



Gypsy/Travellers and the Scottish Planning System
A Guide for Elected Members
#3 in a series of 5

Gypsy/Travellers and the Planning System - 2015

This guide forms part of a series of five on Gypsy/Travellers and the Scottish planning system, as listed below:

#1 Gypsy/Travellers and the Scottish Planning System - A Guide for Gypsy/Travellers

#2 Gypsy/Travellers and the Scottish Planning System - A Guide for Local Authorities

#3 Gypsy/Travellers and the Scottish Planning System - A Guide for Elected Members

#4 Gypsy/Travellers and the Scottish Planning System - A Guide for Community Councillors

#5 Gypsy/Travellers and the Scottish Planning System - A Briefing for the Media

Contents

1. Introduction	7	5. The responsibilities of Local Authorities	22
Elected Members and the planning system	7	6. The responsibilities of Elected Members	23
2. Background information	9	7. Gypsy/Travellers and Development Planning	25
Terminology	9	8. Gypsy/Travellers and Development Management	33
History	9	Elected Members as decision-makers	33
Population	10	Prejudices and stereotypes	34
3. Gypsy/Traveller culture	11	Fear vs. reality	35
Family	11	The role of the media	36
Education	12	Material considerations	36
Health & hygiene	12	Racist representations	38
Employment	13	Communicating with Gypsy/Traveller members of the community	39
Discrimination	14	9. Summary	41
Accommodation	15	Useful Contacts	Back cover
4. The benefits of Gypsy/Traveller sites	19		

Acknowledgements

We would like to thank all those who contributed to this project and to the creation of this series of guides, in particular: PAS Associates and Volunteers (including Stewart Inglis, Dr Simon Ruston, Forbes Marr, Alan Seath, Irene Beautyman, Kathryn Hilditch and Brenda Clough), the Scottish Government (Directorate for Local Government & Communities, Directorate for Housing, Regeneration and Welfare), COSLA, SEPA, the four Local Authorities who engaged in this project (Perth & Kinross Council, Aberdeenshire Council, Fife Council and Inverclyde Council's Planning, Housing, Education and Environmental Health Departments), other Local Authorities who also contributed (Aberdeen City, East Lothian, South Lanarkshire), Article 12 in Scotland, MECOPP, the Equality and Human Rights Commission (EHRC), Damian Le Bas (Travellers' Times), representatives of the Gypsy/Traveller community, representatives from Community Councils in Fife and Aberdeenshire, Elected Members from Perth & Kinross and Aberdeenshire who participated in training sessions, Young Placemakers who took part in various training sessions (including young people from Mintlaw Academy, Peterhead Academy, Fraserburgh Academy and Kinross High School) and Young Placemaker volunteers (including Stephanie Simpson and Katy Rodger).

Funded by the Equality, Human Rights and Third Sector Division of the Scottish Government.

Ministerial Foreword



The Gypsy/Traveller community is an important Scottish community, with a long and proud history. Gypsy/Travellers have made, and continue to make, a significant contribution to Scotland.

Unfortunately, Gypsy/Travellers also face many challenges and barriers to accessing services and participating in society, in ways that most people take for granted. This includes securing good quality accommodation that meets their cultural needs and has the amenities that people need for everyday living.

The Scottish Government is fully committed to meeting the needs of Scotland's Gypsy/Travellers. Our role is to set a robust framework and promote good practice, so that those needs can be properly assessed and met at a local level. To this end, we are working to develop an overarching strategy and action plan for Gypsy/Travellers in Scotland.

As part of our work, we want to promote good practice in relation to Gypsy/Traveller sites. Dialogue is the best way of increasing trust, understanding and respect between our diverse communities. We have, therefore, been pleased to fund and support PAS in its Gypsy/Travellers as Young Change Makers project. The purpose of this project was to increase awareness and knowledge of the planning system and engagement between Gypsy/Travellers, planning professionals, elected members and community councillors.

These guides have been produced by PAS, and represent its advice and views on Gypsy/Travellers and planning in Scotland. Those views are, quite rightly, independent of the Scottish Government. The guides are the end product of the Gypsy/Travellers as Young Change Makers project and the result of engagement and wide ranging discussions. I hope the guides will be well-used and that they will give all concerned the information and knowledge to meet the needs of Scotland's Gypsy/Travellers.

Alex Neil MSP, Cabinet Secretary for Social Justice, Communities and Pensioners' Rights



Foreword



This series of guides has been developed by PAS to help raise awareness of Scottish Gypsy/ Traveller culture, and how this impacts upon land use planning for their needs.

I believe Gypsy/Travellers' unique culture should be celebrated and recognised in Scotland.

I very much hope you enjoy reading this guidance. It sets out clear and realistic means of improving Community Councillors good practice when considering the accommodation needs and expectations of Gypsy/Travellers, as a recognised ethnic group, living in Scotland.

Councillor Harry McGuigan, COSLA Local Government Spokesperson for Community Wellbeing and Safety



Photo: Graham Noble

Elected Members and the planning system

Local Authority Elected Members have a range of responsibilities, including executive decision-making, political leadership, community representation and the overview and scrutiny of policy. Most importantly from a planning perspective, they are responsible for the adoption of the Local Development Plan and have key decision-making roles in determining certain applications for planning permission and in Local Review Bodies.

Planning aims to make housing, health, employment, education, other public services, shopping, leisure and recreational facilities available to all members of the community. The Scottish Government requires Local Authorities to make proper provision of accommodation for Gypsy/Travellers. Unfortunately, Scottish Gypsy/Travellers have all too often found that the planning system does not always provide their community with the service and outcomes due to them as citizens and as a recognised ethnic group.

