

# **A Discussion Paper for the Panel Review into the Impact of the Localism Bill on Gypsies and Travellers**

## The Aims of the Panel Research

Len Smith the Gypsy campaigner for Traveller Law Reform stated that the provision of more sites presented a 'win-win' situation for Gypsies and Travellers and the wider community. According to Smith, authorised sites would allow Gypsies and Travellers to access services and become part of and contribute more effectively towards communities in which they resided. Furthermore, the wider community would be spared the inconvenience and cost of unauthorised developments and encampments, thus strengthening community cohesion and the inclusion of Gypsies and Travellers into communities (Crawley, 2004).

Such sentiments are neither novel nor radical. A survey of the numerous statements by a wide range of politicians and stakeholders demonstrates that these views are increasingly held across the spectrum of mainstream political thought, at least at a national level. However, the huge challenge is to find a strategy that can deliver the sites needed and which has broad political and public support. It is often at the local level where consensus and support for site provision has been derailed. Thus 'localism' which seeks to empower neighbourhoods and communities in the planning process and is one of the guiding principles of Coalition Government policy could present challenges to site delivery. On the other hand opportunities for greater local dialogue and development of local community groups which are facets of localism may also present opportunities.

The Travellers Aid Trust (TAT) is the only independent grant maker in the UK with the specific remit of supporting Gypsies and Travellers. TAT has secured funding from the Joseph Rowntree Charitable Trust to establish a panel to evaluate the impact of the Localism Bill and other policies that affect Gypsies and Travellers and to produce a report to determine means by which Government proposals can be strengthened and made more effective in terms of site delivery and social inclusion. An increase in the supply of Traveller site provision remains an objective of the Coalition Government. The Green Paper 'Open Source Planning' which Coalition Government policy is based upon part of the manifesto commitments of the Conservative Party during the General Election. The document states:

*"Planning rules should ensure fairness between the settled and the traveller communities. Local authorities have a role to ensure the provision of suitable authorised sites to tackle genuine local need for their area in consultation with local communities. In addition, recent UK case law has clarified that councils*

*need to provide authorised sites locally if they are to be able to take effective action against unauthorised sites, even though enforcement still remains a major problem” (Open Source Planning, 2010, 17).*

Furthermore, the Government has expressed a commitment to raising the social inclusion of Gypsies and Travellers through the establishment of an inter-ministerial working group looking at discrimination and poor social outcomes for Gypsies and Travellers (Hansard, 7 Dec 2010: Column 20WH).

A desire to increase community cohesion and ‘fair play’ in the planning process is another government objective (Hansard, 10 July, 2010) which in principle is to be commended. TAT welcomes these expressions of sentiment and whilst noting interpretation of these notions and means by which they can be achieved differ hopes the findings of the panel report will support and facilitate these broad policy objectives.

The panel being brought together is to be composed of a broad range of politicians from the main political parties and a number of established academics and legal experts. The panel will take evidence from a wide range of stakeholders including local government and other service providers, the police and of course Gypsies and Travellers. A majority of the participants presenting to the panel will be Gypsies and Travellers reflecting the fact that in other forums (such as parliamentary debates) their voice will rarely be heard. TAT hopes that through the panel research and report, a positive and constructive contribution can be made to wider debates. As a result, a wide range of stakeholders have been invited to participate and it is hoped the process will further better dialogue and understanding.

The panel will interview stakeholders and give them an opportunity to present their views on current and future policy affecting Gypsies and Travellers. To promote transparency and faith in the panel process oral evidence will be transcribed and, together with written submissions, placed on the TAT website. The academics on the panel have been charged with drafting a report which is balanced and academically rigorous and which allows a range of views to be aired. Hence, reference will be made to all views expressed including those held by a minority of invitees to the panel and a draft report will be circulated amongst all participants allowing further feedback and revision. Where consensus cannot be found, differing views will be presented accurately and with balance.

The Travellers Aid Trust support of such dialogue and consensus dates back to its involvement with the Gypsy and Traveller Law Reform Coalition, which won the Liberty Human Rights award in 2004. The citation for the award read:

*“For exceptional achievement in uniting Gypsies, Irish Travellers and New Travellers and providing a powerful voice to lobby for positive change and recognition of their human rights and for effective engagement of cross party support for some of the most socially excluded groups in the UK”.*

The Gypsy Traveller Law Reform Coalition (GTLRC) was also successful in forging dialogue with politicians and government through its formation of an All Party Parliamentary Group for Traveller Law Reform and worked with the Conservative MP David Atkinson to promote the Traveller Law Reform Bill. The GTLRC also successfully entered into discussion and even agreement with local residents alarmed by unauthorised developments. This led to such things as the joint statement with Cottenham Residents’ Association that declared that the creation of more sites was a key factor in ensuring that community tensions were eased. This was an initiative that was commended by local bishops in Cambridgeshire (ODPM, 2004 para 125).

It should be noted that TAT has a limited role in relation to the panel review which is to create a space for dialogue and a report which captures important points of discussion and ways forward. Once finalized, the ownership of the report and its potential as a campaigning and policy tool will be handed over to all the groups that participated in the formulation of the report.

The following literature review forms the basis of a discussion paper to help panel members and participants to focus on key points of discussion. The paper provides an overview of Coalition Government policy proposals on Gypsies and Travellers. In accordance with government objectives the report will be divided into sections on:

- Site Delivery
- Empowerment and Localism
- Community Cohesion and Fairness
- Social Inclusion

A series of key questions and discussion points will be raised in each section. Important points of reference in the paper will be focused on a range of papers and statements on this issue which have appeared during the course of 2010 prior to and since the change of Government:

- Important papers (Open Source Planning)

- Draft legislation (The Localism Bill)
- Written and oral submissions to the Communities and Local Government Inquiry into the Abolition of Regional Spatial Strategies
- Parliamentary statements and adjournment debates
- Press statements, articles and news reports
- Legal cases (e.g. *Cala Homes v SSCLG*).

