



Lewisham

Gypsy and Traveller Accommodation Assessment Update



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1. Introduction

- 1.1 The primary objective of the Lewisham Gypsy and Traveller Accommodation Assessment (GTAA) Update is to provide a robust revised assessment of current and future need for Gypsy, Traveller and Travelling Showpeople accommodation for the period 2016-2031.
- 1.2 The primary reason for completing the Update was the publication of a revised version of Planning Policy for Traveller Sites (PPTS) in August 2015. This included a change to the definition of Travellers for planning purposes.
- 1.3 The study will provide an evidence base to enable the Council to comply with their requirements towards Gypsies, Travellers and Travelling Showpeople under the Housing Act 1985, the National Planning Policy Framework (NPPF) 2012, Planning Practice Guidance (PPG), and Planning Policy for Traveller Sites (PPTS) 2015, and the Housing and Planning Act 2016.
- 1.4 The baseline date for the study is **April 2016**.
- 1.5 The purpose of this GTAA update is to provide the London Borough of Lewisham with an overview of the levels of need that were identified during the fieldwork that was completed between April and May 2016.

The 'Planning Definition' in PPTS

- 1.6 For the purposes of the planning system, the definition was changed in the revised PPTS. The new definition is set out in Annex 1 and states that:

For the purposes of this planning policy "gypsies and travellers" means:

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) Whether they previously led a nomadic habit of life.*
- b) The reasons for ceasing their nomadic habit of life.*
- c) Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.*

For the purposes of this planning policy, "travelling showpeople" means:

Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health

needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers as defined above.

(Planning Policy for Traveller Sites, Department for Communities and Local Government (DCLG), August 2015)

- ^{1.7} The key change that was made to both definitions was the removal of the term *persons...who have ceased to travel permanently*, meaning that those who have ceased to travel permanently will not now fall under the planning definition of a Traveller for the purposes of assessing accommodation need in a GTAA.

Definition of Travelling

- ^{1.8} One of the most important questions that GTAs will need to address in terms of applying the new definition is *what constitutes travelling?* This has been determined through case law that has tested the meaning of the term ‘nomadic’.
- ^{1.9} **R v South Hams District Council (1994)** – defined Gypsies as “*persons who wander or travel for the purpose of making or seeking their livelihood (not persons who travel from place to place without any connection between their movements and their means of livelihood.)*” This includes ‘born’ Gypsies and Travellers as well as ‘elective’ Travellers such as New Age Travellers.
- ^{1.10} In **Maidstone BC v Secretary of State for the Environment and Dunn (2006)**, it was held that a Romany Gypsy who bred horses and travelled to horse fairs at Appleby, Stow-in-the-Wold and the New Forest, where he bought and sold horses, and who remained away from his permanent site for up to two months of the year, at least partly in connection with this traditional Gypsy activity, was entitled to be accorded Gypsy status.
- ^{1.11} In **Greenwich LBC v Powell (1989)**, Lord Bridge of Harwich stated that a person could be a statutory Gypsy if he led a nomadic way of life *only seasonally*.
- ^{1.12} The definition was widened further by the decision in **R v Shropshire CC ex p Bungay (1990)**. The case concerned a Gypsy family that had not travelled for some 15 years in order to care for its elderly and infirm parents. An aggrieved resident living in the area of the family’s recently approved Gypsy site sought judicial review of the local authority’s decision to accept that the family had retained their Gypsy status even though they had not travelled for some considerable time. Dismissing the claim, the judge held that a person could remain a Gypsy even if he or she did not travel, provided that their nomadism was held in abeyance and not abandoned.
- ^{1.13} That point was revisited in the case of **Hearne v National Assembly for Wales (1999)**, where a traditional Gypsy was held not to be a Gypsy for the purposes of planning law as he had stated that he intended to abandon his nomadic habit of life, lived in a permanent dwelling and was taking a course that led to permanent employment.
- ^{1.14} It is ORS’ understanding that the implication of these rulings in terms of applying the new definition is that it will **only include those who travel (or have ceased to travel temporarily) for work purposes and in doing so stay away from their usual place of residence**. It can include those who have a permanent site or place of residence, but that it will not include those who travel for purposes other than work – such as visiting horse fairs and visiting friends or relatives. It will in the view of ORS **not cover** those who commute to work daily from a permanent place of residence.

