

Overview and Scrutiny Report

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Update on Gypsy and Traveller Unauthorised Encampments and Possible Transit Site in Surrey

Executive Summary

The purpose of this report is to allow the Overview and Scrutiny Committee to comment on the Council's procedure for Unauthorised Encampments on Guildford Borough Council land and comment on the Surrey Leaders Group's proposal for a transit site to help alleviate the pressures surrounding unauthorised encampments on local communities.

Since 2018 the Joint Enforcement Team have managed Unauthorised Encampments on Guildford Borough Land and work in partnership with Surrey Police to manage community and environmental impact.

The Surrey Leaders Group in response to the increased impact unauthorised encampments have had in recent years have developed a transit site proposal for the county that will assist the police in using powers available to them to help manage the pressures districts and boroughs face.

The proposal asked this council to make a capital contribution of £127,00 towards the construction of the transit site and an ongoing annual revenue contribution of £7,500 for the maintenance of the site.

To support this proposal, officers recommended to the Executive that the budget of £115,000 remaining on the capital programme ((Scheme PL60(p)) be re-purposed and a small virement of £12,000 be taken from the capital contingency fund to increase the budget to £127,000 and that the provisional budget be transferred to the approved capital programme. As the budget is already within the capital programme there is no additional impact on MRP in the revenue budget.

On 16 February 2020, The Executive supported the Surrey Leaders Group proposal and agreed to

- A capital contribution of £127,000 towards the construction of a Gypsy and Traveller transit site in Surrey.
- An annual revenue contribution of £7,500 for maintenance of the site.
- Re-purpose £115,000 for Traveller encampments remaining on the provisional capital programme (Scheme PL60(p)) and the virement of £12,000 be taken from the contingency fund to increase the budget to £127,000
- transfer the provisional budget to the approved capital programme

Recommendation to Committee

The Committee is asked to

- Comment on the Council's approach to Unauthorised Encampments as set out in this report
- Comment on the possible Transit Site provision in Surrey

Reason(s) for Recommendation:

To ensure Councillors are aware of this council's approach to unauthorised encampments and the intentions of Surrey County Council to provide a Transit site to support the management of unauthorised encampments across the county.

Is the report (or part of it) exempt from publication?

No

1 Purpose of Report

1.1 The purpose of this report is to provide Overview and Scrutiny Committee (O&S) an update on

- Guildford Borough Council's (GBC) Unauthorised Gypsy and Traveller Encampment procedure
- The county wide strategy on developing a transit site that has been progressed by the Surrey Leaders Group.

2. Strategic Priorities

2.1 Managing Unauthorised Encampments within the borough contributes to the strategic priority of protecting our environment and supporting people in our community.

3. Background

GBC Unauthorised Encampment procedure

3.1 Unauthorised Encampments (U/Es) are when a group of people move vehicles onto land that they do not own and reside there for a period of time. This is particularly relevant, but not exclusive, to the Gypsy and Traveller community who traditionally travel in the summer months.

3.2 The landowner is responsible for enforcement against any U/Es on their land. Local authorities generally use Section 77 and Section 78 of the Criminal Justice and Public Order Act 1994 (CJPOA). (Appendix 1). In summary these powers allow the Council to serve a direction requiring the encampment to leave the land within a certain period of time. If the direction is not complied with, the Council can apply to the Magistrates Court for an order requiring their removal. This allows the Council to remove the encampment with the assistance of bailiffs.

The Police also have powers to enforce against U/Es. They can in certain circumstances use Section 61 CJPOA (Appendix 2). This applies to larger encampments where there are 6 or more vehicles on the land or where the encampment is causing damage to the land or using threatening, insulting or abusive behaviour towards the occupier. This is however extremely resource intensive for the Police and not something they do readily.

Should a transit site be available, there may be opportunities where the police can use Section 62A of the CJPOA. (Appendix 3) This applies where the encampment consists of one or more caravans and there is space on a transit site within the county for those caravans.

3.3 Since April 2018, GBC's Joint Enforcement Team (JET) has had responsibility for the U/E process on GBC land. During this time, we have seen 69 U/Es in Guildford.

- 38 on GBC land dealt with by JET - 6 of these encampments were supported by Surrey Police using Section 61 powers.
- 16 on Surrey County Council (SCC) land dealt with by SCC Gypsy and Traveller team
- 6 on parish council land
- 9 on privately owned land

JET Protocol for Unauthorised Encampments on GBC Owned Land

3.4 JET have become very well known in the South East throughout the Gypsy Traveller communities and have strong communication links with the various community leaders.

