

Agenda Item 18.

ITEM NO:

TITLE	Update on Unauthorised Encampments
FOR CONSIDERATION BY	Members' Overview and Scrutiny Panel
	22 July 2020
WARD	
LEAD OFFICER	Sarah Lynch

PURPOSE OF REPORT

The purpose of this report is to update the Members about the progress of the agreed actions Wokingham Borough Council (WBC) is taking in respect of managing unauthorised encampments.

RECOMMENDATIONS

You are asked to:

- Note the actions that are being taken to prevent and unauthorised encampments on WBC and private land including target hardening and relationship building with landowners.
- Note the actions taken to increase permitted GRT (Gypsy, Roma and Traveller) provision in the borough, as well as to make information available to the public and private landowners around unauthorised encampments and WBC's powers to deal with them.

SUPPORTING INFORMATION

Listed below are the appendices referred to in this report.

- 1) Appendix 1: WBC draft public information leaflet.
- 2) Appendix 2: Presentation on Unauthorised Encampments 2017 – 20.

Analysis of Issues

This report will set out how WBC is working to prevent and mitigate any detrimental impact caused to communities or land by unauthorised encampments, as well as to inform members of the public and Members about WBC's powers, policies and procedures concerning unauthorised encampments.

Also discussed is how Members could receive annual training in WBC's unauthorised encampment policy and procedures. This training in conjunction with the public information leaflet will assist Members to advise their residents in the event of a report of an unauthorised encampment.

Target hardening of vulnerable sites as well as increased communication and joint working with local partner agencies is also discussed in this report as well as how relationships with private landowners can be strengthened to reduce the instances of unauthorised encampments in the borough.

1) Members' Training Session in WBC's Unauthorised Encampment Policy and Procedure:

It is suggested that WBC officers facilitate an annual training course for Members. This will allow Members to be trained and refreshed each year ahead of the summer months when the majority of encampments tend to occur and will enable them to be better able to advise concerned residents. This training can be inserted into the Members' training schedule as part of the core training.

In the interim, it is suggested that WBC can offer Members a virtual training session in August 2020 which should assist Members in dealing with queries around any incursions this summer.

2) Public Information Leaflet about Unauthorised Encampments:

This draft leaflet has been created by WBC officers in conjunction with Thames Valley Police and will be uploaded onto the WBC website for members of the public to view by 30th July.

This leaflet will provide information about the police and council's powers regarding unauthorised encampments.

Please refer to Appendix 1.

3) Sharing Best Practice with Stakeholders:

WBC has set up regular meetings with Community Safety Partnership (CSP) officers of other neighbouring local boroughs in order to share best practice and operational information to reduce instances of (where possible) and to prepare for potential unauthorised encampments.

Improved communication and multi-agency partnership working will see many advantages for WBC, private landlords and neighbourhoods and communities. This work will be further developed by CSP and Localities officers over the coming months during and post COVID.

4) Meeting the Future Needs of the GRT Community:

A Gypsy and Traveller and Travelling Showpeople Accommodation Needs Assessment (GTAA) was published in September 2017. It found:

- Need for 26 – 90 permanent pitches for Gypsies and Travellers 2017/18 - 2035/36.
- Need for a transit site comprising 5 pitches (each capable of accommodating 2 caravans).
- No need for Travelling Showpeople plots.

Against this need, a number of additional residential pitches have been approved and delivered since 2017, e.g. in September 2019 planning permission was granted by WBC's Planning Department to the Housing Department to enable 3 extra GRT pitches to be created on site, if required at one of WBC's existing GRT sites.

As part of the Local Plan Update, a Draft Plan was consulted upon between February and April 2020. The Draft Plan includes proposed site allocations capable of providing 24 pitches. The remaining residential need is expected to be delivered through provision as part of strategic residential sites and proposals that will be put forward in planning applications.

One way to meet the needs of the GRT community is by creating a provision for a transit traveller site within the borough, which WBC could use to direct members of the GRT community to for a short duration. Any agreed upon transit site should not be especially designated for redirection of unauthorised encampments. Work is currently ongoing to identify land which may be suitable to meet that transit site need.

Another option for consideration is the policy of 'negotiated stopping' employed by Leeds City Council. This method entails Leeds City Council agreeing to tolerate an encampment on an agreed piece of land for a period of between around 2 weeks to 28 days. No one piece of land would be used more than once per year.

There may be a written agreement between the local authority and members of the encampment where members of the encampment agree to keep the site clean and not cause anti-social behaviour, and the local authority may agree to provide waste disposal, toilets, water as well as access to welfare services.

Please find below a link to a video where the merits of negotiated stopping are discussed by individuals within the GRT community as well as by Leeds Council officials, police and others. Whilst this may not be appropriate for Wokingham it is an option that could be considered.

