



East Herts Gypsies and Travellers and Travelling Showpeople Accommodation Needs Assessment



Update Summary

February 2016

1. Update Summary

Introduction and Methodology

- ^{1.1} The primary objective of the East Herts Gypsy and Traveller Accommodation Assessment (GTAA) Update is to provide a robust assessment of current and future need for Gypsy, Traveller and Travelling Showpeople accommodation in East Herts. 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.
- ^{1.2} The GTAA Update provides a robust and credible evidence base which can be used to aid the implementation of Development Plan policies and the provision of new Gypsy and Traveller pitches and Travelling Showpeople plots for the period 2014-2032. The outcomes of this Update supersede the outcomes of the East Herts Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment that was published in April 2014.
- ^{1.3} The revised version of Planning Policy for Travellers Sites (PPTS) that was issued in August 2015 now requires a GTAA to determine whether households living on sites, yards, encampments and in bricks and mortar fall within the new definition of a Gypsy, Traveller or Travelling Showperson. Only if households fall within the new definition will their housing needs need to be assessed separately from the wider population in the GTAA, as required by the Housing Act (2004). The new definition now excludes those who have ceased to travel permanently. A Briefing Note has been prepared by ORS that sets out the implications of the revised PPTS on GTAA studies and a copy of this can be found in **Appendix A**.
- ^{1.4} The GTAA Update sought to understand the revised accommodation needs of the Gypsy, Traveller and Travelling Showpeople population in East Herts through a new round of engagement with members of the Travelling Community. Fieldwork was undertaken during November 2015 and a total of 10 new interviews were completed with Gypsy and Traveller households living on 3 sites, with 32 new interviews completed with Travelling Showpeople households living on one yard. No interviews were possible on 1 Gypsy and Traveller site as the residents refused to be interviewed, and it was not possible to interview 1 household on one of the other sites. It was also determined that there are no longer any Gypsies or Travellers living on the Esbies site. No households were identified as living in bricks and mortar to be interviewed.
- ^{1.5} Whilst it was not possible to interview households on 1 site and 1 household on another site, it was possible to determine that they were occupied by the same residents as the previous study. It was therefore possible to use information gathered during successful interviews with these households that were completed for the previous GTAA to determine travelling characteristics.

New Definition of Gypsies and Travellers

- 1.6 Information that was sought during the interviews, or from the interviews that were completed in 2014, allowed each household to be assessed against the new 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 in East Herts. This shows that only 4 households on 1 of the private sites and 16 Travelling Showpeople households on the single private site meet the new definition of a Traveller – in that the remaining households cannot demonstrate that they travel away from their usual place of residence for the purpose of work, or have ceased to travel *temporarily* due to children in education, ill health or old age.

Figure 1 - Travelling Status of Households Interviewed in East Herts

	Meets New Definition	Does Not Meet New Definition	Unknown
Elmfield Stables	0	1	0
Field Farm	0	3	0
The Stables	4	3	0
Nine Acres	0	3	0
Rye House Caravan Park (Showpeople)	16	16	0

Key Demographic Findings

- 1.7 Ethnicity data that was captured from the 4 Gypsy and Traveller households that meet the new definition of a Traveller indicated that they were all Irish Travellers. The households comprised 16 residents - 8 adults and 8 children and teenagers aged under 18. This equates to 50% adults and 50% children and teenagers. Although not a direct comparison, data from the 2011 Census for East Herts as a whole (the settled community and the Gypsy or Irish Traveller community) has been compared to the demographics recorded in the household interviews. This shows a significantly lower proportion of those aged under 18 in the East Herts population as a whole.

Revised Pitch Needs – Gypsies and Travellers

- 1.8 Based upon the evidence collected during the household interviews and following an assessment against the new definition of a Traveller, the additional pitch provision needed in East Herts to 2032 for the 4 Gypsy and Traveller households on The Stables site who meet the new definition of a Traveller **is for 3 additional pitches**. This is made up solely from new household formation based on 5 children aged between 6 and 15 that would be expected to form households of their own in the next 15 years – assuming approximately 50% of these households will form and move away from East Herts. Given the small number of households that fall within the new definition it is not felt appropriate to apply a % new household formation rate to the households that fall within the new definition. The likelihood is that all of the need could be met through expansion/intensification at The Stables site or strategic allocations/broad locations, and it is also possible that there may be some supply freed up due to dissolution of pitches that could help meet the longer-term need that has been identified.

