

## **HOMES & COMMUNITIES COMMITTEE**

**5 NOVEMBER 2018**

### **GYPSY AND TRAVELLERS - UPDATE AND POLICY ON DEALING WITH UNAUTHORISED ENCAMPMENTS**

#### **1.0 Purpose of Report**

1.1 The purpose of this report is to update Members on the issues that have arisen over the past year in respect of unauthorised encampments throughout the District and to consider and approve the proposed Policy for dealing with unauthorised Gypsy, Roma and Traveller (GRT) encampments.

#### **2.0 Background Information**

2.1 Newark & Sherwood has a long established GRT community with many of its members living in settled accommodation, both residing in and working as part of our local communities. Within the District, whilst there are a number of privately owned 'transit' sites, there are no local authority or socially registered landlord sites.

2.2 The Council is required to carry out an assessment of the future need for gypsy and traveller pitches (including those to meet short-term transit needs and those of Travelling Showpeople). The calculation of pitch requirements takes place through the production of a Gypsy & Traveller Accommodation Assessment (GTAA), which is subject to regular review. This process is managed by the Council's Planning Policy and Strategic Housing Business Units. National planning policy requires the Council to identify and update annually a supply of specific deliverable sites sufficient to meet 5 years' worth of its pitch requirements, to identify a supply of specific developable sites, or broad locations for growth, for years 6 to 10 and where possible years 11 to 15.

2.3 In 2017, in order to ensure that future gypsy and traveller accommodation (GTAA) needs could be met, the Council resolved to work with partners to address pitch requirements consistent with the results of the most up-to-date GTAA through all necessary means. This includes:

- The allocation of new sites through the Development Plan;
- Granting of planning permission for pitches on new sites in line with the provisions of the Development Plan;
- Granting of planning permission for the provision of additional pitches at existing sites through further appropriate intensification of use or the expansion of the site in line with the provisions of the Development Plan;
- The purchase by the Council, or partners, of new sites for additional pitches;
- Encouraging owners of underutilised sites to allow occupation of vacant pitches;
- The compulsory purchase of existing sites with the benefit of planning permission which are not in use; and
- The provision of flood resilience measures to enable the safe expansion of existing sites in partnership with the Environment Agency.

- 2.4 Decisions over the extent of future pitch requirements and the allocation of new land for gypsy and traveller use will be made through the preparation and review of the Council's Development Plan (constituting the Core Strategy and Allocations & Development Management Development Plan Documents). The establishment of robust pitch requirements, provision of sufficient land to meet them and the maintaining of an appropriate supply of land will provide more sustainable and appropriate options to that of unauthorised encampment.
- 2.5 Over the past year there have been 10 unauthorised gypsy and traveller encampments (UE) on District Council owned land or other public land which have prompted concerns from members of the settled community, due to the sensitivity or inappropriateness of the land for such encampments. The most recent UE occurred on Friday, 5 October on the Newark Sports and Fitness Centre car park, which caused significant disruption to the day to day operation of the centre and its users.
- 2.6 UE's occur where caravans and/or other vehicles are set up on land without the landowner or occupier's consent. There is a distinction between an UE, which is a form of trespass and Unauthorised Development, which is a form of development of land without planning consent. This report deals with the former. The costs of taking action over the last 12 months has been in the region of £10,000, which includes legal fees and bailiff's costs but excludes clean-up costs and council officer time and resource in responding to these issues. The UE's have predominantly taken place on public open spaces, play areas or car parks which has meant that during the encampments the land has been prevented from being used for its designated purpose by the settled community.
- 2.7 It is often impossible to accurately predict just where and when an UE will occur, however a purely reactive response to encampments as they arise is likely to be both inefficient and ineffective. It is therefore proposed that the Committee consider and adopt the draft Policy on Unauthorised Gypsy and Traveller Encampments attached as **Appendix One** to this report. The Policy sets out how the Council will address UEs to ensure that it deals with these incidents in a consistent, efficient, effective and fair way that is understood by our settled communities, our partners and the gypsy and travelling community. It also seeks to balance the rights and responsibilities of the travelling and settled communities.

### **3.0 Proposed Policy**

- 3.1 This report and the proposed Policy takes into account the Government report issued by the Department for Communities & Local Government; "Guidance on Managing Unauthorised Encampments" and will enable the District Council to:
- Manage UEs in an efficient and effective manner taking into account the nature of the site of each particular UE, the potential level of nuisance for local resident, the Council and its partners, together with the rights and responsibilities of gypsies and travellers;
  - Consider the full range of powers and legislation available and utilise these as appropriate;
  - Consider and balance the rights and needs of resident communities together with those of gypsies and travellers; and
  - Take account of any welfare concerns of any members of the UE.

