authorities' decision-making - including its approach to the question of what are material considerations in planning cases. 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. If there is any doubt about the application of provisions of the Convention in particular cases, legal advice should be sought. The obligation on public authorities to act compatibly with Convention rights does not give Gypsies and Travellers a right to establish sites in contravention of planning control.

74. Section 149 of the Equality Act 2010 prohibits racial discrimination by local planning authorities in carrying out their planning functions. In addition, the majority of public authorities, including local authorities, have a general duty under the 2010 Act to actively seek to eliminate unlawful discrimination and to advance equality of opportunity and foster good race relations in all they do. The LDP Community Involvement Scheme is particularly important in this regard.

75. 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 assess the impact of their policies on these groups. Romani Gypsies and Irish Travellers have been recognised by the Courts as being distinct ethnic groups, covered by the 2010 Act. Under the general duty mentioned above, there is a requirement that local authorities seek to promote good race relations between Gypsies and Travellers and the settled community. This is important in the context of Gypsy and Traveller site planning.

MONITORING PLANNING APPLICATIONS

76. Local planning authorities should monitor and critically analyse the decisions on applications for sites for Gypsies and Travellers. Authorities should assess the results of such analysis to inform policy development. In this regard, local planning authorities are advised to maintain an ongoing list of all planning applications they receive for the development of Gypsy and Traveller sites. They could use this list to monitor the outcomes of planning applications against accommodation need identified in their Gypsy and Traveller Accommodation Assessment. The compiling of such data could also provide a useful evidence base to inform Gypsy and Traveller site provision during LDP preparation, monitoring and review.

ANNEX A

References and List of Organisations of interest to Gypsies and Travellers

REFERENCES

Undertaking Gypsy and Traveller Accommodation Assessments Guidance, Welsh Government, May 2015

<http://gov.wales/docs/dsjlg/publications/equality/150223-gypsy-traveller-accommodation-assessmentsv2-en.pdf>

Guidance on Managing Unauthorised Camping, Welsh Government, December 2013

<http://gov.wales/docs/dsjlg/publications/equality/131220-guidance-managing-unauthorised-camping-2013-en.pdf>

Royal Town Planning Institute (February 2007) Good Practice Note 4 Series: Planning for Gypsies and Travellers.

<http://rtpi.org.uk/knowledge/publications/planning-for-gypsies-and-travellers/>

Designing Gypsy and Traveller Sites Guidance, Welsh Government, May 2015

<http://gov.wales/docs/dsjlg/publications/equality/150528-designing-gypsy-and-traveller-sites-en.pdf>

Managing Gypsy and Traveller Sites in Wales Guidance, Welsh Government, May 2015

<http://gov.wales/docs/dsjlg/publications/equality/150528-managing-gypsy-and-traveller-sites-en.pdf>

Planning for Gypsy and Traveller Caravan Sites, November 2008, Welsh Assembly Government

Planning Your Community: A guide to Local Development Plans (Welsh Assembly Government Booklet July 2006)

ORGANISATIONS

Welsh Government

Equality & Prosperity Division
Education and Public Services Group
Welsh Government
Merthyr Tydfil
CF48 1UZ

FairerFuturesMailbox@wales.gsi.gov.uk

Wales-based organisations:

Gypsies and Travellers Wales

Trowbridge Community Centre
Caernarvon Way
Trowbridge
Cardiff
CF3 1RU
029 2021 4411

info@gtwales.org.uk <mailto:admincgtp@btconnect.com>

Travelling Ahead

8 Cathedral Road
Cardiff
CF11 9LJ
029 2039 6838

travellingahead@savethechildren.org.uk

<http://www.travellingahead.org.uk>

The Unity Project

Monkton CP School
Pembroke
Pembrokeshire
SA71 4LS

unity@pembrokeshire.gov.uk

Romani Cultural and Arts Company

Temple Court
13a Cathedral Road
Cardiff
CF11 9HA

isaacblake@romaniarts.co.uk

<http://www.romaniarts.co.uk>

The Bridges Project

Merthyr Tydfil
01685 353959
Lb2@smt.org.uk

The Showmen's Guild of Great Britain (*Travelling Showpeople only*)