Under the *Human Rights Act 1998* and the *Equality Act 2010*, public authorities must have due regard to human rights, equality and diversity when exercising their functions. It is important to note that Scottish Gypsy/Travellers are recognised as an ethnic group for the purposes of the *Equality Act 2010*¹, and as such the **Public Sector Equality Duty** (PSED) is of relevance². This requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with a protected characteristic and people without. This duty covers Local Authorities, their staff and Elected Members.

1. Employment Tribunals (Scotland) Case No: S/132721/07 23rd June 2008

2. Equality Act 2010, Section 149

1 | Introduction

This guide aims to raise awareness of Gypsy/Traveller culture and how this impacts upon land use planning for their needs. It sets out the legislative and policy obligations that Local Authorities have to the Gypsy/Traveller community, and offers guidance for improving professional practice and decision-making in development planning and development management to meet the needs and expectations of Gypsy/Travellers living in Scotland.

2 | Background information

Terminology

The official Scottish Government term for people in the Travelling community is **'Gypsy/Traveller'** and that is what is used throughout this guide³. Not all members of the Travelling community accept or identify with this term, which covers Scottish, English, Irish and Welsh Travellers. Many in Scotland choose to go by the terms 'Scottish Traveller', or simply 'Traveller'. It is important to understand that these are not a single group but a diverse set of communities, with differing identities, cultures, histories, lifestyles and languages⁴.

Since 2008, the Gypsy/Traveller community has been recognised by the Scottish Government as an ethnic group, with consequent protection from discrimination⁵.

Those outwith the Gypsy/Traveller community are referred to as the 'settled community'.

History

There is uncertainty around the origins of the Gypsy/Traveller community in Scotland. What is known is that there has been a Gypsy/Traveller presence in the country for several centuries. Twelfth century documents mention itinerant smiths who travelled looking for work, and dealing with metals remains a significant business activity for Gypsy/Travellers.

3. Scottish Government, accessed 28.10.14, '*Gypsy/Travellers*', <http://www.scotland.gov.uk/Topics/People/Equality/gypsiestravellers>

4. Cadger, B. (2012) *What A Voice*, Article 12 in Scotland

5. Scottish Government, accessed 28.10.14, '*Gypsy/Travellers*', <http://www.scotland.gov.uk/Topics/People/Equality/gypsiestravellers>

2 | Background information

Unfortunately, legal discrimination of the community also has a long history, with laws passed from the 16th century onwards which persecuted Gypsy/Travellers. In 1609 the Scottish Parliament passed the '*Act against the Egyptians*', which made it lawful to condemn, detain and execute people solely on the basis of them being known or suspected Gypsies. The process of repealing such laws only began in the late 18th century⁶.

More positively, Gypsy/Travellers are justly proud of their part in Scottish history, especially the service of the community in the armed forces and home front in both world wars. This is in addition to their varied contributions to Scottish culture, art and music⁷.

Population

The size of the Gypsy/Traveller population in Scotland is contested. In the 2011 Census, 4,200 people in Scotland identified themselves as 'White: Gypsy/Traveller'⁸. However, not all Gypsy/Travellers are willing to be identified as such. Organisations working with the Gypsy/Traveller community in Scotland have estimated the true figure to be in the order of 15,000-20,000 people, which may itself be an underestimate⁹.

3 | Gypsy/Traveller culture

Members of the Gypsy/Traveller community are also members of the wider local community. They live and work in the same area, send their children to the same schools, drive on the same roads and use the same shops and GP surgeries. Many of the concerns of settled residents will be shared by the Gypsy/Traveller population.

Despite these common interests, Gypsy/Travellers present the planning system with a set of very specific needs. Various aspects of Gypsy/Traveller culture and an often difficult relationship with the settled community have an influence over planning and built environment matters.

Family

Family is highly important in Gypsy/Traveller culture, and it is common for extended families to live, work and travel together¹⁰. If they are to be of practical use then sites need to be able to accommodate these larger groups and their caravans, trailers and vehicles.

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6. Cadger, B. (2012) *What A Voice*, Article 12 in Scotland
 7. Equality and Human Rights Commission (2013) *Gypsy Travellers In Scotland-A resource for the media*
 8. National Records of Scotland (2013) *2011 Census: Key Results on Population, Ethnicity, Identity, Language, Religion, Health, Housing and Accommodation in Scotland - Release 2A*
 9. Equality and Human Rights Commission (2013) *Gypsy Travellers In Scotland-A resource for the media*
 10. Cadger, B. (2012) *What A Voice*, Article 12 in Scotland

Education

Generally speaking, the Gypsy/Traveller community places emphasis on teaching practical and vocational skills to their children, which are usually passed on through practical learning and oral instruction¹¹.

This does not mean that Gypsy/Travellers are not interested in their children receiving mainstream education. There is an increased recognition of the value of formal learning and qualifications, but this desire for children to attend school has been frustrated by discrimination and bullying, and through uncertainty over accommodation. Gypsy/Traveller families who have no secure base or reliable stopping places are at continual risk of being moved on. As a result, children are often unable to attend school, or end up attending a string of schools in a short space of time. This severely disrupts their education and has a long-term negative impact on their skills and employment prospects¹².

Health & hygiene

Overcrowded and substandard sites, the stress associated with being moved on, and discrimination and harassment from the settled community all contribute to diminishing health. For many, a lack of suitable and secure accommodation limits regular access to GP surgeries and clinics, worsening conditions and contributing to Gypsy/Travellers suffering a disproportionate level of physical and mental health problems. As a result of these conditions, many are forced to cease travelling and move into bricks and mortar housing. Gypsy/Travellers have a life expectancy between 10 and 12 years lower than the settled community average¹³ and higher than average infant mortality rates^{14, 15}.

