

EXPLANATORY MEMORANDUM TO
THE SOCIAL LANDLORDS (PERMISSIBLE ADDITIONAL PURPOSES)
(ENGLAND) ORDER 2006

2006 No. 1968

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order extends the permissible purposes of registered social landlords (RSLs) so as to allow them to provide, construct, improve, manage, or provide services to, caravan sites for temporary or permanent use by gypsies and travellers.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 During the passage of the Bill that became the Housing Act 2004, an amendment was tabled at Commons Committee stage to enable the Housing Corporation to give social housing grant for the provision and management of gypsy sites.

4.2 The Government opposed the amendment on the basis that it was not necessary since the proposed change could be achieved through secondary legislation. The Minister promised (see Official Report, Commons, 19/5/04; col. 1075) to amend the permissible purposes of RSLs which would in turn allow social housing grant to be given for those extended purposes.

4.3 Section 2 of the Housing Act 1996 sets the eligibility criteria for RSLs. Landlords which are registered under the Companies Act 1985 or the Industrial and Provident Societies Act 1965 must satisfy specified conditions.

4.4 These conditions include that they are established for, or have among their objects or powers, specified purposes. Any additional purposes must be among those specified in section 2. The Secretary of State has the power to extend these additional purposes by order.

4.5 Under section 18 of the Housing Act 1996 the Housing Corporation may make grants to RSLs in respect of expenditure incurred in connection with their housing activities. Housing activities are defined in section 63 of that Act as being the RSL's activities in pursuance of its purposes, objects and powers.

4.6 By extending the permissible purposes of RSLs, the housing activities for which the Housing Corporation can give social housing grant are also extended.

4.7 The definition of "caravan" in article 3 of the Order is based on the definitions found in Part 1 of the Caravan Sites and Control of Development Act 1960 and Part 3 of the Caravan Sites Act 1968, with the exception that tents are not excluded from the definition for the purpose of the Order. That definition is further modified so as to include caravans which comprise two sections and which, when assembled, do not exceed specified dimensions.

4.8 The term "gypsies and travellers" is defined for the purposes of this Order in article 2.

5. Extent

5.1 This instrument applies to RSLs which have been registered in England by the Housing Corporation.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 At present, around 21% of gypsy and traveller caravans are on unauthorised sites. This situation has attracted significant media attention and the presence of unauthorised sites can be the source of huge tension in local communities. In order to remedy this situation, the Government has introduced a new policy framework that requires local authorities to assess the accommodation needs of gypsies and travellers ("accommodation assessments") and then plan strategically to meet those needs (sections 225 and 226 of the Housing Act 2004), in the same way that they currently do for the settled population. The accommodation assessments will not only inform accommodation strategies produced by the local authority but will also go forward to the Regional Planning Body (RPB). The RPB will use the outcomes from accommodation assessments to inform revisions to the Regional Spatial Strategy which will set out the number of new pitches that each local authority will be expected to provide, based on the level of need identified across the region. The local authority will then identify land in its local plan, which will deliver the appropriate number of pitches. The land which is set aside may be for both public and private provision.

7.2 The Order extends the permissible purposes of RSLs to allow them to provide and manage gypsy and traveller sites which in turn allows RSLs to receive social housing grant for that purpose. The extension of the permissible purposes is intended to encourage RSLs to provide sites for gypsies and travellers resulting in a higher number of new authorised sites being delivered thus reducing the number of unauthorised gypsy and traveller sites more quickly.

7.3 As explained above, the Order contains a definition of ‘gypsies and travellers’ for the purposes of specifying the group of people for whom RSLs can provide and manage sites. There are other, different definitions of the term ‘gypsies and travellers’. The background to the various definitions and the Government’s rationale for using the definition contained in the Order is set out below.

7.4 Romany Gypsies and Irish Travellers have been recognised as distinct ethnic groups by the courts (CRE vs Dutton 1988 and O’Leary and others v Allied Domecq 2000 respectively) and as such are covered by race relations legislation. However, the term ‘gypsies’ was first defined in legislation in Part 2 of the Caravan Sites Act 1968. Following the repeal of Part 2 of the 1968 Act by the Criminal Justice and Public Order Act 1994, the definition of ‘gypsies’ was inserted into the Caravan Sites and Control of Development Act 1960. The Act permits local authorities to provide working space and facilities for ‘gypsies’ on caravan sites.

7.5 A definition of “gypsies and travellers” is contained in Planning Circular 01/2006 ‘Planning for Gypsy and Traveller Sites’ and builds upon the one contained in the 1960 Act by specifying that those people who have ceased to travel temporarily or permanently due to their own or their family’s or dependants’ educational or health needs or old age should still be classed as ‘gypsies and travellers’. The definition is based on nomadism in recognition that gypsies and travellers have particular land use requirements as a result of their nomadic habit of life. This definition is relevant for those who seek planning permission for the development of land, since having ‘gypsy status’ can be a material consideration when planning applications are considered.

