



BRIEFING PAPER

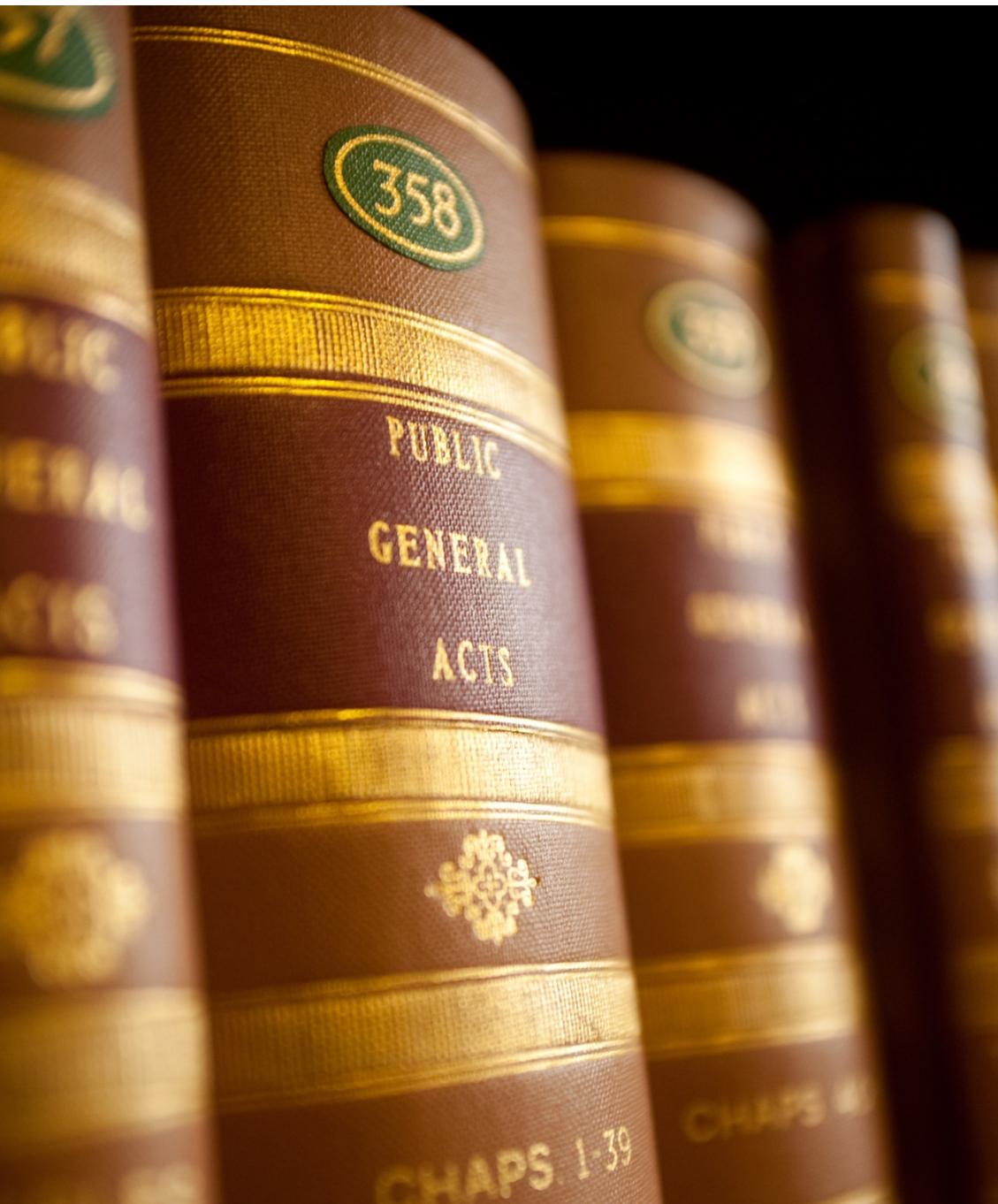
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Gypsies and Travellers: planning provisions

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Summary

This briefing sets out the planning policies specific to Gypsy and Traveller site provision, along with recent policy changes and Government announcements. It applies to England only.

Planning policy

The Government's planning policies and requirements for Gypsy and Traveller sites are set out in the [Planning Policy for Traveller sites](#), which must be taken into consideration in preparing local plans and taking planning decisions. It encourages local authorities to formulate their own evidence base for Gypsy and Traveller needs and to provide their own targets relating to pitches required. If planning authorities are unable to demonstrate a five-year supply of deliverable Traveller sites, this in turn may make it more difficult for them to justify reasons for refusing planning applications for temporary pitches at appeal.

The Local Government Association has published a case study for local planning authorities on [spaces and places for Gypsies and Travellers: how planning can help](#). The Royal Town Planning Institute has also published a [briefing on delivering homes and sites: alternative approaches?](#) (although this is now several years old and so may not reflect more recent policy changes).

As the [Commons Library briefing on Gypsies and Travellers](#) explains at more length, the National Planning Policy Framework was revised and updated in July 2018, with some further minor amendment in February 2019. The update added Travellers who do not meet the definition within the Planning Policy for Traveller Sites to the list of those groups whose need for homes should be identified.

The Government has said that it will consider writing to those local authorities that do not have an up-to-date plan for Travellers in place, to expedite the requirements of national planning policy, and highlight examples of good practice.

Number of Traveller caravans

The Ministry of Housing, Communities and Local Government (MHCLG) publishes official statistics on the number of Traveller caravans on both authorised and unauthorised sites in England. Local authorities carry out the count of caravans on Traveller sites twice a year, in January and July, providing a snapshot of the number of caravans on the day of the count. At the time of the January 2019 count, the total number of Traveller caravans in England was 22,662. This is a 27% increase compared with January 2009, but a 1% decrease on a year previously.

Authorised and unauthorised sites

In January 2019, 29% of Traveller caravans were on public sites; 59% were on privately funded sites; 9% were in unauthorised developments on land owned by Travellers; and 3% were in unauthorised encampments on land not owned by Travellers. Caravans on authorised

private sites have formed a growing proportion of the total number of caravans.