Figure 2 – Addition Gypsy and Traveller Provision Needed in East Herts to 2032

Reason for Requirement/Vacancy	Gross Requirement	Supply	Net Requirement
Supply of Pitches			
Additional supply from empty pitches	-	0	-
Movement to bricks and mortar	-	0	-
Additional supply unimplemented pitches	-	0	-
Total Supply	-	0	-
Current Need			
Unauthorised developments or encampments	0	-	-
Concealed households	0	-	-
Net movement from bricks and mortar	0	-	-
Total Current Need	0	-	-
Future Need			
Sites with temporary planning permission	0	-	-
Net migration	0	-	-
New household formation	3	-	-
Total Future Needs	3	-	-
Total	3	0	3

1.9 Of this need 2 additional pitches will be needed between years 2016-2022, and 1 between years 2022-2027.

Figure 3 - Extra pitch need in East Herts

	2016-2022	2022-2027	2027-2032	Total
East Herts	2	1	0	3

1.10 Whilst households who do not travel fall outside the new definition of a Traveller, Romany households and Irish and Scottish Travellers continue to have a cultural need and right to a caravan site under the Equalities Act 2010. Provisions set out in the new Housing and Planning Bill are seeking to include a requirement to assess the needs of people living on sites on which caravans can be stationed, or on places on inland waterways where houseboats can be moored, under S8 of the 1985 Housing Act that covers the requirement for a periodical review of housing needs. The implication is therefore that the housing needs of the Gypsy and Traveller households who do not meet the new definition of a Traveller will need to be assessed as part of the wider housing needs of an area. On this basis, it is evident that the needs of the 4 Irish or Romany households will represent a relatively very small proportion of the overall housing need (less than 0.05% of the OAN); however the Council will need to ensure that arrangements are in place to properly address the needs of these households.

Transit Sites / Temporary Stopping Places

1.11 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 there is an operational public transit site in Hertsmere which can be used for enforcement actions

for Travellers in any district or borough in Hertfordshire. Whilst the site does have problems with households occupying it on an almost continuous basis, if this issue can be resolved it would provide a transit site for use by households visiting East Herts.

- 1.12 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.

Travelling Showpeople Needs

- 1.13 The outcomes of the Update identified that the half of households living on the single Travelling Showpeople yard, at Rye House Caravan Park, in East Herts do meet the new definition of Travellers as they travel all year round for work purposes. There were also levels of over-crowding identified on the yard at Rye House Caravan Park that need to be addressed.

- 1.14 Within the 16 Travelling Showperson households that meet the new definition there are a total of 7 family members (older children or young adults) who will need a plot of their own in the next 5 years and all have indicated that they would like to stay with their families. For medium to longer-term need a household formation rate of 1.00% has been applied to the 13 households with children, or with younger adults. This formation rate has been calculated using the demographics of the population of those living on the yard who meet the new definition of a Traveller, and comparing to work undertaken by ORS when producing a recent evidence base¹ to support rates of new household formation for the Travelling Community in England. This results in a further 2 households to form by 2032.

Figure 4– Addition Travelling Showperson Provision Needed in East Herts to 2032

Reason for Requirement/Vacancy	Gross Requirement	Supply	Net Requirement
Supply of Pitches			
Additional supply from empty pitches	-	0	-
Movement to bricks and mortar	-	0	-
Additional supply unimplemented pitches	-	0	-
Total Supply	-	0	-
Current Need			
Unauthorised developments or encampments	0	-	-
Concealed households	0	-	-
Net movement from bricks and mortar	0	-	-
Total Current Need	0	-	-
Future Need			
Sites with temporary planning permission	0	-	-
Net migration	0	-	-
New household formation	9	-	-
Total Future Needs	9	-	-
Total	9	0	9

¹ ORS Technical Note on Gypsy and Traveller Household Formation and Growth Rates (2015)

1.15 Of this need 7 additional plots will be needed between years 2016-2022, 1 between years 2022-2027 and 1 between years 2027-32.