South Wales –
7 Rhigos Gardens
Cardiff
CF24 4LS
07949 289 075
Sgwales1@gmail.com

North Wales –
11 St. Mary's Place
Bury
Lancashire
BL9 0DZ
01617 629 502
leesashowmensguild@yahoo.com
<http://www.showmensguild.co.uk>

The Travellers School Charity (*New Travellers only*)

Ty Loveden House
26 Bridge Street
Aberystwyth
Ceredigion
SY23 1QB
07786 466 107
info@travellersschool.org.uk
<http://www.travellersschool.org.uk>

Planning Aid Wales

First Floor
174 Whitchurch Road
Cardiff
CF14 3NB
02920 625000
<http://www.planningaidwales.org.uk>

Equality and Human Rights Commission Wales

Block 1
Spur D
Government Buildings
St Agnes Road
Cardiff
CF14 4YY
02920 447710
Wales@equalityhumanrights.com

Other UK community support organisations:

The Traveller Movement

The Resource Centre
356 Holloway Road
London
N7 6PA
020 7607 2002
info@travellermovement.org.uk
<http://www.travellermovement.org.uk>

Friends, Families and Travellers

Community Base
113 Queens Road
Brighton
BN1 3XG
01273 234777
Fft@gypsy-traveller.org
www.gypsy-traveller.org

The National Federation of Gypsy Liaison Groups

c/o Derbyshire Gypsy Liaison Group
1-3 Ladygrove Mill
Lady Grove Road
Two Dales
Matlock
DE4 2FG
01629 732744
natglg@outlook.com
<http://www.nationalgypsytravellerfederation.org>

The Gypsy Council (for Education, Culture, Welfare and Civil Rights)

8 Hall Road
Aveley
Romford
Essex
RM15 4HD
07963 565 952
info@gypsy-association.com
<http://www.gypsy-association.com>

Good Practice – Criteria

1. Gypsies and Travellers have the same rights and responsibilities within the planning system as every other citizen. Plan policies and criteria for the establishment of Gypsy and Traveller caravan sites should be fair, reasonable, realistic and effective, and written in a positive manner that offer some certainty that where the criteria (not necessarily all of them) are met planning permission will be granted.
2. Ambiguous plan policies stating that permission ‘may be granted’ or that the authority ‘will take account of’ factors should be avoided as they increase uncertainty. Alternative wording might include ‘planning permission will be granted “provided that the following criteria/requirements are [clearly] satisfied.....”.
3. The list of criteria adopted by a local planning authority should not be excessive as the more criteria there are, and the more restrictive they are, the greater the likelihood of authorities refusing planning permission. A more positive approach should be taken to making adequate provision for Gypsies and Travellers in appropriate locations – particularly by those local planning authorities whose present policies have failed to meet current needs. The process by which criteria are adopted in LDPs will be subject to close scrutiny.
4. For all kinds of site, consideration must be given to vehicular access from the public highway, as well as provision for parking, turning and servicing on site, and road safety for occupants and visitors. Landscaping and planting with appropriate trees and shrubs can help sites blend into their surroundings, give structure and privacy, and maintain visual amenity. Enclosing a site with too much hard landscaping, high walls or fences can not only give the impression of deliberately isolating the site and its occupants from the rest of the community but could also be visually intrusive – both situations should be avoided.
5. New sites should accommodate 20 pitches or less, other than in exceptional circumstances and where consultation and engagement have taken place with all stakeholders. Exceptional circumstances may include a decision to keep a large community together if households are being re-located from an unsustainable existing site or where local circumstances, including lack of suitable land or high levels of unmet pitch needs (as defined in the Gypsy and Traveller Accommodation Assessment) occur.

6. Extensions to existing residential sites may lead to the Local Authority exceeding 20 pitches on a particular site. This may be appropriate where the Local Authority seeks to keep families together and has had regard to the views of existing residents and the surrounding community.
7. Sites should be considered in context and in relation to the local infrastructure, population size and density to ensure they are in proportion to local settled communities.

