

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOODS SERVICES

TO:	HOUSING NEIGHBOURHOODS AND LEISURE COMMITTEE		
DATE:	14 NOVEMBER 2018	AGENDA ITEM:	12
TITLE:	UNAUTHORISED ENCAMPMENTS UPDATE		
LEAD COUNCILLOR:	CLLR JAMES	PORTFOLIO:	NEIGHBOURHOODS
SERVICE:	HOUSING AND NEIGHBOURHOOD SERVICES	WARDS:	BORROUGH WIDE
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1. PURPOSE OF REPORT

- 1.1 The report outlines the action taken and planned to protect Reading Borough Council's land from unauthorised encampments.
- 1.2 The report also notes the position in respect of the provision of transit or permanent pitches for travellers.

2. RECOMMENDED ACTION

- 2.1 That Housing, Neighbourhoods and Leisure Committee note the action being taken to protect local authority land from unauthorised encampments.
- 2.2 That Housing, Neighbourhoods and Leisure Committee approve the ongoing programme of works to protect those areas of Council land at risk of unauthorised encampments with physical measures, rather than changing the designation of highway land.

3. POLICY CONTEXT

- 3.1 The Council's response to unauthorised encampments on its land ensures that all working practices are consistent with Government guidance and comply with specific legislation, including the Race Relations Act 1976, the Race Relations (Amendment) Act 2000 and the Human Rights Act 1998.

- 3.2 Unauthorised encampments are a civil matter and individual landowners have legal rights and remedies available. The Council and police have additional powers that supplement landowner remedies, but do not replace them.

#### 4. BACKGROUND

- 4.1 Reading has a substantial number of authorised encampments when compared to other areas in the Thames Valley area. Between January 2018 and June 2018 only Milton Keynes had more encampments with 78 compared to 53 in Reading. Comparisons across Berkshire for the same period are as follows: West Berkshire 32, Winsor and Maidenhead 7, Slough 7 and Bracknell and Wokingham 3.

- 4.2 This high level of incursions and the close proximity of some encampments to settled communities has increased the levels of concerns and calls to both the local authority and the police. A weekly meeting between council officers and the police enable effective coordination of a joint and proportionate response to encampments, sharing of information and effective use of powers.

#### 5. PROTECTION OF COUNCIL LAND

- 5.1 The Council has continued to review land that has or might be camped upon to identify how it might be protected. Between April 2017 and March 2018 the Council spent £104,000 on defending its most vulnerable sites. Managers from across Council services carried out a review of land and agreed with the Lead Member for Neighbourhood Services a process for prioritising work. This was based on:

- the number of previous encampments on the land
- assessment of community impact
- assessment of environmental impact
- assessment of financial impact

- 5.2 As a result defensive work was implemented on 13 locations across Reading by the end of March 2018.

- 5.3 Since April 2018, protection works have been completed at a number of other Council owned sites that have been repeatedly encamped including Portman Road, Walnut Way, Pottery Road, Bran Close, Landsdowne Rd/Portman Gardens, Coronation Square and Burford Court. Expenditure to date has totalled £28,800 this year. The current status of works is as follows:

- i. Portman Road - The site is secured with bunding installed along the Council's strip of land adjacent the carriageway.
- ii. Walnut Way - The final formation of the bunding will shortly be completed and sown with grass seed. The Council has been working with Tilehurst GLOBE who is interested in planting wildflower plugs into the bunds and then picking up the annual maintenance.
- iii. Bran Close planters - local residents have adopted these - they have painted them and are planting them and are looking to maintain the planting.

