

**Newark & Sherwood  
District Council**

**Policy on Unauthorised Gypsy  
and Traveller Encampments**

**October 2018**

## **1.0 Scope of the Policy**

- 1.1 This policy applies to any person who meets the definition of a 'Gypsy', 'Traveller' Travelling Show Person whilst they are located within the Council's area.
- 1.2 This is the policy document which sets out the high level actions the Newark & Sherwood District Council ('the Council') intends to take regarding unauthorised encampments within the Council area. It is intended to inform Councillors, Officers and members of the public of how we balance the needs and rights of Gypsies and Travellers with those of landowners and the public and to address public concern when an unauthorised encampment arises.
- 1.3 The policy will consider the following areas:-
- Understanding Gypsy and Traveller needs
  - Statutory Responsibilities of the Authority
  - Unauthorised Encampments
  - Powers to Deal with Unauthorised Encampments
  - Planning Issues
  - Implementing this Policy

## **2.0 Understanding Gypsy and Traveller Needs**

- 2.1 The Council acknowledges and understands that Gypsies and Travellers make up an important part of the social demographic of the United Kingdom. We believe that in most cases travelling has been a way of life for generations of Gypsies and Travellers and accepts that their culture, language and traditions should be respected and, if possible, encouraged. We recognise three specific groups:
- **Romany Gypsies** are the largest minority ethnic group among the Travelling communities in Britain, whose ancestors migrated to the UK some 500 years ago.
  - **Travellers of Irish Heritage** do not necessarily come immediately from Ireland, and may visit Ireland infrequently and for short periods only. It is thought that many Irish travelers are descendants of people who lost their land during the potato famine in the mid nineteenth century.
  - **New Travellers** are a community of more recent origin. They have adopted this way of life for a variety of reasons, such as lifestyle change, homelessness, unemployment or environmental issues.
- 2.2 For the purpose of this Policy, the terms 'Gypsies' and 'Travellers' are used to describe people and communities of ethnicity or nomadic habit. As with any community, consideration should be given to the right for an individual's preference to self-identify themselves.
- 2.3 Gypsies and Irish Travellers are recognised under the Race Relations Act (1976) as ethnic groups and as such are afforded protection.

### **3.0 Statutory Responsibilities of the Authority**

- 3.1 Newark & Sherwood District Council recognises its responsibilities to the travelling community, including Travelling Show People and how they must be dealt with on a number of issues in a fair and equitable manner. This could, for instance, relate to a planning application for a permanent site in the District, to enforcement by the Council to remove an unauthorised site on public or private land, or to a request for housing accommodation or advice.

### **4.0 Unauthorised Encampments**

- 4.1 Some parts of the country experience regular unauthorised encampments which cause disruption and conflict locally and are expensive and time consuming to clear. Government guidance suggests a range of solutions which includes outcomes from recent requirements that it has introduced around accommodation assessments and site provision. It is one of the most difficult issues to resolve, mainly due to the different and conflicting sets of rights and responsibilities that are involved. Local residents can be adversely affected by the activities of the Travellers whilst Travellers themselves can be in an area lacking basic amenities and where it is hard to access health and education services for their families.
- 4.2 Unauthorised camping is unlawful; there is no right for anyone to stop where they want to, for as long as they want or to behave without regard for others. However, in the short term, until there is adequate site provision across the country, unauthorised camping will take place and this Policy seeks to manage these in a way that minimises disruption for all concerned and ensure that anti-social behaviour is tackled firmly. Standards of behaviour expected of Gypsies and other Travellers at encampments should be those expected of the settled community and this should be effectively communicated to the campers.
- 4.3 Encampments will not be tolerated where the land is designated for specific public use e.g. nature conservation, parks or playing fields, car parks, public open space or other sensitive sites i.e. site development proposals.
- 4.4 Where the Gypsies or Travellers are revisiting the district and it can be evidenced that they have been previously evicted by the Council then any encampment established by them will not be tolerated.

