



Planning Aid **Wales**
Cymorth Cynllunio **Cymru**



Llywodraeth Cymru
Welsh Government

Planning for Gypsy and Traveller Caravan Sites

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What is this document?

This booklet has been written especially for Gypsies and Travellers and Travelling Showpeople as a guide to planning their caravan sites.

The guide follows the publication in June 2018 of a Government Circular (005/2018) “Planning for Gypsy, Traveller and Showpeople Sites”.

This guide has been prepared with funding from Welsh Government by Planning Aid Wales, a charity working to increase community involvement in planning.

Visit www.planningaidwales.org.uk for more information.

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What is this guide about?

Gypsy, Traveller and Travelling Showpeople sites can be provided in a number of ways.

They can be private or public sites and sites can be for rent or to buy. However, all sites are covered by the planning system and are considered in the same way as other types of development.

This booklet explains how you can tell your Council where you think new sites are needed; how to apply for planning permission for building a new site for you and your community on your own land and what your rights are if things do not go as planned.

Other things to consider

When looking to set up your own caravan site, you should also consider the following points which are not discussed in this booklet:

- You will need to design what your site will look like. Guidance on site design for public sites is available on the Welsh Government's website <https://gov.wales/designing-gypsy-and-traveller-sites>, this may assist in your design.
- You are likely to need a caravan site licence in addition to a planning permission. You should apply for such a licence from your local Council.

What is planning?

Planning is the national system which manages the use and development of all land. This includes housing, schools, factories and most other purposes.

Planning controls how places change and what needs to be protected, it controls what needs to be built and where and what places will be like in the future.

Good planning can help improve places and protect things that are important. Planning can also help to solve problems for individuals and communities, for example, what types of houses are needed and where.

Gypsy, Traveller and Travelling Showpeople sites are considered under the same planning system.

Planning decisions and policies affect the lives of your community and the area where you live. This means that you and your community need to understand the planning system and get involved in it.

In addition, the Well-being of Future Generations (Wales) Act 2015 will be applicable to ensure the meeting the needs of the present without compromising the needs of future generations.

Who is this guide for?

The guide is aimed at Gypsies and Travellers including Travelling Showpeople.

Who are Gypsies and Travellers?

The definition of Gypsies and Travellers given in the Housing (Wales) Act 2014 is:

- Persons of a nomadic habit of life, whatever their race or origin, including:
 - Persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently; and
 - Members of an organised group of travelling show people or circus people (whether or not travelling together as such).
- All other persons with a cultural tradition of nomadism or of living in a mobile home.

The intention of the above definition is to ensure ethnic Romani Gypsies and Irish Travellers are included, as well as those from any ethnic group who follow a nomadic habit of life.

The definition also includes Travelling Showpeople. New Travellers could also be captured by the definition if they can demonstrate a cultural tradition of nomadism or of living in mobile homes.

Travelling Showpeople travel across the country holding fairs and circuses, usually in the summer months. However, they do require permanent sites for storage and maintenance of equipment and residential purposes. These sites are sometimes called winter quarters, although they must be available for occupation all year round.

Planning ahead

If you are looking to your future to make sure you have a place to stay or a place for your children's families to stay, you can tell the Council, so they can consider your needs in their future policies and plans.

This may help when you make a planning application in the future. If the Council do not know your needs, they cannot provide for them.

There are two main parts to planning ahead for new sites.

- 1** First, the Council has to find out if new sites are needed for Gypsy and Traveller caravans. This is called a Gypsy and Traveller Accommodation Assessment (GTAA). This process also applies for Travelling Showpeople. This is an important opportunity for you to tell the Council about your needs.
- 2** If the GTAA finds that new sites are needed, the Council has a duty to find suitable locations. This could be done as part of the 'Local Development Plan' or could be addressed through the planning application process. It is also important that you and your community help them to do this.

Tell your Council your needs and requirements.

They can then plan properly for your communities.

Six important questions to ask yourself:

If you are thinking about your or your family's future, you should ask yourself the following questions:

- 1** Are you or any of your family living on the roadside or on some other kind of unauthorised site?
- 2** Are you or any of your family living on an over-crowded Council or private site?
- 3** If you are living on a site, will your children have difficulty finding a free pitch to move onto when they grow up and have families of their own?
- 4** Are you or any of your family living in a house or flat but want to move back onto a site?
- 5** Do you want to buy land for your own site?
- 6** Are you aware of any land which could be available for potential site development that the council could consider for your needs?

If you answer 'yes' to any of these questions, it is very important that you tell your Council, so they know about what you need and want.

The best way to do this is through the GTAA and the Local Development Plan. Further information on the GTAA can be found in "Undertaking Gypsy and Traveller Accommodation Assessments Guidance", May 2015, prepared by the Welsh Government, details of how to obtain this document are given in appendix 2 of this guide. In addition, Councils may also produce their own guidance on this issue with specific references to their area, therefore it is advisable to contact the Council on this matter too.



How many pitches are needed?

The Gypsy and Traveller Accommodation Assessment

The Gypsy and Traveller Accommodation Assessment (GTAA) is your chance to show you need a new site.

The main aim of a Gypsy and Traveller Accommodation Assessment (GTAA) is for the Council to know the current and future need for Gypsy, Traveller and Travelling Showpeople accommodation.

An assessment identifies if any additional housing provision is required for Gypsies, Travellers and Travelling Showpeople and will be used by the Council to inform how many sites and pitches should be provided. This should, but not exclusively include informing the making of policies for sites in a Council's Local Development Plan (LDP).

It will also be relevant to inform consideration of planning applications. Travellers, and their children and other relatives, in bricks and mortar housing must also be considered as to whether they want to move out of or into such housing.

How many pitches do you need?

The GTAA is your chance to show you need a site.

An understanding of Traveller accommodation issues is important to ensure the Council provides enough sites and avoid the problems associated with ad hoc or unauthorised provision. The Council needs to know what people want e.g. to own sites or rent a site. They need to think about the people that live in your area as well as those that are passing through.

How a Gypsy and Traveller Accommodation Assessment is done

The Housing (Wales) Act 2014 made it a statutory requirement for the assessment of Gypsy, Traveller and Travelling Showpeople accommodation needs to be carried out and the duty to make provision for sites where the assessment identifies need. The Council must carry out this assessment.

The GTAA should be carried out every 5 years, and to make provision for sites where the assessment identifies an unmet need for mobile home pitches and plots.

You should check with your Council when the next review will take place.

Councils will want to find out the following information, this may be obtained by a questionnaire or by interviews.

