

**The new PPTS and guidance on the
assessment of need**

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Current/promised guidance/policy



- PPTS (August 2015)
- Dear Chief Planning Officer letter (31 August 2015); promised ministerial statement
- 2007 guidance on GTAAs/promised new guidance on GTAAs; three paragraphs in Consultation Draft
- *Dealing with illegal and unauthorised encampments – a summary of available powers* (3ed March 2015)

Cancelled guidance



- *Guide to effective use of enforcement powers* Parts 1 and 2 (2006 and 2007)
- *Designing Gypsy and Traveller Sites – Good Practice Guide* (2008)
- *Managing Unauthorised Camping* (2007)?

Useful commentary



- Response to Consultation (August 2015) accompanying the new PPTS
- Equalities Statement (September 2014) accompanying the Consultation Draft

The changes



1. New definition of 'gypsy'
2. New guidance on conducting a GTAA
3. Amended policy on the consequence of not having a 5 year supply of deliverable gypsy sites
4. An amendment in relation to development in open countryside
5. An amendment to deal with situations like Dale Farm
6. Amended policy on what will be likely to amount to very special circumstances justifying inappropriate development in the Green Belt
7. New policy making 'intentional unauthorised development' a material consideration

Development in open countryside



‘Local planning authorities should **very** strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.’ (PPTS 25)

Compare with

‘Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as ...’ (NPPF 55)

Situations like Dale Farm



‘In exceptional cases, where a local planning authority is burdened by a large-scale unauthorised site that has significantly increased their need, and their area is subject to strict and special planning constraints, then there is no assumption that the local planning authority is required to plan to meet their traveller site needs in full.’ (PPTS 12)



‘Persons of nomadic habit of life whatever their race or origin,
including such persons who on grounds only of their own or
their family’s or dependants’ educational or health needs or
old age
have ceased to travel temporarily **or permanently.**’



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have ceased to travel temporarily.’

Cf Housing Regulations



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

- '(b) all other persons of a nomadic habit of life, whatever their race or origin,
including—
 - (i) such persons who, on grounds only of their own or their family's
or dependant's educational or health needs or old age, have
ceased to travel temporarily or permanently; and

 - (ii) members of an organised group of travelling showpeople or
circus people (whether or not travelling together as such).'

How should local authorities assess current traveller accommodation needs?



Local authorities should take account of travellers specific accommodation needs which relate to:

- their nomadic lifestyle
- their preference for caravan-dwelling
- movement between housing and caravans
- their preference for mixed use caravan sites
- the absence of a market for sites owing to lack of site provision or local hostility

And consider their type of accommodation need in relation to:

- private sites
- sites owned by a Registered Provider
- affordable housing occupied by travellers
- other housing occupied by travellers
- different types of site e.g. transit sites



Local authorities should assess needs for different types of travellers, whatever their race or origin, taking account of their different traveller lifestyles and cultures.

Local authorities should engage both the local traveller and settled communities and involve other local authorities to assess their traveller needs as part of the Duty to Cooperate.

The area to be covered by the assessment will largely depend on travel and movement patterns.

How should local authorities assess future traveller accommodation needs?



Local authorities should establish:

- The change in the number of traveller households that have or are likely to have accommodation needs to be addressed over the Local Plan period
- Broad locations where there is a demand for additional pitches
- The level, quality and types of accommodation and facilities needed (eg sites; housing)
- The demographic profile of the traveller community obtained from working directly with them
- Caravan count data at the local level
- Whether there are different needs at different times of the year – travelling is usually concentrated during the summer

What sources of information could local authorities use in assessing traveller accommodation needs?



- Caravan count data ...
- Site management information – eg site waiting lists; pitch turnover; length of licenses; transfer applications
- Information on private authorised sites – number of caravans permitted on each site; type of planning permission; restrictions on occupancy
- Information from recent applications, whether successful or unsuccessful, or enforcement action
- Data from other service providers – eg health and education
- Information gathered by traveller groups or representative bodies eg the Showmen's Guild
- Data from surveys of traveller accommodation needs

5 year supply of deliverable sites



The lack of a 5 year supply of deliverable sites is not a *significant* material consideration in deciding whether to grant temporary planning permission if the site is –

- in the Green Belt
- AONB
- National Park
- SSSI
- local green space
- protected under birds or habitats directive (PPTS 27).

But it is 'still capable of being a material consideration for site proposals in those areas' (Response to Consultation 3.22).

Green Belt and intentional unauthorised development



‘Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.’

‘Intentional unauthorised development’ becomes a material consideration in relation to applications and appeals received after 31 August 2015.

‘The government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt’ and that the Secretary of State will consider the recovery of a proportion of relevant appeals in the Green Belt ‘to enable him to illustrate how he would like this policy to apply in practice.’ (DPCO letter)

Compare with *S Bucks v Porter (no 2)* [2004] 1WLR 1953

‘The policy proposal would require careful drafting to make clear that such a consideration should be weighed in the balance and not used in a punitive way to override other material considerations in favour of the proposal and refuse planning permission.’ (Equalities Statement)