- ^{1.15} It will also be the case in our view that a household where some family members travel for nomadic purposes on a regular basis, but where other family members stay at home to look after children in education, or other dependents with health problems etc. the household unit would be defined as travelling under the new definition.
- ^{1.16} Households will also fall under the new definition if they can demonstrate that they have ceased to travel temporarily as a result of their own or their family's or dependants' educational or health needs or old age. In order to have ceased to travel temporarily these households will need to demonstrate that they have travelled in the past. In addition households may also have to demonstrate that they plan to travel again in the future.

2. Methodology

Background

- ^{2.1} Over the past 10 years, ORS has continually refined a methodology for undertaking robust and defensible Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessments. This has been updated in light of changes to the PPG in 2014, PPTS in August 2015 and the Housing and Planning Act in 2016, as well as responding to changes set out by Planning Ministers, with particular reference to new household formation rates. This is an evolving methodology that has been adaptive to changes in planning policy as well as the outcomes of Local Plan Examinations and Planning Appeals.
- ^{2.2} The revised PPTS published in August 2015 contains a number of requirements for local authorities which must be addressed in any methodology. This includes the need to pay particular attention to early and effective community engagement with both settled and traveller communities (including discussing travellers' accommodation needs with travellers themselves); identification of permanent and transit site accommodation needs separately; working collaboratively with neighbouring local planning authorities; and establishing whether households fall within the new definition for Gypsies, Travellers and Travelling Showpeople.
- ^{2.3} The approach currently used by ORS has recently been considered by the Planning Inspector for the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy who concluded:
- 'The methodology behind this assessment included undertaking a full demographic study of all occupied pitches, interviewing Gypsy and Traveller households, including those living in bricks and mortar accommodation, and considering the implications of the new Government policy. On the evidence before me, I am satisfied that the assessment has been appropriately carried out, and there is no reason for me to dispute the figures.'*
- ^{2.4} The stages of the methodology that was used to complete this update are set out below.
- » Desk-Based Review
 - » Survey of Travelling Communities
 - » Engagement with Bricks and Mortar Households
 - » Calculating Current and Future Need.

3. New PPTS Definition

- ^{3.1} The primary change introduced by PPTS (2015) in relation to the assessment of need is the change in the definition of a Gypsy, Traveller or Travelling Showperson for planning purposes. Through the site interviews ORS sought to collect information necessary to assess each household against the new definition. As the new PPTS has only recently been issued only a small number of relevant appeal decisions have been issued by the Planning Inspectorate on how the new definition should be applied – these support the view that households need to be able to demonstrate that they travel for work purposes to meet the new definition, and stay away from their usual place of residence when doing so.

Non-Travelling Households

- ^{3.2} Whilst households who do not travel fall outside the new definition of a Traveller, Romany Gypsies and Irish and Scottish Travellers may be able to demonstrate a right to culturally appropriate accommodation under the Equalities Act 2010. In addition provisions set out in the new Housing and Planning Act (2016) now include a duty (under Section 8 of the 1985 Housing Act that covers the requirement for a periodical review of housing needs) for local authorities to consider the needs of people residing in or resorting to their district with respect to the provision of sites on which caravans can be stationed, or places on inland waterways where houseboats can be moored. Draft Guidance¹ related to this section of the Housing and Planning Act has been published setting out how the government would want local housing authorities to undertake this assessment and it is the same as the GTAA assessment process. The implication is therefore that the housing needs of any Gypsy and Traveller households who do not meet the new ‘planning’ definition of a Traveller will need to be assessed as part of the wider housing needs of the area, for example through the SHMA process, and will form a subset of the wider need arising from households residing in caravans.

