WORDS WHICH EXCLUDE

Adjustments to communication devices within law and planning frameworks dealing with Gypsy and Traveller accommodation in the UK.

THE SOCIAL AND CULTURAL DEFINITION OF GYPSY AND TRAVELLER STATUS - CHANGES PROPOSED TO THE LANGUAGE APPARATUS OF THE HOUSING AND NATIONAL POLICY PLANNING FRAMEWORKS IN THE UK.

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within law and planning frameworks
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iCeGS - International Centre for Guidance Studies

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A brief overview on the project

www.wejusticeproject.eu

Why?

The project stems from the empirical experience and studies of the partners as well as from the comparison of the results of research at European level on the issue of housing conditions of the Roma and Travellers people, and of the housing and settling policies related to them.

On the basis of the common features arising from the European context – unacceptable housing conditions, discrimination, forced evictions, widespread antiziganism – we have asked ourselves about the existence of a possible stereotyped social description of the Roma and Travellers people, which has become a common element and tradition in European public discourse. This description would then take on local forms linked to the specific context and to the relationship created between certain Roma and Travellers groups and a given territory, becoming a platform on which projects and policies are designed.

What?

1. Research

The focus of the project is on the language used by institutions, and the main action is to analyse the documents produced by national and local Public Institutions (laws, regulations, plans, acts, resolutions etc.) concerning - directly or indirectly - Roma and Travellers, both in regards to language used and the measures proposed, Housing Policies in particular.

On the issue of housing, the policies of social inclusion play a certain role, and "Romafobia" is essentially the fear of having the Roma and Travellers close by. Stereotypes can be used for trade or in situations of conflict in which questions of identity are played out. The analysis of language and institutional measures include the study of the reasons and sources of the language utilized, of the measures and actions proposed, and it could clearly show what the stereotypes in action are, and how they produce effects on reality and on the everyday life of Roma and Travellers.

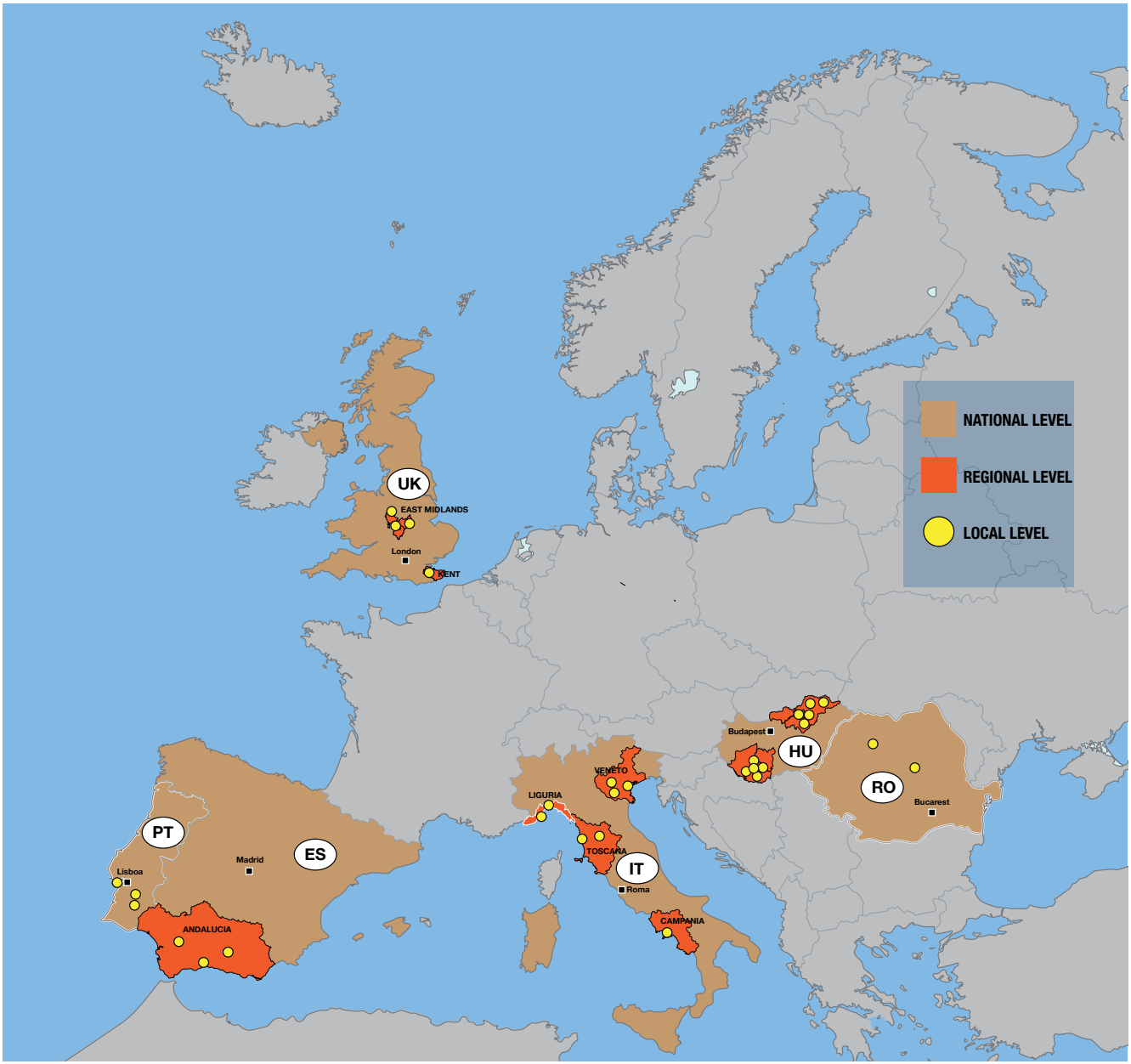
2. Recommendations

The second action is that of making the results of research a heritage of those who work in Institutions in the administrative and political sector.

The result of this action will be a booklet with recommendations to fight and possibly eliminate stereotypes and mis-knowledge that can negatively influence the elaboration of actions and policies aimed at improving the housing conditions of the Roma and Travellers, by respecting their rights and culture. The elaboration of these recommendations by the partners includes involvement and exchange with the Associations formed by Roma and Travellers people. The recommendations of each single country will have a common part with all the involved countries and a specific part on every national background. They are written in the language of the country and in English. In order to make this tool actually adopted by Institutions, the partners have organise a participatory dissemination initiative by holding round tables, seminars and focus-groups.

3. Ethnographic film

A third cross-cutting initiative is envisaged, based on a visual anthropological approach and aiming at making an ethnographic film on the housing conditions and testimony of the Roma and Travellers groups present in the partner countries of the project.


NATIONAL LEVEL
REGIONAL LEVEL
LOCAL LEVEL
UK
EAST MIDLANDS
London
KENT
PT
Lisboa
Madrid
ES
ANDALUCIA
LIGURIA
VENETO
TOSCANA
IT
Roma
CAMPANIA
Budapest
HU
RO
Bucarest

Tab. 1. Documents collected: National, Regional and Local level

National Level	N. Docs	Regional Level	N. Docs	Local Level	N. Docs
ITALY	13	Liguria	4	Genova	45
				Savona	3
		Veneto	5	Legnago	36
				Cerea	9
				Venezia Mestre	9
		Tuscany	59	Florence	387
				Viareggio	28
		Campania	11	Napoli	82
				Provincia di Napoli	11
UNITED KINGDOM	49	South East		Kent	33
		East Midlands		Leicester	18
HUNGARY	29	South Transdanubia	5	Pécs	122
				Siklós/Sásd	6
				Gordisa/Mágocs	2
		Northern Hungary	1	Miskolc	54
				Edelény/Encs	11
				Szakácsi/Szendrölád	4
PORTUGAL	14			Lisbon	7
				Beja	34
				Vidigueira	7
SPAIN	9	Andalusia	12	Sevilla	40
				Málaga	44
				Granada	42
ROMANIA	-			Cluj Napoca	43
				Sfântu Gheorghe	19

Tab. 2. Resume of documents collected (total number of documents collected: 1.346)

	National Level	Regional Level	Local Level	Total
ITALY	13	68	621	702
UNITED KINGDOM	49	2	51	102
HUNGARY	29	6	199	234
PORTUGAL	14	-	48	62
SPAIN	9	12	126	147
ROMANIA	37	-	62	99
TOTAL	151	88	1.107	1.346

Recommendations: the definition of a “problem” is part of the problem

The task of those who are engaged in institutional and administrative roles is to face the concrete situations of social difficulties, responsibly and with an awareness of reality, wherever and for whoever they arise.
For this reason, we think that the construction of good and just housing solutions for families and groups of Roma and Travellers is an important test, physically and symbolically, of good public administration governance, precisely for its ability to act effectively in combatting all forms of discrimination and urban segregation.
This set of recommendations insists on communication and language methods through which public action is set forth when dealing with issues related to housing conditions and the settlement of Roma and Travellers families.
From the very definition of a social or urban issue one can deduce the possible choices that can be taken to face it and resolve it. Often, the desire to pursue a particular choice leads to a definition of an issue in the most useful way to justify the choice made. In these cases, the description of a problem itself is not a minor part of the problem.
The recommendations therefore do not claim to be presented as imperative and mandatory indicators. In fact, even if they refer back to an underlying method, they derive from:

- Observations apprised on local and general level, highlighted in the reading and analysis of a large number (1,346 in all the countries involved in the project) of legal and administrative documents affecting the Roma and Travellers;
- The widespread and uncritical repetition of definitions taken from other documents, including those prepared in different contexts;
- The belief, from such experience gained by the research group, that a number of defects, lapses, simplifications and prevarications observed in the linguistic choices may be crucial in limiting the effectiveness of such documents and even in modifying their target and outcome.

The examples given are always derived from authentic governmental documents, they have been chosen for their frequency and typicality, and are sometimes subjected to a slight simplification or typification, depending on the clarity of the data given.
Each recommendation, albeit presented, for brevity, in prescriptive form, tries to communicate the specific observations and the complexity that have fostered it, and seeks to contribute to the sharing of a more meditative and participatory approach in the formulation of regulations and measures.
In formulating a question, even problematic, an effective government action is in fact the ability to listen critically to individual and group opinions and to confer speech and participation upon socially deprived and excluded areas and subjects. Above all, it is capable of questioning the meaning of common and dominant social descriptions and define new frameworks of meaning that can unlock prejudicial positions.
Participation is an ally of transformation politics. It is an opportunity for mutual learning: the most effective actions are those that are gained in processes relating to all inhabitants. The projects partaken are the result of a creative negotiation between the actors involved, of an ability to modify initial positions and to identify new, unexpected and shared solutions.
Even in the case of public interventions or administrative actions that relate to individuals or groups of Roma Gypsies and Travellers, participation,

dialogue, involvement of beneficiaries and of all social and institutional actors are preliminary to the identification of positive and fair solutions.
The issue of housing and urban conditions of Roma and Travellers is treated in most cases as a social problem, if not public order. A good and effective local government action is able to take the different aspects that comprise a disadvantage situation into consideration and grasp the problematic aspects of the relationship amongst them and with the context.
Cross-cutting approaches allow the dynamic development of the different dimensions involved and produce effects greater than those that could be obtained from their sectoral implementation.

It is now clear that, in all contexts, actions of a repressive nature draw a broad consensus, but do not “solve the problem”; they do not favor possible inclusion processes and contribute to fuel intolerance, discrimination and even violence.
In order that a different quality of governance can emerge, it is important that administrators and specialists are able to adopt a different outlook when faced with situations such as those in which the Roma and Travellers often live.
It is necessary to invest in a task of planning and research to the degrees of compatibility offered by the local context.
A demanding stake, which presupposes the belief that local interaction, participation and social dialogue are capable of producing rationality, empathy and of deconstructing prejudice.

RECOMMENDATIONS

1. A ‘Gypsy and Traveller’ Working Group representative of the people should be set up in relation to “gypsy status” so that a relevant definition can be discussed and agreed. A definition in relation to social and cultural heritage should be discussed in relation to UK Romany Gypsy and Traveller minorities.

THE CASE:

Ann Medhurst Law Case with Neutral Citation Number: [2011] EWHC 3576 (Admin) in the High Court of Justice, Queen’s Bench Division, The Administrative Court Secretary of State for Communities and Local Government. Mrs Medhurst applied under Section 288 of the Town and Country Planning Act 1990 against the Planning Inspector dismissal of her previous appeal versus *“the refusal of planning permission for change of use for stationing one mobile home and four touring caravans with associated hard standing, connection to sewers and conversion of two stables to utility rooms.”* (Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, paragraph 1). The Inspector considered that the appeal raised the issue *‘whether the appellant and her grown up family fall within the definition of Gypsies and Travellers’* (Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, par. 3) for planning purposes.

The report to the Planning Authority Committee referred to Mrs Medhurst having lived in a council house for 26 years (sold in 2007 to help finance a purchase of land, which was a travelling showman’s site). She had travelled for work with her mobile home and her sons had travelled during summer holidays; her sons were refusing to live with their families in houses as they did not like to live in them. The Inspector declared that he based his conclusions on the question of Gypsy and Traveller status in current conditions of the families. The Inspector said that Mrs Medhurst and her family had presented no evidence about *“having a nomadic sufficient lifestyle sufficient to constitute a Gypsy or Traveller for planning purposes.”* (Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, paragraph 9) The Inspector also insisted that Mrs Medhurst showed little evidence that had followed a lifestyle that involves travelling for an economic purpose (nomadic style by seeking work).

THE LEGISLATION:

The Inspector for his decision referred to the statutory definition of Gypsies and noted that planning for Gypsy and Traveller sites 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 or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such." (Circular 01/2006, paragraph 15)

The Inspector insisted that his decision was based upon whether a person *"falls within the definition is a matter of fact and degree to be applied to their way of life at the time of the determination of the appeal"* (Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, paragraph 5). According to the evidence Mrs Medhurst and her family had Gypsy ancestry. However, according to the Law there is little in their housing and/or employment history to indicate *"travelling as a way of life"*.

In addition, the Council acknowledges that there is an unmet need for Gypsy sites in Tonbridge and Malling Borough. The Inspector though challenged the appeal on his own finding that *"Mrs Medhurst and her family were not Gypsies within the meaning of the Circular 01/2006."* (Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, paragraph 15). Therefore they are not "classified as Gypsies within the meaning of that Circular"; they are not able to benefit from the guidance given on planning for Gypsy and Traveller sites and specifically in paragraphs 45 and 46 of Circular 01/2006. The Planning Authority had never agreed about Medhurst Gypsy status according to the planning officer, but also they did not even dispute that Gypsy status when determining the planning application itself. In paragraph 47 of Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, we find that the planning officer had handed in further evidence to the Inspector in the form of the extract from a book and a photograph of Mrs Medhurst to demonstrate *"her status as ethnically a Gypsy."*

The claimant also contended that the definition of Gypsy status in Circular 01/2006 does not accord with Article 8 of the European Convention of Human Rights. In few words, Circular 01/2006 amounts to a breach of Article 8, because it *"focuses on those with a nomadic way of life and excludes those who may be ethnically a Gypsy and whose traditional way of life does not have a nomadic lifestyle."* (Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, par. 50). Clive Lewis QC though states that the definition of Gypsy status in Circular 01/2006 and the use of it in Medhurst case do not involve a violation of Article 8 of the European Convention on Human Rights.