- iv. Pottery Road - construction of the bunds has been completed but this needs a minor modification to complete.
  - v. Lansdowne Road - the bunding and installation of bollards has been completed both to prevent incursion along the footpath to Park Lane and to the large green areas opposite.
- 5.4 The installation of soil bunds/mounds has been very successful in preventing further traveller incursions at a relatively small cost to the Council.
- 5.5 At the Council Meeting of 26th June 2018, Members resolved that officers are to carry out the following:
- All the necessary action to change the designation of the Highway land at Portman Road, which was used as part of the illegal traveller encampment, in order that any future incursions onto or abuses of the land could be dealt with promptly under this officer delegation and the powers available to the Thames Valley Police;*
- Investigate and assess the extent to which similar sites, to the one at Portman Road, exist within the Borough, which could be exploited for illegal encampments and prepare a comprehensive list of these potential sites, with a view to them being considered for re-designation as non-highway land;*
- Submit a report to the Policy Committee or Strategic Environment, Planning & Transport Committee to seek a re-categorisation of the identified sites, where appropriate, subject to any necessary consultation processes and Equality Impact Assessments, with a view to minimising any potential future delays in dealing with unlawful traveller encampments or other abuses of the land at the identified sites.*
- 5.6 Officers initial investigations into changing the designation of highway land have identified a number of risks/issues and are summarised as follows:-
- i. The majority of grass verge areas contain utility apparatus and those service providers will object to the proposed 'Stopping Up', unless a "Wayleave" is granted to guarantee free access to their apparatus.
  - ii. Future new utility service installations in these areas would not be able to use the 'Stopped Up' land without paying for and entering into a licence agreement with the Council as the landowner. This will more than likely force them to divert their new apparatus into the carriageway, which will remain public highway. These new utility service installations will cause long term damage to the structural integrity of the road and cause traffic management disruption during installation and future maintenance work.
  - iii. Short term encampments will still take place.
- 5.7 In light of these potential issues, Officers suggest continuing with the successful programme of physical measures to protect Council owned sites rather than the recommendations contained within the motion.
- 5.8 Therefore, subject to the approval of this committee, officers will continue to proactively review and, on a prioritised basis, protect those areas of Council land at risk of unauthorised encampments with physical measures, rather than changing the designation of highway land.

## 6 Legal Powers Available

- 6.1 A local authority's procedure for dealing with unauthorised encampments must reflect the need to balance the rights of the settled community, land owners and the travelling community.
- 6.2 The Council's Anti-Social Behaviour Team coordinate action to remove any unauthorised encampment where individuals are trespassing on Council land. A visit usually takes place the very same day, or the next working day that the team are notified. The procedure followed involves proving ownership of the land, obtaining details of the encampment, assessing an encampment's effects on the local area, and then usually serving notices and summonses that will enable necessary authority to be obtained from the courts to order the travellers to leave the site. This Court process can be lengthy, however, and is not in the Council's hands. During an encampment the Council's ASB team liaises regularly with Thames Valley Police to share information. The Council and Police work in partnership in assessing options and determining the most appropriate route to securing the land.
- 6.3 Where there is evidence, the Council will request that the Police use their emergency powers under Section 61 of the Criminal Justice and Public Order Act 1994. This power can be used on any land *except* the highway to remove identified individuals and/or their vehicles from land where certain criteria are met. The decision to use this power remains with the Police, not the Council. In a number of recent encampments the Police have used this power at the request of the Council, based on evidence from members of the public demonstrating the impact of the encampment on them or their businesses.
- 6.4 The Council's ASB Team liaise with the other departments across the Council to ensure that once vacated the site is clean and cleared as quickly as possible. This is normally carried out within hours of the site being vacated.
- 6.5 The Council has continued to review the legal powers available to ensure that we are dealing with encampments on our land as effectively as possible within the current legislative framework.
- 6.6 Officers have been gathering evidence in support of a new and potentially borough-wide injunction in respect of unauthorised encampments by named travellers - this approach has been pursued by a number of authorities where encampments by identified individuals have had significant and demonstrable impact on local communities. We have received comprehensive legal advice from a barrister who has acted for a number of other authorities in this matter. It is understood that it could take some months to obtain and collate the large body of evidence required across organisations to support the application and to complete the legal process to secure the injunction through the courts.
- 6.7 In some circumstances where there is a need to remove an encampment more quickly than is possible through the court (and either the encampment doesn't meet the requirements of S61-62; or the Police's assessment of the encampment is such that they do not believe there is a need to use their emergency powers) then the authority will consider removal of the encampment under common law powers. This might include where there is

serious anti-social behaviour or significant environmental impacts on the local community for instance. However, as set out above, the local authority's procedure for dealing with unauthorised encampments must demonstrate consistent decision making and actions that are ethical, proportionate, lawful, appropriate and necessary. Use of these powers is therefore expected to be the exception and not a default position.

