

Written Statement – session 10B – Gypsies, Travellers and Showpeople

1. This paper is written on behalf of the Coordinating Team.
2. Assessed “need” is the driver for the proposed number of sites and pitches.
3. We offer outline answers to the Inspector’s questions, followed by analysis that informs our views.

Questions

4. Numbering is the Inspector’s.

Question	Our Comment
<p>Qn10.1 What is the source of the claimed requirement to consult with the settled community and what is MBC’s response to the complaint about a lack of consultation?</p>	<p>Paragraph 7a of DCLG’s “Planning policy for traveller sites” (August 2015) states (our highlighting):</p> <p style="padding-left: 40px;"><i>7. In assembling the evidence base necessary to support their planning approach, local planning authorities should:</i></p> <p style="padding-left: 80px;"><i>a) pay particular attention to early and effective community engagement with both settled and traveller communities (including discussing travellers’ accommodation needs with travellers themselves, their representative bodies and local support group)</i></p> <p>(Paragraph 6a of their March 2012 policy was identical).</p> <p>Required engagement with the settled community has not happened.</p>
<p>Qn10.2 As there would be a significant shortfall in site allocations against the assessed needs, would a revised assessment necessarily affect the need for such allocations or only the allowance for development on unidentified sites?</p>	<p>According to Swale Borough Council’s Statement of Common Ground, the assessed need is 187 pitches, 81 having been provided and a further 41 allocated through the plan, with the remainder (65) provided through windfalls.</p> <p>As MBC is clearly content to contemplate a large windfall contribution, a downwards revision in assessed “need” could be matched by windfalls reduction, but should be balanced against down-selecting the least sustainable sites.</p> <p>MBC has shown that it is very reluctant to enforce against unlawful sites, preferring various devices to render them lawful and hence a contribution to windfalls.</p> <p>We therefore suggest that a reduction in need should be apportioned 50/50 to a de-selection of sites and windfalls reduction.</p>
<p>Qn10.3 When would MBC intend to next assess needs and would that necessarily be part of a review of all housing needs?</p>	<p>MBC should commence reassessment immediately.</p> <p>MBC appears to have assigned this aspect of the Local Plan a low priority.</p> <p>MBC has dismissed requests to review the situation in the light of revised Government policy and the weaknesses in the University of Salford report.</p>

<p>Qn10.4 Would it be proportionate to reassess need now on the basis of the most recent Government policy and how could the associated delay be accommodated?</p>	<p>A reassessment should incorporate most recent Government policy in terms of definition of affected community and encompass settled community consultation in accordance with that policy.</p> <p>The requirement to engage with the settled community has been Government policy since March 2012. MBC has had ample opportunity to correct for that failing.</p> <p>Combine that with the Government’s new criteria to assess membership of the Gypsy & Traveller community and re-assessment would, indeed, be proportionate and unavoidable response.</p>
<p>Qn10.5 What purpose does the word ‘inappropriate’ serve in the above criterion and would it be better replaced by eg ‘significant’?</p>	<p>“Policy DM16 criterion 2 begins: <i>‘The development would not result in inappropriate harm (sic) the landscape and rural character of the area, ...’</i>.</p> <p>MBC’s minor change (PC/52) to criterion DM16(2) is not an issue.</p> <p>The problem is that “inappropriate” is in the eye of the beholder.</p> <p>MBC’s track record raises concerns in this regard, given the relative ease with which initially unlawful sites are then eventually deemed lawful. There is reluctance to contest unlawful sites; they may be welcomed as a contribution to “windfalls”.</p> <p>“Significant harm” would be stronger, but, again, MBC would then be the judge.</p> <p>It could be turned around, such as “The proposed development is demonstrated not to result in significant harm to the landscape or rural character of the area, taking account of long-views as well as short-views and the cumulative impact when considered with existing sites (lawful or unlawful).” (Sub-criteria i and ii would need some re-drafting).</p>
<p>Qn10.6 Would MBC please provide a response to this objection?</p>	<p>No comment.</p>
<p>Qn10.7 If the site has permission would deletion of the allocation have any practical effect?</p>	<p>No, other than observing that MBC is prepared to pre-empt the Inspector’s possible conclusions.</p>

5. Below is analysis that has informed our views.

University of Salford Report

6. MBC commissioned the report “Gypsy and Traveller and Travelling Showpeople Accommodation Assessment Maidstone”, dated January 2012, by the University of Salford.
7. That report noted (our highlighting):
 - 7.1. (Paragraph 2.13) “The statutory definition of Gypsies and Travellers for Gypsy and Traveller Accommodation Assessment required by the Housing Act 2004 is:
 - 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)".*

7.2. (Paragraph 2.14) “ ODPM Circular 01/2006 offers a narrower definition and excludes Travelling Showpeople:

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, but excluding members of an organised group of travelling show people or circus people travelling together as such”.

