



Department for
Communities and
Local Government

Changes to Temporary Stop Notices

Consultation (easy read)

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Changes to Temporary Stop Notices consultation

Summary of consultation

What we want your views on?	<p>We want to hear your views on a change to the law. This would change a national approach to a local approach on taking action in relation to traveller sites that don't have planning permission.</p> <p>This change would allow local councils to decide where to use Temporary Stop Notices in relation to caravans that are lived in. The law currently limits where councils can do this.</p> <div data-bbox="448 857 1252 1061"><p>Temporary Stop Notice</p><p>These are used where the local council believe that the planning rules have been broken. These stop anything that breaks planning rules straight away.</p></div>
Why we want your views?	<p>Temporary Stop Notices can apply for up to 28 days to stop anything that the local council thinks breaks planning rules.</p> <p>This allows the council to think about whether they need to take more enforcement action.</p> <div data-bbox="448 1368 1252 1536"><p>Enforcement action</p><p>This is where the council asks for development that breaks planning rules to be changed or removed.</p></div> <p>Most travellers live on sites which have planning permission, a few live on sites do not have planning permission. Changing a national to Temporary Stop Notices to a local approach would allow councils to take action on more unauthorised sites.</p> <div data-bbox="448 1809 1252 2040"><p>Unauthorised sites</p><p>Unauthorised sites are traveller sites which do not have planning permission (and the land may or may not be owned by travellers). These include unauthorised development (a site owned by travellers that does not have planning permission) and</p></div>

	<p>unauthorised encampments (a site not owned by travellers that also does not have planning permission).</p> <p>In some cases, councils will use a Temporary Stop Notice where there is serious risk to those living there or others in the community, for example if the site is next to a main road.</p> <p>Allowing people to develop on sites where they do not have permission is unfair on those who do follow the rules. We want to see fairness in the planning system.</p> <p>Councils will have to look into where they would move travellers to if they were to use a Temporary Stop Notice. By giving councils greater freedom to decide whether to use Temporary Stop Notices this might encourage councils to find suitable sites for travellers in their area.</p> <p>Councils will need to think about what happens to those people affected by Temporary Stop Notices and their human rights. These rights are set out in the Human Rights Act 1998 and the Equality Act 2010.</p>
What area does the change in law cover?	England only.
What are the effects of the proposed change?	<p>The effects are set out in this document.</p> <p>Question 6, asks people for any information to do with:</p> <ul style="list-style-type: none"> • the use of Temporary Stop Notices, where caravans are on unauthorised development • the effects on those people who live in caravans • the effects on peoples' rights and their way of life • any other impacts.
Who we would like to hear from?	We would like to hear from anyone who might be affected by this change in the use of Temporary Stop Notices. This might be local councils and those who live in caravans, including travellers.
Who is responsible for this proposed change?	The Department for Communities and Local Government which is a central government department.
When must you reply?	By 13 February 2013.
Who can you contact for more help?	<p>Owen Neal 0303 444 4412 TSNConsultation@communities.gsi.gov.uk</p>

<p>How can you contribute your views?</p>	<p>In writing to:</p> <p>Owen Neal Planning - Economy and Society Department for Communities and Local Government 1 Floor Zone H6/G6 Eland House Bressenden Place London SW1E 5DU</p> <p>Or by email to: TSNconsultation@communities.gsi.gov.uk</p> <p>This consultation is designed to best get the views of travellers, to ensure it can be read, that we get out and listen to travellers, and consider of problems faced by travellers. In order to do this we have:</p> <ul style="list-style-type: none"> • written this easy to read version of the consultation document • talked and will keep talking to travellers and traveller organisations; • agreed to hold three meeting events for travellers and traveller organisations. <p>Please contact Owen Neal on 0303 444 4412 (TSNConsultation@communities.gsi.gov.uk) for any information.</p>
<p>Other ways to contribute your views:</p>	<p>You can contribute your views in writing, by telephone or through meetings. Please contact Owen Neal on 0303 444 4412 or TSNconsultation@communities.gsi.gov.uk to arrange.</p>
<p>After we have heard your views:</p>	<p>We will write a summary of the responses and set out what we will do next. This will be published on our website.</p>

