

11. Gypsy and Traveller accommodation



11.1 Introduction

- 11.1.1 The Council is responsible for the traveller site at Stable Way which is jointly managed by the Council and the London Borough of Hammersmith and Fulham (LBHF). The site's freehold is owned by Transport for London with a lease to the Council. The Stable Way site is a permanent site and currently comprises a total of 20 pitches, of which 1 is taken up by 'the hut' centre, resulting in 19 available authorised pitches, which have been on site for at least 22 years. The site was in LBHF until a boundary change approximately ten years ago and it is now within the jurisdiction of this Council. The site was previously managed by Hammersmith and Fulham Homes, as an Arm's Length Management Organisation (ALMO). Before that it was managed by LBHF. It is now managed by the Kensington and Chelsea Tenant Management Organisation (KC TMO).
- 11.1.2 Due to the Stable Way site's location in the Borough, which is directly adjacent to the boundary with LBHF, and the fact that it is jointly owned, a Draft Gypsy and Traveller Accommodation Needs Assessment (GTANA) has been undertaken jointly with LBHF (see section 4 for evidence base). This has identified that there is a need between the two Boroughs of approximately 10 additional pitches over the next 10 years.
- 11.1.3 A map of the existing site at Stable Way and the LBHF/RBKC Borough boundary is provided as Figure 11.1 below:

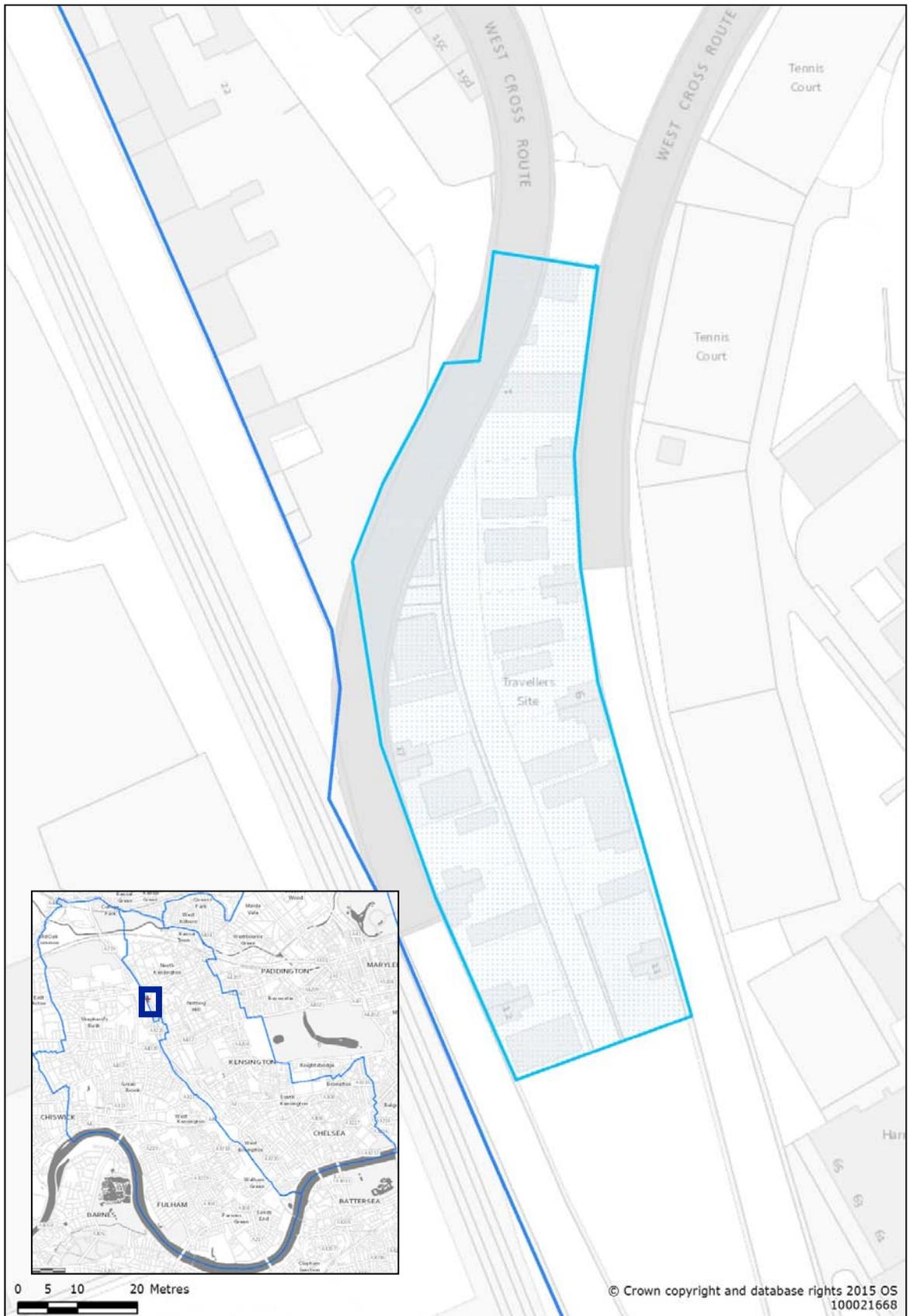


Figure 11.1: The existing site at Stable Way and the LBHF/RBKC Borough boundary

11.2 Existing Local Plan policy

- 11.2.1 The existing Local Plan policy relating to Gypsy and Traveller accommodation is set out below.
- 11.2.2 The Council's commitment in the Policy to prepare a Gypsy and Traveller 'Development Plan Document' (DPD) is now being followed up as part of this Local Plan Partial Review consultation, rather than have a separate 'DPD'. The Council currently intends to update the evidence base on need and supply as part of the wider Local Plan Partial Review.

Policy CH2(s) Housing Diversity: Gypsies and Travellers

Protect the existing Westway Travellers' site which the Council jointly manages with the London Borough of Hammersmith and Fulham. Additional sites for temporary or permanent use will be identified in the forthcoming Gypsy and Traveller DPD and should meet the following criteria:

- the site can provide for a satisfactory arrangement of pitches, permanent buildings and open space;
- use of the site would have no significant detrimental effect on the amenity of occupiers of adjoining land;
- use of the site would be acceptable in terms of the visual amenity;
- the use could be supported by adequate physical and social infrastructure in the locality

- 11.2.3 The Council also has an adopted Westway Supplementary Planning Document (SPD) (December 2012) which provides site specific planning guidance for the future development of the land under and adjacent to the Westway Flyover. This partly includes the Gypsy and Traveller site at Stable Way. Paragraph 4.1.4 of the SPD states that one of the issues identified for the area includes: "Access into and through the area via Stable Way could be significantly enhanced, together with pedestrian and vehicular access to the Traveller's site".

London Borough of Hammersmith and Fulham (LBHF)

- 11.2.4 It is also appropriate to reference LBHF's existing Core Strategy (October 2011)¹⁹² policy on Gypsies and Travellers which refers to the Stable Way site:

Borough Wide Strategic Policy H5 Gypsy and Traveller Accommodation

The council will work closely with RBKC to protect and improve the existing Gypsy and Traveller site at Westway which is located in Kensington & Chelsea.

Any additional site to accommodate the specific needs of Gypsies and Travellers in this borough should:

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www.lbhf.gov.uk/Directory/Environment_and_Planning/Planning/Planning_policy/164525_Core_Strategy.asp

- meet local need;
- take account of suitable vehicular access and satisfactory parking, turning and servicing;
- be within close proximity of local facilities and services such as a primary school, local shops and a GP; and
- be designed in such a way that it is compatible with existing and planned uses, fit for the occupants and at the same time does not impact on residential amenity.

11.2.5 LBHF published a revised Draft Local Plan¹⁹³ for consultation in January 2015 to ultimately supersede its existing Core Strategy. In the Draft Local Plan, LBHF proposed to replace Strategic Policy H5 (above) with a new Policy HO10:

Borough-wide Policy HO10 Gypsy and Traveller accommodation

The council will work closely with the Royal Borough of Kensington and Chelsea to protect, improve and, if necessary, increase the capacity of the existing Gypsy and Traveller site at Westway.

