

Report To:	CABINET	Date:	11 MARCH 2019
Heading:	SCRUTINY CONSIDERATION OF DRAFT UNAUTHORISED ENCAMPMENT PROTOCOL		
Portfolio Holder:			
Ward/s:	ALL		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

In accordance with the Scrutiny Workplan, this item was agreed to consider the detail and potential impact of the draft Unauthorised Encampments Protocol. The purpose of this report is to compile the information gathered throughout this review and present the final recommendations agreed upon by Members of Scrutiny Panel A to Cabinet.

The draft Unauthorised Encampment Protocol that Scrutiny Panel A considered is attached as Appendix A. A copy of a welfare assessment report has been attached as Appendix B.

Recommendation(s)

Cabinet be requested to consider the following recommendations:

- The Protocol be amended to include two potential processes for dealing with Unauthorised Encampments; the primary approach focussing on negotiation, and the secondary approach focussing on enforcement action.
- Officers be given the appropriate delegation to use their professional judgement and expertise, along with set criteria, to assess which process to utilise on a case by case basis.
- The possibility of utilising the services of external delivery partners such as Rural Community Action Nottinghamshire via Service Level Agreements in supporting the actions of the Council to negotiate with the occupiers of unauthorised encampments be considered.

- Officers continue to enhance their work with North Nottinghamshire Travellers Group to ensure effective and constructive collaboration between the member Councils in identifying further sites within the County.
- The Unauthorised Encampment Protocol be reviewed in order to assess its effectiveness after one year of operation.
- Officers be thanked for their work in drafting the revised Unauthorised Encampment Protocol.

Reasons for Recommendation(s)

Consideration of the draft Unauthorised Encampment Protocol was added to the Scrutiny Workplan in October 2018.

Alternative Options Considered

No alternative options considered at this stage.

Detailed Information

This report includes:

- What constitutes an unauthorised encampment?
- An overview of unauthorised encampments nationally
 - Common issues caused by unauthorised encampments
 - Powers granted to local authorities by the Government
- An overview of unauthorised encampments in Ashfield
 - The number of unauthorised encampments in Ashfield in recent years
 - Duties the Council has regarding unauthorised encampments
 - A summary of the Ashfield Traveller Accommodation Needs Assessment
- Final recommendations

Background

At the previous meeting of the Panel, Members were presented with the information gathered over the course of the review to decide upon final recommendations for Cabinet.

Unauthorised Encampments

As set out in the draft Unauthorised Encampment Protocol; an unauthorised encampment is a group of people trespassing on land with the intention of residing there, either permanently or temporarily, without the permission of the landowner. An unauthorised encampment occurs when people in moveable accommodation, such as vans, trailers, and caravans move onto land that is owned, either publically or privately. Unauthorised encampments often include Gypsy and Traveller sites, protest camps and squatter sites.

Unauthorised Encampments Nationally

Nationally, unauthorised encampments remain a significant issue, with many sites concerning the encampment of Gypsies and Travellers. In July 2017, it was found that the total number of Traveller caravans throughout England stood at 22,792, an increase of 33% over the past decade.¹ In July 2017, 16% of those Traveller caravans resided on unauthorised encampments.² Unauthorised encampments are often a source of high tension between travelling and settled groups, leading to significant community distress and disruption.

Issues that unauthorised sites can cause include:

- Trespassing on private land
- Damaging property
- Extensive litter and waste
- High public and private cost of cleaning and/or protecting unauthorised sites
- Increased noise and antisocial behaviour
- Development without planning permission

To deal with unauthorised encampments, the issues that follow them, and to protect green spaces, the Government grants local authorities extensive and robust powers to take enforcement action against illegal sites, as outlined in the Department for Communities and Local Government paper, *Dealing with Illegal and Unauthorised Encampments: A Summary of Available Powers*.³

Unauthorised Encampments in Ashfield

Whilst reviewing the draft Unauthorised Encampment Protocol, Members of the Panel have been aware of the distinction between unauthorised encampments on Ashfield District Council land and privately owned land. This distinction has been significant throughout the review as the actions Ashfield District Council take differ depending on land ownership.

