



*Guide to Effective Use of  
Enforcement Powers – Part 2:  
Unauthorised Development  
of Caravan Sites*

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Unauthorised Development  
of Caravan Sites*

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# Introduction

1. Parts of the country experience significant problems with the unauthorised development of caravan sites. These are frequently associated with the purchase of land and establishment of sites by Gypsies and Travellers, as defined by ODPM Circular 1/2006.
2. There are distinct problems enforcing against unauthorised stationing of caravans as opposed to enforcing against unauthorised bricks and mortar housing development:
  - The impact of moving residential caravans onto land will almost always be significantly greater than converting an existing building to residential use;
  - With buildings, there is an opportunity for enforcement action to be taken during construction and before it being occupied as a residence. There may be little, or no such opportunity with the siting of a caravan;
  - A caravan can be moved without ceasing to be a home provided that there is an alternative location for it to be sited; the same is not true of a building.
3. Gypsies and Travellers have the same rights and responsibilities under the planning system as everyone else. Similarly, the Housing Act 2004 specified that their housing needs have to be assessed in the same way as the housing needs of the settled community. ODPM Circular 1/2006 sets out local planning authorities' duties in relation to site provision for Gypsies and Travellers. Allocating land in development plan documents where there is an assessed need for Gypsy and Traveller site provision is vital for creating and sustaining strong communities in areas where Gypsies and Travellers live.
4. As with all unauthorised development, local planning authorities have a broad discretion to take appropriate enforcement action against caravan sites established without planning permission, where they consider it expedient to do so. In considering formal action, local planning authorities should be guided by the following principles:
  - the decisive issue should be whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings, meriting protection in the public interest;
  - enforcement action should always be proportionate to the breach of planning control it is dealing with;
  - the necessity to ensure the decision to take action is well founded.
5. The unauthorised development of residential caravan sites can be rapid, planned and systematic. In a short time, caravans can be moved onto land, hard-standing and roadways put in place, and services such as water and power connected. As the development proceeds, it can cause increasingly serious damage to the land. If breaches of planning control are not dealt with effectively at the earliest stage, it can be progressively more difficult to remedy the breach later.

6. This guidance document is intended to inform Planning Enforcement Officers, elected members of local planning authorities, and interested members of the public how the planning enforcement system can be used to prevent the stationing of caravans on land in contravention of planning control.
7. It does not seek to set out the detailed steps required in taking enforcement action, but instead to provide an overview of how the system can work, and tips on good practice. Detailed information on how planning enforcement powers should be used is contained in separate legislation and guidance. Information on where this can be found is at the end of this guidance.
8. A number of authorities have built up considerable expertise in dealing with the unauthorised development of Gypsy and Traveller caravan sites. Those good practice methods that we are aware of have been included in this guidance, but sharing details of individual cases between authorities is a very useful way of ensuring enforcement powers are uniformly effective.
9. The Improvement and Development Agency (I&DeA) have developed Communities of Practice to help facilitate the online sharing of knowledge for local authorities. More information can be found at [www.communities.idea.gov.uk](http://www.communities.idea.gov.uk)
10. **This document does not cover possible uses of powers to deal with the unauthorised encampment of caravans, where the occupants do not own the land – details of these powers can be found in Part 1 of this series.**
11. The Government has also established a Task Group drawing together central and local Government, the police and other agencies to address the wide variations in the use of enforcement powers and to champion best practice. The Group acts as expert advisers to Communities and Local Government in order to consider potential new measures to further strengthen enforcement, alongside the provision of more authorised sites. Their final report to Ministers is expected in late 2007, and will be made available on the Communities and Local Government website at [www.communities.gov.uk/gypsysites](http://www.communities.gov.uk/gypsysites).

# Unauthorised Development – The Powers in Summary

12. Sections referred to below refer to powers contained in the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, and Planning and Compulsory Purchase Act 2004 where relevant.

## Section 172 Enforcement Notice

- sets out what steps must be taken to rectify the breach of planning control;
- can be appealed against, which effectively suspends the notice while the appeal is heard;
- failure to comply can result in a fine on summary conviction of up to £20,000.

## Section 178 "Default" Action

- enables the local planning authority to enter land and take any steps required to be taken by an enforcement notice;
- can only be used where the required steps were not taken within the period for compliance with the enforcement notice and there are no appeals outstanding against the notice;
- can recover costs of taking action from the owner of the land.

## Section 183 Stop Notice

- cannot be served before an enforcement notice has been issued;
- halts unauthorised planning activity on the land;
- can be used to evict unauthorised caravans from land, usually without a risk of compensation;
- no right of appeal, and remains in force if there is an appeal against the associated enforcement notice;
- contravention can result in a fine on summary conviction of up to £20,000.

## Section 171E-H Temporary Stop Notice

- can be served immediately a breach of planning control is detected;
- remains in force for up to 28 days;
- no right of appeal;
- contravention can result in a fine on summary conviction of up to £20,000.

## Section 187B Planning Injunction

- must be obtained from a Court;
- can be used before a breach has occurred, to prevent caravans moving on to land;
- can be either an interim, or full injunction. An interim injunction is easier to obtain;
- must be taken out against a person, and not land, but can be taken out against 'persons unknown';
- failure to comply can result in imprisonment.

## Other Relevant Powers

- breach of condition notice;
- planning contravention notice;
- powers of entry on to land;
- power to require clean up of land under s215 of the Town and Country Planning Act 1990.



# Unauthorised Development – The Powers in Detail

## Section 172 Enforcement Notice

13. An enforcement notice requires steps to be taken to remedy a breach of planning control within a given compliance period. An enforcement notice cannot be used before a breach has occurred. Before an enforcement notice is issued the planning authority must consider whether it is appropriate to serve the notice.
14. There is a right of appeal to the Secretary of State on planning or legal grounds against an enforcement notice. There must always be a period of 28 days between the service of an enforcement notice and the date it comes into effect, to give a chance for an appeal. This means enforcement notices do not impose an immediate halt to development.
15. Appeals have the effect of suspending an enforcement notice for the duration of the appeal process. If the appeal fails, the compliance period for the enforcement notice will start from the date of the appeal decision.
16. Providing an authority has properly considered any relevant provisions of the development plan and any other considerations clearly material for planning purposes, the decision to issue an enforcement notice should be defensible against accusations that it was ill-founded.
17. It is an offence to ignore the provisions of an enforcement notice once it has come into effect. A person guilty of this offence is liable, on summary conviction, to a fine not exceeding £20,000; and, on conviction on indictment, to an unlimited fine.
18. Once an enforcement notice has been issued, it remains in force until the breach of planning control has been remedied. There is no time limit, and it remains in force on the land or premises regardless of whether the original person who was issued with the notice has sold the land or premises.
19. Section 173A of the Town and Country Planning Act 1990 enables local planning authorities to withdraw a notice or to waive or relax any of its requirements, and to extend any period specified for compliance with it. When it uses this power, a local planning authority is required to notify immediately anyone served with a copy of the notice.

## Compliance periods

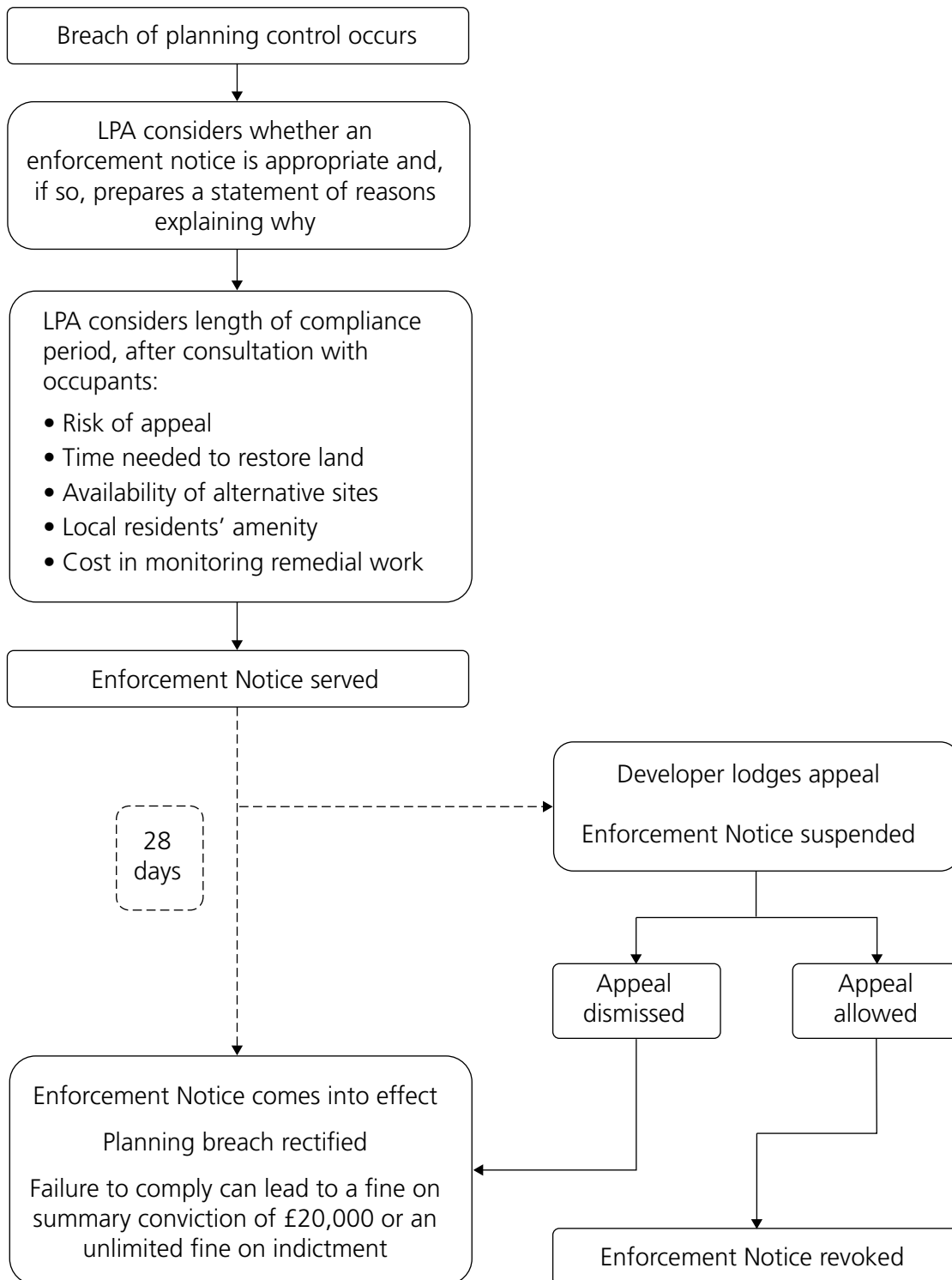
20. In considering the length of a compliance period after consultation with the caravan occupants, local planning authorities should take into account:
  - the risk of a successful appeal if a compliance period is not sufficiently long to allow the person in breach of planning control to take the steps necessary to remedy the breach;
  - the physical movement of caravans can be a swift process, with an earlier date set for compliance than for the removal of any hardstanding or associated works;

- where there is no available alternative site for stationing the caravan, a longer time period may be required to enable a legal site to be found, preventing the need for further enforcement action in an alternative location;
- the interests of local residents whose amenity is seriously affected by the breach of control;
- the cost in staff time in monitoring remedial work, which will be greater the longer the compliance period granted.

