GYPSY AND TRAVELLER DEVELOPMENT UPDATE

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1.0 The evolution of the Law and Policy/Guidance relating to Gypsy and Traveller sites from 1960.

Legislation

1.1 The Caravan Sites and Control of Development Act 1960

1.1.1 The Act gave local authorities discretionary powers to provide caravan sites, but there was no mandatory duty to do so. The aim was to regularise static caravan sites and raise standards for site residents through requirements for planning permission and site licences. Caravans were prohibited from common land. This led to a reduction in the number of places where gypsies could stop. Some central funds were available to fund provision of sites, but by 1967 only 14 had been built.

1.2 The Caravan Sites Act 1968

1.2.1 This Act, which came into force in 1970, placed a statutory duty on county councils and districts to provide accommodation for gypsies residing in and resorting to their areas. The Act required counties to assess the level of provision required, and to acquire the land. In Shire counties, districts were responsible for the management of sites. If the Secretary of State deemed adequate provision to have been made, counties (and later individual districts) could apply to be ‘designated’. This gave them increased powers to deal with illegal encampments. There was no time-scale given for local authorities to make provision, and some authorities failed to meet their obligations. The Secretary of State could direct a county to make adequate provision of sites but these powers were rarely used.

1.2.2 To ensure adequate numbers of sites and monitor progress in meeting the provisions of the 1968 Act, a bi-annual count of gypsy caravans and families was introduced in England in 1979.

1.3 Criminal Justice and Public Order Act 1994 (CJPOA)

1.3.1 The Act repealed the duty imposed on councils by the 1968 Act to provide sites. Grant aid for the provision of sites was also withdrawn.

1.3.2 The Act also provided the police and local authorities with powers to tackle unauthorised encampments where no trespass is involved. A senior policeman can direct people to leave land if they have 6 vehicles or more. It is an offence to refuse, or to return within 3 months. The police can seize vehicles if the order to leave is not adhered to. Case law has determined that any period of notice given to those encamped must have expired before the police can order people to leave.

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1 The statutory requirement, however, was limited to no more than 15 caravans at a time.

2 The count presently covers the number of gypsy caravans, families, adults and children on unauthorised sites, authorised local authority sites and authorised private sites in each local authority area on specified dates in January and July. Numbers on unauthorised sites are split according to land-ownership (gypsy owned land and other) and ‘toleration’ status (local authorities may ‘tolerate’ some unauthorised encampments in the sense that they will not take enforcement action).

3 Whilst the bi-annual count remains, there is no statutory requirement on local authorities to submit data. In practice, however, the majority of local authorities do carry out the count and provide information to the Department, and those that do not are noted in the published tables. In total, 93 per cent of local authorities submitted returns in January 2011. Where local authorities have not submitted current counts, figures for the number of caravans in the area are imputed from the last available completed return.
1.3.3 Local authorities also have the power to direct unauthorised campers to leave and to remove vehicles. Failure to comply with this order is an offence and the local authority can apply to the local magistrates' court for an order requiring the removal of vehicles and occupants from the land.

1.4 **Housing Act 1996**

1.4.1 This Act defines a person as homeless if they have accommodation but:

i. cannot secure entry to it, or

ii. it consists of a moveable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it.

1.4.2 Consequently gypsies on unauthorised sites are, by law, homeless.

1.4 **The Race Relations Act 1976, and Race Relations (Amendment) Act 2000**

1.4.1 These Acts place a duty on local authorities to eliminate unlawful discrimination and promote equal opportunities and good race relations. The 1976 Act requires local authorities to assess the impact of any proposed policies on all ethnic minorities, and to have due regard to the need to eliminate unlawful racial discrimination, to promote equality of opportunity and good relations between persons of different racial groups. Gypsies were recognised as an ethnic minority in 1989, and Irish Travellers in 2000.

1.5 **The Human Rights Act 1998**

1.5.1 This Act came into effect in October 2000 when provisions of the European Convention on Human Rights were incorporated into UK law. The Act makes it unlawful for a public authority to act in breach on Convention Rights unless it could not have acted differently under primary legislation. Any interference with a Convention Right must be proportionate to the objective in question and must not be arbitrary, unfair or oppressive.

1.5.2 Several Articles of the Act are important in relation to Gypsies and Travellers, in particular Article 8 which provides:

"i. Everyone has the right to respect for his private and family life, his home and his correspondence.

ii. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others."

1.5.3 Other Articles may also be relevant:

Article 2 (the right not be denied access to education - this may be significant if eviction is considered by a local authority)

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4 The European Court of Human Rights has held that, "occupation of a caravan is an integral part of ... ethnic identity as a gypsy, reflecting the long tradition of that minority of following a travelling lifestyle. This is the case even though ... many gypsies increasingly settle for long periods in one place." ([Chapman v UK](http://www.echr.coe.int/Documents/27238zing.pdf) ECHR Application no. 27238/95 January 18, 2001).

5 Note however, Article 8 is the principle right cited by Gypsies and Travellers in planning cases. Article 14 and Article 1 of the First Protocol are also relied on from time to time.
Article 3 (prohibiting inhuman or degrading treatment)

Article 11 (freedom of peaceful assembly and association)

Article 14 (prohibition against discrimination in the enjoyment of the other rights and freedoms in the Convention on the grounds of personal circumstance).

Article 1 of the First Protocol:

i. Every natural person or legal person is entitled to the peaceful enjoyment of his possessions.

ii. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law.

1.6 **Anti-Social Behaviour Act 2003**

1.6.1 The Act has strengthened the powers of the police under the CJPOA to remove trespassers from land where an alternative local authority controlled site is available.

1.6.2 The powers of the Act may be used when:

a) At least two people are trespassing;

b) There is at least 1 vehicle;

c) It appears that there are 1 or more caravans or;

d) The trespassers are on the land for the purpose of residing there for any period of time.