Dealing with unauthorised encampments: are existing enforcement powers sufficient?

It has been argued that the problem of unauthorised encampments is caused by and reflects the shortage of authorised sites.

A summary of all available powers which can be used by police and local authorities to deal with unauthorised encampments, along with references to all the legislation is set out in the Government guidance [*Dealing with illegal and unauthorised encampments: A summary of available powers*](#) (March 2015) and is not reproduced in this note.

Although the coalition government introduced measures to strengthen enforcement, concerns remain about the number of unauthorised encampments and it has also been argued that enforcement powers are still inadequate.

In March 2015 the [Government wrote](#) to Council Leaders, Police and Crime Commissioners and Chief Constables in England to re-emphasise powers to deal with unauthorised encampments. In the letter, the Government directed that “Public bodies should not gold-plate human rights and equalities legislation”.

In [the debate on Gypsies, Travellers and local communities](#) on 9 October 2017, the then housing minister, Alok Sharma, said that the Government expected local authorities and the police to act, to deal with problems; they already had extensive powers. He also announced a review of the effectiveness of enforcement against unauthorised encampments, but said this was not a reason for local authorities and the police not to use their existing powers. In [the Westminster Hall debate on unauthorised encampments](#) on 12 October 2017, the then junior housing minister, Marcus Jones, reiterated that the law must apply to everyone and agencies should work together to deal with wrongdoing.

The National Police Chiefs Council issued [updated operational advice on unauthorised encampments](#) in June 2018, advising officers to be sensitive to the shortage of authorised sites.

Increasingly, local authorities are seeking injunctions to prevent and prohibit unauthorised encampments. In October 2019, the specialist publication [Planning examined the unmet demand](#) for authorised sites and the impact of injunctions on that provision. *Planning* noted that injunctions had in some instances been refused, with the judge in one case referring to the shortage of sites. In the same article, *Planning* quoted the view of a trustee of the London Gypsies and Travellers advocacy group, who argued that the problem of unauthorised encampments would be solved if sufficient authorised pitches were provided.

Consultation in April 2018

In April 2018, the Government therefore [launched its long-awaited consultation](#) on powers to deal with unauthorised encampment. The consultation proposals concerned laws and policies which apply in England, and “at times” (it said) to England and Wales.

The consultation document argued that, although local authorities had extensive planning enforcement powers, there was considerable variation in how such powers were used. It therefore invited views on what additional powers might be needed and on improving the efficiency of enforcement notice appeals. It also examined the use of injunctions to protect land. The consultation closed in June 2018.

The [Government response to the consultation](#) was published in February 2019. In it, the Government set out its intentions for further action on unauthorised development and encampments, including (it said) on planning:

- Practical and financial support for local authorities including new good practice guidance and up to £1.5m of funding to support planning enforcement through the next round of the Planning Delivery Fund, helping them deal with unauthorised development more effectively.
- Supporting Traveller site provision through planning policy and the Affordable Homes Programme.
- Support for the travelling community to improve life chances through seeking to address barriers and continue to improve outcomes in terms of education and healthcare.

The consultation response and a [Written Ministerial Statement](#) made on the same day by the then Secretary of State, James Brokenshire, also drew attention to the wider Government support for the provision of Traveller sites.

The [All-Party Parliamentary Group for Gypsies, Travellers and Roma criticised](#) the Government's "disproportionate" focus on enforcement powers and the lack of robust policy measures to provide appropriate and sufficient accommodation for Gypsy and Traveller communities. Similarly, the advocacy group [Friends Families and Travellers \(FFT\) argued](#) that the proposals failed to recognise that the main cause of unauthorised encampments was “the abject failure of government to identify land for sites and stopping places” and warned of worse outcomes for Gypsy and Traveller families.

- Other Commons Library briefings on various matters to do with planning are available on the [topic page for housing and planning](#).
- The Commons Library briefing [Gypsies and Travellers](#) looks more widely at relevant law and policy.
- The Commons Library briefing [Enforcement of Planning Law](#) offers more information on enforcement in general.

1. Planning policy for Gypsies and Travellers

In March 2012, the Government published a new planning policy for Traveller sites which accompanied the National Planning Policy Framework and replaced previous planning guidance in England. The Planning Policy for Traveller Sites was [updated in 2015](#) and the National Planning Policy Framework was [updated in July 2018](#) with some further, minor amendment in February 2019.

The planning policy for Traveller sites must be taken into account in the preparation of local development plans, and is a material consideration in planning decisions. The main aim was to improve provision for authorised Traveller sites, by encouraging local authorities to take a lead on plan making and decision making. It was hoped that increased provision of legitimate sites would reduce the number of unauthorised developments.

Before this, the Labour Government had required local planning authorities (LPAs) to set aside enough land for Gypsy sites, via targets in regional plans. The idea was that this would complement the legal obligation at that time set out in section 225 of the *Housing Act 2004*, that every local housing authority must, when undertaking a review of housing needs in their district under section 8 of the *Housing Act 1985*, carry out an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to their district.

The coalition Government abolished regional planning under provisions made by the *Localism Act 2011*. This meant that LPAs no longer had targets for Gypsy sites set out for them in regional plans. Section 225 of the *Housing Act 2004* (discussed again later) was revoked by provisions in the *Housing and Planning Act 2016*.¹

While the [Planning Policy for Traveller Sites](#) does not provide targets for LPAs on the number of pitches required for Gypsies and Travellers, it does encourage LPAs to formulate their own evidence basis for Gypsy and Traveller needs in their area and then to use this evidence basis to set their own pitch targets in the area's local plan. Specifically, the planning policy directs:

9. Local planning authorities should set pitch targets for gypsies and travellers as defined in Annex 1 and plot targets for travelling showpeople as defined in Annex 1 which address the likely permanent and transit site accommodation needs of travellers in their area, working collaboratively with neighbouring local planning authorities.
10. Local planning authorities should, in producing their Local Plan:
 - a) identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets

There are no nationally set Government targets for the number of traveller pitches that a local authority must provide.