### **5.0 Powers to Deal with Unauthorised Encampments**

#### **5.1 Part 55 Civil Procedure Rules**

This allows any landowner or occupier (dependent upon the terms of the lease) to regain possession of his/her land. The action is against any trespasser even if names are not known and covers land and/or buildings. The first step is for the landowner to ask the trespassers to leave the land and if they refuse or ask to remain for what is considered an unacceptable length of time the landowner can begin action through the County Court where enforcement is by a Bailiff. Where the occupants of an

encampment are changing frequently then it may be more effective for the local authority to use the CPR Rules 55 as it relates to the land. "Possession Claims against Trespassers" is given by witness statement in court and before this is heard there must be two clear working days between papers being served and the date of the court hearing. The court can then grant an Order of Possession which will be executed by the Bailiff.

## 5.2 Criminal Justice & Public Order Act 1994 Sect 77

Section 77 gives local authorities the power to direct individuals to remove their vehicles and belongings and to leave highway land, or any land occupied or unoccupied without the consent of the landowner, whether owned by the local authority itself or by any other public or private landowner. Before commencing any action to evict an unauthorised encampment local authorities have an obligation to carry out welfare assessments which may involve other service agencies such as NHS or Ethnicity Culture & Achievement service.

A Direction is drawn up which instructs the unauthorised campers to leave on a particular date and time, and is signed by an authorised signatory of the local authority - usually a solicitor. This document should identify vehicle details and it is then served on the campers by a local authority officer. If the encampment fails to move by the date and time or returns to the same location within three months of the date they are committing a criminal offence.

## 5.3 Criminal Justice and Public Order Act 1994 Sec 78

This allows local authorities to advise the Magistrates' Court of the Travellers' failure to comply with the Direction to leave under Section 77 and if they are satisfied they may grant an Order for Removal of persons and vehicles from the land. This is obtained by contacting the court for a hearing date to apply for the summons which is then served on the encampment as soon as possible. A solicitor must appear at the hearing on behalf of the local authority and once the Order has been served twenty four hours must elapse before any action is started to remove the campers.

Throughout any eviction procedure the lead officer should be updating local council members and also members of the public through the media to keep them informed of the situation, to try and alleviate the risks of potential aggression and tension.

## 5.4 Powers available to the Police

The lead role in the management of Unauthorised Encampments will be with Local Authorities. According to current guidance from the Association of Chief Police Officers (ACPO) (2008):-

" the Force should consider becoming involved in bringing about the prompt and lawful removal of unauthorised encampments, including the use of discretionary police powers under Section 61 or 62 of the Criminal Justice & Public Order Act 1994 where:

- i) Local amenities are deprived to communities or there is significant impact on the environment.  
This could include, for example, forming an encampment on any part of a recreation ground, public park, school field, village green, or depriving the public use of car parks. The fact that other sections of the community are being deprived of the amenities must be evident before action is taken.
- ii) There is local disruption to the economy.  
Local disruption to the economy would include forming an encampment on a shopping centre car park, or in an industrial estate, if it disrupts workers or customers, or agricultural land, if this results in the loss of use of the land for its normal purpose.
- iii) There is other significant disruption to the local community or environment.  
This might include where other behaviour, which is directly related to those present at an encampment, is so significant that a prompt eviction by Police becomes necessary, rather than by other means.
- iv) There is a danger to life.  
An example of this might be an encampment adjacent to a motorway, where there could be a danger of children or animals straying onto the carriageway.
- v) There is a need to take preventative action.  
This might include where a group of trespassers have persistently displayed anti-social behaviour at previous sites and it is reasonably believed that such behaviour will be displayed at this newly established site. This reasoning will take on greater emphasis if the land occupied is privately owned, as the landowner will be responsible for the cleansing and repair of their property.

- 5.5 The mere presence of an encampment without any aggravating factors should not normally create an expectation that Police will use eviction powers. This should be communicated to the public, landowners, local authorities and other agencies. If a decision is made to use Police powers to evict then the rationale for the decision should be clearly set out and recorded. In all cases, as stated above, relevant Human Rights processes must be applied to all decisions made i.e. that the elements of S61 are satisfied and that it is necessary and proportionate to use the powers. Section 61 Criminal Justice & Public Order Act relies upon reasonable steps being taken, by or on behalf of the landowner, to ask trespassers to leave in every case before Police powers can be used.
- 5.6 The Criminal Justice & Public Order Act, Section 62A to 62E, provides the Police with a power to direct trespassers to leave land and to remove any vehicles and other property from the land, where there is a suitable pitch available on a caravan site elsewhere in the local authority area. Where a direction has been given to a person, it is an offence for that person to enter any land in the local authority as a trespasser within three months of the direction being given.