1.6.3 In such circumstances, a police officer may direct trespassers to move off the land. However, the police and local authority are bound by the Human Rights Act and the local authority should first undertake a welfare check at the encampment. Efforts should be made to keep members of the encampment together; where this is not possible, dependant members of the encampment should not be separated.

1.7 **Housing Act 2004**

1.7.1 Section 225 of the Act imposes a statutory obligation on local authorities, when undertaking a review of housing needs in their district to carry out an assessment of the accommodation needs of gypsies and travellers residing in or resorting to their district.

1.8 **Guidance**

1.8.1 This circular, issued in November 1994, provided additional guidance for local authorities following the CJPOA, which repealed the duty on local authorities to provide and manage Gypsy and Traveller sites.

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6 Gypsy and Traveller Accommodation Assessments (GTAAs) (prepared in accordance with Guidance published by DCLG in October 2007) are used to inform the preparation, but see paragraph 3.5.4 below
1.8.2 The circular clarified the definition of a Gypsy, drawing attention to the Court of Appeal’s (then) definition of Gypsies as persons who wandered or travelled for the purpose for making or seeking their livelihood. It excluded persons to whom this could not be applied.

1.8.3 The circular was updated in July 2000 to draw a distinction between unauthorised camping where there were no problems and no criminal offences, which should be tolerated unless there were vacancies on an authorised local authority sites, and unauthorised camping where there was anti-social or criminal behaviour which should not be tolerated in any circumstances. Where there were no available authorised pitches and no nuisance was being caused, local authorities were advised to consider providing basic services including drinking water, a skip and toilets.

1.8.4 The circular emphasised that local authorities needed to act in a humane and compassionate way taking into account the rights and needs of Gypsies, land owners and the wider community. The responsibilities to Gypsies and Travellers of local authority services, such as housing, social services, education and health and welfare were emphasised. An additional paragraph added that "Local authorities should try to identify possible emergency stopping places, as close as possible to the transit routes used by gypsies, where gypsy families would be allowed to stay for short periods”.

1.9 Managing Unauthorised Camping (DETR/Home Office)(October 1998)

1.9.1 This was the first time that joint advice had been issued to local authorities and the police for managing unauthorised camping. The guidance emphasised that unauthorised camping was not a criminal offence and there were no plans to make it so, neither was the guidance to be viewed as a charter for eviction. The guidance recognised, however, that there were a minority of campers whose behaviour caused real and justified concern to the settled community and it was right that where there was criminal behaviour associated with encampment, that it should be dealt with as it would be if it was committed by any other member of society.

1.9.2 The Guidance therefore drew attention to the police powers in the CJPOA and to the statutory Crime and Disorder Reduction Partnerships required by the Crime and Disorder Act 1998, and made clear that it may be appropriate for local strategies to encompass measures for dealing with crime and disorder by individuals on unauthorised encampments.

1.9.3 The Guidance also made clear that local authorities should take into account welfare issues, regardless of the method of eviction being contemplated.


1.10.1 This revised the October 1998 Guidance to reflect, amongst other things the introduction of the Human Rights Act 1998 (including, in particular the requirement for ‘proportionality’), the Race Relations Act 2000 (Gypsies and Irish Travellers having now being recognised as ethnic minorities against whom discrimination is unlawful), and the Anti-Social Behaviour Act 2003 (introducing the new police powers to evict unauthorised campers).
1.10.2 The Guidance emphasises that:\footnote{ibid paragraph 7.1}

"Although unauthorised camping is unlawful, it is likely to continue while there are insufficient spaces to accommodate Gypsies and travellers on authorised sites. While more places are being provided, it is vital that local authorities, with their police and other partners, pro-actively manage encampments to minimise the disruption caused".

1.10.3 The aims of the Guidance are thus\footnote{ibid paragraph 1.4}:

- to help strike an appropriate balance between the needs and legitimate expectations of members of the settled community, local businesses and other landowners, and Gypsies and Travellers;
- to set out recommended courses of action which all local authorities and police forces should follow to provide an effective response to unauthorised camping in their areas;
- to encourage a more consistent approach across the country, building on current good practice and sharing experience;
- to be practical yet creative in the face of a difficult reality;
- to show how to engage the settled and Gypsy/Traveller communities in order to achieve 'buy in' to the strategy, which is vital to ensure effective delivery.

1.10.3 The Guidance emphasises that the \textit{Human Rights Act} applies to all local authorities and that with regard to eviction the issue that must be determined is whether the interference with Gypsy/Traveller family life and home is justified and proportionate. Any particular welfare needs experienced by unauthorised campers are material in reaching a balanced and proportionate decision.

1.11 \textit{Guide to effective use of enforcement powers}
\textit{Part 1: Unauthorised encampments (ODPM/Home Office) (February 2006)}

1.11.1 This Guidance supplements, and is to be read in conjunction with, the February 2004 Guidance. The Guidance emphasises the need for swift and effective enforcement to avoid otherwise inflaming community hostility and conflict where encampments are allowed to remain or repeatedly return, and the strong powers available to the police, local authorities and other landowners to deal with unauthorised encampments. The Guidance provides a detailed step-by-step practical guide to the use of these powers. It also sets out advice on:

- Choosing the most appropriate power.
- Speeding up the process.
- Keeping costs down.
- The eviction process.
- Preventing further unauthorised camping.

1.11.2 The Guidance reminds local authorities of their obligation to carry out welfare assessments on unauthorised campers to identify any welfare issues that need to be addressed, before taking enforcement action against them.

\footnote{Guidance on Managing Unauthorised Camping paragraph 7.1}
\footnote{ibid paragraph 1.4}
2.0 Planning Law and Guidance

Law

2.1 Determination of Planning Applications

2.1.1 In dealing with an application for planning permission, a LPA (LPA) is required to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations (TCPA 1990 Section 70(2)).

2.1.2 If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise (PCPA 2004 Section 38(6)).

2.1.3 Planning permission may be granted for development carried out before the date of the application without the benefit of planning permission (TCPA 1990 Section 73A).