Example GTAA Questionnaire >>

Your Council needs to know about your accommodation needs so they can plan for the right number of new pitches and new sites

Appendix 1 - GTAA Universal Questionnaire

SECTION A – YOUR HOME

A1 Where do you live now?

Local Authority ("Council") residential site		
Council transit site		
Private site with planning permission		
Private site currently without planning permission		
Unauthorised encampment		
Bricks and Mortar – Socially Rented		
Bricks and Mortar – Privately Rented		
Bricks and Mortar – Owner Occupied		

A2 Are you satisfied with your current accommodation?

Yes		
No		
Prefer not to say		

If 'no' please explain what could be improved:

What happens if you do not take part in the Assessment?

If you do not work with your Council and tell them what you and your family need, they will not be able to plan ahead properly for the number of new sites and pitches that are needed.

If the Council do not have accurate information this may make it more difficult to obtain planning permission for a site in future.

If you don't take part in the GTAA the Council will not be able to plan ahead properly for the number of new sites and pitches that are needed.

What happens if your Council does not ask you to take part?

As we have said the Council have a duty to carry out such assessments. In addition, if your Council does not carry out a GTAA properly and with your help, they will not be able to plan for the sites which need to be built.

They will not be able to make up to date policies in their Local Development Plan. In this case the independent Planning Inspector who checks the policies of the Council's Local Development Plan may change some policies.

The Council will consider any new need as part of a planning application; however, they will also consider if sites are already available in its area.

If the family appeals a decision, an independent Planning Inspector may consider whether the Council has reliable information to prove that there is no shortage of accommodation for Gypsies and Travellers in their area.

Further information on the GTAA can be found in "Undertaking Gypsy and Traveller Accommodation Assessments Guidance", May 2015, prepared by the Welsh Government. In addition, Councils may also produce their own guidance on this issue with specific references to their area, therefore it is advisable to contact the Council on this matter too.



Where should new sites be?

The Local Development Plan

If the GTAA shows new Gypsy and Traveller sites are needed in the area, your Council must work with you to find suitable places for new Gypsy and Traveller sites.

National planning policy requires Councils to find and show suitable places for Gypsies and Travellers in the 'Local Development Plan'. The GTAA will be a key consideration in doing this.

The Local Development Plan helps decide which uses of land, such as housing, can happen in which places.

It contains a number of policies which are used to decide planning applications for all kinds of development, including Gypsy and Traveller sites.

It is important that you take part in preparing the Local Development Plan to ensure the needs of the Gypsy and Traveller community are considered. The Local Development Plan sets out where new sites should go.



All parts of the local community will be involved. Your Council has to listen to comments made by local people and groups and take them into account in preparing the plan.

Before starting work on the Local Development Plan, your Council prepares a '*Community Involvement Scheme*'. This is important because it sets out how and when local people will be involved.



The Community Involvement Scheme must say how Gypsies and Travellers will be involved in preparing the Plan. It should also say how you and your community will be involved in ways which respect your customs and ways of life and builds trust.

When your Council asks your views, it is important that you do not miss out on the chance, there are strict deadlines for comments. You and your community are the best people to say which places you want to live in.

Your comments and views will help improve the Local Development Plan, making it easier for you to find a place to stay in the future. You can make sure you do not miss the chance to give your views by contacting your Council's planning department and asking them about the Local Development Plan.

Finding suitable places for new sites

If the GTAA shows a clear need for new Gypsy and Traveller sites in the area, the Council should have a strategy for providing those sites and should work with your community to find new sites. This process should include the identification of Gypsy and Traveller sites through the Local Development Plan which are suitable and likely to be developed. Sites can also be identified that are suitable for living and running a business.

These sites would be called “Candidate Sites” and the Council will publish a period for such sites to be sent to them for consideration.

If you want help in understanding how the Local Development Plan is prepared, or if you want advice about the best ways to get your views across, you can ask Planning Aid Wales for help. See page 38 for their contact details.

The LDP should set out where new sites should go. You can have a say in this by taking part in preparing the plan.

If there are not enough suitable places

If your Council cannot show enough sites in its Local Development Plan to meet the need for new sites, it has to give very clear reasons why. If this does happen, the Plan should set out clear rules to explain which kinds of land will be suitable for new sites. These policies will have a set of criteria which would need to be met.

Why the Local Development Plan is important to you

If you want to set up your own site, or if you want the Council to set up a new site, both will need planning permission (even if it's the Council who wants to build it). When someone applies for planning permission, the Council looks at its Local Development Plan.

If the Plan says where Gypsy and Traveller sites should be developed, then the site will probably get permission. This is why it is important that you let your Council know where you want new sites and what sort of sites.

What will happen if you do not take part?

If you do not take part in preparing the Local Development Plan, it may end up showing locations for Gypsy and Traveller sites that are not suitable for you. If you then apply for your own site somewhere else, the Council may refuse it permission. They will be able to say that the Plan shows space for Gypsy and Traveller sites, and that you should go there.

Planning policies about finding new Gypsy and Traveller sites must be fair and reasonable. If you want to know more about getting involved in preparing the Local Development Plan, contact Planning Aid Wales who will be able to provide free, independent and professional advice on all planning matters.

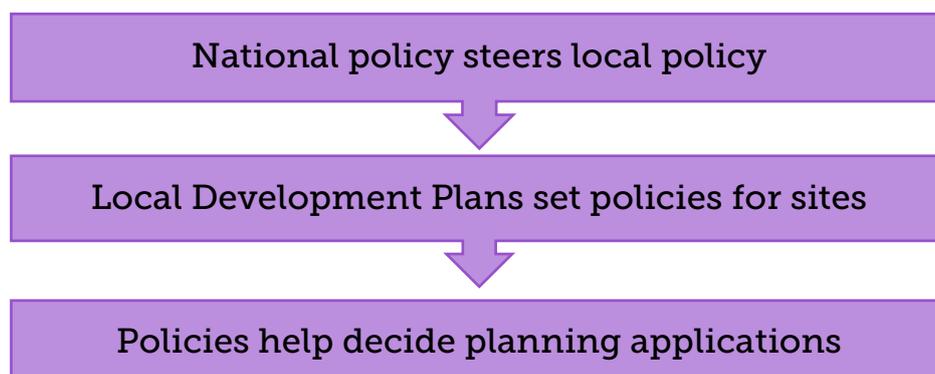
What happens if the Council does not ask you to take part?

Your Council should try to include you and your community in preparing the Local Development Plan. If it does not include you, it will not be able to plan properly for the sites which need to be built.

You and your community can also write to the Council in response to the Local Development Plan consultation documents. These documents are made available on the Council's website and in public libraries for anybody to comment.