Local planning authorities are encouraged to calculate the provision needed in their own areas.

¹ Section 124(2)

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- b) identify a supply of specific, developable sites, or broad locations for growth, for years 6 to 10 and, where possible, for years 11-15
- c) consider 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 (local planning authorities have a duty to cooperate on planning issues that cross administrative boundaries)
- d) 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
- e) protect local amenity and environment.²

As part of the local plan making process, local authorities are required to carry out a six week consultation on the proposals before the draft plan is submitted for review by an independent planning inspector. While there is no law which requires the inclusion of Traveller sites in local plans, the policy is written in such a way that the local plan would not be approved by a planning inspector if the local authority had not considered an evidence basis looking at what Traveller sites were needed in that area.

All local plans have to go through an examination stage with an independent planning inspector before they can be approved and come into force. A planning inspector is likely to find a plan unsound if either insufficient evidence has been gathered in support of the policies in it, or if Government policy has been ignored. The planning inspector does not approve or reject the whole of the plan – they suggest modifications which the planning authority can choose to accept, or not. Where the changes recommended by the Inspector would be so extensive as to require a virtual re-writing of the draft Local Plan, the Inspector is likely to suggest that the LPA withdraws the plan. Exceptionally, under section 21 (9A) of the *Planning and Compulsory Purchase Act 2004*, the Secretary of State has the power to direct an LPA to withdraw its draft plan.

In a PQ response in April 2019, the then junior planning minister, Heather Wheeler, reiterated that LPAs should make appropriate provision for Traveller sites:

As Planning Policy for Traveller Sites makes clear, all local planning authorities should identify the need for traveller sites and ensure that appropriate provision is made for the travelling community. In a written statement of 6 February, [HCWS1305](#), The Secretary of State reminded councils of this requirement and of the need for joint-working to address traveller site provision where necessary.³

The Local Government Association has published a case study for LPAs on [spaces and places for Gypsies and Travellers: how planning can help](#).⁴ The Royal Town Planning Institute has also published a [briefing](#)

² Department for Communities and Local Government (DCLG), [Planning Policy for Traveller Sites](#), August 2015: page 3

³ [PQ 242264, 11 April 2019](#)

⁴ Local Government Association, [Spaces and places for Gypsies and Travellers: how planning can help](#), November 2016

[on delivering homes and sites: alternative approaches?](#) (although this is now several years old and so may not reflect more recent policy changes).⁵

1.1 August 2015 changes to policy

In a [Written Ministerial Statement](#) in January 2014, the coalition government said that it would consider improvements to planning policy and practice guidance to strengthen Green Belt protection in relation to Traveller sites.⁶

A [consultation on this matter](#) was published in September 2014,⁷ to which [the then Government responded](#) in August 2015.⁸ The changes made following this consultation response were incorporated into the revised [planning Policy for Traveller Sites](#).

The key planning changes were as follows:

Change of definition

The then government changed the definition of “Traveller” for planning-related purposes so that it excluded those who had permanently ceased travelling. In the consultation response, the government said that it believed it was fair “that if someone has given up travelling permanently then applications for planning permission should be considered as they are for the settled community within national planning policy rather than Planning Policy for Traveller Sites.” The amended definition of Gypsies and Travellers in [Planning Policy for Traveller Sites](#) reads:

1. For the purposes of this planning policy “gypsies and travellers” means:

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

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

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.⁹

The Government also said that it would, when parliamentary time allowed, seek to amend primary legislation to clarify the duties of local authorities to plan for the housing needs of their residents. (This was in

⁵ Royal Town Planning Institute, [Housing and Planning Futures delivering homes and sites: alternative approaches?](#), November 2012

⁶ [HC Deb 17 Jan 2014 c35WS](#)

⁷ DCLG, [Consultation: planning and travellers](#), September 2014

⁸ DCLG, [Planning and travellers: proposed changes to planning policy and guidance: consultation response](#), August 2015

⁹ DCLG, [Planning Policy for Traveller Sites](#), August 2015: page 9

relation to Section 8 of the *Housing Act 1985*, which requires local authorities to assess the housing needs of their district. Section 225 of the *Housing Act 2004* (since revoked, discussed again later) required that this assessment included an assessment of the accommodation needs of Gypsies and Travellers. Secondary legislation - the [Housing \(Assessment of Accommodation Needs\) \(Meaning of Gypsies and Travellers\) \(England\) Regulations 2006](#) - defined Gypsies and Travellers for the purpose of section 225).¹⁰

The Planning Officers Society was reported as expressing concerns about the change in definition and its potential unintended consequences:

"This proposal is going to be very challenging to implement and assess at application or appeal stage," the POS consultation response said. "A lot of local authority and inspectors' time is going to be taken up debating whether a family are still travelling and therefore entitled to a pitch."¹¹

Traveller accommodation needs assessments

In the consultation response, the Government said that it would lay before Parliament a proposal to revoke the [2007 guidance on Gypsy and Traveller Accommodation Needs Assessments](#). Subject to that, the Government would publish new guidance on such needs assessments.

As mentioned earlier, section 124 of the *Housing and Planning Act 2016* revoked sections 225 and 226 of the *Housing Act 2004*, and any secondary legislation and guidance made under them. The accommodation needs assessment guidance was therefore revoked in July 2016.

