

The Corporate and Public Services Overview and Scrutiny Committee

Agenda Item No.

21 January, 2016

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Title of the Report; Review of the Management of Unauthorised Encampments 2015

Ward(s) All

Portfolios: Cllr A Andrew – Economy Infrastructure & Development
Cllr L Harrison – Clean & Green

Executive Summary:

This is a report outlining the nature of the issue around unauthorised encampments (UE) and how they are managed in Walsall over the last 12 months. 2015 saw an unprecedented increase in the number of UEs to a total of 85 reported. This included 11 on private land and 16 unjustified reports. However, officers undertake an initial response to all reported UEs. This increase in numbers has also resulted in an increase in the abuse officers receive from local residents this year, especially in areas which have seen multiple UEs in a small locality or over a short time period.

The process by which UEs are managed is constantly reviewed and is subject to a joint protocol with West Midlands Police. This protocol is currently under review and discussions are being held with the neighbouring Black Country Authorities with the aim of producing a single joint protocol with the police.

Reason for scrutiny:

Unauthorised encampments is an issue which is sensitive for a number of reasons, including the levels of media interest, the impact on the community in the vicinity, that it can draw particularly high levels of emotion from the community; the costs of cleaning up after a site is vacated; the staffing resources to deal with the UE whilst it is on site and the consequential impact on other service delivery in that team; high levels of interest amongst elected members-

Recommendations:

That:

1. Members note the content of the report, commenting if appropriate on the effectiveness of the current process for managing unauthorised encampments.
2. That members identify any opportunities for improvements to the management of unauthorised encampments.
3. That members consider the options for additional protective measures for sites

Background papers:

Attached is a detailed report on the management of unauthorised encampments for 2015

Resource and legal considerations:

There are relatively few direct costs of unauthorised encampments as the process is dealt with by officers as part of their duties. However the direct costs of cleaning sites and disposal of waste, and the hiring of tow trucks when required are highlighted in section 3.2 of the attached report. The officer time taken to deal with UEs has also been costed and referenced in section 3.2.

The process of managing UEs has to comply with legal requirements so that any action is enforceable and not subject to legal challenge by way of appeal or judicial review.

Citizen impact:

The presence of a UE has an impact on residents and businesses in the vicinity as they are denied their normal use of the land. In some cases but by no means all, there may be anti social behaviour and damage to the site. Almost invariably there are clean up costs to remove and dispose of rubbish left on site. There may be other issues affecting neighbours such as noise from animals on site, fumes from bonfires etc

Environmental impact:

The presence of UEs affects the environment of the site and neighbours. There is

an impact from the disposal of waste that has been left. This varies from household waste to tarmac and rubble, trees and even on 1 site a burnt out vehicle.

Performance management:

There are no national KPIs in relation to UEs. However, any improvements in how they are identified may result in efficiency improvements for a number of council services. Support from scrutiny for the process may also reduce the amount of time officers spend responding to enquiries from ward members.

Equality Implications:

A full Equality Impact has not been undertaken, but equalities is a significant issue in this process. Officers have to balance the rights of people to follow a travelling lifestyle and those of residents to peaceful and lawful use of amenities, not to suffer anti social behaviour etc. Equalities forms part of the joint protocol with West Midlands Police and sometimes forms part of the welfare needs assessments of individual UEs.

Consultation:

In preparation of this report, the following services have been contacted:

Clean & Green

Legal Services

Supported Housing

West Midlands Police


Sandwell Council

Dudley Council

City of Wolverhampton Council


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1. Report

1.1 Walsall has a large settled ex-travelling community and the authority maintains a site of 11 permanent pitches for families from the travelling community. For many decades the borough has proved a popular stopping point for people following a travelling lifestyle. This is likely to be connected to links to the settled population and to its geographic location with easy access to the motorway network.

1.2 The levels of unauthorised encampments has fluctuated significantly in the last 5 years as can be seen by table 1. But 2015 has seen unprecedented numbers.

Year	No Unauthorised Encampments reported
2015	85
2014	14
2013	62
2012	21
2011	28

Table 1 numbers of reported Unauthorised Encampments in Walsall 2011 to 2015

The high level of unauthorised encampments in Walsall in 2015 is unusual in terms of the numbers, although the other authorities in the Black Country also saw an increase in the number of Unauthorised Encampments in the last 12 months.

