

FRIENDS, FAMILIES AND TRAVELLERS

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Susan Peart
Planning Development Control Division
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15 February 2005

Dear Sir or Madam:

Friends Families and Travellers - submission on Temporary Stop Notice consultation to the ODPM

Friends Families & Travellers (FFT) is a national voluntary organisation that was set up just over ten years ago to provide support, advice and representation to Gypsies and other Travellers. Our organisation is recognised nationally as having expertise in Gypsy and Traveller issues and our representatives sit on a number of local authority policy development panels at county and regional levels. We are also official consultees of the Gypsy Sites Branch at the Office of the Deputy Prime Minister (ODPM) and the Commission for Racial Equality (CRE).

The temporary stop notice provisions in Part 4 of the Planning and Compulsory Purchase Act 2004 inserted sections 171E to 171H to the Town and Country Planning Act 1990. The Act gives local planning authorities a new discretionary enforcement power to be able to issue a temporary stop notice at the start of unauthorised development, before an enforcement notice is served, speeding up the process of enforcement.

Friends, Families and Travellers firmly believes that existing enforcement powers and stop notices are already sufficient carrying the threat of the imposition of fines of twenty thousand pounds and imprisonment. The Gypsy and Traveller community have been compelled to resort to establishing homes through retrospective planning applications since repeal of the duty on councils to provide sites in 1994. A shortage of sites has resulted and the 1/94 Planning Guidance has failed to provide for their needs. Gypsy and Traveller families now have limited choices; either to live on the side of the road, give up their nomadic way of life and move into housing (assimilation) or develop a site through a retrospective planning application. In our view it is therefore inhumane to pile up further punishments and restrictions on families who take the latter option.



In the ODPM press release that accompanied the consultation process on the new temporary stop notices Keith Hill MP Minister of State declared

"We must act to stop the scourge of unauthorised sites which can blight local communities.....Local councils have asked us to empower them to deal with this problem so that's exactly what we are doing. But this is a two way process. We want to see councils taking a more proactive approach to delivering authorised sites for Gypsies and Travellers".

We believe though that the Government has failed to introduce the measures needed to deliver authorised sites in the numbers needed. We welcome the fact that the Government has incorporated the Commission for Racial Equality (CRE) drafted amendments into the Housing Bill. These create a statutory duty on councils to assess Traveller accommodation need and incorporate that in strategy documents outlining means to deliver such provision. However, we feel that in some cases, this will move no further than the development of a strategy document as opposed to actual sites on the ground. We along with the CRE, National Farmers' Union and Local Government Association still contend that a statutory duty is needed on councils to provide and facilitate sites.

We call upon the government to again consider the final amendment tabled by Lord Avebury to the Housing Bill, which proposed that the Secretary of State may, if at any time it appears to him to be necessary to do so, give directions to a local housing authority, requiring it to exercise its powers under S 24 of the Caravan Sites and Control of Development Act 1960, to provide such sites for Gypsies, for the accommodation of such numbers of caravans, as may be specified in the directions. The Secretary of State would not give any directions under subsection (1) unless either

- (a) there were Gypsy caravans on unauthorised sites in the area of the local authority at the previous January count, or
- (b) Gypsy families had been evicted from unauthorised sites in the area of the local authority during the previous calendar year.

This would come into operation on the day two years after the day of passing of the Housing Act.

We wish also to state that the eight million pounds allocated for new 100 % grants for residential sites is woefully inadequate. A much larger funding commitment is required.

We welcome the fact (see point 13 of the regulations) that temporary stop notices may not prohibit the continued stationing of a caravan on land where the caravan is the main place of residence. However, the regulations declare that an exception can be made in extreme cases where development is *"harmful to the local amenity"*. We believe that it would be useful if the regulations provided more clarification here so that the stop notices really are only invoked in the most extreme cases. This would ensure that planning authorities do not try and extend this definition to cover situations falling outside this criteria.