Protecting the Green Belt

In the updated [Planning Policy for Traveller Sites](#), the Government changed the weight to be given to any absence of a five year supply of permanent sites when deciding planning applications for temporary sites in land designated as Green Belt, sites protected under the Birds and Habitats Directives, sites designated as Sites of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park or the Broads. The consultation explained, "the absence of an up-to-date five year supply of deliverable sites would therefore no longer be a significant material consideration in favour of the grant of temporary permission for sites in these areas. It would remain a material consideration, but its weight would be a matter for the decision taker."¹²

The Government also changed planning policy to make clear that (subject to the best interests of the child), unmet need and personal circumstances were unlikely to clearly outweigh harm to the Green Belt,

¹⁰ SI 2006/3190

¹¹ "[New policy document tightens Gypsy and traveller planning rules](#)" *Planning*, 1 September 2015 [Subscription required – Members and their staff may obtain copies of this and other articles from the Commons Library on 020 7219 3666]

¹² DCLG, [Consultation: planning and travellers](#), September 2014: page 12

and any other harm so as to establish very special circumstances. This change applied equally to the settled and Traveller communities.¹³

Unauthorised occupation of land

Another change to policy was intended to deal with the intentional unauthorised occupation of sites. Under the updated policy, if a site was intentionally occupied without planning permission, this would be a material consideration in any retrospective planning application for that site. The consultation explained:

For the avoidance of doubt, this does not mean that retrospective applications should be automatically refused, but rather failure to seek permission in advance of occupation will count against the application. It will, the Government hopes, encourage all applicants to apply through the proper planning processes before occupying land and carrying out development.¹⁴

A further amendment to the planning guidance made clear that in exceptional cases, where a local authority was burdened by a large scale unauthorised site which had significantly increased their need and their area was subject to strict and special planning constraints, then there was no assumption that the local authority was required to meet their Traveller site needs in full. This was intended to deter large gypsy sites from being set up and causing a burden to local authorities.

Reaction to the changes

A press release from the Traveller Movement highlighted concerns that the changes made would make it harder for Travellers to obtain planning permission and lead to an increase in unauthorised sites:

The Traveller Movement (TM) believe that the new measures will do the opposite and make it significantly harder for Gypsies and Travellers to obtain planning permission, adding to the existing chronic shortage of Traveller sites in England. We expect this in turn to result in many community members being forced onto the road, increasing numbers of unauthorised sites and damaging community cohesion; all issues which the new guidance apparently aims to improve. At the heart of these changes lies a deep misunderstanding of the culture and lives of England's Gypsies and Travellers and a failure by Government to meaningfully recognise their ethnic minority status in the planning system.¹⁵

An article from *Inside Housing* set out how the changes would provide challenges for local authorities in interpreting the new definition and making assessments on Gypsy and Traveller needs in their areas:

How effective the change will be is moot.

It may prove difficult and costly to establish whether someone was or was not travelling in the past.

Intentions about "how soon and in what circumstances" someone may travel could prove fluid.

¹³ As above

¹⁴ HM Government, [Consultation: planning and travellers](#), 14 September 2014: page 15

¹⁵ The Traveller Movement, *Traveller Movement briefing on new Government changes to Planning Policy for Traveller sites* (no longer available online)

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Equally, the reasons why Travellers aren't currently travelling may be a matter of opinion. How planners accommodate these less than objective elements in assessments could create more areas for legal dispute. What is certain is that the field work for assessments will need to be more extensive and robust.

The new policy also presents new logistical challenges for local authorities.

In attempting to preclude future Dale Farms, the DCLG has employed the term large-scale to define unauthorised sites whose occupants an authority will not have to fully ensure provision for.

Defining large-scale may well be a matter for the courts.

In the meantime, how the ever-dwindling numbers of planning staff will manage to monitor the numbers of caravans, length of stays and the activities on parts of sites is a serious question.¹⁶

1.2 National Planning Policy Framework 2019

As the [Commons Library briefing on Gypsies and Travellers](#) explains at more length, the National Planning Policy Framework was revised and updated in July 2018, with some further minor amendment in February 2019.¹⁷ The update added Travellers who do not meet the definition within the Planning Policy for Traveller Sites to the list of those groups whose need for homes should be identified.

The Government has said that it will consider writing to those local authorities that do not have an up-to-date plan for Travellers in place, to expedite the requirements of national planning policy, and highlight examples of good practice.¹⁸

¹⁶ "[Moving Target](#)" *Inside Housing*, 8 September 2015

¹⁷ CBP 08083, 9 May 2019

¹⁸ MHCLG, [Government response to the consultation on powers for dealing with unauthorised development and encampments: A summary of consultation responses and the way forward](#), 6 February 2019: page 36

2. Temporary sites

For temporary sites, the then Government made clear in response to a [PQ in October 2012](#) that “where local planning authorities cannot demonstrate an up-to-date five-year supply of deliverable Traveller sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission for Traveller sites.”¹⁹ In effect, this meant that if a local authority had not planned for permanent Traveller sites, it might be more difficult for them to justify refusing planning applications for temporary pitches.

In revisions to planning policy made in August 2015, this policy was changed for sites on land designated as Green Belt, sites protected under the Birds and Habitats Directives, sites designated as Sites of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park or the Broads. The change meant that the absence of an up-to-date five year supply of deliverable sites would no longer be a significant material consideration in favour of the grant of temporary permission for sites in these areas; it would remain a material consideration, but its weight would be a matter for the decision-taker.

¹⁹ [HL Deb 22 October 2012 cWA19](#)

3. Enforcement powers against unauthorised development

3.1 Coalition Government changes to strengthen enforcement powers

From 2010, the coalition Government made two main changes in respect of LPAs' planning enforcement and authorised development powers: in relation to temporary stops notices and in relation to limiting which defences can be used in a single case.

An LPA can issue a Temporary Stop Notice (TSN) if it thinks there has been a breach of planning control and it is "expedient" that the activity should be stopped immediately. TSNs apply for 28 days, during which the local council can assess the circumstances and determine whether to take further enforcement action. They are meant to give the LPA more time to decide what course of action to take and are quicker than permanent stop notices because they come into force immediately, rather than after three days.

Until 2013, TSNs could not be used to prohibit the continued stationing of a caravan on land where the caravan was the main place of residence of its occupier.

