

BIRMINGHAM CITY COUNCIL

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

24 OCTOBER 2018
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 14 February 2018.

2. Recommendations

- 2.1 That the report is noted and outstanding minute number 935(ii) be discharged.
- 2.2 That Committee requests a further report to 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 the last report to your Committee on 14 February 2018.
- 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 colloquially as “travellers” or more correctly GRT.

4. Injunctive Action

- 4.1 An injunction is a legal remedy obtained in a civil or criminal court. It takes the form of a Court Order that compels a named person or an identified group to refrain from specific acts. All of the injunctions currently obtained by your officers have been obtained under antisocial behavior powers and have the power of arrest attached. A person that fails to comply with an injunction may be fined, imprisoned or have their assets seized.
- 4.2 Currently all of the injunctions that your officers have applied for have been obtained from the High Court in Birmingham. In every instance there has to be sufficient evidence of antisocial behavior causing alarm, harassment and or distress for an application to be made. Following the application, the hearing Judge will consider whether the very significant step of imposing an injunction is a proportional and fair step to take. Although we have been successful in our applications significant attention has to be given to prove that it is a proportionate action to grant the injunction, due to there being no operational alternative sites for the GRT community in the borough.
- 4.3 Since the last report no further injunctions, to protect open spaces or to control the behaviours of individuals, have been made. However following a difficult time in the summer antisocial behaviour in the following Parks has occurred to a level where information has been submitted to legal services to apply for the injunctions to extended to the following open spaces;
 - 1) Parks adjacent to Sarehole Mill, (Hall Green North ward);
 - 2) Chinn Brook Recreation ground (in both Billesley & Hall Green South wards) and
 - 3) The Dell (Druids Heath and Monyhull ward).

5. Proposed Transit Sites

- 5.1 Committee will be aware that over the summer two planning applications were submitted to bring forward the two transit sites identified in the Birmingham Development plan. Planning consent has now been given and the conditions of approval are in the attached appendix.
- 5.2 Colleagues in Housing and Economy officers are applying for capital funding to bring these sites forward into operational use. Currently some monies have been approved from the Homes England Grant. The current application to the council's

own capital processes is to provide match funding and sufficient monies to develop the sites. Currently it is hoped that Proctor Street being the larger of the 2 sites will be delivered this financial year.

- 5.3 The work stream to bring Tameside Drive transit site back into operational use proceeds slowly. This matter has now been forwarded to Legal Services to as it does not appear to be able to be completed by way of negotiated agreement.
- 5.4 Once the transit sites are operational it will enable unauthorised encampments to be tackled in an alternative manner. The Police and Crime Commissioner has undertaken to support local authorities by promoting the use of section 62 powers under the Criminal Justice and Public Order Act 1994. This enables a Police officer to direct an unauthorised encampment to an alternative provision, usually a transit site, and it makes it an offence for someone so directed not to go to that alternative provision if they settle on any other land in the borough. This power takes immediate effect after the notice is served and most encampments are resolved in 1 to 3 hours from first intervention.
- 5.5 Operational transit site provision will also rebalance the proportionality argument as to whether it is proportional and fair for a judge to impose injunctions on other parks and open spaces. Legal services advise this will significantly assist in making an application to protect all of the city's parks.

6 Gypsy, Romany, Traveller needs assessment

- 6.1 A GRT needs assessment was undertaken for inclusion in the current Birmingham Development Plan (BDP). The BDP identified both of the sites detailed paragraph 5.1 that have recently received planning permission. It became clear that the needs assessment carried out in 2014 is out of date due to a much higher rate of unauthorised encampments occurring in in the city during 2015, 2016 and 2017.
- 6.2 The new 2018 GRT needs assessment has been commissioned by colleagues in the Development Directorate. The first draft of this document was received in early October and a presentation to planning officers and your officers is to occur imminently. It is hoped that the final assessment will be provided by mid-November. This document will identify the current need for transit site pitches as well as projecting future needs for planning officers to consider.
- 6.3 The GRT needs assessment document will be the updated equality impact assessment and will help ensure that the city discharges its legal duties when working with the GRT community. It will assist in meeting the council's duty to promote equality issues when implementing policies around the GRT community. It should assist in our understanding of the demand and use for the transit sites that are being developed. The assessment should also inform any enforcement action if unauthorised encampments occur in the future.