According to the Judge, the Inspector dealt with Circular 01/2006 correctly, as he was aware that the claimant wanted to come within paragraphs 45 and 46 in particular in order to put pressure on the council to address the shortage of sites, but they failed to *"come within the definition of Gypsy for the purposes of the Circular."* (Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, par. 64).

WORDS WHICH EXCLUDE:

In paragraph 53 in Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, the judge Clive Lewis QC, by referring to the claimant's contend that the Inspector failed: *"(a) to eliminate unlawful racial discriminations; and (b) to promote equality of opportunity and good relations between persons of different racial groups"* (Race Relations Act 1976, Section 71(1), Schedule 1A), he refers to the claimant and her sons as people that the Inspector's refusal of temporary planning permission could have an *"impact that a **roadside existence** would have on their* equality of opportunity; and the impact of a **roadside existence** on race relations."

In paragraph 55 in Medhurst v Secretary of State for LGC [2011] EWHC 3576 Admin, the judge supported the Inspector by finding that the claimant and her sons were **not Gypsies for the purposes of Circular 01/2006**, as *"they did not have a **nomadic way of life."*** However they were found to be **ethnically Romany Gypsies** by the Inspector, having been born into a Romany Gypsy family; they are **members of a racial group** as by Section 71(1) of the Race Relations Act 1976, but not recognised as such by default by Circular 01/2006 according to the planning definition. The judge refers to another case R (Baker and others) v Secretary of State for Communities and Local Government and London Borough of Bromley [2008] EWCA Civ 141, in which the Court of Appeal emphasised that the Section 71 **duty is not a duty** to achieve a particular result.

In paragraph 64, the judge also refers to a family which is ethnically a Romany Gypsy family, but they *"do not want **to live in bricks and mortar***"; **home** is a **house in brick and mortar,** not *"a **mobile home and the caravans** so that they do not have to live in a house."* In paragraph 68, the judge also affirms that "the claimant and her family had a **cultural aversion** to bricks and mortar. This could show that the family did not show any respect to local community values about housing and shelter in general. Instead of using the expression of **cultural aversion, cultural preference** should have been used as an expression to show a more positive approach to the issue. In paragraph 69, the judge surprisingly denies that the Inspector used the **actual words** "cultural aversion to living in bricks and mortar"; this aggravates more the situation of terminology allowance into official legal documents which become clearly offensive towards Gypsy claimants by creating further hindrance.

2. An Independent body to be established to monitor and benchmark needs assessments and site delivery and monitor the outcome of Gypsy and Traveller planning applications across the UK as a whole.

THE CASE:

McCann Law Case with Neutral Citation Number: [2009] EWHC 917 (Admin) in the High Court of Justice, Queen's Bench Division, The Administrative Court versus Secretary of State for Communities and Local Government (First Defendant) and Basildon District Council (Second Defendant). The claimant lived in a mobile home at an address in Wickford, rural Essex. She applied for the retention of the mobile home in which she was living (continued residence); she applied by laying *"claim to **g**ypsy status"* (not capital **G)** (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 1). The main issue is about how the case was assessed by the Inspector and if Mrs McCann was treated fairly after the refusal of consent for her planning application. The Inspector's assessment process found that a planning permission was granted on the same site in 2004 prior to the claimant's residence; the Inspector was disputing *"whether the proposal was inappropriate development for the purposes of National Planning Guidance in PPG2."* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 2). The discussion also focused on the character and appearance of the surrounding area, the living conditions of the occupiers, highway safety, etc.; raised the issue if special circumstances required by PPG2 could justify the proposed development. The Inspector concluded that the fall-back position in relation to the appeal site was not a greenfield site. But, *"she found that there would be a small loss of openness in the Green Belt"* compared to the fall-back of the decision in paragraph 15. *"Although the development proposed was on a small scale, she concluded that it would be both inappropriate and harmful to the Green Belt."* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 3). It is obvious that benchmark needs were not assessed during that process, only subjective opinion of the Inspector; there is also controversy when the Inspector finds no harm to living conditions, or highway safety. But, she discovers the issue of drainage and precisely the use of cesspools, because of the insistence of the locals; *"the development according to the concerns of the settled community … has interfered with the drainage systems, which in turn has caused localised flooding problems."* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 4). It is not clear how the monitoring of flooding took place and how and by whom damages were assessed after a localised flooding. If the development was so small, including the new proposal, then what was the scale of the damage and how many other properties were disposing sewage in the same system at the same time? How big were all other properties and with how many occupiers? If the Inspector had based her decision on non-documented information, how did she prove that her assessment and decisions were right?

THE LEGISLATION:

The judge used as a starting point the findings of the Inspector challenged by the claimant who was pursuing to section 288 of the Town and Country Planning Act 1990. The Inspector examined the proposal against the purposes of National Planning Guidance in PPG2. She declared that the plot is relatively small to create all these damages claimed by the locals. But, surprisingly makes use of DETR Circular 03/99 which *"emphasises the importance of ensuring the drainage arrangements, including the use of cesspools, do not adversely affect the environment, amenity or public health … The Environmental Health Officer commented in April 2007 that cesspool effluent has not been properly disposed of and indicated that it may not be possible to comply with conditions for a caravan site licence. On the site visit I was troubled to see the very basic means of drainage installed on the site, particularly leading from the utility block."* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 4) But, the Inspector based her decision on personal opinion mainly, as we can see in the section *Words which exclude* below. In her report now in paragraph 5 of the decision notice of the appeal, the Inspector argues that the Council takes in to consideration accommodation needs and that these *"must be assessed by the local authority"* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 5). But, by using the housing definition the local authority could be in jeopardy of their decision. See below how a controversial conclusion by the Inspector could make the planning framework a real weapon for locals against Gypsy and Traveller site applications. No real assessments exist; only subjective play of words and expressions annulling each other. The Inspector clearly refers to the advice of temporary permissions in Circular 11/95 (paragraphs 108-113) and in Circular 01/2006 (paragraphs 45 and 46).

WORDS WHICH EXCLUDE:

The Inspector's opinion and language which is also transferred in the legal transcript of the hearing and allowed and followed by a judge shows clearly a fierce and subjective opposition towards the claimant. It is also unfortunate to find out this happening between a woman Inspector and a family woman as claimant. The Inspector states: "*On the site visit I **was troubled*** [it could be a visit to any other site with drainage problems; her **job, not a trouble!**) *to see the very **basic means of drainage*** [Did she assess the means fully herself?*] installed on the site, particularly leading from the utility block. **It may be that ground conditions have deteriorated*** [an expert should not express assumption*s,* but real facts] *since occupation of the site by Mrs Temple and Mr Dennard. There is **nothing to indicate** that Ms McCann has investigated **what needs to done*** [Did the Inspector ask to see any proof that skilled workers had visited and assessed the so-called damages?] *and would be able to secure its implementation. In such circumstances **I would wish to have more detailed proposals before granting permission*** [she uses a highly forceful tone and challenges the judge's decision by patronising on the details which are not directly detectable] *and with the development in place the absence of details is of more concern. I conclude that **to rely on a planning condition*** [Which one really? Is it about **gypsy status**, as she declares further?] *would be **inappropriate** in the **circumstances**."* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 4) **No circumstances,** only subjective and generic descriptions of one visit. What should it be **appropriate**? No clue, until we read about the Inspector's denial of **gypsy status for planning purposes** by putting at the forefront strategies of the local authorities which are regulated by 2006 Regulations on Housing. In a sense the Inspector once again makes use of two different

definitions of Gypsy status to quash the McCann appeal.

See below how an Inspector could easily overturn legal decisions by annulling meanings and purposes of policies in such a smart way and uncanny wording, as follows:

> "The purpose of the planning system is to **regulate** the **use and development of land** in the **public interest**. The planning definition of **gypsies and travellers** in **Circular 01/2006** is limited to those who can **demonstrate** that they have specific land use requirements arising from their **nomadic way of life**. The wider housing definition set out in the **2006 Regulations** is for a different purpose. The housing definition is to enable local authorities to understand the future accommodation needs of the **full gypsy and traveller** community and to **plan strategically** to meet those needs. Falling within the **housing definition** means that an individual belongs to a group whose accommodation needs **must be assessed** by the local authority and it does not follow that the individual has **gypsy status** for **planning purposes**. The **planning definition** is the **relevant one** against which **to assess gypsy status** in this **appeal**." (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 5)

Mrs McCann lost her status because she had to care for her elderly mother for several years and raise four children as a single mother. The judge and the law do not recognise if she wants *"to have a **settled existence** as a lifestyle choice"* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 5) at some point of her life. She was recognised as previously having a **nomadic habit** somehow, but did not travel to find work. She must live in a **decent home.** Her position as a single mother is not **unusual**, according to the judge. Temporary permission was also denied, because the Inspector found that: *"**Harm** to the Green Belt and the other **identified harm*** [cesspool effluent] *would continue throughout a temporary period. My overall conclusion is that **very special** circumstances do not exist to **justify** a temporary permission."* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 6)

3. A duty to provide and facilitate the provision of sites. Wales has set an important example which should be followed in England, Scotland and Northern Ireland.

THE CASE:

McCann Law Case with Neutral Citation Number: [2009] EWHC 917 (Admin) in the High Court of Justice, Queen's Bench Division, The Administrative Court versus Secretary of State for Communities and Local Government (First Defendant) and Basildon District Council (Second Defendant). In this particular law case, it is interesting to see again how the judge specifies the current and emerging policies which regulate the provision of sites. In fact in paragraph 6, the judge has included paragraph 47 of the Inspector's report in which it is clear that the appellant seeks permission for a temporary period of three years *"to enable her to remain until the Council has prepared a gypsy and traveller site allocations development plan document (a DPD). A parallel was drawn with the temporary permissions granted for the gypsy sites on land south of Lynview."* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 6)

The proposed length of a temporary permission was derived from the DPD timetable and not linked to any other circumstances. However there is a lot of controversy between policies and implementation, because of lack of advice by independent technical committees and watchdogs. There is no pressure to the Local Authorities to facilitate the provision of sites in which Gypsy and Traveller people should be also included because of traditional and cultural lifestyle choice only. Everything is based upon cultural tradition of nomadism or of living in a caravan.

THE LEGISLATION:

There are differing definitions of the term *"gypsy"* in planning policy and in regulations dealing with the assessment of need for gypsy and traveller accommodation. The basic definition related to the Gypsy rights for accommodation is to be found in Circular 01/2006:

> "For the purposes of this Circular '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 or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such." (Circular 01/2006, paragraph 15)

We can find information about the local authorities' obligations related to the preparation of development plan documents, or DPDs, etc. in the same law case, as follows:

> "The circular contemplates the preparation of development plan documents, or DPDs, to identify pitch provision within local authority areas following on from the setting of the required number of pitches at a strategic level in the regional spatial strategy, or RSS. The exercise in the RSS begins with, and is driven by, the preparation of a gypsy and traveller

accommodation assessment or GTAA." (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 7)

Again the provision of sites is preceded by Gypsy Traveller Accommodation Assessments (GTAA); these processes may be more subjective as we saw in Recommendation 2 and may jeopardise timescales and final provision of sites as a whole. Bureaucracy methods of assessment are based on the following, as repeated I detail below:

> "Under section 225 of the Housing Act 2004 housing authorities have a duty to assess the needs for housing of gypsies and travellers. That assessment is to be undertaken against a definition of gypsies and travellers which is provided within The Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006. That provides in regulation 2 as follows:
>
> > 2 For the purposes of section 225 of the Housing Act 2004 (duties of local housing authorities: accommodation needs of gypsies and travellers) 'gypsies and travellers' means-
> >
> > (a) persons with a cultural tradition of nomadism or of living in a caravan; and
> >
> > (b) all other persons of a nomadic habit of life, whatever their race or origin, including-
> >
> > (i) such persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently; and
> >
> > (ii) members of an organised group of travelling showpeople or circus people (whether or not travelling together as such)".

(McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 8)

Since the then hearing the Basildon District Council had published guidance on the preparation of GTTAs (*"finalised and issued authoritatively").* Paragraphs 23 and 24 of the guidance deploy the definition in the 2006 Regulations for the assessment of accommodation needs, which according to the claimant's defendant *"would embrace* people *like this claimant who has ceased on the inspector's findings to be nomadic, but who still wishes to be accommodated in a caravan."* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 9)

The judge also mentions paragraph 21 of Circular 01/2006 as a fundamental one:

> "21. The data collected through the GTAA process will inform the preparation of Development Plan Documents (DPDs) through the process described below. One of the tests of soundness of a submission DPD at its examination will be whether it is founded on robust and credible evidence. The need identified by the GTAA could include gypsies and travellers who do not fall within the definition at paragraph 14. This need should still inform the amount of land to be identified by the planning system. This is necessary to ensure local authorities have flexibility to allocate adequate land for their own sites to provide for those they have assessed as in need of caravan

> accommodation. Further guidance on this can be found in draft guidance document Gypsy and Traveller Accommodation Assessments." (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 10)

The judge also affirms that:

> *"insufficient respect is accorded to the need of this claimant or claimants in her circumstances to live in a caravan, albeit that she or others may no longer wish to pursue a nomadic lifestyle for reasons outside those allowed for in the circular, such as the education or health needs of themselves, their families or dependants, or because of old age. The reason in this case is that the claimant found the hardships of travelling more than she could continue to bear."* (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 11)

Thus, legislation should not be supportive to the claimant according to the judge who also scrutinises Article 8 of European Court of Human Rights in the case of Chapman v The United Kingdom 33 EHRR 18 and, as a conclusion the submission made by the claimant must fail. The judge does not recognise the right to Gypsies and Travellers to ask for the provision of sites as a mandatory obligation of the Local Authorities. No Human Rights decision is in favour of compulsory obligation to facilitate any provision of sites according to a variety of planning frameworks and legitimate objections by each EU country with specific planning regulations in their territories.

In Wales things are very different, as the Labour administration has announced recently that it will prosecute local councils who fail to provide enough sites. In anticipation of the duty, introduced in autumn 2013, Cardiff and Swansea had started looking for sites in summer 2013. In fact in *Inside Housing* online and in the article 'A site to behold' (www.insidehousing.co.uk, accessed 01/11/2014) we find out that *"the government, in England at least, lacks the 'political will' to take that step* [of a statutory duty]." (According to the specialist Gypsy and Traveller law Mark Willer QC). In London, for example, no new pitches have been built since the last duty ended in 1994. The Local Authorities are trying to force people into houses; that is absolutely contrary to the Gypsy and Traveller culture.

In Scotland the situation is similar to England, with local authorities to assess accommodation needs and prepare local housing strategies to implement them. There is no statutory duty to provide sites. In Northern Ireland we find that the Northern Ireland Housing Executive is responsible for the provision and management of sites for the Traveller community. A new needs assessment was announced in 2013.