## Statement of reasons

21. An enforcement notice must also specify the reasons why the local planning authority consider it appropriate to issue an enforcement notice. A persuasive statement of reasons can be useful:
  - to persuade an individual against whom enforcement action has been taken that an appeal is unlikely to be successful;
  - in the event of an appeal, and will be used by the Planning Inspector or the Secretary of State to assess the merits of taking enforcement action on planning grounds.

## Section 172 Enforcement Notice



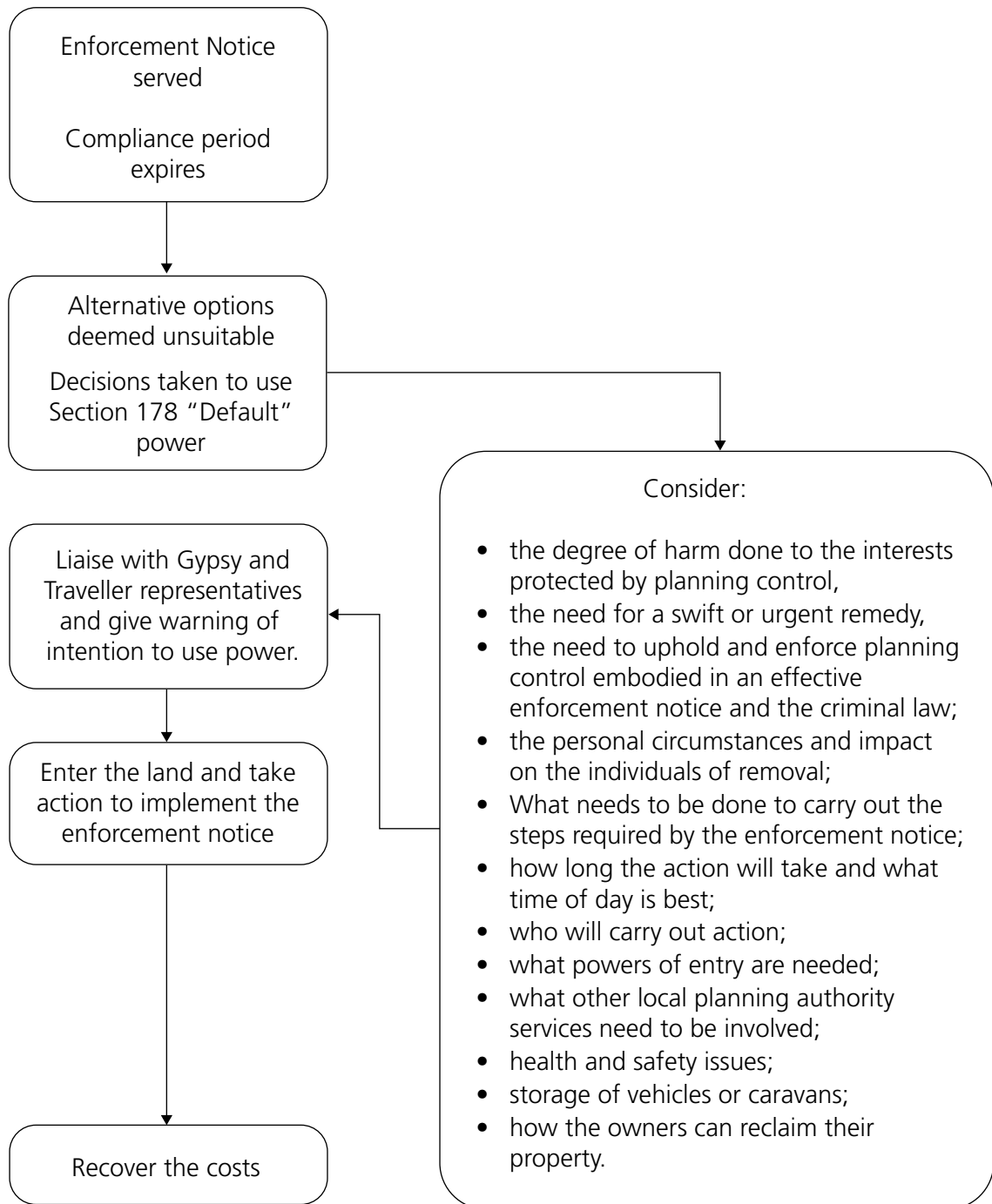
## Section 178 “Default” Action by local planning authority

22. This power enables a local planning authority to enter land and remove unauthorised development undertaken in breach of an enforcement notice. Section 178 provides that where any steps required by an enforcement notice are not taken within the period of compliance, the local planning authority may:
- enter the land and take the steps, possibly involving removing caravans from a site;
  - recover from the person who is then the owner of the land any expenses reasonably incurred by the authority in taking those steps. These costs can be charged against the value of the land.
23. “Default” action of this type is potentially a swift means of returning land to its original state where the occupier is refusing to comply. This type of action is frequently subject to Judicial Review challenge, on the grounds of being ‘Wednesbury unreasonable’. In these circumstances, local planning authorities will need to be able to show they have acted reasonably by considering all the relevant circumstances before deciding to take action. The High Court identified<sup>1</sup> various factors that should be weighed and considered when contemplating using s178. These were:
- the degree of harm done to the interests protected by planning control;
  - the need for a swift or urgent remedy;
  - the need to uphold and enforce planning control embodied in an effective enforcement notice and the criminal law; and
  - the personal circumstances and impact on the individuals of removal.
24. “Default” action must be planned, organised and implemented with care. There may be threats of violence or a breach of the peace by the site occupants. Where this is expected, police co-operation should always be sought, and it may be advisable to seek a planning injunction as a precaution and to encourage police presence.
25. In taking “default” action, the local planning authority should also consider:
- exactly what needs to be done to carry out the steps required by the enforcement notice;
  - how long the action will take and what time of day is best;
  - whether local authority staff or private contractors are best equipped to carry out the action;
  - whether any special powers of entry are needed;
  - what other local planning authority services need to be involved, e.g. the Social Services Department;

<sup>1</sup> R(oao O’Brien and others) v Basildon DC [2006] EWHC 1346

- health and safety issues;
  - if caravans, cars or working equipment are to be removed from the land, where they can be stored safely and securely until the owner can retrieve them, and the details of how the owners can reclaim their property at a later date.
26. It is an offence to wilfully obstruct any person carrying out the local planning authority's power to take "default" enforcement action. Local planning authorities can recover from the then owner of the land any expenses they reasonably incur in taking "default" action. This can be a charge on the land itself, and is binding on successive owners of the land covered by the enforcement notice.
27. "Default" action can be extremely traumatic for vulnerable residents on a site; for example older people, those who are infirm or children. Careful thought needs to be taken to ensure that action taken to restore a site to its original state is proportionate, and considered. Other forms of enforcement action, such as a Section 187B Planning Injunction may offer local authorities an alternative route.

## Section 178 “Default” Action by local planning authority



## Section 183 Stop Notice

28. A local planning authority may serve a stop notice at the time it serves an enforcement notice or at any time before the enforcement notice comes into effect. A stop notice prohibits the carrying out of specified activities which contravene its associated enforcement notice. When drafting an enforcement notice, it is therefore important to consider whether a stop notice may be required, and what activities may need to be prohibited by that stop notice.
29. A stop notice can only compel an activity to cease; it cannot require that positive steps are taken. Stop notices are effective 3 days after they are served in normal circumstances, although they can be effective immediately if the authority consider there are special reasons for specifying an earlier date, and a statement of these reasons is served with the stop notice.
30. The stop notice is effective until the period for compliance with the associated enforcement notice expires. A person who contravenes a stop notice after a site notice has been displayed or the stop notice has been served on him is guilty of an offence. The penalty is a fine not exceeding £20,000 on summary conviction and an unlimited fine on conviction on indictment.
31. Early use of a stop notice can prevent the unauthorised development of a caravan site becoming entrenched. There is no right of appeal to the Secretary of State against a stop notice. However if the associated enforcement notice is quashed on appeal, the stop notice no longer has effect.
32. The stop notice may be issued while any appeal against an enforcement notice is heard and before it is decided. The stop notice continues to be in effect even if there is an appeal in process against the associated enforcement notice. A stop notice can also prohibit the use of land as a caravan site, even if the caravan is the occupier's only or main residence.
33. The stop notice is an underused power in cases of unauthorised development of caravan sites. Stop notices can be used to prohibit stationing of caravans, and therefore to force an immediate eviction of caravans. Many authorities have concerns about the possible compensation and human rights implications of using a stop notice in this way. While it is right that these are considerations in deciding on whether to use a stop notice, there will be many cases where they will not prevent use.

