

BIRMINGHAM CITY COUNCIL

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

23 OCTOBER 2019
ALL WARDS

UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS

1. Summary

- 1.1 This report provides Committee with an update on work being undertaken to further manage unauthorised encampments in the city since the last report on the 16th May 2019.

2. Recommendations

- 2.1 That the report is noted and outstanding minute number 1169 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.
- 2.3 That the letter at Appendix 2 be approved subject to the comments of the Portfolio Holder for Homes and Neighbourhoods.

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3. Background

- 3.1 This report is an update on activities since the last report to your Committee on 16th May 2019.
- 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.

Proposed Transit Sites

- 4.1 As previously reported, colleagues in Housing and the Inclusive Growth Directorate have applied for capital funding to bring the two transit sites in the BDP forward and into operational use, these being at Proctor Street and Hubert Street, Nechells. Currently £50k has been approved from the Homes England Grant and a further capital expenditure of £290k has been identified for 2019/20 and 2020/21 to bring all of this work forward.
- 4.2 As committee is aware from the last report, contractors were asked to develop the Proctor Street transit site. This work to bring the site into use is now complete and the site was handed back to the City on the 25th September 2019. Appendix 1 contains photographs of the developed site.
- 4.3 There is no update for the Tameside Drive site as the matter remains with legal services. The last update was “The work stream to bring Tameside Drive transit site back into operational use proceeds slowly. As previously advised, this matter has now been forwarded to Legal Services as it does not appear to be able to be completed by way of negotiated agreement. A formal procedure has now started with initial letters going to the residents occupying Tameside Drive. The intention is to accommodate the existing residents on the site with permanent tenancy agreements and the remainder of the site to be converted to a transit site. This can only be delivered once appropriate tenancy agreements are in place”.
- 4.4 Further investigations have been made into Aston Brook Street, where there is one caravan on this proposed site. It has been confirmed that there has been a caravan on this site for more than 10 years. Therefore, similar to Tameside Drive, letters have been delivered and our Legal Services team is now in discussion with the solicitor acting on behalf of the resident on the site.

5. Motion at Full Council

- 5.1 At Septembers full Council meeting a motion was debated and passed requiring consideration to be given to the following:
 - i. Write to the government expressing support for the proposed new powers (relates to extension of Sec 62 to adjacent authority areas) 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.

- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.
- vi. 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.
- vii. Considers providing sufficient legal campsites to enable the Council to apply to the Courts for a City wide injunction to prohibit unauthorised campsites and incursions as a matter of urgency.

5.2 It is proposed that the Chair and the Cabinet Member for Homes and Neighbourhoods write to the Home Secretary and The Minister for Housing, Communities and Local Government to discharge bullet point i. above. The proposed text of the letter is in appendix 2 to this report.

5.3 The joint protocol in tackling unauthorised encampments (bullet point ii. above) is out of date following the introduction of the transit site. We are currently looking to revise our Memorandum of Understanding with West Midlands Police and once agreement has been reached it will be published and distributed.

5.4 Statements have been submitted to Legal Services to apply for a city wide injunction in-line with bullet point iii. above and information in paragraphs 6 below.

5.5 Bullet points iv. to vii. will be addressed shortly and an update given in 3 months.

6 Injunctive Action

6.1 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.

6.2 All of the existing park injunctions were successfully extended on the 3rd July 2019 to the 1st July 2021. These can be viewed at Birmingham City Council's web page by searching for encampment injunctions.

6.3 Statements have been submitted to legal services for a city wide injunction now that the transit site is available.

7. Consultation

7.1 The report is for information and, therefore, no consultation has been undertaken.

7.2 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.

8. Implications for Resources

8.1 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 and 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.

9. Implications for Policy Priorities

9.1 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'.

10. Public Sector Equality Duty

- 10.1 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.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

Appendix 1



There are 15 pitches that allow for a large caravan and towing vehicle to be parked beside the caravan.



The Transit site forms an "L" shape and these two photographs look down each leg from the angle.



There is a lockable toilet block on site with cubicles for male and females.



Male and Female toilets are the same with 2 water closets a wash basin and a sluice.



There is heating provided for the winter.



Sluice and Wash basin



To the rear of the cabinet is a stand pipe for water (insulated silver box) which is closed and locked until pitches are rented and then the box is opened and a tap is fitted. The other green box is the box for service meters.

Proposed Letter text to Government to be drafted

Proposed text

Dear Minister,

We are writing following a recent meeting of Birmingham City Council on 10 September 2019, where a Notice of Motion was considered regarding the strengthening of powers to deal with unauthorised encampments.

On 6 February 2019, the then Home Secretary, the Right Honourable Sajid Javid MP reported to Parliament that he was considering the variation of the current police powers to tackle unauthorised encampments. The proposals were reported as:

- i. lower the number of vehicles needed to be involved in an illegal camp before police can act from 6 to 2;*
- ii. give the police powers to direct travellers to sites in neighbouring local authorities. Currently they can only direct trespassers to sites in the same are;*
- iii. allow officers to remove trespassers from camping on or beside a road; and,*
- iv. increase the time from 3 months to a year, during which travellers are not allowed to return to a site they have already been removed from.*

Birmingham Council is fully supportive of these changes and would like to see them implemented without further delay. Further the Council supports making deliberate trespass a criminal offence.

In making these points Birmingham is fully aware of its and other Council's duties to the Gypsy Roma and Traveller community. The City Council is keen to see all councils play their part in discharging these duties and is concerned that some cash-strapped local authorities may allow neighbouring authorities to avoid their responsibilities towards the gypsy and traveller community. Birmingham would therefore request that serious consideration is given to requiring all Councils in England and Wales to assess if they have had any unauthorised encampments in the preceding 5 years. Where there is a demand, then these authorities should have access to sufficient central funds enabling all councils to provide transit sites to meet the needs of both the travelling and resident traveller communities. This in turn will have a positive impact on the settled community by preventing recurring unauthorised encampments, as well as protecting the parks and open spaces for everyone to use and enjoy. In Birmingham a small car park has been converted to a transit site of 15 pitches for around £100,000. If there were numerous sites across the country this would effectively mean that there would never be any need for parks and other open spaces to be subject to unauthorised encampments.

We hope you will give due consideration to these comments and put in place the proposed amendments to the legislation as a matter of urgency.

Yours sincerely

Councillor Sharon Thompson JP
Portfolio Holder for Homes & Neighbourhoods

Councillor Philip Davis
Chair of Licensing & Public Protection Committee