Figure 5 - Extra pitch need in East Herts

	2016-2022	2022-2027	2027-2032	Total
East Herts	7	1	1	9

Conclusions and Recommendations

Need for Gypsies and Travellers

1.16 Based upon the evidence collected during the household interviews and following an assessment against the new definition of a Traveller, the additional pitch provision needed in East Herts to 2032 for the 4 Gypsy and Traveller households on The Stables site who meet the new definition of a Traveller **is for 3 additional pitches**. The likelihood is that all of the need could be met through expansion/intensification at The Stables site or strategic allocations/broad locations, and it is also possible that there may be some supply freed up due to dissolution of pitches that could help meet the longer-term need that has been identified.

Need for Transit Provision

1.17 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 there is an operational public transit site in Hertsmere which can be used for enforcement actions for Travellers in any district or borough in Hertfordshire.

Need for Travelling Showpeople

1.18 Based upon the evidence collected during the household interviews and following an assessment against the new definition of a Traveller, the additional pitch provision needed in East Herts to 2032 for the 16 Travelling Showpeople living at Rye House Caravan Park who meet the new definition of a Traveller **is for 9 additional plots**. The likelihood is that none of this need can be met on the existing yard as there are already accepted levels of over-crowding that need to be addressed.

Appendix A – PPTS 2015 Briefing Note

Gypsy and Traveller Accommodation Assessments

ORS Briefing on the Implications of Changes to Planning Policy for Traveller Sites

September 2015

Please note that these are the current views of ORS on the implications of the changes to PPTS and clarification has not yet been sought from DCLG on our interpretation of the potential changes to the definition of Gypsies, Travellers and Travelling Showpeople in relation to undertaking GTAA's.

Background

The recent changes to PPTS that were published on 31st August will now require a GTAA to determine whether households living on sites, encampments and in bricks and mortar fall within the new definition of a Gypsy, Traveller or Travelling Showperson. Only if they fall within the new definition will their housing needs need to be assessed separately from the wider population, as required by the Housing Act (2004).

There are a number of issues that will need to be considered when seeking to apply the new definition and this short briefing covers the views of ORS on these in relation to completing a GTAA.

Conflicting Definitions of a Traveller

It is our understanding there are now 3 definitions for a Gypsy, Traveller or Travelling Showperson. The PPTS (2015) definition, the Housing Act (2004) definition, and the Equality Act (2010) definition (which only applies only to Romany and Irish Travellers as an ethnic group).

- ¹ In their response to the consultation on Planning and Travellers DCLG stated that *the Government will, when parliamentary time allows, seek to amend primary legislation to clarify the duties of local authorities to plan for the housing needs of their residents*. This should bring the Housing Act definition in line with the PPTS definition.

The key issue is that there will be Romany and Irish Travellers who no longer travel so will not fall under the Planning or Housing definition, but Council's may still need to meet their needs through the provision of *culturally suitable* housing under the requirements of the Equality Act.

We believe that this will now create a new category of Gypsy, Traveller or Travelling Showperson - a *Non-Travelling Romany or Irish Traveller* - that Council's will need to consider in terms of housing provision. The needs of households that fall within this category *will not necessarily* be assessed in a GTAA and will need to be assessed separately under the NPPF.

The 'Planning Definition' in PPTS:

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.*

The ‘Housing Definition’ in the Housing Act 2004

Section 225: Every local housing authority must, when undertaking a review of housing needs in their district under section 8 of the Housing Act 1985 (c. 68), carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district...gypsies and travellers has the meaning given by regulations made by the appropriate national authority.

The definition of Gypsies and Travellers as referred to at Section 225 of the Act is that set out for the purposes of planning by the Secretary of State for Communities and Local Government.