<https://www.negotiatedstopping.co.uk/>

5) Relationship development/improvement with private landowners who often experience unauthorised encampments:

As WBC officers deal with incoming reports of unauthorised encampments on private land from members of the public and from Members, working relationships are developed with private landowners. These landowners often rely on officers for advice around how to deal with an unauthorised encampment on their land.

Not all private landowners are forthcoming or easy to contact which can complicate and delay officers in providing the necessary advice to landowners. In 2020 WBC officers started keeping an updated database of all private landowners' contact details to easily contact the relevant private landowner in the event there is an unauthorised encampment on their land.

Going forward, WBC officers will be updating the Council's website and sharing the new public information leaflet with private landowners requesting advice in the event of an unauthorised encampment on their land and can also proactively advise around target hardening measures to encourage private landlords to see the benefits of investing in preventative measures at their vulnerable sites.

6) Top 10 WBC sites and Top 7 Private Landowner sites:

A report was pulled together to show the WBC and privately owned sites with the highest number of unauthorised encampments over the past 5 years.

7) Target Hardening Works completed on WBC and private landowner sites:

Due to the frequency with which the above sites are visited by unauthorised encampments, various types of target hardening on these sites have been considered and actioned to reduce the potential for the land to be accessed. This has had the effect of reducing the vulnerability particularly of WBC sites to being subject to an unauthorised encampment and therefore reducing the pull on WBC and police resources.

Further work with private landlords is required as well as site visits to understand the vulnerabilities of both WBC and private pieces of land to future unauthorised encampments. WBC officers will be able to offer to visit privately owned land with the landowner to assess their site and to advise which target hardening measures they recommend.

These recommendations for effective target hardening and cost estimates of the works can then be communicated to private landlords. Target hardening at WBC sites will be budgeted for internally.

This is a piece of work which will be actioned by CSP and Localities going forward and will contribute to improving and strengthening relationships with private landowners.

8) Possibility of a Borough Wide Injunction against named individuals who repeatedly set up unauthorised encampments:

WBC recently obtained updated advice from external counsel around how to seek an injunction to prevent unauthorised encampments in the borough. This advice is not being progressed due to the substantial cost and pull on council resources this would entail.

WBC Officers are however following up a potential borough wide injunction where a named family has been repeatedly setting up unauthorised encampments in the borough. In 2019 a named family illegally camped in the borough on 29 occasions between February and September.

The updated legal advice for this scenario sets out the considerations and work that officers must undertake and the evidence they must collect to apply for such an injunction.

An action plan has been created for officers to assist them in collecting all the necessary evidence for this injunction on named persons. This action plan is based on the advice from counsel and the work required does require a significant amount of officer resources and will be costly.

Unauthorised encampment data from the past 3 financial years from 2017/18 to 2019/20 shows that the average amount of time to move an encampment on has reduced in recent years from 6 days in 2017/18 to 3 days in 2019/20.

It is also apparent from the figures provided that the number of unauthorised

encampments in the borough each year has been increasing with 17 in the financial year 2017/18 and 27 in the financial year 2019/20.

Therefore officers are not only dealing with encampments more quickly, but are dealing with encampments more frequently.

Please refer to Appendix 2.

It is expected that the average time to clear an encampment in 2020/21 could continue to decrease to around 2 days if the current trend continues, and it is clear that already there have been at 21 unauthorised encampments in the borough since COVID at last count.

9) Unauthorised Encampments during COVID:

So far in 2020 during COVID there have been 21 recorded unauthorised encampments in the borough. However, 2 of these encampments were tolerated (on WBC owned land at Chestnut Avenue and MereOak) for periods of between 6 and 14 days due to COVID until the groups were asked to leave on both occasions due to their anti-social behaviour.

The family in question have been present at 14 of the remaining 19 unauthorised encampments during COVID, all of which were on privately owned land. The amount of time each an encampment was on site before being moved on was between 1 and 3 days due to WBC's good relationship and communication with these private landowners as well as officers' knowledge and expertise.

10) Sheriff v Bailiff clarification:

It has been clarified to Members that sheriffs deal directly with orders handed out directly from the High Courts. Bailiffs tend to be employed by the County Court or by a private firm, most of which have to become certified. This means that Bailiffs have fewer rights, and aren't permitted to enter your home.

However the council changed its policy in the last few years ago to go directly to bailiffs as a general rule as per our Unauthorised Encampment policy and procedure.

11) Welfare Implications on Unauthorised Encampments:

There are records of 5 welfare concerns being reported on 41 unauthorised encampments in 2019, and these welfare concerns are all around either pregnant females or newborn babies on site. Where a baby is due imminently or a baby or mother or another family member is receiving ongoing medical care officers would resist moving the encampment without undertaking an equality impact assessment as per the Equality Act 2010. Under this Act, members of the GRT community are defined as persons with protected characteristics.

Children's services are informed of any welfare concerns for safeguarding reasons to ensure that the family has all the support necessary.

