

24 NOVEMBER, 2016

Petitions on Unauthorised Encampments

Ward(s) Rushall Shelfield
 Palfrey

Portfolios: Cllr J Fitzpatrick – Community Leisure & Culture Portfolio
 Cllr C Jones – Clean & Green Portfolio

Executive Summary:

This report provides a response to 2 petitions submitted to Council with regard to the provision of protective measures on sites which have been subject to Unauthorised Encampments and speeding up the eviction process.

Reason for scrutiny:

This matter is being brought to scrutiny in accordance with the Council Policy on petitions.

Recommendations:

That:

1. That members of the panel note the actions undertaken and proposed in relation to the petition for the three sites in the Rushall Shelfield Ward.
2. That members of the panel note the actions proposed in relation to the petition for the sites in the Palfrey Ward.

Background papers:

A report was presented to the Corporate and Public Services Overview and Scrutiny Committee on 21 January 2016 on the management of Unauthorised encampments during 2015.

Resource and legal considerations:

Funding for a programme of works was agreed and Cabinet/CMT on 23 August 2016. The sites agreed for works have been mapped and legal services have undertaken detailed conveyancing searches to ensure that there are no legal reason that the proposed measures cannot proceed before work can commence.

Citizen impact:

An unauthorised encampment can have a significant impact on residents living in the vicinity. Installing measures will reduce the risk of an unauthorised encampment setting up on a site but will not remove the risk completely. Consideration needs to be given to the impact on residents of the measures proposed to ensure that the land can still be available to them for its intended purposes.

Environmental impact:

Wherever possible, measures will be sympathetic to the environment in which they are located.

Performance management:

The installation of protective measures is aimed at reducing the number of unauthorised encampments on sites and hence a reduction in the resources associated with enforcement and clean up.

Equality Implications:

Has an Equality Impact Assessment been carried out? Yes/~~No~~

The Equality Impact Assessment has looked at the impacts of unauthorised encampments on residents as well as looking at the impact of additional protective measures and any change in policy relating to the eviction process.

Consultation:

Work on the proposed measures has been undertaken in conjunction with a number of service areas including:

Community Protection

Clean & Green

Legal Services


Public Health

Planning

Highways, including rights of way

Contact Officer:

Lorraine Boothman – Regulatory Services Manager

 01922 653065

Lorraine.boothman@walsall.gov.uk

1. Report

- 1.1 This report is in response to two petitions which have been submitted to the Authority in relation to unauthorised encampments in the area.
- 1.2 A petition was presented to Council on 19 September 2016 by Cllr L Rattigan. The petition requested that areas of green space at Hawthorn Road/Grange Crescent/Mill Field, The Parkway and adjacent to Manor Farm Community Association at King George Crescent are secured from repeated unauthorised encampments and that the efficiency of the eviction process is improved.
- 1.3 On 4 October an email was sent to the Chief Executive which referenced an on line petition. In summary the petition requested that a deep cleanse is undertaken of the areas which some travellers had used as a toilet; the provision of preventative measures to deter vehicular access; a public meeting to discuss the recent unauthorised encampments; a review of the joint protocol between the council and the police and a discussion on the use of the powers contained in sections 61 and 62 of the Criminal Justice and Public Order Act 1994.
- 1.4 With limited resources, available to the Council, it is not possible to provide additional security measures to all sites where an unauthorised encampment has been experienced or where such a camp could potentially be set up. A process to prioritise any works was undertaken.
- 1.5 An analysis of the sites that had been subject to unauthorised encampments in 2015 and 2016 was undertaken which looked at the frequency, number and duration of such camps, the clean up costs and the impact on residents and businesses of the camps. This produced a list of 20 sites for initial consideration. The works which might be undertaken to give additional protection to these sites was identified and costed. The works identified included replacing gates and padlocks with stronger ones, installation of bunds backed by ditches, installation of new gates and chicanes on entrances permitting access for Clean and Green maintenance but restricting access for caravans.
- 1.6 A report was taken to Cabinet CMT on 24 August 2016 at which it was agreed that these measures were to be funded.
- 1.7 Working in parallel to this, officers were undertaking the work necessary to gather the evidence and submit an application for a County Court Injunction which prohibits the anti social behaviour which is connected with many unauthorised encampments. The injunction restricts named individuals from setting up an unauthorised encampment within the borough and any persons unknown from engaging in anti social behaviour connected with an unauthorised encampment. The injunction also names 12 sites where the residents have been subject to the most significant levels of anti social behaviour connected to the unauthorised encampments. In some cases the sites are in very close proximity to each other and the cumulative impact of the volume, frequency and location of these has been presented to the County Court.
- 1.8 Any person who breaches the injunction can be brought before the court and may be punished by imprisonment a fine or both. In certain circumstances, enforcement action can be effected more speedily.