On 10 October 2012, the then Secretary of State for Communities and Local Government, Eric Pickles, [announced plans](#) to allow local authorities greater freedom to choose when to use TSNs in relation to caravans which were used as main residences and were in breach of planning control. This would be backed up with the potential for heavy fines; any person guilty of this offence would be liable to a fine of up to £20,000, which could be increased to an unlimited fine, on conviction on indictment in the Crown Court.²⁰ [Following a consultation](#),²¹ this change came into force, from 4 May 2013, through the [Town and Country Planning \(Temporary Stop Notice\) \(England\) \(Revocation\) Regulations 2013](#).²²

The then Government also made some changes to the planning enforcement regime in the *Localism Act 2011*. It removed from an applicant, in certain circumstances, the right to use two separate defences in a single case:

- appeal to the Secretary of State against an enforcement notice and
- being able to make an application for retrospective planning consent.

Section 123(2) granted LPAs the power to decline to determine retrospective applications after an enforcement notice had been issued.

It is important to distinguish between *unauthorised development* (which occurs when people build on land, sometimes land they own, without the appropriate planning permission) and *unauthorised encampments*.

More information about planning enforcement in general is set out in the Commons Library briefing, [Enforcement of Planning Law](#) (SN 01579, 8 July 2019)

²⁰ DCLG, [Eric Pickles: Greater freedom for local councils to prevent unauthorised traveller sites](#), 10 October 2012

²¹ DCLG, [Changes to Temporary Stop Notices: revoking Statutory Instrument 2005/206: Consultation](#), December 2012

²² SI 2013/830

Section 123(4) limited the right of appeal against an enforcement notice after a retrospective planning application had been submitted, but before the time for making a decision has expired.

In March 2019, the chief planner at MHCLG [wrote to LPAs](#) to confirm that there would be consultation on options for strengthening policy on intentional unauthorised development and that the Government was considering making available in open data format data on permanent and transit sites:

We will also consult on options for strengthening existing policy on intentional unauthorised development, and are minded to extend the period that Temporary Stopping Notices can be in place. In his written statement to Parliament, the Secretary of State announced that, he is considering making data on permanent and transit sites freely available in open data format, and he reminded all local authorities of their current responsibilities to provide transit sites and to cooperate with their neighbours on the setting of pitch and plot targets.²³

²³ MHCLG, [Planning update newsletter](#), March 2019

4. Dealing with unauthorised encampments

A summary of all available powers which can be used by police and local authorities to deal with unauthorised encampments, along with references to all the legislation, is [set out in the Government guidance](#) and so is not reproduced here.²⁴

In March 2015 the [Government wrote](#) to Council Leaders, Police and Crime Commissioners and Chief Constables in England to re-emphasise powers to deal with unauthorised encampments. In the letter the Government directed that:

Public bodies should not gold-plate human rights and equalities legislation. Councils and the police have been given strong powers to deal with unauthorised encampments and when deciding whether to take action, they may want to consider for example:

- (a) the harm that such developments can cause to local amenities and the local environment,
- (b) the potential interference with the peaceful enjoyment of neighbouring property,
- (c) the need to maintain public order and safety and protect health – for example, by deterring fly-tipping and criminal damage,
- (d) any harm to good community relations,
- (e) that the state may enforce laws to control the use of an individual's property where that is in accordance with the general public interest.²⁵

The National Police Chiefs Council issued [updated operational advice on unauthorised encampments](#) in June 2018, advising officers to be sensitive to the shortage of authorised sites:

9. In managing unauthorised encampments officers must be sensitive to the fact that there is a lack of pitches on authorised sites across the country, making it difficult or even impossible for people to avoid setting up unauthorised pitches.²⁶

4.1 Are existing enforcement powers sufficient?

In [the debate on Gypsies, Travellers and local communities](#) on 9 October 2017, several Members drew attention to perceived problems in dealing with unauthorised encampments. The then housing minister, Alok Sharma, said that the Government expected local authorities and the

²⁴ DCLG, Home Office and Ministry of Justice, [Dealing with illegal and unauthorised encampments: A summary of available powers](#), March 2015

²⁵ A [joint ministerial letter](#) to council leaders, police and crime commissioners and police chief constables about unauthorised encampments, 26 March 2015

²⁶ National Police Chiefs Council, [Operational advice on unauthorised encampments](#), June 2018

police to act, to deal with problems; they already had extensive powers.²⁷

In [the Westminster Hall debate on unauthorised encampments](#) on 12 October 2017, the then junior housing minister, Marcus Jones, reiterated that the law must apply to everyone and agencies should work together to deal with wrongdoing:

The Government are clear — this is categorical — that the law must apply to everyone, and the police must address illegal incidents and give victims support. Local communities deserve to feel safe in their neighbourhoods, and tackling criminal activities, illegal encampments, menacing behaviour and other actions that threaten our society and way of life must be the core business for the police and local agencies.

(...)

Members who spoke in this debate and the earlier one gave lots of examples of the law being broken, and of the perception that the police were unable to prosecute. In any community, there are times when lawbreakers evade the law, but we cannot accept that as the de facto state of play. Authorities such as councils, the police and local Gypsy and Traveller organisations should work together so that wrongdoing is dealt with effectively and punished, and does not tarnish a whole community through the actions of a small minority.²⁸

4.2 Review of enforcement powers

Also in the debate on 9 October 2017, Alok Sharma said that Members' views had been heard "loud and clear". He announced a review of the effectiveness of enforcement against unauthorised encampments, but said this was not a reason for local authorities and the police not to use their existing powers.²⁹

In April 2018, the Government therefore [launched its long-awaited consultation](#) on powers to deal with unauthorised encampments.³⁰ The consultation proposals concerned laws and policies which apply in England, and "at times" (it said) to England and Wales.

The consultation document argued that, although local authorities had extensive planning enforcement powers, there was considerable variation in how such powers were used. It therefore invited views on what additional powers might be needed and on improving the

²⁷ [HC Deb 9 October 2017 c80](#). The Commons Library published a [debate pack](#) for that debate (CDP 2017-0176, 10 October 2017). For other discussions in Parliament of some of the issues raised, see the adjournment debate on intentional unauthorised development ([HC Deb 9 July 2019 c286](#) onwards), the Westminster Hall debate on illegal Gypsy and Traveller encampments in Bedfordshire ([HC Deb 24 October 2017 c49WH](#) onwards), and the debate on unauthorised Traveller encampments ([HC Deb December 2017 c677](#) onwards).