If you do not take part in preparing the Local Development Plan, it may be more difficult later on to get planning permission for the site you want.

The Council will consider your comments, and respond in their documents and if they do not agree, the issue can be looked at by the independent Planning Inspector who examines the whole LDP.



Suitable places for new sites

There are some planning rules about where Gypsy and Traveller caravan sites can go. This section explains the most important ones.

New sites need to be sustainable.

New sites should be 'sustainable'. This means that the site should not harm the local environment but also consider the maintenance and support of family and social networks.

When your Council is thinking about which sites to include in the Local Development Plan, it will look at all the different possible sites to see how sustainable they are. The starting point will be to look at possible sites within or next to existing settlements.

There a number of matters that could assist in finding a suitable site such as access to health and education, access to services, therefore, it is suggested that advice is taken when considering a site.

It may be possible to have a site in a countryside location if there is a lack of sites within or adjacent to settlements. The Council will look at such sites carefully to ensure they are in proportion to their location.

Travelling Showpeople sites would need adequate space for associated vehicles and equipment. Given the nature of their use such sites should have easy access to the road system.

Unsuitable places for new sites

In National Parks, green belts, green wedges, ecologically important areas, flood risk areas, archaeological or historically important areas or other areas of special protection, development is controlled more strictly.

A new site needs to ensure it is not harmful to its surroundings

It is much more difficult to get planning permission in these areas than elsewhere.

Councils should avoid pressure for new sites in these protected areas by finding land in more suitable areas.

New sites should not be provided in locations which cannot access local services, such as education and shops. New sites should limit noise and negative impacts to the wider community such as disturbance.

This might be caused by vehicles coming into or moving around the site, or from businesses which are run on the site.

New sites are more likely to get planning permission if they fit in with their surroundings. On land which has been developed in the past, “brownfield land”.

A new site which is well planned and landscaped can help to improve it.

The Council’s current Local Development Plan and other planning guidance should provide advice on where development would be acceptable. It may also provide specific planning policies and guidance relating to Gypsy and Traveller sites.

Running businesses on sites

Some Gypsies and Travellers run businesses from the site they live on. In planning terms, these sites are different from sites where people just live. If suitable sites for a mix of uses living and business - cannot be found, your Council should try and find separate sites for residential and business uses which are close to each other.

Travelling Showpeople are likely to require separate facilities for their equipment and storage and this should be considered by the Council.

Transit Sites

A transit site is a specifically built site, much like a permanent site, with hard standing, electric hook up and a bathroom. The significant difference between a transit site and a permanent site is that you are not allowed to stay on a transit site beyond for longer than three months. If you are aware of a need for sites where community members will be passing through an area, you should let the Council know.



Applying for your own site

Who or what is your local planning authority (LPA)?

Your LPA is the department of your Council or National Park Authority who deal with planning matters relating to new development.

If you want to set up a new caravan site, you will need to get planning permission from your 'local planning authority'.

Applying for planning permission for a caravan site is similar to applying for permission for a house or any other development.

Planning applications for new sites are usually decided in line with the current adopted Local Development Plan policies. This would involve consideration of all relevant policies and not just the policy relating to Gypsy and Traveller sites.

Other things which might be considered are called "material considerations" and include how a new site will affect the local area, visual impact, traffic impacts, the need for a new site in the area, and whether there are particular

**Your Local
Planning Authority
is part of your
Council or National
Park Authority.**

reasons for selecting the site you have, such as family circumstances, work or other requirements.

There are organisations who can help you through the planning application process. Such as, Gypsy and Traveller Organisations or the Showmen's Guild of Great Britain and Planning Aid Wales, who can give you free professional advice and support. You can find their contact details on page 38 – 40 of this guide.

Think about asking an organisation like Planning Aid Wales for help.

Pre Application advice

Before buying or renting a piece of land you can seek the view of the Council on the chance of getting planning permission. Councils have a pre application process where you can approach the Council with details of a site and your particular proposal.

Seek pre application advice from the Council as early as possible.

They can then advise you on the issues relating to such a proposal and provide an informal opinion on the chances of success. Even if issues are raised this process allows you to investigate if they can be resolved before a formal application is made.

You would need submit details of the site such as site plans and any indicative information on your proposal. There may be a fee payable to the Council for this service.

The Council will be able to give you an idea of how long it will take to provide you with advice. It should be noted that the Council cannot confirm that permission will be granted as that can only be done when an application is made but the process can identify if there are issues or not and allow you to make a better decision on the site.

Details on pre-application services provided by your Council should be available to view on the Council's website.

Permitted Development Rights for Travelling Showpeople

There is a permitted development right (i.e. planning permission is not required) for the use of land, other than a building, as a caravan site for travelling showpeople. They must be members of an organisation of travelling showpeople which holds for the time being a certificate granted by the Government. They must also be travelling for the purposes of their business. The permitted development is subject to the condition that the use is discontinued when the circumstances above stop and all caravans on the site are removed as soon as reasonably practicable.

How do you apply for planning permission?

Step 1 Find a suitable piece of land

First, find a piece of land you would like to live on which is in a suitable place. Check your Local Development Plan when looking for land. If your Local Development Plan shows land for Gypsy and Traveller sites, these are the best places to go for.

Find out as much about a site as possible and use the criteria set out in this guide to find a suitable piece of land

You don't need to buy the land yet and you may regret buying it if you are not able to get planning permission. You do not have to own a site before applying for planning permission. But the price you will have to pay for the site may rise if you do get planning permission.

And remember, do not pull onto land before you have planning permission - it may harm your chances of getting a permission and possibly create tension within the local community.

Step 2 Carry out research on the land

Find as much information as you can about the land you have in mind. The most important things to check are: Is there a legal restriction (or 'covenant')

on the land which means it can only be used for certain things? Your local Land Charges Register should show any legal restrictions. You can ask to see it at your Council's offices. There may be a fee payable for this.

Is the land in an area where development is restricted, where there is a specific designation on the land? If it is, it is likely to be more difficult to get planning permission there. To find out if the land is within a protected area, look at the Council's LDP or contact the planning department in your Council, there may be a fee for this service.

Is the land likely to flood in the future? You can find out this information from the Natural Resource Wales Flood Maps.

<https://naturalresources.wales/evidence-and-data/maps/long-term-flood-risk/?lang=en>

If your land is shown by the Flood Maps as likely to flood, it will not usually be appropriate to develop the site. In some circumstances you may be able to get planning permission, but it will only be if you can prove the site is very unlikely to flood and that people and property will be safe. The Council usually asks for a written technical report proving that the risks of flooding can be managed. This is known as a Flood Consequences Assessment.