Background

1. Policy context

- 1.1 In order for people to have trust in the planning system everyone should play by the rules. Effective enforcement action against those who do not follow the rules is important. It is up to local councils to decide whether enforcement action is needed. Government has asked councils to think about writing and making available a local enforcement plan to explain how they will deal with cases where planning control has been broken.
- 1.2 The government wants to make sure that travellers are treated fairly and equally and in a way which respects their way of life, while at the same time having respect for other people who live in the community. The government wants councils to talk to local people to work out traveller needs in their area. The government also wants the traveller community to get along with the settled community and be able to use local services - welfare; healthcare and schools - as well as being able to get a job.
- 1.3 Local councils should work out how many sites they need for the traveller community and have evidence to support this. Local councils should work out how many sites they need over five years and where possible up to fifteen years. The government is clear that traveller sites should not be set up in the **Green Belt**.

Green Belt

The Green Belt prevents towns from joining by limiting development.

- 1.4 Local councils should also think carefully about the impacts of traveller sites. From 27 March 2013, if a council has not worked out the number of traveller sites needed over the next five years, then this will be an important issue in deciding any planning permission for a temporary traveller site.
- 1.5 The government also wants councils to reduce the number of unauthorised sites and make enforcement action better. The government said back in April 2011 that it was thinking about changing the law so councils could better use Temporary Stop Notices¹.
- 1.6 The government also wants better design of traveller sites. Sites should be well planned to make them work better and be more open. Unauthorised development may not be good design.

¹ DCLG, *Planning policy for traveller sites: Consultation* (April 2011, available online at <https://www.gov.uk/government/consultations/planning-for-traveller-sites>)

2. Procedure

- 2.1 Local councils have been able to use Temporary Stop Notices since 2004. These came in after consultation by the government in 2002. This found that although most people thought enforcement action worked, some thought it could be made quicker. In 2002 the quickest that enforcement action could work was 28 days. Temporary Stop Notices have immediate effect.
- 2.2 The law sets out how and where a Temporary Stop Notice should be used. They last for 28 days. In this time, the local council can decide whether stronger or longer lasting enforcement action is needed. A Temporary Stop Notice means that anything that breaks planning rules must stop straight away. If a person does not follow the Temporary Stop Notice then they could receive heavy fines. A Temporary Stop Notice can't be appealed to government, though it can be **Judicially Reviewed**.

Judicial Review

This is where the High Court may review a decision by a local council or other courts (such as Magistrates' Courts).

- 2.3 Temporary Stop Notices are used often and seem to be effective.² Since 2005, 2,200 Temporary Stop Notices have been used. The year for the highest number of Temporary Stop Notices used was 2006/7, where 530 were used. Around 250-300 Temporary Stop Notices used each year.
- 2.4 At the moment, the law limits the use of Temporary Stop Notices where caravans are used as homes. The law sets out that there are some cases where a Temporary Stop Notice can be used for caravans used as homes, for example where there is a risk of serious harm to people or the area. This could be a dangerous site (e.g. toxic waste) or very sensitive (Site of Special Scientific Interest).
- 2.5 In 2007 the then government asked whether Temporary Stop Notice regulations should be changed so that they could be used where caravans were being used as homes and where there was another authorised site. Local councils liked this idea as it would help them deal with unauthorised development. But this change did not happen as there were too few sites at the time with planning permission. But the government did say that it might look again at making changes to use of Temporary Stop Notices when the number of authorised sites went up.
- 2.6 The government has also made other changes so that local councils can better deal with unauthorised sites and other types of development. We made changes to allow councils to deal better with planning applications where work has already been done or was hidden from the council. We also allowed councils to give out heavier fines

² DCLG, *Amendment to the Temporary Stop Notice Regulations, Consultation* (March 2007, available online at <http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/archived/publications/planningandbuilding/amendmenttemporaryconsultation>)

where planning control has been broken. There is also new guidance which explains what powers councils have to deal with unauthorised sites.³