Cleanliness is considered to be very important in Gypsy/Traveller culture, and this manifests itself in their accommodation. Toilets and bathing facilities are usually separated from kitchen and food preparation areas. This means that separate utility and bathroom units are a common feature of sites¹⁶.

Employment

Self-employment is very prevalent among the Gypsy/Traveller community. Common occupations include construction, landscaping, gardening, and dealing in scrap metals and other goods^{17,18}. These businesses usually require vehicles and often plant and other equipment. Therefore, sites should provide adequate parking and storage space.

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11. *ibid.*
 12. Equality and Human Rights Commission (2009) *'Inequalities experienced by Gypsy and Traveller communities: A review'*
 13. Lane, P., Spencer, S. and Jones, A. (2014) *'Gypsy, Traveller and Roma: Experts by Experience'*
 14. Equality and Human Rights Commission (2009) *'Inequalities experienced by Gypsy and Traveller communities: A review'*
 15. Cadger, B. (2012) *'What A Voice'*, Article 12 in Scotland
 16. *ibid.*
 17. *ibid.*
 18. Lane, P., Spencer, S. and Jones, A. (2014) *'Gypsy, Traveller and Roma: Experts by Experience'*

Work is often seasonal, and employment opportunities are usually the reason behind the movement of Gypsy/Traveller families. Having secure accommodation ensures that they have somewhere to return when these periods are over, and can be sure of somewhere to safely store their vehicles and equipment.

Working patterns have evolved, and new sites are required in areas where there was perhaps less or no demand in the past. In the past, Gypsy/Travellers were well known for their seasonal agricultural work, but in recent years they have been largely displaced by mechanisation and other groups. Site provision needs to match these changed realities.

Discrimination

Unfortunately, discrimination has been an everyday fact of life for Gypsy/Travellers for centuries. While there have been some improvements, in many instances Gypsy/Travellers continue to be treated unequally. In the *Scottish Social Attitudes Survey* (2011), 37% of respondents said they would be unhappy with a close family member forming a relationship with a Gypsy/Traveller, while 46% felt that a Gypsy/Traveller would be unsuitable for the job of a primary school teacher¹⁹. Approximately 90% of Gypsy/Traveller children have suffered racial abuse, and nearly two thirds have been subjected to bullying or physically assault²⁰.

Even when no deliberate discrimination is intended, a lack of knowledge or understanding can be just as detrimental, especially when service providers work on the basis of assumptions and stereotypes.

Accommodation

A nomadic lifestyle is the most notable aspect of Gypsy/Traveller culture. Some Gypsy/Travellers are always on the move, while many may only have seasonal movement and a permanent base for the rest of the year. Others still for various reasons, such as age or health issues, have ceased to travel and reside full time in 'bricks and mortar' housing. It is worth stressing that, regardless of their current or future living arrangements, individuals should still be recognised as belonging to the Gypsy/Traveller community.

There are three principle types of Gypsy/Traveller site:

- **Permanent sites** provide residents with permanent accommodation. These can be run by Local Authorities or registered social landlords, or privately owned by their residents. Gypsy/Travellers typically stay on-site for the majority of the year, only travelling for a few weeks.
- **Transit sites** are permanent developments which are only used temporarily by their residents, usually when they are en route between more long-term locations. They provide more basic amenities than permanent sites.
- **Stopping places** are pieces of land where Gypsy/Travellers have traditionally stayed for short periods of time.

19. Scottish Centre for Social Research (2011) *'Scottish Social Attitudes survey 2010: Attitudes to discrimination and positive action'* (2011)

20. Lane, P., Spencer, S. and Jones, A. (2014) *'Gypsy, Traveller and Roma: Experts by Experience'*

3 | Gypsy/Traveller culture

It is important to understand that Gypsy/Travellers pay for their accommodation. Public sites are not free, and in fact some Local Authorities charge more rent for Gypsy/Traveller pitches than they do for council houses. In 2012, the average pitch rental rate was £62 a week²¹. In some Local Authorities this sum includes council tax, while in others council tax is charged separately. In return for these payments, site residents get space to park their personal vehicle and caravan, and access to basic bathing and toilet facilities. Residents of private sites are also liable for council tax, and some also pay rent to the owners of their site.

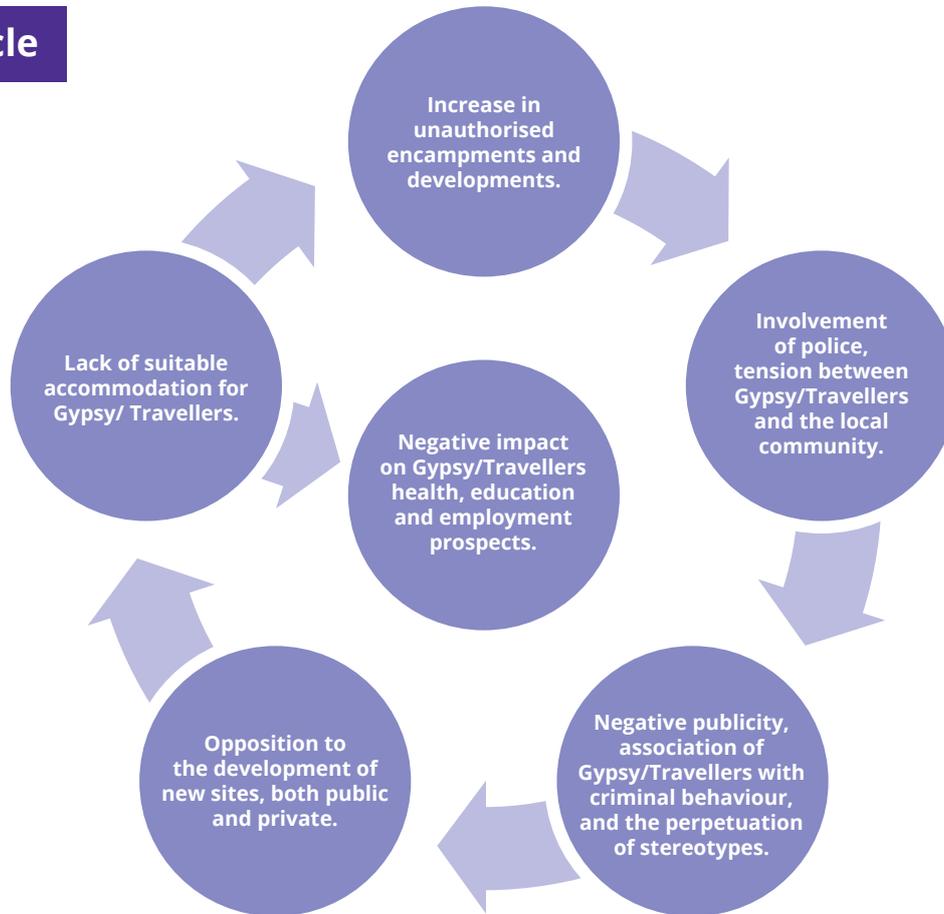
Research has indicated that there is a general preference among Gypsy/Travellers for private sites, with the desire for self-sufficiency and independence often cited as reasons for this. Furthermore, private sites are seen as giving a level of security to their residents, allowing them to avoid potential conflict with other Gypsy/Traveller families, which can occur on public sites, and to ensure that future generations will have accommodation when they form their own families²².

