

Overview and Scrutiny Report

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Update on Gypsy, Roma and Traveller Unauthorised Encampments and a Potential Transit Site in Surrey

Executive Summary

The purpose of this report is to update the Overview and Scrutiny Committee on the Council's activities in relation to Unauthorised Encampments (UEs) on Guildford Borough Council (GBC) land and to provide an update on Surrey County Council's proposal for a transit site to provide provision for the Gypsy, Roma and Traveller communities and to help to alleviate the pressures surrounding unauthorised encampments on local communities.

The Compliance Team, previously the Joint Enforcement Team, manage UEs on GBC land and work in partnership with Surrey Police to manage the community and environmental impact.

In response to the increased impact of unauthorised encampments, Surrey County Council is in the process of developing a transit site for the County that will assist the police in using powers available to them to help manage the pressures that both Districts and Boroughs face.

On 16th February 2021, The Executive, supported by Leaders of Surrey Councils, proposed 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 activities in relation to Unauthorised Encampments as set out in this report
- Comment on the proposed Transit Site provision in Surrey

Reasons for Recommendation:

To update Councillors on the Council's activities in relation 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 update the Overview and Scrutiny Committee on:

- Guildford Borough Council's (GBC) activities in relation to Unauthorised Gypsy and Traveller Encampments; and
- The County-wide strategy on developing a transit site that has been progressed by Leaders of Surrey Councils.

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

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

- 3.2 Landowners are responsible for dealing with UEs on their land. Local Authorities generally use Section 77 and Section 78 of the Criminal Justice and Public Order Act 1994 (CJPOA), please refer to Appendix 1. These powers enable the Council to serve a Direction requiring the encampment to leave the land within a prescribed period. If the Direction is not complied with, the Council can apply to the Magistrates' Court for an Order requiring their removal. The Order permits the Council to remove the encampment with the assistance of bailiffs.
- 3.3. The Police also have powers under Section 61 CJPOA, please refer to Appendix 2, to enforce against larger UEs where there are 6 or more vehicles on the land; where the encampment is causing damage to the land; and/or where the landowner or local community are being threatened, insulted, or abused. This is extremely resource intensive for the Police and not something they will enter into lightly.
- 3.4. Should a formalised transit site be made available to travellers, the police could use Section 62A of the CJPOA, please refer to Appendix 3, to divert UEs with one or more caravans to a transit site within the County, where there is space for them.
- 3.5. The Compliance Team, previously the Joint Enforcement Team (JET), is responsible for the UE process on GBC land. Please see Table 1 below for the number of UEs that GBC is aware of since April 2020:

	2020/21	April 2021 to November 2021
GBC Land	38	15
Parish Council Land	6	1
Surrey County Council Land	16	8
Private Land	9	4
Total UEs	69	28
Supported by Police (s.61 powers)	6	2
Bailiffs required to remove.	0	0

Table 1: Number of Unauthorised Encampments in GBC by Land Type.

- 3.6. The figures in Table 1 reflect a decline in UEs due to travel restrictions due to Covid lockdowns during this period. Of the total of 28 UEs since April 2021, 12 were associated with The Spectrum; 3 at the Park and Ride and 9 in the main car park. It is not currently possible to determine the full costs associated with the removal costs for UEs in GBC, however, they are likely to be considerable. Compliance Officers have spent 134 hours dealing with UEs since April 2021. Litigation Officers would have played a key role in arranging court hearings and drafting court Orders; asset managers would have been liaised with in relation to the status of the UE and securing access to the land in future; and Waste and Park Services would have an increased role in collecting waste throughout the duration of the encampment as well as the inevitable clean-up of the site when it has gone. Remedial repairs are also often required after these events.

- 3.7. Since April 2021, the number of vehicles on UEs in GBC has ranged from 6 to 20 per UE but there have been over 50 vehicles in one UE in previous years. The number of days that UEs have remained has ranged from 3 to 16 days: the vast majority leaving of their own accord.