7.6 The definition used in this Order differs from that provided in the planning circular and has been informed by a separate consultation for the purposes of housing legislation, via the consultation paper ‘Definition of the term ‘gypsies and travellers’ for the purposes of the Housing Act 2004’ (consultation period 2 February 2006 to 28 April 2006). Section 225 of the Housing Act 2004 requires that every local housing authority must when undertaking a review of housing needs in their district under section 8 of the Housing Act 1985, carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district. Section 225 gives the appropriate national authority the power to define gypsies and travellers by regulations for the purposes of such an assessment. At present no such regulations have been made. In recognition that local authorities should have a full understanding of the range of accommodation needed within their community, a broad definition of ‘gypsies and travellers’ was consulted upon.

A detailed analysis of responses to the consultation exercise will be published shortly and regulations defining ‘gypsies and travellers’ for Housing Act purposes will be made later in the year.

7.7 In advance of that detailed summary of responses, the key issues raised are summarised below. There were 38 responses to the consultation, a number of which fully supported the intention behind the proposed definition and thought that the formulation of words was sensible. However a few concerns were expressed.

7.8 Some responses from Romany Gypsies and Irish Travellers and their representative organisations felt that the definition should solely be based on ethnicity rather than encompassing a way of life i.e. nomadism. In recognition of the ethnic status of Romany Gypsies and Irish Travellers, a number of respondents also wanted the term to be capitalised (rather than lower case as it was throughout the consultation document). In response to this concern, the definition now separates the various groups that are covered by it although it still encompasses other travellers who pursue a nomadic way of life. This is because the Government’s aim is to reduce the levels of unauthorised camping. Any definition must therefore fulfil this aim and encompass all travellers of a nomadic way of life, regardless of race or origin. It is also for this reason that the term was spelt in lower case throughout the consultation document, so as not to presuppose the ethnicity of those covered by the term.

7.9 Some local authorities felt that the existence of different definitions was confusing and advocated the use of a single definition of ‘gypsies and travellers’ for housing and planning purposes. The Government considered this view carefully before publishing the planning circular and consulting on the housing definition. However, the planning circular definition relates to the designation of land for a specific land use requirement – in this case, the requirement is borne out of a way of life, and not an ethnic identity and therefore the definition contained in the planning circular is based on nomadism. The broader definition which was consulted on for Housing Act purposes enables local authorities to assess and strategically plan for the wide range of need that may exist (both amongst those of a nomadic way of life and amongst Romany Gypsies and Irish Travellers on caravan sites and in housing) – it does not imply that those assessed should have their needs met in a particular way. Some local authorities also expressed concern that the definition appeared to include travelling showpeople who have not traditionally been included in definitions of ‘gypsies’ or ‘gypsies and travellers’. However, this view was balanced by responses from The Showmen’s Guild of Great Britain and others which welcomed the fact that travelling showpeople were included in the definition, although they thought that this should be made more explicit. In response to this concern, the Government has decided to modify the definition that was consulted on to explicitly include travelling showpeople.

7.10 The definition of ‘gypsies and travellers’ used in the Order is likely to be the one which is used for Housing Act purposes. The Government believes

that the definition encompasses the right group of people for the purposes of assessing need and is therefore more appropriate in policy terms than the narrower definition in the planning circular.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

Katie Jones at the Department for Communities and Local Government Tel: 020 7944 3565 or e-mail: Katie.jones@communities.gsi.gov.uk can answer any queries regarding the instrument.

FINAL REGULATORY IMPACT ASSESSMENT (RIA)

Title of Proposal

1. Extension of the permissible purposes of Registered Social Landlords (RSLs) to enable them to build and manage Gypsy and Traveller sites [by the Social Landlords (Additional Permissible Purposes) (England) Order 2006, (the Order)].

Purpose and Intended Effect of Measure

Objective

2. To reduce under-provision of Gypsy and Traveller Caravan sites.

Background

3. The caravan count in January 2006 showed that in England, around 21% of caravans are on unauthorised sites. Of the remainder, 37% are on private Gypsy and Traveller Sites, and 42% are on sites provided by local authorities (county, district, metropolitan borough councils or unitary authorities).
4. The number of pitches provided by local authorities has been roughly static since the repeal of Part 2 of the Caravan Sites Act 1968 by the Criminal Justice and Public Order Act 1994.
5. A policy review of Gypsy and Traveller accommodation policy was carried out by the Office of the Deputy Prime Minister (now called the Department for Communities and Local Government - DCLG) in 2004-05. This has resulted in a number of legislative and other changes affecting Gypsy and Traveller accommodation, which aim to mainstream provision through the housing and planning systems. These include a revised planning circular (01/2006 *Planning for Gypsy and Traveller Caravan Sites*) and new requirements to assess the accommodation needs of Gypsies and Travellers

(see section 225 of the Housing Act 2004) and include a strategy to address those needs in any housing strategy that is produced in line with section 87 Local Government Act 2003.