7.3. (Paragraph 2.15) That definition focuses more narrowly upon people who either still travelled or had ceased to do so as a result of specific issues and can as a consequence demonstrate specific land use requirements.

7.4. (Paragraph 2.16) “A separate definition of Travelling Showpeople was provided by CLG Circular 04/2007)

- 8. Note the absence of caravans and removal of “cultural tradition”.
- 9. The report then noted (paragraph 2.17 with our highlighting): “ It is proposed by the government that the **emerging** planning policy will have a definition for ‘travellers’ which will combine the current definitions of Gypsies and Travellers and Travelling Showpeople. In the meantime and in the spirit of the emerging policy this assessment has **adopted the Housing Act 2004 definition** as its starting point and has sought to be inclusive in the Gypsy and Traveller groupings. This has been used as it is recognised that **this definition is** ‘ “ (quoted from CLG (2011) *Planning for traveller sites*).
- 10. University of Salford therefore adopted an interpretation that was considerably wider than then-current Government policy.
- 11. A total of 115 Gypsy, Traveller and Travelling Showpeople households residing within the Borough were consulted. A footnote to page 8 states that no unauthorised sites were consulted. (Note that “household” refers to a Gypsy & Traveller household).
- 12. There was no consultation with the settled community.
- 13. Sample size was very narrow when compared with circa 65,000 settled Borough households.

Current Government Policy – definition

- 14. The Department of Communities and Local Government issued a revised policy in August 2015 - “*Planning policy for traveller sites*”.
- 15. Annex 1 of that policy contains (our highlighting):

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.*

16. Note the absence of “caravan and “cultural tradition” when compared with the Housing Act 2004 definition used by the University of Salford.
17. The current definition is much narrower than that adopted by the University of Salford.

Current Government Policy - consultation

18. In assembling the evidence base for a report, DCLG requires, in paragraph 7a (our highlighting):

“particular attention (to be paid) to early and effective community engagement with both settled and traveller communities ...”.

Report Inadequacies

19. The University of Salford report was issued in January 2012.
20. That report failed to take account of the revised definition of Gypsies & Travellers.
21. In 2015 our local newspaper, the Kent Messenger, reported MBC’s Mr Rob Jarman as telling Members that “they would have to review the authority’s proposed policies on gypsy site provision in light of the revised guidance”.
22. The report also failed to consult the settled community when assessing “need” and a judgement must be taken on whether, upon being consulted about “need”, there is or is not a tendency for those gaining most from “more” to over-state.
23. When asked whether MBC would re-run the report, the Chief Executive’s firm answer was “no”.
24. MBC is basing assessment of need on a report which is flawed for two known reasons, consultation and definition of Gypsies & Travellers.
25. MBC has had ample time to revise it since the latest Government policy

Historical Basis

26. The draft Local Plan (paragraph 17.78) states that: “Gypsies and Travellers historically resorted to the Maidstone area because of their involvement in agriculture, particularly hop and fruit picking. These patterns have prevailed, especially in the Weald area”. That is not true.
27. The Borough’s need for sites is no longer driven by seasonal agricultural needs. Farms with pack houses work 7 days, 52 weeks of the year, importing fruit and using mostly East European workers. The local fruit season is extended from May to November, because of polytunnels, again worked mostly by East European Workers.
28. Therefore that reason for a disproportionate concentration of sites in the Borough is not reasonable.
29. As noted in Swale Borough Council’s Statement of Common Ground and as stated by Helen Whately MP, Maidstone should not rely on windfall sites to fill 65 of the

supposedly required sites (just over one-third). Those windfall sites are likely to cause contentious situations.

30. “Need” should be driven by existing Gypsy & Traveller households based in Maidstone Borough, but only those leading a basically nomadic existence.