However, as with the settled community, the circumstances of individual Gypsy/Travellers vary, and not all can afford to develop their own sites or pay private rental rates. There needs to be a range of tenure available, and there is a role for socially rented sites.

21. Equality and Human Rights Commission (2013) *'Gypsy Travellers In Scotland-A resource for the media'*

22. Brown, P. (2015) *'Developing Successful Site Provision for Scotland's Gypsy/Traveller Community'*, EHRC

Vicious Circle



Accommodation is one of the most important issues faced by the Gypsy/Traveller community, and has an impact on a wide range of other issues. A lack of permanent sites (both public and private), and the blocking of many traditional stopping places, has contributed to a rise in unauthorised encampments on accessible but often unsuitable land. This has caused tension between Gypsy/Travellers and landowners, the settled community and the authorities. These tensions generate press coverage, usually negative, which creates and enforces an association of Gypsy/Travellers as a whole with criminality and antisocial behaviour. This builds upon existing prejudice and creates resistance to the development of suitable accommodation for Gypsy/Travellers and opposition to applications to develop such sites^{23, 24}.

If no legal alternatives are approved, unauthorised encampments and developments may continue to increase. An ongoing need will remain unsatisfied, and community tensions will continue to be generated. Furthermore, and most significantly, Gypsy/Travellers will continue to lose out on equal access to health, education, employment opportunities etc. (see **Vicious Circle** diagram on previous page).

4 | The benefits of Gypsy/Traveller sites

As a result of the under-provision of sites, whether public or private, there are ongoing issues with Gypsy/Travellers camping on land which they do not own (unauthorised encampments) or developing their own land without planning permission (unauthorised developments). When unauthorised sites are discovered, those resident will be asked to submit an application for Retrospective Planning Permission. Should this be refused, enforcement action including eviction proceedings may follow.

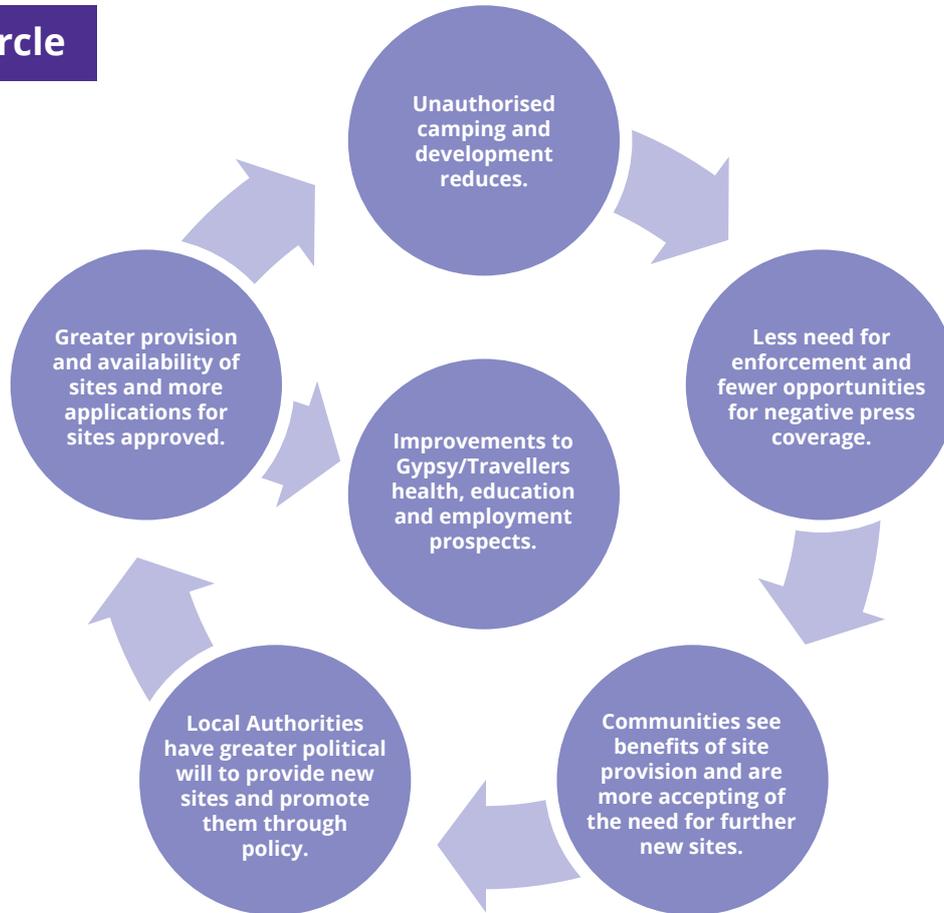
Dealing with such cases costs time, money and effort for all concerned: Local Authorities, landowners, the police, courts and Gypsy/Travellers themselves. It creates negative impressions of the Gypsy/Traveller community as a whole, a problem often exacerbated by media coverage. This fuels community tensions, and ensures that Gypsy/Travellers will continue to lose out on equal access to public services and opportunities in areas such as employment and education.