6. In addition, funding for socially rented Gypsy and Traveller sites now forms part of the single housing pot, to be distributed on the advice of the Regional Housing Boards (RHBs) or equivalent bodies. In the past, funding was available via the Gypsy Sites Refurbishment Grant (GSRG), which was a centrally managed Grant. In 2005-06 this made £8m available, including, for the first time, for new residential sites. The new Gypsy and Traveller Sites Grant (GTSG) makes up to £56m available over the period 2006-08 in the Regional Housing Pot. Local authorities and RSLs have been asked to bid for the money by submitting schemes for approval. The Regional Housing Boards assess the schemes and put forward a package of schemes to Ministers for agreement.
7. The extension of the permissible purposes of RSLs will only apply in England. The National Assembly for Wales has the power to extend permissible purposes of RSLs in relation to Wales.

Rationale for government intervention

8. There are over 15,000 Gypsy and Traveller caravans in England. Over three quarters of these caravans are on authorised sites, many of which are well-managed and are an accepted part of the local community. However, under-provision of authorised sites has resulted in Gypsies and Travellers camping on unauthorised land or developing their own land without planning permission.
9. Evidence shows that there is a significant shortfall and therefore backlog of unmet need for site provision which will take some time to meet. In addition there is also a need to ensure that arising need, not least from family growth, is also met. There will continue to be a need for socially rented sites and it is important that both the backlog and future growth can be addressed. Increasing the range of providers by introducing RSLs will deliver a better response to increase site provision and encourage partnering between local authorities and RSLs. In recent years, the level of increase in unauthorised caravans has been mitigated by funding from Central Government to refurbish and make full use of existing sites.
10. The presence of unauthorised sites is likely to contribute to increasing community tensions between Gypsies and Travellers and the settled community. The social exclusion that is experienced by Gypsies and Travellers is one of the drivers for poor educational¹ outcomes in comparison with the wider settled community and BME groups and poor health

¹ For further information on the educational attainment of Gypsies and Travellers see, Ethnicity and Education: The Evidence on Minority Ethnic Pupils. DfES January 2005.

outcomes² in comparison with the wider settled community. Those that are living in unauthorised encampments are particularly at risk given the difficulty they often experience in accessing services due to patterns of frequent moving.

11. Many authorities have not made adequate site provision for Gypsies and Travellers and some local authorities have pursued an enforcement only approach. Local authorities can spend a considerable amount on enforcement activity on evicting Gypsies and Travellers. In contrast, Gypsy and Traveller sites can be cost neutral i.e. they are financed through rental income.

Consultation

Within government

12. Consultation has taken place within DCLG and with the Housing Corporation. Extension of the permissible purposes of RSLs to allow them to provide and manage sites for Gypsies and Travellers was also discussed during the Commons and Lords stages of the passage of the Housing Bill in 2004 (now the Housing Act 2004). (See House of Commons Standing Committee E - Debate on the Housing Bill col 736 24/02/2004 and Official Report, Lords, Col 1406 16/09/04)

Public consultation

13. There has been no separate public consultation on the extension of the RSL permissible purposes, because the policy was determined at the time of the Housing Bill and the Minister announced the Government's intention to extend the permissible purposes. (Official Report, Commons, 19/5/04; col 1075)
14. However, the definition of 'gypsies and travellers' set out in the Order was informed by a separate consultation on a definition for the purposes of the Housing Act 2004 via the consultation paper 'Definition of the term "gypsies and travellers" for the Purposes of the Housing Act 2004' (consultation period 2 February 2006 to 28 April 2006). The Housing Act is relevant in that it specifies that local authorities should assess the needs of those covered by the definition. The following definition was consulted upon:

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 dependents' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism and/or caravan dwelling.

² For further information on health issues relating to Gypsies and Travellers see Parry, G. Van Cleemput, P. Peters, J. Moore, J. Walters, S. Thomas, K. Cooper, C. (2004) The Health Status of Gypsies and Travellers in England. Sheffield: University of Sheffield School of Health and Related Research

15. The Government believes that the same definition is relevant for the Order as for the Housing Act, as it allows RSLs to provide sites for anyone in need as identified through the Gypsy and Traveller Accommodation Assessment process. In response to concerns expressed through the consultation process, the definition has been amended to:

- Separate out the groups who are covered by it to show the interface with the planning system more clearly
- Specifically state the inclusion of travelling showpeople

Options

Option 1 - Do Nothing

16. If the Government chooses to 'do nothing' then RSLs will not be able to receive social housing grant for the purposes of building and managing sites.

