

Information Briefing

Report from: Robert James
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Report to: Housing & Neighbourhoods Overview &
Scrutiny Committee

Date: 30 July 2020

Unauthorised Encampments

1. SUMMARY

- 1.1 This briefing report advises committee on the current situation regarding unauthorised encampments within Birmingham and to update on the council motion made on the 10th September 2019.

2. Background

- 2.1 An unauthorised encampment is one which is established on land without the express permission of the landowner. The groups responsible generally comprise elements of Gypsy, Romany, Traveller or other ethnic groupings and are collectively known colloquially as “travellers” or more correctly GRT.
- 2.2 Public bodies have legal duties that must be considered before any eviction action is taken against unauthorised encampments. There is a requirement that welfare enquiries are undertaken and that the authority considers whether those enquiries have revealed circumstances which warrant further examination or lead to the conclusion that the eviction should be postponed. The provision of a transit site means that the Council has a bespoke provision with potable water, sanitary accommodation and waste facility. It is also available for other welfare services to be delivered such as medical and educational needs. Therefore, in making the needs assessment it is almost certain that there is no longer any need for public or private open space to be used for unauthorised encampments. It is now proportional to immediately require unauthorised encampments to move to the transit site where there is sanitation and other services and this is wholly in line with legal duty placed on public bodies.

3 Transit Sites

- 3.1 In November 2019 the city opened a transit site in Proctor Street, Nechells. Anyone wishing to use the site is charged £100 per pitch. There are a total of 15 pitches on the site.
- 3.2 In the Birmingham Development Plan, a second site in Aston Brook Street, Nechells, is identified for development into a further transit site with 4 pitches. Following legal

action, vacant possession of this land was obtained in March 2020 by enforcement of a court order. Quotes for the development of this site are being obtained currently.

- 3.3 The rate of unauthorised encampments from April 2019 to July 2020 is shown in the table below.

		April	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July
Council Land	Number of Incursions	7	8	17	19	14	8	9	4	0	1	2	0	1	0	5	4
	Number of Caravans	51	43	149	375	128	91	125	33	0	8	7	0	3	0	32	35
	Mean Hours to Depart	387.3	116.0	127.1	131.8	345.2	309.6	179.7	53.3	0	20.0	39.0	0	24.0	0	37.9	36.6
	Mean Days to Depart	16.4	5.4	5.8	5.9	14.7	13.3	8.0	2.8	0	1.0	2.5	0	1.0	0	2.0	1.8
Private Land	Number of Incursions	0	0	0	0	1	1	0	2	0	8	1	0	0	0	0	0
	Number of Caravans	0	0	0	0	10	11	0	15	0	60	11	0	0	0	0	0
	Mean Hours to Depart	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

In November 2019 the 4 encampments were all on public land prior to the site formally opening on Monday the 4th November 2019. Two of the encampments moved to private land and were then evicted by the private landowner. The number of incursions is down on the same time last year. The average period between arrival and departure is down from 6 to 16 days to 1 to 1.5 days.

- 3.4 During the Covid Lockdown government have requested all councils to provide accommodation to the travelling community either by allowing extended use of transit sites or negotiated stopping. Negotiated stopping is where approval is given for areas to be used for stopping but there is no infrastructure for that use. In our case we have had 2 families use the Proctor Street transit site during lock down.

4. Council Motion of September 2019

- 4.1 A motion was put forward to full council and passed on the 10th September 2019, the following is an update on actions since that motion.

- **Write to the government expressing support for the proposed new powers listed above and for making deliberate trespass a criminal offence but raise concerns about the impact on cash-strapped local authorities of allowing neighbouring authorities to avoid their responsibilities towards the gypsy and traveller community. This letter should make the case for both of these to be implemented as soon as possible and also for additional funding to be provided to police services and local authorities to allow them to carry out this work effectively.**

On the 5th November 2019 the Home Office issued a second consultation on strengthening police powers to tackle unauthorised encampments. The consultation closed on the 4th March 2020. All of the above was included in Birmingham's response to government and reported to the February meeting of the Licensing and Public Protection Committee.

- **Continue to work to revise the existing protocol agreed with the West Midlands Police. The council has a legal requirement to meet its equality duty**

and must consider the welfare of trespassers and is required in law to decide whether it can tolerate the encampment.