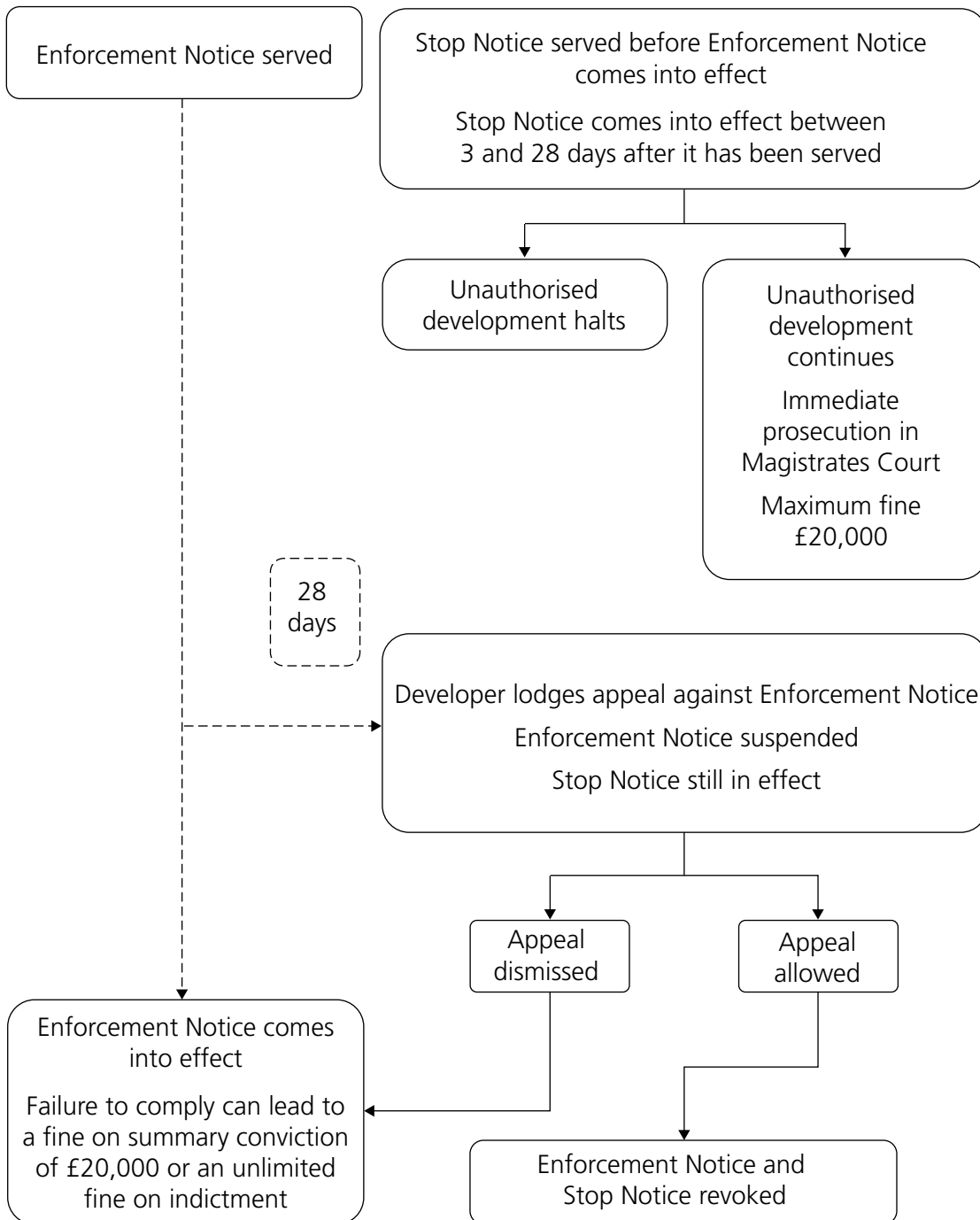
## Compensation liability when using a Stop Notice

34. It is unlikely that compensation will be payable in most instances of use of a stop notice against the unlawful siting of caravans on land. No compensation is payable in respect of the prohibition in a stop notice of any activity which, at any time when the notice is in force, constitutes or contributes to a breach of planning control.

35. Compensation may be payable in respect of a prohibition contained in a stop notice only if:
- the enforcement notice is quashed on grounds other than the granting of planning permission for the development;
  - the enforcement notice is varied so that any prohibited activity in the stop notice ceases to be an activity specified in the enforcement notice;
  - the enforcement notice is withdrawn by the LPA for any reason other than the granting of planning permission for the development to which the notice relates;
  - the stop notice is withdrawn.
36. The failure of a potential recipient to comply with a planning contravention notice or to a formal written request for information before an order was made or notice served, could reduce the amount of compensation which may be awarded.



## Section 183 Stop Notice



## Section 171E – H – Temporary Stop Notice

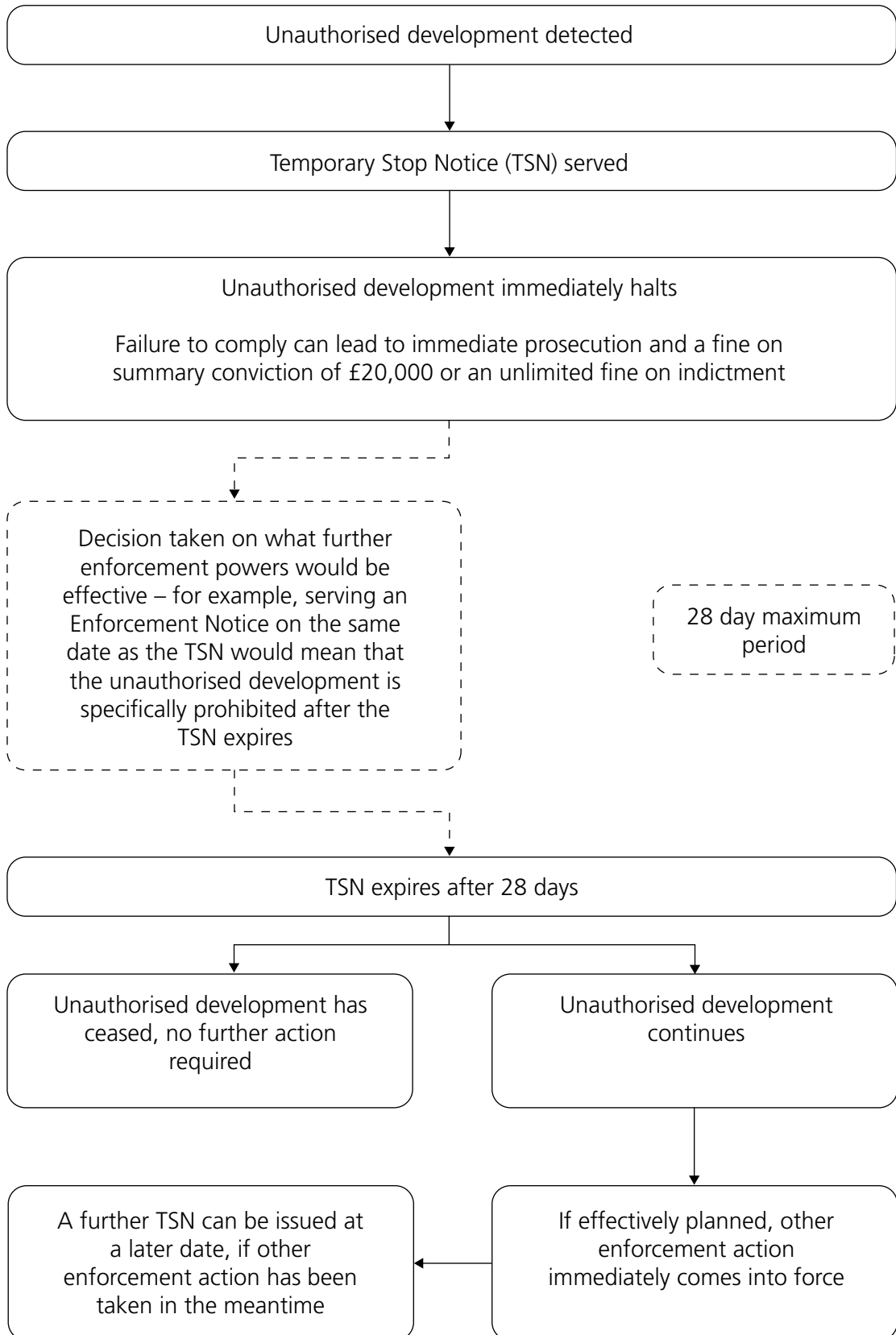
37. Since 7 March 2005, local planning authorities have been able to use a new enforcement power, the temporary stop notice, where they consider that there has been a breach of planning control and that the activity which amounts to the breach should be immediately stopped. A temporary stop notice allows the authority to hold up development while they consider what further enforcement might be needed.
38. A temporary stop notice can be issued immediately a breach of planning control is detected, and will take effect immediately. Unlike a stop notice, a temporary stop notice does not need an enforcement notice to have been served. A temporary stop notice remains in effect if an application for planning permission is submitted.
39. A temporary stop notice can be served on anyone who the local planning authority believes:
- to be carrying out the prohibited activity;
  - to be the occupier of the land; and
  - to have an interest in the land.
40. A copy of the temporary stop notice must also be displayed on site, which extends the effect of the notice to any person contravening it. The temporary stop notice takes effect on the day the site notice is displayed. It is important that those served with a temporary stop notice are aware of it, and the activities it prohibits. A person prosecuted for contravention of a temporary stop notice can use as a defence proof that the notice was not served on them, and that they did not know and could not reasonably have been expected to know of its existence. LPAs must therefore ensure they take sufficient steps to reduce this risk when serving the notice.
41. Key features of a temporary stop notice applicable to the unauthorised development of caravan sites are:
- A temporary stop notice may be used to prohibit the stationing of any additional caravans on land, on which a caravan is already stationed;
  - A single temporary stop notice may apply to the whole of the site (planning unit) in circumstances where a field is subdivided into plots, irrespective of the fact that the field may not be in single ownership;
  - The temporary stop notice may also be used to stop other development associated with using the site for further caravans and any further work developing the site;
  - A temporary stop notice designed to prevent/limit the use of land as a caravan site should apply to the entire site, otherwise caravans could be moved elsewhere on the land to circumvent the notice;
  - Because of the limited time period attached to a temporary stop notice successful challenges on Human Rights grounds are likely to be rare when used against caravans. A good argument can be made that the use of a temporary stop notice for a period of a maximum of 28 days is a proportionate response;

- Unlike a stop notice, the temporary stop notice may not prohibit the continued stationing of a caravan on land where the caravan is the main place of residence of the occupier of the caravan, unless the local planning authority consider that the risk of harm to a compelling public interest arising from the stationing of the caravan is so serious so as to outweigh any benefit, to the occupier of the caravan, in the stationing of the caravan for the period for which the notice has effect. An example of such a circumstance might be the stationing of caravans on a Site of Special Scientific Interest.
42. A person who has interest in the land to which the temporary stop notice relates may only be entitled to compensation in the following instances:
- the activity specified in the temporary stop notice was the subject of an existing planning permission and any conditions attached to that permission have been complied with;
  - the activity is classed as permitted development, either under the Town and Country Planning (General Permitted Development) Order 1995, or a local development order;
  - a lawful development certificate is issued confirming the development was lawful;
  - the temporary stop notice is withdrawn for any reason other than the granting of planning permission for the activity specified in the notice.
43. A temporary stop notice expires 28 days after the notice was displayed on the site or any shorter period set out in the temporary stop notice, or if it is withdrawn by the local planning authority. During the 28 days the local planning authority must decide whether it is appropriate to take enforcement action.
44. At the end of 28 days there is the risk of the activity resuming if further enforcement action is not taken. A further temporary stop notice cannot be served at the end of the 28 day period. However, a further temporary stop notice for the same activity can be served at a later date, if the planning authority has taken some other form of enforcement action in the meantime.