- 1.9 It must be noted, however, that Walsall Council is a public authority and retains a duty to promote travelling lifestyles and to provide for welfare needs of travelling communities. This means that whilst officers will take robust, swift action to remove unauthorised encampments when it is appropriate, there will be occasions genuine welfare issues need to be addressed.

2 Rushall Sheffield Sites

- 2.1 The petition requests additional protective measures in the form of wooden bollards or fences. When deciding on the most appropriate measures for a site, consideration needs to be given to the effectiveness of the measures, the cost, the ease of installation, the impact on residents, aesthetics, practicalities for ongoing maintenance. It is the view of the officers concerned that the most effective measure for the site at Hawthorn Road is to install a bund backed by a ditch. It is also necessary to maintain access for people with disabilities and with pushchairs. Work on this site has now been completed.
- 2.2 The Parkway is an area with a number of green spaces. Legal checks have been completed, and this site is included on the programme of works. There are existing bunds in much of this area and it is intended that further bunds are installed where needed to complement the existing ones. Existing gates are to be replaced with stronger gates and locks. The commencement date is subject to weather conditions and progress on other sites. A verbal update will be provided at the meeting.
- 2.3 The site at King George Crescent is subject to negotiations for sale with exchange of contracts anticipated before the end of the year or early in the new year. A planning application has already been submitted and, as part of the sale, the purchaser has agreed to enclose the site on exchange of contracts. Consequently, the Council does not propose spending money on putting measures in place at the current time. If for any reason the position relating to the sale changes, then this will be reviewed.

3 Delves Green

- 3.1 The on line petition in relation to this location was quite specific in its requests;
- a). A "Deep Cleanse" of all areas, especially the wooded areas where travellers have used them as "toilets" and all excrement be removed.
 - b) To look at changing the kerbing on the areas affected to "High Containment" kerbs and a gate to deter further vehicle access. This will also allow for some meadowland management which would be an additional positive outcome for the community.
 - c) A Public meeting to be held with The Police, Sandwell & Walsall Council to discuss matters arising from the last few weeks.
 - d) A Review of the Joint Protocols between West Midlands Police and the relevant Council to ensure that the safety and safeguarding of the community is paramount at all times.

e) A full discussion at the Public meeting as to why Sections 61 and 62 were not enforced earlier.

- 3.2 Whilst the majority of this site is owned by Walsall Council, there are areas within the site which are owned by Sandwell Council with various historic agreements and boundary changes which have added complexity to the matter of finalising ownership. Officers from legal services are working with Sandwell Council to resolve these matters as soon as possible. In addition, it has been necessary to establish the legal status of the green space which has now confirmed it has the status of Town and Village Green. Such status affects the work which can be carried out or the permissions which are needed. Legal services are working with Clean and Green and Regulatory Services to identify the nature of works which are suitable for the site and to submit the necessary applications.
- 3.3 The site is cleaned after every unauthorised encampment including removal of rubbish, fly tipping and clearing of areas which have been used by the occupants as a toilet area.
- 3.4 In considering the use of protective measures on a site, consideration has to be given to their effectiveness, maintaining the intended use of the site, the impact of the measures on people who use the site, including those with disabilities and the cost. The amount of money agreed at cabinet CMT in August for additional security measures on sites was up to £100k. An indicative cost for the installation of high containment kerbs at Delves Green is about £191,000. As referred to in paragraph 3.2 above, consideration has also to be given to the specific restrictions at this site by its status as a Town & Village Green.
- 3.5 The powers under s61 of the Criminal Justice and Public Order Act 1994 are vested solely with the police. It is a decision for them to take in each set of circumstances taking many factors into account. S62 of the Criminal Justice and Public Order Act 1994 gives the police power to direct illegal occupiers of land to an alternative suitable location within the borough. This is typically known as a transit site. However, there is currently no such site in the area to enable the police to use this power.
- 3.6 There is a piece of work ongoing across the West Midlands area led by the Chief Executive of Solihull Council to look at how unauthorised encampments are managed across the region, including the identification of best practice and opportunities for improvement, using common procedures where appropriate but local measures to remain where these are most suited. In addition work is being undertaken to develop a single joint protocol on the management of unauthorised encampments between the West Midlands Police and the seven local authorities in the force area.
- 3.7 In relation to the request for a public meeting, the position has moved from when the petition was started and this may not now be necessary. A meeting has been arranged with the organiser of the petition for the week commencing 14 November to discuss further the actions that have been requested and explain the legal position more fully.