11.2.6 Alongside this, LBHF published a series of 'Alternative Options' for consultation. The Royal Borough responded to the Draft Local Plan consultation, maintaining the view that rejecting the alternative option of LBHF identifying sites in its own Borough to meet the need for additional pitches was premature in advance of the joint GTANA being completed.

11.3 Legislation, policy and guidance context

National

Housing Act 2004 and the Housing and Planning Bill 2015

11.3.1 Section 225 of the Housing Act 2004 requires each local housing authority when undertaking a review of housing needs in their districts (under section 8 of the Housing Act 1985) to carry out an assessment of the accommodation needs of Gypsies and Travellers residing or resorting to their district. The Act also requires local housing authorities to include the needs of Gypsies and Travellers in any housing strategy they produce in line with section 87 of the Local Government Act 2003 and to take any such strategy into account in exercising their functions. Gypsies and Travellers are defined for this purpose in The Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006. The Council therefore has a responsibility for identifying and providing for the accommodation needs in light of the Housing Act 2004.

11.3.2 It should be noted, however, that section 84 of the recently-published Housing and Planning Bill (October 2015) proposes to omit sections 225 and 226 of the Housing Act 2004. This would effectively remove the above requirements and the associated secondary legislation and guidance (particularly the GTANAG 2007 -

¹⁹³

www.lbhf.gov.uk/Directory/Environment_and_Planning/Planning/Planning_policy/181500_Local_Plan_Review.asp

see below).

Equality Act 2010

- 11.3.3 The Equality Act does not define race. However, case law has established that Roma Gypsies and Irish Travellers are covered by the protected characteristic of race for the purposes of the Act. Local authorities therefore also have a duty under the Equality Act to actively seek to eliminate unlawful discrimination, advance equality of opportunity and promote good race relations.

National Planning Policy Framework (NPPF)

- 11.3.4 The National Planning Policy Framework (NPPF) states that Councils should set out their strategic priorities for the area in the Local Plan, including the strategic policies to deliver the homes and jobs needed in the area and allocate sites to promote development.
- 11.3.5 The NPPF also requires each Council to ensure that the production of its Local Plan and decision making is based on “adequate, up-to-date and relevant evidence” (paragraph 158).
- 11.3.6 A Technical Adjustment to the NPPF was made in July 2015 following the *Wenmen v Secretary of State* High Court judgement. The two amended paragraphs are:

From today, those persons who fall within the definition of ‘Traveller’ under the Planning Policy for Traveller Sites, cannot rely on the lack of a five year supply of deliverable housing sites under the National Planning Policy Framework to show that relevant policies for the supply of housing are not up to date. Such persons should have the lack of a five year supply of deliverable Traveller sites considered in accordance with Planning Policy for Traveller Sites. (Paragraph 49)

Planning Policy for Traveller Sites sets out how ‘Travellers’ (as defined in Annex A of that document) accommodation needs should also be assessed. Those who do not fall under that definition should have their accommodation needs addressed under the provisions of the National Planning Policy Framework. This does not form part of the changes to planning policy for Travellers, on which the Government consulted in 2014, and to which this Government intends to respond shortly. (Paragraph 159)

Planning Policy for Traveller Sites (PPTS)

- 11.3.7 At the same time as the NPPF publication (March 2012) the Government published the Planning Policy for Traveller Sites (PPTS)¹⁹⁴. This was updated in August 2015 to include a new definition within Annex 1 as:

¹⁹⁴ This policy replaces ODPM Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites and Circular 04/2007: Planning for Travelling Showpeople

1. For the purposes of this planning policy “Gypsies and Travellers” means:

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

2. In determining whether persons are “Gypsies and Travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

- 11.3.8 The PPTS must be taken into account in the preparation of development plans, and is a material consideration in planning application decisions (paragraph 2). The policy advises that Councils preparing plans for and taking planning application decisions on Traveller sites, should also have regard to the policies in the NPPF so far as relevant. The PPTS contains a number of policies which are listed below:

Policy A: Using evidence to plan positively and manage development

Policy B: Planning for Traveller sites

Policy C: Sites in rural areas and the countryside

Policy D: Rural exception sites

Policy E: Traveller sites in Green Belt

Policy F: Mixed planning use Traveller sites

Policy G: Major development projects

Policy H: Determining planning applications for Traveller sites

Policy I: Implementation

- 11.3.9 One of the Government’s aims in the PPTS in respect of Traveller sites is that Councils should “make their own assessment of need for the purposes of planning” (paragraph 4). The Council has followed the PPTS in preparing the evidence base (see section 4).