2.2 Planning Enforcement

2.2.1 Planning legislation is the main tool used to tackle unauthorised development on land owned by Gypsies and Travellers. Under the TCPA 1990, LPAs have the following powers:

a) Where an apparent breach of planning control has taken place, a planning contravention notice may be served requiring information regarding activities on the land or interests in the land (section 171C).

b) Where the LPA considers it expedient, an enforcement notice may be served requiring that steps be taken to remedy a specified breach within a given period of time (section 172).

c) Direct action may be taken where steps required by an enforcement notice have not been taken within the compliance period (section 172).

d) A stop notice may be served with, or after the service of an enforcement notice which immediately stops any activity which contravenes planning control (section 183).

e) A breach of condition notice may be served where a condition or limitation imposed through a planning permission is not complied with (section 187A).

f) Where the LPA consider it expedient that any activity which contravenes planning control should be stopped immediately (whether or not an enforcement notice has been served) a Temporary Stop Notice may be served stopping the activity for a maximum of 28 days (section 171E).

g) Where a LPA consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction, they may apply to the High Court or a County Court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under the Act (section 187B).

h) A local authority also has power, on being authorised to do so by the Secretary of State, to acquire compulsorily any land in their area to facilitate the carrying out of development, re-development or improvement on or in relation to the land, or land which is required for a purpose which it is necessary to achieve in the interests of the proper
planning of an area in which the land is situated, provided that the development, re-development or improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of their area (section 226).

**Guidance**

2.3  **Circular 01/94: Gypsy Sites and Planning**

2.3.1 This circular offered guidance on the planning aspects of Gypsy sites including: suitable locations; design; development plan policies; consulting with Gypsies and their representatives; and dealing with applications for sites. The intention was "to provide that the planning system recognises the need for accommodation consistent with gypsies' nomadic lifestyle".

2.3.2 The circular noted that the removal of local authorities' duty to provide sites would probably lead to more applications for private Gypsy sites. Local authority structure plans were expected to set out strategic policies and provide a framework for site provision. LPAs were to quantify need for Gypsy accommodation in their districts, and "where possible identify locations suitable for development as sites". Where this was not possible, they were to set out clear, realistic criteria for suitable locations.

2.3.3 The circular contained an important change in location policy which withdrew previous guidance indicating that it may be necessary to accept the establishment of gypsy sites in protected areas, including green belts. The circular emphasised that as a rule, it would not be appropriate to make provision for gypsy sites in areas of open land where development is severely restricted, for example, Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest and other protected areas. Gypsy sites were not regarded as being among those uses of land which are normally appropriate in green belts and that "proposals for gypsy sites should continue to be determined solely in relation to land use factors. Whilst gypsy sites might be acceptable in some rural locations, the granting of permission must be consistent with agricultural, [...] countryside, environmental and green belt policies. The aim should always be to secure provision appropriate to gypsies' accommodation needs while protecting amenity."

2.3.4 On 27 May 1998, the DETR wrote to all chief planning officers to remind them of the requirement in circular 01/94 to include realistic policies in local plans. In relation to unauthorised encampments the circular stated:

"If planning permissions are required but not obtained for a gypsy site and the LPA is considering possible enforcement action, they should be guided by the policy advice in PPG18. LPAs should regard gypsies in the same manner as small businesses when considering possible enforcement action. The existence or absence of policies for gypsy sites in development plans could constitute a material consideration in matters of enforcement."

2.4  **Circular 01/06: Planning for Gypsy and Traveller Caravan Sites**

2.4.1 This circular was introduced in February 2006 to replace Circular 01/94, because "...evidence shows that the advice set out in Circular 01/94 has failed to deliver adequate sites for gypsies and travellers in many areas of England over the last 10 years. Since the issue of Circular 01/94, and the repeal of local authorities’ duty to provide gypsy and traveller sites there
have been more applications for private gypsy and traveller sites, but this has not resulted in the necessary increase in provision."

2.4.2 The main intentions of the circular\textsuperscript{10} are:

- to reduce the number of unauthorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this Circular; and

- to increase significantly the number of gypsy and traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3 – 5 years

- to promote more private gypsy and traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites; and

- to help to avoid gypsies and travellers becoming homeless through eviction from unauthorised sites without an alternative to move to.

2.4.3 The circular accepts for the first time that gypsies who have ceased to travel permanently or temporarily may still fall within the definition of ‘gypsies or travellers’ and that a more settled existence can prove beneficial to some gypsies and travellers in terms of access to health and educational services and employment

2.4.4 The circular emphasises that the assessment of gypsy and traveller accommodation needs is integral to assessment of general accommodation needs, and that gypsy and traveller accommodation needs will be assessed as part of the gypsy and traveller accommodation assessment (GTAA) process.

2.4.5 The information from GTAAs on gypsy and traveller need for sites will, as with other housing needs, be a key component in the overall assessment of need which informs the housing policies in the RSS.

2.4.6 The number of pitches set out in the RSS is to be translated into specific site allocations in DPDs\textsuperscript{11} and any criteria based policies in DPDs must be "fair, reasonable, realistic and effective in delivering sites\textsuperscript{12}.

2.4.7 Where there is unmet need but no available alternative gypsy and traveller site provision in an area, but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, the Circular requires LPAs to give consideration to granting a temporary permission\textsuperscript{13}.

2.4.8 There is a general presumption against inappropriate development within Green Belts. New gypsy and traveller sites in the Green Belt are "normally inappropriate development\textsuperscript{14}, as defined in Planning Policy Guidance 2: ‘Green Belts’ (PPG2). National planning policy on Green Belts applies

\textsuperscript{9} Circular 01/06 paragraph 3
\textsuperscript{10} ibid paragraph 12
\textsuperscript{11} ibid paragraph 30
\textsuperscript{12} ibid paragraph 32
\textsuperscript{13} Circular 01/06 paragraph 45
\textsuperscript{14} ibid paragraph 49
equally to applications for planning permission from gypsies and travellers, and the settled population.