Step 3 Gather information about your proposed development

Collect as much information as you can about your caravan site project - you will need it before you go to meet the planners at your Council. They will want to know:

- which areas you have been looking for a site;
- your reasons for choosing your chosen site (such as family circumstances, work or other things);
- whether there are any other possible sites (and if there are, why you think they are not suitable);
- the number of caravans pitches you need;
- how many people on foot and in vehicles will be coming onto the site;
- how close the site is to a tarmac road and how people will get onto the site from the road;
- how close the site is to schools and other facilities;
- land levels and condition;
- how the site can be landscaped or screened;
- how it fits in with other land uses nearby.



Step 4 Pre application advice from the Council

It is always best to discuss your plans with the Council and follow the pre application process detailed above.

Step 5 Applying for planning permission

If there is reasonable hope of getting planning for your site, you should think about applying for permission. To do this, you need to fill in a planning application form and submit it to the Council. There is a fee to pay for submitting the application.

Collect and provide as much information as you can to help your application.

If you are not confident about filling in the form, a Council planning officer may be able to help or seek help from organisations such as Planning Aid Wales.

With the form you also need to provide any other information which the Council needs to make a decision such as plans, and technical information needed, depending on the existing site issues. If you do not provide all the required information the Council may invalidate the application. Remember, if you are not the owner of the site and you do manage to get planning permission for it, the price of the land may rise.

Use an appropriate professional to help you with your application.

Depending on the application and the proposed site, it may be worth seeking advice or appointing a planning agent such as a planning consultant. Such professions will usually charge a fee for their services.

Step 6 Supporting your planning application

The Council will usually decide on the application within eight weeks of receiving it. Wait for the Council to decide your application before doing anything - you must not pull onto the site until planning permission has been given.

Over these eight weeks, the Council will get in touch with people and organisations that might be affected by your application. These people will include any neighbours of the site, the local Community Council and the highways authority. However, depending on the site there may be others consulted.

They should tell local people about the application and ask for any comments by putting a notice up at the site, by writing to them, by advertising in a local newspaper and/or publishing information on their website. The Planning Officer will usually make a site visit to assess the application.

Ask other people to support your application.

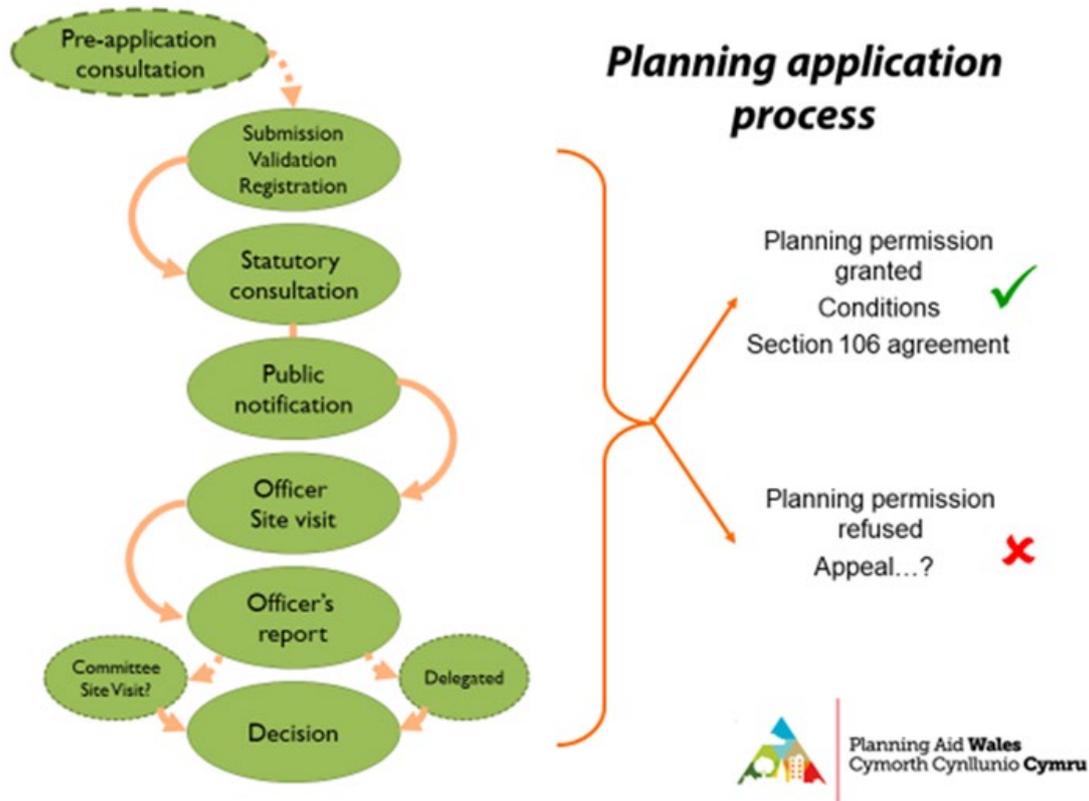
All the information you send with your application form will be available at the Council offices for anyone to look at. Anyone can write to the Council to comment on your application, either to support or object.

You can ask other people (e.g. a local Councillor, teacher, health visitor or neighbour) to write to the Council to support your application.

You will have a right to see all the comments that the Council has had about your application. The Council cannot refuse an application simply because a lot of people are against it.

But if they receive comments that are relevant to the planning issues involved, they do have to consider those. Personal circumstances may be considered in exceptional cases, but they rarely come before other planning considerations relating to the suitable use of the land.

You can comment on any representations received and also you may be able to discuss any issues with the planning officer once the application is submitted.



How your application is decided

The Council will send you a letter to tell you their decision on your application. There are three ways the Council can decide. It can:

- 1 give a permanent planning permission for the site, or
- 2 refuse the application, or
- 3 give a temporary planning permission.

Permanent planning permission

Planning permission is usually permanent. Often a planning permission comes with 'conditions' to explain things that you will need to do as part of your development before the site has full planning permission. A condition can be to do with improving road access into the site, tree planting, or who will live on the site. The Council has the power to make sure that you comply with these conditions.

Refusal of planning permission

The Council should not refuse an application without good reasons. For example, it should not refuse an application just because the person making the application has no links with the area. It should not refuse applications just because a site will create only a small increase in local traffic, where this would not result in the local road network being at overcapacity and create issues of safety.

Possible reasons why the Council may refuse an application are if it is not in line with the Local Development Plan; if the Council can show that there is suitable land for new sites in another area. It can refuse permission if the proposal has an adverse visual impact, impact on ecological sites etc.