## **Literature and Policy Review**

### Coalition Government Policy on Gypsies and Travellers

Before detailing Coalition Government policy it is necessary to overview the existing policy framework which the Coalition Government is seeking to repeal.

In 2004 the Labour Government concluded that Department of the Environment (DoE) Circular 1/94 was not addressing the growing shortage of Gypsy and Traveller sites. The shortage of sites was deemed to have stemmed from the repeal of the 1968 Caravan Sites Act by the Criminal Justice and Public Order Act 1994. The 1968 Act, which had placed a duty on certain local authorities to provide sites and had in turn created a network of 350 local authority Traveller sites, was repealed by the Criminal Justice and Public Order Act. In its place DoE Circular 1/94 was introduced in which local authorities were encouraged but not obliged to assist Gypsies and Travellers to develop sites.

In 2003 the Labour Government initiated a policy review on Gypsy and Traveller site provision which culminated in Office of the Deputy Prime Minister (ODPM) Circular 1/2006. This placed an obligation on local authorities to carry out a Gypsy Traveller Accommodation Needs Assessment which would identify the need for sites and feed into regional targets Regional Spatial Strategies (now known as Regional Strategies *following the Local Democracy, Economic Development and Construction Act 2009 which changed the name to Regional Strategies*). Where local authorities failed in their new responsibilities the Secretary of State had powers of direction.

In the two years prior to the introduction of Circular 01/06 on 2nd February 2006, 68% of appeals relating to Gypsy and Traveller sites were dismissed. In the following two years, 65% of appeals were granted planning permission (CLG, 2009, 4). Despite some modest progress it has been estimated that at the current rate of pitch provision it will

take local authorities 18 years to meet the targets specified in relation to permanent pitch requirements set for a 5 year period (Brown and Niner, 2009).

Prior to the General Election of 2010, both the Conservatives and Liberal Democrats pledged, in their manifestos, to abolish Regional Strategies. The Conservatives issued their Green Paper entitled 'Open Source Planning' which committed the Conservatives, to:

- Create a new criminal offence of intentional trespass, as already in place in the Republic of Ireland
- Curtail the ability to apply for retrospective planning permission
- Scrap regional targets and replace guidance and circulars on this issue
- Give tougher 'stop notice' enforcement powers to local authorities with authorised sites, and support central funding for local authorities to build authorised sites.
- Replace the Human Rights Act (HRA) with a British Bill of Rights (Open Source Planning, 2010, 17).

Following the 2010 election and the emergence of a hung parliament the Conservatives and Liberal Democrats formed a Coalition Government. A joint plan of governmental policy and action was set out in the document 'The Coalition: our programme for government'. Of relevance to the planning framework and Gypsies and Travellers the report states:

*“The Government believes that it is time for a fundamental shift of power from Westminster to people. We will promote decentralisation and democratic engagement, and we will end the era of top-down government by giving new powers to local councils, communities, neighbourhoods and individuals”* (Cabinet Office, 2010, 11).

The Coalition Plan includes a commitment to *“rapidly abolish Regional Spatial Strategies and return decision-making powers on housing and planning to local councils, including giving councils new powers to stop ‘garden grabbing’.* In the longer term, we will radically reform the planning system to give neighbourhoods far more ability to determine the shape of the places in which their inhabitants live, based on the principles set out in the Conservative Party publication *Open Source Planning”* (Cabinet Office, 2010, 11).

In July 2010, Eric Pickles, the Secretary of State at CLG, announced that he was using his power under section 79(6) of the Local Democracy, Economic Development and Construction Act 2009 to revoke Regional Strategies in order “*to put greater power in the hands of local people rather than regional bodies*” (Johnson and Willers, 2010).

However, this ruling was overturned by a court case involving Cala Homes. Cala Homes (a large housebuilder) had submitted a planning application to build 2000 residential properties on land they owned near Winchester. The South East Regional Strategy indicated that there was a need for 5,500 additional dwellings in the area that included the land owned by Cala Homes. However, Winchester City Council refused Cala Homes planning application on account of the fact that the Secretary of State intended to revoke Regional Strategies (Johnson and Willers, 2010).

According to the ruling of the presiding judge in the case, Mr Justice Sales, the Secretary of State Eric Pickles had wrongly revoked regional planning powers through discretionary powers (*Cala Homes v SSCLG, 2010*). The CLG Chief Planner has since written to local authorities to inform them that RSS remain a material consideration but that the government intends to abolish them through the Localism Bill (CLG, November 10<sup>th</sup>, 2010). This has led to a further judicial review challenge by Cala Homes.

In December 2010 the Localism Bill was published. Of particular relevance to Gypsies and Travellers are proposals to:

- Abolish RS targets and hence regional targets for Gypsy and Traveller sites
- Restrict and further penalise unauthorised developments
- Introduce a New Homes Bonus
- Create a ‘bottom up’ planning process where neighbourhoods have greater say in planning processes.
- Create Local Enterprise Partnerships
- Promote the ‘Big Society’ and new powers, roles and ownership of assets for community groups
- A duty on local authorities to ‘cooperate’

The following sections seek to explore the arguments behind a range of Coalition Government proposals on site delivery, These include Empowerment and Localism, Community Cohesion and Fairness and Social Inclusion. The following sections also

endeavor to summarise the opportunities and challenges posited by these proposals and arguments on how the means to reach these objectives may be better achieved.