Therefore the definition of ‘gypsies and travellers’ for this purpose is specified in ‘The Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006’ (Statutory Instrument: 2006 No. 3190).

The following definition of “gypsies and travellers” should now be used:

(a) persons with a cultural tradition of nomadism or 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).

The ‘Equality Act’ 2010 Definition

The courts have determined that Romany Gypsies and Irish Travellers are protected against race discrimination because they are included under the Protected Characteristics as an ethnic group. Culturally suitable housing should be provided for this group.

Definition of Travelling

One of the most questions that GTAA’s 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’.

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.

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.

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*.

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.

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.

It is our understanding that the implication of these rulings in terms of applying the new definition is that it will include those who travel but also 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 our view not cover those who commute to work daily from a permanent place of residence.

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.

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. These issues are covered later in this briefing.

Changes to Fieldwork Requirements

In determining whether households fall within the new definition it is important that GTAA fieldwork is undertaken in a robust and inclusive manner, with efforts made to speak with households living on *all pitches and plots* in any given local authority area. Attempts to speak with every household is likely to increase the costs of site fieldwork but it is felt that robust and defensible evidence on household travelling characteristics can only be obtained by speaking with a member from each family directly. If this does not happen the determination of whether a household falls within the new definition is likely to be challenged.

Interviewers will need to follow an approach similar to what is being advocated by Welsh Government in their recent GTAA Guidance which requires interviewers to make a minimum of 3 attempts to complete a successful household interview before seeking information from a third party. The keeping of an Interview Log to record dates and times of unsuccessful visits, and reasons for a refusal to be interviewed is also recommended.

Qualifying Questions and Evidence to Support Travelling Status

A series of *qualifying questions* will need to be asked during the more intensive household interviews to determine whether each household will fall under the new definition. There will be a need to ask questions to determine for example:

- » The ethnicity of households;
- » Whether they travel for nomadic purposes as defined by case law;
- » If they do not travel, whether they have travelled for nomadic purposes in the past;
- » Whether they have ceased to travel permanently or temporarily;
- » The reasons why they have ceased to travel temporarily; and
- » Whether and when they plan to resume travelling for nomadic purposes.

The responses to these questions should enable the new planning/housing and ethnicity definitions of Gypsies, Travellers and Travelling Showpeople to be applied to each household in the first instance.

One of the most difficult issues to address will be to evidence households that claim to have *ceased travelling temporarily* as a result of their own or their family's or dependants' educational or health needs or old age. This will need to include evidence that households have travelled in the past.

Example of evidence to support the new definition and households that claim to have ceased to travel temporarily could include:

- » Details of previous travelling by the applicant or by family members for the purpose of work could include originals or copies of family photographs.
- » Evidence to support household members ceasing to travel temporarily could include letters or reports from GPs or consultants; and Letters from head teachers and/or Traveller Education Officers.
- » Evidence to support not being able to travel due to a lack of sites or transit provision could include details of attempts to find alternative sites, including, for example, letters to local estate agents and evidence of enquiries to local authorities.

- » Evidence to support a nomadic way of life for work purposes could include records of work undertaken such as quotes and invoices; receipts for stays on transit sites; and details of enforcement of unauthorised encampments; and details of schools attended and GP registrations whilst away travelling.

The practical implications of this in relation to the fieldwork element of a GTAA will be whether this evidence actually needs to be produced or whether households will simply need to be asked if they would be able to provide evidence if requested at a later date.

Applying the Definition

When the household survey is complete the outcomes from the qualifying questions will need to be used to determine the status of each household on each site. Decisions will need to be made whether it will be for a local authority, a third party undertaking the GTAA, or a combination of both, to make the final determination of whether households fall within the new definition.

It is highly likely that this will result in sites with a mixture of household statuses – even on smaller private family sites. We think that households will fall under one of 4 classifications that will determine whether their housing needs will need to be assessed in the GTAA.