- 3.5 When an encampment arrives on GBC land, they begin the enforcement procedure under Section 77 and Section 78 of the CJPOA. This approach, depending on Court availability, can take on average 10 working days. JET have developed a logbook (Appendix 4) which enables efficient deployment of staff as well as evidence and intelligence gathering. This is a transparent process with the encampment and the details obtained are only shared with Surrey Police.
- 3.6 JET is the pivotal liaison point during an encampment, visiting the occupants of the encampment as well as local residents to provide reassurance. They also liaise with Guildford Fire and Rescue to ensure a fire safety visit has happened on site to ensure everyone's safety. Clear reporting lines for the public have been established and all anti-social behaviour concerns are reported to the Police whilst anything of environmental impact is reported to JET. Our Customer Service Team link in with JET to ensure all calls and issues are logged and JET respond to all public enquiries via email or a personal visit.
- 3.7 There is a very strong relationship between JET and the Guildford Police Neighbourhood Team. The Police have supported 6 unauthorised encampments on GBC land by utilising their Section 61 powers under the CJPOA.
- 3.8 Since 2018, JET have only once required bailiff assistance at the end of the Section 78 process. Most encampments move on before this stage of the process.

Possible Injunction Action

- 3.9 Discussions have been had across the county about the possibility of seeking an injunction against repeat unauthorised encampments. Over the last couple of years several local authorities had obtained injunctions in the High Court prohibiting encampments on most or all open spaces within the Borough. However, in January 2020 the Court of Appeal upheld a High Court decision to refuse such an injunction to the London Borough of Bromley Council. Since then the High Court has ordered a review of all existing injunctions with a number being discharged. The courts now appear to be taking a much more robust approach towards granting such injunctions and it will only really be possible to obtain such injunctions for limited named sites or against named individuals. A "blanket" injunction to prohibit encampments in the Borough is no longer feasible.

Development of a transit site in Surrey

- 3.10 The project to develop a transit site for Surrey has been a shared ambition of SCC and the districts and boroughs considering the increased community impact unauthorised encampments have. This project is led by the Surrey Leaders Group.
- 3.11 A transit site in the county would enable the Police to use Section 62A of the CJPOA meaning that they could direct U/Es to the transit site and then prohibit return to a U/E anywhere within the borough for a period of 3 months.

- 3.12 It is also anticipated that a transit site would help to address the welfare needs amongst the travelling community.
- 3.13 Surrey Police have confirmed that they would support the development of such a transit site on the basis that they would be able to better enforce U/E activity. Whilst the ideal provision would see more than one site located at different geographic locations across the county, the Police have confirmed that they would use whatever site is developed in the county as Section 62A powers can be used where there is a site within the Surrey County Council area.
- 3.14 As such, development of a transit site is not a panacea, but a step forward in providing an initial capacity that will be able to be used in a proportion of U/E activity across the county.
- 3.15 The Surrey Leaders Group has learnt from authorities that have experience of transit sites in place that they provide a noticeable impact on the ability to manage U/Es effectively. From West Sussex County Council's perspective, the number of U/Es in the county is not perceived to have declined as a result of the site, but the speed taken to act on unauthorised encampments is much improved due to the increased use of Section 62A powers by the Police.
- 3.16 However, for the Police to direct a U/E to a transit site, it is necessary for the site to have sufficient pitch capacity to accommodate the whole UE; where there are fewer pitches than numbers in the U/E, it is up to the attending Police Officer to decide whether it is suitable or possible to move part of the UE onto the transit site.

Chichester Council provide an example where there have been instances when the police have asked one or two families from the larger U/E to move to the site to ensure that encampments do not remain too large. Otherwise, the Police will not use Section 62A powers. In this case, the remaining encampment was subject to the local authority Section 77/Section 78 CJPOA powers.

The transit site proposal

- 3.17 A site has been identified which, subject to planning permission, will be developed into a 10-pitch transit site in 2021/22. The exact timetable for the site's construction is subject to confirmation and will depend on the extent of remediation required as well as planning.
- 3.18 The site requires significant expenditure on decontamination, but districts and boroughs are only being asked to contribute to the infrastructure costs as the remediation will be met by SCC.
- 3.19 The Surrey Leaders Group has agreed that the host authority for the site will not be required to contribute, but the remaining 10 district and borough authorities will be asked to contribute a proportionate share of the construction of the site.