Unknown Households

- ^{3.3} As well as calculating need for households that meet the new ‘planning’ definition, the needs of the households where an interview was not completed (either due to refusal to be interviewed or households that were not present during the fieldwork period) need to be assessed as part of the GTAA where they are believed to be ethnic Gypsies and Travellers who **may** meet the new definition. Whilst there is no law or guidance that sets out how the needs of these households should be addressed, an approach has been taken that seeks an estimate of potential need from these households. This will be a maximum additional need figure over and above the need identified for households that do meet the new definition.
- ^{3.4} The estimate seeks to identify potential current and future need from many pitches known to be temporary or unauthorised, and through new household formation. For the latter the national rate of 1.50% has been used as the demographics of residents are unknown. This approach is consistent with the outcomes of a recent Planning Appeal where access to a site was not possible but basic

¹ “Draft guidance to local housing authorities on the periodical review of housing needs for caravans and houseboats.” (March 2016)

information was known about the number of households residing there. (Planning Inspectorate Ref: APP/Z6950/A/14/2212012).

- 3.5 Should further information be made available to the Council that will allow for the new definition to be applied, these households could either form a confirmed component of need to be included in the GTAA or the SHMA.
- 3.6 ORS are of the opinion that it would not be appropriate when producing a robust assessment of need to make any firm assumptions about whether or not households where an interview was not completed meet the new definition based on the outcomes of households where an interview was completed. However, data that has been collected from over 1,250 household interviews that have been completed by ORS since the changes to PPTS in 2015 suggests that overall approximately 10% of households who have been interviewed meet the new definition – and in some local authorities, particularly London Boroughs, 100% of households do not meet the new definition. This would suggest that it is likely that only a small proportion of the potential need identified from these households will need new Gypsy and Traveller pitches, and that the needs of the majority will need to be addressed through the SHMA.
- 3.7 Councils will need to carefully consider how to address the needs associated with ‘Unknown’ Travellers in Local Plan policies as it is unlikely that all of this need will need to be addressed through the provision of Gypsy or Traveller pitches. In terms of Local Plan policies the Councils could consider the use of a specific site allocation/protection policy for those households that do meet the new definition, together with a criteria-based policy (as suggested in PPTS) for any unknown households that do provide evidence that they meet the definition.

Applying the New Definition

- 3.8 When the household survey was completed the outcomes from the questions on travelling were used to determine the status of each household against the new definition in PPTS. The same definition issue applies to Travelling Showpeople as to Gypsies and Travellers. As this point ORS think that households that need to be considered in the GTAA fall under one of 3 classifications that will determine whether their housing needs will need to be assessed in the GTAA. Only those households that meet, or may meet, the new definition will form the components of need to be included in the GTAA. Whilst the needs of those households that do not meet the new definition do not need to be included in the GTAA, they will be assessed to provide the Council with components of need to consider as part of the SHMA.
- » Households that travel under the new definition.
 - » Households that have ceased to travel temporarily under the new definition.
 - » Households where an interview was not possible who may fall under the new definition.

4. Survey of Travellers

Interviews with Gypsies, Travellers and Travelling Showpeople

- 4.1 One of the major components of this study was a detailed survey of the Gypsy, Traveller and Travelling Showpeople population living in Lewisham.
- 4.2 There are no sites for Gypsy, Traveller or Travelling Showpeople in Lewisham.
- 4.3 According to the 2011 census there are 93 Gypsy and Travellers in bricks and mortar accommodation in Lewisham (36 in a house or bungalow and 57 in a flat). ORS sought to engage with housed Travellers through the outreach support worker. ORS facilitated a drop-in session on the 13th April 2016 at Wesley Halls and completed an interview with one family.
- 4.4 Considering the low turnout at this session, Lewisham made the decision to allow the outreach support worker to carry out further interviews with members of the community independently from ORS. A further ten interviews were completed via this approach.
- 4.5 While we appreciate that without the support of the outreach worker, ORS would not have obtained the additional ten interviews, however, considering these were not carried out by independent ORS interviewers ORS cannot confirm the robustness of the data collected during the interviews.