### Site Delivery

As noted, a key component of Coalition Government policy is the abolition of Regional Strategies and targets for homes (including housing and Traveller sites). Sections of the building industry have already expressed concern at this intention. At the CLG Select Committee inquiry into the abolition of Regional Strategies, David Orr, chief executive of the National Housing Federation (which represents housing associations) said the decision to get rid of the targets was "*a hasty and damaging move, which has already seen plans for over 180,000 homes scrapped*" (BBC News, 10, 11, 2010). This assertion has been strongly contested by the Secretary of State Eric Pickles MP (CLG uncorrected oral evidence 22<sup>nd</sup> November 2010). The Traveller Law Reform Project presented written evidence to the inquiry which demonstrated that in the months following the announcement to scrap Regional Strategies, a number of local authorities had reduced or abandoned site targets (TLRP). The London Gypsy Traveller Unit has noted that following the Government's revocation of RSs, the Mayor of London has chosen to lobby for a greater regional role in areas such as housing finance and to retain all London Plan targets with the exception of those relating to Gypsies and Travellers. Prior to this the Mayor had reduced pitch targets for London from approximately 800 to 200 pitches (LGTU, 2010).

It has also been asserted that the intention to radically change the planning system without having a detailed strategy in place or a transitional programme has created a vacuum of policy (RTPI, 2010, National Housing Federation Cameron Watt CLG uncorrected oral evidence 8<sup>th</sup> November 2010). It is claimed that this has created confusion and paralysis in the planning system. John Acres, Planning Director (Sustainable Development), Catesby Property Group has stated:

*"There is a void that has almost created a paralysis in the planning system both in the public sector, where many people have stopped preparing their plans until the advice is clearer, and also in the private sector, which obviously needs confidence to invest. Effectively, they have waited to see what new guidance is to emerge, so I think it is very unfortunate. The past three months have been almost a question of treading water to see what happens next"* (CLG uncorrected oral submission, 8<sup>th</sup> November).

The Government has argued that the proposed New Homes Bonus presents a new driving force and sense of direction in the delivery of accommodation (CLG, Eric Pickles, uncorrected evidence 22<sup>nd</sup> November, 2010). The Decentralisation and

Localism Bill will introduce this New Homes Bonus which aims to provide incentives for local authorities to build new homes by matching council tax raised from new homes for the first 6 years. CLG has set aside almost £200m for financial year 2011/12 and £250m for each of the following three years to support the bonus. It is estimated that local authorities will receive up to £10,000 per new home allowed. (LGIU, 30<sup>th</sup> November). In its consultation document on the New Homes Bonus the Government states:

*“We propose to define affordable homes using Appendix B of Planning Policy Statement 3 (PPS3) and also include pitches on Gypsy and Traveller sites owned and managed by local authorities or registered social landlords. Appendix A of this consultation document sets out the types of housing which would be eligible for the enhanced rate”* (CLG, 2010, 3.15).

Opposition to Traveller site development is often intense and the bonus as argued by Alison Seabeck MP may have limited power in overcoming that opposition (Hansard, 7 Dec 2010: Column 17WH). Roy Donson, Regional Planning & Strategic Land Director, Barratt Developments Plc has said of the New Homes Bonus:

*“That is a completely novel approach, and we cannot put our hands on our hearts and be certain it works. I am absolutely certain in my own mind that Ministers are sincere about their desire for more housing and that they believe the New Homes Bonus-type structure will work, but it is quite a high-risk strategy because nothing like that has ever been tried before. I think there must be a plan B, and probably that plan is that if the New Homes Bonus as currently outlined-we do not have much detail on it at the moment-does not do the trick something must be added to it to make it work and we must keep at it until it does”*(CLG uncorrected oral evidence, 8<sup>th</sup> November, 2010).

Some commentators consider that a ‘Plan B’ regarding site provision would be some form of direction or sanction which may continue to be needed to compel local authorities to build sites. It has been argued that allowing local authorities to decide for themselves as to how many pitches they are required to identify is a policy that failed “*miserably*” in the past in the form of Circular 1/94 and led to the severe shortage of sites that currently exists (Johnson and Willers, 2010). Traveller Law Reform campaigners have suggested the return of the statutory duty on local authorities to provide sites (NFGLG, 2010) and it has been argued that this policy had a strong localised dimension as individual local authorities were charged with the responsibility of providing sites (Community Law Partnership, 2010). An interesting exchange during the CLG Select Committee inquiry hearing into the abolition of Regional Spatial Strategies indicated that central duties could be key in delivering what for some are unpopular developments such as Gypsy site provision:

Heidi Alexander MP: *“Councillor Antrobus picked up the point that I intended to raise which is that, while housing can be controversial, sometimes there are even more controversial things such as the siting of Gypsy and Traveller pitches and the building of waste disposal facilities. Councillor Antrobus, you said you would have some concern about those provisions in the region, were it not for the obligations placed upon local authorities. In the new world in which we find ourselves, possibly without the Regional Spatial Strategies, how do you deal with that problem? In your opinion how do you deal with the thorny, knotty issues that are very controversial?”*

Cllr Ken Thornber: *“If you have these responsibilities at upper tier level, they will be exercised. If I look at the lovely county of Hampshire, it has its Gypsy problems as well as others, we could vest the strategic authority with the role of agreeing with district councils the disposition of Gypsy sites. We would have been doing that in the era of SERPLAN and before planning powers were removed. I would offer that as a way to tackle these controversial issues“* (CLG uncorrected oral evidence 25th November 2010).

Others have argued that, in tandem with an obligation or duty to provide sites, a Traveller Accommodation Needs Commission could be established to help assess the level of need and monitor site delivery (Avebury et al, 2010). In its evidence to the ODPM Select Committee inquiry on Gypsies and Travellers in 2004 the National Association of Gypsy Traveller Liaison Officers (NAGTO) argued:

*“The present provision and location of sites urgently requires an overview from central Government and could be administered by a body consisting of both Gypsies and Travellers and local authority representatives to oversee the provision and location of possible accommodation. This overview would ensure that sites are correctly managed and located and also that Government funding is not wasted on mismanagement and inappropriate locations where Gypsy families would not wish to encamp.”* (ODPM 2004, para 122).

The Select Committee endorsed such a proposal and recommended a Gypsy Taskforce to spearhead accommodation provision (ODPM, 2004, para 123). The Task Group that was formed under the chairmanship of Sir Brian Briscoe had more of a monitoring and advisory role but could lay the basis of a more empowered body as recommended by the Select Committee.