Planning Process – considerations

31. Planning Policy for Traveller Sites 2015 (PPTS) 9 states: “Local planning authorities should set pitch targets for gypsies and travellers as defined in Annex 1 and plot targets for travelling showpeople as defined in Annex 1 which address the likely permanent and transit site accommodation needs of travellers in their area, working collaboratively with neighbouring local planning authorities”. We are not aware of such collaboration being explored under the Duty to Cooperate.
32. PPTS 25 states: “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. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure”. Does this mean that country areas away from housing/employment sites should be strictly limited in site numbers?
33. It is apparent that MBC’s granting of planning permission for sites is driven by targets, rather than a considered view of the cumulative effect. That would often be at variance with its own countryside policies and the interests of the vast majority of residents. That cannot be supportive of community cohesion.
34. PPTS 14 states: “When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community”.
 - a) It is important that the cumulative effect of Gypsy & Traveller permissions is assessed each time there is an application, because treating each planning application solely on its own merits means that PPTS 14 is being ignored in terms of previous permissions and cumulative effect.
 - b) MBC / Mr Rob Jarman has confirmed that the cumulative effect of traveller applications and, for instance, the effect on schools is a criterion to consider – and that should help to determine what “dominate” means.
 - c) MBC needs to be encouraged to clarify its interpretation of “dominate” and to take measures that make it clear that it is adhering to policy PPTS 14; at the moment, it is apparently ignored or given very low priority.
35. PPTS 3 states: “The Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community”.
36. PPTS 4(b) states: “develop fair and effective strategies to meet need through the identification of land for sites”. The dependence on windfalls, and the potential tensions they create, indicates that delivery against this policy is questionable.
37. MBC has not produced a coherent Gypsy & Traveller strategy that is compatible with PPTS.
38. Maidstone is already over-represented and there is now no justification for continuing, or accentuating, that situation.

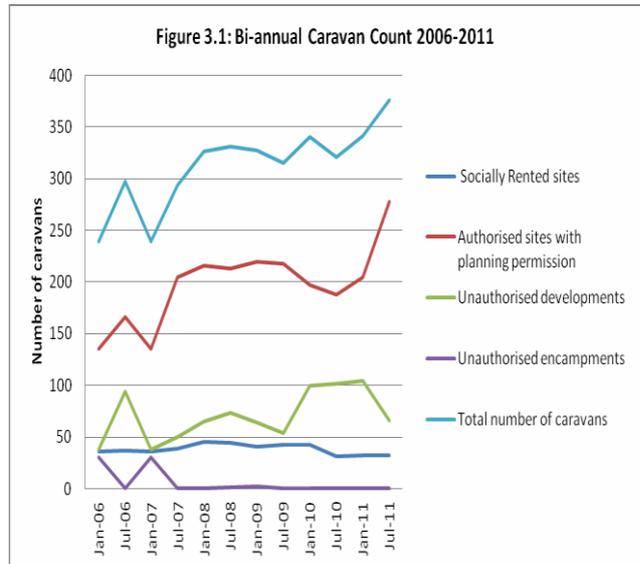
Caravans & Comparators

39. The University of Salford report shows that, at the start of its assessment period, our Borough already had proportionately more than neighbouring Authorities.

40. This chart indicates that the Borough’s caravan population has increased by just under 60% in the period January 2006 to July 2011.

41. That is despite our Borough already being substantially over-represented when compared with other Kent areas.

42. According to the Kent Messenger (28th August 2015), which also carried diagram below (with the figures in brackets being un-authorised sites):



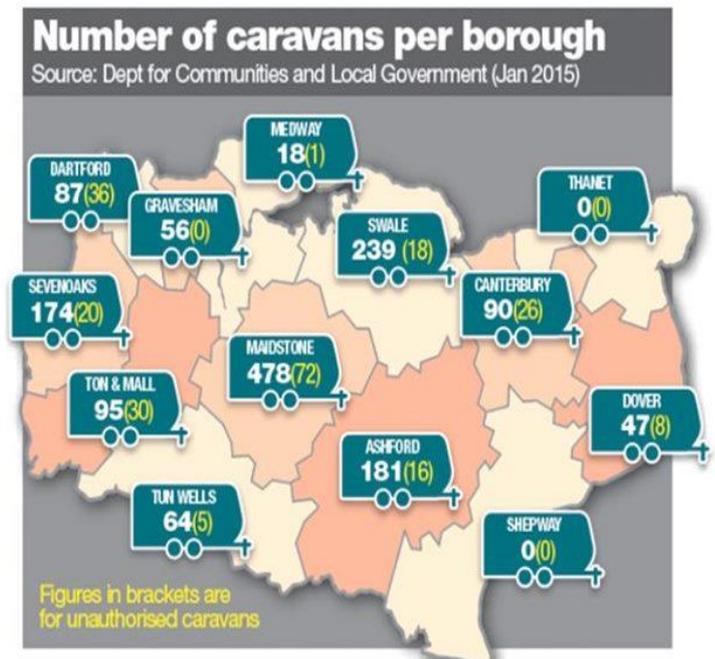
a) only two other local authorities in the UK, Doncaster and South Cambridgeshire, had more mobile homes, according to government statistics;