Para 33 of the Draft Partial Regulatory Impact Assessment, links concerns relating to caravan development in rural areas (especially ANOB, Green Belt and other areas) with Gypsy caravan



sites. The new consultation document Planning for Gypsy and Traveller Sites (para 32 et seq), indicates a need for rural exceptions policies and points out that very special circumstances may lead to the establishment of sites in the Green Belt or a readjustment of Green Belt boundaries to cater for identified need. It goes on to imply that sites may be established in areas with nationally recognized designations where the objectives of the designation will not be compromised. It also states that local landscape and local nature conservation designations should not of themselves be used to refuse planning permission for Gypsy and Traveller sites.

Hence we are very concerned that some local authorities may use section 33 as it stands to justify the imposition of temporary stop notices without proper consideration of other currently emerging government guidance. . We therefore request that this should be reflected fully in the guidelines to the use of stop notices.

We are glad that (point 14 of the regulations) the local planning authority should ensure basic temporary caravan site facilities. We presume this enables Gypsies and Travellers to install water, drainage and flush toilets and to install features such as safety fencing.

We note that the person affected by a temporary stop notice cannot appeal to the Secretary of State. We believe that the temporary stop notices should not be issued or upheld (if an appeal were possible) in relation to a breach of planning control by Gypsies or other Travellers unless the Secretary of State has certified that sufficient accommodation exists for Gypsies or other Travellers residing in or resorting to the region of which the local planning authority forms a part. Hence, stop notices should be conditional on councils meeting the targets set as a result of the Regional Spatial Strategies. This may act as a slight spur to increasing site provision.

Local authorities representatives may choose to discuss whether there is any alternative means to overcome objections. If an alternative can be found the regulations suggest an option is to consider granting planning permission. In order to promote such dialogue and compromise we believe that the Secretary of State should actively assess any such dialogue in deciding where to support an appeal against a temporary stop notice. The absence of any such dialogue should weigh against the Secretary of State upholding a temporary stop notice in an appeals process. Clearly therefore we believe that there should be an appeal process and that the Secretary of State should have a role within it. An appeal process would also allow the Secretary of State to assess whether appropriate personal circumstances investigations have been carried out.

FFT objects in principle to the introduction of temporary stop notices in relation to the stationing of caravans by Gypsies and Travellers because there seem to be no requests (or indeed time) for welfare enquiries to be conducted before they are issued.

No mention is made of the necessity for local authorities to carry out enquiries as to the welfare status of the inhabitants of any site before issuing a temporary stop notice. The temporary stop notice as it stands could be seen as acting as a fast track eviction procedure of people from their own land if harm to amenity seems to warrant it. It has been established in the courts that there is a duty on local authorities to carry out welfare enquiries before issuing a section 77 eviction notice under the Criminal Justice and Public Order Act 1994 and in cases of planning enforcement. The balancing act to be performed by any local authority demands that they must take into account the personal circumstances of the people affected as well as considering any impact of the development on amenity.



We fail to see how a designated officer exercising his/her powers to issue a temporary stop notice, for instance at a weekend, can make the necessary enquiries and carry out this balancing act.

We are also concerned that the Impact Assessment fails fully to take into account the impact of not allowing other caravans to join one already on a site. The social impact may be much greater than merely preventing a group staying together. It ignores the fact that many Gypsies and Travellers travel as a family with several generations living together. The speed of a temporary stop notice may have the effect of leaving vulnerable members of the family on the roadside without the support of the rest of the family and at risk of eviction. In such cases there can be a consequent impact on access to health services, education and on welfare generally. In view of the potential speed of temporary stop notices welfare enquiries made before a notice is issued should therefore include examination of the impact on family members who intend to live there but have yet to arrive.

Finally we are concerned that as Gypsies and Travellers, as opposed to the settled community, seem to be the main focus, Temporary stop notices are probably discriminatory. We therefore believe that Temporary Stop Notices may be incompatible with articles 1 and 8 of the protocol of the Human Rights Act. In view of the lack of an appeals process and the inevitable inadequacy of the judicial review process (due to their temporary nature) Temporary Stop Notices may also contravene article 6.

We trust you will take the matters outlined above into consideration as part of the consultation process.

Yours sincerely

S J Staines (voluntary worker)

Hard copy to follow e-mail.





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