3. Rationale

- 3.1 It is important that we balance the rights of individuals with the effects on the community. The government believes that councils are in a better position to work out when to use Temporary Stop Notices and that the current law stops councils using them in situations where they would benefit the community. The government also believes that the law should, as far as possible, apply to everyone.
- 3.2 Local councils need to protect the rights of both travellers and others, including dealing with harmful unauthorised development. Unauthorised sites can have a bad impact on a local area and cause bad feeling between the traveller community and others.
- 3.3 The government aims to bring down the number of unauthorised sites, make enforcement work better, and ensure traveller sites are well planned and linked with the local community. Giving councils more freedom to use Temporary Stop Notices may help these aims. Also, by taking enforcement action early on councils will be able to stop even more unauthorised development from happening which will save time and money in the long term.
- 3.4 This change will also encourage councils to find enough authorised sites for travellers in their area. From 27 March 2013, if a council has not worked out the number of traveller sites needed over the next five years, then this will be an important issue in deciding any planning permission for a temporary traveller site. So if a council has authorised sites this would be taken into account in deciding to take any enforcement action.
- 3.5 In 2007 when the government asked peoples' views on this issue, it said that it would look at changes to the use of Temporary Stop Notices again at a time when there were more authorised sites. In January 2007 there were 16,610 Gypsy and Traveller caravans in England, 13,070 (78.7%) of which were on authorised sites. Since then, the number of authorised sites has gone up to hold 15,900 caravans in January 2012 (84.8% of a total 18,750 caravans in England).
- 3.6 For a long time now the number of authorised sites for travellers has been going up. The percentage of Gypsy and Traveller caravans on authorised sites has increased from 70% in January 1994 to 84.8% in January 2012.
- 3.7 The last five Gypsy and Traveller caravan counts show that the number of caravans in unauthorised developments on travellers' own land have gone down by 21%. In actual numbers, this is a fall from 2,400 in January 2010 to 1,890 in January 2012.⁴

³ DCLG, *Dealing with Illegal and Unauthorised Encampments: A Summary of Available Powers* (August 2012, available online at <https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments-a-summary-of-available-powers>)

⁴ DCLG, *Count of Gypsy and Traveller Caravans- January 2012* (available online at <https://www.gov.uk/government/publications/gypsy-and-traveller-caravan-count-january-2012>)

By giving councils more powers to use Temporary Stop Notices we can ensure that these trends continue and go further.

4. Proposal

- 4.1 The government therefore wants your views on allowing local councils to decide where to use Temporary Stop Notices in relation to caravans that are lived in. The law currently limits where councils can do this.
- 4.2 Local councils will still have to think about the effects on the rights of people from taking this action, both traveller and local residents, and whether the action is needed. Local councils' actions are covered by the Human Rights Act 1998 and the Equalities Act 2010.

- Q1. Will this change help local councils to use Temporary Stop Notices where planning rules have been broken in relation to people using caravans as their home?**
- Q2. Will the effects of this proposal on those living in caravans be fair?**
- Q3. Would it be helpful for local councils if government gave advice (guidance) on whether and how to use Temporary Stop Notices against unauthorised development?**
- Q4. Are there new ways or other changes that would help make Temporary Stop Notices better at dealing with this issue?**

5. Impacts

5.1 This change would give local councils greater freedom to decide whether to use Temporary Stop Notices where caravans are being used as main homes, and also support the government's aims in relation to travellers by:

- improving local councils' enforcement powers, so that people have trust in how the planning system works
- making sure that councils can use Temporary Stop Notices for caravans which are used as main homes as well as for other types of unauthorised development
- protecting against bad effects of unauthorised sites including on the settled community
- enabling quicker enforcement action to happen at an early stage so that costs and time are not taken up later on by taking action against more unauthorised development
- helping to bring down the number of unauthorised sites and ensuring traveller sites are well designed and integrated within communities.