Protocol for Unauthorised Encampments on GBC Owned Land

- 3.8. The Compliance Officers are well known in the Gypsy, Roma and Traveller communities that frequent the Borough and have effective communication links with the various community leaders.
- 3.9. When an encampment arrives on GBC land, the initial visit to the site by Compliance Officers is to determine whether there are any welfare needs of any of the encampment. Should welfare issues be identified, for example, a pregnant mother who is due to give birth, this may delay any enforcement process. When it is determined that there are no welfare issues, the Compliance Officers 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. The Compliance Officers use a logbook that enables efficient evidence and intelligence gathering. The form also importantly records any potential welfare needs of the group so that any urgent needs can be supported. This is a transparent process with the encampment and the details obtained are only shared with Surrey Police.
- 3.10. Where a UE is on non-GBC land, the Compliance Officers will initially attend to offer advice and support to the encampment occupiers. On private land it is the landowners' responsibility to take appropriate action to remove the occupants.
- 3.11. Compliance Officers are the pivotal liaison point during an encampment, visiting the occupants of the encampment as well as residents to provide reassurance. They also liaise with Surrey Fire and Rescue and Health colleagues to help 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 any environmental impact is reported to the Compliance Team. Our Customer and Case Team link in with Compliance Officers to ensure all calls and issues are logged so that Compliance Officers can respond to all public enquiries via email or a personal visit.
- 3.12. There is a strong working relationship between the Compliance Team and Communications who update the community via social media and send regular updates to Lead Councillors and the relevant ward Members and Guildford's Neighbourhood Policing Team.
- 3.13. The Compliance Officers also work closely with the Police in sharing intelligence. The Police have supported 2 unauthorised encampments this year on Surrey County Council and private land by utilising their Section 61 powers under the CJPOA.
- 3.14. Since 2018, the Compliance Officers have only once required Bailiff assistance at the end of the Section 78 process. Most encampments move on before this stage of the process.

Prevention

- 3.15. The most effective way to manage UEs is to implement preventative measures such as barriers, berms, bollards, and ditches so that travellers cannot easily access Council land. These measures can be costly, particularly with number of Council owned properties and sites. Control measures also need to be maintained and can be unsightly. There is no allocated budget for these measures and would need to be absorbed by the relevant asset manager for each site. All Parks sites have been risk assessed and a programme of works undertaken to enhance defences where practical to do so and within the available resources. Some of the resource previously allocated to this work was diverted to funding the transit site.

Development of a transit site in Surrey

- 3.16. The project to develop a transit site for Surrey has been a shared ambition of Surrey CC, Districts and Boroughs considering the increased community impact that UEs have. This project is led by Surrey County Council.
- 3.17. A transit site in the County would enable the Police to use Section 62A of the CJPOA meaning that they could direct UEs to the transit site and then prohibit return to a UE anywhere within the borough for a period of 3 months. The police have indicated their support for such a site but would prefer more than one in the County.
- 3.18. It is also anticipated that a transit site would help to address the welfare needs amongst the travelling community and give the community a recognised transit point during their summer travels.

- 3.19. The planning consultation to develop a short-stay traveller site on Merstham Road between Merstham and Bletchingley closed on 21 December 2021. This land belongs to Surrey County Council. Please see map in Figure 1 below:



Figure 1. Planning documents showing proposed layout of traveller transit site on Merstham Road

- 3.20. The site, which is located next to the permanent Pendell Camp, would share the same access and would provide ten pitches with a maximum stay of four weeks. The proposed site would also have a site manager's office, CCTV, and security fencing.
- 3.21. It is recognised that a single site with ten pitches will not resolve all UE issues within the Borough, but it is a welcome start. Whilst it is unlikely to significantly reduce the number of UEs in GBC, it should enable a speedier response to UEs due to the ability of the police to use Section 62A powers, providing that capacity is available at the transit site. This, in turn, may reduce the environmental and community impact caused by UEs.
- 3.22. The site will be managed by Surrey County Council's Gypsy, Roma and Traveller Liaison Team.

4. Key Risks

- 4.1 Unauthorised Encampments in the Borough create community concern and unrest and behaviour of the community ranges from tolerance to extreme hostility and negativity. This is particularly visible in the increased use of social media. The Police and Local Authorities must respond to UEs within a legal framework that balances the welfare and human rights of the occupants with the needs of the community.
- 4.2 UEs have financial implications for GBC both in terms of the resources required to manage the site and the cost of clearing waste once the travellers have left. The most cost-effective way to manage this issue is to implement preventative measures such as barriers, berms, bollards, and ditches so that travellers cannot easily access Council land.
- 4.3. Local residents do perceive the local authority and local Police as having mute impact on UEs. Surrey Councils Leaders 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.
- 4.4 Expectations must be realistic around what one transit site can deliver. Ten pitches will not be sufficient to resolve the impact of all UEs in the County during peak season. GBC's enforcement process via Section 77 and Section 78 CJPOA will no doubt still be the driving protocol for UEs in the Borough.
- 4.5 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. The policy will also need to ensure that all contributing Local Authorities will have fair access to the site.

5. Financial Implications

- 5.1 On 16 February 2021, The Executive supported Leaders of Surrey Councils proposal and agreed to:
 - A capital contribution of £127,000 towards the construction of a Gypsy, Roma 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.
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6. Legal Implications

Potential Injunction Action

- 6.1. A significant challenge in dealing with UEs is that, in the majority of cases, the occupiers of the land are “persons unknown”. A number of legal cases in 2021 have challenged the issuing of “final” injunctions against unnamed defendants due to the difficulties in identifying the specific individuals when enforcing the court order.
- 6.2. The use of “wide” injunctions, i.e. those that relate to a wide range of potential defendants, activities and/or places, by Local Authorities has been prohibited by the High Court. This was due to doubts that, in Gypsy, Roma and Traveller cases, the defendants could find suitable alternative accommodation and/or facilities locally. As outlined in paragraph 6.1., there is again the same difficulty in adequately identifying a defendant as involved in any previous legal action as opposed to a “newcomer” to the Borough.
- 6.3. Injunctions could, in theory, be considered for discreet sites where there is sufficient evidence that they are regularly used by named individuals who regularly trespass on Council land. In practice, this is more difficult to realise.

Bill to update Criminal Justice and Public Order Act 1994

- 6.5. A Bill has passed through the House of Commons and is currently being considered by the House of Lords in relation to Part 4 of the [Police, Crime, Sentencing and Courts \(PCSC\) Bill](#) 2021/22. The Bill seeks to amend the provisions in the Criminal Justice and Public Order Act 1994 (CJPOA) relating to unauthorised encampments by:
 - creating a new offence of “residing on land without consent in or with a vehicle”; and
 - broadening the scope of powers in the 1994 Act to allow the police to remove unauthorised encampments on highways; and
 - prohibiting UEs that are removed from a site from returning within twelve months.

7. Human Resource Implications

- 7.1 In relation to Section 6 above, the use of “wide” injunctions also has Human Rights Act 1998 implications in relation to the ability to have a fair trial, right to privacy and a home life.
- 7.2. The Compliance Officers will continue to manage the UE protocol on GBC land and liaise with Surrey Police as required for enforcement and the Waste Service will continue to provide the post clean up services with the agreement of the asset manager.

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.
- 8.2 GBC UE protocols require consideration of protected characteristics of the individuals involved, such as Gypsy, Roma and Traveller status and disabilities and are, therefore, compliant with the Equality Act 2010.
- 8.3 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. 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 UEs as well as 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 UEs across the Borough.

10. Suggested issues for Overview and Scrutiny

- Are there any comments from the Committee about UEs on GBC owned land?
- Are there any comments on the proposed transit site in Surrey?

11. Conclusion

- 11.1 The Compliance Team have an effective procedure in place to manage UEs 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 UEs 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 often executed as strong evidence is required to justify their use.
- 11.2. GBC supports Surrey County Council's proposed transit site within the County, accepting that it will not prevent UE issues in the Borough, but is a good start to supporting the Gypsy, Roma and Traveller community. It would provide:
 - a designated location for travellers to stop in the County; and
 - the police with extra powers under Section 62A of the Criminal Justice and Public Order Act.

- 11.3 GBC 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

[Overview and Scrutiny Report, 2 March 2021](#), Agenda Item 7, pages 43-130.

[Executive Decision on Gypsy, Roma and Traveller Transit Site Provision in Surrey](#)

13. Appendices

Appendix 1: Section 77 and Section 78 Criminal Justice and Public Order Act 1994

Appendix 2: Section 61 Criminal Justice and Public Order Act 1994

Appendix 3: Section 62a Criminal Justice and Public Order Act 1994