²⁸ [HC Deb 12 October 2017 cc285-7WH](#)

²⁹ [HC Deb 9 October 2017 c82](#)

³⁰ MHCLG, Home Office and Ministry of Justice, [Powers for dealing with unauthorised development and encampments](#), 5 April 2018

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efficiency of enforcement notice appeals.³¹ It also examined the use of injunctions to protect land.³² The consultation closed in June 2018.

The [Government response to the consultation](#) was published in February 2019. In it, the Government set out its intentions for further action on unauthorised development and encampments, including (it said) on planning:

- Practical and financial support for local authorities including new good practice guidance and up to £1.5m of funding to support planning enforcement through the next round of the Planning Delivery Fund, helping them deal with unauthorised development more effectively.
- Supporting Traveller site provision through planning policy and the Affordable Homes Programme.
- Support for the travelling community to improve life chances through seeking to address barriers and continue to improve outcomes in terms of education and healthcare.³³

The consultation response and a [Written Ministerial Statement](#) made on the same day by the then Secretary of State, James Brokenshire, also drew attention to the wider Government support for the provision of Traveller sites. The locally-led planning system was (he said) working:

In terms of wider Government support for the provision of traveller sites, the New Homes Bonus provides an incentive for local authorities to encourage housing growth in their areas, and rewards net increases in effective housing stock, including the provision of authorised traveller pitches. In addition, the £9 billion Affordable Homes will provide a wider range of homes to meet the housing needs of people in different circumstances and different housing markets, including funding for new traveller pitches. We have also seen that the number of caravans on authorised sites has increased from 14,498 in July 2010 to 19,569 in July 2018, showing that the locally-led planning system is working.³⁴

The [All-Party Parliamentary Group for Gypsies, Travellers and Roma has criticised](#) the Government's "disproportionate" focus on enforcement powers and the lack of robust policy measures to provide appropriate and sufficient accommodation for Gypsy and Traveller communities.³⁵

Similarly, the advocacy group [Friends Families and Travellers \(FFT\) argued](#) that the proposals failed to recognise that the main cause of unauthorised encampments was "the abject failure of government to identify land for sites and stopping places". FFT warned of worse outcomes for Gypsy and Traveller families:

The proposals set out call for tougher powers for police and increased support for local authorities in exercising existing

³¹ MHCLG, [Consultation: Powers for dealing with unauthorised development and encampments](#), April 2018: pages 17-8

³² As above: page 12

³³ HM Government, [Government response to the consultation on powers for dealing with unauthorised development and encampments](#), February 2019

³⁴ [HCWS1305, 6 February 2019](#)

³⁵ [‘Politicians condemn Government ‘crack down’ on unauthorised Traveller camps’](#), *The Travellers Times*, 21 February 2019

powers. Overwhelmingly, the focus has been on how this would benefit settled communities but there seems to be a willful ignorance of its impact on travelling families. We know that existing powers already have a devastating impact on families who face some of the most extreme health inequalities of any group in the UK and some of the poorest educational outcomes. We are confident that the new proposed powers will only worsen these outcomes.³⁶

4.3 Use of injunctions

Increasingly, local authorities are seeking injunctions to prevent and prohibit unauthorised encampments. For example:

- In October 2017, [Planning magazine reported](#) that the London Borough of Enfield had obtained an injunction to prevent unauthorised encampments across the borough.³⁷
- Similarly, in February 2018, [Planning reported](#) that Rochdale Borough Council had obtained an injunction against all unauthorised encampments there.³⁸
- Another [article in Planning](#) discussed an injunction granted to Harlow Council and Essex County Council.^{39,40}
- Another article, [this time about Waltham Forest](#), listed sites covered by an injunction there.⁴¹

More recently, [Planning has studied the unmet demand](#) for authorised sites and the impact of injunctions on that provision. *Planning* noted that injunctions had in some instances been refused, with the judge in one case referring to the shortage of sites. In the same article, *Planning* quoted the view of a trustee of the London Gypsies and Travellers advocacy group, who argued that the problem of unauthorised encampments would be solved if sufficient authorised pitches were provided:

Former Conservative councillor Richard Bennett is now a trustee of the London Gypsies and Travellers advocacy group and provides training to elected members on issues facing the travelling community. He sees unauthorised encampments as a direct consequence of a lack of official pitches. "I must have done 140 training sessions," he says. "On each occasion we say we can stop unauthorised encampments at a stroke. What people don't like to hear is 'all you have to do is provide sufficient authorised pitches and the problem will go away'." ⁴²

³⁶ Friends Families and Travellers, "[Get tough on site provision, not on people with no place to go](#)", 7 February 2019

³⁷ "[Council wins blanket ban on unauthorised camps](#)", *Planning*, 12 October 2017

³⁸ "[High Court backs borough-wide Rochdale traveller site injunction](#)", *Planning*, 12 February 2018

³⁹ "[High Court grants injunction to prevent illegal traveller camps](#)", *Planning*, 18 December 2015

⁴⁰ See Harlow Council, [Unauthorised encampments](#), 14 June 2017. The Harlow injunction was made under section 187B of the *Town and Country Planning Act 1990*, which speaks of "any actual or apprehended breach of planning control".