WORDS WHICH EXCLUDE:

By referring to the articles 92, 93, 94 and 99 of the decision of the European Court of Human Rights in the case of Chapman v The United Kingdom 33 EHRR 18, we should like to highlight words used in the document, which may compromise inevitably decisions of each EU country by their Courts of appeal especially:

> "92. The judgment in any particular case by the **national authorities** that there are **legitimate planning objections** to a **particular use of a site** is one which the Court is **not well equipped** to **challenge**. It cannot visit each site to **assess the impact** of a **particular proposal** on a particular area in terms of impact of a particular proposal on a particular area **in terms of** impact on **beauty, traffic conditions, sewerage** and **water facilities, educational facilities, medical facilities, employment opportunities** and so on. Because **planning inspectors visit the site**, here the arguments on all sides and **allow examination** of **witnesses**, they are better situated than the Court to weigh the arguments. Hence …the national authorities in principle **enjoy** a wide **margin of appreciation** … In these circumstances, the procedural safeguards available to the individual applicant will be especially material in determining whether the respondent State has, when **fixing** the **regulatory framework**, remained **within** its **margin of appreciation**. In particular, it must examine whether the **decision-making** process leading to **measures of interference** was **fair** and such as to **afford** due **respect** to the **interests safeguarded** to the **individual** by Article 8." (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 13)

Evidently the judge makes it clear that all local authorities are enabled by EU Law to **fix** their **regulatory framework** within a **wide margin of** obligation. Thus, interpretation of decision-making of EU Law can be interpreted differently within planning and housing regulations in the UK. The margin of appreciation is so wide that interpretations of claimants and their defendants could be easily f**ixed** in such a way that judges' decisions should become at the same time **fair** supplementary measures to **safeguard** an **individual**'s rights.

However the real treat from the European Court of Human Rights comes with Paragraph 93 in the case of Chapman v The United Kingdom 33 EHRR 18, as follows:

> "93. The applicant urged the Court to take into account recent international developments, in particular the Framework Convention for the **Protection of Minorities**, in **reducing** the margin of appreciation accorded to States in light of the recognition of the problems of **vulnerable groups**, such as **gypsies** [the meaning here is ethnic Gypsies/Travellers not category, it is also used in relation to Irish Travellers as both ethnic groups although spelt with a lower case **g** just to confuse the issue). The Court observes that there may be said to be an emerging international consensus amongst the Contracting States of the Council of Europe recognising the **special needs** [as if these **vulnerable groups** belong to the groups of **the disable**] of minorities and an obligation to protect their security, identity and lifestyle, not only for the purpose of safeguarding the interests of the minorities themselves but to preserve a cultural diversity of value to the whole community [thus, the so-called locals

in our UK Localism Act 2011].” (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 13)

And of course one of the main issues raised by this case is the *“**burden**”* of the Inspector who had to inspect that drainage system, as the judge affirms; there is a whole highlighted Paragraph 27 in the McCann case that says it all; the local authorities should stay alert during their identification of sites in the near future, as it is highly probable that the Gypsies avoid addressing serious health risks to themselves and the surrounding settled community. We show below an excerpt of this paragraph in bold letters, as it is in the legal document, because its **exclusion meaning** is so powerful. Here it is:

> **“27. It is only right to observe that any principle of law, which is, as in this area, summarised in the form of a figure of speech, is likely to be highly fact-sensitive and depend closely on the facts of the individual case as to whether or not a claimant has had a “fair crack of the whip”. Here it is said … on behalf of the defendants, that because of the objection raised by the Environmental Health Officer, the letters of the third parties and what would have been obvious to the claimant from her occupation of the site, that there was an onus upon her to grapple with the issue of the drainage and address it. They say that to put the burden on the Inspector of enquiring into this matter, or putting the claimant on notice that she was concerned about it, goes well beyond what is necessary to her role at the inquiry and well beyond what is necessary to provide fairness.** (McCann v Secretary of State for Communities and LG [2009] EWHT 917 (Admin), par. 27)

To our understanding all this text means that Gypsies and Travellers should beware of offered sites which may not be fully serviced by correct infrastructure. They may be blamed for neglect rather than faulty arrangements of the entire development plan of a local authority somewhere in England mainly.

Cleaning up the old brick yard
to make a home.

4. The use of new enforcement powers only to be permitted where local Authorities have met their requirements to identify a 5-year supply of sites.

THE CASE:

This is one of five very lengthy applications by five Claimants within the same hearing(s); we shall mainly focus in the cases of four Claimants and shall deal according to our suggested recommendations as numbered in our book of recommendations.

Thus, our case here will be that raised by three claimants: Mrs. Bridget Doran; Mr. Fred Sines & Mrs. Jane Lee v The Secretary of State For Communities and Local Government & [2014] EWHC 2358 (Admin)- Cases No: (3) CO/1481/2014; (4) CO/402/2014 & (5) CO/1445/2014; CO/1215/2014.

(The defendants 2nd to 5th: Reigate & Banstead Borough Council; Royal Borough of Windsor and Maidenhead; Tonbridge and Malling Borough Council and Runnymede Borough Council did not appear and were not represented).

*"Mrs. Doran and Mrs. Lee …apply for permission to appeal under section 289 of the 1990 Act against a decision of the Secretary of State dismissing an appeal against an enforcement notice." (*Mrs. Bridget Doran & Mrs. Jane Lee v The Secretary of State for Communities and Local Government [2014] EWHC 2358 (Admin), par. 1)

In paragraph 25 of the law cases document we find that: "*It is accepted that the five Claimants, who are either Irish Travellers or Romany Gypsies, fall within the definition of Gypsy and Traveller for the purpose of the policy."* In paragraph 29 we see that:

> "All five Claimants applied to their local planning authority for planning permission to make a material change in the use of land from use for agriculture to use involving the stationing of one or more caravans or mobile homes. Those applications were either refused or the local planning authority failed to determine the application. The Claimants appealed. In addition, in three of the cases, those of Mrs. Doran, Mr. Sines and Mrs. Lee, **the local planning authority served enforcement notices alleging a breach of planning control.** They appealed against those enforcement notices."

THE LEGISLATION:

The Planning Permissions and Enforcement Notices are described in paragraphs 5 and 6 of the entire legal document which deals with five claimants' appeals. In particular we are informed that:

> "Planning permission is required for development including the carrying on of building or other works or, as here, the making of a material change of use of land: see sections 55 and 57 of the 1990 Act. A local planning authority may grant planning permission, either unconditionally or subject to such conditions as they think fit or refuse permission: see section 71 of the 1990 Act. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise: see section 38(6) of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act").
>
> "In addition, a local planning authority may serve an enforcement notice where it appears to them that there has been a breach of planning control, for example the carrying on of building works or the making of a material change of use of land without permission: see section 172 of the 1990 Act. The enforcement notice may, amongst other things, require the person concerned to cease an unauthorised use or take steps to remedy any breach of planning control."

In paragraph 7, we see that:

> "An applicant who is refused planning permission may appeal to the Secretary of State for Communities and Local Government under section 78 of the 1990 Act. In addition, an individual may also appeal against that enforcement notice to the Secretary of State under section 174 of the 1990 Act. One of the grounds of appeal is that planning permission should be granted for the material change of use. Another is that any period for complying with the enforcement notice falls short of what should reasonably be allowed."

When appeals are made against a decision given in enforcement proceedings, Section 289 (1) of the 1990 Act provides that (paragraph 13 of the law case above):

> "(1) Where the Secretary of State gives a decision in proceedings on an appeal under Part VII against an enforcement notice the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against a decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court."

The Policy Framework for all cases included in this document is specified in paragraph 15:

> "The claims relate to sites in four different local authority areas. Each of the local planning authorities have development plans for their area. In addition, there is relevant guidance contained in the National Planning Policy Framework ("the Framework") and the Planning Policy for Traveller Sites ("the Traveller Sites Policy"), both of which are material considerations in the determination of planning applications and appeals."

Instead in paragraph 20, we find that:

> "The Traveller Sites Policy sets out the

government's planning policy for traveller sites and states that it should be read in conjunction with the Framework [NPPF]. Paragraph 3 records that:

> "The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community."

Policy H of the Traveller Sites Policy deals with determining planning applications for Traveller sites. In fact in paragraph 23 of the legal document of the law cases we find that Policy H:

> "Subject to the implementation arrangements at paragraph 28[of Policy H], **if a local planning authority cannot demonstrate an up-to-date five year supply of deliverable sites**, this should be a significant material consideration in any subsequent planning decision when considering applications **for the grant of temporary planning permission**."

Also in the following paragraph 26 and 27 of the same law cases we find two important policies, one earlier having been amended by the latest as follows:

> "Prior to 1 July 2013, the Secretary of State's policy was to direct that appeals for planning permission in the case of Gypsy and Traveller sites should be determined by him where the proposed development involved **significant development in the Green Belt.** Development was considered to be significant if it involved 3 pitches or 6 caravans."
>
> "On 1 July 2013, the Parliamentary Under Secretary of State for Communities and Local Government made a written statement which modified that policy. The statement states as follows:
>
> "Our policy document, "Planning Policy for Traveller Sites", was issued in March 2012. It makes it clear that both temporary and permanent Traveller sites are inappropriate development in the green belt and that planning decisions should protect green belt land from such inappropriate development."
>
> "As set out in that document and in March 2012's national planning policy framework, **inappropriate development in the green belt should not be approved except in very special circumstances**. Having considered recent planning decisions by councils and the planning inspectorate, it has become apparent that, in some cases, the green belt is not always being given the sufficient protection that was the explicit policy intent of Ministers."
>
> "The Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the single issue of unmet demand, whether for Traveller sites or for conventional housing, **is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the green belt."**

In paragraph 41, the inspector finds that:

"There are however other considerations which favour the proposal. The agreed **considerable unmet need for sites within the Borough**, which has potentially been underestimated, carries significant weight in favour of the appeal, along with **the long standing failure of the Council to meet that need**. The acknowledged **lack of alternative available permanent sites for the occupiers also weighs significantly in favour of the appeal**."

WORDS WHICH EXCLUDE:

However in one case the Inspector appointed states clearly (paragraph 41) that **gypsy and traveller** (again without capital G and T) sites are **inappropriate developments** in the Green Belt *"… as a result of the **loss of openness** and **encroachment** into the countryside."*

Mrs. Doran law case is an interesting one, as she is an Irish Traveller her case was that:

> "70. On 23 January 2012, she applied to Tonbridge and Malling Borough Council for planning permission for a change of use of a site to use as a Gypsy and Traveller site with two mobile homes and two touring caravans, one day room and one utility room. The site is within the Green Belt. The local planning authority failed to determine that application within time and Mrs Doran appealed to the Secretary of State.
>
> 71. On 8 November 2012, the local planning authority also served an enforcement notice alleging a breach of planning control, namely use of the site as a residential caravan site, and required that use to cease within four months. Mrs. Doran appealed to the Secretary of State under section 174 of the 1990 Act on the grounds that planning permission should be granted and that the period for compliance was too short."

The inspector considered the need for new pitches in the borough; he found that Mrs. Doran and her family would not be able to relocate to an **alternative site** as they were **not on the waiting list.** But, the entire discussion and considerations in paragraphs 78 and 79

instigated extreme discrimination and racism between two groups, the Irish Travellers and English Gypsies:

> "78. … They had no intention of putting themselves forward for pitches at Coldharbour Lane as they were **Irish Travellers** and did not wish to move to a site where the current occupants were all **English Gypsies**. The inspector noted that there were sites where **Irish Travellers and English Gypsies co-existed peacefully**, but **there were other sites where they did not**. As there were no Irish Travellers at present on this site, it was **conjecture** as to whether Irish Travellers and English Gypsies would **co-exist peacefully** on this site."

> "79. The inspector also considered that the borough's strategy involved relying on the provision of a **publicly owned site** for Travellers and Gypsies. He described this as a **"one size fits all policy".** He considered that it was inconsistent with one of the aims of the Travellers Site Policy which was **to promote** more **private site traveller provision**."

Surprisingly enough the inspector tried to justify the outcome of the assessment because of lack of appropriate [and discriminatory] sites to divide the groups of Gypsies and Travellers by stating two important issues found (paragraphs 80 & 81):

> "44. **Health needs**, particularly the **deteriorating health** of the appellant's husband, and the **educational needs** of the children living on the appeal site are important considerations. The Council argues that these could be met on any other settled site within the borough.... However, there are no available pitches on any site other than at Coldharbour Lane [making people feeling discriminated] and I have already found that this site **would not meet the needs of the appellant and her family**."

> "54. Given that there is **no available**, **suitable alternative site** for the appellant and her family to move to they would, in all likelihood, be forced onto the road if required to vacate the appeal site, with all the attendant problems this would bring, including making it difficult for the family to access local doctors and schools. In this regard **I heard that the appellant's husband is seriously ill** and that there are school age children living on the appeal site whose education would be disrupted if they were forced to vacate a site the family has been living on since 2007. With respect to the children's **continuing education**, the courts have held that this is a matter which should be given **substantial weight**."

However the Secretary of State as the Defendant against the appeal gave an entirely opposite consideration in paragraph 89 by aggravating race and equality frictions:

> "22. The Secretary of State has considered the Equality Act 2010 and the fact that the occupants are Irish Travellers, a **protected group** for the purposes of the Act. In making his decision, the Secretary of State has due regard to the requirements of the Public Sector Equality Duty, in particular **the need to eliminate discrimination**, advance **equality of opportunity** and **foster** good relations between those with protected characteristics and others. Following careful consideration of

these matters he concludes that any impact of the dismissal of these appeals is justified and proportionate."

The provision of sites did not have any importance to the Defendant's final decision after all.

In another case related to temporary permission granted, an inspector states in paragraph 99:

> "159. As progress so far has been slow and there is little or no prospect of this situation changing in the short term, not least because of the considerable constraints on the Council finding new sites due to the extent of the GB [Green Belt] in the borough, I consider that a relatively long four year temporary permission would be appropriate. This should enable the Council to demonstrate whether this approach is capable of identifying and delivering a better site than the appeal site; in the meantime, the harm caused by a temporary consent would, by definition, be less than would be the case if permanent permission were to be granted."

However in paragraph 106, once again the Secretary of State dismissed both appeals (against refusal of planning permission and the enforcement notice) by affirming:

> "The Secretary of State considers the **unmet need for sites** carries significant weight **in favour of the proposal**. However, he does not consider this, in itself, sufficient to outweigh the **harm to the Green Belt** and other harm, which he considers **significant**, to comprise the very special circumstances necessary to justify development. In determining the case, the Secretary of State has given particular consideration to the best interests of the children, which he considers to be a primary consideration. However, he considers that, even when combined with the personal circumstances of the proposed occupants and the needs of the children, to which he also gives limited weight, the very special circumstances necessary to justify the development on a permanent basis, do not arise. In the circumstances of the case, he considers that **the harm to the Green belt** would continue to carry **substantial weight** even **in the case of a temporary permission.**"

Finally in paragraph 165 we find a play of words between what is **lawful** or mainly **unlawful** in official decisions:

> "… The decision-maker will have to weigh up the **preservation** of the Green Belt against the fact that local authorities may not be ensuring the availability of **sufficient sites** for Gypsies and Travellers. There is nothing **intrinsically unlawful** about an approach that says that, subject to other considerations, **unmet need** is unlikely of itself to **justify development** in the Green Belt. That involves a hard choice between two less than perfect situations: allowing **inappropriate development** in a limited, and environmentally important resource, or not resolving the immediate problems arising out of the fact that some local planning authorities have consistently failed to provide the necessary number of Gypsy and Traveller sites and have **failed to have a sufficient 5 year supply of such sites for the future.**"

Gypsy families struggle to be mobile in a modern society.

5. The Secretary of State for Communities and Local Government should not be recovering Gypsy and Traveller planning appeals in the Green Belt, this is discriminatory.