The following table shows the number of reported unauthorised encampments on both Council and private land in recent years:

	2015/16	2016/17	2017/18	2018/19 (To date)
Reported Unauthorised Encampments on Ashfield District Council Land	2	1	1	2
Reported Unauthorised Encampments on Private Land	13	8	20	13

Despite the relatively small number of encampments on Ashfield District Council owned land, unauthorised encampments are a significant issue in the District as the Council assists private land owners with move-on arrangements and deals with management issues associated with their encampment, this can include:

¹ Gypsies and Travellers Briefing Paper, *House of Commons Library*, May 2018.

² Gypsies and Travellers Briefing Paper, 2018.

³ *Dealing with Illegal and Unauthorised Encampments: A Summary of Available Powers*, Department for Communities and Local Government, Home Office, Ministry of Justice, March 2015.

- Property damage
- Increased litter, waste and fly-tipping
- Increased anti-social behaviour
- Trespassing
- Development without planning permission

Based on the table above, approximately 89% of reported unauthorised encampments in Ashfield occur on privately owned land.

Although Ashfield District Council does not have a duty to take enforcement action against unauthorised encampments on privately owned land, there remains the obligation for the Council to conduct welfare checks via a welfare assessment report, as well as the responsibility to respond to any other pertinent issues caused by unauthorised encampments.

These welfare checks include:

- The scale of the unauthorised encampment
- Personnel checks
- Facility checks
- Potential nuisance assessments

For a complete list of the welfare checks the Council has to carry out, a welfare assessment report has been attached as Appendix B

Further actions are then dependent upon the established ownership of the land.

If the land is owned by Ashfield District Council, the steps to recover possession of land detailed in the draft Unauthorised Encampment Protocol attached as Appendix A, as well as the previous Panel report on this topic, are commenced. It is important to note that the serving of enforcement notices by the Council will not be delayed unless there are urgent welfare issues that need to be addressed.

Costs Associated with Unauthorised Encampments

The costs associated with each encampment have not been individually calculated. Outlined below is a summary of the typical costs associated with managing an encampment. It is based upon an assumption of ten caravans on site for ten days, dealt with under the pre-existing Protocol:

Officer Title	Estimated Number of Visits	Estimated Man-hours
1x Environmental Health Officer	10	20
1x Technical Officer	10	20
2x Community Protection Officers	4	8
2x Waste Services Officers	10	20
2x Waste Services Officers (following eviction)	1	8

The 76 man-hours estimated, at approximately £30 an hour (including on-costs), comes to an overall cost of £2,280. The revised Unauthorised Encampment Protocol is expected to reduce the length of time an unauthorised encampment is on-site, meaning a reduction in officer hours managing the encampment, freeing up officer time for other duties.

As the primary objective of the reviewed Unauthorised Encampment Protocol is to expedite the process of enforcement and eviction, it is unlikely to yield any financial savings. Moreover, costs associated with applications to Magistrates Court, the employment of Common Law Bailiffs, and the service of Notices and Court Papers will result in a more expensive process.

Ashfield Traveller Accommodation Needs Assessment

The Ashfield Travellers Needs Assessment was undertaken in October 2015. The report considers current provision and seeks to estimate the number of additional pitches needed in future years.

The table below summarises the key findings from the report.

Ashfield District: Future Pitch/Plot Requirements 2014 to 2029

Period	Gypsy/Traveller Pitches	Showmen's Plots/Yards
2014 to 2019	0	0
2019 to 2024	1	0
2024 to 2029	1	0

Officers are mindful of the fact that needs can change, especially when considered over a long period of time. Future issues, including changes to demand and the supply of pitches may mean there is a need to look again at requirements.

Recommendations

Tailored Approach

The Protocol be amended to include two potential processes for dealing with Unauthorised Encampments; the primary approach focussing on negotiation, and the secondary approach focussing on enforcement action.

Throughout the review, Members of the Panel have been consistently concerned with the draft Unauthorised Encampment Protocol focussing on a singular, enforcement-based process. Members acknowledged the requirement for an enforcement-based process but concluded that a more tailored approach was needed for the Unauthorised Encampment Protocol.

During the review, Members were informed that negotiation had often been an effective tool in moving on unauthorised encampments. This raised concerns that immediate enforcement action, outlined in the draft Protocol, could often be unnecessary and lead to increased costs and further strained relationships with Traveller Communities.

This recommendation is for the draft Protocol to be altered to include separate processes for dealing with unauthorised encampments. The default process would be to approach unauthorised encampments with a focus on negotiation, then only referring to enforcement action if necessary. The secondary process would be the same one outlined in the current draft Protocol, with immediate enforcement action commenced upon the establishment of an unauthorised encampment. This recommendation would lead to the establishment of a set criteria list to assist in determining the best process to utilise.

