

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

12 JULY 2017
ALL WARDS

UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS

1. Summary

- 1.1 This report provides Committee with an update on work being undertaken to improve the response to unauthorised encampments in the city since the last report on the 15th February 2017.

2. Recommendations

- 2.1 That the report is noted and outstanding minute number 811(ii) be discharged.
- 2.2 That Committee agree to a further report be brought in 3 months to update on the various work items contained within this report.

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3. Background

- 3.1 This report is an update on activities since February's Licensing and Public Protection Committee.
- 3.2 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 as travellers or more correctly GRT.

4 Appointment of Additional Support

- 4.1 Currently Environmental Health has two officers, with substantive roles in the waste enforcement team that are redirected as necessary to recover land from unauthorised encampments. These officers with some assistance from land owning department staff, primarily in Parks, have undertaken all of the interventions necessary to evict and recover council land for over 10 years. As previously reported a new procured supplier, Equita Ltd, has been appointed to assist in all aspects of dealing with recovering land from unauthorised encampments.
- 4.2 Equita have been operational for 4 months and have increased our flexibility. Since their appointment a number of encampments have been evicted on weekends whereas before these tended to be allowed to carry over into the following week. In addition notices to quit have been served on all days of the week.

5 Update on the Provision of a Transit Site

- 5.1 Meetings continue to be held with Housing, Legal Services and Planning & Regeneration to look into bringing forward the approved sites in the Birmingham Development Plan. These being Proctor Street and Aston Brook Street East, both in the Nechells Ward.
- 5.2 Proctor Street is the larger of the 2 sites and it is likely to accommodate approximately 10 pitches. Most of the encampments Environmental Health deal with are significantly larger in number, usually 20 to 40 caravans with assorted vehicles.
- 5.3 A number of other sites have been identified which could take the larger incursions. Currently the only one that is viable is the Bromford Drive Recycling site. This site is accessed from Bromford Drive and has been identified as surplus to the requirements of Parks. The site is secure, has water and sewerage and a large area of hard standing.
- 5.4 Lesley Steele, Project Manager from Place Directorate, has been appointed to oversee the decommissioning of the recycling centre and the transition to a transit site. As part of this process a pre-planning application has been submitted and is being progressed. The site will require planning approval to be brought into use as a transit site.

- 5.5 There are problems with the site in that it is identified as part of the pre-planning application being in a Cat 3 risk flood plain. All other large sites we have investigated are identified to meet the provision for new housing or HS2.
- 5.6 Additional work streams are being considered by Housing colleagues that includes short term tenancy agreements, procurement of an external company to manage the new site and a draft layout with a minimum and desired specification for the site.
- 5.7 Housing are currently in active dialogue with the occupiers of the Tameside Drive site with a view to regularising their occupation. This includes working closely with Legal Services to establish a common tenancy agreement for this and any future sites in the city.

6 Prosecutions

- 6.1 Section 33 of the Environmental Protection Act 1990 deals with the offence of “fly-tipping” which is the illegal deposit of controlled waste, including commercial waste from driveway construction and groundwork/landscaping activities etc. To secure a prosecution it must be proven, beyond reasonable doubt, which individual committed the offence by way of substantive evidence, for example catching an individual(s) in the act, by CCTV or an eye witness who is willing to give evidence. A prosecution cannot be based on a belief that the offence can be inferred to have been committed by someone in a group. In specific circumstances the law does allow the prosecution of people who are in control of a vehicle, used for fly-tipping, even if they do not actually carry out the fly-tipping. All prosecuting authorities are under a duty to only instigate legal action if there is sufficient evidence to give a realistic prospect of a positive result in court.
- 6.2 In April and May 2017 convictions were secured against two offenders who were residing at an encampment in the Kings Norton area in March. Through assistance from West Midlands Police the suspects were arrested, interviewed by officers from the councils Waste Enforcement Unit and subsequently charged. The individuals were convicted of being in control of two fly-tipping vehicles which were used to tip one tonne and 5 tonnes, respectively of construction and demolition waste and the details are shown below:

Date Case Heard	Name	Offence details (including Legislation)	Fine/Penalty & Costs
24/04/17	Jerry Connors	Pleaded not guilty to one offence relating to being in control of a vehicle used to fly-tip controlled waste. Environmental Protection Act 1990	£816 fine £2,900 costs awarded (£81 Victim surcharge)

17/05/17	John Cassidy	Pleaded not guilty to three offences relating to being in control of a vehicle used to fly-tip controlled waste. Environmental Protection Act 1990	£1,560 fine (£520 x 3) Forfeiture of the fly-tipping vehicle ordered (Valued at £4,500). £2,084 costs awarded (£156 Victim surcharge)
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7. Red Diesel

7.1 Environmental Health have received a growing number of complaints alleging that red diesel is in wide spread use by people on the unauthorised encampments in Birmingham. An exercise was conducted by WM Police where three vehicles have been checked and there is no evidence of this being the case.

8. Injunctive Action

8.1 Following wider use of injunctive action being used in the region, we are testing the same powers in Birmingham for three parks in Selly Oak. Information is due to be laid at Court on the first week of July 2017.

8.2 A lead Anti-Social Behaviour Officer has been commissioned to look at widening the use of injunctive and antisocial behaviour action to protect residents and officers from aggressive behaviours. Our officer has been to Sandwell MBC and has collected their evidence bundle and is working with Council Solicitors to see if we can replicate their work. It is necessary to be able to prove similar problems for this to be possible.

9. Implications for Resources

9.1 The resources employed in carrying out the work detailed in this report are contained within the approved budget available to your Committee.

10. Implications for Policy Priorities

10.1 The protocol contributes to fulfilling the Council's vision (Vision 2020) set out in the *Council Business Plan for 2016*, specifically to provide 'thriving local communities' and to work towards delivering 'a healthy, happy city'.

10.2 The work also supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.

11. Public Sector Equality Duty

- 11.1 The management of unauthorised encampments is a process that affects groups and individuals who are (mostly) from specific and defined ethnic minorities e.g. Romany Gypsies, Irish Travelers. The changes to the policy is covered by the existing Equality Assessments and will be updated when the regional assessments is brought forward.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil