

1. The Inspector wrote to the Council on 1st November 2022 as follows:

I refer to the judgment of 31st October 2022, regarding the interpretation of the Planning Policy for Traveller Sites (PPTS) and the application of that policy to gypsies and travellers who have ceased to pursue nomadic lifestyles. In light of this judgment, would the Council seek to review their assessment of Traveller site needs? I would be grateful for your written response within 7 days of the date of this email.

2. This written response deals with the following:

- Main points from *Lisa Smith v Secretary of State for Levelling Up, Housing & Communities and Others* [2022] EWCA Civ 1391 ('the Judgment')
- Effects
- Proposed modifications to Policy M12

Main points from the Judgment

3. The case concerned a planning inspector's reliance on the definition of Gypsies and Travellers in the Planning Policy for Traveller Sites ('PPTS') dated August 2015 which provides as follows (and deleted the words "or permanently" as compared to the 2012 PPTS) in Annex 1:

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' education 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.

4. The Secretary of State accepted that this definition indirectly discriminated against elderly and disabled Gypsies and Travellers, but argued that the discrimination was justified.
5. The Court of Appeal found that there was no proper justification for that discrimination.
6. The Court of Appeal was clear that it had not been asked and did not have jurisdiction to grant a declaration that PPTS 2015 or, in particular, the relevant exclusion, is unlawful. The Court of Appeal was also clear that the consequences of the judgment for future decision-making will depend on the particular circumstances of the case.

Effects

7. The Council submits that the PPTS 2015 is still relevant government policy. It has not been withdrawn or superseded and there is no further guidance in the PPG to the contrary.
8. The Council is satisfied that the GTAA did not restrict the assessment of needs to only those travellers who met the PPTS definition in any event. Therefore, the Council does not seek to review the assessment of Traveller site needs.
9. However, mindful of the Judgment and mindful of legislation protecting those suffering from ill-health, disability etc, the Council does propose additional wording for Policy M12 and this would be accompanied by appropriate changes to the supporting text to the policy.

Proposed wording to be considered

10. The Council proposes the following:

In applying this policy regard shall be had to the personal circumstances of persons who are unable to lead a nomadic way of life for genuine reasons of ill health and/or disability.