Risks

5.2 The list below sets out the risks of this proposal and what we could do to either stop or limit them:

Local councils may not want to use Temporary Stop Notices because they are worried about Human Rights or Equalities issues. Guidance could help local councils in deciding whether to use a Temporary Stop Notice where there are also concerns about Human Rights and Equalities.

Talking about the issues in cases of unauthorised caravan development is better than having to take formal enforcement action. Local councils are in the best position to decide what approach to take. This change would not stop local councils from talking about these issues with travellers, but help them to take enforcement action where needed.

Local councils do not like to use Temporary Stop Notices as it can lead to caravans moving to other unauthorised sites in the same area or sometimes other local council areas. These sites can sometimes be even less suitable. The number of authorised sites in a local area is important as this will help councils to decide whether to use a Temporary Stop Notice. The government is clear that local councils should plan so that their traveller community has enough suitable sites. From 27 March 2013, if a council has not worked out the number of traveller sites needed over the next five years, then this will be an important issue in deciding any planning application for a temporary traveller site.

6. Other considerations

- 6.1 Temporary Stop Notices do not stop the use of a building as a house. This proposal would enable greater freedom for a Temporary Stop Notice to be used where a caravan is used as a home. The approach is different for caravans because of the impacts of this type of development. The bad effects caused by caravans being moved onto land and used as main homes are likely to be worse than if a building already there changed what it was used for; a building is already part of the landscape. Local councils can also take enforcement action whilst the building work is going on, which would not be possible with caravans.
- 6.2 All local councils are covered by the Equality Duty under Section 149 of the Equalities Act 2010. This means that they must think about the needs of people who share '**protected characteristics**' and to have 'due regard' to the need to stop unlawful discrimination, promote equality of opportunity, and promote good relations between people from different groups. Romany Gypsies and Irish Travellers are racial groups, which are protected characteristics under equalities law. Also, local councils must have appropriate regard to the Human Rights Act 1998 in carrying out their role.

Protected characteristics

These set out where discrimination on these issues is against the law: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 6.3 Local councils would need to balance carefully the good and bad effects of using Temporary Stop Notices against caravans used as main homes which broke planning rules. Councils would need to think about how the unauthorised use of caravans as main homes would affect the local area; and the effect of moving the caravans to other sites by taking enforcement action. They would have to work out whether or not taking action would raise issues over Equalities and Human Rights.

Q5. Do you agree with the possible effects of this change as set out above?

Q6. Do you have any useful information about the use of Temporary Stop Notices on unauthorised caravan sites, effects on those who live in caravans?

Q7. Are there any other comments that you would like to tell us about?

7. Summary of consultation questions

- Q1. Will this change help local councils' to use Temporary Stop Notices where planning rules have been broken in relation to people using caravans as their main home?**
- Q2. Will the effects of this proposal on those living in caravans be fair?**
- Q3. Would it be helpful for local councils if government wrote some guidance on whether and how to use Temporary Stop Notices against unauthorised development?**
- Q4. Are there new ways or other changes that would help make Temporary Stop Notices better at dealing with this issue?**
- Q5. Do you agree with the possible effects of this change as set out above?**
- Q6. Do you have any useful information about the use of Temporary Stop Notices on unauthorised caravan sites, effects on those who live in caravans?**
- Q7. Are there any other comments that you would like to tell us about?**

8. Glossary

'Caravan' in planning terms is defined in Section 29(1) of the *Caravan Sites and Control of Development Act 1960* as modified by Section 13(1) of the *Caravan Sites Act 1968* and Statutory Instrument 2006/2374.

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

'Travelling showpeople' in planning policy means: Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently, but excludes Gypsies and Travellers as defined above.

'Travellers' means 'Gypsies and Travellers' and 'travelling showpeople'.

'Unauthorised development' is any development that does not comply with planning control. In relation to caravans, where caravans are sited on land in breach of planning control they are unauthorised development. This may occur, for example, where the use of the land is changed to residential if the caravans are used as main residences.

'Unauthorised encampments' are where caravans are sited on land which is not owned by travellers. There are powers outside of planning to deal with unauthorised encampments (see <https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments-a-summary-of-available-powers>).