- 3.2 The Human Rights Act 1998 (HRA) came into force in October 2000, incorporating the European Convention on Human Rights into British Law. Romany Gypsies and Irish Travellers are protected ethnic minorities under the European Convention on Human Rights so that they have the right to be free from racial harassment and discrimination. All public sector organisations have a positive duty under the law to eliminate racial discrimination and promote equality of opportunity.
- 3.3 The proposed Policy is commensurate with the District Council's Equality Policy. It has been the subject of an Equality Impact Assessment, which is attached to this report as **Appendix Two**
- 3.4 Government guidance on 'Dealing with Illegal and Unauthorised Encampments' states that public bodies should not gold-plate human rights and equalities legislation. However they must strike an appropriate balance between the needs and legitimate expectations of members of the settled community, local businesses, other land owners and gypsies and travellers. The proposed Policy sets out the Council's approach to UEs within a framework of rights and responsibilities in which everyone's rights must be equally respected but where, at the same time, equal standards of behaviour are expected from all.
- 3.5 It is important that there be a lead officer for the Council in dealing with UEs and it is proposed within the Policy that this role be undertaken by the Business Manager – Environmental Health & Licensing.

#### **4.0 Powers for Dealing with Unauthorised Encampments**

- 4.1 There are a range of available powers for dealing with unauthorised encampments as set out below. The Council needs to be prepared and act swiftly using the most appropriate power – taking into account a range of issues when deciding whether to take action, for example, (a) the harm that such UE can cause to local amenities and the local environment, (b) the potential interference with the peaceful enjoyment of neighbouring property, (c) the need to maintain public order and safety and protect health, (d) any harm to good community relations.

##### **Possession Orders**

The Council can only use this procedure when it owns the land in question. Essentially a possession order can be obtained from the County Court to require the removal of trespassers from property including land. It is essential that the necessary welfare checks are carried out prior to any action being commenced to ascertain whether any individuals have welfare needs around issues such as children, health, education or housing etc. A minimum of 2 days' notice must be given to the trespassers before a hearing can take place. Once the possession order has been obtained, if the UE refuses to leave, eviction is undertaken by the County Court bailiffs.

##### **Injunctions**

If a local authority owned local site is particularly vulnerable and intelligence suggests it is going to be targeted for unauthorised camping and is likely to cause disruption to others going about their day-to-day lives, then the Council could apply to the Court for a pre-emptive injunction preventing unauthorised camping in a defined geographical area.

### **Power of Council to Direct Unauthorised Campers to Leave Land**

Where people are residing in vehicles (including caravans) on land, section 77 of the Criminal Justice and Public Order Act 1994 gives local authorities power to direct unauthorised occupants to leave. If the Direction is contravened, the Council can apply to the Magistrates' court which may make an Order requiring the removal of vehicles and property. It is a criminal offence to knowingly contravene such an Order, however the responsibility for eviction lies with the local authority. Officers or agents of the Council may use reasonable force to evict. It is usually recommended that the Police attend such evictions in order to prevent a breach of the peace.

### **Power of the Police to Direct Unauthorised Occupants to Leave Land**

Sections 61 – 62 of the Criminal Justice and Public Order Act 1994 gives the Police discretionary powers to direct trespassers to leave land and remove any property or vehicles they have with them. The powers are exercisable only by a Senior Police Officer, the trespassers must have refused to comply with the landowner's request for them to leave the land and they must have either: caused damage to the land or property; used threatening, abusive or insulting words or behaviour towards the occupier; or have between them six or more vehicles on the land. Failure to comply with the Police direction to leave the land as soon as reasonably practicable, or to re-enter it again within three months, is an offence.

- 4.2 It is also important that the Council continues to review and identify sites that are particularly vulnerable to UE and work to physically secure these wherever possible.

## **5.0 Equalities Implications**

- 5.1 The Equality Act 2010 requires the council to actively seek to eliminate discrimination, advance equality of opportunity and promote good relations as a consequence of the Public Sector Equality Duty. Human Rights implications have also been considered.
- 5.2 The Policy sets out the framework in which Unauthorised Encampments will be considered by this authority. A full Equality Impact Assessment (EIA) has been undertaken and all protected characteristics, particularly race (case law has established that Romany Gypsies and Irish Travellers are covered by the protected characteristics of race), age, pregnancy and maternity, religion or belief etc. have been considered.
- 5.3 The EIA has identified some potential adverse impacts; however the undertaking of welfare checks and the follow up actions in response to the findings of the welfare checks will ensure that these are mitigated. The Equality Impact Assessment is included in Appendix two to this report.

## **6.0 Financial Implications (FIN18-19/7851)**

- 6.1 There are no direct financial implications from the adoption of the proposed policy attached to this report.
- 6.2 As outlined at paragraph 2.6, costs have amounted to £10,000 over the last 12 months. This has been funded, currently, by the Unlawful Occupation of Land Reserve.

## **7.0 RECOMMENDATION**

**That the Committee consider and approve the adoption of the Policy on Unauthorised Gypsy and Traveller Encampments attached as Appendix A to the report.**

### **Reason for Recommendation**

**To ensure that the Council has a consistent, fair and proportionate approach to dealing with Unauthorised Encampments.**

### **Background Papers**

- Government report issued by the Department for Communities & Local Government, "Guidance on Managing Unauthorised Encampments"
- A summary of available powers for "Dealing with illegal and unauthorised encampments" issued by the Department for Communities & Local Government, March 2015

For further information please contact Alan Batty (Business Manager - Environmental Health & Licensing) on Extn. 5467 or Karen White (Director – Safety) on Ext 5240.

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