Temporary planning permission

A temporary planning permission can sometimes be given for a site in a place which is not normally suitable. But this might only happen if new sites are urgently needed in the area and there are no other suitable places. Sometimes, if new sites are going to be developed in the future, a family may be given a temporary permission to stay in a place until then.

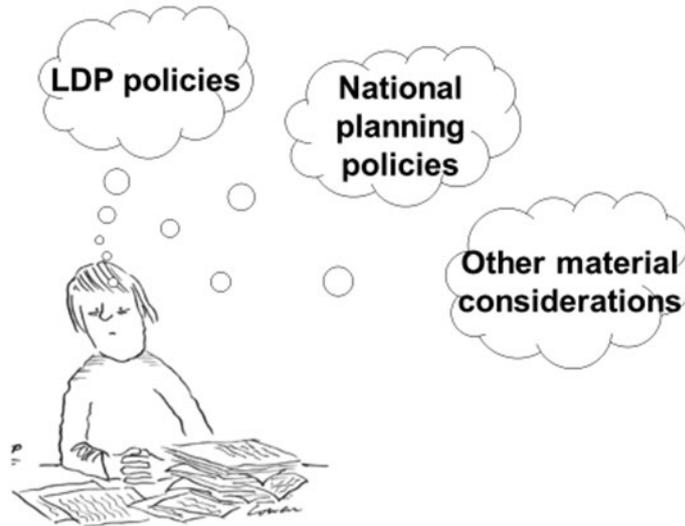
As an example, a temporary permission could be given by the Council for a site where there are long term plans to develop it for another use, but in the meantime, it would be suitable for Gypsies and Travellers to use it. The Council should not grant temporary permission at a place which would be entirely unsuitable for a site at any given period; for example, allowing a site in a place of extreme flood risk or on contaminated land where lives could be put in danger.

It is unlikely that a temporary permission will be turned into a permanent one later, but it is possible to extend a temporary permission. Although a temporary permission should not be repeatedly extended.

A temporary planning permission can come with 'conditions' in the same way a permanent permission can.

If there is a need evidenced for sites, local authorities should be granting permanent permissions. Therefore, it should only be in rare cases that temporary planning permissions for sites are granted.

How decisions are made



Your right to appeal

If the Council refuses planning permission for your new site, or gives permission but with unreasonable 'conditions', you can 'appeal'.

You can also appeal if your Council takes too long to decide your application (takes over eight weeks).

If you do appeal, an independent Planning Inspector appointed by the Planning Inspectorate (who act for the Welsh Ministers) will look again at the application and the reasons for refusal, or the 'conditions' if it is a permission.

You must appeal within six months of the decision. To make an appeal, you will need to fill in a special form. You will not have to pay any money for an appeal (unless you are seeking retrospective planning permission) and an appeal can be dealt with by an exchange of written statements but you may need to go to a 'hearing' or meeting. Further information can be found on the Welsh Government website <https://gov.wales/planning-appeals>

The Inspector can decide to allow your appeal (meaning you get planning permission or change the conditions) or dismiss it (meaning you do not get planning permission).

If your application has been refused you can appeal.

Seek professional help when thinking about an appeal.

Going to court

Decisions made by a Planning Inspector on a planning appeal are final, unless they are successfully challenged in the High Court.

To be successful in the High Court, you would have to show that the Inspector had gone beyond his or her powers; or the Inspector did not follow the correct procedures and so damaged your interests. There is also a time limit to make such challenges.

Think carefully before taking legal action, because it can be very expensive. Before taking any action, you should try to find out more from planning and legal advisors. Ask for advice before thinking about going to the High Court and you can speak to a solicitor.

**Ask for advice
before thinking
about going to
the High Court**



Enforcement – Development without Planning Permission

It is not a criminal offence to live on land without planning permission, if you have permission from the landowner.

But if you have not got planning permission, the Council has powers to act to end the use and move you off site. This is called 'enforcement action'. The following is the usual procedure a Council may follow:

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY OR PROPERTY THAT YOU HAVE AN INTEREST IN

TOWN AND COUNTRY PLANNING ACT 1990

ENFORCEMENT NOTICE

REFERENCE NUMBER: 16/12184/ENFOTH

To:
Your Name
Your Address

ISSUED BY: YOUR COUNCIL, WALES

1. **THIS IS A FORMAL NOTICE** which is issued by your Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(a) of the Town and Country Planning Act 1990, at the land described below. You consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material considerations.

2. **THE LAND AFFECTED**
Land at your site shown edged red on the attached plan.

3. **THE BREACH OF PLANNING CONTROL ALLEGED**
In terms of Section 123(1)(a) of the above Act, the carrying out of development without the benefit of express planning permission, relative to:
Unauthorised caravan

5. **WHAT YOU ARE REQUIRED TO DO**
(i) the removal from the site of the touring caravan;
Time period for compliance: 3 months from the date the notice takes effect.

6. **WHEN THIS NOTICE TAKES EFFECT**
This notice takes effect on 30th November 2016 unless an appeal is made to the Scottish Executive before the date the notice takes effect.

Step 1

The Council may contact you for information to decide if there is a potential breach of planning rules, this may be by means of a Planning Contravention Notice. You are required to respond to this.

Step 2

A Council officer will probably visit your site to decide whether any planning rules have been broken. The Council will then contact you to tell you what you can do to make things right.

You may be asked to apply for retrospective planning permission or for a Lawful Development Certificate (see above). If this is successful you will be able to stay. Alternatively, they may ask you to stop using the site and move on.

An Enforcement Notice is an important legal document – DO NOT IGNORE IT

Step 3

In more serious cases, such as if your retrospective planning application is refused or if no application is made and compliance with the Council request is not carried out in a given timescale you may be given an official 'enforcement notice'.

This sets a time limit for you to put things right, such as by leaving the unauthorised development. But you can appeal to the Planning Inspectorate against the enforcement notice, the appeal must be made before the date the notice takes effect which is stated on the enforcement notice.

The appeal means any action is suspended until the appeal is determined and if no other action is taken by the Council you can then stay on the site until the appeal is decided.

You must appeal before the date the notice takes effect.

Step 4

If your appeal against the enforcement notice fails, and you still do not do what the enforcement notice asks, you will be committing an offence. The Council will be able to take you to court.

The court can fine you, or order that you are removed from the site. Fines can be up to £20000 or can attract a prison sentence if referred to the Crown Court. In addition, if compliance does not occur the Council have powers to carry out the work required by the enforcement notice and charge you their costs.