[Gypsy and Traveller Accommodation Needs Assessment Guidance \(GTANAG\)](#)

- 11.3.10 This document provides guidance to Councils on how to undertake a Gypsy and Traveller Accommodation Needs Assessment (GTANA) for planning purposes. As noted above, the Housing and Planning Bill 2015 proposes to omit the legislation which underpins this Guidance and effectively cancelling it. The statute, however, has not yet changed and the Council has used the GTANAG in preparing the evidence base (see section 4) in the absence of any other guidance.

Regional

The London Plan

- 11.3.11 Policy 3.8 Housing Choice of the London Plan states that Councils “should work with the Mayor and local communities to... ensure that... the accommodation requirements of Gypsies and Travellers... are identified and addressed, with sites identified in line with national policy, in coordination with neighbouring boroughs... as appropriate” (subsection i).

Housing Supplementary Planning Guidance (SPG)

- 11.3.12 Paragraph 3.1.65 of the Housing SPG (November 2012) states that “Where there are issues over cross border coordination of provision, the Mayor will provide support to address these if requested by relevant authorities in circumstances where strategic action will ‘add value’ to the process”. This text is retained in paragraph 3.1.100 of the emerging revised Draft Interim Housing SPG published in May 2015.

Summary

- 11.3.13 Figure 11.2 summarises the main legislation, policy and guidance of particular relevance to this section:

| Date | Document | Organisation |
|----------------------------------|---|---------------|
| Nov 2004 | Housing Act 2004 ¹⁹⁵ Section 225 | HM Government |
| Dec 2006 | Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006 ¹⁹⁶ | HM Government |
| Apr 2010 | Equality Act 2010 ¹⁹⁷ | HM Government |
| Oct 2015 | Housing and Planning Bill 2015 ¹⁹⁸ Section 84 | HM Government |
| Oct 2007 | Gypsy and Traveller Accommodation Needs Assessment Guidance (GTANAG) ¹⁹⁹ | DCLG |
| Mar 2012 adjusted Jul 2015 | National Planning Policy Framework (NPPF) ²⁰⁰ Paragraph 4, 49 and 159 See also Technical Adjustment ²⁰¹ | DCLG |
| Aug 2015 | Planning Policy for Travellers Sites (PPTS) ²⁰² | DCLG |

¹⁹⁵ www.legislation.gov.uk/ukpga/2004/34/contents

¹⁹⁶ www.legislation.gov.uk/uksi/2006/3190/contents/made

¹⁹⁷ www.legislation.gov.uk/ukpga/2010/15/contents

¹⁹⁸ <http://services.parliament.uk/bills/2015-16/housingandplanning.html>

¹⁹⁹ www.gov.uk/government/publications/gypsy-and-traveller-accommodation-needs-assessments

²⁰⁰ <http://planningguidance.planningportal.gov.uk/blog/policy/>

²⁰¹ www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2015-07-22/HLWS167/

²⁰² www.gov.uk/government/publications/planning-policy-for-traveller-sites

| Date | Document | Organisation |
|----------|---|-----------------|
| Mar 2015 | The London Plan ²⁰³ Policy 3.8 Housing Choice | Mayor of London |
| Nov 2012 | Housing Supplementary Planning Guidance (SPG) ²⁰⁴ Paragraph 3.1.65 | Mayor of London |
| May 2015 | Draft Interim Housing Supplementary Planning Guidance (SPG) ²⁰⁵ Paragraph 3.1.100 | Mayor of London |

Figure 11.2: Summary of legislation, policy and guidance

11.4 Evidence base

London Boroughs' Gypsy and Traveller Accommodation Needs Assessment (GTANA): Final Report (March 2008)

- 11.4.1 A London-wide Gypsy and Traveller Accommodation Needs Assessment was undertaken for the Mayor of London in 2008. Whilst considered out of date, the Council has had regard to the conclusions of the report for this Borough.