Officer Delegation

Officers be given the appropriate delegation to use their professional judgement and expertise, along with set criteria, to assess which process to utilise on a case by case basis.

This recommendation is for the relevant officers be given the appropriate delegation to select the most suitable approach when dealing with an unauthorised encampment. This delegation would be for officers to use their expertise in conjunction with the set criteria mentioned within the first recommendation.

External Delivery Partners

The possibility of utilising the services of external delivery partners such as Rural Community Action Nottinghamshire via Service Level Agreements in supporting the actions of the Council to negotiate with the occupiers of unauthorised encampments be considered.

Rural Community Action Nottinghamshire is a charitable company centred around rural communities and economic development. RCAN's areas of expertise include rural intelligence, community planning, health, and environment among others. RCAN has extensive experience engaging and supporting Gypsies and Travellers across Nottinghamshire, with an intervention and solution based focus.

At the request of Members, a representative from RCAN attended the second meeting of the Panel to offer advice on the draft Unauthorised Encampment Protocol and potential implications of the expedited approach.

Based on this, Members of the Panel are keen to ensure continued collaboration with third parties such as RCAN, as they can offer valuable expertise when approaching contentious topics such as unauthorised encampments.

This recommendation is for increased engagement with external delivery partners to be considered as part of a more collaborative approach to dealing with unauthorised encampments.

North Nottinghamshire Travellers Group

Officers continue to enhance their work with North Nottinghamshire Travellers Group to ensure effective and constructive collaboration between the member Councils in identifying further sites within the County.

Officers are encouraged to continue working collaboratively within the North Nottinghamshire Travellers Group to share best practice and maintain awareness of Traveller movements.

Officer Contribution

Officers be thanked for their work in drafting the revised Unauthorised Encampment Protocol.

Members of the Panel recognise the importance of continued policy development and thank the involved officers for their contributions in drafting the Unauthorised Encampment Protocol. Members also thank officers for their continued work in dealing with unauthorised encampments throughout the District.

Review Outcomes Reported Back to Scrutiny Panel A

The Unauthorised Encampment Protocol be reviewed in order to assess its effectiveness after one year of operation.

Members of the Panel are keen to be updated on the outcomes of these recommendations in due course.

Implications

Corporate Plan:

Ensure the foundations for a good quality of life are in place; reducing crime and anti-social behaviour and facilitating cleaner and more attractive neighbourhoods.

Legal:

The draft Protocol has been developed in collaboration with Legal Services.

The power to issue a Direction to Leave Notice derives from the Criminal Justice and Public Order Act 1994.

The power to seek possession derives from part 55 of the Civil Procedure Rules.

Powers in relation to planning enforcement derive from the Town and Country Planning Act 1990.

Police powers relating to unauthorised encampments derive from the Criminal Justice and Public Order Act 1994.

Finance:

Costs associated with the management and removal of an unauthorised encampments are not currently recorded, however an estimation based on a typical encampment and the potential staffing hours involved has been included to provide Members with an indication of estimated costs.

Budget Area	Implication
General Fund – Revenue Budget	None.
General Fund – Capital Programme	None.
Housing Revenue Account – Revenue Budget	None.
Housing Revenue Account – Capital Programme	None.

Risk:

Risk	Mitigation
Unauthorised encampments can often cause social tensions within communities.	The draft Unauthorised Encampment Protocol is aimed at working collaboratively with local and travelling communities to set out processes for management, welfare needs, environment and communication.

Human Resources:

None at this stage of the review.

Equalities:

The Equality Act 2010 defines Romany Gypsies and Irish Travellers as ethnic groups within its protected characteristics. Consideration of equality issues will be undertaken as part of the review process.

Other Implications:

None.

Reason(s) for Urgency

None.

Reason(s) for Exemption

None.

Background Papers

- Gypsies and Travellers Briefing Paper, *House of Commons Library*, May 2018.
- Dealing with Illegal and Unauthorised Encampments: A Summary of Available Powers, *Department for Communities and Local Government, Home Office, Ministry of Justice*, March 2015.

Report Author and Contact Officer

Shane Wright
Scrutiny Research and Support Officer
s.wright@ashfield.gov.uk
01623 457318