Option 2 - Allow RSLs to build and manage Gypsy and Traveller caravan sites and receive social housing grant for this purpose

17. The Order allows RSLs to provide and manage Gypsy and Traveller sites and allows RSLs to receive funding from the Housing Corporation for such purpose. The extension of permissible purposes and the ability of RSLs to access funding to build Gypsy and Traveller sites is likely to result in RSLs providing sites, thus enabling a quicker reduction in the numbers of caravans on unauthorised sites, and the problems associated with them. This will result in improved outcomes for those Gypsies and Travellers who are provided with stable high-quality accommodation, and reduced tensions with the settled community as the numbers of unauthorised sites diminishes.

18. The definition of 'gypsies and travellers' within the Order is deliberately broad to ensure that RSLs are able to meet need in the way that best suits local circumstances. The same definition is likely to be used for the purposes of section 225 of the Housing Act 2004. Under this section, local authorities are required to carry out Accommodation Assessments for 'gypsies and travellers'. The proposed definition for that purpose is intended to ensure that local authorities understand and assess the wide range of need that exists amongst the Gypsy and Traveller community. This will help inform the wider policies and responsibilities of local authorities towards the group identified, whilst at the same time ensuring that the authority can strategically plan for current and future need. Mirroring the likely Housing Act definition in this Order is intended to ensure that RSLs, as well as local authorities, can meet any specific need for sites which is identified through accommodation assessments.

19. Assessing the needs of a wide group and allowing RSLs to provide for that group does not imply that everyone assessed as 'gypsies and travellers'

should have a site provided, by an RSL or by a local authority. Needs may be met by a variety of accommodation solutions, and by a variety of providers, both in the social sector and the private sector. As in the bricks and mortar housing sector, RSLs will need to work closely with local authorities in whose areas they operate to ensure that the provision of sites best meets the needs identified in the Accommodation Assessment. The aim of using this definition is to ensure that where need is identified that is best addressed by site provision, that site provision can be by an RSL. Where land has been designated for Gypsies and Travellers in a council's Development Plan Document, the council will have had to undertake extensive consultation on the plan before it is finalised. RSLs will be able to submit a planning application to establish a site on the land and local residents will have the opportunity to make representations. Where land has not already been designated for Gypsies and Travellers in a DPD, we would expect RSLs to discuss with local authorities the suitability of any site prior to submitting a planning application since it will be for the local planning authority to grant planning permission for such a site. As with any other planning application, local residents will have the opportunity make representations regarding the application.

Alternative Options considered

20. In drafting the Statutory Instrument, the definition of 'gypsies and travellers' must be specified. The Unit considered using the definition of 'gypsies and travellers' contained in the planning circular as follows:

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 dependents' 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.

21. However, the above definition is too restrictive and not fit for purpose. The Government's aim is that RSLs are able to provide sites for anyone that is in need as identified through the Gypsy and Traveller Accommodation Assessment. Those in need, may not necessarily fall within the planning definition of 'gypsies and travellers' therefore, to use this definition would restrict the ability of RSLs to provide sites.

Costs and Benefits

Sectors and Groups Affected

22. The proposal impacts on RSLs, local authorities, Gypsies and Travellers and the local settled community.

Race Equality Impact Assessment

23. A Race Equality Impact Assessment is attached at annex A

Rural Impact Assessment

24. The Order could have an impact on rural areas.
25. If this Order is not made, progress in meeting Gypsy and Traveller accommodation need will be slower and less need may in the end be met. Therefore there may continue to be higher levels of unauthorised camping and development than would otherwise be the case, with a consequent negative impact on the countryside. For example, Gypsies and Travellers may continue to camp on or develop Green Belt land without planning permission. Where Gypsies and Travellers are camping unlawfully they are much less likely to receive local authority services such as waste collection. This can result in fly tipping, making the environment unattractive and damaging wildlife.
26. It is therefore important that providers of sites, whether socially rented, or private, are able to meet need and ensure that those with a legitimate need for sites have an authorised pitch on which to station their caravan.

Breakdown of costs and benefits

Option 1 - Do Nothing

27. Doing nothing would limit the ability of the market in Gypsy and Traveller sites to expand to meet need. It would mean that local authorities would continue to be the only providers of socially rented sites, which would be out of line with the situation in bricks and mortar housing, and would reduce the extent to which Gypsy and Traveller provision was mainstreamed within the housing system. It is likely to result in Gypsies and Travellers who otherwise could be provided with stable high quality accommodation not getting that accommodation. Therefore, levels of unauthorised camping and development would fail to be reduced by as much as would otherwise be possible.