⁴¹ "[Borough secures blanket ban on traveller camps](#)", *Planning*, 26 January 2018

⁴² "[How injunctions banning unauthorised traveller sites are impacting provision](#)", *Planning*, 17 October 2019

5. Recovery of appeals relating to Traveller sites in the Green Belt

In a [Written Ministerial Statement](#) in July 2013, the then planning minister, Brandon Lewis, announced the Secretary of State's intention to "recover" planning appeals relating to Traveller sites on green belt land for a period of six months. This would mean that he would take the final decision on the appeal, instead of a planning inspector.⁴³

In another [Written Ministerial Statement](#) in January 2014, Brandon Lewis stated the Government's position that unmet need for Traveller sites and housing was unlikely to justify development in the Green Belt and confirmed that the Secretary of State would continue to consider recovery of appeals involving Traveller sites in the Green Belt.⁴⁴

The Secretary of State's decision to recover appeals relating to Traveller sites was challenged in the High Court in the case of [Moore and Coates v SSCLG](#) on 21 January 2015.⁴⁵ The issue before the court was the approach taken by the Secretary of State in relation to his use of recovery powers and that the use of these powers had led to delay in decision making.

In the case it was put forward that, although the Secretary of State did not at first seek to recover all such appeals, he was doing so from the latter part of 2013, and did so until September 2014, when he reduced the percentage recovered to 75 per cent. As the great majority of such appeals related to pitches used by particular ethnic communities (Romany Gypsies and Irish Travellers), the effect of the practice led to legal challenge.

The claimants contended that the Secretary of State had acted in breach of the provisions of the *Equality Act 2010* (EA 2010), in a way which had led to unlawful indirect discrimination contrary to section 19 of the Act, and to a breach of the Public Sector Equality Duty imposed on him by section 149 of the Act. The intervener in this case, the Equality and Human Rights Commission (EHRC), also contended that the Secretary of State had acted in breach of Articles 6 (right to a fair trial) and 8 (right to respect for family and private life) of the European Convention of Human Rights (ECHR).

In his judgement, Mr Justice Gilbart found that the challenges based on breaches of the EA 2010 and of Article 6 of the ECHR had succeeded, and in particular that:

The Article 6 challenge has succeeded because substantial delays have occurred in dealing with the appeals of Mrs Moore and Ms Coates, and with many other cases. In the context of delay, Article 6 of the ECHR does no more than encapsulate the long standing principle of the common law that justice should not be unreasonably delayed, as it was and has been here. The Claimants were and are entitled to have their appeals determined within a

Further background information on recovery of appeals is available in the Commons Library briefing [Planning appeals](#) (SN 6790, 22 March 2019)

⁴³ [HC Deb 1 July 2013 c24WS](#)

⁴⁴ [HC Deb 17 Jan 2014 c35WS](#)

⁴⁵ [2015] EWHC 44 (Admin)

reasonable time. The delays they have experienced have also affected those who oppose their appeals.⁴⁶

(...)

What was unlawful was the application of the policies in WMS 1 [written ministerial statement] and WMS 2 in such a way as to recover all traveller's pitch appeals, which, due to the way the practice was approached, amounts to a breach of ss 19 and 149 of the 2010 Act. I have also found that the practice of recovering all appeals, or an arbitrary percentage thereof, was and is unlawful. The effect of the approach of the Secretary of State was also to breach Article 6 so far as Mrs Moore and Ms Coates are concerned.⁴⁷

The judgement made clear that it was the fact that the Secretary of State had decided to recover all appeals in this area and then an arbitrary percentage of them that was unlawful. The judgement made clear that it would *not* be unlawful to continue to recover appeals of "individual cases on their merits":

I have no doubt that the Secretary of State and his Ministers will not seek to carry on a practice which this Court has ruled unlawful. But equally, the Court does not wish to prevent the Secretary of State and his Ministers from being able to exercise their discretion to recover jurisdiction over such appeals as require it. It follows from the terms of this judgment that in the absence of the exercise required by ss 19 and 149 of the 2010 Act, a policy of recovery of all or some other arbitrary percentage is unlawful. But recovery of individual cases on their merits is not unlawful, and as indicated earlier, a properly considered decision within the parameters of the 2010 Act to recover a number of appeals would also not be unlawful.⁴⁸

Mr Justice Gilbert also made clear that it would be unlawful for the Secretary of State to continue to recover appeals which were recovered not because of their merits but because they were cases of Travellers' pitches. He suggested that a review of cases should be conducted by the Secretary of State to sort out those cases which could be recovered on their merits and which should not actually have been recovered.

In response to the judgement, Brandon Lewis was quoted as saying:

This government makes no apologies for seeking to safeguard green belt protection and trying to bring a sense of fair play to the planning system. The government's planning policy is clear that both temporary and permanent traveller sites are inappropriate development in the green belt. Today's judgment does not question that principle.⁴⁹

An editorial piece in the specialist publication, *Planning*, speculated on the implications of this judgement for recovered appeals in this area:

Some commentators have immediately suggested that the ruling will have implications for all green belt traveller site appeals recovered by the secretary of state since July 2013. Indeed, the

⁴⁶ [Moore and Coates v SSCLG](#) [2015] EWHC 44 (Admin) on 21 January 2015: paragraph 173

⁴⁷ As above: paragraph 180

⁴⁸ As above: paragraph 181

⁴⁹ "[Judge raps Pickles for breaching European Convention on Human Rights over traveller appeals](#)" *Planning*, 21 January 2015

judge himself acknowledged that his ruling would "call into question the legality of many other recoveries".

But it is not immediately clear how the government will respond. Experts say that DCLG's decision not to seek leave to appeal the verdict to the Court of Appeal means that the judgement is now established legal authority that can be cited in other cases.

However, the DCLG's spokeswoman would say only that the two appeals covered by the High Court ruling would be reconsidered, but declined to comment on how other cases would be treated.⁵⁰

Another article in *Planning* set out opinions from a number of planning professionals on the implications of this judgement.⁵¹

In response to a [written question](#) in the House of Lords in March 2015, the Government confirmed its intention to "de-recover" appeals for Traveller developments in the Green Belt on which a decision had not yet been reached.⁵²

In a 31 August 2015 [letter to Chief Planning Officers in England](#), the Government set out its intention to have the Planning Inspectorate monitor appeals involving unauthorised development in the Green Belt. It also said that the Secretary of State would recover a "proportion of relevant appeals" in the Green Belt.⁵³

In a [Written Ministerial Statement](#) in December 2015, the Government set out that it was "particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt." It reiterated that the Planning Inspectorate would monitor all appeal decisions involving unauthorised development in the Green Belt and that in addition it would "consider the recovery of a proportion of relevant appeals in the Green Belt for the Secretary of State's decision". This policy would apply to all new planning applications and appeals received since 31 August 2015 and the situation would be reviewed after six months to see whether it was delivering the objective of protecting land from intentional unauthorised development.⁵⁴ There have been no more recent announcements on this.