2.4.9 Otherwise, rural settings, where not subject to special planning constraints, are acceptable in principle. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Sites should respect the scale of, and not dominate the nearest settled community. They should also avoid placing an undue pressure on the local infrastructure\(^\text{15}\).

2.4.10 Proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant\(^\text{16}\).

2.4.11 LPAs should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned, both gypsies and travellers and local residents, and whether the action is necessary and proportionate in the circumstances\(^\text{17}\).

2.4.12 *Circular 01/06* remains extant policy, however the Government, in June 2010, announced its intention to replace the circular, and has recently consulted on a new Draft *Planning for Traveller Sites* policy (*Planning for Traveller Sites*) which it is anticipated will form part of the new National Planning Policy Framework (NPPF)\(^\text{18}\).

2.5 **PPS1: Delivering Sustainable Development (ODPM)(2005)**

2.5.1 The policy provides that development plans should promote development that creates socially inclusive communities, including suitable mixes of housing. Plan policies should amongst other things seek to reduce social inequalities and take into account the needs of all the community, including particular requirements relating to age, sex, ethnic background, religion, disability or income. In preparing development plans, planning authorities should therefore promote communities which are inclusive, healthy, safe and crime free, whilst respecting the diverse needs of communities and the special needs of particular sectors of the community.

2.6 **PPG2: Green Belts (1995)**

2.6.1 As the general presumption against inappropriate development in Green Belts applies to new gypsy and traveller sites (see paragraph 2.4.8 above) such development should not be approved except in very special circumstances, which will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

2.7 **PPS3: Housing (June 2011)**

2.7.1 Strategic Housing Market Assessments (SHMA) are required to consider future demographic trends and identify the accommodation requirements

\(^{15}\) *Ibid* paragraph 54

\(^{16}\) *Ibid* paragraph 66

\(^{17}\) *Ibid* paragraph 70

\(^{18}\) See paragraph 2.9 below
of specific groups such as Gypsies and Travellers (as required by Section 225 of the Housing Act 2004)\textsuperscript{19}.

2.8 **PPG18: Enforcing Planning Control (1991)**

2.8.1 The general approach to enforcement set out in *paragraph 5* of the policy note emphasises that planning authorities have a discretion to take enforcement action when they regard it as expedient, and that they should be guided by the following considerations:

1. Parliament has given LPAs the primary responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative area (the private citizen cannot initiate planning enforcement action);

2. the Commissioner for Local Administration (the local ombudsman) has held, in a number of investigated cases, that there is "maladministration" if the authority fail to take effective enforcement action which was plainly necessary and has occasionally recommended a compensatory payment to the complainant for the consequent injustice;

3. in considering any enforcement action, the decisive issue for the LPA should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest;

4. enforcement action should always be commensurate with the breach of planning control to which it relates (for example, it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site); and

5. where the LPA's initial attempt to persuade the owner or occupier of the site voluntarily to remedy the harmful effects of unauthorised development fails, negotiations should not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or to compel it to stop (LPAs should bear in mind the statutory time limits for taking enforcement action).

2.8.2 In assessing the need for enforcement action, LPAs should bear in mind that it is not an offence to carry out development without first obtaining any planning permission required for it. Section 73A of the 1990 Act specifically provides that a grant of planning permission may relate to development carried out before the date of the application. Accordingly, where the LPA's assessment indicates it is likely that unconditional planning permission would be granted for development which has already taken place, the correct approach is to suggest to the person responsible for the development that he should at once submit a retrospective planning application (together with the appropriate application fee). It may also be appropriate to consider whether any other public authority (e.g. the highway or environmental health authority) is better able to take remedial action\textsuperscript{20}.

\textsuperscript{19} PPS3 Annex C

\textsuperscript{20} PPG 18 paragraph 6
2.8.3 While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice should not normally be issued solely to “regularise” development which is acceptable on its planning merits, but for which permission has not been sought. In such circumstances, LPAs should consider using a planning contravention notice to establish what has taken place on the land and persuade the owner or occupier to seek permission for it, if permission is required. The owner or occupier of the land can be told that, without a specific planning permission, he may be at a disadvantage if he subsequently wishes to dispose of his interest in the land and has no evidence of any permission having been granted for development comprising an important part of the valuation. As paragraph 14 of DOE Circular 2/87 points out, it will generally be regarded as "unreasonable" for the LPA to issue an enforcement notice, solely to remedy the absence of a valid planning permission, if it is concluded, on an enforcement appeal to the Secretary of State, that there is no significant planning objection to the breach of control alleged in the enforcement notice. Accordingly, LPAs who issue a notice in these circumstances will remain at risk of an award against them of the appellant’s costs in the enforcement appeal.  

2.9 **Planning for Traveller Sites: Consultation (13 April 2011)**

2.9.1 On 29 August 2010, the Secretary of State for Communities and Local Government announced the Government’s intention to withdraw the existing traveller planning circulars (Circular 01/06: Planning for Gypsy and Traveller Caravan Sites and Circular 04/07: Planning for Travelling Showpeople), and replace them with a new, short, light-touch, single Planning Policy Statement for traveller sites.

2.9.2 Consultation on the proposed new policy statement 'Planning for Traveller Sites’ was undertaken between April and August this year. The Government intends that the new policy should be incorporated into the National Planning Policy Framework, consultation on which itself closed on 17 October 2011.