Economic

28. Continuing unauthorised camping and development can have high economic costs. Private landowners may have to use their own money to remove Gypsies and Travellers from their land.
29. Enforcement does not solve the causes of unauthorised camping, and in many cases merely moves the problem elsewhere. The costs of enforcement are therefore repeat ongoing costs.

Environmental

30. Unauthorised camping sometimes takes place in highly inappropriate locations such as Sites of Special Scientific Interest or green belt land. Where this is the case, Gypsies and Travellers are usually moved on quickly but sometimes individual sites are damaged or spoilt by rubbish. There are often complaints of fly-tipping and rubbish left around unauthorised encampments. In some cases the rubbish may be left by the Gypsies and Travellers and in others unauthorised encampments tend to attract fly-tipping from the wider community.

Social

31. Unauthorised encampments and developments are often the source of significant community tension between Gypsies and Travellers and the settled community. Local people can believe that it is one rule for Gypsies and Travellers and another for the wider community. Continued unauthorised camping is therefore likely to fuel this community tension. Gypsies and Travellers are one of the most socially excluded groups with poor life outcomes in relation to the wider population. Although approaches between local authorities vary, those who camp at the side of the road often have particularly poor access to education and health services.
32. RSLs have a great deal of expertise working with specialist client groups, developing non-standard accommodation solutions and working with the settled community to gain acceptance for schemes to which there may initially be public hostility. Under this option this expertise would not be available for the benefit of the Gypsy and Traveller or settled communities.

Option 2 - Allow RSLs to build and manage Gypsy and Traveller caravan sites and receive social housing grant for this purpose

33. If the Order is made, RSLs will be able to provide Gypsy and Traveller sites and receive funding to do so. This should act as an incentive to RSLs to provide sites and will result in a quicker reduction in the numbers of caravans on unauthorised sites, and the problems associated with them. Several RSLs have expressed interest in providing sites for Gypsies and Travellers. If these regulations are made, we would expect more RSLs to come forward and submit bids in future bidding rounds for Gypsy and Traveller Sites Grant. We have established an RSL advisory group to raise awareness of the issue of site provision. We are also working with the Housing Corporation to raise awareness of this and encourage RSL interest and ensure we can provide the right level of support and guidance to RSLs entering the market.

Economic

34. Use of the wide 'housing' definition means that RSLs will be able to provide site accommodation for all those who have a need for it (as demonstrated through the local Gypsy and Traveller Accommodation Assessment). The more sites that are provided by RSLs for the widest range of people, the greater the impact on reducing unauthorised camping and the costs associated with it, such as enforcement action.

Environmental

35. The consequence of 'under provision' or slow growth of provision (which may occur if RSLs are not able to enter the market) is that Gypsies and Travellers may continue to camp in inappropriate locations e.g. school playing fields, green belt land, because there are not enough authorised places to live. This would have the disadvantages set out in paragraph 30 above. The provision of sites by RSLs for Gypsies and Travellers in sustainable locations should reduce the levels of camping in inappropriate locations and should therefore have a positive impact on the environment.

Social

36. The presence of Gypsies and Travellers are most likely to be a source of tension within an area, where Gypsies and Travellers are on unauthorised sites. Whilst the creation of permanent sites is often contentious and results in strong local opposition, one study³ suggested that the fears of people were not realised when a permanent site was established. People's fears were usually based on their experience of unauthorised encampments, not official sites. Those living on well established and managed sites often have good relations with the local community and take part in wider community schemes e.g. neighbourhood watch. The provision of accommodation on a stable long term basis also means that Gypsies and Travellers living on sites are much more likely to have better access to schools, healthcare and other services.
37. The entry of RSLs into the market will result in improved outcomes for those Gypsies and Travellers who are provided with stable high-quality accommodation, and reduced tensions with the settled community as the numbers of unauthorised sites diminishes.
38. RSLs have a great deal of expertise working with specialist client groups, developing non-standard accommodation solutions and working with the settled community to gain acceptance for schemes to which there may initially be public hostility. Under this option this expertise would be available for the benefit of the Gypsy and Traveller or settled communities.