## 7. PROVISION OF PITCHES FOR TRAVELLERS

- 7.1 A Gypsy and Traveller Accommodation Assessment (GTAA) concluding in 2017 identified accommodation needs for 10-17 permanent pitches and for a transit site to house 10 caravans for gypsies and travellers in Reading.
- 7.2 As identified in paragraph 4.1 Reading has an above average number of unauthorised encampments when compared to other areas across the Thames Valley. In 2017/18 there were 87 unauthorised encampments in Reading, most of which were on Council land. Having a transit caravan site could meet this element of need and reduce the number of unauthorised encampments. However, identifying a site has been challenging.
- 7.3 Further to this independent study, the Council undertook a thorough assessment of 80 possible sites across the borough. These were closely considered against a range of planning policy criteria. One potential transit site was identified on land at the junction of Cow Lane and Richfield Avenue but this option was dropped following strong objections from residents and Reading Festival organisers and the proposal to locate a new school on the site.
- 7.4 Notwithstanding the initial assessment and further report to Policy Committee in June 2018, this Council has committed to undertake a further review of its land holdings and other opportunities this autumn/winter in order to review potential sites and continues to raise the unmet need with adjoining Councils under the duty to co-operate agenda.

## 8 LEGAL

- 8.1 The Council has the follows legal powers available to it to remove those who trespass on its land:
  - Common law powers (rights to recover land)
    - Can be used by the landowner
    - Are used to regain possession of land
    - Does not require the involvement of the courts
    - Enforced by the landowner and or/private bailiffs where necessary
    - Does not provide any sanctions for the return of trespassers on to the land
  - Part 55 Civil Procedures Rules
    - Can only be used by the landowner

- Are used to regain possession of land
- Require civil court procedure
- Possession is enforced by county court bailiffs, where necessary
- Do not provide any sanction for the return of trespassers onto the land
- Section 77-78 Criminal Justice and Public Order Act 1994
- Can only be used by a local authority
- Can be used on any land within the local authority's area, irrespective of ownership
- Are used to remove identified individuals from land
- Only require the involvement of the courts when Gypsies or Travellers do not leave when directed to do so
- Possession is enforced local authority officers or private bailiffs employed by the local authority
- The return of Gypsies or Travellers and or their vehicles to the location within three months carries a criminal sanction.

## 9. FINANCIAL IMPLICATIONS

- 9.1 In 2017-18 the cost to the local authority in tackling unauthorised encampments:

Gating / Fencing: circa £104,000

Legal and Bailiff Costs: £36,447

Clean up Costs: The cost of clearing land following an encampment was around £36,000.

## 10. COMMUNITY ENGAGEMENT AND INFORMATION

- 10.1 Throughout an unauthorised encampment on Council land, officers engage with both those camping on the land and the local community. For those camping on the land officers:

- Issue on behalf of the landowner a notice advising those encamped of the fact that the encampment is unauthorised and that site should be vacated forthwith
- Establish the intention of the group including purpose of visit and length of stay
- Hand a code of conduct to each traveller and explain these to those who are unable to read. This will include advice and guidance on how Gypsies and Travellers can co-exist with the settled community
- Complete welfare enquiries in relation to health, education and social needs
- Provide relevant information and contact details for services to the those on the site if required
- Obtain information in respect of each traveller on site.

- 10.2 For the settled community and local businesses, Council officers hold a running contact sheet. This enables officers to update concerned residents and

business owners throughout the eviction process. In addition a "Residents leaflet" has been developed jointly with the police. This provides information on how to report incidents that might be associated with encampment. It will also set out the process the council follows to evicted those camping on its land.

## **11. EQUALITIES ASSESSMENT**

- 11.1 The process for dealing with unauthorised encampments takes account of the Race Relations Act 1976, the Race Relations (Amendment) Act 2000 and the Human Rights Act 1998.

## **12. CONTRIBUTION TO STRATEGIC AIMS**

- 12.1 Tackling unauthorised encampment contributes towards the following strategic aim:
1. Keeping the town clean, safe, green and active.