*The Objectives of Planning for Traveller Sites*  

2.10.3 The Government’s objectives for planning in respect of traveller sites are to:

- enable local planning authorities to make their own assessment of need for the purposes of planning;
- ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites;
- encourage local planning authorities to plan for sites over a reasonable timescale;
- protect Green Belt from development;
- promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites;

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21 *ibid* paragraph 7. More detailed guidance on the issue of planning contravention notices, enforcement notices, stop notices, breach of condition notices and planning injunctions can be found in Circular 10/97: Enforcing planning control: legislative provisions and procedural requirements  

22 *Planning for Traveller Sites* paragraph 5
• reduce the number of unauthorised developments and encampments and make enforcement more effective;
• ensure that the development plan includes fair, realistic and inclusive policies;
• increase the number of traveller sites, in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply;
• reduce tensions between settled and traveller communities in plan making and planning decisions;
• enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure;
• have due regard to the protection of local amenity and local environment;

3.0 Material Considerations in gypsy and traveller cases

3.1 Planning Appeals in gypsy and traveller cases raise many issues, including, in particular the following:

• Gypsy status;
• Policy:
  o Compliance of Local plan Gypsy policy and site selection criteria with national policy guidance;
  o Conflict with national or local policies;
• Need:
  o Quantitative assessment of the need for additional Traveller sites;
  o Assessment of alternative site availability;
  o Availability of vacancies on nearby sites;
• Personal circumstances:
  o needs of the appellant for a site;
  o Local connections and personal circumstances - relationships, family, health, work connections;
  o Educational needs of children;
  o Financial status of appellant and cost of land;
  o Human Rights Act Article 8, 1 Protocol 1 and Article 14
• Site specific issues
  o Previous planning history of site;
  o Sustainability
- Character of site as against surrounding area, harm to visual appearance and character of the countryside (impact), especially nationally or locally protected landscapes;
- Impact on residential amenities;
- Highway safety and access criteria

3.2 The paper now looks at these considerations in the context of both extant (Circular 01/06) and emerging (Planning for Traveller Sites) gypsy and traveller planning policy.

3.3 **Gypsy status**

3.3.1 Arguments over ‘Gypsy status’ have all but been removed by Circular 01/06 which defines ‘gypsies and travellers’ as including “...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.”

3.3.2 Much of the old case law relating e.g. to whether an intention to resume a travelling way of life was required in order to fall within the former definition, has therefore been superseded. Indeed the circular now recognises that a more settled existence can prove beneficial to some gypsies and travellers in terms of access to health and education services, and employment, and can contribute to greater integration and social inclusion within local communities.

3.3.3 The Circular 01/06 definition is retained in Planning for Traveller Sites and amongst its objectives for travellers is to provide them with a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment.

3.4 **Policy**

*Circular 01/94*

3.4.1 Under Circular 01/94 planning authorities were only required “where possible” to identify, in their local plans, locations suitable for development as gypsy/traveller sites. Where this was not possible, they were required to set out clear, realistic criteria for suitable locations.

3.4.2 It was perhaps of little surprise that few, if any, planning authorities were tempted into incurring the wrath of the settled communities in their areas in specifically identifying land suitable for development as gypsy/traveller sites in their local plans. Instead, the majority of gypsy traveller site applications were assessed against criteria based policies which were more often than not so restrictive as to generally militate against the grant of planning permission – regardless of location.

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23 Circular 01/06 paragraph 15
24 ibid paragraph 19
25 Planning for Traveller Sites Annex A. Note that references in Planning for Traveller Sites to ‘travellers’ means ‘gypsies and travellers’
Circular 01/06

3.4.3 This prompted the requirement in Circular 01/06 for the number of pitches set out in the RSS to be translated into specific site allocations in one of the LPA’s DPDs, with the core strategy setting out criteria for the location of gypsy and traveller sites to be used to guide the allocation of sites in the relevant DPD and to meet unexpected demand.

3.4.4 Criteria based policies, were however, to be “fair, reasonable, realistic and effective in delivering sites”26 with the adequacy of any criteria being subject to greater scrutiny under changes to the new planning system introduced by the Planning Act (2004), to the extent that planning policies that rule out, or place undue constraints on the development of gypsy and traveller sites are not being accepted by examining Inspectors27.

3.4.5 Until Planning for Traveller Sites is adopted as Government policy, local authorities will continue to be required, in accordance with Circular 01/06 to allocate sufficient sites for gypsies and travellers, in terms of the number of pitches required by the RSS, in site allocations DPDs. A requirement of the Planning Act (2004) is that DPDs must be in general conformity with the RSS and thus criteria must not be used as an alternative to site allocations in DPDs where there is an identified need for pitches.

3.4.6 LPAs need to demonstrate that sites are suitable, and that there is a realistic likelihood that specific sites allocated in DPDs will be made available for that purpose. DPDs need to explain how the land required will be made available for a gypsy and traveller site, and timescales for provision28.

3.4.7 Whilst identifying and allocating specific plots of land is a more difficult process than using a solely criteria based approach, it ensures some certainty for local people and gypsies and travellers when planning applications are determined by LPAs, or appeals are considered by the Secretary of State.

3.4.8 As the large majority of saved local plan policies relating to gypsy and traveller site provision were, however, adopted before the introduction of Circular 01/06 as Government policy, the reality is that there are very few such plans that have translated the RSS figures into specific site allocations29. Furthermore, criteria based policies in such plans are frequently attacked on appeal on the basis of containing overly restrictive criteria that are unfair, unreasonable, unrealistic and ineffective in delivering sites.

26 Circular 01/06 paragraph 32
27 Annex C to Circular 01/06 paragraph 3 states “The list of criteria adopted by a LPA should not be over-long as the more criteria there are, and the more restrictive they are, the greater the likelihood of authorities refusing planning permission. The Government wishes to see a more positive approach being taken to making adequate provision for gypsies and travellers in appropriate locations – particularly by those LPAs whose present policies have failed to meet current needs. The process by which criteria are adopted in DPDs will therefore be subject to close scrutiny by Planning Inspectors.”
28 ibid paragraph 33
29 Core Strategies adopted post Circular 01/06 (e.g. Hinckley and Bosworth Borough Council Adopted Core Strategy (December 2009) Policy 18) however will have had to make specific allocations for gypsy and traveller sites in accordance with the requirement set out in the RSS in order to be declared sound.
3.4.9 By way of example, saved local plans invariably contain a ‘catch-all’ countryside policy that reflects the Government’s overall aim hitherto to protect the countryside ‘for the sake of its intrinsic character and beauty’. Such a policy is, however, arguably now inconsistent with the acceptance in Circular 01/06 that “Rural settings, where not subject to special planning constraints, are acceptable in principle”. Furthermore, whilst Planning for Traveller Sites states that LPAs should strictly limit new development in open countryside that is away from existing settlements or outside areas allocated in the development plan, it goes on to say: “However, they should recognise that some rural areas may be acceptable for some forms of traveller sites.

