

# Consultation response proforma

If you are responding by email or in writing, please reply using this questionnaire proforma, which should be read alongside the consultation document. You are able to expand the comments box should you need more space

Your Details (Required fields are indicated with an asterix(\*))

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Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?\* (please tick as appropriate)

Personal View

Organisational Response

Name of Organisation (if applicable)

East Lindsey District Council

If you are responding on behalf of an organisation, please tick the box which best describes your organisation.

Local Authority (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)

Neighbourhood Planning Body/Parish or Town Council

Private Sector organisation (including housebuilders, housing associations, businesses, consultants)

Trade Association / Interest Group/Voluntary or Charitable organisation

Other (Please specify)

## Unauthorised development and encampments

### Question 1:

What evidence is there of unauthorised development and encampments in your community, and what issues does this raise for the local community?

*Please enter your comments here*

East Lindsey District Council do have unauthorised encampments in its area. Due to being coastal, the travellers are normally visiting because they are on holiday, or are just passing through en-route to another destination. We have not had any travellers arrive for permanent site accommodation so far.

As the District has only just given planning permission for a transit site, and is working toward a permanent site, it has been difficult for them to find a suitable site in the locality. This has led to them setting up on Council car parks, and private land, often where they have caused damage to property or land to gain access. This has tended to happen more often on industrial estates.

This causes issues of loss of income to the council from its car parks, as there is either no spaces for them to park, or visitors are reluctant to park their vehicles in the car park, if any spaces are left. The car parks are usually coastal where seasonal businesses are located, so the presence of travellers, means that some businesses chose not to open until they have left, and/or loss of visitors to their business all results in loss of earnings.

This may alter with the granting of a 17 pitch transit site on the edge of the coast in January 2018, the Council is going to monitor the situation.

## Powers for dealing with unauthorised encampments

### Question 2:

We would like to invite evidence of unauthorised encampments which have occurred in the last 2 years, as follows:

- a. the number of instances where trespassers have occupied land without authorisation, including the location and scale of the encampment.
- b. whether the land in a) required cleaning or repair once the encampment had left, and if so, what was the cost?

- c. how was each unauthorised encampment encouraged to leave, how long did it take, and was the local authority able to move them on; or did the police become involved?

*Please enter your comments here*

Answers for 2 a), b) & c)

- Number of instances for 1.4.16 to 31.3.17 = 13
- Number of instances for 1.4.17 to 1.4.18 = 14

TOTAL FOR LAST 2 YEARS = 27

See table below for breakdown – blue is 2016/2017

Red = 2017/2018

TYPE OF LAND	LOCATION	SCALE	HOW THEY LEFT	CLEARED OR REPAIRS? & COST	COST	POLICE INVOLVED
COUNCIL CAR PARK	MABLETHORPE	12	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	LITTER CLEARED BY COUNCIL	NOT IDENTIFIED	NO
COUNCIL BUSINESS CENTRE CAR PARK AND COUNCIL FIELD ADJACENT	MABLETHORPE	3	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	NO	N/A	NO
INDUSTRIAL ESTATE (PRIVATE LAND)	MABLETHORPE	3	OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
INDUSTRIAL ESTATE (PRIVATE LAND)	MABLETHORPE	5	LEFT ON OWN ACCORD BEFORE	N/A	N/A	N/A

			ACTION TAKEN			
COUNCIL CAR PARK	SKEGNESS	6	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	NO	N/A	NO
PRIVATE LAND CAR PARK	TRUSTHORPE	1	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
PRIVATE LAND, FIELD	MABLETHORPE	4	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
PRIVATE LAND, FIELD	SKEGNESS	2	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
PRIVATE LAND, FIELD	SKEGNESS	1	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
PRIVATE LAND, FIELD	SKEGNESS	7	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
COUNCIL CAR PARK	SKEGNESS	7	REPOSESSION ORDER SERVED 48-HR NOTICE TO LEAVE	Litter cleared by council	Litter cleared by council – cost unknown. Repossession order £2000	NO

PRIVATE LAND, ROADSIDE	INGOLDMELLS	4	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
PRIVATE CAR PARK	INGOLDMELLS	2	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
COUNCIL INDUSTRIAL ESTATE	MABLETHORPE	5	REPOSESSION ORDER SERVED 48-HR NOTICE TO LEAVE	NO	COST OF REPOSESSION £1338.00	NO
PRIVATE LAND	SKEGNESS	3	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
COUNCIL PLAYING FIELDS	WAINFLEET	7	REPOSESSION ORDER SERVED 48-HR NOTICE TO LEAVE	NO	COST OF REPOSESSION £1338.00	NO
PRIVATE LAND	SKEGNESS	2	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
PRIVATE LAND	SKEGNESS	1	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
COUNCIL INDUSTRIAL ESTATE	MABLETHORPE	5	LEFT ON OWN ACCORD BEFORE	NO	N/A	NO