Joint evidence base with the London Borough of Hammersmith and Fulham (LBHF)

- 11.4.2 The main evidence base is the Draft Gypsy and Traveller Accommodation Needs Assessment (GTANA), which has been prepared jointly with LBHF.
- 11.4.3 The purpose of the Draft GTANA is to provide robust up-to date evidence on accommodation need that complies fully with current legislative, policy and guidance context so as to usefully inform the emerging planning policy. The Draft GTANA has been carried out in line with the 2007 GTANAG as set out above using both primary and secondary data sources. The Draft GTANA is available to download from www.rbkc.gov.uk/planningpolicy. The Draft GTANA identifies a need for an additional 10 pitches over 10 years.

Duty to cooperate

- 11.4.4 The joint working with LBHF on the Draft GTANA is a reflection of the Council actively carrying out the duty to cooperate.
- 11.4.5 Section 110 of the Localism Act 2011 inserted section 33A into the Planning and Compulsory Purchase Act 2004 which requires Councils to cooperate with other prescribed bodies. The duty requires, in particular, a duty to “engage constructively, actively and on an ongoing basis” in relation to “maximising the effectiveness” of, and having “regard to”, activities concerned with supporting or preparing planning policies “so far as relating to a strategic matter”.
- 11.4.6 A strategic matter is defined as “sustainable development or use of land that has

²⁰³ www.london.gov.uk/priorities/planning/london-plan

²⁰⁴ www.london.gov.uk/priorities/planning/publications/housing-supplementary-planning-guidance

²⁰⁵ www.london.gov.uk/priorities/planning/consultations/draft-interim-housing-supplementary-guidance

or would have a significant impact on at least two planning areas” (section 33A(4)). Clearly, Gypsy and Traveller accommodation is a strategic matter for the purposes of the duty.

Summary

- 11.4.7 A summary of existing Gypsy and Traveller evidence base documents is provided in Figure 11.3.

| Date | Document | Organisation |
|----------|--|--|
| Mar 2008 | London Boroughs’ Gypsy and Traveller Accommodation Needs Assessment: Final Report ²⁰⁶ | Fordham Research for the Mayor of London |
| Dec 2015 | Draft Gypsy and Traveller Accommodation Needs Assessment (GTANA) ²⁰⁷ | RBKC, LBHF |

Figure 11.3 Summary of principal sources of evidence

11.5 Issues and options

Issue 1: Need

Question 1

Do you have any comments on the Draft GTANA methodology, data and conclusions?

Question 2

Despite the change in definition of Gypsies and Travellers in the PPTS to exclude those Travellers who no longer travel (and emerging changes in the Housing and Planning Bill), should the Council continue to assess the needs of Gypsies and Travellers separately to general housing need?

Issue 2: Supply

Question 1

In advance of the Draft GTANA being completed in light of comments received as part of this consultation, do you have any suggestions for how the Council (and LBHF) should seek to meet any identified unmet need?

Question 2

Are there any sites that should be considered as a site allocation as part of the Local Plan Partial Review for Gypsy and Traveller Accommodation? If so, please complete the Call for Sites section of the Consultation Response Form (Appendix C).

²⁰⁶ <http://legacy.london.gov.uk/mayor/housing/gtana/index.jsp>

²⁰⁷ www.rbkc.gov.uk/planningpolicy

11.5.1 Regarding identifying site allocations, section 11 of the PPTS states:

Local planning authorities should ensure that Traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) Promote peaceful and integrated co-existence between the site and the local community
- b) Promote, in collaboration with commissioners of health services, access to appropriate health services
- c) Ensure that children can attend school on a regular basis
- d) Provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment
- e) Provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any Travellers that may locate there or on others as a result of new development
- f) Avoid placing undue pressure on local infrastructure and services
- g) Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans
- h) Reflect the extent to which traditional lifestyles (whereby some Travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

Do you have any other comments, issues or options (reasonable alternatives) you would like to raise regarding this section?