3.4.10 Thus an ‘in-principle’ policy objection to a rural traveller site may no longer be sustainable. This does not, of course, mean that development proposals could still not be refused on landscape impact grounds, however it is suggested that it would be prudent only to do so if such an objection was supported by a detailed landscape assessment.

Planning for Traveller Sites

3.4.11 The Government’s intention to abolish RSS is well known, and is set out in the Localism Bill which, by the time this paper is delivered, will have completed its third reading in the House of Lords. The Bill is anticipated to be enacted in the New Year. In requiring LPAs, amongst other things, to set their own pitch and plot targets, Planning for Traveller Sites is clearly dependent on the enactment of the Localism Bill.

3.4.12 Planning for Traveller Sites also brings planning policy for gypsies and travellers in line with housing planning policy for the settled community in requiring LPAs, in producing their development plans, to set out their policies and strategies for identifying specific sites that will enable continuous delivery of sites for at least 15 years from the date of adoption, and to identify sufficient specific deliverable sites to deliver site need in the first five years (to be considered deliverable, sites should, at the point of adoption of the relevant policy: be available – the site is available now; be suitable – the site offers a suitable location for development now and would contribute to the creation of sustainable, mixed communities; be achievable – there is a reasonable prospect that housing will be delivered on the site within five years).

3.4.13 The top-down imposition of development will be replaced with a duty on councils to work together across boundaries in a way that reflects their genuine shared interests. The Government believes that the introduction of this duty to cooperate should result in greater understanding and achievement of shared aims and that the reforms will lead to a more collaborative planning system.

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30 PPS7 paragraph 1(iv). In the Draft NPPF, however, there would appear to be a move away from protecting the countryside for its own sake and towards the protection of “valued landscapes” (see Draft NPPF paragraph 164).
31 Circular 01/06 paragraph 54.
32 2011 Draft Guidance paragraph 22.
33 Although, given the Government’s agreement to carry out strategic environmental assessments into the impact of its decision to abolish RSS, it is not anticipated that the Orders revoking the existing regional plans will be able to take effect until next spring at the earliest.
34 See in particular Planning for Traveller Sites paragraphs 5 (ensuring that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites) and 9(e) (consideration to be given to the production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area relate the number of pitches).
3.4.14 **Planning for Traveller Sites** also requires LPAs to:

- allow for provision to be made for other family members who may not themselves physically move their own accommodation onto the site;
- relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population’s size and density;
- protect local amenity and environment

3.4.15 LPAs will be required to ensure that traveller sites are sustainable economically, socially and environmentally. LPAs should, therefore, ensure that their policies:

(a) promote peaceful and integrated co-existence between the site and the local community;
(b) promote easier access to health services;
(c) ensure that children can attend school on a regular basis;
(d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment
(e) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans; and
(f) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability

3.4.16 The removal of top-down targets also signals a key policy commitment by Government to include traveller sites in the New Homes Bonus scheme, to incentivise LPAs to provide appropriate sites. The Scheme will operate in exactly the same way for traveller sites as it does for other forms of housing ensuring that policy on traveller sites is aligned with that for other forms of housing and that it is fair for traveller and settled communities. Furthermore, as part of the Government's *National Affordable Housing Programme* for 2011-15, it has allocated £60m to fund the provision of traveller sites.

### 3.5 Need

_Circular 01/06_

3.5.1 As set out above the current position under *Circular 01/06* is that local authorities are required to assess gypsy and traveller accommodation needs as part of the gypsy and traveller accommodation assessment (GTAA) process. The data collected through the GTAA process will then inform the RSS which identifies the number of pitches required (but not their location) for each LPA, who are then required to translate the requirement into specific site allocations in DPDs that are required to be in general conformity with the RSS.

3.5.2 Other sources of information on need include:

a) a continuous assessment of incidents of unauthorised encampments, both short and longer-term;

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35 (paragraph 3.4.3)
b) the numbers and outcomes of planning applications and appeals;
c) levels of occupancy, plot turnover and waiting lists for public authorised sites;
d) the status of existing authorised private sites, including those which are unoccupied and those subject to temporary or personal planning permissions; and,
e) the twice-yearly Caravan Count undertaken on behalf of ODPM, which gives a picture of numbers and historic trends.

3.5.3 LPAs are expected to demonstrate that they have considered this information, where relevant, before any decision to refuse a planning application for a gypsy and traveller site, and to provide it as part of any appeal documentation.

3.5.4 Circular 01/06 also contains advice to LPAs on giving consideration to granting temporary planning permission i.e. Where there is unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need 36. This may be appropriate, for example, in a case where a LPA is preparing its site allocations DPD. In such circumstances, LPAs are expected to give substantial weight to the unmet need in considering whether a temporary planning permission is justified. The fact that temporary permission has been granted on this basis should not be regarded as setting a precedent for the determination of any future applications for full permission for use of the land as a caravan site 37.

3.5.5 The failure of LPAs to give consideration to granting temporary planning permission in such circumstances has been the source of many appeals over the last 10 years or so, with many such appeals resulting in Inspectors granting temporary planning permission - notwithstanding a finding that the site is unsuitable in planning terms for a permanent gypsy site - on the basis that the planning disadvantages are not considered to be such as to outweigh the immediate need for accommodation and the lack of alternative sites pending the allocation of new sites.