THE CASE:

Mr. Edward Connors; Mr. Miley Connors ; Mrs. Bridget Doran; Mr. Fred Sines; Mrs. Jane Lee v The Secretary of State For Communities and Local Government [2014] EWHC 2358 (Admin) (Cases No: (1) CO/17384/2013; (2) CO/17386/2013; (3) CO/1481/2014; CO/1483/2014; (4) CO/402/2014); (5) CO/1445/2014;CO/1215/2014 (The defendants 2nd to 5th: Reigate & Banstead Borough Council; Royal Borough of Windsor and Maidenhead; Tonbridge and Malling Borough Council and Runnymede Borough Council did not appear and were not represented). This complex group of recent dispute has been also part of our discussions and fed us with information about two main recommendations in this book.

THE LEGISLATION:

As stated in the Introduction from paragraphs 1 to 4, the applications of all five claimants refer to section 288 of the Town and Country Planning Act 1990 ("the 1990 Act") *to quash decisions of the Secretary of State for Communities and Local Government dismissing an appeal against a refusal of planning permission.* Some claimants (see Recommendation 4) apply for permission to appeal under section 289 of the 1990 Act against a decision of the Secretary of State dismissing an appeal against an enforcement notice.

The defendants have considered mainly relevant guidance contained in the National Planning Policy Framework ("the Framework") and the Planning Policy for Traveller Sites ("the Traveller Sites Policy"), both of which are material considerations in the determination of planning applications and appeals until today.

In paragraph 16 we are reminded of Section 9 of the Framework:

> "Section 9 of the Framework deals with protecting Green Belt Land. Paragraphs 79 and 80 [of the Framework] provide as follows:
>
> "79. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

"80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land."

In paragraph 17 of the legal document we see specifically:

> "The Framework then explains that the general extent of the Green Belt across England is already established. Paragraph 83 encourages local planning authorities to establish Green Belt boundaries in their local plans and only to alter them in exceptional circumstances. Paragraph 85 of the Framework gives further guidance on defining the boundaries including guidance that the Green Belt should not include land which it is unnecessary to keep permanently open."

The legal document continues on the Framework in paragraphs 18 and 19, as follows:

> "87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
>
> "88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations."
>
> "Paragraphs 89 and 90 provide certain limited exceptions, not material to this case, in which the construction of certain buildings or particular forms of development in the Green Belt is not inappropriate."

In paragraphs 21 and 22, the legal document refers the Travellers Sites Policy and especially in Paragraph 4 and Policy B:

> "Paragraph 4 then sets out a series of aims. These include encouraging local planning authorities to assess the need for sites and to work collaboratively to develop fair and effective strategies to meet need through the identification of land for sites. Another aim is to promote more Traveller site provision whilst recognising that there will always be Travellers who cannot provide their own site. Another aim is that:
>
> > "Plan-making and decision-taking should protect Green Belt from inappropriate development"

And in paragraph 22 of the law case we read:

> "There then follow a series of specific policies. Policy B, by way of example, provides that local planning authorities should set pitch targets for Gypsies and Travellers which

address the likely permanent and transient site accommodation needs in their area. The policy includes local planning authorities identifying a supply of specific deliverable sites sufficient to provide five years' worth of sites against the locally set targets. Policy E deals with Traveller sites in the Green Belt and is in the following terms:

"14. Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development."

"15. Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only."

The dismissal of all appeals becomes evident and is anticipated by paragraph 27 in which the Secretary of State affirms with his 01/07/2013 statement that:

"Our policy document, "Planning Policy for Traveller Sites", was issued in March 2012. It makes it clear that both temporary and permanent Traveller sites are inappropriate development in the green belt and that planning decisions should protect green belt land from such inappropriate development. …"

" … The Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the single issue of unmet demand, whether for Traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the green belt."

"The Secretary of State wishes to give particular scrutiny to Traveller site appeals in the green belt, so that he can consider the extent to which "Planning Policy for Traveller Sites" is meeting this Government's clear policy intentions. To this end he is hereby revising the appeal recovery criteria issued on 30 June 2008 and will consider for recovery appeals involving traveller sites in the green belt."

"For the avoidance of doubt, this does not mean that all such appeals will be recovered, but that the Secretary of State will likely recover a number of appeals in order to test the relevant policies at national level. The Secretary of State will apply these criteria for a period of six months, after which it will be reviewed."

WORDS WHICH EXCLUDE:

The Framework talks about **prevention** of urban sprawl, as if Gypsy and Traveller sites could create a real threat on 'healthy' Green Belt (often abandoned and filled with fly-tipping, as a result of nearby building developments and not necessarily because of Gypsy sites activities.). *"By keeping land permanently open"* the **openness** becomes a very subjective consideration by the inspectors and the Secretary of State. Very often the extend of a site is discussed not because caravans and small facilities are blocking the views, but because the local authorities under pressure by the locals who are covered by the infamous **Localism** Act 2011 (still a very powerful act) force the residents of the sites to build very high and not transparent enclosures to hide them and their belongings from the public view. Words such as **inappropriateness** and **not appropriate** accompany more often the Secretary of State arguments and decisions than the Inspector's comments; inspectors seem to be more humane and critical in all aspects of thinking and deciding than the Secretary of State. Thus, the Secretary of State intervention in these matters is in itself inappropriate and discriminatory.

The Framework uses the phrase **Green Belt boundaries**, which makes us think about real rigid measures to be implemented in order to fix them. Of course the presence of Gypsies and Travellers at the edges of towns and villages are considered as the most uncomfortable boundaries between the locals and the Green Belt. At the end the Secretary of State decides always against all exceptional circumstances, including health and educational needs, risks and heavy commitments and hardship of the people who appeal to Council decisions; he always considers **the harm** to the Green Belt, which according to him is more important than people's lives and cultural attitudes.

Then another paradox emerges in the legislation and especially in the Traveller Sites Policy where a planning application cannot be considered if the Local Authority has no development plan in place (no actual provision). **Plan-making** is not responsive to **planning** applications and the factual site demand. **Unmet demand** of sites by the Councils shows total rejection by the locals at all times; **special circumstances** do not **outweigh harm** in the Green Belt. People's lives are the tools of assessment of this harm at all times unfortunately, as it becomes evident in politicians' rhetoric. The inspectors often recognize the lack of available sites offered by the Councils' plan-making, but the Secretary recovers cases in order to ditch them forever. The Secretary of State believes that his policy has **clear intentions** and **recovery criteria**. But, he does not offer any help by setting enough measures and tools to guide people through application processes; those actions and measures could have saved a lot of time and money.

Heritage and culture is important, the old waggons on show at a fair

6. There is need of funding to facilitate the increase of Gypsy and Traveller pitch numbers.

THE CASE:

By referring to recent published articles in online journals and magazines dealing with social housing and accommodation issues in general, we become aware that *"Gypsies and Travellers had seemed destined to end their outcast status by being given permanent sites to live on, ... 'They're trying to wash the Gypsy out of us,' says Marian Mahone, an Irish Traveller who spent her young life moving around southern England, before settling on a council pitch in Bow, east London."(article available at*

www.insidehousing.co.uk/a-site-to-behold/6528556.article, accessed 01/11/2014)

In the same article with the title 'A site to behold' published on 13/09/2013 and written by Pete Apps, we find that:

> "Since the mid-1990s, there has been no legal duty for local authorities in England to provide pitches for Gypsy and Traveller communities to live. and granting permission for a site remains one of the most politically toxic things a council can do.
>
> This means there are not enough legal pitches for Travellers, and their options are often limited to illegal roadside pitches - which carry a constant threat of eviction and no access to services such as GPs and schools."

(www.insidehousing.co.uk/a-site-to-behold/6528556.article, accessed 01/11/2014)

And this means that life expectancy is very short for Travellers (12 years less than settled population) and children risk getting no education.

In the article mentioned above we see that 597 new pitches in England were allocated funding by the Government through the Homes and Communities Agency from 2011 to 2015. Only 101 of them result to have planning permission at the date of the article and they must be completed before the funding is returned back in March 2015. The whole matter became a serious issue because communities secretary Eric Pickles (who has been a huge case study on his own right surely for us) has begun calling in/recovering decisions for many sites that affect green belt land. As we saw previously he is currently further delaying the progress of private applications.

Town & Country Housing Group received £1.3 million from the HCA to provide 15 Traveller pitches in Maidstone, Kent in 2012. But, their proposals never even made it to the planning officials. The group had to look for another second site in 2013, because the agreement with a landowner of a previous first site fell through before a planning application could be submitted due to local resident opposition. The most aggressive objection to the Maidstone Local Plan came from the Joint Parishes Group (JPG); they submitted a representation to the Maidstone (Regulation 18) Local Plan consultation. The JPG presented themselves as a

consortium of rural parish councils to the south and east of the Maidstone urban area. They affirmed that the Parishes cover an area of 41.5% of Maidstone Borough and with an electorate of around 25,000 persons comprise 14% of the population of the Borough. Thus, they consider themselves as a considerable group representing the locals in Maidstone in a letter sent on behalf of them by the practice Feria Urbanism on 07.05.2014 via email to Maidstone Borough Council. In the Summary of concerns raised by Joint Parishes group we can see how well organized this group has been to attack everything in the Local Plan: Spatial Vision, Housing numbers, Infrastructure Requirements, etc., in a sense everything that could guarantee funding and generation of income.

The case of no-justice in distributing funding is very evident in the findings of the Irish Traveller Movement in Britain (ITMB) (Now known as The Traveller Movement from 2013) (See below in the legislation section and further). The Irish Traveller Movement in Britain (ITMB) was established in 1999 and is a leading national policy and voice charity, working to raise the capacity and social inclusion of the Traveller communities in Britain. In their report 'Gypsy and Traveller Site Funding under the Coalition - An Irish Traveller Movement in Britain Report (March 2012) and in Section 4.0, 4.5 *The Way Forward,* they specifically propose/recommend the following:

- "Building partnerships and challenging lack of progress in high conflict, high need areas. We identify Essex, Kent and South Cambridgeshire, together with Surrey, Hampshire, Hertfordshire, Warwickshire, and West Sussex as priority areas where local authorities, housing associations and Traveller groups should be asked to submit bids. We look to Ministers to make clear that for such areas it is unacceptable not to site development programmes;
- Allowing bids without local authority support, where there is robust evidence of need and the local authority has failed to allocate sites, as will be established in some areas through planning appeal decisions;
- A major drive for Travellers and their supporters promoting schemes themselves;
- Encouraging further bids for extensions to existing sites, converting transit sites to permanent residential use, and reopening closed sites as easy wins;
- The HCA should develop a list of housing associations who are able to develop and manage sites so that there is a network of such associations across all parts of the country;
- Withdrawing the grant offers for transit sites;
- Reviewing the programme to identify schemes with a high risk of failure and giving deadlines to achieve defined milestones, or lose the funding; and
- **Local authorities, particularly those with high levels of unmet need and conflict, should include strategies for Gypsies and Travellers and site provision in their equality objectives they are required to publish by 6 April [2012].** This is a very important point which supports very strongly what we propose in aforesaid Recommendation 4.

THE LEGISLATION:

The statutory duty to provide Traveller pitches ended with former Prime Minister John Major's Criminal Justice and Public Order Act in 1994. In the Inside Housing article on 13/09/2013 we see:

> "Planner Catriona Riddell spent months working on the panel developing the strategy for the south east of England, which was due to be published in summer 2010, but never was because of the change of government.
>
> The panel would have recommended the construction of 2,133 pitches in the south east of England by 2016. The current HCA programme [and funding] hopes to deliver 89 in the east and south east by 2015. Of these, 23 currently have planning permission."

The last Government set out to create regional targets for pitches in England, but these were scrapped in 2012 and under pressure by localism; now local authorities have to assess their own needs in local plans. The task was transferred to Councils that have to spend a lot of time and money in often very lengthy and useless procedures and practices.

> "Mr. Pickles doesn't want Gypsy and Traveller sites in the green belt and in his view too many planning inspectors are granting consent,' says planning consultant Simon Ruston. He explains this approach is overriding one punitive measure introduced in new planning guidance - that if councils do not have a five-year supply in place along with an assessment of need this would be a 'significant consideration' in favour of granting permission for temporary sites. Inside Housing revealed in June that only four of the 115 councils surveyed had complied with this." (www.insidehousing.co.uk/a-site-to-behold/6528556.article, accessed 01/11/2014)

On 5th January 2012, the Homes and Communities Agency (HCA) announced Traveller Pitch Funding allocations up to 2015. In an article published online in www.homesand communities.co.uk/news/ (accessed on 03/11/2014), HCA say that thirty-three housing associations, local authorities and other providers are set to deliver 600 new Traveller pitches. HCA had also confirmed successful organisations for Traveller Pitch Funding. We find out that a total of £47m funding was to be allocated to 71 projects in UK (617 new Traveller pitches); this funding should support the provision of new traveller sites and new pitches on existing sites, including improvements. A further £13m funding remained available from the Traveller Pitch Funding Programme for additional allocations; the schemes should show that are able to deliver and provide good value for money. The allocations by local authority and HCA operating area can be downloaded from the HCA website.

In an article online in *Towards Equality Travelling* by the Irish Traveller Movement in Britain (ITMB) in March 2012 with the title 'Gypsy and Traveller Site Funding under the Coalition - An Irish Traveller Movement in Britain Report', we see clearly that ITMB expresses real concerns against what Eric Pickles emphasised as central importance to the HCA programme: to minimize tensions between Travellers and the settled community. In the executive summary of this document and on page 1 we see that:

- "There is a mismatch between need and where the money has gone. Parts of the Midlands, South West, Yorkshire and the North East have done reasonably well, but many areas have

been unwilling to submit bids. Essex, Kent, Cambridgeshire, Surrey, and Hertfordshire with 25% of England's caravans have only received 4% of the funding.

- If account is taken of transit sites, replacements for existing sites and a Travelling Showman scheme, the programme will fund 510 additional pitches, not 620.
- It is likely many of the 510 won't be delivered because of the difficulty in getting planning permission. Sites haven't been identified for over half the new pitches and less than 20% have planning permission.
- The level of applications for funding from the Homes and Communities Agency (HCA) for new and improved Gypsy and Traveller pitches has been poor, and partly explains the cost of schemes: £62,900 per additional pitch, £49,400 per improved pitch."

The HCA programme is the latest one from 2012 up to 2015 and some schemes could not go ahead due to planning problems and localism. The funding is quite narrow though and only committed to registered Social Landlords.

WORDS WHICH EXCLUDE:

It is interesting to read through the following opinions below where we find that, if policies work just as a generic **guidance** without any compulsory obligations by the councils, then the localism agenda takes over easily to block everything. As a result funding is lost or it is going to be lost soon.

> "Andrew Redfern, chief executive of housing association Framework, which is waiting for planning permission on 55 pitches in the Midlands, says: 'The problem is **localism**. Any government that imagines you can deliver a programme of Traveller pitches on the basis of a **localist policy** is living in a fantasy world.
>
> 'The government has to set targets. Unless it's mandatory, most local authorities will just choose not to do it.'
>
> Alistair Allender, chief executive of Elim Homes, which is about to submit a planning application for 29 pitches in north Somerset, explains that **finding land** where the owner is willing to sell which is both **politically acceptable** and suitable for a pitch is a tortuous process.
>
> 'These difficulties rule out about 90 per cent of sites straight away,' he says. 'Then once you do go to consultation, people suddenly come out of the woodwork and shout the bid down because of the **underlying prejudices** against Gypsies and Travellers.'"