The solution is to increase the supply and range of authorised sites, both public and private. The most obvious benefits of this are to provide secure accommodation, which should result in a reduction in unauthorised sites, and with it the source of much of the ill-feeling directed at the Gypsy/Traveller community. The wider benefits are that secure accommodation allows Gypsy/Travellers access to public services, amenities and opportunities for work, education and recreation. In time this contributes to reducing inequality within society, narrowing the gap between the settled community and Gypsy/Travellers and providing overall improvements in community relations (See **Virtuous Circle** diagram on following page).

23. Equality and Human Rights Commission (2009) *'Inequalities experienced by Gypsy and Traveller communities: A review'*

24. Brown, P. (2015) *'Developing Successful Site Provision for Scotland's Gypsy/Traveller Community'*, EHRC

Virtuous Circle



4 | The benefits of Gypsy/Traveller sites

As well as the very real improvements to community relations and equality of opportunity, investing in accommodation for the Gypsy/Traveller community can produce financial benefits. While public site provision presents some upfront construction and ongoing maintenance costs, it can also, in time, translate into significant savings for Local Authorities and police as enforcement, clean-up and other associated costs decline. By way of example, Bristol City Council used to spend an average of £200,000 per year on enforcement and clean-up. Following development of a residential and transit site, at a cost of £425,000, those enforcement costs declined dramatically to only around £5,000 per year²⁵. The savings can then be used more productively and to the benefit of the local community. Furthermore, new sites can be a source of revenue, through payments for socially rented accommodation, and through council tax charges for private sites²⁶.

Policies for private site development allow demand to be met as and when it emerges, with the Local Authority acting as facilitator rather than provider. The costs to Local Authorities are therefore minimal. Furthermore, development of more private sites can free up space in public sites and therefore help to address overcrowding and excess demand.

25. Department for Communities and Local Government, *Local authorities and Gypsies and Travellers: a guide to responsibilities and powers* (2007)

26. Brown, P. (2015) *Developing Successful Site Provision for Scotland's Gypsy/Traveller Community*, EHRC

5 | The responsibilities of Local Authorities

Local Authorities are responsible for the delivery of a range of services, including housing, education, environmental health, and planning. Gypsy/Travellers are as entitled to benefit from these public services as the settled community.

In the field of planning, Local Authorities have a number of legislative duties and policy requirements in relation to planning for Gypsy/Travellers. Under the *Human Rights Act 1998* and the *Equality Act 2010*, they must have due regard to human rights, equality and diversity when exercising their functions. It is important to note that Scottish Gypsy/Travellers are recognised as an ethnic group for the purposes of the *Equality Act 2010*²⁷, and as such the **Public Sector Equality Duty** (PSED) is of relevance²⁸. This requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with a protected characteristic and those without. This duty covers Local Authorities, their staff and Elected Members.

Under Scottish Planning Policy (SPP) (2014), Local Authorities are required to plan for the current and future needs of the Gypsy/Traveller community, and involve the Gypsy/Traveller community in the process of planning and decision-making which impacts upon them.

In comparison to the wider housing needs of the settled community, the scale of the accommodation required by the Gypsy/Traveller community is small, but it cannot be overlooked. Decent homes are needed for any sustainable community, and Gypsy/Traveller individuals and their families are no exception to this principle. Dealing with the accommodation needs of Gypsy/Travellers is the most direct means of tackling wider problems of inequality and social cohesion²⁹.

6 | The responsibilities of Elected Members

The *Councillors' Code of Conduct* (2010)³⁰ sets out what is expected of Elected Members as they conduct the business of the local authority. It contains a number of Principles which are directly relevant to working towards the elimination of discrimination, advancing equality of opportunity and fostering good community relations. These include:

Duty. *You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the Council as a whole and all the communities served by it and a duty to be accessible to all the people of the area for which you have been elected to serve, and to represent their interests conscientiously.*

Accountability and Stewardship. *You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others, and you must ensure that the Council uses its resources prudently and in accordance with the law.*

Respect. *You must respect all other councillors and all Council employees and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties as a Councillor.*

27. Employment Tribunals (Scotland) Case No: S/132721/07 23rd June 2008

28. Equality Act 2010, Section 149

29. Brown, P. (2015) *Developing Successful Site Provision for Scotland's Gypsy/Traveller Community*, EHRC

30. Scottish Government (2010) *The Councillors' Code of Conduct* (3rd Edition)

6 | The responsibilities of Elected Members

Openness. *You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.*

Leadership. *You have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of the Council and its councillors in conducting public business.*

Taken as a whole, the *Code of Conduct* requires Elected Members to not engage in or encourage racist or discriminatory behaviour and opinions, and also to challenge these where they exist and work to promote positive community relations. Elected Members have the power to make a positive difference to the lives of Gypsy/Travellers and enhance community relations through constructive engagement in planning for Gypsy/ Traveller accommodation.