The protocol for dealing with unauthorised encampments has been reviewed and updated with WM Police colleagues. The final version is signed by the Chief Superintendent for Birmingham and by the Director of Neighbourhoods and available at

https://www.birmingham.gov.uk/downloads/file/5735/joint_protocol_for_managing_unauthorised_encampments .

The updated Memorandum of Understanding covers the provision of a transit site and the expectation that local Police Inspectors will authorise the use of notices requiring unauthorised encampments to leave both private and public land and use the transit site. Welfare checks are still required but once completed, the Police notices to leave should require the encampment to move in hours rather than the 2 or 5 days for our common law notices, ultimately bringing public land back to common use in the shortest possible time. We are continuing to work with the Police to support a project for their officers' handheld devices. This will have numerous Policing situations whereby if they click on the relevant title, they will get key action data. One of those is unauthorised encampments. It is hoped this will streamline further our joint working.

- **Continue to work on building the detailed evidence base required to gain a city-wide injunction against unauthorised encampments to enable the speedy removal of such encampments and prevent the practice of moving from site to site within the city boundaries.**

The injunctions that cover some parks and roads within the city were all obtained under the Antisocial Behaviour Act provisions. As such in each case significant levels of ASB had to be demonstrated through complainant and officer statements and photographic evidence of the damage caused. Officers have continued to engage with unauthorised encampments, the change to the use of the Sec 62A direction notice to the transit site under The Criminal Justice and Public Order Act 1984, has shortened the time to moving to such an extent there has been no significant evidence of ASB. The Sec 62A notice prohibits further occupation of the current site or any other land in Birmingham, except the transit site, for a period of 3 months. Those who wish to use the transit site will be accommodated if they sign a weekly agreement. Alternatively, they can choose to leave the borough. Since November there is no evidence to support an application to the High Court for a city-wide injunction under the ASB powers.

- **Request the relevant Director and officers to see what more can be done to recover costs through the courts from trespassers for the associated legal fees, repairs to property and cleaning costs and to report back to Housing and Neighbourhoods Overview and Scrutiny Committee.**

This has been investigated with legal proceedings. Unless the identity of the individual perpetrator can be proven (not a group or family), then legal proceedings are not possible. Since the opening of the transit site, all the unauthorised encampments have been removed in a period where little damage has occurred. The Assistant Director responsible for Parks has reported his budget pressure of over £100k per year has eased and parks are unlikely to have spent £5k since November 2019 on clean-ups and repairs as a result of unauthorised encampments.

- **Work with local councillors, friends of parks and other community groups to identify areas vulnerable to trespass and prioritise those for appropriate preventative and deterrent measures as and when funding permits. A report to be provided back to Housing and Neighbourhoods Overview and Scrutiny Committee.**

Due to the Covid19 pandemic this has not been possible to move forward significantly and the easing of lockdown has lead to other inappropriate park problems not associated with travelling groups and this work is being prioritised.

- **Promote clearer reporting mechanisms for residents so that swift action can be taken at the first sign of unauthorised encampments being set up and that the relevant officers report back on steps taken to Housing and Neighbourhoods Overview and Scrutiny Committee.**

Although the City has an on-line reporting mechanism for unauthorised encampments, in practice most encampments are reported to the Police, Council Officers, Councillors or through social media. This widespread reporting means that the officers in Regulation and Enforcement are mostly aware within an hour of an unauthorised encampment being set up, even on weekends. It is not an exaggeration to say we have occasionally met Police response teams on site before the last vehicle has entered the site.

- **Considers providing sufficient legal campsites to enable the Council to apply to the Courts for a Citywide injunction to prohibit unauthorised campsites and incursions as a matter of urgency.**

The Birmingham Development Plan identifies that 2 transit sites should be delivered in Proctor Street and Aston Brook Street. The former is operational, and the latter is currently out for development costs. As part of the work undertaken to bring forward these sites the Gypsy, Roma, Traveller Needs Assessment (GTAA) has been recommissioned and completed in 2019. The GTAA identified the need for an additional 20 permanent pitches to be delivered over a number of years from 2018 through to 2033. With regards to transit provision the GTAA suggested that the current

strategy to deliver 19 pitches at Proctor Street and Aston Brook Street, combined with bringing the site at Tameside Drive back into operational use thereby providing a further 15-18 pitches should be sufficient to meet the needs of the city in regards to managing unauthorised encampments. The GTAA did suggest that once fully delivered the provision should be closely monitored for a period of 24 months to allow the council to determine whether the potential available levels of transit provision are sufficient to deal with households on unauthorised encampments.

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