			ACTION TAKEN			
COUNCIL CAR PARK	MABLETHORPE	4	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	NO	N/A	NO
COUNCIL CAR PARK	MABLETHORPE	4	REPOSESSION ORDER SERVED 48-HR NOTICE TO LEAVE	NO	Repossession order £1338.00	NO
COUNCIL CAR PARK	MABLETHORE	7	REPOSESSION ORDER SERVED 48-HR NOTICE TO LEAVE	YES – LITTER CLEARED BY COUNCIL	Repossession order £840.00	NO
COUNCIL CAR PARK	MABLETHORE	4	REPOSESSION ORDER SERVED 48-HR NOTICE TO LEAVE	YES – LITTER CLEARED BY COUNCIL	Repossession order £840.00	NO
COUNCIL INDUSTRIAL ESTATE	MABLETHORPE	2	LEFT OF OWN ACCORD BEFORE ACTION TAKEN	NO	N/A	NO
PRIVATE LAND	SKEGNESS	4	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
PRIVATE LAND	SKEGNESS	3	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A

PRIVATE LAND	SKEGNESS	2	LEFT ON OWN ACCORD BEFORE ACTION TAKEN	N/A	N/A	N/A
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**Streamlining the powers under which local authorities can direct unauthorised campers to leave land**

**Question 3:**

Do you think that the existing powers made available to local authorities to remove unauthorised campers from land are effective?

*Please enter your comments here*

They can be effective but they aren't that efficient due to the legal process and timescales. This is because, of having to give 24 hours' notice before entering the land, and then having to give a further notice period for them to leave. If they don't leave, the Council then has to apply for a Court Order at the Magistrates Court, and so a Summons has to be drawn up by a Solicitor, and then served. The timescale for a hearing is bound by the Courts timetable, which can be several weeks. At the hearing if they don't turn up, the Court has to issue a warrant. The Council are then bound by police resource as to when they can actually go and execute the warrant, and arrest the defendant. Then you wait for another court date etc. etc. It can literally take weeks. East Lindsey doesn't tend to use this legislation to deal with illegal encampments for this reason, and the associated costs.

**Question 4:**

Do you think local authorities could improve their use of existing powers?

*Please enter your comments here*

Yes

**Question 5:** What other powers may help local authorities deal with unauthorised encampments?

*Please enter your comments here*

Legislation which can be implemented more quickly and thus be more effective.

## Aggravated trespass

**Question 6:**

Do you consider that the current powers for police to direct trespassers to leave land are effective?

*Please enter your comments here*

No

**Question 7:**

Would any new or revised powers that enable police to direct trespassers to leave land make it easier to deal with unauthorised encampments?

*Please enter your comments here*

Yes – an additional requirement under Section 61 of the CJPOA 1994 should also specify if any trespassers, including non-travellers, have created an illegal encampment on land, without the land owners permission, (even if no damage has been caused).



The legislation also only allows police to take action if there is an authorised traveller site elsewhere for them to go, this can make matters difficult if not impossible.

**Question 8:**

Do you consider that the Government should consider criminalising unauthorised encampments, in addition to the offence of aggravated trespass? If so, how should a new offence differ, and what actions and circumstances should it apply to?

*Please enter your comments here*

Yes. Any trespassers and that includes non-travellers, that have created an illegal encampment on land, without the land owner's permission, even if no damage has been caused, should be an offence, if they fail to leave when requested by Police. Otherwise the Police and private land owners have no, or very little powers to secure their removal.

## **Use of injunctions to protect land**

**Question 9:**

What barriers are there to the greater use of injunctions by local authorities, where appropriate, and how might they be overcome?

*Please enter your comments here*

Timescales associated in obtaining an injunction, however the cost associated with injunction proceedings can be significant and some smaller authorities cannot sustain that, if several are required over a year. Set fees may help with costs and budgets.

## **Joint-working between local authorities, communities and the police**

**Question 10:**

Do you have any suggestions or examples of how local authorities, the police, the courts and communities can work together more successfully to improve community relations and address issues raised by unauthorised encampments?

*Please enter your comments here*

Our illegal encampments are normally not significant, though in the past they have been periodically, but I know that in the nearby Authority (Boston), the District and County Council has combined costs to apply for a joint injunction. They have also included some requirements for no caravans etc. in certain areas within their Public Space Protection Order, which again allows a separate course of legal action if there is a breach.

A local working group for the most affected area may also be helpful, which would include an invitation to the travellers so they can participate, or a nominated traveller liaison officer who could also work with local residents to help them understand the needs of Travellers and allay any fears or concerns.

## Court Processes

### Question 11:

Are there ways in which court processes might be modified in a proportionate way to ensure unauthorised encampments can be addressed more quickly?