7 | Gypsy/Travellers and Development Planning

Scottish Planning Policy (SPP) (2014) considers Gypsy/Traveller accommodation under Specialist Housing Provision and Other Specific Needs, and states that:

'HNDAs [Housing Need and Demand Assessments] will also evidence need for sites for Gypsy/Travellers and Travelling Showpeople. Development plans and local housing strategies should address any need identified, taking into account their mobile lifestyles. In city regions, the strategic development plan should have a role in addressing cross-boundary considerations. If there is a need, local development plans should identify suitable sites for these communities. They should also consider whether policies are required for small privately-owned sites for Gypsy/Travellers, and for handling applications for permanent sites for Travelling Showpeople (where account should be taken of the need for storage and maintenance of equipment as well as accommodation). These communities should be appropriately involved in identifying sites for their use.' (Para. 133, pg. 32)

The following section considers in detail the individual requirements of this policy, as applied to development planning. Elected Members have a responsibility for ensuring that their involvement in development planning facilitates and supports these policy requirements:

1. Include Gypsy/Travellers in housing need and demands assessments.

The Local Development Plan is informed by Housing Need and Demand Assessments (HNDAs). While these are conducted by housing officers, close liaison with planning officers can help determine the scope and approach of the HNDAs to Gypsy/Travellers issues. Local Authorities have a responsibility to ensure that their HNDA process is effective and considers diverse needs and demands.

2. Address identified need in development plans and housing strategies.

Overcrowding and an increase in unauthorised encampments are both indicators of inadequate site availability. Therefore, built-in extra capacity is vital to meet both current requirements and any future growth. Local Housing Strategies need to recognise both the current and future accommodation needs of Gypsy/Travellers, and their aspirations for the type and location of that accommodation. The purpose of assessment is not just to obtain data but to establish whether further action is required. If there are identified shortfalls, there must be subsequent outcomes in the form of new allocations and/or appropriate policies in local development plans.

3. City regions should address need in strategic development plans.

Given the nomadic lifestyle of many Gypsy/Travellers, there needs to be a consideration of demand and provision that is fluid and not constrained by Local Authority borders. A regional, cross-authority approach to establishing population and demand levels could be beneficial. However, this should not be seen as a basis for Local Authorities to consolidate provision into fewer, larger sites. Doing so limits the accommodation choices of Gypsy/Travellers. Smaller, more numerous sites are generally preferable.

4. Local development plans should respond to identified need by making site allocations.

Local Authorities are required to adequately assess and make any necessary public provision for Gypsy/Travellers in their Local Authority areas, and should take proactive steps to facilitate private site development. Private site development presents Local Authorities with minimal costs. However, not all Gypsy/Travellers can afford to buy land and develop their own accommodation, so there is a continuing role for public provision.

Site allocations need to be realistic reflections of the needs of Gypsy/Travellers and provide a range of accommodation options, in terms of both site type and geography.

As noted in the **Accommodation** section above, there are three types of Gypsy/Traveller site: permanent sites, transit sites and stopping places. Problems have emerged from a lack of permanent sites, while many long-standing stopping places have been blocked off in the past couple of decades, which has coincided with the overall increase in unauthorised encampments.

Whether they are public or private developments, permanent sites need to be sustainable, to be reasonably close to essential services and transport links, and to work in basic planning terms. Among the key aspects to consider when identifying suitable sites are:

- **Size of site/number of pitches.** For public site provision, smaller, more numerous sites are generally preferable to larger sites. This offers a wider choice of accommodation and allows flexibility for different groups. Private sites tend to have 1-5 pitches and can accommodate one or two families. As extended family groups are common, sites need to be able to realistically accommodate residents.

- **Location.** A number of existing local development plan policies concern themselves with location, usually with regards to how close sites can be to settlements. It is important that these policies are realistic about access to essential services. A good degree of flexibility is required given the cost of development land in built-up areas.
- **Type of land.** Sites should not be on or near contaminated land or sites at risk of flooding. In some Local Authority areas Green Belt land forms a significant amount of available land. Serious consideration should be given as to whether the benefits of granting permission for sites on Green Belt land outweigh the purpose of the designation.
- **Water, electricity and sewage.** Sites need to be able to be supplied with all the essential services. There should be flexibility with regards to connections to public supplies and networks if self-contained solutions exist. Public sites should include amenity blocks for toilets, bathing, utilities and cooking facilities, bearing in mind cultural sensitivities around the separation of cooking, bathing and living spaces.
- **Roads and access.** Safe and easy access for vehicles is important. Sites should be easy to reach from main roads, but usually not right beside them. They should avoid causing significant volumes of additional traffic. Layout and parking arrangements should reflect Gypsy/Travellers' everyday lives. Given the nature of many occupations and businesses, there should be enough parking for work vehicles in addition to caravan stances and cars. In light of seasonal movement, consideration should be given to allocating enough space for both permanent and touring caravans, and potentially also for those of visitors.

- **Character and Appearance.** Sites should not cause significant harm to the character and appearance of their surroundings. If necessary, this can be achieved through landscaping, although there should be no requirement for sites to be 'hidden'.
- **Residential amenity.** There should be no significant harm to the residential amenity of site residents or neighbouring properties.
- **Access to public services and amenities.** It should be possible for residents to reach vital facilities such as schools, hospitals, shops and recreation facilities. Proximity to public transport would also be highly beneficial, although Local Authorities should be realistic about the availability of alternatives to the car in accessing local services.

Transit sites and stopping places should provide basic facilities, e.g. water, electricity, rubbish collection and washing and sanitation facilities. They do not require the same level of proximity to services and amenities as permanent sites. Consideration should be given to upgrading traditional stopping places, which are already established as part of the network of known locations used by Gypsy/Travellers when on the move.