Criteria which are unacceptable

8. It has not been uncommon for criteria to be so restrictive and extensive that in practice it is impossible or virtually impossible for an application to comply with them all. The following criteria have been taken from local authority plans and represent examples of criteria that are considered generally **unacceptable**:

'Each unit of accommodation on the site shall have been brought onto the site by the occupier(s) for the time being who shall remove the accommodation from the site when ceasing to use it for residential purposes'.

This criterion does not accommodate the nomadic and traditional lifestyle whereby many Gypsies and Travellers have one caravan to live in, and one that is more mobile that they use when travelling.

A requirement that the accommodation is brought onto site by the occupier does not allow provision to be made for other family members who may not themselves, perhaps for reasons of ill health, physically move their own accommodation onto the site.

'There shall be no more than [x] caravans' (on any site)

Setting a maximum number as a blanket policy through a development plan policy is arbitrary.

Any maximum number of caravans to be sited on any particular site should be identified through a planning condition after having regard to the circumstances of the individual planning application which would include specific size of site, surrounding population size and density and the requirements of the applicant.

“Applications from Gypsies and Travellers with no local connection will not normally be allowed”

Gypsies and Travellers are often nomadic and so will not always have local connections. Planning authorities have to determine applications for development from anyone who submits them.

As the business in which Gypsies and Travellers have traditionally engaged decline, the new trades and businesses they take up often necessitate new locations and settled salaried employment.

It is not appropriate to require applicants to have a local connection to successfully achieve planning consent.

“The site does not impact on any area with natural/wildlife interest”

All development by its very nature will have some impact on wildlife. The criteria should be more tightly, but reasonably, defined.

“The site shall not encroach into the countryside”

This is unrealistic. Such policies have been used to thwart site provision.

“Sites will only be permitted where there is a clearly identified unmet need in the Gypsy and Traveller Accommodation Assessment”

This would be unacceptable as it would act against freedom of movement for Gypsies and Travellers who wish to develop their own sites. Such restrictions would not be placed on non-Gypsies and Travellers who move to a new area and seek to build a house.

Also see the following providing information about suggested conditions in Gypsy Traveller site permissions:

- Circular 016/2014, The Use of Planning Conditions for Development Management, Welsh Government
- Link to model conditions published by the Planning Inspectorate:
<http://gov.wales/topics/planning/appeals/model-conditions/?lang=en>

Guidance to Local Planning Authorities in dealing with planning applications from Gypsies and Travellers

1. Gypsies and Travellers have the same rights and responsibilities within the planning system as all other applicants for planning permission. In dealing with applications and enquiries from Gypsies and Travellers planning officers and planning department staff should act in a professional manner and treat enquiries from Gypsies and Travellers even-handedly. Planning Aid Wales (contact details at Annex A) is a source of free independent advice and information that Gypsy and Travellers may wish to use.
2. It is particularly important if unauthorised development is to be avoided for local planning authorities to establish a level of trust and co-operation with the local Gypsy and Traveller community. Entrenched positions on both sides are likely to lead to tensions, conflict and delay.
3. Local planning authorities may wish to consider designating a named person to deal with all such enquiries/applications or have a named person with whom the applicants can maintain contact. Staff responsible for dealing with Gypsy and Traveller applications should be given specific training.
4. Local planning authorities need to provide early, clear pre-application advice and may wish to consider producing leaflets explaining the planning system, and consider using other media – such as video/dvd and audio communication – where this would better meet the needs of the Gypsy and Traveller community. At any pre-application meeting local planning authorities should give an informal indication of the chances of getting permission, highlight any possible difficulties and whether these may be overcome and explain the planning process to applicants who are unfamiliar with it.
5. Local planning authorities need to make Gypsies and Travellers aware of standards they can expect from the authority, standards expected from them and their rights to complain, including to the authority's monitoring officer and the Public Services Ombudsman.
6. Planning departments may need to consult other departments and agencies with an interest, particularly housing, social services and education departments, health and highways authorities. Other important sources of advice are Gypsy Liaison Officers (or their equivalents) usually, but not always, based in local authorities where such Officers are made available.