It is possible to argue in the courts that your human rights will be affected if you have to move. But this has had limited success in the past. At this stage, it is advisable to find another site.

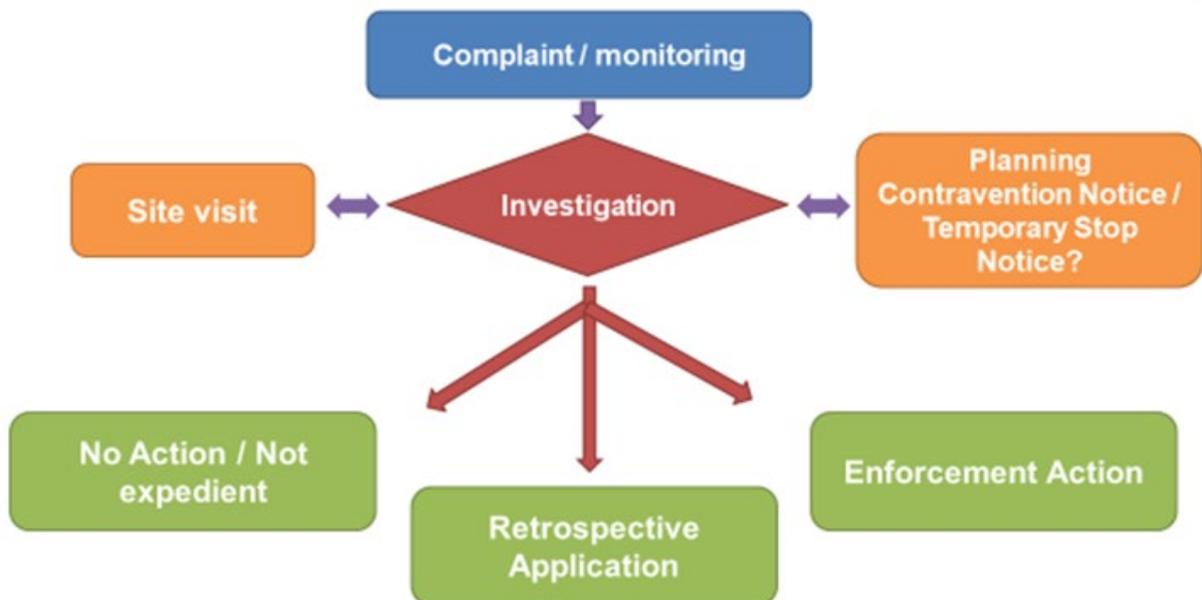
Stop notice

A 'stop notice' can be given by a Council with an enforcement notice. It is a criminal offence not to comply with what it says. It may be used to stop Gypsies and Travellers connecting water supplies and making hard standings when they first pull onto a site or cease the use immediately. There is no right of appeal against a stop notice itself, but it is possible to appeal to the Planning Inspectorate against the enforcement notice it belongs to. If the appeal against the enforcement notice is allowed the stop notice will also be removed.



The Council can also serve a temporary stop notice to stop development on land. This would last 28 days. This allows the Council the time to consider if enforcement action is needed. There is no right of appeal against a temporary stop notice.

How does enforcement work?



Regularising unauthorised Development / Uses

There are two ways to make an unauthorised development lawful - a 'Lawful Development Certificate' or a 'retrospective planning permission'.

Lawful Development Certificate

If people have been living on the site for at least 10 years continuously, you might be able to get a 'Lawful Development Certificate'. If you can get one, you will have the right to continue to use the site. However, if you ever want to develop the site any further, you will need a separate planning permission.

You need to fill in a form from the Council, provide plans of the site and pay a fee. You must be able to prove that the site has been used continually for at least ten years. Also, you have to prove that any buildings on the site have been there for at least four years.

Your proof for this must be very strong and not just your word or the word of your friends and family. You will need to provide things like statutory declarations and other types of evidence that will stand up in a court.

Retrospective planning permission

If your site does not qualify for a Lawful Development Certificate, you can still apply for planning permission after you have moved onto a site. This is known as a 'retrospective planning application'. The process is exactly the same as described on pages 22-25.

It is possible to make an unauthorised development lawful for legal purposes.

It is important to note that just because the application is retrospective this does not mean the application will be approved simply because you are already on site, therefore, you should obtain planning permission before moving onto a new site if it's required. Otherwise, you could be subject to enforcement action by the Council and potentially legal action. This approach could create more problems for you and your family in the long term than if you were to go through the correct process of gaining planning approval for a site through the Council before moving onto it.

You should always gain planning permission before living on a site if it's required. This would prevent any possible enforcement and legal action against you and your family.

Your human rights

Planning decisions are covered by Human Rights law. This means that planning decisions have to respect your human rights and treat you in the same way as everyone else.

Also, the Equality Act 2010 means that Councils have to ensure there is not racial discrimination and work for equal opportunities for all people when carrying out their planning roles. They should also promote good race relations between Gypsies and Travellers and the settled community in their planning work. Planning officers and Councils should provide justifications for their planning decisions based on land use considerations which accord with

planning policy and the Well-being of Future Generations (Wales) Act. They should not base their decisions on race by which there may have been a different outcome if you were not a Gypsy or Traveller.

However, please remember that Gypsies and Travellers do not have a right to develop new sites without planning permission under human rights or equalities law.

Gypsies, Travellers and Travelling Showpeople have a right to be treated in the same way as everybody else

Your right to complain

If you believe the service provided by your Council in assessing your planning proposal has been dissatisfactory (for example, if you have not been kept informed or told what information to provide), you have the right to complain.

If you wish to make a complaint against the Council, you should carry out the following steps in the following order until the issue is resolved:

- 1.) Write to the Chief Planning Officer for the Council. Their contact details can be obtained by contacting the Council's Planning Department. Contact details for the Council are available from their website.
- 2.) Write to the Council's Monitoring Officer. Again, steps for making a complaint to the Monitoring Officer can be found on the Council's website.
- 3.) Contact the Public Services Ombudsman for Wales (contact details are provided in appendix 1 of this guide).

You should only take this course of action if you are unhappy with the service provided by the Council. If you disagree with the planning decision, you should appeal the decision.