It is hard to identify the reason for this increase in numbers as the occupants of a UE rarely give a reason to officers, but there are a number of factors which probably contribute:

- The economy driving more people to travel to look for work
- The particular problems with the economy and approach to people with a travelling lifestyle in the Republic of Ireland may have led to families coming to the UK.
- The government change in definition of travelling that generates the needs assessment for sites may have led to more families travelling to demonstrate that they meet the new definition

Following the death of a Rev Davey Jones of the Light and Life Church in Walsall,

there was a very large funeral just outside the Borough during the year. This, however, did not result in any additional UEs. Those UEs that we had during that time were already in the area prior to Mr Jones' death.

2 Current Process of Management of Unauthorised Encampments

2.1 When a UE is reported, it is officers from the Licensing Enforcement team that take the lead in managing it and the process to re-secure legal possession of the land in all cases. Upon receipt of a notification, the officers will make an initial site visit to establish the facts and true nature of the situation.

Frequently reports turn out to be unjustified and in fact range from the circus or funfair arriving on a site, builders having a caravan on the car park of a pub which is closed whilst they carry out refurbishment to residents bringing their caravan out of storage to prepare for their family holiday. At this initial visit, the officers will also identify any hazards to themselves and colleagues, to residents and to the occupants of the UE.

2.2 When the UE is in Council land or Highway, the officers manage the process supported by colleagues in a number of other services. Where it is on private land, they will seek to identify and liaise with the landowner.

2.3 The Local Authority has a duty to consider any welfare needs that may exist in relation to the occupants of the UE and the welfare needs assessment is undertaken by officers from supported housing service. Any needs identified have to be addressed and this may mean that the process to secure possession of the land has to be held in abeyance. In the exceptional circumstances when this is the case, it is normally not for more than a few days. Wherever there are welfare needs identified, it is normally only the occupants with the specific needs and the immediate family residing in the same vehicle that are allowed to remain on site. The residents in all other vehicles are served with the notices to vacate the land as per the next stage in the process.

2.4 Once the notice informing the occupants of the land that they do not have permission to stay on the land and requesting them to leave have been served then an application is made to the Magistrates court for a hearing to apply for an eviction order. At least 24 hours notice of the court hearing has to be given to the occupants. Once the court grants the eviction order,

officers seek to enforce it as soon as is reasonably practical. This is normally the same day or within 24 hours. However, it is frequently the case that the UE vacates the site prior to the court hearing. Once the site has been vacated, it is the responsibility of the landowner to clear the site of rubbish and debris. In the case of UEs on council land and highway, this falls to Clean & Green.

2.5 In order to minimise the number of phone calls, officers post updates on the progress of managing a UE on the service's social media accounts. However, further work is needed to raise awareness of these accounts and their use by the public.

2.6 Officers in the LE team always give a UE a very high priority. However, the time taken to regain possession of the land is variable, reliant on a number of factors, some of which are outside the control of the officers and authority. However, it typically takes about 5 working days from officers receiving notification to the UE vacating the site. This is illustrated in diagram 2 below. The horizontal axis shows the number of calendar days a UE was on site and the vertical axis the number of times this length of UE occurred. The UE that was on site for 23 days was a unique set of special circumstances involving an unauthorised caravan on the Council owned permanent site at Willenhall Lane.