In the case of Maidstone Borough Council an entire list was attached in the Summary of concerns in which every single allocation of sites for development was attacked. Every single Parish Council objected new housing developments by saying that in recession times,

the **housing need** has been **exaggerated**; they carried out their own Neighbourhood surveys and they insisted that the residents of villages clearly wanted to see small scale developments scattered around the villages rather than large sites. The most controversial part of concerns comes from Ulcombe Parish Council (pp18-20); they agree initially "with the general policy on protection of the countryside and that extra housing should be located where there are services in conformity with the Government's guidelines in the NPPF on sustainability." (p18). Then, they express serious concerns about new roads and other infrastructure and at the end they clearly say:

> "Ulcombe Parish Council wish to see a much more **robust acceptance** for the need to **spread g**ypsy and **t**raveller sites over the whole Borough. We are opposed to the three mobile homes planned for Hawthorn Farm in Ulcombe, in the Local Plan, as this will increase to 30 the approved number of mobile homes in Ulcombe. This represents nearly 10% of our **total housing stock**. Headcorn and Broomfield have a further 53 between them. The parish council believe that this is far too high in one area. Maidstone is still **107 pitches short of its 187 target** for **t**raveller sites and we would like to **see the balance** 107 pitches they still need to find **spread over** all the other villages in Maidstone and not just in Headcorn Ward."
>
> "Ulcombe Parish Council do not agree that the Salford University evidence for **g**ypsy sites is valid and it should be questioned. In the draft (Regulation 18) Local Plan (para 11.137) it says:
>
> "Gypsies and Travellers historically resorted to the Maidstone area because of their involvement in agriculture, particularly hop and fruit picking. These patterns have prevailed, especially in the Weald area" (p20)

And their conclusions in the Summary of Concerns end with unconditional opposition; they express doubts about needs (this word is inside quotation marks and highlights the sarcastic spirit of the document in its integrity). This document does not relate so much to the so-called spirituality and generosity of Christian faith churches and parishes. However it sustains the opinion of the locals protected by a religious authority allowed to make this statement:

> "This is not a true statement of today's realities [the findings by the Salford University research]. Most **agricultural workers today are from Eastern Europe**. If this is the basis of Salford University's report on **g**ypsy and **t**raveller "needs" then it should be challenged by Maidstone Borough Council."
>
> "Ulcombe Parish Council feel that the Maidstone Borough Council Local Plan should include **planned g**ypsy and **t**raveller pitches in the housing allocations (excluding Headcorn Ward) **to help spread the number** around the Borough. Everyone seems to have ignored this issue when complaining about Maidstone Borough Council's **housing numbers**." (p20)

It is unfortunate that Councils then decide to start from scratch again in order to compile new Local Plans and carry out costly legal procedures. Thus, they decide most of the times to withdraw and return back considerable amounts of funding.

The Homes and Communities Agency (HCA), a single, national housing and regeneration delivery agency for England, declare that their *"vision is to*

create opportunity *for people* ***to live in homes*** *they can afford* ***in places they want to live****, by enabling local authorities and communities to* ***deliver the ambition*** *they have for their* ***own areas****."* (www.homesandcommunities.co.uk/news/traveller-pitch-funding allocations-2015, accessed 03/11/2014) They use quite a soft tone in their language by emphasizing **opportunity** and **ambition.** However they are attempting to indicate that the localism agenda should be at the forefront, as they emphasise **living in homes** (conventional life) for people with very limited means, thus, **excluded from the places they want to leave** anyway.

7. Urgent action to make legal aid accessible and inclusive and to restore legal aid for Housing Law (which incorporates Gypsy and Traveller accommodation issues).

THE CASE:

In a document written by the Community Law Partnership Solicitors (based in Birmingham, West Midlands) which was published on 10/10/2013 at

http://www.communitylawpartnership.co.uk/ and accessed on 30/11/2013, we learn about some interesting cases that they dealt with recently. The paper's title is 'In Defense of the Rule of Law - Response of Community Law Partnership to the Ministry of Justice Consultation - Judicial Review: Proposals for further reform."

In paragraph 7 of this paper mentioned above we see that the judicial review cases the Community Law Partnership Solicitors take "are *targeted where they are needed most…; a Gypsy or Traveller family being evicted by a local authority that has failed to follow Government guidance; and so on."* In fact their opinion is that they will no longer be able to defend these cases by affirming:

> "The safeguard of discretion to pay us vested in the Legal Aid Agency (LAA) would not be sufficient to allow us to take the cases on. The manner in which the LAA is using its discretion in relation to applications for exceptional funding leads us to believe that it would not exercise its discretion to pay us. As a virtually 100% legal aid practice our margins are simply too tight to enable us to take a case on that we might not be paid for. We give here ... examples of those who we have helped but who we would not have been able to help if the proposed regime had been in place:
>
> "7.1 We assisted a Gypsy family, who had to resort to unauthorised encampments, to make a homeless application to the local authority in whose area they are normally encamped. The local authority failed to properly deal with the application and a judicial review was lodged. Prior to permission being dealt with, the local authority offered a temporary site to the family." [This is a classic example that Gypsies and Travellers are constricted more and more to unauthorised encampments and as a result of legal aid cuts, several families will face the hardship of evictions and unavoidable clashes with the Police and the locals.]

In paragraph 8, the Community Law Partnership Solicitors affirm that:

> "We know that the majority of legal aid lawyers are doing likewise – holding public authorities to account for their vulnerable clients. At the moment, many local authorities back down under the threat of judicial review. They are unlikely to continue to do so if they know that the threat is an empty one."

We have chosen one of the cases, as explained concsely and thoroughly in paragraph 12.1, because we think that this case encompasses most of the

issues which are addressed in other sections of our recommendations as well and it shows clearly the risks that Gypsy and Traveller communities will be facing because of the legal aid cuts. Again the emphasis is upon the fact that legal practices until now had reasons and means to proceed with judicial reviews mostly successful. But, cuts to their funding and payments means that they may have to abandon quite all cases. The case refers to the struggles of Ms Moore, a single parent and her family and we have bold lettering where we wish to highlight reactions of the authorities and legal challenges. This case has been described very succinctly by the group of the solicitors mentioned above and, it is presented as follows:

> "12.1 Ms Moore lives on her own land in Kent. The site is situated within the **Metropolitan Green Belt**. Ms Moore is **a single parent who lives in a mobile home on the land with her three children**. She is a **Romani Gypsy**. She also suffers with a number of **medical problems**."
>
> "Before Ms Moore moved to the appeal site in July 2010 she and her children **lived for some 12 years in a caravan situated on the front drive of a rented Housing Association** property in Orpington. This was due to the fact that **she had an aversion to living in bricks and mortar accommodation.** The Housing Association in March 2010 gave Ms Moore a **28 days' Notice** to remove the vehicles from her drive and later **a further Notice was sent regarding the Association seeking legal advice on the matter**. Ms Moore had submitted an **application for planning permission for her site** which already had the **benefit of permission for equestrian use**. In July 2010 Ms Moore, together with her children, moved onto the site with her mobile home and her **tenancy with the Housing Association was terminated**. The local planning authority (LPA) **refused her application for change of use** and they then commenced **injunction proceedings** in late 2010 which have been stayed **pending the outcome of her appeal**. The **refusal of planning permission was appealed to the Planning Inspectorate** and the Inspector went on to **dismiss her planning appeal**."
>
> "**Had legal aid not been available for a Section 288 Town & Country Planning Act (T&CPA) 1990 application to the high court, then that would have brought the matter to an end. The LPA would have proceeded with its application for an injunction under Section 187B of the T&CPA 1990 and by now Ms Moore would be off the land."**
>
> "Ms Moore then **lodged her challenge to the Inspector's dismissal of her appeal** and **counsel was then instructed on the matter**. Judgment was handed down by Mrs Justice Cox on 16 November 2012. Mrs Justice Cox **allowed the appeal and gave a very lengthy and reasoned judgment**. She found that the **Inspector failed to make relevant findings**, as required, and that his decision **to refuse a temporary planning permission to Ms Moore was irrational and could not stand**. Alternatively, she considered that **the Inspector's decision on the issue of temporary permission was inadequately reasoned** and that, **for that reason in addition, his decision could not stand.**"
>
> "The **Secretary of State** then **challenged**

the decision in the Court of Appeal which **upheld the decision of Mrs Justice Cox**. Lord Justice Richards emphasised the importance of **taking into account the fact that the family would have had to resort to roadside camping if they did not receive temporary planning permission.** This is an **important decision** not just for Ms Moore but for all Gypsies and Travellers who are seeking **at least temporary permission** while they wait for **local planning authorities to produce their five year deliverable supply of sites** (which they should already have done under the DCLG's **new planning policy Planning policy for traveller sites**). **Once again this important decision (not only for our client but for other Gypsies and Travellers) would not have been achieved without the availability of legal aid."**

We carried out this highlighting above in order to emphasise the legal complexity of most cases. This one especially shows clearly all the problems faced by a woman single mother with children who was risking to resort on unauthorised sites for the rest of her life. This shows that legal aid cuts may create more uncertainty about Gypsy and Traveller accommodation solutions and a lot more frustration to them and the professionals who may attempt to defend them in the near future.

THE LEGISLATION:

In a special publication in the website of Legal Action Group (LAG), an Access to Justice Charity, we find a column with the title 'Legal aid cuts impact statement', in which the authors ask for documents' evidence of the effect of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012; this column was published in October 2014 at http://www.lag.org.uk/magazine/2014/10/legal-aid-cuts-impact-statement.aspx (accessed on 04/11/2014). In the same journal edition, we also find details about an ongoing campaign, the 'No Mad Laws' campaign which *"aims to highlight the disastrous effect that the coalition government's legal aid and judicial review reforms will have on Gypsy and Traveller communities. The campaign's steering group describes the impact of these changes."* The persons who undersign the petition 'No Mad Laws' *"call upon the Government to ensure that Gypsies and Travellers who need advice and assistance under the legal aid scheme are able to receive it."*

There are some important issues discussed in the journal, such as the judicial review claims by stating clearly that:

> "Most judicial review claims are settled successfully before the application for permission is heard. Yet the government has now brought into force provisions which mean that legal aid providers will not be paid on a judicial review claim unless either permission is granted, or the matter is settled before permission without costs being awarded to the claimant and then the Legal Aid Agency exercises its discretion and decides to pay the provider. Thus, legal aid providers will have to take such claims at risk and are

> unlikely to do so unless the merits of the claim seem very good. Gypsies and Travellers may need to challenge unlawful decisions by local authorities concerning, for example, stop notices, direct action against a site without planning permission or eviction of an unauthorised encampment."

We see that Gypsies and Travellers, because of a severe shortage of lawful caravan sites in England and Wales; are badly hit by The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012; many still have the alternative to use unauthorised encampments on public land or the roadside. As we see in 'No Mad Laws' campaign in the column mentioned above: *"Before the (LASPO) Act 2012 came into force in April 2013, a Gypsy or Traveller camped on public or local authority land, who wished to challenge the legality of the public body's decision to evict, could do so by defending possession proceedings in the county court."* Nevertheless, the LASPO Act has now excluded 'trespassers' such as Gypsies and Travellers residing on unauthorised encampments from scope. The extra burden to Gypsies and Travellers is now that bigger. If they *"have a reason to defend possession proceedings on the ground that the decision to evict was unlawful, now have to lodge a judicial review claim in the High Court and seek a stay of the county court action; this increases delay and expense, assuming of course that they can find a legal aid provider who is still willing to take on such a case."*

Due to the legal aid reforms contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, Gypsies and Travellers facing eviction from encampments by local authorities may be unable to challenge the eviction action even where the local authority are acting in defiance of Government guidance. The people campaigning against LASP Act 2012 clearly want the Government to re-think about these serious matters. Again in their briefing paper on 'The attack on Legal Aid and the Rule of Law', they say that: *"the changes to legal aid and judicial review combined with attacks on individual rights…indicate that the government seems intent on denying everyone – apart from the wealthy – access to the justice system."* Therefore they recommend:

1. "The legal aid regulations relating to the payment for work done on judicial review claims pre-permission should be withdrawn and legal aid should be reinstated for judicial review subject to the usual merits criteria and eligibility provisions;

2. Trespassers should be brought back within the definition of 'loss of home' for the purposes of legal aid;

3. As proposed by the Low Commission, Housing Law should be brought back within scope for legal aid;

4. As the Law Commission also recommended, there should be an urgent radical overhaul of the provision instead of Exceptional Funding.'

In fact the Exceptional Funding (EF) is something which is at the centre of the entire debate about LASPO and, because of being so 'exceptional' is also unavoidably not available for most people anxiously asking for it, whilst under eviction processes. The 'No Mad Laws' campaigners say that:

> "EF ought to be available to cover matters involving: - housing benefit; Traveller planning inquiries; disrepair issues on Travellers' sites which need to go to tribunal; demoted tenancy cases. Many, many hours of solicitors' and

advisers' time has been spent in attempting to get EF. It is absolutely clear to us that, in these cases, Article 6 [of the European Convention on Human Rights] is breached because clients are not able to deal with the relevant hearings and, thus, there is no equality of arms."

WORDS WHICH EXCLUDE:

In the LAG publication, we see that, in 2011, the Westminster Government complied with the European Court of Human Rights' judgment in Connors v UK App No 66746/01, 27 May 2004; the government gave Gypsies and Travellers living on local authority caravan sites **security of tenure** by amending the Mobile Homes Act (MHA) 1983 so that it covered such sites. We also read further that: "*The MHA as amended also gave other **important rights** concerning, for example, written statements, pitch fee reviews, the re-siting of mobile homes, **the right to have a residents' association**, etc. In 2013, the Welsh Government followed suit. However, when the LASPO Act came into force, it restricted the scope of legal aid to **possession actions** and **serious disrepair** cases with the result that Gypsies and Travellers living on public run sites are unable to take action to enforce their **new rights**."* In this case by repealing Mobile Homes Act 1983, new problems arose and by adding a new contradictory act, such as Legal Aid, **Sentencing** and **Punishment** of **Offenders** Act 2012, not only impartiality in funding has been compromised, but also Gypsies and Travellers are going to be applying as equals to **Offenders.** And it is unspeakable that the right to have a home becomes clearly a criminal offense.

Due to the legal aid reforms contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, Gypsies and Travellers on rented local authority sites are unable to get advice and assistance apart from in eviction cases and cases involving serious disrepair, and Gypsies and Travellers facing eviction from encampments by local authorities may be unable to challenge the eviction action even where the local authority are acting in defiance of government guidance. Thus, a vicious circle of actions could have no real outcome at the end.