- » Households that travel under the new definition – *Yes*
- » Households that have ceased to travel temporarily under the new definition - *Yes*
- » Households that do not travel under the new definition - *No*
- » Romany or Irish Travellers who do not travel under the new definition - *No*

In practical terms, a current GTAA may have a need for 100 pitches from new household formation over its local plan period. If 50% of these households do not meet the new definition of being a Traveller then it could be argued that the need from new household formation should fall from 100 to 50. However, this assumes that the children of current non-Travelling households will also not travel themselves in the future and will not have their needs from new household formation met. This is going to be very difficult to evidence in practice.

This also raises the question of who is responsible for assessing the needs of the 50 households who have been removed from the assessment of need in the GTAA. The Equalities Act requires that *Romany and Irish Travellers* are provided with *culturally sensitive* accommodation. It may therefore be that the GTAA will exclude 50 households on the grounds that they no longer meet the planning/housing definition of being Travellers, but the requirements of the Equalities Act mean that these households' ethnic status will still lead to the need to provide caravan pitches. These may be on park home sites rather than Gypsy and Traveller sites.

In practice it may be that the new definition has a very large impact on a small number of planning applications where households who no longer travel will not be deemed Travellers. However, for the existing population and sites it is unlikely the effect will be as dramatic as being envisaged. Given that the majority of Councils do not have 5 year land supplies for either housing or Gypsy and Traveller sites, it may simply be that planning applications are moved from being for Gypsy and Traveller sites to being for park home sites – using case law established by *Wenman v Secretary of State* Judgement and subsequent changes made to Paragraphs 49 and 159 in the NPPF in July 2015.

Paragraph 49

From today, those persons who fall within the definition of ‘traveller’ under the Planning Policy for Traveller Sites, cannot rely on the lack of a five year supply of deliverable housing sites under the National Planning Policy Framework to show that relevant policies for the supply of housing are not up to date. Such persons should have the lack of a five year supply of deliverable traveller sites considered in accordance with Planning Policy for Traveller Sites.

Paragraph 159

Planning Policy for Traveller Sites sets out how ‘travellers’ (as defined in Annex A of that document) accommodation needs should also be assessed. Those who do not fall under that definition should have their accommodation needs addressed under the provisions of the National Planning Policy Framework.

Conclusions

As a result of the changes to PPTS ORS have identified that there are a number of key points that local authorities need to be aware of in relation to their GTAA:

- » It is unclear at the present time whether the changes will be applied retrospectively to GTAAs that have already been published and have been through a Local Plan Examination – however they will need to be taken into consideration when dealing with new planning applications and appeals. This will impact on the identification of a 5 year supply of deliverable Traveller sites as the level of need will be unknown without applying the definition to all households.
- » In the majority of cases it may be necessary to undertake new site fieldwork to gather up-to-date and robust information from each household on their travelling characteristics in order for the new definition to be properly applied for the purpose of assessing household need.
- » The definition of a *Traveller* and what constitutes *Travelling* appear to be clearly set out in case law. What local authorities will need to consider how to robustly apply the outcomes of the qualifying questions when determining whether a household has ceased to travel temporarily?
- » It is difficult at this stage to consider the future needs (new household formation) of the children of current non-travelling households as it will be very hard to evidence whether or not they will travel themselves in the future.
- » In short this will not reduce the number of households seeking to live on sites in caravans. Local authorities will still need to consider how to address the housing needs of Romany and Irish Travellers who do not travel but fall under the requirements of the Equality Act. For the remainder of those households who do not fall under the new definition local authorities will still need to consider how they should have their accommodation needs addressed under the provisions of the National Planning Policy Framework. These will most likely need to be met on park home sites as opposed to Traveller sites.

- » It is also important to note that the definition will need to be applied in a consistent manner to households living in caravans on sites and encampments, and for those living in bricks and mortar, as there is nothing in the definition that states that a household needs to live in a caravan or other mobile structure.
- » There are also likely to be practical implications in the reporting of GTAs as the assessment will now need to be on a pitch-by-pitch basis, and may involve the publication of sensitive and personal information that may lead to issues with data protection requirements.