Planning for Traveller Sites

3.5.6 Under Planning for Traveller Sites, LPAs will continue to assess the accommodation needs of travellers (as required by the Housing Act 2004) and in accordance with the definition of travellers for this purpose. However, unlike the current circular, the proposed policy does not specifically refer to the guidance that sets out how needs should be assessed for the purposes of the Housing Act (the Gypsy and Traveller Accommodation Needs Assessment guidance 38). While the Government is keen that planning policy highlights the importance of ensuring that targets are based on robust evidence, it does not consider it necessary to prescribe to local planning authorities the type and volume of evidence required, especially as their conclusions will be tested through the process of consultation and Examination in Public of local plans.

36 Circular 01/06 paragraph 45
37 ibid paragraph 46
38 DCLG (October 2007)
3.5.7 As outlined above, LPAs will in future be responsible for determining how to meet their housing needs, including traveller site provision, and for using this evidence to set their own targets for pitch/plot provision. LPAs will be required to identify specific sites that will enable continuous delivery for at least 15 years, and sufficient specific deliverable sites to deliver need in the first five years of their plan period.

3.5.8 In determining planning applications for traveller sites, LPAs will be required to consider the existing level of local provision and the need for sites, together with the availability (or lack) of alternative accommodation for the applicants.

3.5.9 In line with current housing planning policy if LPAs have an up-to-date five year supply of deliverable traveller sites and applications come forward for sites that are allocated in the overall land supply, but which are not yet in the up-to-date five year supply, they should consider whether granting permission would undermine achievement of their policy objectives.

3.5.10 Furthermore, if, from [the date six months after date policy comes into effect], a LPA cannot demonstrate an up-to-date five year supply of deliverable sites, it will be required to consider favourably applications for the grant of a temporary planning permission.

3.5 **Personal Circumstances**

*Circular 01/06*

3.5.1 The Introduction to the circular states:

“Gypsies and Travellers are believed to experience the worst health and education status of any disadvantaged group in England. Research has consistently confirmed the link between the lack of good quality sites for gypsies and travellers and poor health and education. This circular should enhance the health and education outcomes of gypsies and travellers.”

3.5.2 Thus, one of the main intentions of the circular is to provide gypsies and travellers with fair access to suitable accommodation, education, health and welfare provision. Furthermore the benefits of a more settled existence in terms of access to health and education services, and employment, are expressly acknowledged.

3.5.3 The personal circumstances of applicants and their dependants, including in particular their health and educational needs, is therefore highly material to the determination of gypsy and traveller site applications by LPAs and inspectors. Whilst Annex E to the circular encourages applicants

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39 paragraphs 3.4.11 and 3.4.12
40 ibid paragraphs 9(a) and (b)
41 ibid paragraphs 20(a) and (b)
42 ibid paragraph 21
43 ibid paragraph 26
44 Circular 01/06 paragraph 5. The Government remains particularly concerned about poor health and educational outcomes: Gypsies and Travellers are 12 per cent more likely to have a long-term illness compared to comparable members of the settled community; Gypsy and Traveller mothers are 20 times more likely to experience the death of a child than the rest of the population; and school attendance and educational attainment of Gypsy and Traveller pupils has been considerably lower than their peers at every key stage. The Secretary of State for Communities and Local Government has therefore formed a cross-Government Ministerial Working Group to explore ways to address inequalities experienced by Gypsies and Travellers – see Consultation on Planning for Traveller Sites paragraph 2.15.
to provide as much background information (which may include the efforts made to find a site, why the particular site was selected, and details of all the people who plan to live on the site), such information is not always forthcoming (not least at the application stage) which makes it difficult for planning authorities, who are required to establish and consider any facts that may be relevant (including, therefore personal circumstances) before determining planning applications.

3.5.4 The circular expressly refers to the requirement for the *European Convention on Human Rights* (which is incorporated into English Law through the *Human Rights Act 1998*) to be considered as an integral part of local authorities’ decision-making – including its approach to the question of what are material considerations in planning cases. LPAs should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned, both gypsies and travellers and local residents, and whether the action is necessary and proportionate in the circumstances. If there is any doubt about the application of provisions of the Convention in particular cases, legal advice should be sought. The obligation on public authorities to act compatibly with Convention rights does not give gypsies and travellers a right to establish sites in contravention of planning control\(^{45}\).

**Planning for Traveller Sites**

3.5.5 *Planning for Traveller Sites* advises LPAs to ensure that their policies, amongst other things, promote easier access to health services, and children can attend school on a regular basis\(^{46}\). Other (unspecified) personal circumstances are among the issues that LPAs should consider when determining planning applications\(^{47}\).

3.5.6 There is no reference in *Planning for Traveller Sites* to the *Human Rights Act*. This does not, of course, mean that human rights, and in particular the right to respect for home and family life will not continue to be material to the determination of planning applications for traveller sites. It is more an illustration of the Government’s commitment to simplifying and consolidating national planning policy through its new National Planning Policy Framework, including avoiding duplication of policies or legislative provisions that may be found elsewhere, which has underlined its approach to the proposed new planning policy for traveller sites\(^{48}\).

3.6 **Site Specific issues**

**Sustainability**

*Circular 01/06*

3.6.1 Whilst *Circular 01/06* advises that issues of sustainability are important it stresses that they should not only be considered in terms of transport mode and distance from services. Indeed LPAs are advised, in assessing

\(^{45}\) *Circular 01/06* paragraph 70

\(^{46}\) *Planning for Traveller Sites* paragraph 11(b) and (c)

\(^{47}\) *ibid* paragraph 20(c)

\(^{48}\) See the Introduction to the *Consultation on Planning for Traveller Sites*, paragraphs 1.6 and 1.7
the suitability of sites to be “…realistic about the availability, or likely availability, of alternatives to the car in accessing local services”.