Another option being forwarded is to take planning decisions on development for Gypsies and Travellers away from local authorities and give them to an independent agency, such as the Infrastructure Planning Commission or Planning Inspectorate (The

Gypsy Council, 2010). In response to such arguments the Coalition Government would argue that planning processes will still be subject to National Planning Priorities which will steer what may and may not be done (CLG Presentation, 2010).

A popular option amongst a range of stakeholders interested in housing as well as sites is the creation of multi authority strategic planning bodies based on the proposed Local Enterprise Partnerships (LEPs). The Government has indicated that in addition to having economic responsibilities devolved from the Regional Development Agencies which are to be abolished, the LEPs could have some form of planning function. Professor Townsend (a planning expert) has stated: "*LEPs will need to have the legal right and duty, in full consultation, to assemble and write the legally-enforceable Plan for the whole area. This need not involve them in all the myriad day-to-day decisions of the Local Planning Committees*" (Townsend, 2010 see also RTPI). A number of stakeholders from the housing sector (LGA, 2010; Shelter, 2010) and from the Gypsy and Traveller accommodation sector (Avebury et al, 2010; TLRP and FFT 2010) support the creation of LEPs with statutory planning powers to deliver strategic planning at a sub-regional level. This would be 'localist' in the sense that the LEPs would cover smaller areas than the previous regional strategies and thus be more effective at communicating with local populations and allowing them to influence policy. Such LEPs could also provide a level of direction which it is felt site delivery often needs. LEPs would also be cost effective as authorities could pool resources to develop strategies (Society for Planning Officers, 2010). However, at present the LEPs are to be elective, with local authorities able to opt into them and determine their size and function. For LEPs to have an effective strategic planning role it has been argued that the Government may need to create a degree of uniformity amongst these bodies.

There is evidence that the Government may be moving in the direction of giving LEPs the powers some wish to see as in evidence submitted to the CLG Select Committee inquiry into the abolition of Regional Strategies. Written evidence from the Government reads "*We believe it would be helpful to offer authorities who want to work together more formally the option of developing strategic planning frameworks with statutory status*" (CLG, Q277 uncorrected evidence 22<sup>nd</sup> November, 2010). Acknowledging this shift Eric Pickles informed the inquiry "*it is all about a coalition. You come together; you make compromises and come up with something slightly different*" (CLG, Q277 uncorrected evidence 22<sup>nd</sup> November, 2010).

### Localism and Empowerment

The Coalition Government wishes to create a 'localist' dimension to the planning system by creating a 'bottom up' rather than what it describes as the 'top down' approach of Regional Strategies (Localism Bill Part 5, 24 - 31)

Under Government proposals Parish Councils or 'Neighbourhood Forums' will have the power to direct and shape local development through neighbourhood development orders and plans. Local residents will also have the power to initiate referenda on decisions by local authorities. There is a fear expressed by some campaigners that local people will follow a 'nimby' agenda opposing unpopular developments like social housing and Traveller sites. The TLRP and FFT notes that in the past large scale public meetings and campaigns have been orchestrated against site proposals. At one recent meeting in the village of Yaxley 1000 people are reported as having attended to voice opposition to a site proposal (TLRP and FFT, 2010). The Gypsy Council gives an insight into what it describes as the 'dark side of localism':

*"Whenever proposals come up local residents and parish councils object vociferously. The levels of abuse and objection to development for our people are hard to understand but almost universal. Language and attitudes that have been unacceptable since the 1970s to black people, Jews and gays are commonplace in regard to Travellers, particularly when it is proposed that they should live within a community. This is why the planning system is at the heart of the inequalities from which Travellers suffer. Councillors are put under huge local political pressures"* (The Gypsy Council, 2010).

The National Federation of Gypsy Liaison Groups also raises concerns about the implications of localism:

*"The problem for local district and boroughs with regard to Gypsy planning applications, is the "not in my backyard syndrome". Whilst we can agree that it is good that local people have a say in what is happening to their neighbourhood, unfortunately this kind of localism also keeps people out, not just Gypsy people, but it may be the planning for a Special Needs complex of flats or a Special Needs school. Unfortunately these applications are dealt the same kind of NIMBYISM as Gypsy applications are"*

There is a fear that referenda could be organised where residents wish to thwart Traveller site proposals. The Secretary of State is to prepare guidance on referenda and local authorities are to have an advisory role in their organisation. Such guidance and the actual organisation of referenda will need to be mindful of equality duties (Equality Act, 2010). As referenda is to be precluded from decisions related to major infrastructure projects, one point for consideration would be to extend such an exemption to projects which have a race and/or social housing dimension.

Local authorities and Neighbourhood Forums are to engage in consultations on planning issues. Given the paucity of Gypsy and Traveller community groups and

apprehension about attending forums where they fear they may be subjected to hostility (Task Group 2007) it is likely that Gypsy and Traveller input into such discussions may be minimal. As was the case with Regional Strategies, local Gypsy and Traveller populations may look towards national organisations or a local community group within their region to help them in presenting their arguments and aspirations. However, such support was hard enough to facilitate where there were a limited number of regional consultations, but the large number of localised discussions and debates in the reformed 'localist' planning system will present an even more considerable challenge to Gypsy and Traveller organisations and may warrant targeted financial support to enable groups to deliver this role. Clause 100 of the Localism Bill '*Financial assistance to neighbourhood development*' authorises the Secretary of State to give financial assistance in connection with neighbourhood planning. Such funding could finance Gypsy and Traveller input into localised planning discussions.

A number of Gypsy and Traveller groups would argue that they were successfully consulted and involved in the development of Regional Strategies. The Showman's Guild has stated:

*"The accommodation assessments (GTAA's) carried out in the preparation of the RSSs were the first time any census of Showpeople has been conducted. Furthermore, the assessment process established positive working relationships between the Guild, Showmen, regional bodies and involved groups of local authorities to meet the identified needs".* (Showman's Guild, 2010).