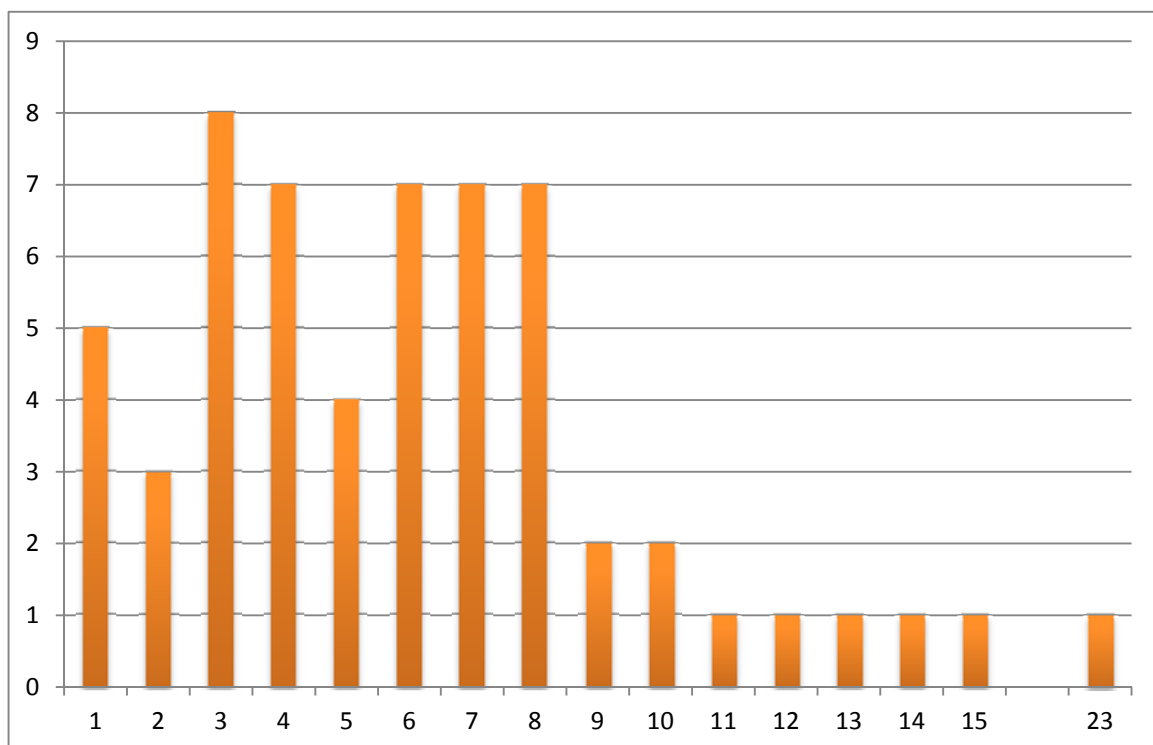


Diagram 2 number of days UEs occupied each site in 2015

2.7 During 2015, officers started submitting data on UEs to the Walsall

Intelligence Network to form a part of the Partnership Tasking Reports to allow the UEs to be considered with other issues affecting particular localities.

2.8 Walsall Council has a joint protocol with West Midlands Police on managing UEs which was last refreshed in 2012. This protocol is currently being reviewed as discussed further in section 4.

2.9 Residents frequently complain about the length of time it takes to remove a UE from land. However, the process which is currently followed has evolved with experience and is relatively quick compared with other options and the previous process which used the civil courts. The court fees are also significantly lower. However, it is critically important that the legal process is followed precisely as a failure to follow any steps may result in the courts refusing to grant an eviction order or an application for judicial review from the occupants of the UE. These in turn could also result in an increase in the number and size of UEs in the Borough.

3 Costs associated with Unauthorised Encampments

3.1 The process of managing unauthorised encampments, from initial assessment to eviction where this is needed, is managed from within existing resources in the Council.

3.2 Most officers are diverted from other duties to deal with a UE when there is one in the borough. In addition there are other items of cost associated with UEs. The key costs for 2015 are summarised in table 2 below.

Service Area	Cost type	Cost	Notes
Licensing Enforcement	Officer time	£24,372	Based on an estimate of 2 officer days time per UE
	Tow trucks	£275	
Supported Housing	Welfare needs assessment	£1,566	Based on an estimate of 1.5 hours per site where welfare is undertaken
Legal services	Preparation of papers and attendance at court	£10,500	Legal service undertake time recording
Clean & Green	Clean up of sites	£29,000	Costs to date - Excludes some costs where the clean up has to wait for the ground to dry out for access
	Repair of fences, gates, land etc.	£5,000	

These costs do not include wider societal costs or if there is any direct link to crime and disorder.

4 Future Developments

4.1 With the volume of UEs experienced in 2015 and the burden this places on staff, exacerbated this year by long term absence of officers, the service is constantly evaluating how it manages UEs and whether there are alternative solutions.

4.2 As stated in paragraph 2.7, the use of the Magistrates Courts is quicker and cheaper than the County Court which was used previously. However, alternative options have been also considered, particularly the powers in the Anti-Social Behaviour Crime And Policing Act 2014.

- a) Public Space Protection Orders (PSPO) can be used to prohibit certain activities in public spaces. This could include overnight camping. On breach of an order, an fixed penalty ticket of up to £100 can be issued. However, it is almost certain that this will never be paid and tracing the person to whom the ticket was issued would also likely prove to be nigh on impossible with them living a travelling lifestyle and from experience

it is difficult to obtain details of the true identity of the occupants of a UE. To issue a PSPO covering the whole Borough would require significant evidence and might be considered a high risk option as it may result in a judicial review on the grounds that it would deny people their Human Right to live a travelling lifestyle and there is no alternative provision in the region for travelling people to camp.