5. Current and Future Pitch Provision

Applying the New Definition

- 5.1 The outcomes from the questions in the household survey on travelling were used to determine the status of each household against the new definition in PPTS. This assessment was based on the verbal responses to the questions given to interviewers as it is understood that oral evidence is capable of being sufficient when determining whether households meet the new definition. Only those households that meet the new definition, in that they were able to demonstrate that they travel for work purposes, and stay away from their usual place of residence when doing so – or that they have ceased to travel temporarily due to education, ill health or old age, form the components of need that will form the baseline of need in the GTAA. Households where an interview was not completed who **may** meet the new definition have also been included as a potential additional component of need from ‘unknown’ households.
- 5.2 Information that was sought from households where an interview was completed allowed each household to be assessed against the new ‘planning’ definition of a Traveller. This included information on whether households have ever travelled; why they have stopped travelling; the reasons that they travel; and whether they plan to travel again in the future. The table below sets out the travelling status of households that were interviewed.

| Area of Current Residence | Meets New Definition | Does Not Meet New Definition |
|-------------------------------|----------------------|------------------------------|
| Gypsies and Travellers | | |
| Lewisham | 3 | 2 |
| Non - Lewisham | 6 | 0 |
| Sub-Total | 9 | 2 |

- 5.6 For those households that are currently living in Lewisham three appear to meet the new travelling definition and 2 did not meet the new definition as they were not able to demonstrate that they travel away from their usual place of residence for the purpose of work, or that they have ceased to travel temporarily due to children in education, ill health or old age.
- 5.7 All 6 households not living in Lewisham appear to meet the new definition.

- 5.8 There were three Gypsy or Traveller households that meet the new definition.
- 5.9 The needs of the households in Lewisham that meet the new definition are for an **additional 6 pitches**. This is made up of 3 adult households and 3 households through new household formation.

Figure 1 – Additional Need for ‘Travelling’ Households by 5 Year Periods

| Years | 0-5 | 6-10 | 11-15 | |
|-----------------------|---------|---------|---------|----------|
| | 2016-21 | 2021-26 | 2026-31 | Total |
| Lewisham – Travelling | 3 | 2 | 1 | 6 |

Pitch Needs – ‘Non-Lewisham’ Gypsies and Travellers

- 5.10 During the research six interviews were completed with households who are living in neighbouring boroughs. Whilst these households appear to meet the new travelling definition they do not live in the Borough and the majority did not just specify Lewisham as a place they would like to live. Whilst need from households that live outside of the Borough do not need to be included in the GTAA, for illustrative purposes only the needs of the households are for an additional 11 pitches. This is made up of 9 adult households, a need for 3 pitches for older teenage children and 2 households through new household formation.

Figure 3 – Additional Need for ‘Non Lewisham’ Households by 5 Year Periods

| Years | 0-5 | 6-10 | 11-15 | |
|---------------------------|---------|---------|---------|-----------|
| | 2016-21 | 2021-26 | 2026-31 | Total |
| Lewisham - Non Travelling | 9 | 1 | 1 | 11 |

- 5.11 Considering that the households do not currently reside in the Lewisham area and did not just specify Lewisham as a place they would like to live, we feel the Council should work with neighbouring authorities to consider their accommodation needs.

Travelling Showpeople Needs

- 5.12 There is no need for Travelling Showpeople.

Transit Sites / Temporary Stopping Places

- 5.13 There is the possibility that changes to PPTS could result in increased levels of travelling but it is not recommended that there is a need for the Council to consider any transit provision at this time – as evidence from unauthorised encampment data shows there were only 18 unauthorised encampments from April 2015 to early 2016.
- 5.14 The situation relating to levels of unauthorised encampments by households that meet the new definition of a Traveller, and occupation levels of any unauthorised roadside encampments, should however be continually monitored whilst the changes associated with the new PPTS develop, and the Council should consider the use of short-term toleration or negotiated stopping agreements to deal with any encampments.

Housing Needs – ‘Non-Travelling’ Gypsies and Travellers

- 5.15 Whilst need from households that did not meet the new definition do not need to be included in the GTAA, for illustrative purposes only the needs of the households are for an additional 6 pitches. This

is made up of 3 adult households, a need for 1 pitch for older teenage children and 2 households through new household formation.

- ^{5.16} The Council (a) needs to monitor need for Gypsy and Travellers that meet the definition, as this may change over time, and (b) make sure it picks up the need of non-travelling Gypsy and Travellers in its Strategic Housing Market Assessment.