Some formerly recovered appeals for the Secretary of State's determination were "de-recovered" following a High Court judgement.

⁵⁰ "[Ministers must act to rectify traveller discrimination, by Richard Garlick](#)", *Planning*, 23 January 2015

⁵¹ "['Why Pickles' 'unlawful' intervention could prompt reviews of traveller appeals](#)" *Planning*, 30 January 2015

⁵² [HL5936, 23 March 2015](#)

⁵³ Letter from DCLG to Chief Planning Officers in England, [Green Belt protection and intentional unauthorised development](#), 31 August 2015

⁵⁴ [HCWS423, 17 December 2015](#)

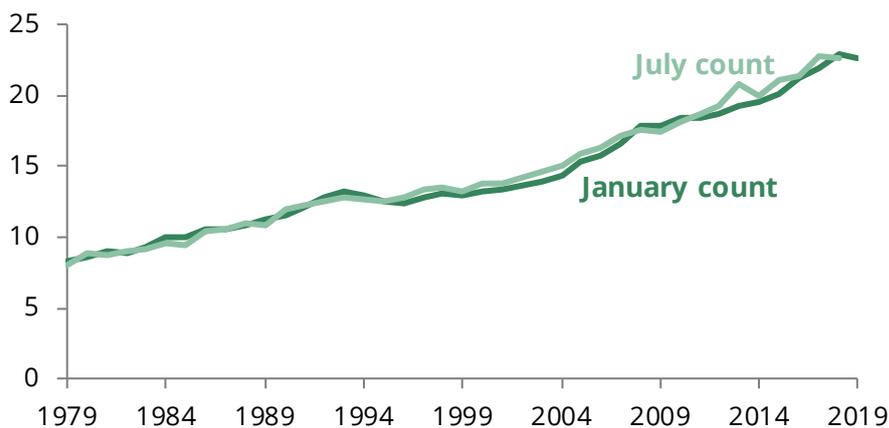
6. Number of caravans and sites

6.1 Number of Traveller caravans

The Ministry of Housing, Communities and Local Government (MHCLG) publishes official statistics on the number of Traveller caravans on both authorised and unauthorised sites in England.⁵⁵ Local authorities carry out the count of caravans on Traveller sites twice a year, in January and July, providing a snapshot of the number of caravans on the day of the count. The count is carried out to provide local data on the number and the seasonal movement of caravans; it does not cover the number of occupants residing in the caravans.

At the time of the January 2019 count, the total number of Traveller caravans in England was 22,662. This is a 27% increase compared with January 2009, but a 1% decrease on a year previously. The chart below illustrates the increase in the number of Traveller caravans from January 1979 to January 2019.

The number of Traveller caravans in England has gone up *Thousands*



Source: MHCLG, [Traveller caravan count: January 2019](#), Live Table 4, 6 June 2019

6.2 Authorised and unauthorised sites

In January 2019, 29% of Traveller caravans were on public sites;⁵⁶ 59% were on privately funded sites; 9% were in unauthorised developments on land owned by Travellers⁵⁷; and 3% were in unauthorised encampments on land not owned by Travellers.⁵⁸ 270 sites were recorded as being operated by local authority and private registered providers of social housing.⁵⁹

⁵⁵ The count includes caravans lived in by traditional and ethnic Gypsies and Travellers as well as members of the non-traditional New Traveller groups.

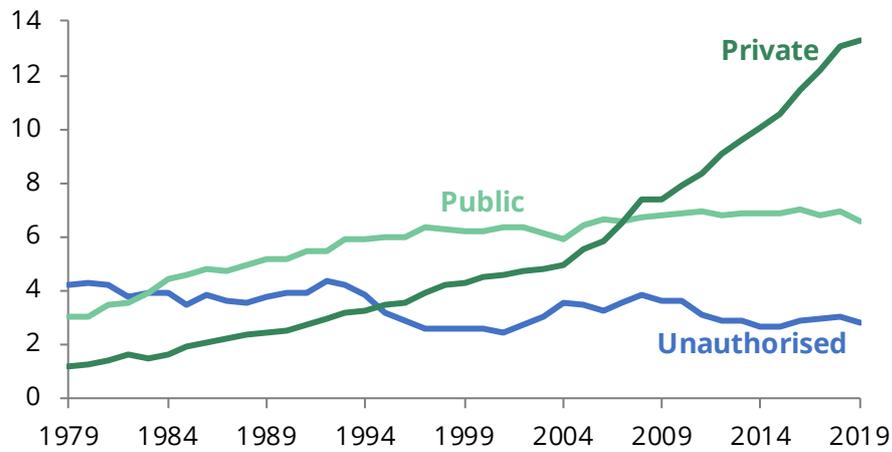
⁵⁶ Operated by local authorities and private registered providers of social housing, including housing associations, trusts and cooperatives.

⁵⁷ Sites on land owned by Travellers for which planning permission had not been granted.

⁵⁸ MHCLG, [Count of Traveller caravans, January 2019 England](#), 6 June 2019, p.3

⁵⁹ MHCLG, [Count of Traveller caravans, January 2019 England](#), 6 June 2019, Live table 2

Most traveller caravans in England are on private sites
Thousands



Source: MHCLG, [Traveller caravan count: January 2019](#), Live Table 4, 6 June 2019

Caravans on authorised private sites have formed a growing proportion of the total number of caravans. Private sites became more common than public sites in 2008 (when 41% of caravans were on private sites) and have since risen to account for 59% of all caravans in January 2019. The proportion of caravans on all authorised sites is 88%, compared with 80% ten years previously.

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