## Penalties for contravening a temporary stop notice

45. If a temporary stop notice is not complied with, the local planning authority can prosecute for the offence immediately in the Magistrates' Court or the Crown Court. If found guilty, on summary conviction (in a Magistrates' Court) the maximum fine is £20,000, and on conviction on indictment (in Crown Court) the fine is unlimited. There is no right of appeal to the Secretary of State against a temporary stop notice.
46. A temporary stop notice can be resisted in Court on the grounds in section 171G of the 1990 Act; that it was not properly authorised, or that the decision to issue it was unreasonable. A challenge may be brought by seeking leave, in the High Court, to bring judicial review proceedings.

## Section 171E – H – Temporary Stop Notice



## Section 187B Planning Injunction

47. A planning injunction enables a Council to apply, in the High Court or County Court, to either swiftly prevent a breach of planning control occurring, or to swiftly bring a breach to a stop. The local planning authority must prepare evidence to convince a judge that an injunction is necessary.
48. **Many authorities have found planning injunctions to be an effective means of dealing with serious breaches of planning control by Gypsies and Travellers where a negotiated solution is not possible.**
49. Breaches of injunctions are taken seriously by the Courts. Once an injunction has been granted, anyone who fails to comply with its terms is in contempt of court, risking imprisonment.
50. Planning injunctions are useful where there is a serious threat to amenity, to deal with a threatened breach before a stop notice can be served, or a stronger back-up power where other enforcement powers have proved, or are thought likely, to be ineffective. Failure of conventional measures can be a justifying factor in the granting of an injunction. Injunctions will not necessarily be overturned due to outstanding planning applications and appeals.
51. If the steps required by an enforcement notice have not been completed, an injunction could be considered to force the undertaking of these steps.
52. An injunction served **before** a caravan is moved onto the land will not affect the European Convention on Human Rights Article 8 right to respect for private and family life, and home of the land owner, as the caravan will not be stationed on the land at that time.
53. This type of injunction is therefore easier to obtain, especially if the injunction requested is **interim** (i.e. with a time limit attached). An interim injunction can be followed up by a full injunction with an indefinite time limit attached once the perpetrator of the breach has been identified and notified. While a full injunction can take time to obtain, an interim injunction can be secured swiftly if needed.
54. A number of local planning authorities have successfully used this type of injunction to prevent incursions on to land in breach of planning control.
55. Serving such an injunction requires collecting enough evidence to convince a Court that an injunction is required. This evidence could include statements from local residents or the police, the laying down of hard-standing, the installation of service points such as a standpipe or a field electricity supply and the purchase of land. It is important to check with land registry as to the identity of the current or previous owner.
56. Injunctions should be served against named individuals where possible, which can sometimes be difficult in the case of the expected establishment of a caravan site in breach of planning control. Where it is impossible to name an individual(s) in connection with such an apprehended breach, an injunction against 'persons unknown' can be granted. Such an injunction might follow the form of words used in ***South Cambs DC v Persons Unknown [2004]***;

*‘Persons unknown causing or permitting –*

*‘caravans, mobile homes or other forms of residential accommodation to be stationed other than for agricultural purposes on [the land];*

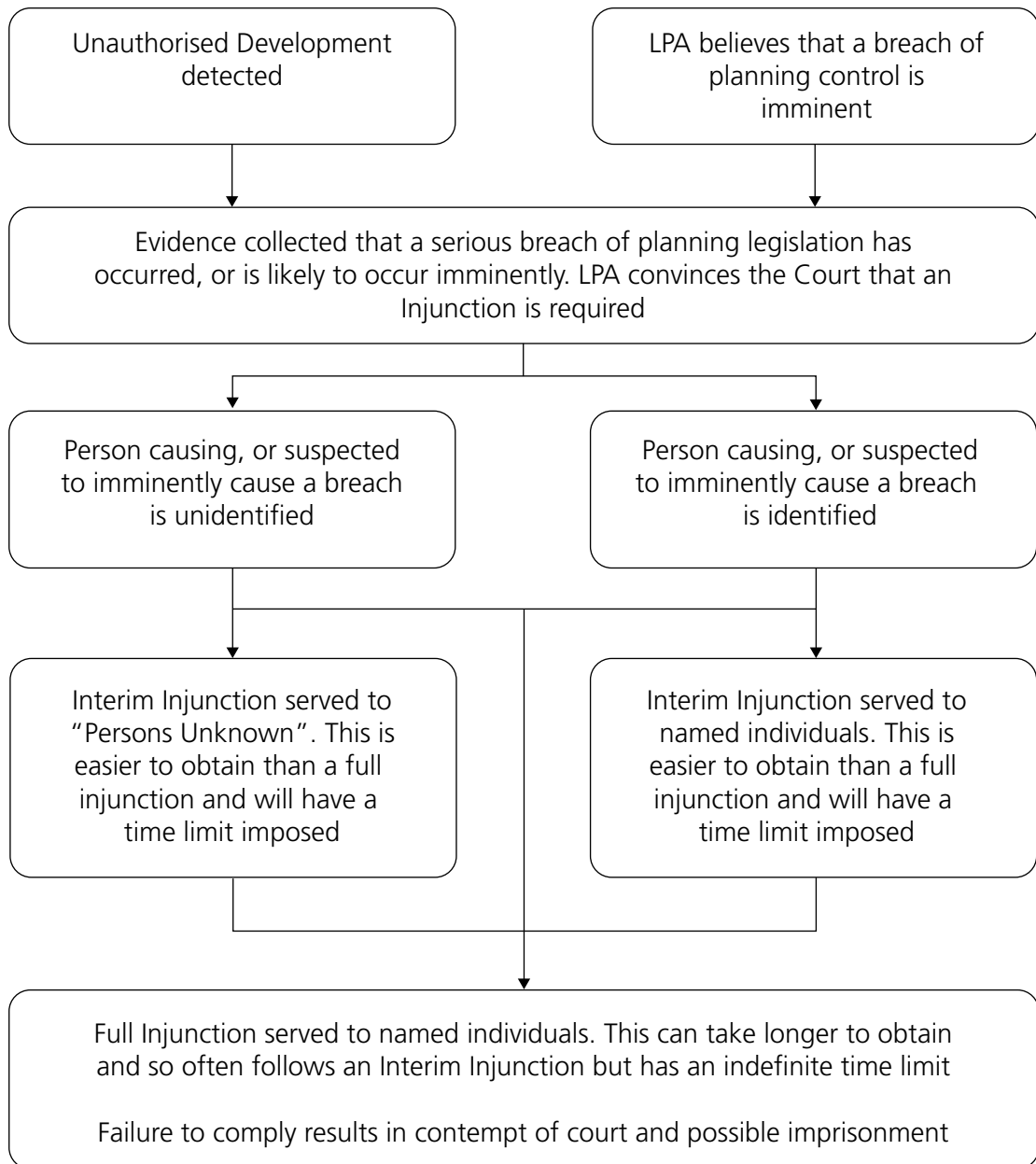
*‘existing caravans, mobile homes or other forms of residential accommodation on the said land to be occupied other than for agricultural purposes; or*

*‘hardcore to be deposited other than for agricultural purposes on the said land’*

57. If the LPA can show that there is the possibility of unknown individuals using the land for the same purpose once the named individuals have vacated a site, they should explore drafting the injunction in such a way as to prevent both the named individuals *and* ‘persons unknown’ in the future from breaching it.
58. When applying to a court for an interim injunction, it is worth reminding the Court that Gypsies and Travellers do not tend to notify of an intention to develop. This strengthens the case for granting an injunction without notifying the individual concerned.
59. Where a planning breach is expected rather than has actually occurred, a rapid response from the Court is clearly desirable. Local planning authorities should emphasise the urgency to Court administrators and ask for the case to be “expedited”.
60. Where an injunction is sought **after** a caravan has been brought on to the land, the removal of the caravan will interfere with the occupant’s Article 8 rights. This makes the injunction more difficult to obtain, but such injunctions are still granted to authorities who can prove a sufficiently serious breach has occurred.
61. An authority seeking this type of injunction must prepare more detailed evidence for the court, dealing with the planning reasons why a caravan site is inappropriate. It can be difficult to secure an injunction if caravans are stationed on land and there is an outstanding appeal against a refusal of permission, unless the land was occupied despite the existence of a previous injunction against an apprehended breach.
62. An injunction is only enforceable if the caravan occupant knows of its existence, meaning it has been deliberately contravened. This normally involves giving the injunction personally to the person bound by it. In the case of an injunction against persons unknown, clearly this will not be possible. The court will usually allow a different method of serving the injunction, such as the posting of the notice on the land.
63. If the land is then subsequently occupied, and this notice has disappeared, the occupants should be made aware of the existence of the injunction, which should be worded to prohibit the stationing of caravans on the land. After this, the occupants will be demonstrably in deliberate breach of the injunction.
64. Injunctions can be expensive. However they are not usually as expensive as the costs of a long planning case, which can result if swift action to prevent unauthorised development of a caravan site in an inappropriate location is not taken. Requests for injunctions are frequently turned down by the Courts.

65. In making the case for the granting of an injunction, the court should have regard to all the circumstances, including the personal circumstances of the family and the availability of other suitable accommodation. Particular attention should be given to the position of Gypsies and Travellers, their needs and lifestyles together with any shortage of pitches or appropriate sites in the relevant area. Genuine absence of appropriate alternative accommodation makes the interference potentially more serious and is likely to require stronger justification.
66. **Planning Injunctions are therefore easier to obtain against unauthorised caravan sites if there is an alternative legal pitch for the caravans within the local planning authority area, and to a lesser extent if efforts are being made to assess the need for sites, and allocate land in line with Circular 1/2006.**
67. The penalties associated with non-compliance with an injunction are also more severe if it can be demonstrated that the caravan occupants have an alternative legal site to go to.
68. An assessment of the Human Rights implications of the injunction must have been conducted. The court should only grant an injunction where it is just and proportionate to do so. In considering this, the hardship caused by the grant of an injunction will be relevant to the court's decision as to whether or not to grant it. In many cases the hardship will be of insufficient weight to counterbalance a continued and persistent disobedience to the law. There is a strong general public interest that planning control should be observed and, if not observed, enforced.

## Section 187B Planning Injunction





## Other Relevant Powers

69. A **breach of condition notice** (section 187A) can be used where there is a failure to comply with any condition or limitation imposed on a grant of planning permission. There is no right of appeal against a breach of condition notice.
70. A **planning contravention notice** (section 171C) may be used where it appears that there may have been a breach of planning control and the local planning authority require information about the activities on the land or to find out more about the nature of the recipient's interest in the land.
71. **Powers of entry on to land** under sections 196A, 196B and 196C of the Town and Country Planning Act 1990, enable authorised officers of the local planning authority to obtain information required for enforcement purposes. Annex 5 of DETR Circular 10/97 explains in detail how to use these powers in detail.
72. If the planning authority feels that the condition of the land on which a caravan site – authorised or unauthorised – is situated is adversely affecting the amenity of part of their area, or of an adjoining area, they can serve a **Section 215 notice**. The notice gives the landowner a minimum of 28 days to carry out the remedial action stated on the notice.
73. Local authorities need to consider the condition of the site, the impact on the surrounding area and the scope of their powers in tackling the problem before they decide to issue a notice. The provisions include a right of appeal (s.217) on four grounds that:
- the condition of the land to which the notice relates does not adversely affect amenity;
  - the condition of the land to which the notice relates is attributable to and results from the lawful use of the site;
  - the requirements of the notice exceed what is necessary for preventing the condition of land from adversely affecting amenity; and
  - the period specified in the notice for compliance falls short of what should reasonably be allowed.
74. Although not designed with the removal of main residence caravans in mind, this is a useful power to enable planning authorities to effectively enforce against land owners who refuse to meet basic site maintenance standards. Section 215 notices have been used effectively to force landowners to remove rubbish and refuse from sites, leave it in a clean and tidy condition and remove vehicles and vehicle parts from agricultural land.
75. Failure to comply is an offence and, if found guilty, the landowner shall be liable on summary conviction to a fine not exceeding £1000. If, after conviction, the landowner does not as soon as is practicable do everything in his power to secure compliance with the notice, he will be guilty of a further offence and liable on summary conviction to a fine not exceeding £100 for each further day the requirements of the notice are left unfulfilled.

## Before taking Enforcement Action

76. The planning authority's decision on whether to take enforcement action must always be well founded. The relevant factors determining whether or not to enforce should be thoroughly assessed. A clear statement of enforcement policy will make such decision making easier. Local planning authorities should consider if there is a need in their area to include within such a policy specific provisions for dealing with unauthorised development of caravan sites.

### Is enforcement necessary?

77. The decisive issue for the planning authority to consider in each case is when deciding whether or not to take planning enforcement action is whether the alleged breach of control would unacceptably affect public amenity, or the existing use of land or buildings, meriting protection in the public interest. Any action taken should also be proportionate to the seriousness of the breach.
78. Where it is appropriate the usual alternative to taking formal enforcement action is to invite a retrospective planning application, with associated conditions where necessary. The planning authority will need to take account of the views of neighbours or other interested parties.
79. **Many local planning authorities have found that the most successful approach to dealing with instances of unauthorised development of Gypsy and Traveller caravan sites is negotiation.**
80. Some local planning authorities seek to make early face to face contact with Gypsies and Travellers when a breach of planning control occurs, and focus their attention on explanations of the planning process rather than threatened enforcement. Ongoing communication with the occupants of the site after enforcement action has commenced can also be very useful.
81. Many instances of unauthorised development of caravan sites can be resolved through compromise before the development and the occupation of the land becomes entrenched, and without the need for costly and lengthy enforcement action. If there are available pitches or allocated land in your district the caravan occupants may not be aware of their existence and could be persuaded to move.
82. Clearly, the site occupants may not always be amenable to constructive discussion. Negotiation can still be useful however, as the threat of enforcement action can also sometimes be enough to force compliance. The use of a temporary stop notice can halt development while negotiations continue.
83. Another consideration is whether enforcement action is a proportionate response to the breach. If the breach is not serious enough to merit enforcement action, a retrospective planning application should be invited where the local planning authority judge that there are no planning objections to it.

84. Some examples of locations where the unauthorised stationing of a caravan would normally be unacceptable, and enforcement action required are:
- Sites of Special Scientific Interest (SSSI) where an encampment endangers a sensitive environment or wildlife;
  - Grounds of ancient monuments or listed buildings, battlefields or sites of potential archaeological interest;
  - A site where pollution from vehicles, or dumping, or from poor sanitation could damage ground water or water courses;
  - A derelict area with toxic waste or other serious ground pollution;
  - The verge of a busy road where fast traffic is a danger to unauthorised campers;
  - Where the site is exposed to unacceptable levels of air pollution;
  - Where there is an immediate negative impact on the health of the occupiers of the caravans.

### Is the caravan site permitted development?

85. The Town and Country (General Permitted Development) Order 1995 and Schedule 1 to the Caravan Sites and Control of Development Act 1960, together give those situations where caravan site development is permitted without needing planning permission. In such circumstances, planning enforcement action cannot be taken. There are no permitted development rights specifically for Gypsies and Travellers. Permitted development rights cover:

- use of land by a person travelling with a caravan for one or two nights, up to an annual limit of 28 days on that or any adjoining land;
- use by up to three caravans for up to 28 days a year on holdings of 5 acres or more;
- use of any land for up to five touring caravans at once by members of the Caravan Club, the Camping and Caravanning Club and other recognised recreational organisations, provided the site has an exemption certificate from Defra;
- stationing a caravan on agricultural land to accommodate a person or persons employed in farming operations 'during a particular season';
- use of land as a caravan site for the accommodation of workers employed in carrying out building or engineering operations; and
- use of land as a caravan site by a travelling showman who is a member of an organisation of travelling showmen which holds a certificate and who is travelling for the purpose of his business.

## Caravans Stationed in Gardens

86. Some local authorities have raised questions about the rights to station caravans in the gardens of houses. There is no legally defined limit on the number of caravans that people are entitled to have in their gardens. So far as planning law is concerned, householders can park caravans in their gardens or driveways indefinitely, provided no material change of use of the land occurs.
87. A householder is entitled to use a caravan as extra accommodation without planning permission, provided the occupants continue to use the house, e.g. the kitchen or bathroom. If, on the other hand, a caravan is there for some purpose not incidental to the use of the main house – for example, being inhabited independently of the main house – planning permission for change of use of the land would usually be required. Since it would result in the creation of a new planning unit, such permission might not be granted in a residential area.
88. If a caravan was being used in connection with some commercial purpose, the local planning authority could decide that an unauthorised change of use of land was occurring, for which planning permission should be sought. Similarly, if so many caravans were stationed in the garden of a house that they ceased to be incidental to the principal use of that land, the local planning authority could require a planning application, or take enforcement action against the unauthorised change of land-use.

## What information should I collect?

89. In taking enforcement action, information gathering is critical in deciding what action is appropriate, and to ensure the action is at less risk of successful challenge. Throughout the enforcement process it is essential to maintain a complete, accurate and up to date record of all investigation carried out and assessment of results.
90. The planning history of the land should be established as accurately as practicable, using all available sources including local residents. Use of appropriate investigative powers can be important. Planning authorities have investigative powers under;
  - Section 330 Town and Country Planning Act 1990
  - Section 16 Local Government (Miscellaneous Provisions) Act 1976
  - Section 171C Town and Country Planning Act 1990
91. Such powers carry penalties for non-compliance with the serving local planning authority but, as they are intrusive, should not be used unless it appears that a breach of planning control might have taken place. In using these powers therefore, an authority should have some evidence to justify their suspicion that a breach has occurred.
92. Officers should be prepared to justify taking enforcement action, ignoring a breach or inviting an application for planning permission – a documentary record of all investigation will be critical to this. Keeping accurate records is important. This should include signed and dated photographs where possible, with a location plan showing where the photograph was taken. Any information provided by complainants should be treated in confidence.

## Establishing Land Ownership

93. Where the authority cannot obtain essential information about land ownership, or suspect the information they have been provided with to be false, HM Land Registry, or other departments within the Council, may be able to provide information about the identity of those with an interest in the land. The Land Registry now provides an online service at [www.landregistry.gov.uk](http://www.landregistry.gov.uk)

## What needs should be assessed when caravans are stationed on an unauthorised development?

94. Local authorities should ensure that proper welfare enquiries are carried out, and where necessary that appropriate agencies are involved as soon as possible. Authorities should ensure at least minimum standards of health, hygiene and public health are maintained before taking action and, for existing caravans, should allow basic temporary facilities including some form of temporary foul waste disposal which prevents nuisance or risk to anyone's health.

## Choosing the Most Appropriate Power

95. Which power or combination of powers to use will vary from case to case. Planning authority experience indicates it is important to consider the use of all powers, and that once a strategy to deal with an unauthorised site is selected, that strategy is rigorously pursued, using swift recourse to the Courts where the use of enforcement powers is ignored. Some authorities feel that changing between different approaches to enforcement with regard to a particular site causes more delay than sticking doggedly to a single strategy.
96. Local planning authority experience on which powers are most useful varies, but the following approaches have been useful in the past;

## Where there is evidence of intent to move caravans onto land

- Such evidence could include the laying down of hard standing for caravans, the construction of tarmac roads on the site or the installation of electricity or water service points;
- If hard standing or other preparatory works are being undertaken, a temporary stop notice can be used to halt the work;
- A pre-emptive planning injunction can then be sought to prevent the stationing of caravans;
- If such an injunction is sought on an interim basis, this can be relatively easy to obtain. A permanent injunction can be used to follow this up if necessary;
- If the identity of the persons is unknown, an appropriately phrased injunction can still be used.

## Caravans have already moved on to land

- Go to the site and talk to the caravan owners immediately, let them know what their options are, and conduct a needs assessment.
- If local planning authorities are not confident that negotiation with the site occupiers will result in the breach being swiftly rectified, and enforcement action is deemed necessary, then a temporary stop notice can prevent a site expanding any further.
- This can be followed up by either:
  - a. an enforcement notice, and a stop notice to either prevent the movement of further caravans onto the land for the duration of the notice, or force the eviction of existing caravans from the land; or
  - b. a planning injunction to force the eviction of caravans from the land.

## Enforcement appeal process complete, but no movement of caravans

- “Default” action, reclaiming costs through a charge on the land, and a section 215 notice to restore the land to a respectable condition.

## Taking Enforcement Action

97. Actions required by an enforcement notice should not go beyond those needed to remedy a breach of planning control. If enforcement officers are at risk from intimidation on a site while carrying out their duties, the police should be involved at an early stage.
98. Where an initial attempt to persuade the owner or occupier of the site voluntarily to remedy the harmful effect of the unauthorised development fails, negotiations should not hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or compel it to stop.
99. When enforcement action is needed rapidly, local planning authorities should bear in mind that a temporary stop notice can be served immediately where a breach has occurred. This could be either to halt development while a solution is negotiated, or while the authority decides what, if any, further action needs to be taken. Also, a planning injunction can be served where a breach is expected, but has not actually occurred.

## How important is speed?

100. It is essential for local planning authorities to act swiftly once development of an unauthorised caravan site is identified. Breaches of planning control can occur outside normal working hours. Planning authorities should consider providing the same out of hours cover as other environmental and public health protection services.
101. Once a local planning authority has decided on a course of action, it is essential to implement the decision speedily and effectively. There should always be a clear understanding (preferably set out in instructions) about the responsibilities of planners and lawyers for preparatory work in the event of a breach serious enough to need enforcement action.

## How to keep down costs

102. Prompt and effective use of the full range of enforcement powers available to planning authorities should help to dissuade people from deliberately ignoring planning controls. Authorities who make it clear that they are ready to take quick and effective enforcement action can help to minimise the legal and administrative costs which may otherwise be incurred.
103. Swift action in the case of a serious planning breach is very important in saving on the costs of enforcement. Negotiation immediately after Gypsies and Travellers have moved onto the land can lead to an agreed solution without the need for costly enforcement action.
104. In the event of a serious and wilful breach, many local planning authorities have found that swift recourse to the Courts for an interim or permanent planning injunction, whether pre-emptively or after a breach has occurred, while costly in initial legal fees can save a great deal of money in the long run on costs associated from a long drawn out enforcement process.
105. There are certain circumstances in which local planning authorities can recover the costs of taking enforcement action. For example, where any steps required by an enforcement notice are not taken within the specified compliance period, local planning authorities may, under Section 178 of the 1991 Act, take those steps and recover any costs reasonably incurred in doing so.
106. If it is not possible to recover such costs directly from the caravan owner(s), costs can be recovered through a charge against the land, recoverable when the owner sells the land.

## Delegation of enforcement powers

107. It is important to ensure that enforcement officers are properly authorised in accordance with the local planning authority's scheme of delegations to use enforcement powers. **The use of frontline enforcement officers will enable a more rapid response in the event of a breach.** It is good practice to make the authorisation as early as possible, rather than to wait until a breach has occurred.

## Enforcement Strategy

108. Local planning authorities should consider the development of an enforcement strategy to deal with instances of unauthorised development of Gypsy and Traveller caravan sites, possibly linked to strategies to deal with instances of unauthorised encampment and addressing the accommodation needs of Gypsies and Travellers in the area. This strategy should set out which council departments / agencies should be involved, and at what stage.
109. Enforcement action should only be taken by local planning authorities where there has been a serious breach, and the authority considers it expedient to take such action. An enforcement strategy should set the framework for action, but should not place excessive demands on authorities to take action that they may not regard as expedient in a particular case.

## Who should be involved?

110. When taking enforcement action, officers should consider the involvement of;
  - Legal Services – are these on call?
  - Social Services – in the event of an eviction which could render caravan site occupants homeless;
  - Environmental Health services;
  - Local police – if there is a significant risk of intimidation/a breach of the peace.
111. The use of joint protocols between the local authority, the police, and other relevant agencies is also highly effective in establishing how individual cases will be dealt with, and ensuring all parties are clear about their respective responsibilities.

## How should notices be written?

112. Ensuring notices used to inform recipients of enforcement action against them (e.g. the actual enforcement notice, temporary stop notice etc posted on a site) are immediately comprehensible to the lay person is essential. Technical terms only understandable to lawyers or enforcement practitioners may hamper understanding of what is required and could cause problems at a later stage if enforcement action is challenged. At the same time, it is essential that all the legislative requirements of a valid notice are completed – see DoE Circular 10/97 *Enforcing Planning Control: Legislative Provisions and Procedural Requirements*, and ODPM Circular 02/2005 *Temporary Stop Notices* for details.
113. Notices should clearly state what the authority believes the alleged breach of planning control has been, and what the recipient is required to do or abstain from doing. If the recipient cannot tell how they have breached planning control, or what they must do to rectify the breach, the notice can be found to be a ‘nullity’ and will be useless.
114. Model notices are included at Annex 1.



## What area to cover?

115. Notices associated with enforcement powers should be drafted to cover an entire site where there has been unauthorised stationing of caravans, as caravans can be easily moved to a different part of the site. The inclusion of a location plan with the notice is usually the most effective way of specifying the land subject to enforcement action.

## After taking Enforcement Action

### The eviction process

116. Even after applications for planning permission have been unsuccessful, eviction can sometimes be avoided by negotiating departure dates. However, where occupants refuse to move, eviction can be the last resort left to a local planning authority. Good practice guidance on the handling of eviction can be found on p.20 of Part 1 of the Guidance 'Unauthorised Encampments'.

### Further Applications for Planning Permission

117. Further applications for planning permission on a site which has been subject to enforcement action should, of course, be considered on their own merits having regard to national planning policies and the development plan for the area.
118. Local authorities should, wherever possible, encourage pre-application discussions with those who are considering submitting a planning application. These discussions often save both the applicant's and the planning authority's time and money by discussing the suitability of a potential site for the development proposed. Retrospective planning applications should only be invited where it is judged that there are no planning objections to it.

### Site protection measures

119. Unlike instances of unauthorised encampment of caravans, unauthorised development of land involves land owned by the individuals occupying the unauthorised site. Therefore physically obstructing the owner's access to the land is not appropriate.
120. If there is enough evidence that a piece of land is to be occupied in a sufficiently serious breach of planning control, a pre-emptive injunction should be sought.

### Appeals against enforcement action

121. There is no right of appeal to the Secretary of State against a stop notice, temporary stop notice or a planning injunction. These enforcement measures can only be challenged by judicial review.
122. Enforcement notices can be appealed against by the recipient within 28 days of being issued. Because an enforcement notice can be appealed, a stop notice can be used to prevent activities being carried out on land which are prohibited by the associated enforcement notice.

123. Details of appeal rights must be contained in the enforcement notice, and information and forms for the appeal process are provided to the local planning authority by the Planning Inspectorate. Section 174(2) of the 1990 Act gives seven legitimate grounds for appeal, no others will be allowed.
124. Appeals can be made by those occupying the land when the enforcement notice is served – and still there when an appeal is made, or those with a legal interest in the land.
125. The submission of a valid appeal suspends the enforcement notice. To speed up the appeal, it is vital that local planning authorities' officers respond rapidly to requests for information from the Planning Inspectorate.
126. In certain cases it may be possible to persuade the appellant to withdraw their appeal, or to take action enabling the enforcement notice to be withdrawn. Local planning authorities should pursue negotiations with the site occupants while the appeal is being processed, if they consider there is a realistic prospect of success.
127. Appeals in Gypsy and Traveller cases are usually dealt with by way of a public inquiry, as there is frequently a conflict between evidence submitted by the different parties, and there is often significant third party interest. The Planning Inspectorate provide an information booklet on the detailed process to be followed at appeal.
128. The evidence of a witness with personal experience of the site, who is able to give detailed evidence of activity on the site, such as an enforcement officer or a neighbour, may have a greater weight attached to it than the evidence of a planning officer who may have visited the site only intermittently.
129. If the appeal is dismissed, officers will need to consider what steps need to be taken to comply with the notice and, if there is substantial remedial work to be done, agree a timetable with the occupier for this work to be carried out within the compliance period.
130. If the appeal against the enforcement notice succeeds, officers have 28 days from the receipt of the decision letter to appeal to the High Court if this is deemed appropriate. In view of the costs associated with this course of action it would be usual to consult Counsel beforehand.

## **Provision of appropriate sites**

131. Enforcement action will be quicker and more effective, and a wider range of powers can be used, where appropriate authorised provision is made for Gypsies and Travellers within the area.
132. The Housing Act 2004 requires local authorities to undertake an accommodation needs assessment for Gypsies and Travellers who reside in or resort to their areas, and then to set out a strategy to meet those needs. Circular 1/2006, *'Planning for Gypsy and Traveller Sites'* requires local planning authorities to translate the need identified into land allocations for Gypsy and Traveller sites in their local plans. A similar requirement was set out in Circular 4/2007, *'Planning for Travelling Showpeople'*.

133. Adequate provision will have wide benefits in the management of unauthorised development as;
- legal challenges are less likely to occur or succeed;
  - successful enforcement action is less likely to lead to a new problem of dealing with a further planning breach, or an unauthorised encampment;
  - site occupants are more likely to be willing to leave the site.
134. **Site provision where there is need is therefore likely to lead to more effective and swifter planning enforcement action against the unauthorised stationing of Gypsy and Traveller caravans.**
135. The Housing Act 2004 and Circular 1/2006 set out a process for assessing the need for Gypsy and Traveller sites in a local planning authority area, and translating that need into allocated sites in Development Plan Documents.
136. Authorities who are able to demonstrate that they are actively engaged in, or have completed, this process through assessing need and allocating land for sites in their local plan, will be in a stronger legal position when taking enforcement action.

## Temporary Permissions

137. Circular 1/2006 sets out the circumstances in which a temporary planning permission might be considered instead of a refusal of permission. If an alternative site is likely to become available in the future, local planning authorities should consider whether a temporary permission may be a better solution than costly enforcement action, and the risk of further unauthorised sites.
138. When taking enforcement action, local planning authorities' legal position will be strengthened if they can demonstrate they have considered a temporary permission for the site in question.

## Working with the Courts

139. Some local planning authorities are concerned that Magistrates' Courts and County courts may not appreciate the seriousness of planning breaches, due to seeing few planning enforcement cases. It may be helpful when presenting a case to:
- explain those circumstances which make ignoring enforcement action a criminal offence, and
  - describing the procedure adopted by the Council to enforce against the particular breach.

140. Sometimes an application is made to the Court for an adjournment on the grounds that a retrospective planning permission has been submitted. It is possible to resist any such application, citing in support the judgement in the case of *R v Beaconsfield Magistrates ex parte South Bucks DC* [1993], in which the Court held that “as a general rule, the Magistrates must deal with the matter forthwith, unless there is a prospect that the planning application’s fate will be known shortly”.