b) at the last count there were 478 caravans pitched in Maidstone, 31% of all of those in Kent. Of those, 72 were un-authorised;

c) Swale was the next highest borough, with 239 mobile homes;

d) the number of sites only accounts for 0.28% of the population, though this was still double its nearest contender, Swale; and

e) a council spokesman said: “Maidstone has historically had a larger gypsy and traveller population than other boroughs in Kent due to fruit and hop picking, resulting in a higher need for pitches within the borough”.



43. The diagram clearly indicates our Borough’s relative situation, encouraged by a Council that, for whatever reason, does not push-back on claimed needs and asserts a historical-base that is no longer applicable.

Nomadic Existence

44. The University of Salford report contains several tables that indicate the degree of nomadic way of life by tabulating the number of weeks of the year lived in the area.

45. For permanent private sites (table 4.5):

Length of time	%
52 weeks/never leave	65
Between 41-51 weeks	18
Between 31-40 weeks	4
Between 21-30 weeks	0
Between 11-20 weeks	0
Between 1-10 weeks	2
Don't know	10

46. For temporary private sites (table 4.8):

Length of time	%
52 weeks/never leave	40
Between 41-51 weeks	20
Between 31-40 weeks	0
Between 21-30 weeks	0
Between 11-20 weeks	0
Between 1-10 weeks	0
Don't know	40

47. This table provides an overall picture of travelling by households (table 7.1):

Frequency	Unauthorised development (%)	Socially rented sites (%)	Private residential sites (perm) (%)	Private residential sites (temp) (%)	Bricks & mortar (%)
Every day or so	-	-	-		
Every week	-	-	-	10	-
Every month	-	-	-	-	-
Every month or so	-	-	-	-	-
Few times a year	39	6	22	30	24
Once per year	15	19	27	10	14
Never	46	75	51	50	62

48. This table indicates the proportion of the Gypsy & Traveller population that lives in housing (table 3.2), that is, 16% of households and also of individuals.

Type of accommodation	Families/ Households (based on 1 pitch = 1 household)	Individuals	Derivation
Socially rented sites	33	76	Actual numbers taken from information supplied by Kent County Council
Private sites (permanent)	139	487	Estimated number of pitches multiplied by average household size from the survey (3.5)

Private sites (temporary)	43	151	Estimated number of pitches multiplied by average household size from the survey (3.5)
Housing	42	134	Number of families estimated to live in the area multiplied by average household size from the survey (3.2)
Travelling Showpeople	5	15	Number of plots multiplied by an estimate of the household size for Travelling Showpeople (2 adults and 1 child)
Total	262	863	

49. The above tables indicate that, if the Government’s new policy on nomadic life-style is applied, the number who would qualify for inclusion within “needs” should diminish and perhaps substantially, given the large percentages that live in an area 52 weeks a year and never leave.

Conclusion

50. The University of Salford report is flawed against current Government policy and MBC has had ample time to update it.
51. The original consultation needs to be updated, the plan revised and, in particular, reliance on windfalls reduced substantially to avoid subsequent contentious situations arising based on unauthorised sites, repeated appeals and, in due course, permission because MBC wishes to meet its target.
52. MBC has not exercised its Duty to Cooperate to work “collaboratively with neighbouring local planning authorities”.
53. Current plans show a substantial increase in sites, despite our Borough already being substantially over-represented when compared with other Kent areas.
54. In terms of assessed need, our Borough is shown very substantially to compound that over-representation.
55. This aspect of the Local Plan is unsound as it is not positively prepared and is not consistent with national policy.