Small Firms' Impact Test (SFIT)

³ Neighbours' Views of Official sites for Travelling People. Planning Exchange 1996

39. At present, unauthorised camping by Gypsies and Travellers sometimes occurs on business premises e.g. farm land, car parks etc. This can negatively impact on businesses since unauthorised camping may affect the operation of a business and the owners of premises may have to pay legal costs to remove Gypsies and Travellers from the site and may also have to pay eviction costs, should bailiffs be required. Therefore the greater the reduction in unauthorised camping, the more likely the positive impact on small businesses. The Government believes that the use of the broader definition for the purposes of the Housing Act 2004 and the extension of the RSL permissible purposes is most likely to result in the greatest reduction in unauthorised camping and therefore have the greatest benefit for small firms.
40. Some Gypsies and Travellers themselves may run small businesses. The provision of new sites should therefore have a positive impact on the small businesses run by Gypsies and Travellers in that there will be a continuity of residence.
41. The Small Business Service has been consulted and is content with the above assessment of impact.

Competition Test

42. A competition filter has been applied to these proposals and as a result it has been concluded that there is no impact on competition. The extension of the permissible purposes allows RSLs to provide and manage sites for Gypsies and Travellers should they choose to do so and receive funding from the Housing Corporation for this purpose. At present, the provision and management of sites is not a permissible purpose therefore RSLs are unable to receive funding for this work, in contrast to local authorities which can provide sites for Gypsies and Travellers and receive funding to do so. By extending the permissible purposes, all RSLs will be able to amend their own constitutions to reflect any new purposes or objectives. If RSLs choose to enter the market they can apply for Gypsy and Traveller Sites Grant which provides 100% of the cost of new provision. Any RSL is eligible to submit schemes for funding.

Enforcement, Sanctions and Monitoring

43. Since the attached Statutory Instrument is a permissive power for RSLs, enforcement and sanctions are not relevant in this case.

Monitoring

44. The Gypsy and Traveller Unit has a dedicated resource based in the Government Offices of each of the three regions where there are significant levels of unauthorised camping and development (East, South East and South West). Members of the Regional Implementation team will be working with local authorities and RSLs to discuss the issue of site provision and encourage them to bring forward schemes for funding.

45. DCLG will be monitoring the number of applications for funding from Registered Social Landlords and has also established an RSL advisory group to identify barriers to RSLs entering the market and share best practice in terms of site provision by RSLs. Feedback from such meetings will feed into the development of site design and management guidance.
46. As those sites developed by Registered Social Landlords will be new ones they are more likely to be modern and suitably designed and equipped to cater for the needs of the intended occupants. The Unit will therefore be able to assess the qualitative impact of allowing RSLs to provide sites.

Implementation and Delivery Plan

47. The extension of the permissible purposes of RSLs will be enacted by a Statutory Instrument which will extend the permissible purposes of RSLs (first laid down in Section 2 of the Housing Act 1996) Once the Order has been made and laid, it will come into force 21 days later. Once the Order has come into force, the Housing Corporation will be able to provide social housing grant to RSLs for the purpose of providing Gypsy and Traveller sites. RSLs will also be able to amend their constitutions where necessary to reflect any new purposes and objectives.

Post-Implementation Review

48. The monitoring of authorised and unauthorised caravans is carried out through the Bi-annual Caravan Count. Although this is a voluntary return carried out by local authorities on behalf of DCLG, the overwhelming majority of local authorities submit this data when requested to do so. The count requires that local authorities separately identify pitches provided by RSLs, therefore, DCLG will be able to monitor the impact of the extension of the permissible purposes by assessing the number of new pitches delivered by RSLs. DCLG also monitors and evaluates grant applications on a regular basis and it will be evident whether RSLs are submitting applications for funding for new site provision.
49. The Unit will review the success of allowing RSLs to provide sites at the end of the financial year 2007-8 as part of a wider review of the success of the 06-08 grant programme.

Summary and Recommendation

50. The extension of the permissible purposes of RSLs provides a power for RSLs to provide sites for Gypsies and Travellers should they choose to do so. This intention was publicly announced in response to amendments put forward during the passage of the Housing Bill in 2004. This move has been welcomed by the Housing Corporation and RSLs alike. Once the permissible purposes have been extended, RSLs will be eligible to receive funding from

the Housing Corporation. The entry of RSLs into the market for Gypsy and Traveller site provision should deliver more authorised pitches for Gypsies and Travellers more quickly than if they were unable to do so thus reducing the number of unauthorised sites more quickly.

Declaration and Publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed ...Meg Munn.....

Date 19th July 2006

Minister's name, title, department

Contact point for enquiries and comments: Katie Jones, Gypsy and Traveller Unit. Email: Katie.jones@communities.gsi.gov.uk or 0207 944 3565.

Annex A

RACE EQUALITY IMPACT ASSESSMENT

1. POLICY DESCRIPTION

1.1 Title of policy to be Assessed:

Extension of permissible purposes of Registered Social Landlords (RSLs) to allow them to provide and manage sites for Gypsies and Travellers and receive social housing grant to do so.