Appendix 1 - Useful contacts and websites

Local Planning Authorities

Responsible for deciding planning applications for your area and producing Local Development Plans. If you have a query on whether a location would be suitable for a Gypsy and Traveller site, you should contact your local planning authority. Contact details for all the Local Planning Authorities can be found at: www.planningaidwales.org.uk/mycouncil/

The Welsh Government Planning Directorate

Responsible for developing the planning system in Wales. It produces guidance for local planning authorities to assist in deciding planning applications and development plans. **The Welsh Government cannot comment on local issues and on particular Gypsy and Traveller sites. Therefore, if you have any queries regarding a particular site proposal, you should contact the local planning authority.**

Address: Planning Directorate, Welsh Government, Cathays Park, Cardiff CF10 3NQ

Telephone: 0300 0604400

Email: Planning.Directorate@gov.wales

Website: <https://gov.wales/building-planning>

The Welsh Government Equality Team

Responsible for setting the framework to help Gypsies, Roma and Travellers in society. It produces guidance to assist local authorities in meeting their accommodation needs for Gypsy and Traveller sites and to design and manage such sites. **The Welsh Government cannot comment on local issues and on particular Gypsy and Traveller sites. Therefore, if you have any queries regarding a particular site proposal, you should contact the local planning authority.**

Address: Communities Division, Welsh Government, Merthyr Tydfil, CF48 1UZ

Telephone: 0300 0604400

Email: EqualityBranch@gov.wales

Website: <https://gov.wales/community-cohesion>

Equality and Human Rights Commission Wales

The commission champions equality and human rights for all.

Address: Block 1, Spur D, Government Buildings, St Agnes Road, Cardiff, CF14 4YY

Telephone: 02920 447710 E-mail: Wales@equalityhumanrights.com

Website: www.equalityhumanrights.com

Planning Aid Wales

Provides free information and advice about planning. It can help you with applying for permission for your own site. It can also support you if you want to take part in preparing a Local Development Plan. There is a wide range of information about planning on its website.

Helpline: 02920 625000; Website: www.planningaidwales.org.uk; E-mail: info@planningaidwales.org.uk

The Planning Inspectorate (Wales)

Handles planning and enforcement appeals and holds examinations into development plans on behalf of the Welsh Ministers.

Address: The Planning Inspectorate, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ

Telephone: 0303 444 5940; Email: wales@planninginspectorate.gov.uk

Website: www.gov.wales/planning-inspectorate

Travelling Ahead, Gypsy, Roma and Traveller Advice & Advocacy Service

Responsible for helping and supporting Gypsy and Traveller communities on a range of issues.

Address: Kiln House, 3rd Floor, The Maltings, East Tyndall Street, Cardiff, CF24 5EA

Telephone: 01633 509544, Freephone 0808 802 0025

The Showmen's Guild of Great Britain

Organisation that supports and advises members of the travelling showpeople on various issues.

Address: South Wales – 7 Rhigos Gardens, Cardiff, CF24 4LS

Telephone: 07949 289 075 E-mail: Sgwales1@gmail.com

North Wales – 11 St. Mary's Place, Bury, Lancashire, BL9 0DZ

Telephone: 01617 629 502 E-mail: leesashowmensguild@yahoo.com

Website: www.showmensguild.co.uk

RTPI Cymru

The Institute for chartered town planners. The institute provides an online list of planning consultants who work on gypsy and traveller matters, this can be found at www.rtpiconsultants.co.uk

Address: Studio 107, Creative Quarter, Morgan Arcade, Cardiff, CF10 1AF

Telephone: 02920 498215 E-mail: wales@rtpi.org.uk

Website: www.rtpi.org.uk/the-rtpi-near-you/rtpi-cymru

Public Services Ombudsman for Wales

Public Services Ombudsman for Wales has legal powers to look into complaints about public services and independent care providers in Wales. They also investigate complaints that members of local government bodies have broken their authority's code of conduct. The Public Services Ombudsman for Wales is independent of all government bodies.

Address: 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ

Telephone: 0300 790 0203

Website: <https://www.ombudsman.wales/>

Appendix 2 - Planning and Gypsy and Traveller guidance documents by the Welsh Government

Planning Policy Wales, Edition 10, Welsh Government, December 2018
<https://gov.wales/planning-policy-wales>

Circular 005/2018, Planning for Gypsy, Traveller and Showpeople Sites, Welsh Government, June 2018 <https://gov.wales/planning-gypsy-traveller-and-showpeople-sites-wgc-0052018>

The above policy and guidance is for planning authorities to use when considering the identification of sites for Gypsies and Travellers.

Undertaking Gypsy and Traveller Accommodation Assessments Guidance, Welsh Government, May 2015 <https://gov.wales/gypsy-and-traveller-accommodation-assessments-guidance>

Guidance on Managing Unauthorised Camping, Welsh Government, December 2013 <https://gov.wales/managing-unauthorised-camping-guidance>

Designing Gypsy and Traveller Sites Guidance, Welsh Government, May 2015 <https://gov.wales/designing-gypsy-and-traveller-sites>

Managing Gypsy and Traveller Sites in Wales Guidance, Welsh Government, May 2015 <https://gov.wales/managing-gypsy-and-traveller-sites>

Planning Your Community: A guide to Local Development Plans (Welsh Assembly Government Booklet July 2006) <https://gov.wales/planning-your-community-guide-local-development-plans>

Model standards 2008 for Caravan Sites in Wales (Welsh Assembly Government document, July 2008) <https://gweddill.gov.wales/topics/housing-and-regeneration/publications/model-standards-2008-for-caravan-sites-in-Wales/?lang=en>

Appendix 3 - Planning Words Explained

Agent – The person who acts on your behalf to submit a planning application or appeal.

Appeal / appellant – An applicant for planning permission can appeal against a decision (usually a refusal of permission). Appeals can also be made if a planning authority does not decide an application in a given time, and for other reasons. The person who makes an appeal is the appellant. Appeals are decided by the Planning Inspectorate.

Applicant – The person who signs and submits the planning application forms. An agent can submit applications for other people.

Area of Outstanding Natural Beauty – An area identified in law as nationally important because of its outstanding landscape value.

Community and town councils – The local administrative body in a ward, town or community area. Usually consulted about planning issues. Known as parishes in England.

Conservation areas – Conservation areas are parts of urban or rural areas which are special because of their architecture or history. Local planning authorities designate conservation areas to protect or improve their special qualities. A higher standard of design is expected in the area, and any pulling down of buildings or cutting of mature trees is controlled.

Consult (or consultation) – Asking people or organisations what they think about something.

Consultant – A planning consultant is a trained planner who works for people and companies who can afford to pay for expert help and advice. Consultants have experience of the planning system, for example, to help get a planning permission or to appeal against a refusal.

Contamination / contaminated land – Land that has been polluted or harmed in some way, making it unfit for safe development. Development can only happen after it has been cleaned up, or decontaminated.