5. Consider if criteria-based policies are required for small privately owned sites.

Successful private sites will contain some or all of the aspects listed above. There is no requirement to establish a general need for Gypsy/Traveller site when determining applications for private sites. Criteria-based policies for private site development enable a flexible approach, allowing demand to be met as and when it emerges, with the Local Authority acting as facilitator rather than provider.

An example of good policy is that of the East Ayrshire Local Plan (2010):

'Policy RES 32: Travellers' Sites

The Council will assess any applications for small, privately owned Travellers' Sites on their own merits and will support the development of such sites where all of the following criteria can be met:

- (i) the site is in a location readily accessible to the main strategic road network;
- (ii) the site does not adversely affect or impact on any areas of recognised nature conservation and built heritage interest, sites of significant landscape quality and any existing surrounding uses;
- (iii) the site can be accessed and serviced to the standards of the Council's Roads Division and other service providers;
- (iv) the site is adequately screened and landscaped to the satisfaction of the Council; and
- (v) the site does not cause any unacceptable damage or detriment to the amenity of residents of surrounding properties.

Proposals which do not meet all these criteria will not be supported by the Council.'

This policy focuses on the practical aspects of accessibility and public services, and the safeguarding of protected sites, landscape quality and residential amenity. As such it forms a straightforward set of criteria to assess applications, makes explicit the consideration of individual merits and does not try and apply a homogeneous approach to site developments.

6. Engage with the community in identifying sites.

Gypsy/Travellers must be meaningfully involved in the development planning process if the resulting plans and policies are to be fit for purpose. There are a number of different groups working with Gypsy/Travellers, with activities as diverse as youth groups and employment training schemes. Any existing relationships between these external organisations and the Local Authority should be utilised. Such relationships may be spread across different departments, e.g. housing, education, social work, so liaison between these departments is essential. Gypsy/Traveller Liaison Officers (GTLOs) could act as intermediaries and facilitate consultation and engagement. Local Authorities should not restrict themselves to these established relationships, and should seek to engage with as broad a constituency as possible.

The *Councillors' Code of Conduct* (2010)³¹ details the role of Elected Members in the creation of the development plan, stating that they are 'fully entitled to express [their] views or advocate proposals for the making, approval or amendment of the development plan, including supplementary planning guidance published by the planning authority both relating to general policies for the authority's area and to briefs and masterplans prepared for specific sites in anticipation of planning applications' (Councillors Code of Conduct (2010) Section 7.1). Elected Members therefore have a significant opportunity to make a positive difference to the lives of Gypsy/Travellers. Through proactive engagement with the development planning process, they can help ensure that Local Authority plans and policies are robust and appropriate to meet the challenge of developing accommodation for Gypsy/Travellers.

31. Scottish Government (2010) *The Councillors' Code of Conduct* (3rd Edition)



Elected Members as decision-makers

Elected Members act as decision-makers in a number of different contexts:

- as members of committees dealing generally with decisions on planning applications;
- in certain cases, as members of committees where applications are subject to a pre-determination hearing;
- as members dealing with applications referred to the full Council for determination; and
- as members of Local Review Bodies dealing with reviews where officers acting under delegated authority have refused planning permission or granted it subject to conditions which the applicant does not agree with or of non-determination of the application by the officer; or have not dealt with the application within the prescribed timescale.

Elected Members do not need to be experts in planning, but they have a responsibility under the *Code of Conduct* to lead by example and conduct the decision-making process in a fair and balanced fashion. Planning can be contentious and there can be differences of opinion. Elected Members with decision-making responsibilities need to consider the opinions of constituents, but they must also act to ensure that they focus on relevant matters and not encourage inaccurate or discriminatory opinions.

Prejudices and stereotypes

There may be existing prejudices or stereotypes about Gypsy/Travellers held by some within the local community, which can be expressed in opposition to proposals or applications for sites. At times, that opposition can spiral into outright hostility. Of course, not all members of the settled community are prejudiced or opposed to Gypsy/Traveller sites, but there is always the potential for an active and vocal minority to overwhelm a passive or accepting majority.

Certain themes commonly emerge in opposition to Gypsy/Traveller sites. It is worth considering these in more detail, and directly addressing the inaccuracies that often form the basis of them:

Public services. One issue that is sometimes raised is that the development of Gypsy/Traveller sites can be linked to an increase in pressure on public services, such as local health and education. Such concerns are equally applicable to the development of mainstream housing. Research suggests that local schools usually adapt successfully to new intakes of Gypsy/Traveller children³².

Law and order. The fear of crime is not a material consideration. The notion that the presence of Gypsy/Travellers in an area will result in an increase in violence, street crime and/or burglary can be common. However, this is simply not supported by the evidence. Police records demonstrate that Gypsy/Travellers are no more or less prone to criminal behaviour than any other section of the public, and that there is no change in the crime rate following the development of sites³³.

Taxation. Gypsy/Travellers are often accused of not contributing financially to society. On the contrary, Gypsy/Travellers do pay tax, and many operate successful businesses. As mentioned in the **Accommodation** section above, Gypsy/Traveller sites are not free and their residents pay council tax on their pitches.

Fear vs. reality

Research has been conducted which compares the opinions of residents on the proposed development of a Gypsy/Traveller site in their neighbourhood with their views and experiences post-construction. It found that subsequent experiences had not matched initial fears, with many commenting that Gypsy/Travellers were good neighbours and that the sites were discreet. Most neighbours had no specific complaints and there was an acknowledgement that envisioned problems had not materialise³⁴.

Living on a permanent site enables Gypsy/Travellers to settle into an area and become a part of the local community. This closer relationship can break down barriers and challenge prejudices. There is a known correlation between positive and negative attitudes to minority groups and how much personal experience individuals have of their members³⁵.