3.6.2 Other sustainability considerations should include:
- a) the promotion of peaceful and integrated co-existence between the site and the local community;
- b) the wider benefits of easier access to GP and other health services;
- c) children attending school on a regular basis;
- d) the provision of a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment; and,
- e) not locating sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.

3.6.3 In deciding where to provide for gypsy and traveller sites, LPAs should first consider locations in or near existing settlements with access to local services, e.g. shops, doctors and schools. All sites considered as options for a site allocations DPD must have their social, environmental and economic impacts assessed in accordance with the requirements of sustainability appraisal.

Planning for Traveller Sites

3.6.4 Planning for Traveller Sites requires LPAs to ensure that traveller sites are sustainable economically, socially and environmentally. LPAs should, therefore, ensure that their policies:

(a) promote peaceful and integrated co-existence between the site and the local community
(b) promote easier access to health services
(c) ensure that children can attend school on a regular basis
(d) provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment
(e) do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans; and
(f) reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

Green Belt

3.6.5 As has already been noted above, under Circular 01/06 new gypsy and traveller sites in the Green Belt are considered to be “normally inappropriate development” whereas it is intended in Planning for Traveller Sites to remove the word “normally” so that the wording is consistent with the policy in PPG2. The Government considers that this change will clarify that applications from travellers for development on Green Belt should be dealt with in exactly the same way as applications from members of the settled community.

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49 Circular 01/06 paragraph 54
50 ibid paragraph 64
51 ibid paragraph 65
52 Planning for Traveller Sites paragraph 11
Other Rural Locations

Circular 01/06

3.6.6 The circular provided that in areas with nationally recognised designations (Sites of Special Scientific Interest, National Nature Reserves, National Parks, Areas of Outstanding Natural Beauty, Heritage Coasts, Scheduled Monuments, Conservation Areas, Registered Historic Battlefields and Registered Parks and Gardens), as with any other form of development, planning permission for gypsy and traveller sites should only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development. However, local landscape and local nature conservation designations should not be used in themselves to refuse planning permission for gypsy and traveller sites.

3.6.7 Otherwise, rural settings, where not subject to special planning constraints, are considered by the circular to be acceptable in principle.

Planning for Traveller Sites

3.6.8 Planning for Traveller Sites suggests that LPAs should strictly limit new development in open countryside that is away from existing settlements or outside areas allocated in the development plan, however "... they should recognise that some rural areas may be acceptable for some forms of traveller sites. Local authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure."

3.6.9 In future, in-principle policy based objections to traveller sites in undesignated rural locations are unlikely, in the absence of a sustainable landscape objection, to be upheld on appeal. Indeed, in the future, LPAs will be advised to look favourably upon applications that are well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness, and applications that ensure adequate landscaping.

Residential amenity

3.6.10 Both Circular 01/06 and Planning for Traveller Sites seek to ensure that traveller sites respect the scale of, and not dominate the nearest settled community, and avoid placing undue pressure on local infrastructure.

Highways Considerations

Circular 01/06

3.6.11 Highway safety is of course an important consideration in the determination of any planning application. Indeed the circular makes clear that for all kinds of site, consideration must be given to vehicular access.

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53 Circular 01/06 paragraph 52
54 ibid paragraph 53
55 Planning for Traveller Sites paragraph 22
56 See, in this connection note 30 above as regards the NPPF’s focus on the protection of ‘valued landscapes’ as opposed to the protection of the countryside per se.
57 Planning for Traveller Sites paragraph 23 (b) and (c)
58 Circular 01/06 paragraph 54; Planning for Traveller Sites paragraph 22
from the public highway, as well as provision for parking, turning and servicing on site, and road safety for occupants and visitors.\(^{59}\)

3.6.12 The circular does, however, advise that projected vehicle movements for gypsy and traveller sites should be assessed on an individual basis for each site and that proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant. This has frequently been used by appellants.

3.6.13 There is no reference to highways considerations in *Planning for Traveller Sites*. Whether this is a further illustration of the Government’s commitment to simplifying and consolidating national planning policy is unclear, however applicants may no longer be able to rely upon the more relaxed approach in Circular 01/06 to argue for a relaxation of normal highways design standards but rather may have to face such applications being dealt with in the same way as for conventional housing.

### 4.0 An end to Travellers ‘playing the system’?

4.1 The Government is committed to tackling unauthorised development in all its forms. It is clear that it will not tolerate abuse of the planning system by a small minority of travellers, who set up unauthorised developments which create tension, undermine community cohesion and create resentment against the overwhelming majority of law-abiding travellers who do not live on unauthorised sites.

4.2 The Government has therefore brought forward measures in Part 6 – Chapter 5 of the *Localism Bill* to limit the opportunities for retrospective planning permission. The measures allow a planning authority to decline to determine a retrospective planning application for development specified in a pre-existing enforcement notice as being in breach of planning control, and allow only an enforcement appeal or a retrospective planning application to be made for a development, not both.

4.3 These measures are designed to crack down on unscrupulous developers who have been deliberately 'playing the system' by drawing out the period for appealing against enforcement action by also submitting a retrospective application for planning permission – during which time their unauthorised development is allowed to continue. Limiting retrospective applications will enable the Government to close this loophole.

4.4 Planning authorities have a wide range of discretionary enforcement powers to enable them to deal with unauthorised development. However, the Government recognises that enforcement remains a problem. Therefore Part 6 – Chapter 5 of the *Localism Bill* also contains a range of measures to strengthen the powers that Planning authorities have to enforce against breaches of planning control. These include an increase in penalties for non-compliance with a Breach of Condition Notice, taking the maximum fine from £1,000 to £2,500.

4.5 Only those measures that require primary legislation are set out in the *Localism Bill* and, beyond this, the Government is proposing a range of other measures to strengthen enforcement powers. For example, the

\(^{59}\) *ibid. Annex C, paragraph 4*
Government is considering strengthening *Temporary Stop Notice* powers. It will publish more information on all the measures it is taking separately.