Council – Where we use 'council' in this booklet, we mean your local authority or your local planning authority. Usually a city, county or county borough council will be your local authority and your local planning authority. But if you live in a National Park, the National Park Authority is the local planning authority, while your county or borough council is the local authority for everything else (including the Accommodation Needs Assessment).

Court of Human Rights – The European Court of Human Rights hears complaints from European countries about possible infringements of human rights.

Criteria based policies – Rules in development plans that describe what a development must be like to be acceptable. These are different from the 'rules' set out on maps.

Development – Defined as 'the carrying out of building, engineering, mining or other operations, in, on, over or under land, or the making of any material change in the use of any building or other land.'

Enforcement– A local planning authority uses its enforcement powers to make sure all the terms and conditions of a planning decision are carried out. Enforcement is also used to control development which has not got a planning permission, but which needs it.

Enforcement Notice – An enforcement notice sets out what needs to be done to put something right with development on a site, or to control an activity which has not got planning permission.

Enforcement Officer – A Council Official who deals with matters that do not have planning permission.

Flood Risk Areas – Areas of land that may be flooded, including by river, sea or surface water.

Freedom of Information Act – Gives any person the legal right to request information which is held by public authorities. This information must be provided unless the authority can provide adequate justification for not providing it. This could be due to cost or because the information is of a sensitive nature.

Green belt/green wedge – Land around some cities or towns, which the council aims to keep 'green' and free from buildings and development. Green belts and green wedges are marked in the Development Plan.

Gypsy and Traveller Accommodation Assessment (GTAA) – A survey of Gypsies and Travellers in each council area to find out the numbers of people and pitches, how many more are needed and where. It informs the Local Housing Market Assessment.

Human Rights Act – The Human Rights Act is law which protects people's human rights. Human rights are the basic freedoms and values which all people have a right to. It also limits some individual rights, to protect the rights of others and the wider community.

Landscaping – Plants, trees, fences, paths and other structures that are put around a building to make it fit in better with its surroundings.

Lawful Development Certificate – A legal document that states development on an individual site is acceptable. Therefore, it would not require planning permission or be subject to future enforcement.

Local Development Plan – Often called a ‘LDP’, it will be the statutory development plan for a local planning authority area. It should include a vision and a broad strategy, as well as policies for different areas and types of development. It will identify land suitable for new development and set out proposals for key areas of change and protection. Policies and development land will be shown on a map base, called the Proposals Map.

Local planning authority – The local authority or council that is responsible for preparing plans and for making planning decisions. In Wales, there are twenty five planning authorities, including the three National Parks.

Material / material consideration – If something is material, it is relevant and needs to be considered before a decision is made. Whether or not something is material often depends on the individual case. In other words, there is no hard or fast rule. Each case must be considered on its own particular merit.

National Park – National Parks are designated because of their special landscapes and environments. They aim to protect natural beauty, wildlife and traditional ways of working and living.

Nature conservation – Protecting wildlife areas and species by careful management. Creating opportunities for nature to thrive, often by including the communities that enjoy natural areas and wildlife.

Planning Conditions – Rules attached to a planning permission. Conditions control how different parts of a development should be carried out, such as building materials, landscaping and access.

Permitted development / permitted development rights – There are certain types of development which do not need planning permission. The General Permitted Development Order sets out those things which can be done without needing to apply for planning permission.

Planning Aid Wales – Planning Aid Wales is a charity which provides free, independent advice and support to people and groups who cannot afford to pay a planning consultant. It encourages people to get involved in the planning system to improve their local environment.

Planning Inspector – An Official appointed by the Planning Inspectorate. The Inspector makes independent planning decisions on behalf of the Welsh

Ministers. Inspectors consider planning appeal cases and test the 'soundness' of development plans at examination.

Planning Inspectorate – An independent agency sponsored by the Welsh Government, which acts for the Welsh Ministers and deals with planning appeals and LDP examinations.

Planning Officer – A Council Official who deals with planning policy and planning applications.

Planning permission – Formal approval from a local planning authority or the Planning Inspectorate (if the application is refused by the local planning authority and approved on appeal) that a proposed development can go ahead. It is often granted with conditions. Planning Permission can be full, or outline.

Planning Policy Wales – Sets out the national policy framework for land use planning in Wales and includes many different areas of planning. Prepared by the Welsh Government.

Policy / policies – Planning policies are usually contained in Local Development Plans. They are a set of words which describe what is acceptable in planning terms, and what is not. There can be policies for different types of development, and policies which apply only in certain places. Planning applications can be decided after taking account of several different policies.

Pre-application discussions – Discussions which happen before a planning application is submitted. Usually between local authority planning officers and the person thinking of developing a proposal. The planning officer might advise on something that the applicant does not know about or make suggestions to help improve the proposal.

Public Services Ombudsman for Wales – Deals with complaints where people think they have been treated badly by a public body.

Retrospective planning application – An application for planning permission that occurs after the use of land or the construction of a building has already happened.

SSSI – Sites of special scientific interest. They are areas that support plants, animals and habitats that are rare, declining or unique, they also protect the best examples of Wales's geology.

Statutory Consultee – An organisation which the Council must consult before making a decision on a planning application e.g. Natural Resources Wales, where flooding is an issue.

Stop Notice – A legal notice served by the local planning authority which aims to make somebody stop a development or an activity. Used as part of enforcement powers.

Supplementary planning guidance – Detailed guidance prepared by the local planning authority. Usually to do with a particular planning issue. It might cover a theme such as design and landscaping or be to do with an area such as gypsy and traveller sites.

Sustainable development – Looking after the world by using its resources in a sensible way. Often defined as: ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs’.

Technical Advice Notes – Technical Advice Notes are prepared by the Welsh Government and give more detail about national planning policies. They deal with a specific area of planning, such as housing, flood risk, or protecting wildlife.

Temporary Stopping Place – These are intended to be short-term in nature to assist Local Authorities where pitches for Gypsies and Travellers passing through an area are needed.

Transit pitch – Land on a mobile home site where occupiers are entitled to station their mobile homes for a maximum of 3 months.

Transit site – Transit sites are permanent facilities designed for temporary use by occupiers.

Unauthorised encampment – Land occupied without the permission of the owner or without the correct land use planning permission.

Unauthorised development – Land occupied by the owner without the necessary land use planning permission.

Welsh Government – The national government in Wales headed by the Welsh Ministers. It is responsible for the planning system in Wales and prepares national planning policy, guidance and planning legislation.

Welsh Ministers – Elected members to the National Assembly for Wales who make decisions on behalf of the people of Wales. Advised by Welsh Government Officials in their decision making.