1.2 Brief description of policy to be Assessed:

During the Commons Committee stage of the Housing Bill (which became the Housing Act 2004) , members raised the idea of allowing RSLs to receive social housing grant from the Housing Corporation to enable them to provide and manage sites for Gypsies and Travellers. The Government committed to doing so and the Social Landlord (Additional Permissible Purposes) (England) Order 2006 (the Order) enacts that commitment. In amending the permissible purposes, the Government will use the following definition of 'gypsies and travellers'.

“gypsies and travellers” means -

- (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).

1.3 Aims of policy to be Assessed:

The extension of the permissible purposes of RSLs will broaden the market for the provision of caravan sites for Gypsies and Travellers. This should result in speedier delivery of new sites and thus reduce the levels of unauthorised encampment (where Gypsies and Travellers camp on land they do not own without permission) and unauthorised development (where Gypsies and Travellers develop their own land without planning permission).

The definition of 'gypsies and travellers' which is contained in the Order is a broad one and purposefully encompasses a wider audience than any definition determined only in terms of race, in order to ensure that Registered Social Landlords can cater for a wide range of need for sites that might be identified through Gypsy and Traveller Accommodation Assessments. These assessments are carried out by local authorities and identify need for accommodation amongst the community.

1.4 Who will be affected by this policy?

Sectors and Groups Affected

- Registered Social Landlords
- Gypsies and Travellers
- Local Authorities
- Housing Corporation
- Regional Housing Boards or equivalent bodies

2. ASSESSMENT ANALYSIS

2.1. Could this policy have a disproportionate effect on different ethnic groups?

Romany Gypsies and Irish Travellers are distinct ethnic Groups for the purposes of race relations legislation and therefore covered by the provisions in The Race Relations Act 1976 (as amended by the Race Relations Amendment Act 2000). The definition in the Order has no effect on the ethnic status of Gypsies and Irish Travellers and they remain protected under race relations legislation.

However, the group which this policy is aimed at (as defined in the order) comprises ethnic Gypsies and Travellers and other types of nomadic people e.g. Travelling showpeople and New travellers. Therefore this policy is likely to have a disproportionate effect on the ethnic groups of Romany Gypsies and Irish Travellers since they form a large part of the group that this policy is specifically aimed at.

However, since this policy should encourage RSLs to provide more authorised sites for Gypsies and Travellers, thus reducing the need to camp on unauthorised sites then this policy should have a beneficial effect for ethnic Gypsies and Travellers.

2.3 Give brief details of the evidence available/used. (If you have no data to support your assessment you can get views from diversity groups through a consultation).

At present, there are over 15,000 Gypsies and Traveller caravans in England (as identified through the bi-annual caravan count undertaken voluntarily by local authorities on behalf of central government which is published on the DCLG website and can be accessed via the following link):

<http://www.communities.gov.uk/index.asp?id=1153575>

Around 21% are on unauthorised sites and it is the Government's intention to reduce the levels of unauthorised sites through the provision of more sites and through more effective enforcement.

Gypsies and Travellers are believed to experience the worst health and education status of any disadvantaged group in England⁴. Research has consistently confirmed the link between the lack of good quality sites and poor health and education. The provision of more stable authorised sites for Gypsies and Travellers allowing them access to education and health services should improve health and education outcomes.

Both ethnic Gypsies and Travellers and other types of traveller live on unauthorised sites and the Government therefore believes that the policy framework must respond to the problem of unauthorised sites regardless of the ethnic origin of those living on them. Therefore, in order to assess the level and types of accommodation need both now and in the future, a broad definition encompassing those that have a nomadic way of life and those who have a cultural tradition of nomadism and/or caravan dwelling was consulted upon for the purposes of the accommodation needs assessment process.

The Government believes it is appropriate to use the broad 'housing' definition for the associated Order to allow RSLs to provide sites for anyone identified as in need via the Gypsy and Traveller Accommodation Assessment.

⁴ For further information on the educational attainment of Gypsies and Travellers see, Ethnicity and Education: The Evidence on Minority Ethnic Pupils. DfES January 2005. For further information on health issues relating to Gypsies and Travellers see Parry, G. Van Cleemput, P. Peters, J. Moore, J. Walters, S. Thomas, K. Cooper, C. (2004) The Health Status of Gypsies and Travellers in England. Sheffield: University of Sheffield School of Health and Related Research

2.4 Consultation Methods.

The definition used in the Order results from a consultation exercise on a definition for the purposes of the Housing Act 2004 (see consultation paper ‘Consultation on the definition of ‘gypsies and travellers’ for the purposes of the Housing Act 2004). In the Housing Act consultation the following questions were posed:

Consultation Question

Does the proposed definition capture the right groups of people?

Are there any unjustifiable disproportionate impacts on any ethnic minorities?