## Human Rights

141. **Human Rights considerations should not be seen as a bar to proper enforcement action.**
142. The European Court of Human Rights has recognised that within the context of planning there are often complex issues and that decision makers at all levels are required to exercise discretionary powers in the course of their duties.
143. What Human Rights considerations will not do is overrule a properly followed legal process. The Human Rights Act can test a planning decision and if it is properly arrived at, it will not be overturned. It does not contradict the planning process. Most human rights are ‘qualified’. This means that they may be interfered with if in the opinion of a decision-maker this interference is justified in the interests of the wider community.
144. Gypsies and Travellers don’t have “special” Human Rights – everyone has Human Rights. The European Convention on Human Rights and the Human Rights Act do not grant Gypsies immunity from planning legislation. Local planning authorities, Inspectors and the Secretary of State when taking enforcement decisions, determining planning applications and appeals must act compatibly with Convention rights, whether the cases involve Gypsies or non-Gypsies.
145. Taking enforcement action against a Gypsy caravan will interfere with the occupant’s Article 8 rights. The local planning authority must therefore consider human rights issues when deciding whether to take enforcement action.
146. **Human Rights considerations are likely to be less of an issue where there is an alternative site for the caravan occupiers to move to.**
147. One of the most important Gypsy and Traveller planning cases brought before the European Court of Human Rights, *Chapman v. UK* (2001), found that planning enforcement action potentially engages an applicant’s right to respect for their home, and also their right to family and private life. However the court also found that planning enforcement decisions generally have the legitimate aim of protecting the rights of others through the preservation of the environment, but this and other legitimate aims must be demonstrated by evidence. The court also found that whether the home was established lawfully whether there is any alternative accommodation available were relevant human rights issues.

148. A court may decide not to evict Gypsies or Travellers from an illegal site if the decision on a planning application is close. Or it may decide that the decision making process followed by the local planning authority or planning Inspector failed to take human rights issues properly into account. Or it may decide to allow the Gypsies or Travellers longer than originally intended to leave following the settlement of the case.
149. If you are in doubt on whether an individuals' human rights have been justly or unjustly interfered with you should take legal advice. It is important to point out that each planning application or appeal, whether or not human rights are at issue, must be decided on their individual merits. More information on the Human Rights Act may be found at: [www.justice.gov.uk/guidance/humanrights.htm](http://www.justice.gov.uk/guidance/humanrights.htm)

## Race Relations

150. Effective, proportionate and fair planning enforcement benefits all communities regardless of race or ethnic origin. The rapid development of large sites in breach of planning control can place a significant strain on race relations in an area.
151. Local planning authorities have a duty, under section 71(1) of the Race Relations Act (as amended), when carrying out their functions, to have regard to the need to eliminate unlawful racial discrimination, and to promote good race relations and equality of opportunity. They also have a specific duty to publish a Race Equality Scheme<sup>2</sup>. The Commission for Racial Equality has published a Statutory Code of Practice on the Duty to Promote Race Equality, together with a Statutory Code of Practice on Racial Equality in Housing which authorities must take into account when discharging this duty. The Race Relations Act seeks to guide the way decisions on enforcement are reached, implemented and communicated, and should not be seen as a bar to action.
152. When evicting and enforcing, authorities need to ensure they act in a way that meets the general duty, and in a way that has the minimum negative impact on the occupants of the caravans involved. Local planning authorities must always be able to show that they have properly considered the race and equalities implications of their policies and actions in relation to unauthorised development by Gypsies and Travellers. In considering the impact of enforcement decisions on race relations, it is important to consider not just the action itself, but also the way in which it is implemented and communicated.
153. Where a local planning authority has a policy on enforcement against unauthorised development of Gypsy and Traveller sites, this policy should make reference to the authorities' obligations under race relations legislation.
154. Local planning authorities should conduct a race equality impact assessment in relation to such policies, and should consider such assessments where there has been a significant enforcement action undertaken against an unauthorised Gypsy and Traveller site. Guidance on conducting race equality impact assessments can be found at [www.cehr.org.uk](http://www.cehr.org.uk)

<sup>2</sup> A Race Equality Scheme essentially packages the specific duties into a coherent strategy and action plan. It should cover all relevant functions and policies, bringing them within a single framework.

## **Additional Sources of Information**

Legislation from 1988 onwards is available from the Office of Public Sector Information website at [www.opsi.gov.uk/legislation](http://www.opsi.gov.uk/legislation)

ODPM Circular 01/06; *Planning for Gypsy and Traveller Caravan Sites*

Guide to effective use of enforcement powers Part 1: *Unauthorised Encampments*

Planning Policy Statement 1: Delivering Sustainable Development

DoE Circular 10/97; *Enforcing Planning Control: Legislative Provisions and Procedural Requirements*

DoE Circular 18/94; *Gypsy Sites Policy and Unauthorised Camping*

ODPM Circular 02/05; *Temporary Stop Notice*

Communities and Local Government Circular 04/07: Planning for Travelling Showpeople

Local Authorities and Gypsies and Travellers: a Guide to Responsibilities and Powers

## Glossary of Terms

**Amenity** – A positive element or elements that contribute to the overall character or enjoyment of an area. For example, open land, trees, historic buildings and the inter-relationship between them, or less tangible factors such as tranquillity.

**Appeal** – The process whereby a planning applicant can challenge an adverse decision, including a refusal of permission. Appeals can also be made against the failure of the planning authority to issue a decision within a given time, against conditions attached to permission, against the issue of an enforcement notice and against refusals of listed building and conservation area consent. In England and Wales, appeals are processed by the Planning Inspectorate.

**Development Plan** – A document setting out the local planning authority's policies and proposals for the development and use of land and buildings in the authority's area. It includes Unitary, Structure, and Local Plans prepared under transitional arrangements. It also includes the new-look Regional Spatial Strategies and Development Plan Documents prepared under the Planning & Compulsory Purchase Act of 2004.

**Development Plan Document** – prepared by local planning authorities outlining the key development goals of the local development framework. They include the core strategy, site-specific allocations of land and, where needed, area action plans. There will also be an adopted proposals map which illustrates the spatial extent of policies that must be prepared and maintained to accompany all DPDs. All DPDs must be subject to rigorous procedures of community involvement, consultation and independent examination, and adopted after receipt of the inspector's binding report. Once adopted, development control decisions must be made in accordance with them unless material considerations indicate otherwise. DPDs form an essential part of the Local Development Framework.

### **European Convention on Human Rights: Article 8**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. 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 freedoms of others.

**Fly-Tipping** – the illegal and unauthorised dumping of waste.

**Gypsies and Travellers** – defined for planning purposes in ODPM Circular 01/06 as 'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such.'

**Human Rights Act** – an Act passed in 1998, and brought into force in October 2000, which requires all public authorities making decisions that affect individuals to consider whether those decisions are reasonable and proportionate, bearing in mind all the circumstances.

**Injunction** – an order made by a Civil Court (County or High Court) which usually prohibits somebody from doing something, based on the fact they have done it before, usually seriously and/or often. If an injunction is breached, the person can be fined or imprisoned for contempt of the court by not according with the terms of the injunction.

**Judicial Review** – A procedure by which the High Court may review the reasonableness of decisions made by local authorities, the Secretary of State or lower courts, for example, a planning decision.

**Lawful Development Certificate** – A certificate issued by a local planning authority, on application, stating that an existing (LDC 191) or proposed use (LDC 192), or other forms of development, can be considered as lawful for planning purposes.

**Local Development Framework** – a non-statutory term used to describe a folder of documents, which includes all the local planning authority's local development documents. An LDF is comprised of: Development Plan Documents (which form part of the statutory development plan), and Supplementary Planning Documents. The local development framework will also comprise of: the Statement of Community Involvement; the Local Development Scheme; the Annual Monitoring Report and any Local Development Orders or Simplified Planning Zones that may have been added.

**Local Planning Authority** – The local authority or council that is empowered by law to exercise planning functions. Often the local borough or district council. National parks and the Broads authority are also considered to be local planning authorities. County councils are the authority for waste and minerals matters.

**Magistrates' court** – A court where criminal proceedings are commenced before justices of the peace, who examine the evidence/statements and either deal with the case themselves or commit to the Crown Court for trial or sentence. Some magistrates also have jurisdiction in the youth court, family matters (known as the family proceedings court) and limited civil cases.

**Permitted Development** – Permission to carry out certain limited forms of development without the need to make an application to a local planning authority, as granted under the terms of the Town and Country Planning (General Permitted Development) Order.

**Planning Inspectorate** – The Planning Inspectorate is the government body responsible for:

- the processing of planning and enforcement appeals;
- holding inquiries into local development plans;
- listed building consent appeals;
- advertisement appeals;
- reporting on planning applications called in for decision by the Secretary of State or in Wales with the National Assembly for Wales;
- examinations of development plan documents and statements of community involvement;



- various compulsory purchase orders, rights of way cases; and cases arising from the Environmental Protection and Water Acts and the Transport and Works Act and other highways legislation are also dealt with.

The work is set in agreement with Department for Transport, Communities and Local Government and the National Assembly for Wales.

**Retrospective Planning Application** – A planning application submitted for a development which has either been completed, or is currently underway.

**Site of Special Scientific Interest** – A site identified under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) as an area of special interest by reason of any of its flora, fauna, geological or physiographical features (basically, plants, animals, and natural features relating to the Earth's structure).

**Statutory Powers** – powers given by an Act of Parliament, as distinct from powers under common law.

**Unauthorised development** – development of a site on land owned by Gypsies and Travellers, but for which they do not have planning permission.

**Unauthorised encampment** – trespassing by Gypsies and Travellers on land which they do not own (e.g. playing fields, farmers' fields or other private land).

# Annex 1 – Model Enforcement Notices

## Appendix 1 to Annex 1: Model Planning Contravention Notice

*Important – This Communication Affects Your Property*

*Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)*

### **Planning Contravention Notice**

*Served by: [name of Council]*

To: [Name[s] of those thought to be owner[s] or occupier[s] of land or person[s] having any other interest in it]

[Name[s] of person[s] thought to be responsible for a possible breach of planning control]

**1. This Notice** is served by the Council because it appears to them that there may have been a breach of planning control, within section 171 A(1) of the above Act, at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or who is carrying out operations in, on, over or under the land or is using it for any purpose. The Council require you, in exercise of their powers under section 171C(2) and (3), so far as you are able, to provide certain information about interest in, and activities on, the land.

#### *2. The Land to Which the Notice Relates*

Land at [address or description of land], shown edged red on the attached plan].