### 5.7 Common Law Powers

Private landowners (including the Council) may obtain a possession order through the civil courts requiring the removal of trespassers from their land, using Civil Procedures Rules Part 55 in the county court.

- 5.8 However, private landowners may seek to avoid the expense and delay of going to court by using common law powers to recover land from trespassers using 'reasonable force' as necessary. Such action is lawful and some firms of bailiffs have carried out many evictions effectively and without trouble. Good practice guidelines for common law evictions would seek to ensure that no more than necessary 'reasonable force' is used.

### 5.9 Planning Powers

Where land is used without planning permission, the planning authority has a range of enforcement powers available to it. It can:-

- 1 Issue an enforcement notice requiring the use to cease and the land to be restored to its previous condition within a specified timescale. Enforcement notices give rise to a right of appeal which, if taken up, would suspend the effects of the notice.
- 2 Issue a stop notice concurrently with an enforcement notice, to prohibit the continuation of further activity pending the outcome of any appeal and until such time as the enforcement notice takes effect.
- 3 In urgent cases where there is a risk of serious harm to a compelling public interest (eg highway safety), issue a temporary stop notice to prohibit the carrying on of an activity whilst enforcement investigations into the matter are proceeding. A temporary stop notice has immediate effect, although only remains effective for a period of 28 days. This must be followed by a Stop Notice
- 4 Apply to the Courts for an injunction to restrain an ongoing or anticipated breach. The Courts have a wide discretion and a duty to act compatibly with the Human Rights Act 1998. The Court would need to consider whether or not an injunction was a proportionate remedy.
- 5 Enter the land and take action itself to comply with steps required by an enforcement notice in default of the owner and/or occupier. Such works in default will in themselves require court authorisation.

### 5.11 Choosing the Most Appropriate Power

It is unlawful for Gypsies and Travellers to camp on land they do not own without the landowners permission. Each encampment location must be considered on its own merits against criteria such as health and safety considerations for the unauthorised campers, traffic hazard, public health risks, serious environmental damage and genuine nuisance to neighbours and proximity to other sensitive land-users. There are locations where immediate action to remove them should be taken because the presence of the encampment is seriously disrupting the ability of the settled community to make use of facilities or to conduct their lawful business.

- 5.12 The previously outlined powers are appropriate in different circumstances and in some cases it may be that the site is not in a sensitive location and the Travellers will

only be there for a few days and therefore no eviction action will be taken. In other cases there may be welfare issues that prevent the Travellers from moving. Who actually takes the action to remove the illegal encampment, be it the Police, local authority or the landowners themselves is again a matter for choosing the most appropriate persons in the circumstances. The latter does to some extent depend upon the working relationships/agreements between the different parties.

## **6.0 Planning for Future Pitch Provision**

6.1 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 will take place through the production of a Gypsy and 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 11-15.

6.2 In order to ensure that future Gypsy and Traveller accommodation needs can be met the Council has resolved at Full Council on 11 July 2017 to work with partners to address pitch requirements, consistent with the results of the most up-to-date GTAA, through all necessary means, including:

- 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.

6.3 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.

## **7.0 Implementing this Policy**

- 7.1 The following Business Units will be responsible for implementing this Policy or sections within it.

**Environmental Health will:-**

Deal with unauthorised encampments on council owned land working in conjunction with the Nottinghamshire County Council and Parish/Town Councils and other Council Business Units especially those with land holdings such as Car Park, Parks and Open Spaces and Asset Management.

Provide advice and guidance to private land owners where unauthorised sites have been established.

**Planning will:-**

Deal with unauthorised developments where the landowner/s has established an unauthorised Gypsy, Traveller or Show Peoples site.

Be responsible for dealing with planning applications or enquiries relating to the establishment of new sites

**Housing Options will:-**

Deal with all enquiries relating to housing issues amongst the Gypsy, Traveller and Show Peoples communities and will provide appropriate support and advice.

**Legal Services will:-**

Provide advice and guidance to all the Council's Services working within this Policy and in particular, will prepare cases and attend Court to deal with approved proceedings in relation to unauthorised developments and encampments

All relevant Council Services will liaise prior to taking any enforcement action and will work to the Council's Corporate Enforcement Policy.

**Waste Litter and Recycling will:-**

Where appropriate, will provide a clean-up service, once the unauthorised encampment has vacated the site.