By referring to the Exceptional Funding issue here we find that:

> "During the passage of the LASPO Bill through Parliament, the Government placed great emphasis on Section 10 of the Bill, the possibility of **exceptional funding** (**EF**). It was stated that this would act as a **vital safety net**. EF is intended to ensure that the failure to provide advice and representation to someone does not result in a breach of Article 6 of the European Convention on Human Rights (the right to a fair hearing) and **does not breach** European Union Law." (http://www.lag.org.uk/, accessed on 04/11/2014)

Unfortunately the statistics in the briefing paper on 'The attack on Legal Aid and the Rule of Law' of 'No Mad Laws' campaign show a grim reality:

> **"In October 2013 Community Law Partnership made a Freedom of Information Act (FOIA) request to the Ministry of Justice with regard to EF due to the fact that all of their attempts to obtain such funding had been unsuccessful. The response indicated that, to that date, there had been 602 applications and 37 of these related to Housing Law. Surprisingly, only 11 applications in total throughout the country had been granted and only one had been granted under the heading of Housing Law. In the latest statistics from the Ministry of Justice (Ad Hoc Statistical Release: Legal Aid Exceptional Case Funding 1 April 2013 to 31 March 2014) of 1,519 applications in total only 57 have been granted (42 of those for Inquests). Of 81 Housing Law applications it is still the case that only 1 has been granted."** (http://www.lag.org.uk/, accessed on 04/11/2014)

In reality the LASPO is having a devastating effect to Gypsy and Traveller cases; several important questions have emerged about its trustworthiness as we can see in various reports, as those mentioned above.

The Community Law Partnership Solicitors in their paper also make comments on the original judicial review proposals contained in the Ministry of Justice (MoJ) consultation paper *Transforming Legal Aid* published in 2013 ; they have appended the government's comments and discussion (paragraphs 63-66) to their paper as well. Several words have been highlighted, as there is an attempt to put pressure to legal professionals and their clients in order to abandon legitimate conflicts with the legal system. Thus, legal persons and their clients are warned as follows:

> "The Government is also considering **whether it is appropriate** for the **public purse** to continue to fund legal aid for **statutory challenges** to the **Secretary of State's planning decisions under sections 288 and 289 of the Town and Country Planning Act (TCPA) 1990**, specifically challenges under these sections where a local planning authority's decision, or non-determination of an application, has already been appealed to the **Secretary of State**, or he **has taken a decision on a called-in application** (which will generally involve a **public inquiry**)."
>
> "Currently legal aid is **not generally available for planning cases or statutory challenges under sections 288 and 289 of the TCPA** but is available (subject to means and merits) where **an individual is at immediate risk of losing their home as a result of the proceedings** in question."
>
> "These challenges are not judicial reviews. The

statutory challenges concerned will occur at the end of a **robust process**, also **funded by the public purse**, that **has already provided individuals with opportunities to put their case, either to a local planning authority and then on appeal to an independent Planning Inspector, or to a public inquiry."**

"In such cases, central government is providing **further taxpayers' money** to fund **legal challenges** of decisions made by **central government** after the case has already been heard by an **independent** Planning Inspector. In view of this, as well as the particularly strong public interest in planning cases not being **unduly delayed by court proceedings**, we would welcome views on whether **taxpayer funded legal aid** should continue to be **available for these challenges** (**other than where the failure to fund such a challenge would result in breach, or risk of a breach, of ECHR or EU rights)**."

[However there have been cases of rejection by European Court of Human Rights (ECHR), as we see in other sections of our recommendations].

Land is often barred to Gypsies , even if it is in a poor state and not presently used.

8. A strategy for the inclusion of Gypsies, Travellers and Roma as separate categories in ethnic monitoring data is needed in order to understand the impact of government policies on Gypsy, Traveller and Roma communities.

THE CASE:

The case here or cases are represented by the Government intentions shown in their own progress reports. There is not always certainty that these kinds of reports are going to have an impact to new laws or changes of existing legislation, for example, in a document published in 2011 with the title 'Opening Doors, Breaking Barriers; A Strategy for Social Mobility' the UK government insisted that: ***"Fairness is one of the values of the Coalition Government, along with freedom and responsibility… For us, fairness means everyone having the chance to do well irrespective of their beginnings."*** Thus, they used the same statement in the introduction of another document published later in April 2012 by Communities and Local Government with the title 'Progress report by the Ministerial Working Group on tackling inequalities experienced by Gypsies and Travellers'. However, when the Government talks about fairness, we cannot understand how they are able to implement this when they do not separate categories in ethnic monitoring data which refer to Gypsy, Traveller and Roma communities; all three are very different communities and with needs requiring a variety of strategies to be set for them by central Government and the local authorities.

In fact the members of the working group for the document mentioned above, amongst whom we find the Secretary of State for Communities and Local Government Eric Pickles, present a very confusing set of points from the introduction to the final conclusions/ commitments promised to the communities. This particular document was supposed to be a 'progress' report. But, as such, it does not show so much progress though on Government achievements and especially on their defined strategy "to tackle inequalities". Here 'inequality' appears to be equivalent to 'diversity', as it is presented in some parts of the report. Perhaps this working group shows mainly evidence about the inefficiency of certain policies to suppress inequalities. It might have been the opposite though, as the policy makers have attempted in the meantime to 'tackle' diversity by means of unfair strategies and planning practices. The report shows clearly that progress is still at stakes in 2012; still no major change has been since then:

- "In 2011 just 12% of Gypsy, Roma and Traveller pupils achieved five or more good GCSEs, including English and mathematics, compared with 58.2% of all pupils
- There is an excess prevalence of miscarriages, stillbirths, neonatal deaths in Gypsy and Traveller communities
- Around 20% of traveller caravans are on unauthorised sites.
- Studies have reported that Gypsy and Traveller communities are subjected to hostility and discrimination and in many places, lead separate, parallel lives from the wider community."

(Progress report by the Ministerial Working Group on tackling inequalities experienced by Gypsies and Travellers, p5, available at www.communities.gov.uk, accessed on 02/11/2014).

All data seem to be cumulative; there is no effort to separate findings so that Gypsy, Traveller and Roma communities' issues could be understood and tackled correctly. Most of the times, the intention is to blame mainly Gypsy and Traveller communities about the malfunctioning of policies and planning:

> "A lack of trust and understanding between Gypsy and Traveller communities, their neighbours and mainstream service providers was identified as a factor in many of the problems. The Ministerial Working group looked at what Government could do and through a series of meetings developed proposals that would help mainstream services work more effectively with Gypsies and Travellers."
>
> (Progress report by the Ministerial Working Group on tackling inequalities experienced by
>
> Gypsies and Travellers, p5, available at www.communities.gov.uk, accessed on02/11/2014)

In this report the Government recognised the fact that they had found gaps in their own data and research and this should be a real weakness; they also get as granted that there might be overlaps with issues affecting Roma with those impacting Gypsies and Travellers. And because of devolved administrations in the UK, these *"have their own approaches towards Gypsies and Travellers in areas where responsibility is devolved. Some of the policy areas covered by this report such as health, accommodation and education therefore only apply to England."* (p6)

In Chapter 4 although they say that they encourage healthy living conditions, they also suggest that Gypsy and Traveller communities should have also responsibilities to keep their sites tidy and clean, if they wish to live in healthy conditions. Those affirmations also suggest discrimination and exclusion (see discussion further).

THE LEGISLATION:

Some very recent publications, such as 'Civil Society Monitoring on the Implementation of the National Roma Integration Strategy in the United Kingdom in 2012 and 2013', written by Andrew Ryder and Sarah Cemlyn (Prepared by National Federation of Gypsy Liaison Groups, supported by Decade of Roma Inclusion 2005-2015 (See also www.romadecade.org) and available at http://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2014/UK-civil-society-monitoring-report-en-1.pdf, accessed on 01/11/2014, comprise relevant references to current UK and international legislative frameworks and the reaction of organisations and teams that support Gypsy and Traveller, as well as Roma issues. By referring to discrimination, the report notes that:

> "…Serious levels of discrimination continue to exist for Gypsy, Traveller and Roma communities right across the UK. The UK Equality and Human Rights Commission (EHRC) in 2012 criticised the UK Government for failing to consider how a number of policies would impact on the equality agenda in its spending review and warned that the Government had not fully grasped the requirements of public sector equality duties and that the cumulative effects of policies on vulnerable groups were not considered in a comprehensive way. … It is notable that the EHRC has had its budget and workforce halved. The reduced scope of the EHRC is impacting negatively on Gypsy, Traveller and Roma communities. The report hopes that the EHRC will share the concerns expressed in the report and actively work in partnership with Gypsy, Roma and Traveller groups to promote its findings. The EHRC needs to have a mandate and appropriate funding to better address the failures of local authorities to address housing needs and allocate land for the Gypsy and Traveller sites and to ensure that Local Authorities comply with their Housing Act and Equality Act obligations. Otherwise although relevant laws may exist there is a failure to have an effective body to enforce them for a Community that is not capable of doing this for itself. An advisory committee, which includes community members, is needed to assist in raising the profile of work by the EHRC on Gypsy, Roma and Traveller communities."
>
> (www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2014/UK-civil-society-monitoring-report-en-1.pdf,p8, 01/11/2014)

In the monitoring document mentioned above we find that:

> "… increasing concern has also been expressed by community members and others that, political leaders are frequently voicing ill-informed and prejudiced sentiments in the public arena, which act to continue prejudice and discrimination against Gypsy, Traveller and Roma communities. The media also plays a prominent role in encouraging such prejudice."
>
> "Gypsy, Traveller and Roma groups are playing a valuable role in combating gender discrimination within their own communities and an increasing number of women have taken up leadership roles and challenged traditional gender expectations. They become role models renegotiating the status and place

of women within their communities."

(www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2014/UK-civil-society-monitoring-report-en-1.pdf, p8, 01/11/2014)

In relation to Engagement, Empowerment and Strategy, in the same document aforementioned, it is noted that:

"… It is encouraging that in two of the devolved administrations (Scotland and Wales) there is a growing appreciation of the need for a strategic approach and, in some areas, there are targeted and innovative measures. However, despite support for some innovative projects, Northern Ireland needs a broader strategic approach and in England, the 'mainstreaming' approach and the promotion of the localism agenda by the current government has tended to preclude targeted and tailored measures for Gypsy, Traveller and Roma inclusion, as evidenced by an unwillingness to adopt a national strategy. Significantly, this report raises concerns about the lack of funding and support for Gypsy, Traveller and Roma engagement in civil society and while there is evidence of a number of exciting and innovative projects being led by community groups in the UK, these initiatives are predominantly underfunded and, consequently, these communities are rarely represented in the political area. In addition, the administrations in these four countries are failing to disseminate and embed innovative positive practice that sufficiently involves Gypsies, Travellers and Roma in decision-making processes… In England a Gypsy and Traveller Liaison Group has been established but the lack of a strategy or meaningful involvement in national and local decision-making is limiting the value of this body… Certainly there are serious information gaps in our understanding of the needs of the communities. This report identifies the flaws in the UK policy approach and raises serious concerns, when compared against some of the core approaches contained within the 10 Common Basic Principles of Roma Inclusion. This report calls upon the administrations within the UK to enter into a real partnership with Gypsies, Travellers and Roma to form a series of taskforces, to inform and guide future policy to ensure that the community members are seen as equal citizens."

[The message is clear here; the Government has to cooperate with Gypsies, Travellers and Roma. Otherwise there is a risk of the problems escalating] (www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2014/UK-civil-society-monitoring-report-en-1.pdf, p7, 01/11/2014)

In the section which refers to Inclusive Policy, the report affirms:

"Some UK policy makers seem to consider that developing inclusion policies for Roma populations (including Gypsies and Travellers) runs counter to a favoured 'mainstreaming approach'. While care is needed with a targeted approach, in particular to avoid the creation of inferior or segregated/ghettoised services, carefully monitored and evaluated, targeted and flexible services hold the potential to significantly strengthen mainstream provision and enhance its relevance for Gypsies,

Travellers and Roma. It is recommended that a close relationship should exist between mainstream and targeted support so that knowledge arising from, for example, a local pilot project is then fed back into the daily operations of mainstream service providers and becomes part of their activities. This can lead to progressive change within mainstream methods and approaches as the pilot facilitates new directions or becomes part of established services… Gypsy, Traveller and Roma civil society has achieved much and has the potential to do much more. It can act as a bridge between the communities and policy makers, although evidence from the good practice case studies in this evaluation indicates that it is undervalued by the latter."

(www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2014/UK-civil-society-monitoring-report-en-1.pdf, p11, 01/11/2014)

In 'Gypsy, Traveller and Roma: Experts by Experience' published very recently by Anglia Ruskin University, we can read a report on 'Reviewing UK Progress on the European Union Framework for National Roma Integration Strategies', which is compiled by Dr Pauline Lane, Siobhan Spencer MBE & Adrian Jones. The report is available at

(http://www.anglia.ac.uk/ruskin/en/home/news/roma_report.Maincontent.0007.file.tmp/Experts%20by%20Experience.pdf, which was accessed on 04/11/2014. In the excerpt below we can identify the criticism of the authors and researchers, where it is noted:

"The impact of the localism agenda"

"In 2011, **the Localism Act** was introduced to shift decision-making powers from central government towards local authorities and local communities. A range of poverty and race equality groups have raised concerns that there is a danger that many communities will be disadvantaged if they are not well linked to decision making structures, especially if they are small communities, or ethnic minority groups that are unpopular with other parts of the population. Significantly most of these groups don't have the skills, training or capacity to engage with local decision making bodies and there are few mechanisms for protecting their interests against a local majority or powerful and vociferous groups. **The majority of Gypsy, Traveller and Roma community members do not have access to local decision-making processes, and there are few local targets or monitoring systems for integration.** In addition, many community members may choose not to self-identify as being Roma, Gypsy or a Traveller, due to fear of discrimination and therefore they stay **'under the local radar'**. However, it has been suggested that some **local Councils** are unaware of their communities but prefer **'not to know'**, rather than have to spend resources identifying and helping minority communities such as new migrant Roma."

(http://www.anglia.ac.uk/ruskin/en/home/news/roma_report.Maincontent.0007.file.tmp/Experts%20by%20Experience.pdf, p13, accessed on 04/11/2014)

Further on we see:

"In 2011, the UN Committee on the Elimination

of all forms of Racial Discrimination (CERD) noted that drastic inequalities and discrimination continue to be faced by Gypsies, Travellers and Roma communities across the UK. The CERD was particularly concerned about site provision, which they identified as the lynch-pin to many of the inequalities suffered by these communities and the Equality and Human Rights Commission has shown examples of how local communities have mobilised to oppose legal Gypsy and Traveller sites. Housed Gypsies and Travellers are also exposed to racism from neighbours and this can have a negative impact on their health and well-being. Research suggests that Gypsies and Travellers may be more reluctant to report hate crimes or incidents because of distrust of the police. Gypsies and Travellers we interviewed for this report frequently expressed concerns about their experiences of racism and discrimination."

(http://www.anglia.ac.uk/ruskin/en/home/news/roma_report.Maincontent.0007.file.tmp/Experts%20by%20Experience.pdf, p22, accessed on 04/11/2014)

WORDS WHICH EXCLUDE:

In the 'Progress report by the ministerial working group on tackling inequalities experienced by Gypsies and Travellers', the government vows several **commitments** about health, education and accommodation by highlighting the intention to provide **appropriate** accommodation. The government affirms that they have to encourage **healthy living conditions** in *"traveller sites"*.