It is important that such input and involvement is not lost in the emergence of a localised planning system. There may also need to be detailed advice for Neighbourhood Forums on dealing with matters related to race and careful monitoring of the impact of this policy and guidance by the Equality and Human Rights Commission. In a more localised political environment local Race Equality Councils will also have an important role. However, the network of Race Equality Councils is far from uniform with some areas lacking such bodies (Runnymede, 2010). It has also been reported that there has been a reduction in staff based in the Equality and Human Rights Commission's regional hubs.

In the past fair and open discussion between Gypsies and Travellers and local residents has often been facilitated by local church groups and has helped forge greater understanding and agreement. This was dramatically shown in the 'Cottenham Agreement' where, following acute tensions over an unauthorised encampment in the village of Cottenham, church leaders organised a series of discussions which led to a joint statement between Travellers and local residents recognising the need for more

sites and a national framework to deliver such. The Church and other faith groups may play an important role in discussions in a 'localised' planning environment.

The Runnymede Trust has welcomed the prospects of greater localism and decentralism as promised by the Coalition Government but states:

*“If decentralisation is to achieve substantial public savings it is therefore important that service delivery does not result in increased ethnic inequalities and greater public expenditure further down the line. However, if decentralisation is carried out in a way that takes into account the specific needs of varied communities, race inequalities could potentially decrease, thus leading to more savings in the long term for society as a whole”* (Runnymede 2010).

This argument and the cost saving nature of equality objectives may be upheld in relation to Gypsies and Travellers by the oft quoted figure that 18 million pounds is spent on enforcement against Gypsy and Traveller unauthorised encampments and developments. Such savings may in fact be even greater as the figure of 18 million pounds was reached nearly a decade ago by the Traveller Law Research Unit (Morris and Clements, 2002). It has been argued that enforcement costs could be avoided if there were more sites (ITMB, 2010).

The Institute for Public Policy Research have argued in their paper "Equality, Entitlement and Localism" , that it is important that the new Public Sector Duty introduced in the Equality Act 2010 is used to ensure accountability and to make sure that localism does not lead to a reduced focus of tackling inequalities experienced by particular groups. It is recommended that training and resources be channeled towards local authorities to support their enhanced responsibility in delivering equality (IPPR, 2010).

A major social policy objective of the Coalition Government is to promote a Big Society where community groups have a greater say in the design and delivery of services (Conservative Party, 2010) According to the Local Government Information Unit the Localism Bill will give communities the right to bid to take over local state-run services as well as new powers to help communities save local facilities and services threatened with closure. The Community Right to Bid and the Community Right to Run Services will be a major innovation in the way public services are run, specifically at a time where local authorities may have to withdraw from the running of large-scale services (e.g. libraries). The Bill will seek to encourage different vehicles for service delivery including employee-run mutuals, co-operatives, charities and social enterprises (LGIU, 30<sup>th</sup> November, 2010).

It has been noted however that more developed and organised community groups will be best placed to take advantage of some of the Big Society proposals because of the bureaucratic demands involved in service delivery and asset management (Bartlett, 2009). A key concern regarding Gypsies and Travellers is the paucity of community groups. The National Equality Partnership (NEP) found that there were only 21 Gypsy and Traveller groups on the charities register (NEP, 2008). NEP concludes:

*“Gypsies and Travellers come from such a low base of engagement that a huge amount of work remains to be done in helping grassroots groups to grow and develop so as to have an effective voice in society. Many grassroots Gypsy and Traveller groups lack basic infrastructure and are thus unable to secure funding” (NEP, 2008, 54)*

A number of Gypsy and Traveller community groups outside the list of registered charities are ‘*below the radar*’ a term used to describe groups lacking incorporated legal and charitable status (McCabe and Phillimore, 2010). A recent study funded by Big Lottery Research ‘*Roads to Success: Routes to Economic and Social Inclusion for Gypsies and Travellers*’ (Irish Traveller Movement in Britain: Ryder and Greenfields) has concluded that the Gypsy and Traveller third sector will continue to need important financial help to develop and grow from the state and charity sector. The report further concludes that there may be considerable scope for the development of social enterprise amongst Gypsies and Travellers to deliver sites and services. Strong social networks and the knowledge and trust of their communities would assist Gypsies and Travellers in developing targeted and tailored services.

Other forms of mutualism which may appeal to the Government’s support for such ventures are Community Interest Companies (CIC) as in the case of Homebase - a CIC set up to manage and develop sites. This could also include Community Land Trusts (CLTs) which are locally-based not-for-profit organisations that own land and property in trust for the benefit of a defined community. A Community Land Trust is a legal entity, like a Company or a Co-operative, which holds assets, such as land, for a group of people. The Trust exists independently of its members and its assets cannot be sold on for profit but are held, in perpetuity, to preserve their use for a specific purpose (BSHF 2005). A number of Community Land Trusts to develop Traveller site provision have been under active consideration and one area where plans were reported to be at an advanced stage is in Mendip (Mendip, 2010).

### Community Cohesion and Fairness

One of the Government’s avowed aims is to clamp down on Traveller sites that are unauthorised developments. To this end the Government is proposing to allow local

authorities in England to decline to determine retrospective planning applications where enforcement action is being taken. It also allows authorities to apply to a Magistrate's Court to enable enforcement action after statutory time limits have been exceeded. Where there is evidence of deliberate deception it increases some penalties and adjusts certain time limits with respect to enforcement (Part 5 Localism Bill, 2010).