7. Management of Unauthorised Encampments

- 7.1 Committee will be aware that the role of your officers is to undertake an individual needs assessment for each encampment prior to taking steps to recover the land. This year there have been a couple of very challenging matters leading to extended stays being granted.
- 7.2 In Druids Heath and Monyhull ward there was medical evidence provided demonstrating that evicting the encampment would be against the needs of an individual. Accordingly the unauthorised encampment was tolerated and every effort was made to: minimize the number of persons in that encampment; to ensure the site was maintained in a suitable condition by those occupying it; and that there was no adverse antisocial behaviour in the locality. This lasted approximately 10 weeks. There continues to be difficulties and the family have been directed towards emergency assistance services provided by colleagues in the Housing Service. As they have declined we continue to monitor the situation but evictions of this encampment do proceed where they are on council land.
- 7.3 In addition your officers also reached out and supported one travelling group following a death of a child aged just less than 2 years on the park adjacent to Sarehole Mill. Every effort was made to assist that group whilst an investigation was undertaken by the Police and until the child could be returned to the family for burial. I am pleased to report that not only did your officers and the Police work effectively together during this time, but also the community showed great empathy to the group for their loss.
- 7.4 This situation became even more of a challenge when another group joined the bereaved family to take advantage of the toleration being given by the city. This led to some very difficult decisions by your officers on how to manage the situation and when to recover the land. However throughout we worked with the bereaved family to meet their needs whilst protecting the community from the second group. We have now received a thank you for our actions and consideration from the leader of the family via the Police Family Liaison Officer.

8. Consultation

- 8.1 The report is for information and, therefore, no consultation has been undertaken.
- 8.2 Information continues to be made available to MPs and elected members to offer support in reducing the impact on communities that unauthorised encampments have and to reduce the burden on land owning departments.

9. Implications for Resources

- 9.1 Regulation and Enforcement is responsible for the assessments leading up to legal action, the service of notices and arrangement of resources for an eviction to occur. The default costs (bailiff actions), the repair of land its cleansing, is borne by the land owning departments. The Environmental Health 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 This work 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.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

Planning and Development
PO Box 28, Birmingham B1 1TU



DECISION DOCUMENT

APPLICATION NUMBER: 2018/03750/PA

TOWN AND COUNTRY PLANNING ACT 1990

APPLICANT

Birmingham City Council
Birmingham Property Services
PO Box 16255
Birmingham
B2 2WT

AGENT (if used)

Acivico
Louisa House
92-93 Edward Street
Birmingham
B2 2ZH

BIRMINGHAM CITY COUNCIL GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS FOR THE FOLLOWING DEVELOPMENT IN ACCORDANCE WITH THE PLANS AND APPLICATION AS NUMBERED ABOVE:

Change of use from vacant plot to transient accommodation for Gypsies and Travellers (Sui Generis), erection of single storey utility building and installation of new palisade fencing and gated access.

at

Vacant Plot, Aston Brook Street East, Birmingham, B6 4AP

Conditions that affect this development or use

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- | | |
|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Requires the scheme to be in accordance with the listed approved plans
The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers 93913 A 090 & 93913 A 101 ('the approved plans')
Reason: In order to define the permission in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework. |
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| 2 | Requires pedestrian visibility splays to be provided
A pedestrian visibility splay of 2m x 2m x 600mm shall be incorporated at each access point before the access points are first used and thereafter maintained.
Reason: In order to ensure the safe movement of pedestrians using the adjacent highway in accordance with Policies PG3 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework. |
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| 3 | Requires circulation areas to be kept from from obstructions at all times.
All vehicular circulation areas shall be kept free of obstacles and obstructions at all times. |

Reason: In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Policies PG3 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.

- 4 Requires the prior submission of footway crossing details
Prior to commencement of the use full details for the installation of footway crossing(s) on Aston Brook Street East and Hubert Street shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter retained. Reason: To avoid cars parking unlawfully in the interests of highway and pedestrian safety in accordance with Policy TP44 of the BDP 2017 and the National Planning Policy Framework 2012.
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- 5 Requires the prior submission of amended boundary treatment details
No development shall take place until full details of the proposed amended boundary treatment of the site have been submitted to and approved in writing by the Local Planning Authority. These details shall include plans showing the locations of existing, retained and proposed new boundary treatments and scaled drawings indicating the positions, height, design, materials, type and colour of proposed new boundary treatments. The approved scheme shall be implemented before occupation of the building(s)/use/dwelling (s) hereby permitted and shall be retained thereafter.
Reason: In order to secure the satisfactory development of the application site in accordance with Policies PG3 and TP7 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
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- 6 Implement within 3 years (Full)
The development hereby permitted shall be begun before the expiration of (3) years from the date of this permission.
Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and the National Planning Policy Framework.

Date: Thursday 16th August 2018



Waheed Nazir, Corporate Director, Economy

P.O. BOX 28, Birmingham B1 1TU

Please note
This is not a building regulation approval