In **Commitment 12**, it is noted that:

> "The Department for Communities and Local Government will **help** Gypsy and Traveller representative groups **showcase** small private sites that are **well presented** and **maintained**. Subject to site owners agreeing to have their homes included we will help produce a **case study document** which local authorities and councillors, potential site residents and the general public could use. It could also be adapted and used in connection with planning applications." (Progress report by the Ministerial Working Group on tackling inequalities experienced by Gypsies and Travellers, p18, available at www.communities.gov.uk, accessed on 02/11/2014)

Showcasing small private sites in some short of promotional material could allow Gypsy and Traveller communities to obtain some allowances; that means that prejudices should surpasses by using exaggerated conditions of cleanness in uncluttered sites, something which is so extreme even in social housing estates today. Commitment 12 alludes that Gypsies and Travellers have mainly problems with **disorder** and unhealthy, **non-environmentally friendly conditions** of living. And the same theme

is still evident in Commitment 13 where we see that: *"The Government will continue to promote **improved health outcomes** for travellers through the planning system."* (Progress report by the Ministerial Working Group on tackling inequalities experienced by Gypsies and Travellers, p19, available at www.communities.gov.uk, accessed on 02/11/2014)

The Government believes that:

> "To help **change the perception** of traveller sites and **address the concern** that can develop around traveller site development proposals, we are **working on gathering examples of well-kept small private family sites**. Gypsy and Traveller representative groups have been invited to lead on this and the Department for Communities and Local Government has also been in contact with local authorities to identify the **best sites in their area.**" [Perhaps in the near future we may have to see often glossy brochures produced to resemble those which advertise private properties in bricks and mortar].
>
> (Progress report by the Ministerial Working Group on tackling inequalities experienced by Gypsies and Travellers, p18, available at www.communities.gov.uk, accessed on 02/11/2014)
>
> And the most astonishing item in this discussion about perceptions is the **support for elected councillors** by having them attending a **"course delivered by councillors for councillors to support them with their leadership role around traveller site provision, including advice on dealing with the controversy that can sometimes accompany planning applications for traveller sites. Councillors have reported that the training helped them to conduct better planning meetings leading to fair and more effective decision-making."** (Progress report by the Ministerial Working Group on tackling inequalities experienced by Gypsies and Travellers, pp18-19, available at www.communities.gov.uk, accessed on 02/11/2014)

Councillors find it difficult to face the locals' opposition towards Traveller site proposals, according to the same document. Councillors are going to use diplomatic methods or they may pretend to be fair, as in most cases of rejections of applications and eviction processes nowadays. The Government has offered funding for these courses until 2015.

The Government suggests that Gypsies and Travellers are not able on their own to provide **suitable** accommodation and **healthy lifestyles**:

> "One of the Government's aims in respect of **traveller** sites is to **enable provision** of **suitable** accommodation, which **supports healthy lifestyles**, and from which **travellers** can access education, health, welfare and employment infrastructure. Local planning authorities should ensure that traveller sites are **sustainable economically, socially and environmentally** and should, therefore, ensure that their policies promote, in collaboration with commissioners of health services, **access to appropriate health services.**" (Progress report by the Ministerial Working Group on tackling inequalities experienced by Gypsies and Travellers, p19, available at www.communities.gov.uk, accessed on 02/11/2014)

The diplomacy used in the promotion of this kind of training can be evident in the website of Leicestershire County Council at http://www.leics.gov.uk/index/community/gypsies_and_travellers-2.htm (accessed on 01/11/2014), where we find that:

"Gypsies and other Travellers have been, and will continue to be, a **feature** of **English life** for many centuries. They make up a very **small minority** within the **wider population** [no threat] ... Many live in caravans or other vehicles and follow a **lifestyle** which is **nomadic** or **semi-nomadic**, involving travel during at least a part of the year. As many as one third of Gypsy Travellers and the majority of other Travellers **have no safe**, **legal** and **secure stopping place**. According to Government figures, at any one time there are about 3,500 Gypsy/Traveller caravans on unauthorised encampments in England. It is estimated that 90% of their **traditional stopping places**, such as **green lanes**, have been blocked off or in some other way made inaccessible in the last 20 years. **They will continue to travel through the foreseeable future.**" [So, the locals are assured that these people are not going to stay forever in their neighbourhoods].

In fact in Leicestershire County Council's Equality and Diversity Strategy 2008 – 2010, it is noted that:

*Promoting **Respect** and **Fairness*** includes *The Vision for Leicestershire* which states:

- Leicestershire is **cohesive** and inclusive
  - Social justice and **mutual respect** is promoted through all our services and in our employment practices
  - The needs of all sections of the community are understood and all residents can access **essential services**
  - **Levels of hate incidents** are reduced
- Equality of access to life opportunities
  - No individual experiences disadvantage because of their race, disability, gender, age, sexual orientation, religion or belief
  - People have **equality of access to life opportunities,** employment, learning and services that meet individual needs."

(www.leics.gov.uk/index/community/gypsies, accessed on 01/11/2014)

We see the use of generic and standard phrasing in the *Vision for Leicestershire*; the language is pretty similar to that one used by the Government anyway. However **Respect** seems to be referring mainly to all vulnerable communities rather than the local authorities and **Fairness** to disadvantaged people follows or copies phrases from the Equality Act. Nothing new comes to the people's attention

Gypsy women are disadvantaged by the “status” issue, it may lead to more legal challenges in the future.

9. A specific policy for Gypsy and Traveller communities in relation to cultural heritage land use should be contained within any strategy, separate to Roma accommodation issues which are different.

THE CASE:

In the publication 'A Place to call home: Ethnicity, culture and planning for Traveller sites' published by The Traveller Movement in October 2014, we see that the Gypsy and Traveller communities' accommodation issues are different from those related to the Roma community. This becomes evident when we follow closer the active and ongoing debate between the UK government and the Gypsy and Traveller communities. According to the information included in their website www.travellermovement.org.uk, accessed on 01/11/2014:

> "... The Traveller Movement (TM) was established in 1999 and is a leading national policy and voice charity, working to raise the capacity and social inclusion of the Traveller communities in Britain. TM act as a bridge builder bringing the Traveller communities, service providers and policy makers together, stimulating debate and promoting forward-looking strategies to promote increased race equality, civic engagement, inclusion, service provision and community cohesion."
>
> ('A Place to call home: Ethnicity, culture and planning for Traveller sites', www.travellermovement.org.uk, accessed 01/11/2014, front page)

In the publication mentioned above the origins of the definition of **G**ypsy and **T**raveller status is discussed through the analysis of '**g**ypsy status' responses in the consultation on Planning Policy for Traveller Sites. However several recommendations follow the analysis and an attempt is made to address issues/problems arising from '**g**ypsy status'.

> "In Wrexham CBC v The National Assembly of Wales and Berry, [2003] EWCA Civ 835, Mr Berry, a Irish Traveller, had **retired from work due to ill health**, the Court of Appeal concluded that this meant that Mr Berry **no longer had 'gypsy status'**."
>
> ('A Place to call home: Ethnicity, culture and planning for Traveller sites', www.travellermovement.org.uk, p8, accessed 01/11/2014)

The judge affirmed that:

> 'Whether applicants for planning permission are of a 'nomadic way of life' as a matter of planning law and policy is a functional test to be applied to their normal way of life at the time of the determination. Are they at that time following such a habit of life in the sense of a pattern and/or a rhythm of full time or seasonal or other periodic travelling? The fact that they may have a permanent base from which they set out on, and to which they return from, their periodic travelling may not deprive them of nomadic status. And the fact that they are temporarily confined to their permanent base for personal reasons such as sickness and/or possibly the interests of their

children, may not do so either, depending on the reasons and the length of time, past and projected, of the abeyance of their travelling life. But if they have retired permanently from travelling for whatever reason, ill health, age or simply because they no longer wish to follow that way of life, they no longer have a 'nomadic way of life'."

('A Place to call home: Ethnicity, culture and planning for Traveller sites', www.travellermovement.org.uk, p8, accessed 01/11/2014)

It is interesting to refer to this case and the outcomes of it, as it is described in the same publication in which it is noted:

"Mr Berry was refused leave to appeal to the House of Lords. The Court of Appeal's decision did not reflect the fact that the state owed a positive duty under article 8 of the European Convention on Human Rights (ECHR or 'the Convention') to facilitate the Gypsy way of life and Mr Berry took his case to the European Court of Human Rights (ECHR). However, before the ECHR could consider Mr Berry's case, his re-determined planning and enforcement appeals were allowed, meaning he was no longer a 'victim' for ECHR purposes. As a consequence, the court found his case to be inadmissible."

"The Court of Appeal's judgment in Berry had paid no regard to the fact that Gypsies and Travellers were entitled to respect of their traditional way of life and the impact of the decision was tackled when the Government published Circular 1/06 and, in doing so, changed the policy definition of the term 'Gypsies and Travellers'. Paragraph 15 of Circular 1/06 stated that:

"For the purposes of this Circular '**g**ypsies and **t**ravellers' 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 or permanently, but **excluding members of an organised group of travelling show people or circus people travelling together as such.**"

('A Place to call home: Ethnicity, culture and planning for Traveller sites', www.travellermovement.org.uk, p9, accessed 01/11/2014)

THE LEGISLATION:

We find in early definitions that:

> "The courts, convinced that Parliament could not have intended explicitly to discriminate against ethnic Gypsies, decided that the term '**gypsy**' must be concerned with **one's lifestyle** rather than ethnicity (see Mills v Cooper6). Similarly, the definition contained in the Caravan Sites and Control of Development Act (CSCDA) 1960 was that '**gypsies**' were '**persons of nomadic habit of life, whatever their race or origin**' (section 24(8)) [a very broad definition]."
>
> "This statutory definition was incorporated in a slightly revised form in the Caravan Sites Act 1968. The Act required local authorities to provide sites for Gypsies and Travellers who were defined as:
>
> "Persons of nomadic habit of life whatever their race or origin, excluding members of an organised group of travelling showpeople or persons engaged in travelling circuses, travelling together as such."
>
> ('A Place to call home: Ethnicity, culture and planning for Traveller sites' www.travellermovement.org.uk, pp7-8, accessed on 01/11/2014)

The planning and land use definition of the word '**g**ypsy' or '**gypsy status**' has been interpreted by the courts on a number of occasions. In the publication above we find an interesting comment by a judge as he puts it:

> "'..the definition of '**G**ypsies' [ethnic recognition] imports the requirement that there should be some recognisable connection between the wandering or travelling and the means whereby the persons concerned make or seek their livelihood. Persons or individuals who move from place to place merely as the fancy may take them and without any connection between the movement and their means of livelihood fall outside these statutory definitions."
>
> "While the formal definition does not make explicit this economic dimension, the economic purpose behind nomadism is recognised as a key consideration in Councils and Inspectors' assessment of planning proposals."
>
> ('A Place to call home: Ethnicity, culture and planning for Traveller sites' www.travellermovement.org.uk, p8, accessed on 01/11/2014)

In the 'Civil Society Monitoring on the Implementation of the National Roma Integration Strategy in the United Kingdom in 2012 and 2013' written by Andrew Ryder & Sarah Cemlyn and prepared by National Federation of Gypsy Liaison Groups, we see that:

> "This report was prepared by the National Federation of Gypsy Liaison Groups. Membership of the NFGLG is made up of 15 member groups across England, Scotland, and Wales. The NFGLG is also grateful for input into the report by a number of other civil society organisations – the Traveller Movement, London Gypsy and Traveller Unit, Roma Support Group, Roma Community Care, Advisory Council for the Education of Romanies and Travellers, National Association

of Teachers of Travellers, and An Munia Tober. The authors of the report are: Andrew Ryder (Corvinus University Budapest, Third Sector Research Centre – University of Birmingham) and Sarah Cemlyn (The Centre for Poverty and Social Justice, University of Bristol). The Project managers are Siobhan Spencer MBE and Adrian Jones NFGLG Policy officer."

(www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/iris/2014/UK-civil-society-monitoring-report-en-1.pdf, p3, 01/11/2014)

The issues related to relevant accommodation policies and mentioned in the document above have been summarized as follows:

"It is impossible to overstate the importance of suitable culturally relevant accommodation to the life-quality of Gypsy, Traveller and Roma communities. Many Gypsy and Traveller communities still want to follow their traditional nomadic life but land laws and other policies are limiting their cultural traditions. Under the Housing Act 2004, local authorities are required to allocate land for Gypsy and Traveller sites to meet need but most authorities have failed to comply with this statutory obligation for the travelling population whereas they have done so for the settled population, and since it is against the law for Gypsies and Travellers to occupy land that has not been designated for this purpose, the continued and wilful failure to meet this duty is a key factor in continuing the inequality of approach to meeting Gypsy and Traveller Housing needs that remains prevalent throughout the United Kingdom. The failure to meet this statutory duty not only discriminates against Travellers in regard to a basic need for settled accommodation, but also leads directly to conflict with the settled population where Gypsies and Travellers find unsuitable land to develop since no land has been allocated for that purpose. This inequality of approach offends against the duties set out in the Equality Act but there is no easy mechanism in which this failure can be addressed by the Gypsy and Traveller Community. Further, approximately a fifth of the Gypsy and Traveller caravan-dwelling community lack access to an authorised pitch (stopping place) and the lack of legal stopping places combined with inadequate and unhealthy official sites, and failure to allocate land where Gypsy and Travellers can develop their own sites, means that many Gypsies and Travellers are often forced into bricks and mortar accommodation. However, for many members of the community, leaving their traditional life behind to move into conventional housing can produce social isolation and sometimes serious psychological and psychiatric problems, due to their cultural aversion to this form of accommodation and separation from their family and community. Limited UK action on facilitating nomadism is compounded by the fact that the European Union often does not pay full attention to the needs of nomadic Gypsies and Travellers."

In the discussion on planning frameworks in we see:

"While the revised 'gypsy status' definition in Circular 1/06 included people unable to travel because of educational or health needs or old age, it did not address the issue of ethnic Gypsies and Travellers being excluded. This is striking given that s.225 of the Housing

Act 2004, introduced by the same Labour Government, required local authorities to assess accommodation needs to include Gypsies and Travellers who were defined as:

"Persons with a cultural tradition of nomadism or living in a caravan; and all other 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 dependent's educational or health needs or old age have ceased to travel temporarily or permanently; and members of an organised group of travelling showpeople or circus people (whether or not travelling together as such)."

('A Place to call home: Ethnicity, culture and planning for Traveller sites', www.travellermovement.org.uk, pp8-9, accessed 01/11/2014)

"... The Housing Act 2004 definition includes travelling showpeople and circus people, allows for people unable to travel because of educational or health needs or old age, but also recognises the needs of people with a cultural tradition of nomadism or living in a caravan and specifically includes ethnic Gypsies and Travellers in housing who may need caravan site accommodation. It does not expressly include ethnic Gypsies and Travellers but neatly gets round the difficult issue of who **is or isn't an ethnic Gypsy or Traveller** by using the shorthand of '**cultural tradition'**."

"The **difference between the two definitions** results in the **contradictory situation** where for the purposes of **gathering evidence of accommodation needs, Gypsies and Travellers are included as persons with such a 'cultural tradition'**, but, **if planning permission is to be granted for a residential site, they have to prove a nomadic habit of life.**"

('A Place to call home: Ethnicity, culture and planning for Traveller sites', www.travellermovement.org.uk, pp9-10, accessed 01/11/2014)

The Planning Policy for Travellers Sites works alongside with National Planning Policy Framework both issued in March 2012. Both documents are available at www.communities.gov.uk

WORDS WHICH EXCLUDE:

In the Planning Policy for Travellers sites, it is noted:

> "The Government's overarching aim is to ensure **fair** and equal treatment for **t**ravellers, in a way that facilitates the **traditional** and **nomadic way of life of travellers** while **respecting the interests of the settled community**."
>
> "To help achieve this, Government's aims in respect of traveller sites are:
>
> - that local planning authorities should make their own a**ssessment of need for the purposes of planning.**
> - to ensure that local planning authorities, working collaboratively, develop fair and **effective strategies to meet need** through the identification of land for sites
> - to encourage local planning authorities to plan for sites over a **reasonable timescale**
> - **that plan-making and decision-taking should protect Green Belt from inappropriate development**
> - to promote more **private traveller site provision** while recognising that there will always be those travellers who **cannot provide their own sites**
> - that plan-making and decision-taking should aim to **reduce the number of unauthorised developments and encampments** and **make enforcement more effective**
> - for local planning authorities to ensure that their Local Plan includes fair, **realistic and inclusive policies**
> - to increase the number of traveller sites in **appropriate locations** with planning permission, to address under provision and maintain an appropriate level of supply
> - to **reduce tensions** between **settled and traveller** communities in plan-making and planning decisions
> - to enable provision of suitable accommodation from which **t**ravellers can access education, health, welfare and employment infrastructure
> - for **local planning authorities** to have **due regard to the protection of local amenity and local environment**.
>
> (Planning Policy for Travellers Sites, www.communities.gov.uk, accessed 30/10/2014, p1)

The Local Administrations try reducing tensions and other issues by establishing specific Multi Agency Travellers Unit, such as that one in Leicestershire & Leicester City (Available at http://www.leics.gov.uk/index/community/gypsies_and_travellers-/multi_agency_travellers_unit.htm, accessed on 01/11/2014).

Between the Aims of Multi Agency Travellers Unit we find:

- "To **minimise conflict** between **the Settled**, business and **Traveller** communities by information and education.
- To protect the rights of those in the Traveller and Settled communities to **enhance quality of life.**

- Facilitate the provision of legitimate, **acceptable** places for Travellers to stay.

- Reduce **anti-social** and **unacceptable behaviour** associated with encampments...

- To **improve** the **cultural differences** between **the Settled and Traveller communities**, by working to develop a better understanding between the two cultures. By working to **reduce friction** through the **provision of the consistent and fair enforcement** of a code under which **unauthorised encampments will be tolerated or evicted** and to work towards creating a **sustainable** environment throughout Leicestershire, Leicester City & Rutland in which the rights and responsibilities of both Travellers and the settled community are respected."

An arson attack in the West Midlands left many Irish Travellers homeless.

10. The Duty to Cooperate by Local Authorities could be used to provide a network of sites and stopping places.

THE CASE:

A report published on 28th May 2014 by Bolsover District Council, Derbyshire includes a *Local Plan Strategy-Proposed Withdrawal* by the Joint Assistant Director of Planning. This report is presented as Agenda Item No 11 for the Council meeting to discuss the procedure of withdrawal. The main purpose of the report is:

- "To note the feedback from the Planning Inspectorate regarding the Council's Local Plan Strategy;
- To seek approval to withdraw the Council's Local Plan Strategy in light of this feedback;
- To consider the merits of establishing a new Local Plan Steering Group, its Terms of Reference and membership."

In Section 1, point 1.1 we find that Bolsover District Council had approved the submission of the Bolsover Local Plan Strategy on 27/11/2013; the Plan Strategy and related supporting documents were submitted to the Secretary of State on 18/12/2013. The Secretary of State had appointed an inspector from the Planning Inspectorate to examine the plan and thus, the official examination commenced. The main focus of the Examination is the public Hearing sessions, which were scheduled during three distinct weeks from 01/04/2014 to 15/05/2014. During the first week's sessions, the Inspector set out the following matters to be addressed:

> "Matter 1 – Legal Requirements, including the Duty to Co-operate
>
> Matter 2 – The Spatial Vision, Strategy and Key Diagram
>
> Matter 3 – Housing Choice (Affordable Housing)
>
> Matter 4 – Housing Need, housing provision and settlement hierarchy
>
> Matter 5 – Sustainable development principles; transport; developer contributions; and traveller sites
>
> Matter 6 – Economic development and employment land"
>
> (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 1, 1.4, p35)

However it was evident that the Localism tenet had a clear win during the Hearing sessions of the very first week, as we read in section 1, 1.5:

> "Following discussion at the Hearing sessions about Matters 1 to 6, the Inspector wrote to the Council and to participants on the 4th April to notify them that he had postponed the scheduled Week 2 and 3 Hearing sessions due to concerns about the Council's evidence regarding the Duty to Co-operate, the Sustainability Appraisal, Employment and Gypsy and Traveller Sites."

The Council had evidently also submitted further evidence regarding how it had sought to meet the legal Duty to Co-operate. Nevertheless the Inspector wrote to the Council on 02/05/2014 to advise that he concluded that the Council had not complied with the legal requirements for the Duty to Co-operate. *"The Inspector also advises that as this cannot be remedied, unlike the other matters, he cannot continue any further with the Examination and that the Council needs to decide whether it wishes to withdraw the Local Plan Strategy or receive a non-adoption report on the Duty from the Inspector."* (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 1, 1.6, p35)

The Inspector based his decision on several important issues according the evidence; there are concerns about Coalite Chemical Works site, which should be *a strategic matter"* because of its impact on at least two planning areas Bolsover (North East Derbyshire) and Chesterfield. The Inspector did not find robust evidence of the efforts that the council should have made to cooperate, or of any outcomes achieved for the aforementioned site as is advised by the Planning Practice Guidance (PPG) on 06/03/2014. The Plan lacks of alternatives, which is a legal requirement according to the Inspector. However the Inspector finds further supplementary clarifications lacking of value, as Bolsover Council did not considered mixed use at the Coalite site to boost employment. The Inspector was satisfied with evidence *"about Housing Targets and Settlement Hierarchy."* (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 1, 1.19, p37)

In points 1.20 and 1.21 we finally find (no capital letters for Gypsies and Travellers again):

> "Gypsy, traveller and travelling showpeople sites provision
>
> 1.20 The Inspector advises that the Plan as submitted is not sound because it is not positively prepared to meet objectively assessed requirements for gypsies, travellers and travelling showpeople, it is not justified by evidence, it is not effective, and it is not consistent with national policy."
>
> "1.21 He notes that the Council is awaiting publication of a recently completed Gypsy and Travellers Accommodation Assessment for Derbyshire, jointly commissioned by a number of local authorities. However in the absence of this information he cannot judge whether there is an immediate short-term requirement for sites for pitches to be allocated between now and when the Allocations and Policies Local Plan is likely to come into effect."
>
> (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 1, 1.20 & 1.21, p37)

THE LEGISLATION:

The Inspector had considered Housing Act 2004, according to which Bolsover and Chesterfield did not co-operate *"in maximising the effectiveness"* of the Local Plan Strategy. No constructive engagement and on an ongoing basis was evident during the preparation of the development plan documents.

Bolsover District Council (according to the Inspector) was not able to follow the new Planning Practice Guidance (PPG), which came into effect when Nick Boles, Parliamentary Under Secretary of State for Planning, provided his statement to Parliament; he introduced the finalized version of PPG on 06/03/2014. The Inspector declared clearly that: *"It is noted that this date was several months after the Council submitted the Local Plan Strategy and only a matter of weeks before the start of the Hearing."* (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 1, 1.11, p36)

It is also noted that:

> "… The Council is not alone in facing difficulties progressing its plan making and that of the 109 Local Plans submitted to the Government since the National Planning Policy Framework was introduced in March 2012, only 40 have been found sound by Inspectors. It is also noted that within the last few weeks the following Councils have encountered difficulties:
>
> - Amber Valley Borough Council – Examination suspended
> - Ashfield District Council – invited to withdraw their plan
> - Charnwood Borough Council – Examination suspended
> - Harrogate District Council – Examination suspended
> - Runnymede Borough Council – invited to withdraw their plan."
>
> (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 2, 2.2, p38)

Despite the problems of the Local Plan challenged by the National Planning Policy Framework which was introduced in March 2012, Bolsover District Council decides to continue to measure its 5-year housing supply against the former Regional [Derbyshire] Plan's target of 400 dwellings a year.

In point 2.5 it is noted:

> "However, the immediate issue facing the Council is whether to withdraw the Local Plan Strategy or to choose to receive the Inspector's report which would recommend non-adoption of the Local Plan Strategy. Whilst there is no material difference in the outcome between the two options, choosing to withdraw is preferable because it would put the Council in control and enable it to move forward more quickly."

The Council decides to establish *"a programme of work to remedy the defects identified by the Inspector and moves to re-submit the Local Plan at the earliest opportunity. As outlined above it is important that the Council gains control over development in the District within the context of a strategic framework and sets its own realistic targets for development."* (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 2, 2.7, p39) Thus, the Council returns back to re-work and re-submit the Local Plan with the re-establishment of a Local Development Framework Steering Group (which

had not met for several years) although it was removed from the Council's Constitution. See below how the Locals now become a rejuvenated powerful Steering Group clearly influencing the Planning Committee.

WORDS WHICH EXCLUDE:

In points 1.20 & 1.21, we see clearly that Bolsover District Council uses the words **gypsies, travellers** in the same way they refer to **t**ravelling **s**howpeople. The inspector finds that the Council did not make **effective assessments** to meet requirements. The Inspector is not sure *"whether there is an **immediate short-term requirement** for sites **for pitches to be allocated between now and when the Allocations and Policies Local Plan is likely to come into effect.***" This statement means that the Secretary of State recovery of appeals could not make any considerable pressure to the Allocations Plan. Although he has always dismissed appeals about planning permission of sites in the Green Belt, it would have been interesting to see how he could have reacted to sites to be included in brown field locations or inside abandoned industrial areas like the one mentioned above.

In the Conclusions and Reasons for Recommendation, the Joint Assistant Director of Bolsover Planning affirms that:

> "The Bolsover Local Plan Strategy is an important element of the Council's work to **ensure** that planning and development in the District meets the **needs and aspirations** of **local people**. For this reason, the Council has been working hard to gather and analyse evidence, formulate local planning policies and hold discussions with **local communities and businesses**, **stakeholders** and neighbouring authorities to ensure that our Plan works well for **local people**. In view of this work, the Inspector's findings on the Local Plan Strategy are disappointing." (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 2, 2.1, pp37-38)

The Inspector had obviously a bad time during the first week of the Hearing sessions with **the locals**. However the **Planning Committee** working alongside the **Steering Group** is given powers and duties as in Table 1 below:

> "The following **powers and duties** are delegated to the Planning Committee
>
> 4. Consultation and **public participation** on the **Statement of Community Involvement** [the power given by the Localism Act] and supplementary planning documents included in the **Local Development Scheme**.
>
> 5. Consultation on pre-submission issues and options for development plan documents included in the Local Development Scheme.
>
> 6. Respond to consultations on the preparation of development plan documents, supplementary planning documents, local development schemes, statements of community involvement, and annual monitoring reports, and their amendment and review, from **adjoining and nearby district and metropolitan district councils**, provided that the response is consistent and **compatible with the policies of the Council** contained in the Council's adopted or preferred option planning documents, failing which the consultation shall be referred to Council.
>
> 10. To determine the open space requirements to be incorporated within new development proposed in an application for planning permission provided these are in accordance with the Council's sports and recreation facilities policies.
>
> Planning Committee shall **recommend to the Council** on the following matters:
>
> 11. Proposals to prepare and review the **Regional Spatial Strategy** and **Sub-Regional Spatial Strategy [how the built environment should look like].**
>
> 12. The **Local Development Scheme** and its **review**.
>
> 13. Approval of preferred options and the final Development Plan documents for **submission to the Secretary of State**, and the adoption of development plan documents.
>
> 14. **The submission to the Secretary of State**, and the **adoption**, of the **Statement of Community Involvement** and its review.
>
> 15. The adoption of development plan documents and supplementary planning documents."
>
> (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 2, 2.9, Table 1, pp39-40)

The Council decides the **disestablishment** of the former Local Development Framework Steering Group and the creation of a Local Plan Steering Group (the word **development** which allows constructive proposal is going to disappear; it is all about **steering now**). See also how bureaucratic processes should increase:

> "…it is recommended that the option of having a Steering Group is revisited, noting that this would involve the disestablishment of the former Local

Development Framework Steering Group and the creation of a **Local Plan Steering Group**. It is anticipated that this would operate as a Working Group with clear terms of reference and reporting mechanisms. Members are asked to consider the options for how this would operate bearing in mind the desirability for a **streamlined decision-making process**. For example the new Local Plan Steering Group could **adopt some of the functions currently delegated to Planning Committee and report directly to the Council**. Alternatively, the Steering Group could report to Planning Committee, with **the Committee delegated additional functions**, such that **Council approval is only required for the adoption of final development plan documents**. Any such decision would require changes to the Constitution and would need to be referred to the **Constitution Working Group and Standards Committee**." (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 2, 2.10, p40)

The Council is only for the final signatures; all development plans are adopted and adapted by the Localism forces. It would be interesting to see what changes may be referred (if any) to the Constitution Working Group and Standards Committee at the end. See also core membership of the Local Plan Steering Group: Chair of Planning Committee; Vice Chair of Planning Committee; Portfolio Member for the Environment; Portfolio Member for Regeneration; Leader of the **Independent Group**; Leader of **District Residents Group**; 2 Scrutiny Committee Members.

And also we see that the Links to Corporate Plan Priorities or Policy Framework are:

"The **Local Plan Strategy** outlines a **vision**, **key principles** and policies to **underpin** the **future planning and development** of the District. It will provide the **foundation** on which further more detailed policies will be developed. It covers a **wide range** of **economic, environmental and social issues**. As such it affects all the following aims:

COMMUNITY SAFETY – **Ensuring** that communities are **safe and secure**.

ENVIRONMENT – Promoting and enhancing a **clear and sustainable** environment.

REGENERATION – Developing **healthy, prosperous and sustainable** communities

SOCIAL INCLUSION – **Promoting** fairness, equality and lifelong learning.

STRATEGIC ORGANISATIONAL DEVELOPMENT – Continually improving our organisation.

The adoption of a **Core Strategy** (now re-titled **Local** Plan Strategy) is the subject of Corporate Plan Target E03. (Bolsover District Council, Agenda Item No 1, 28/05/2014, section 7, p43)

The **Localism agenda** becomes **Core Strategy** for District and Regional Councils following the new Planning Practice Guidance (PPG) finalised on 06/03/2014; we can predict that Gypsy and Travellers liaison groups should be allowed to be represented by at least one scrutiny committee member inside the Local Plan Steering Group, preferably their own planning officer.

The "WE: Wor(l)ds which exclude" project has analysed documents produced by national, regional and local public institutions in six European Member States.
In the UK the issues of Gypsy people in relation to their accommodation needs were studied rather than the wider Roma issue of housing. Gypsy Travellers in England were analysed considering their needs for sites and culturally specific accommodation.

In policies and legal Instruments, there are times when the language used is blatant and overt against the communities or cleverly hidden (overt).

Analysis of the language and the measures proposed in legal, judicial and administrative texts has highlighted a number of critical issues, resulting from simplifications or prejudices observed in linguistic choices that can be decisive in limiting the effectiveness of the Acts themselves, and even change their meaning and outcome.

A series of recommendations has, therefore, been formulated, which are not presented as mandatory 'rules', but can be used as a guideline in regard to the interpretation of language; we wish to contribute to the sharing of a language that is more considered, in relation to legal and administrative regulations regarding Gypsy and Traveller issues to accommodation according to the latest housing and planning frameworks.