



NEWS REPORT

Date: 22 March 2009
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Title: Local councils may take action to remove Traveller and Gypsy families occupying unauthorised sites
Country: UK

Context

Issue at stake: Whether a local authority could take action to force compliance with enforcement notices to remove Irish Traveller and Gypsy families who are resident on unauthorised sites.

Ground of discrimination: Race/ethnic origin

Source: Court of Appeal (Civil Division) decision.

Field: Housing

Legislative provisions: Town and Country Planning Act 1990, Housing Act 1996, Office of the Deputy Prime Minister Circular 01/2006.

Content:

Case/law/political development: *Basildon District Council v McCarthy & Ors* [2009] EWCA Civ 13. The appellant local authority appealed against a High Court judgment which had overturned the authority's decision under planning control legislation to enforce compliance with enforcement notices requiring Irish Traveller and Gypsy families resident on unauthorised sites in the Council's district to leave these sites. The trial judge held that the local authority could not evict the families, as the authority had failed to give due consideration in reaching its decision to the general lack of sufficient camping sites for the UK's Gypsy and Traveller population. (The local authority had considered the impact of eviction on the individual families, and decided that the impact of an eviction would not trigger the council's duties under the UK homelessness legislation).

Decision of the Court: The Court of Appeal held that the Council had not erred in failing to give adequate consideration to the lack of camping sites or other forms of suitable accommodation for the Gypsy and Traveller population. The Court took the view that that the local authority had discharged its statutory obligations by giving some consideration to the impact of eviction on each individual family and concluding that an eviction would not violate their duties under the UK's



homelessness legislation: no wider consideration of housing matters was required. Policy factors also considered by the Court in reaching its decision included the fact that the Gypsy and Traveller families remained on the sites in question in conscious defiance of the relevant planning law, and also that there was no positive obligation in UK legislation on local authorities to provide the number of camping sites sought by the UK's Gypsy and Traveller communities.

Internet link source and additional information: See

<http://www.bailii.org/ew/cases/EWCA/Civ/2009/13.html>