The contribution requested from each contributing district and borough for the 21/22 financial year is:

- a one-off contribution of up to £127,000 in capital funding for the construction of the site
- an annual contribution of £7,500 revenue funding for the maintenance of the site

3.20 So that this council could support this proposal, officers recommended to the Executive that

- the budget of £115,000 remaining on the capital programme ((Scheme PL60(p)) be re-purposed
- a small virement of £12,000 be taken from the capital contingency fund to increase the budget to £127,000
- the provisional budget be transferred to the approved capital programme. As the budget is already within the capital programme there is no additional impact on MRP in the revenue budget.

3.21 On 16 February 2020, The Executive agreed these recommendations.

3.22 The transit site will be managed by the SCC Gypsy and Traveller Liaison Team.

4. Key Risks

4.1 Unauthorised Encampments in the borough create community concern and unrest. We have seen since 2018 a variety of community responses to Unauthorised Encampments that range from tolerance to extreme hostility and negativity within local community and resident groups. This is particularly seen via the increased use of Social Media. However, the Police and local authorities must respond to U/Es within a legal framework that considers the welfare and human rights of the occupants.

4.2 Local residents do perceive the local authority and local Police as having mute impact on U/Es. The Surrey Leaders Group hope that development of a transit site will help alleviate these perceptions. However, the development of a transit site does depend on key remediation works by SCC and a significant financial contribution from districts and boroughs. GBC has assigned within the budget for 21/22 our financial contribution.

4.3 Expectations must be realistic around what one transit site can deliver. 10 pitches will not be enough to solve all problems around U/Es in the county during peak

season. The local authority enforcement process via Section 77 and Section 78 CJPOA will no doubt still be the driving protocol for U/Es in the borough.

- 4.4 A joint protocol of how the transit site will be managed by SCC and the Police is yet to be developed but it is assumed it will follow the same terms as seen in neighbouring counties.

5. Financial Implications

- 5.1 GBC will contribute £127,000 in capital funding for the construction of the site and an annual contribution of £7,500 revenue funding for the maintenance of the site.

6. Legal Implications

- 6.1 There are no specific legal implications arising from the setting up of a transit site within the County. The legal implications relating to removal of unauthorised encampments are referred to in the body of the report.

7. Human Resource Implications

- 7.1 There are no Human Resource Implications. JET will continue to manage the U/E protocol on GBC land and liaise with Surrey Police as to the legislation required for enforcement.

8 Equality and Diversity Implications

- 8.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies.

GBC unauthorised encampment protocols require consideration of protected characteristics of the individuals involved, such as Gypsy and traveller status and disabilities and are therefore compliant with the Equality Act 2010.

- 8.2 Surrey County Council as part of the process in creating a transit site will undertake all the relevant assessments to ensure their statutory duty under section 149 of the Equality Act 2010 is fulfilled.

- 8.3 There are therefore no direct implications for this Council arising from the establishment of a transit site.

9. Climate Change/Sustainability Implications

- 9.1 Unauthorised Encampments in some cases create issues around waste as well as the public health of the occupants on site. Our protocol aims to support occupants of U/Es as well as local residents with these issues.

9.2 It is hoped that the creation of a transit site will help alleviate some of the pressures around environmental impact of U/Es across the borough.

10. Suggested issues for overview and scrutiny

- Are there any comments from the committee about Unauthorised Encampments on GBC owned land?
- Are there any comments on the proposed transit site in Surrey?

11 Conclusion

11.1 Unauthorised Encampments are managed well by the JET team and an efficient procedure is in place to manage encampments that occur on GBC land. The process under Section 77/78 CJPOA is normally used and is completed on average within 10 working days. However, there is no doubt that U/Es cause considerable distress to many in the local community and the Section 61 Police powers which can enable a quicker response to an encampment are not executed often.

This council supports the Surrey Leaders Group proposal that a transit site within the county – although not the cure to all issues around unauthorised encampments – would be of significant help in managing U/Es due to it providing the police with extra powers under Section 62A of the Criminal Justice and Public Order Act and has agreed to a £127,000 capital contribution towards the construction of the site and an annual revenue contribution of £7,500 for the maintenance of the site.

12. Background Papers

None

13. Appendices

Appendix 1: Section 77 and Section 78 Criminal Justice and Public Order Act

Appendix 2: Section 61 Criminal Justice and Public Order Act

Appendix 3: Section 62a Criminal Justice and Public Order Act

Appendix 4: JET Unauthorised Encampment logbook

Appendix 5: Appeal Decision Bromley vs Persons Unknown