*Please enter your comments here*

Many Courts are now closed compared to a few years ago. In our area we had two and we now have one, which is located outside of the District. The remaining Court therefore has twice the caseloads as it did before. The Court timescales are too long in securing a hearing date. There should be a stipulation in the legislation that a court should have to deal with the case within a much shorter prescribed period of time. I don't know how this can be addressed at a court give their caseloads though.

## Interim possession orders

### Question 12:

In your view, what would the advantages and disadvantages be of extending the IPO process to open land?

*Please enter your comments here*

Most of our illegal encampments are on open land as opposed to premises, so extending the IPO to include open land, would be beneficial as this allow another enforcement process for the Council to use, whereas now they are restricted by the stipulation that they aren't on open land. This legislation could be used more frequently.

## Powers for dealing with unauthorised development

### Question 13:

Are you aware of any specific barriers which prevent the effective use of current planning enforcement powers?

*Please enter your comments here*

Yes please see above

**Question 14:**

If you are aware of any specific barriers to effective enforcement, are there any resourcing or administrative arrangements that can help overcome them?

*Please enter your comments here*

Yes. Cost to the Authority, lack of officer time and resources to deal with the problem, lack of Court availability.

**Question 15:** Are you aware of any specific barriers which prevent the effective use of temporary stop notices? If so, do you have a view on how these barriers can be overcome?

*Please enter your comments here*

Yes – They only last for 28 days, so failure to comply means the Council would then have to serve a Stop Notice with an Enforcement Notice. It may not be expedient to serve such notices, but if this course of action occurred, it then takes 28 days for an Enforcement Notice to take effect. They also can appeal, which means the Council are then bound by the timetable of The Planning Inspectorate. It would have to be a hearing or a public inquiry so the timescale is about 12 month's altogether before a decision is issued on the appeal. The travellers would remain in situ during that time, which defeats the object of serving it. The Council could prosecute for breach of the TSN or Stop Notice, but the Court cannot make them comply, so it is only a financial penalty, if convicted. It's not a very effective tool.

**Improving the efficiency of enforcement notice appeals****Question 16:**

How do you think the existing enforcement notice appeals process can be improved or streamlined?

*Please enter your comments here*

Timescales for illegal encampments should be quicker, but not so tight that it doesn't allow sufficient time for each party to write and submit their statements.



## Government Guidance

### Question 17:

How can Government make existing guidance more effective in informing and changing behaviour?

*Please enter your comments here*

Guidance is just that; it is advisory and so this can be left to interpretation and it can hold little weight in terms of when a Council is deciding what course of enforcement action is best to use, in the public interest. The guidance needs to be properly reflected in legislation, and it needs to then set out what this allows Authorities to do.

### Question 18:

If future guidance was issued as statutory guidance, would this help in taking action against unauthorised development and encampments?

*Please enter your comments here*

Additional guidance is always welcome, as this can provide new information or clarify 'grey areas'. Until additional guidance is issued, it is difficult to say whether this would help any more than the current guidance.

## Planning and traveller site provision

### Question 19:

Are there any specific barriers to the provision of more authorised permanent and transit sites? If so, is there any action that the Government could take to help overcome those barriers?

*Please enter your comments here*

There are two barriers to provision;

1. Cost – In times of financial constraint it is very costly to bring a local authority site forward and budgets do not stretch to this. Though there apparently is funding available it is now so hidden that it's impossible to find on the Homes England information. There

needs to be a clear, separate section on Gypsy and Traveller provision on what local authorities can bid for in terms of financial support. If nationally you wish to mitigate this issue then funding has to be available to local authorities and it has to be easy to access.

2. Compulsory purchase legislation still needs to be simplified further, particularly for this type of site. It would help if there was a national register of land value costs for gypsy and traveller provision and because there is a national need then over-riding provisions, such as a mediated final land value by the order Minister prior to the CPO being made, could be incorporated into the legislation so that some of the risk was taken out of the process and it would reduce the timeframe for bringing land forward.



## Impacts on the travelling community

### Question 20:

What impact would extending local authority, police or land owner powers have on children and families and other groups with protected characteristics that public authorities must, in the exercise of its functions, have due regard to under their Public Sector Equality Duty?

*Please enter your comments here*

East Lindsey is a District Council so this really would be an upper tier authority concern – though evicting people inevitably causes distress, particularly to young and older people or those with a disability.

### Question 21:

Do you expect that extending the powers referred to above would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities? If so, do you have any evidence to support this view, and/or suggestions for what could be done to mitigate or prevent any negative impacts?

*Please enter your comments here*

It will have a negative impact on the health and educational outcomes of those affected because any changes need to be accompanied by an improvement to local authorities being able to access funding to bring suitable sites forward.

## Other comments

### Question 22:

Do you have any other comments to make on the issue of unauthorised development and encampments not specifically addressed by any of the questions above?

*Please enter your comments here*

No

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**Your opinion is valuable to us. Thank you for taking the time to read the consultation and respond.**