Guidance for Gypsies and Travellers making planning applications

Introduction

1. Members of the Gypsy and Traveller communities have the same rights and responsibilities within the planning system as members of other communities. Planning permission is normally required for any changes of use of land. As with development submitted by anyone the only times permission would not be required are:
 - i. if the land has already been granted planning permission for a particular type of land use; or
 - ii. the use of the land has been established over a period of time without valid planning enforcement action having been taken by the local planning authority. This time period is 4 years for building or other similar physical works which do not represent a change of land use, or 10 years where the development has represented a change of land use. Siting caravans on land is a use of the land in planning terms.

Pre-application procedure

2. When looking for a site Gypsies and Travellers should find out whether
 - i. there are any existing sites in the locality (with planning permission) available to rent or buy;
 - ii. if not, whether the local planning authority can identify any sites that may be or could become available.
3. If the outcome of the queries outlined above is negative and you are looking to develop a new site, it is probable that you will need to apply for planning permission. When the local planning authority considers your application they will first look to see what their development plan says about the site you have chosen.

4. Consequently, **before applying for planning permission you should take the following steps:-**
- i. contact the local planning authority²⁴ in order to identify the development plan policies relevant to Gypsy and Traveller caravan site use and establish whether the site you are interested in is in a Green Belt, green wedge or other area of special protection. Development in such areas is subject to stricter control and the likelihood of getting planning permission usually is much lower than if the site were not within an area enjoying this special protection.
 - ii. Prepare information indicating
 - the area of your search for a site
 - whether there are particular reasons for selecting the site you have e.g. family circumstances, work or other requirements
 - whether there are other sites available and, if so, why you consider them to be unsuitable
 - the number of caravans proposed for the site.
 - iii. prepare an assessment of the suitability of the site and the use to be made of it in relation to:
 - access for vehicles and pedestrians
 - closeness to main road network
 - ground conditions and levels of land
 - how close it is to schools and other facilities
 - existence of landscaping or whether the site could be screened by additional planting
 - compatibility with neighbouring uses.
 - iv. You should also consider undertaking a search of the local land charges registers (held by the local authority) to establish whether there are any restrictions (such as injunctions) on the use of the land.

²⁴ This will be the Planning Department of the local authority unless the land falls within the area of the Brecon Beacons, Pembrokeshire Coast or Snowdonia National Parks – if the land is located within a National Park, you should contact the National Park Authority.

5. When you have completed all this you should seek a meeting with officers of the local planning authority to discuss your proposals and the information provided. They will give you their professional opinion on the case prepared and may be able to suggest ways in which it could be made more acceptable to the local planning authority. They will not, however, be able to give any guarantees or undertaking that planning permission will be granted. That decision will in most cases be made by the Planning Committee.

Making the planning application

6. You should make your planning application and wait for permission *before* you go on the site. Entering a site without planning permission is likely to be a breach of planning control and may be subject to enforcement action.
7. When making your application for a Gypsy and Traveller caravan site you should provide as much detail as possible at the outset including site layout, landscaping, access, and number of caravans.

What happens next?

8. Local planning authorities will normally decide applications within eight weeks of their being submitted. If you are refused planning permission, or the local planning authority fail to determine the application within the 8 week period (or such longer period as you may have agreed with them), it is open to you to appeal to the Welsh Ministers. Any appeal must be submitted within 6 months of the date of the refusal of planning permission or of the date on when the application should have been decided (the end of the 8 weeks period or any longer period you might have agreed).

Details on how to submit an appeal and how the appeals process works is available on the Planning Appeals section of the Welsh Government website:

<http://gov.wales/topics/planning/appeals/?lang=en>, or from:

The Planning Inspectorate Wales
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Telephone: 029 2082 3866

Fax: 029 2082 5150

Email: wales@pins.gsi.gov.uk

9. Gypsies and Travellers should be aware of **Planning Aid Wales**, a voluntary service grant funded by the Welsh Government offering free, independent and professional advice and support on town planning matters to community groups and individuals who cannot afford to employ a planning consultant:

Planning Aid Wales
First Floor
174 Whitchurch Road
Heath
Cardiff
CF14 3NB

Telephone: 029 2062 5000

Email: Complete an online enquiry form at the website address listed below.

Website: www.planningaidwales.org.uk