- b) Closure Notices can be issued on premises (including land). The notice can close the premises or land completely or close it for a particular activity eg for overnight camping. This would allow residents to make use of the land for the amenity for which it is intended but prohibit camping. A closure notice, like a PSPO could not be issued on all land. There are specific criteria, particularly that it is necessary to stop or prevent a persistent nuisance. However, it may be appropriate in specific locations and would have the benefit that the police would know that the occupants of the land did not have permission to be there and would be able to take action using their powers more speedily, particularly over a weekend. Initial consultation with the police on this has however, resulted in them stating that they do not have the resources at the present time to be able to enforce a closure notice. To use a Closure Notice to tackle UEs is innovative and subject to legal opinion but this option will be reviewed if a UE is set up in relevant circumstances.
- c) Community Protection Notices are issued to individuals and normally have to follow from other attempts to resolve a particular course of conduct which causes a nuisance to other people in the vicinity. This is not considered to be a suitable option to address UEs because of all the criteria that have to be met.
- d) Injunction. This would prevent people camping on named sites or borough wide. Injunctions have previously been expensive and difficult to obtain and so this option has not been proactively followed. However, late in 2015, a few authorities nationally have taken this approach and so it is planned to contact these authorities to identify the nature and extent of the problem and the process that was followed to identify if this is a viable option to pursue further in Walsall.

4.3 As part of the budget position the whole of Regulatory Services is undergoing

a redesign. The licensing enforcement team that take the lead on managing UEs are part of that review. Currently the officers are responsible for enforcement of legislation relating to the taxi and private hire trade; pubs, clubs, late night refreshments and entertainment venues; sex establishments; scrap metal; street collections; certain aspects of highway enforcement and sundry other licensing provisions. As part of the redesign, this team will be merged with the Environmental Crime team, the Noise team and the anti-social behaviour team to form a larger team of generic enforcement officers to be known as Community Protection. This will mean that whilst the range of work will increase and there will be more demands on their time, there will be a larger pool of officers who will be trained to deal with UEs and therefore increase the resilience of the service and reduce the stress on individual officers.

4.4 The joint protocol between Walsall Council and West Midlands Police was last reviewed and updated in 2012. This process is currently being undertaken again. However, discussions are ongoing with officers in the other Black Country Authorities with responsibility for the management of UEs with a view to identifying and sharing best practice. Each authority is at a slightly different place in the lifecycle of their joint protocols with the police. One is developing their first protocol whilst others have protocols in place which may or may not need review. Ultimately the aim is to develop a single Black Country Joint Protocol with local arrangements where required. Once the protocol is updated, the website and briefing notes for members and the public will be updated.

4.5 Clean & Green have undertaken a review of the main sites that have been subject to a UE. Where appropriate security measures can be put in place this may have the effect of preventing people setting up a UE on the site. However, access to the land for its intended use and for maintenance needs to be maintained. There are circumstances where the most secure methods of preventing unauthorised access to the land may also not be in keeping the area aesthetically or be an eye-sore. This means that most sites cannot be made 100% secure against the setting up of a UE. In some cases the sites need simple additional measures such as improved locks whereas in other cases the measures needed require significant works and are therefore much more costly. The sites, suitable measures and costs are detailed below:

Site	Estimated cost	Proposed improved security measures
Aldridge Airport	£13,000	415m of trip rail, four new barriers and re-secure three existing barriers
Anchor Meadow	£18,500	503m of trip rail and height restriction barrier on entrance
Broadway West playing fields Wallows Lane	£85	Protection to padlock on gate
Delves Common		1,400m of trip rail *
Hayhead Wood	£1,300	30m of trip rail
Holland Park	£930	New barrier on entrance
Lichfield Road / The Parkway (Rushall)	£8,500	200m of trip rail and new barrier
Manor Farm	£85	Protection to padlock on gate
Millfield Avenue (Shelfield)Grange	£21,000	700m of trip rail and two new barriers
Oak Park	£800	20m of trip rail and re-secure existing barrier – revisit once Leisure Centre completed
Radleys open space Bickley Road	£85	Protection to padlock on gate
Ryders Hayes	£2,000	50m of trip rail and protection to padlock on gate
Shepwell Green	£2,000	50m of trip rail
Stubber's Green / Barns Lane	£85	Protection to padlock on gate
Estimated total cost	£68,370	

*The site at Delves common borders Sandwell and the UEs at that location this year have impacted on their residents. Therefore discussions are taking place with Sandwell Council about sharing the costs for this site.

There is currently no budget for implementing these measures.