

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

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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)

Mineral Products Association

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)

N/A

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

Our members often own significant land holding, some operational (quarries, plant areas, workshops) and non-operational land, either land awaiting mineral extraction, or having been restored post-extraction. Such land is usually in rural locations that are hard to keep secure and are attractive for unauthorised occupation.

In terms of issues, there have been many instances of verbal and physical threats to staff when challenging unauthorised occupiers or repairing damages caused to fences/gates by the unauthorised entry and occupation. It is also difficult to secure plant, workshop and office areas due to increased risk and incidence of theft.

Fly tipping and the depositing of human waste also often occurs during unauthorised occupations.

It has also been reported to us that unauthorised occupiers have demanded payment from landowners to leave under the threat of more occupiers coming in if there is no payment.

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

As we are trade association we cannot comment on specific examples but hope our members will.

However, unauthorised occupation of land is not uncommon in our members experience and can cause business interruption and the need to expend significant costs to repair damage and clear up the land in question, often of waste that attracts significant cost as it can sometimes be classified as hazardous.

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

Based on the practical time it takes to have unauthorised occupations removed, it would appear not.

Question 4:

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

Please enter your comments here

No comment.

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

Please enter your comments here

One of the issues is that the landowner must go to court to declare that permission has not been given for the unauthorised occupation and for a possession order to be issued. The time (and cost) of instructing lawyers, getting a time slot in court and for removal

orders to be issued can take several days, including the need to serve 2 days' notice on the trespassers.

Aggravated trespass

Question 6:

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

The Police have powers to remove trespassers from land under Section 61 of the Criminal Justice and Public Order Act 1994 if; 1) damage has been caused to land or property, 2) that threats have been made to landowners or others by the trespassers, or; 3) the trespassers have between them 6 or more vehicles on the land.

On the face of it these powers would seem adequate especially as 1) and 3) above are often the case. However, there appears a reluctance to use the powers either because the Police do not have the necessary resources and manpower available, or the level of proof required to implement under 1) and 2) above. Certainly, it is unusual for there to be fewer than 6 vehicles and caravans on land in an unauthorised occupation so 3) above should be cause enough to remove trespassers.

Anecdotal evidence would suggest that rural areas have limited police resources available, with a small number of officers responsible for a large geographical area. Therefore, the resources do not exist to deal with the issues outlined above.

Once again, anecdotally, there is a difference in approach from one police force to another. Some police forces take a robust and proactive approach while others do not. A Home Office direction might help to deliver a more consistent approach to responding to such incidents.

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

The act of trespass should be made a criminal offence and the police should have the powers extended under Section 61 of the Criminal Justice and Public Order Act 1994

(see Q6 above) so that if they suspect any of the 3 conditions of Section 61 apply the trespassers can be directed to move.

Furthermore, the authorities should have the right in law to seize property (e.g. vehicles and caravans), to compensate landowners in the situation where unauthorised occupations have caused damage, physical or environmental, inconvenience to landowner or other lawful users of the land. The clear up cost after an unauthorised occupation can be substantial, and it is not right that the cost burden should fall on the landowner.

The reality is it is almost impossible for landowners to obtain damages after an unauthorised occupation, hence the need for authorities to seize property already on the land.

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, See response to Q7.

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

Believe there are potentially issues across different jurisdictions.

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

Suspect it is an issue of resources especially for the police but also attitude and willingness in some cases to implement and act on existing legislation.

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

Yes. It can take several days for a possession order to be issued by the court including the 2-day notice requirement required to be served on the trespassers. While it is accepted that usually the courts take this matter seriously and time is allocated expeditiously, the process is too long given the potential business impacts on the landowner.

It is suggested that a simple legal declaration by the landowner, or their representative, that he/she has not given permission for the occupation of the land should be sufficient for the appropriate authorities to have the power to remove the trespassers immediately.

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

Anything that speeds the eviction process must be welcomed. The requirement however, for the landowner to pay damages if the IPO is incorrectly issued is wrong and should be removed.

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

No, apart from a lack of resources. Historically Local Authorities had traveller liaison officers and teams who could react quickly and help bring unauthorised occupations to a quicker conclusion. Dealing with such occupations can be challenging and it is important to have individuals on the ground who have the experience to deal with such situations. It may be possible for authorities to share such teams on a regional basis.

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

See Q13 above.

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

No comment.

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

No comment.

Question 17:

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

Please enter your comments here

The Home Office need to remind the police of the existing powers they have around such matters, and that they are expected to enforce them for of the benefit of the wider law-abiding public. Consistency of approach in responding to such incidents across constabularies is key.

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

Possibly, but the law needs changing as articulated in previous question responses. The Home Office need to remind the police of the existing powers they have around such matters, and that they are expected to enforce them for of the benefit of the wider law-abiding public. Consistency of approach in responding to such incidents across constabularies is key.

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

No comment

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

No comment

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

No comment

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

The perception is that unauthorised occupiers ‘*know their rights*’ and the law as it currently stands and play the system to the maximum advantage to delay evictions. There is a need in our view for the balance to be addressed so that the landowner affected by trespass feels that the legislation and various authorities are working for the benefit of the law abider.

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