Officers will continue to ensure that they accurately record all welfare concerns to ensure we are safeguarding vulnerable people and ensuring that we consider the GRT

community's rights in the light of the Equality Act 2010.

In addition to this, Article 8 of the Human Rights Act 1998 ('right to respect for private and family life') rules that public authorities should not interfere with the rights of the GRT community to move on an encampment unless it is proportionate in the interests in the rights of others. Therefore WBC should be able to fully evidence the impact that an unauthorised encampment is having on a local community in order to justify its removal.

12) Follow up Members' queries and responses (*responses in italics*):

- a) WBC service offering for the encampment issue is not visible to residents or Members. If an encampment 'lands' how do residents/Members find how and where to report and what actions may or may not be taken? Other Councils have service and information available within an online portal. Are there any plans to provide a similar WBC service?

Unauthorised Encampment public information leaflet will be in the report bundle, and this will form part of offer/information on website.

- b) There have been multiple Gov.UK consultations on this topic over the past 2 to 3 years. What outcomes have there been?

There has been no changes in light of consultations, the latest being:
<https://www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments>

What recommendations?

No recommendations as yet

What are WBC looking to adopt/change?

When legislative changes are forthcoming officers will work with members to amend policy and practice.

- c) WBC are very efficient at providing social care to travellers and at moving encampments on from highways and WBC land. A very good service for difficult and sensitive scenarios. In many cases when WBC move on an encampment they simply move onto local private land. What and where is any service/support WBC provides to landowners who are disadvantaged by WBC's action of moving on encampments?

WBC officers or the police cannot control or determine where travellers move to after leaving a site. Officers react as and when they have information and cannot be held responsible for individual or group decisions.

How are these impacts measured and what (if any) support improvements for landowners and residents are planned?

Officers offer landowners advice by in how they remedy problem which will be formalised with new leaflet and website update.

- d) COVID has resulted in the introduction of traveller transit sites and other traveller related actions such as provision of rubbish skips/toilets etc. Are these being utilised/maintained?

WBC provided a 'tolerated stopping' site at Mere oak in conjunction with Reading Borough Council and we have had travellers use the site.

Would they have a longer term benefit to WBC?

A transit site or a negotiated stopping approach may give WBC additional options and where travellers refuse to move police could use Section 62A of the Criminal Justice and Public Order Act 1994 (to remove the encampment as it has failed to move to an offered suitable alternative site). It would also mean that if the travellers did not move to the transit site it may enable police to use S61 of the same Act if applicable.

Please see the relevant excerpts of the Criminal Justice and Public Order Act 1994:

<http://www.legislation.gov.uk/ukpga/1994/33/section/61>

<http://www.legislation.gov.uk/ukpga/1994/33/section/62A>

- e) The majority of encampments across WBC are down to just a few families who regularly visit the area. What plans are in place to better manage these persistent and repetitive issues?

Officers have previously obtained legal advice on this issue and are now progressing work based on this advice to see if it is feasible to take action against a particular family who perpetrated a number of unauthorised encampments over the last 18 months

Again other Councils have taken a range of actions.

We are aware of Basingstoke obtaining an injunction against named families as per the below link:

<https://www.basingstoke.gov.uk/encampments>

- f) This is not just a WBC issue. Are there any plans for a collaborative approach with our neighbouring Councils?

Yes as per above in report body.

- g) The Officers have the experience of managing these difficult scenarios. What support do they want from WBC to make this task less stressful and onerous for Officers, Travellers, land owners and residents?

Many of the officers who work in this area have the experience and skills to deal with this cohort. As a council we have a duty to employees to ensure we are supporting them in their work. We do this via regular 121's and case management discussions where managers can advise and assist. The council also offers employee assistance schemes, such as counselling, to those officers who may become stressed.

- h) What advice is there from the Local Government Association (LGA) on this and in particular their advice on transient sites?

Please see the below link to the Local Government Association which responds to the Government's consultation on strengthening police powers to tackle

unauthorised encampments.

<https://www.local.gov.uk/sites/default/files/documents/LGA%20response%20to%20Government%20consultation%20on%20strengthening%20police%20powers%20to%20tackle%20unauthorised%20encampments%204%20March%202020.pdf>

- i) Jim has alluded to this in his questions, but more specifically, what about best practice elsewhere? Do we get more or fewer incidents and do we deal with it better or worse than others? Where has been particularly successful and why?

We do not hold benchmarking data, or data across Berkshire. As mentioned above, stronger partnership working will improve knowledge and information sharing across Berkshire. We deal with encampments using common law powers as do Bracknell. Reading Borough use the court process. Please also see above data about how quickly WBC officers move encampments on.

- j) As discussed in the meeting, we do need training on S61 powers but also more information about how the welfare checks work.

Training on S61 would involve the Thames Valley Police, we could incorporate into proposed member training.

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