The Coalition Government is arguing that unauthorised developments and encampments create perceptions of unfairness in the planning and enforcement system and create discord and tensions in community relations. Referring to the existing planning framework for Gypsies and Travellers, the Secretary of State, Eric Pickles, has stated:

*"Such rules have, Ministers believe, undermined community cohesion by creating a perception amongst many people of 'different' planning rules for the travelling community and for the settled community. Planning rules should be the same for all" (CLG, 29<sup>th</sup> August, 2010).*

On the other hand campaigners have long argued that the planning system discriminates against Gypsies and Travellers as reflected in the number of site applications that failed in particular before the introduction of Circular 1/2006 (NFGLG, 2010).

Unauthorised developments have often attracted intense media coverage and it should be noted that in some cases community tensions are reaching breaking point. For example in Meriden local protesters have formed a picket at the entrance to a Traveller site to block its development. Many would argue that a central part of the solution is the creation of more sites. The Equality and Human Rights Commission has noted that well-run authorised sites can effectively integrate into local communities, resulting in greater community cohesion and less conflict (EHRC, 2009).

It has been argued that a planning led approach which identifies land suitable for development and is based on need will reduce unauthorised developments (Avebury et al, 2010). Under the system that is threatened with abolition, local authorities were to be rewarded with greater enforcement powers against unauthorised developments where local need had been met as Travellers would be deprived of a 'material consideration' argument as the local authority would have provided other channels through which Travellers could develop sites. The Coalition Government makes a similar recommendation in that additional enforcement powers are to be dependent on 'local need and historic demand' being met. This presupposes that there will be some form of measurement to identify when 'local and historic' need has been met. Hence, it could be

argued that some form of target will be needed and a continued role for Gypsy and Traveller Accommodation Needs Assessments (GTANA).

In a number of parliamentary debates assertions have been made that GTANA were not carried out with due accuracy and rigor, have over inflated need and been the cause of tension amongst authorities where the number of pitches to be developed have been challenged (Hansard, 8 Sep 2010 : Column 115WH; Hansard, 7 Dec 2010 : Column 3WH, 4WH). However, there is evidence to suggest that the estimates for pitches have tended to be rather conservative and, if there had not been a process of benchmarking by regional government, the figure could have been lower. The TLRP has presented the following evidence from The South East Panel report which was severely critical of the approach of some of the local authorities and local authority groupings:

*“1.8 .....We have found many shortcomings in the evidence base due to the different methodologies in the GTAAs and TSAAs but this is not surprising considering much of the work was undertaken in 2006 and 2007 and the methodology was not tried and tested as, for instance, in assessing other housing needs. What was more surprising is the lack of regard by some authorities of the evidence base they did have in their GTAAs. Although attempts were made to reach the communities there were some major shortcomings, particularly concerning those gypsy and travellers in housing and the New Travellers..... 2.2..... Even taking into account these caveats, we found the overall standard of the GTAAs as a sound and credible evidence base for gypsy and traveller pitch accommodation needs to be very disappointing“. (Cited in TLRP and FFT, 2010)*

In their submission to the CLG Select Committee inquiry into the abolition of Regional Spatial Strategies TLRP and FFT further note that the benchmarking exercise undertaken for the East RSS Partial review found that one GTAA was robust, one acceptable, three underestimated needs and one overestimated need. The TLRP and FFT conclude from this that independent evaluation is essential and state:

*“The RSS process has allowed a regional perspective to be taken and allowed shortcomings to be identified and recommendations made. Failure to do this in the future will jeopardise the progress made so far and will not help ensure that the evidence base is more credible and more uniformly robust..... We are of the opinion that the abolition of pitch targets for local authorities will inevitably mean a serious reduction in the number of pitches planned for. The SE RSS Draft Policy H7 recommended a regional residential pitch allocation of 1,064 but the panel report recommended a residential pitch allocation of 2,119“ (TLRP and FFT, 2010)*

A strong argument can be made that if need is not accurately recorded and met then unauthorised encampments and developments will persist together with community tensions. Stemming from the finding of the TLRP, a strong argument can be made for guidance and monitoring of GTANA and a more uniform methodology for assessment which ensures greater uniformity across authorities. Shelter has made a similar appeal for a revised methodology for Strategic Market Assessments for housing (Shelter, 2010). In the absence of a benchmarking role by regional government one possible solution is for LEPs on their own (or in association with other LEPs) to devise a formula to reach agreement on the number and distribution of sites as a result of GTANA data. The proposed duty to be placed on local authorities to cooperate could be utilised to ensure such sub-regional cooperation and planning on Gypsy and Traveller issues. However, in applying the duty to cooperate to sub-regional planning, the RTPI raises an important point:

*“Will there be any sanctions specified for failure to co-operate and which may be responsible for encouraging, monitoring and taking action on co-operation?”*  
(RTPI, 2010)

Parliamentary debates reveal that one common cause of tension has been the perception that some authorities have an undue burden in terms of meeting site provision because they have facilitated site development in the past whilst neighbouring authorities have ignored previous prescriptions to develop sites. It has been argued that a sub-regional planning process enforced by statutory powers could ensure a degree of redistribution amongst authorities in meeting need and ensure all make a contribution, hence removing a major point of discord and contention (Avebury et al, 2010)

Parliamentary debates also reveal that tensions have been caused through Traveller site development on Green Belt sites (Hansard, 8 Sep 2010: Column 112WH). Campaigners argue that such locations are often the only choice open to families as locations near or adjacent to residential locations often excite intense and bitter local opposition, and in some areas this is also the only land available for site development. The Coalition Government has indicated that it will offer to public consultation a new ‘light touch’ planning circular to replace ODPM Circular 1/2006.

Criticism has also been made of the Human Rights Act (HRA) 1998 with assertions that Gypsies and Travellers are taking advantage of this act which is arousing community anger (Hansard, 7 Dec 2010 : Column 8WH). In response it has been argued that human rights are just one aspect of the considerations of a local planning authority or a planning inspector and are rarely if ever going to be determinative (Avebury et al, 2010). It has been argued that the interests of Gypsies and Travellers are unlikely to outweigh those of the wider community. Under the principles of ‘proportionality’ when applying the

HRA, judges need to balance the interests of small groups such as a Gypsy Traveller family on an unauthorised development with those of the wider community. The Coalition Government plan for government includes a commitment to set up a commission to review the HRA (Cabinet Office, 2010).