#### *3. The Matters Which Appear to Constitute the Breach of Planning Control*

[Without planning permission]

[Specify the suspected breach of planning control]

[The failure to comply with a condition or limitation]

#### *4. What You Are Required to Do*

Provide in writing, the following information:

(1)

[Specify the information required, having regard to the terms of section 171C(2) and (3)]

(2)

(3)

**Time within which the information must be provided:** *within twenty-one days*, beginning with the day on which this notice is served on you:

#### *5. Opportunity to Make Representations in Response to Notice*

If you wish to make an offer to apply for planning permission, or to refrain from carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council, or representatives of the Council, will consider them on [date and time] at [address where the person served with the notice may be heard] where you will be able to make any such offer or representations in person at that time and place.

#### *6. Warning*

It is an offence to fail, without reasonable excuse, to comply with any requirements of this notice within twenty-one days beginning with the day on which it was served on you. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following a conviction will constitute a further offence. It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular. The maximum penalty on conviction of this offence is a fine of £5,000.

#### *7. Additional Information*

If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied. [Add any other “likely consequences”, in accordance with section 17 I C(5)(a), if appropriate.]

If the Council serve a stop notice, under section 183 of the 1990 Act, section 186(5)(b) of the 1990 Act provides that should you otherwise become entitled (under section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have been avoided had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.

Dated: *[date of notice]*

Signed: *[Council's authorised officer]*

On behalf of:

*[Council's name and address]*

## Appendix 2 to Annex 1: Model Enforcement Notice

*Important – This Communication Affects Your Property*

*Town And Country Planning Act 1990  
(as amended by the Planning and Compensation Act 1991)*

### **Enforcement Notice**

Issued By: [name of Council]

**1. This Notice** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

#### *2. The Land To Which The Notice Relates*

Land at [*address of land*], shown edged red on the attached plan.

#### *3. The Matters Which Appear To Constitute The Breach Of Planning Control*

Without planning permission, the erection of a brick-built, single-storey building, and the construction of a driveway leading to it, in the approximate position marked with a cross on the attached plan.

#### *4. Reasons For Issuing This Notice*

It appears to the Council that the above breach of planning control has occurred within the last four years. The building in question was substantially completed less than four years ago. The building looks like, and appears to have been designed as, a dwellinghouse. The site is within the approved Green Belt where, with certain exceptions which do not apply in this case, there is a strong presumption against any development. The building appears as an intrusion in this otherwise mainly open, rural landscape. It is contrary to development plan policies and harmful to the visual amenities of the area. The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

#### *5. What You Are Required To Do*

- (i)** Remove the building and the driveway.
- (ii)** Remove from the land all building materials and rubble arising from compliance with requirement (i) above, and restore the land to its condition before the breach took place by levelling the ground and re-seeding it with grass.

## Appendix 3 to Annex 1 – Model Stop Notice

*Important – This Communication Affects Your Property*

*Town And Country Planning Act 1990  
(as amended by the Planning and Compensation Act 1991)*

### Stop Notice

Served By: [name of Council]

To: [name of intended recipient of the notice]

1. On [date], the Council issued an enforcement notice (of which a copy is attached to this notice) alleging that there has been a breach of planning control on [description of the land to which the notice relates].

2. **This Notice** is issued by the Council, in exercise of their power in section 183 of the 1990 Act, because they consider that it is expedient that the activity specified in this notice should cease before the expiry of the period allowed for compliance with the requirements of the enforcement notice on the land described in paragraph 3 below. The Council now prohibit the carrying out of the activity specified in this notice. Important additional information is given in the Annex to this notice.

#### *3. The Land To Which This Notice Relates*

Land at [address of land, or description of relevant part of the land to which the enforcement notice relates], shown edged red on the attached plan.

#### *4. Activity To Which This Notice Relates*

[Specify the activity required by the enforcement notice to cease, and any activity carried out as part of that activity, or associated with it]

#### *5. What You Are Required To Do*

Cease all the activity specified in this notice.

#### *6. When This Notice Takes Effect*

This notice takes effect on [date] when all the activity specified in this notice shall cease.

Dated: [date of notice]

Signed: [Council's authorised officer]

On behalf of  
[Council's name and address]

## Annex

### Warning

This Notice Takes Effect On The Date Specified In Paragraph 6.

There Is No Right Of Appeal To The Secretary Of State For Communities and Local Government Against This Notice.

It is an offence to contravene a stop notice after a site notice has been displayed or the stop notice has been served on you. (Section 187(1) of the 1990 Act). If you then fail to comply with the stop notice you will be at risk of **immediate prosecution** in the Magistrates' Court, for which the maximum penalty is £20,000 on summary conviction for a first offence and for any subsequent offence. The fine on conviction on indictment is unlimited. If you are in any doubt about what this notice requires you to do, you should get in touch **immediately** with [*Council's nominated officer to deal with enquiries, address and telephone number*]. If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.

### 6. Time For Compliance

- (i) 12 weeks after this notice takes effect.
- (ii) 24 weeks after this notice takes effect.

### 7. When This Notice Takes Effect

This notice takes effect on [*specific date, not less than 28 clear days after date of issue*], unless an appeal is made against it beforehand.

Dated: [*date of issue*]

Signed: [*Council's authorised officer*]

on behalf of  
[*Council's name and address*]

## Annex

### Your Right Of Appeal

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed booklet "Enforcement Notice Appeals – A Guide to Procedure" sets out your rights. You may use the enclosed appeal forms.

- (a) One is for you to send to the Secretary of State if you decide to appeal, together with a copy of this enforcement notice.
- (b) The second copy of the appeal form and the notice should be sent to the Council.
- (c) The third copy is for your own records.

## What Happens If You Do Not Appeal

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

## **Appendix 4 to Annex 1: Model Temporary Stop Notice**

*Important – This Communication Affects Your Property*

*Town And Country Planning Act 1990  
(As amended by the Planning and Compensation Act 1991 and the Planning  
and Compulsory Purchase Act 2004)*

### **Temporary Stop Notice**

**SERVED BY:** [name of Council] herein after referred to as “the Council”.

**To:** [name of intended recipient of the notice]

1. On [date], the Council has issued this temporary stop notice alleging that there has been a breach of planning control on the land described in paragraph 4 below.

2. This temporary stop notice is issued by the Council, in exercise of their power in section 171E of the 1990 Act, because they think that it is expedient that the activity specified in this notice should cease on the land described in paragraph 4 below. The Council now prohibits the carrying out of the activity specified in this notice. Important additional information is given in the Annex to this notice.

### **3. THE REASONS FOR ISSUING THIS NOTICE**

*[Briefly specify the reasons why the temporary stop notice has been issued. There is no requirement to outline specific policies from the Local Plan.]*

### **4. THE LAND TO WHICH THIS NOTICE RELATES**

Land at [address of land, or description of relevant part of the land to which the temporary stop notice relates], shown edged red on the attached plan.

### **5. THE ACTIVITY TO WHICH THIS NOTICE RELATES**

*[Specify the activity required by the temporary stop notice to cease, and any activity carried out as part of that activity, or associated with it.]*

### **6. WHAT YOU ARE REQUIRED TO DO**

Cease all the activity specified in this notice.



## 7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on *[date]* when all the activity specified in this notice shall cease. This notice will cease to have effect on *[date 28 days after it takes effect]*.

Dated: *[date of notice]*

Signed: *[Council's authorised officer]*

On behalf of *[Council's name and address]*

Nominated Officer *[Name of contact officer]*

Telephone Number *[of Nominated Officer]*

## ANNEX

### WARNING

**THIS NOTICE TAKES EFFECT ON THE DATE SPECIFIED IN PARAGRAPH 7. THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT AGAINST THIS NOTICE.**

It is an offence to contravene a temporary stop notice after a site notice has been displayed or the temporary stop notice has been served on you. (Section 171G of the 1990 Act). If you then fail to comply with the temporary stop notice you will be at risk of **immediate prosecution** in the Magistrates' Court, for which the maximum penalty is £20,000 on summary conviction for a first offence and for any subsequent offence. The fine on conviction on indictment is unlimited. If you are in any doubt about what this notice requires you to do, you should get in touch **immediately** with *[Council's nominated officer to deal with enquiries, address and telephone number]*. If you need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.

## Appendix 5 to Annex 1: Model Breach of Condition Notice

*Important – This Communication Affects Your Property*

*Town And Country Planning Act 1990  
(as amended by the Planning and Compensation Act 1991)*

### **Breach Of Condition Notice**

Served By: [name of Council]

To: [name[s] of person[s] responsible for the alleged breach of condition]

1. **This Notice** is served by the Council, under section 187A of the above Act, because they consider that [a condition] [conditions] imposed on a grant of planning permission, relating to the land described in paragraph 2 below, [has] [have] not been complied with. The Council consider that you should be required to [comply] [secure compliance] with the condition[s] specified in this notice. The Annex at the end of this notice contains important additional information.

#### *2. The Land To Which The Notice Relates*

Land at [address of land], shown edged red on the attached plan.

#### *3. The Relevant Planning Permission*

The relevant planning permission to which this notice relates is the permission granted by the Council on [date of issue of permission] for [description of development] Ref [Council's reference number].

#### *4. The Breach Of Condition*

The following condition[s] [has][have] not been complied with:

(1)

(2) [State the terms of each condition which has not been complied with.]

(3)

#### *5. What You Are Required To Do*

As the person responsible for the breach[es] of condition[s] specified in paragraph 4 of this notice, you are required to [comply][secure compliance] with the stated condition[s] by taking the following steps:

(1) [State clearly the steps to be taken in order to

(2) to secure compliance with the condition[s] in

(3) paragraph 4 above.]

[and] [ceasing the following activities:-]

- (1) [State clearly the activities which must cease
- (2) in order to secure compliance with the
- (3) condition[s] in paragraph 4 above.]

Period for compliance: 30 days beginning with the day on which this notice is served on you. [Different periods may be specified for each requirement].

Dated: [Date of notice]

Signed: [Council's authorised officer]

On behalf of: [Council's name and address]

## **Annex**

### Warning

This Notice Takes Effect Immediately It Is Served On You In Person Or On The Day You Received It By Post.

There Is No Right Of Appeal To The Secretary Of State For Communities and Local Government Against This Notice.

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance period. You will then be at risk of immediate prosecution in the Magistrates' Court, for which the maximum penalty is £1,000 for a first offence and for any subsequent offence. If you are in any doubt about what this notice requires you to do, you should get in touch immediately with [Council's nominated officer to deal with enquiries, address and telephone number].

If you do need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.