

Briefing Note for Community, Customer and Organisational Scrutiny Committee

19th September 2017

Responding to Illegal Encampments

This is a summary of how the Council responds to reports of illegal encampments reflecting both the legislative restraints and legal obligations that apply.

Background

Although the most recent Gypsy & Travellers Accommodation Assessment 2015 established that there is a need for an authorised site for Gypsies and Travellers within the Borough, the only existing authorised site is a private site. There is no authorised site for gypsies and Travellers passing through the Borough or seeking a short term stay.

Private land has been redeveloped or access blocked with heavy stones et al. leading to the increased use of public parks and recreation areas. Most of the Travellers seen in Chesterfield in recent years have said they have a settled pitch somewhere in the country and are travelling to attend events (Appleby Fair, Evangelical convention) or to meet up with others during the school holidays. Some have work in the area – usually paving, landscaping, garden clearance etc.

Not all illegal encampments will come to the attention of the local authority. Travellers prefer to camp out of the way, but within easy distance of toilet and water sources. Small family groups of 2-3 caravans are not always detected, or move on quickly, staying only 1 or 2 nights.

Legal Action to Recover Land

In taking legal action to move travellers and reclaim Council land the Council has to be seen to be proportionate in its action, to have regard to the travellers' human rights including health, housing and welfare needs, race and equality laws and to take a balanced view between the needs of the settled community and the travellers.

NB: Romany Gypsies and Irish Travellers are recognised as indigenous ethnic minority groups.

Eviction Process

The Council uses the powers contained in the Criminal Justice and Public Order Act 1994 and the procedure for dealing with illegal encampments is as follows

1. Confirm the location & send map to legal services to confirm land ownership. Please note that even if the encampment is on Council land Council Officers do not have the power to intervene and try to prevent the illegal encampment. Officers will risk assess whether it is appropriate to approach the occupiers at this point.
2. If not Council land, find and notify the land owner who must then take their own legal action.
3. In all cases officers will aim to visit to speak to the occupiers within 24hrs of receiving an initial notification (during the standard working week – out of hours visits are not conducted). This visit requires 2 officers and will include:
4. Traveller Welfare Needs check (required by law and the court can refuse to grant a removal order if the Council hasn't done this.
 - Clarification on reason for encampment & likely duration
 - Provision of black bags and discussion on management/cleanliness of site etc.
 - Prevention of nuisance, management of dogs, use of vehicles and quad bikes etc

Officers will attempt to deal with matters amicably. The police may be asked to attend if aggression is anticipated/encountered.

5. If Council land, notify legal services so that they can prepare the legal paperwork & organise a court date for a hearing if the travellers don't move on when served with a Direction Order to leave

6. Make a welfare visit to establish whether there are likely to be any health issues and notify community health services accordingly – this is a legal requirement
7. Serve Direction Order on every vehicle (caravans, cars etc) specifying date by which Travellers must leave. Orders also have to be placed on all entrance points on the boundaries of the land. This means that the Direction Order will also apply to any new occupiers coming onto the land after the Direction Order has been served.
8. Serve Court Summons notifying travellers of date of court hearing (they have a right to be present or have representation). Summons must be served for every vehicle (caravans, cars etc) and also place copies on all entrance points on the boundaries of the land
9. Prepare evidence for court and attend court to apply for the removal order. This involves officers preparing witness statements & other evidence and attending court with the Council's solicitor.
10. Notify Travellers that Court Order obtained and give deadline for removing vehicles.
11. If necessary arrange forced eviction with police present.

Once the Removal Order has been granted the Council may tow vehicles off the site. Each vehicle must be towed to the Borough boundary and may not return to the land covered by the Direction Order for 28 days.

Normally Travellers move on either following the service of the Direction Order or on the morning of the Court hearing. If they do not leave the Council has to use its own tow vehicles and staff to remove the vehicles – this requires a police presence and Council staff have to wait until the police force attends for this purpose.

NB the Council could choose to employ independent bailiffs and removal vehicles but this would be far more expensive. Travellers are sensitive about their vehicles and wont usually wait to be towed off.

Site Management

- In the meantime officers monitor activity at the site. With assistance from Environmental Services arrangements can be made to remove refuse bags from site – preferably on a daily basis to prevent the bags being damaged by pests.
- Officers will also liaise with park managers & environmental services regarding clearance & repairs required when the Travellers leave. NB Most itinerants have the tools required to break padlocks and chains so there is no merit in trying to use/reinstate them while the site is occupied – the likelihood is that they will just be damaged. Under no circumstances would any attempt be made to secure the area at any point as trapping people or vehicles on site, and potentially separating those on site from the rest of their family could lead to aggressive confrontations and potential violence towards staff.
- Any complaints concerning aggressive, threatening or otherwise criminal behaviour should be reported directly to the police on 999 (immediate threat and danger) or 101 (no immediate threat). The police will be aware of the encampment and will also be monitoring the situation. They have their own powers under Criminal Justice & Public Order Act 1994 to order Travellers to leave if aggravating factors apply.
- Fire risks should be reported to the Derbyshire Fire & Rescue Service.
- Dangerous dogs should be reported to Environmental Health through the Council switch board and the Derbyshire Constabulary
- Because the work to move travellers on is labour intensive the private sector housing team does not contact all complainants individually. Email updates are sent to the call centre, publicity, the Leader, ward councillors, the Chief Executive & senior management – this allows officers to focus on the work required to move the Travellers on

- Any new information should be sent to team via hia@chesterfield.gov.uk
– or if a manager is required using pshmanager@chesterfield.gov.uk

Clean Up Arrangements

Depending on what is required clear up is arranged between the Park Managers, OSD and Environmental Services. There is no dedicated budget for this work so the cost will usually fall to the land manager.

Useful Documents

Derbyshire, Peak District National Park Authority, and East Staffordshire Gypsy & Traveller Accommodation Assessment 2015

Derbyshire Inter-Agency Guidance on Traveller & Gypsy Issues