Another perception that is arousing tension is that Roma/Gypsies from the continent and Irish Travellers from Ireland are or may arrive in the UK and expect to be included in site provision. In a parliamentary debate James Gray MP argued:

*"As Romania becomes part of the European Union, we may well see more Roma Gypsies moving to this country, as happened in France. We must say to the Irish, "You must stay in Ireland." We must say to Gypsies and Travellers from across the continent, "Wherever you came from, stay there." We in Wiltshire-it will be the same for other hon. Members' areas-have a moral duty to make proper provision only for our local Gypsies, and not for anyone else" (Hansard, 7 Dec 2010 : Column 14WH).*

It should be noted that a number of Gypsy Traveller groups have asserted that continental Roma do not occupy caravans and that the Irish Travellers seeking sites in the UK are second and third generation born in the UK (GTLRC, 2005). It has also been argued that restricting site provision to what are viewed as 'local' Gypsies and Travellers ignores the mobile nature of these communities (Hansard, 7 Dec 2010 : Column 16WH)

Community cohesion has often been challenged by misleading and provocative statements by local and national politicians. South Cambridgeshire District Councillor Debbie Roberts asserted that if she had terminal cancer she would visit the Smithy Fen Traveller site with a suicide bomb. The Standards' Board found her comments to be *"offensive and had brought Cllr Roberts' office into disrepute"*, but decided not to punish her (Cambridge Evening News 2007). It should be noted that the forthcoming Localism Bill (Part 1 Para.15) proposes to replace the Standards' Board allowing local authorities to devise their own regimes to govern propriety and behaviour and empowering local people to hold their elected representatives to account (CLG, 2010). It could be argued that if a robust system to ensure standards in office is not introduced, challenges to community cohesion could become more acute over the issue of Gypsies and Travellers.

Parliamentary debates and statements also reveal that there is a perception that 'speculators' described by the Government as 'speculative, unscrupulous private developers' engineer unauthorised site developments (CLG, 29<sup>th</sup> August, 2010). This perception may be exaggerated but if families do enter into unauthorised developments

spearheaded by a speculator, they might do so because there is no alternative means to secure a site. Those who possess limited capital and experience could be attracted to entering into a development organised by a speculator with the initial capital and supposed expertise for such a venture. Many families have found to their cost that such developments impose a huge strain on them both financially and psychologically. The Gypsy Council notes:

*"It is no exaggeration that many Travellers are tortured by the planning system. Long delays, uncertainty, fear of eviction and having to live on the roadside hangs over many, many families who are waiting for planning decisions from the local authority or quietly living their lives in fear of enforcement. The stress on families and the pressures leading to marriage breakdown, alcohol misuse, stress related illness and depression from the way that the planning system impacts on Travellers should not be underestimated"* (The Gypsy Council, 2010).

A planning led system which identified locations that would not be disputed in the planning process by local authorities but also financial packages that could enable Traveller families to secure credit through schemes such as Community Land Trusts is likely to be a more attractive option than ending up on an unauthorised development for many Gypsies and Travellers. At the moment that choice and option is not available. The Task Group on Gypsy Site Provision and Enforcement chaired by Sir Brian Briscoe identified the development of financial packages to assist Traveller families to secure credit to buy accommodation as a priority which to date has not been adequately addressed (Task Group 2007).

It has been argued that strategic planning and direction can in fact be a force which reduces conflict. Giving evidence to the CLG Select Committee inquiry Cllr Jim Harker stated of a two tier planning system with strategic powers:

*"Quite frankly, there was not that much conflict. We have been around a long while. I have been a member of the county council for 32 years and I chaired the old Planning Committees. There was not so much conflict because you thrashed it out. At the end of the day, it was your responsibility to get to a solution and you got it. In a way, conflict is inevitable, because if you left it to districts to make those individual decisions it would be quite difficult to get things done. You need the element of conflict and debate where everybody has the opportunity to put their point or view, but having somebody a bit more dispassionate who takes the decision is the right way to go about it"* (CLG uncorrected evidence 22nd November 2010).

Forced eviction has also been a major factor in aggravating community tensions. The UK Association of Gypsy Women (2009) expresses a number of concerns about forced eviction: *“Over the years, heavy machinery has been deployed with no duty of care to the children, sick or elderly on the sites and on occasions the elderly and the sick have been beaten and manhandled as they are evicted. Homes have been destroyed and sometimes, with families still inside. Bailiffs violate health and safety policies of the UK without fear of prosecution”*. The Committee for the Elimination of Racial Discrimination in its fourth periodic report on the UK expressed concern about the levels of enforcement and forced eviction used against Traveller sites (ECRI, 2010). There is a possibility that the largest UK eviction to date against a Traveller site may take place at the Dale Farm Traveller site in Essex and involve 90 families (Webber, 2010). Site provision may be a remedy to such conflict. A number of campaigners have long asserted that the offer of appropriate accommodation, namely a site, would lead to families voluntarily leaving a disputed pitch or not resorting to unauthorised encampments which can further inflame community tensions. Likewise in Bristol the provision of a transit site is reported to have reduced enforcement costs against unauthorised encampments and the incidence of such encampments and reduced its related annual costs from £200,000 to £5,000 (8 Sep 2010 : Column 126WH; EHRC, 2009)

Strengthening community cohesion and fairness in the delivery of Traveller sites is a complex and challenging objective. Dialogue and cooperation between Gypsies and Travellers and local and national Government is one ingredient. Likewise dialogue and cooperation between Gypsies and Travellers and the wider community is also needed. A fairer and more balanced media representation of this group and cultural awareness through projects like Gypsy Roma Traveler History Month may go some way to dispelling negative and stereotypical images of Gypsies and Travellers which do much to cause tensions and obstruct community cohesion (Cemlyn et al, 2009)..