Meetings with stakeholder groups, including ethnic Gypsies and Travellers throughout the consultation period and beyond also informed the drafting of the final definition, for use in this Order and for likely use in the Housing Act 2004 regulations.

3. POST CONSULTATION

3.1 What possible differential impacts on equality groups were identified through consultation?

Some respondents to the consultation exercise argued that the definition should be solely confined to ethnic Gypsies and Travellers and expressed concern that it encompassed a wider group of nomadic people. Those respondents were concerned that by defining a broad group of people, the needs of traditional travelling communities would be overlooked.

Whilst the Government acknowledges this concern, the purpose of the provision of caravan sites is not only to allow ethnic Gypsies and Travellers to pursue their traditional way of life through the provision of authorised sites but also to reduce the number of unauthorised sites. Unauthorised sites are not restricted to those occupied by ethnic Gypsies and Travellers and there may be a need for caravan sites from other groups who are nomadic in lifestyle but not ethnic Gypsies and Travellers e.g. New Travellers. It is the Government's intention that Registered Social Landlords should be able to provide for all those identified as in need through the accommodation assessment process carried out by local authorities. This will include non ethnic travellers and therefore a broad definition is used in this order.

The Government recognises that if RSLs choose to provide sites then they may choose to develop sites that might be suitable for different types of Traveller, dependent on need in the area and that such sites may not be confined to those developed for Romany Gypsies and Irish Traveller. However, those on unauthorised sites are all in need of somewhere authorised to live and the Government believes that local authorities and RSLs should have the ability to provide sites for the wider group as defined in the Order.

There is a disproportionate impact on Romany Gypsies and Irish Travellers since they form the majority of the group which are encompassed by the wider definition in the Order, however, since the provision of sites by RSLs should have a positive impact on the wider group encompassed by the definition, the policy should also have a positive impact on those ethnic Gypsies and Travellers covered by the definition. The Gypsy and Traveller Unit will be monitoring the impact of allowing RSLs to provide sites to ensure that ethnic Gypsies and Travellers are not disadvantaged by the use of a broad definition.

In terms of the wider impact on different BME groups, it is possible that if RSLs provide for Gypsies and Travellers, it could be at the expense of provision of accommodation for other BME groups. However, it is unlikely that this will have a significant impact because we anticipate that RSLs entering the market for Gypsy and Traveller provision would need to retain a wider focus for viability reasons. Unless there are new RSLs established purely to provide Gypsy and Traveller sites, we would expect RSLs involved to retain a mixed portfolio, certainly for the foreseeable future. A further safeguard is that schemes which are successful for funding would need to fit with emerging regional priorities as set out by the Regional Housing Boards or equivalents. Since at present, RSLs are not able to provide Gypsy and Traveller sites and receive social housing grant to do so, this Order

attempts to address an existing imbalance in the ability to provide accommodation for different ethnic minority groups.

4. ACTION TO ADDRESS DIFFERENTIAL DIVERSITY IMPACTS

4.1 If Assessment has indicated that a policy will have a differential impact, how would you categorise it?

Please tick.

Significant impact	<input type="checkbox"/>	
Moderate impact	<input checked="" type="checkbox"/>	The attached Order permits the provision of caravan sites by RSLs for Gypsies and Travellers and should therefore encourage the provision of such sites. Since the majority of those forming the group covered by the definition will be ethnic Gypsies and Travellers then Government concludes that this policy will have a differential impact on ethnic Gypsies and Travellers. However, since this Order should encourage the provision of sites then it should result in a positive impact on ethnic Gypsies and Travellers since it will encourage the provision of somewhere authorised for them to live. The Government concludes that this differential impact is justifiable and that the policy has a differential impact on Romany Gypsies and Irish Travellers by virtue of their lifestyle and traditional and cultural preference of living in caravans.
Low impact	<input type="checkbox"/>	

4.2 How will you monitor the Diversity Effects of this policy in the future? If you do not currently have an evidence base, how will you get one for the future?

Action	Date	Responsible Person
Local authorities and RSLs are asked to provide details of the ethnic status of those living on sites, on a voluntary basis. Where this information is provided it can be used to assess the increase in provision for ethnic Gypsies and Travellers compared to other travellers included within the broad legislative definition.	Bi-annual basis (January and July)	Gypsy and Traveller Unit
We are working with ONS to ensure that Romany Gypsies and Irish Travellers are specified ethnic groups in the next census. This will provide baseline information on the number of ethnic Gypsies and Travellers in the country and their accommodation status.		Gypsy and Traveller Unit
Monitoring of applications for Gypsy and Traveller Sites Grant from Registered Social Landlords will provide information as to who is intended to occupy a site e.g. the site design for New Age travellers may be very different to that for Romany Gypsies.		Gypsy and Traveller Unit