32. Duncan, T. (1997) 'Gypsy sites in their neighbourhood', Planning Exchange

33. Duncan, T. (1997) 'Gypsy sites in their neighbourhood', Planning Exchange

34. *ibid.*

35. Scottish Centre for Social Research (2011) 'Scottish Social Attitudes survey 2010: Attitudes to discrimination and positive action'

The role of the media

The media can play a powerful role in determining whether or not sites are successfully developed. At times the reporting of such applications has compromised the planning process. Reporting can be inaccurate and sensationalist, and can place considerable pressure on planning officers and Elected Members³⁶. Elected Members should avoid being drawn into such contentious media coverage. If asked for comment they should take the opportunity to challenge fears and prejudices.

Material considerations

In dealing with the views of the community, Elected Members should bear in mind what is and what is not relevant to determining an application for planning permission. Decisions are made in accordance with the Local Development Plan/Local Plan, unless material considerations indicate otherwise. There are two main aspects to a material consideration: it should be related to planning, i.e. concerning the development and use of land, and it should fairly and reasonably relate to the application in question.

The *Planning (Scotland) Act 1997* requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Scottish Government *Circular 6/2013 Development Management* notes that statements in the following documents may be material considerations to be taken into account in development management decisions:

- National Planning Framework
- Scottish Planning Policy
- Creating Places

8 | Gypsy/Travellers and Development Management

- Designing Streets
- Circulars

In addition to these, relevant matters of law and case law are also material considerations. It is worth going over some of the main examples of what may be material considerations for Gypsy/Traveller applications in particular:

- Relevant legislation, including the *Human Rights Act 1998*, *Equality Act 2010* and *Children (Scotland) Act 1995*.
- *Scottish Planning Policy (2014)* Paragraph 133 policies on Gypsy/Traveller sites.
- Local Development Plan/Local Plan policies on Gypsy/Traveller sites, including policies in any emerging plans.
- In the absence of any policies at the Local Authority level, the following guidance documents:
 - The Secretary of State's Advisory Committee on Scotland's Travelling People (ACSTP) *Guidance Notes on Site Provision for Travelling People* (1997).
 - ACSTP's *9th and Final Report* (2000).

It is also worth going over what are not material considerations. These include:

- The impact of development on property prices.
- Loss of views.

36. Equality and Human Rights Commission (2013) *'Gypsy Travellers In Scotland-A resource for the media'*

- Fear of crime.
- Moral or religious objections.
- Political beliefs or ideological objections.

Some more detailed information on material considerations can be found at: www.pas.org.uk/planning-information/

Racist representations

Some objections may be not only irrelevant but also illegal. Racist representations are comments, letters or emails whose content applies pressure to discriminate on racial grounds, is racially abusive or insulting, which could stir up racial hatred or contempt, or which is likely to be offensive to a particular racial or ethnic group. Unfortunately, these can be a significant feature of applications for Gypsy/Traveller sites.

The Local Authority, its staff and Elected Members have a legal responsibility to take measures against racist material. Racist correspondence should be returned if possible with an explanation that its content may be unlawful and, as such, ineligible for consideration³⁷. If an individual continues to send racist representations, then the matter may be referred to the police. Elected Members should likewise return any racist correspondence that they receive, as they have a duty not to spread such material.

If racist verbal comments are made to planning officers or Elected Members, then the speaker should be informed that such pressure to discriminate on racial grounds is not acceptable and that their comments will have no bearing on the consideration of an application.

If the Local Authority organises any public events to discuss Gypsy/Traveller proposals or applications, it should be made clear to participants that threatening or racist language will not be tolerated. It may be beneficial to work with small groups, rather than large public meetings which can become heated and generate adverse publicity.

Communicating with Gypsy/Traveller members of the community

Gypsy/Travellers are also members of the local community, and their views are just as important as the settled community. However, it is important to recognise that for Gypsy/Travellers, past experiences with public bodies and the settled community may have been largely negative. There are concerns that an application from a Gypsy/Traveller is not considered in the same way as one from a member of the settled community. These feelings are exacerbated by racist representations which may be made during consultations.

Elected Members may be contacted or approached by Gypsy/Traveller applicants or other members of the Gypsy/Traveller community in relation to applications for Gypsy/Traveller sites. Alternatively, Elected Members may wish to contact Gypsy/Traveller groups or individuals for their advice or opinions. Gypsy/Travellers generally prefer direct and personal forms of communication, meeting people face-to-face and presenting information orally. Some also have issues with literacy. Therefore, Elected Members seeking to engage effectively with Gypsy/Travellers need to be approachable.

37. Equality and Human Rights Commission (2013) *'Gypsy Travellers In Scotland-A resource for the media'*



9 | Summary

This guide has attempted to increase awareness of Gypsy/Traveller culture and how it impacts upon the planning system. It has considered the range of issues that Gypsy/Travellers face and the considerable benefits to society as a whole which can result from a greater consideration of their needs. It has also looked at the legal and policy obligations of Local Authorities, and the important responsibilities of Elected Members in both Development Planning and Development Management. In doing so, it has sought to demonstrate how Elected Members can take a positive and constructive approach to that role, and in doing so improve relations between the settled community and the Gypsy/Traveller community.

Useful Contacts

PAS

3rd floor, 125 Princes Street
Edinburgh
EH2 4AD

Planning advice: 0845 603 7602

Email: office@pas.org.uk

Website: www.pas.org.uk

Other organisations who work with Gypsy/Travellers

Article 12 in Scotland

PO Box 7182
Montrose
DD10 9WW

Phone: 01674 674086

Email: respond@article12.org

Website: www.article12.org

MECOPP

172 Leith Walk
Edinburgh
EH6 5EA

Phone: 0131 467 2994

Email: info@mecopp.org.uk

Website: www.mecopp.org.uk