### Social Inclusion

Gypsies and Travellers are one of the most excluded groups in society (CRE, 2006, Cemlyn et al, 2009). It is estimated that life-expectancy is around 10 – 12 years less than for members of the settled community (Van Cleemput, 2008) and they experience profound educational exclusion in school (Ryder and Cemlyn, 2010). In 2007 15.6% of Irish Travellers and 14 % of Gypsy/ Roma achieved 5+ A\*-C GCSEs or GNVQs compared to 59.3% of all pupils (DCSF 2008).

In a parliamentary debate the Conservative MP Damian Hinds emphasised the significance of this exclusion:

*"We all acknowledge the challenges that members of the Gypsy and Traveller communities face, and I say "communities" in the plural, because Gypsies are different from Travellers, and both are different again from travelling show people, as hon. Members have mentioned. These groups face particular challenges in terms of educational attainment, health outcomes and so on, and much good work is done in local authorities and elsewhere to try to improve those outcomes. In all these debates, we must also remember that children are involved, and no child chooses the lifestyle into which they are born. It must be fundamental to our activities that we secure the best educational and health outcomes for such children"* (Hansard, 7 Dec 2010 : Column 10WH)

In an earlier debate Hinds noted the importance of more sites in tackling social exclusion:

*"As politicians, we have to rise more fully to those challenges, to ensure good life chances for all. Without doubt, the provision of decent sites in workable locations is an important part of that; so, too, is mutual understanding with others in the community, to ensure that everyone is on board"* (Hansard 8<sup>th</sup> September 2010 108WH)

As noted earlier, the Coalition Government has committed itself to the establishment of a cross ministerial working group to address Gypsy and Traveller exclusion. The Government may want to consider the establishment of a Gypsy Traveller Social Exclusion Task Force as was proposed by the Gypsy and Traveller Law Reform Coalition in which Gypsies and Travellers and practitioners and experts advise the Government on a broad national strategy on Gypsies, Roma and Travellers (GTLRC, 2004)

There are growing concerns that the Traveller Education Service network is being decimated. This process started before the General Election but has been accelerated since May 2010 as a result of deficit reduction and the impact on local authority expenditure (Cemlyn and Ryder, 2010). The Coalition Government has introduced a Pupil Premium to deliver targeted help to disadvantaged pupils and there is hope that this may assist Gypsy Roma Traveller pupils (Cemlyn and Ryder, 2010). The NHS Pacesetters programme has forged important links between health providers and Gypsies and Travellers in identifying, designing and disseminating 'good practice' health care but there are concerns about the impact of NHS reforms on this initiative.

The research '*Roads to Success: Routes to Economic and Social Inclusion for Gypsies and Travellers*' (ITMB: Ryder and Greenfields, 2010) has concluded that there are growing problems within the 'Traveller Economy' (traditional Gypsy and Traveller

economic practices) and has concluded that more sites and improved access to training but also business development support are key components in addressing economic exclusion. A key recommendation is that the Department for Work and Pensions and Jobcentre Plus increase their dialogue with Gypsies, Roma and Travellers (GRT) and devise tailored and targeted strategies to support GRT employment and economic practices.

### **Key Questions**

Following the above discussion of recent debate and policy initiatives a number of key questions can be identified which panel members and participants may wish to consider during the two days of hearings. This is not meant to be an exhaustive list.

#### **Site Delivery**

What is the best means to deliver more sites?

Is there a need for targets and sub-regional strategic planning?

Are incentives (HCA Sites Grant and New Homes Bonus) enough?

Are sanctions and directions needed from central government?

How can Gypsies and Travellers be given a greater role in site delivery?

#### **Empowerment and Localism**

What are the opportunities and challenges presented by Neighbourhood Forums and referenda for Gypsies and Travellers

How can the planning system enable Gypsies and Travellers to participate and shape development?

How can more Gypsy and Traveller community groups be developed? How can the Big Society help?

#### **Community Cohesion and Fairness**

How can fairness be introduced to the planning system?

Is more or less enforcement needed?

How can eviction and unauthorised encampments and developments be avoided?

Should there be a moratorium on evictions apart from where nuisance, obstruction or annoyance is caused?

How can sustainable forms of nomadism be promoted?

What is the best way to measure need?

### Social Inclusion

What positive and negative developments have there been regarding the social exclusion of Gypsies and Travellers? How can exclusion be best addressed?

What is the impact of a lack of sites on health, education and welfare?

***Document drafted by Andrew Ryder, Susan Alexander, Sarah Cemlyn & Chris Johnson***

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UNCORRECTED TRANSCRIPT OF ORAL EVIDENCE

To be published as HC 517 –ii

House of Commons oral evidence taken before the Communities and Local Government Committee on Abolition of Regional Spatial Strategies Monday 25 October 2010

*Colin Haylock and Hugh Ellis*

*Ron Morton, Jeremy Heron and Alice Ross*

*Justin Milward, Fiona Howie and Brenda Pollack*

Evidence heard in Public Questions 74 - 166

UNCORRECTED TRANSCRIPT OF ORAL EVIDENCE

To be published as HC 517-iii

House of Commons Oral Evidence Taken Before the Communities and Local Government Committee Abolition of Regional Spatial Strategies Monday 8 November 2010

*John Acres,, Roy Donson and Andrew Whitaker*

*Cameron Watt, Steve Hinsley and Kay Boycott*

Evidence heard in Public Questions 167 – 238

Abolition of Regional Spatial Strategies

UNCORRECTED TRANSCRIPT OF ORAL EVIDENCE To be published as HC 517-iv

House of Commons Oral Evidence taken before the Communities and Local Government Committee Abolition of Regional Spatial Strategies Monday 22 November 2010

Cllr Jim Harker, Cllr Ken Thornber and Cllr Derek Antrobus

Rt Hon Eric Pickles MP, Greg Clarke MP and Katrine Sporle

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