

Update Report from Traveller Review Group

19 November 2019	Overview and Scrutiny Panel
Report Author	Penny Button Head of Safer Neighbourhoods
Portfolio Holder	Cllr Whitehead, Housing and Safer Neighbourhoods
Status	For Recommendation
Classification:	Unrestricted
Key Decision	Non Key
Reasons for Key	N/A
Previously Considered by	Traveller Working Party 6 November 2019
Ward:	All

Executive Summary:

To develop an understanding and managing the impact of Traveller unauthorised encampments in the Thanet area; whilst ensuring that TDC continues to undertake its obligations to the Traveller community and Thanet residents.

Recommendation(s):

That Overview & Scrutiny Panel recommend to Cabinet that further work is undertaken to assess the feasibility and cost implications of three temporary tolerated sites in the district at Potten Street, St Nicholas at Wade, Tivoli Brooks, Margate and Ramsgate Port, with a view to using them on a rotational basis.

CORPORATE IMPLICATIONS

Financial and Value for Money	<p>There are no direct financial implications arising from this report, as at this stage it is recommended that more detailed cost implications are developed for further consideration.</p> <p>It should be noted that there is currently no budget for the provision of either temporary tolerated, transit or permanent sites within the medium term financial plan.</p>
Legal	
Corporate	<p>Section 124 of the Housing and Planning Act 2016 removes the duty on local authorities under the Housing Act 2004 to assess the accommodation needs of Gypsies and travellers in their area as a distinct category. Instead, it specifies that local housing authorities should consider the needs of people "residing in or resorting to their district with respect to the provision of sites on which caravans can be stationed, or places on inland waterways where houseboats can be moored".</p> <p>It is proposed to amend the draft Local Plan to recognise the Gypsy and traveller accommodation needs identified. Draft Local Plan Policy HO22</p>

	<p>would therefore state that “Pending the next review of the Plan the Council will take proactive steps to accommodate all emerging needs of Gypsy and Travelling communities within the District on temporary sites and, wherever possible, permanent sites which meet the [access and environmental criteria set out in the Plan]. The Council shall address the identified need and monitor need in three stages: to continue to work with families to identify suitable short term sites; to commence immediately to identify suitable long term sites and to grant permission for them; and, to identify additional sites required to meet total provision in the next Plan review.”</p>								
<p>Equality Act 2010 & Public Sector Equality Duty</p>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <table border="1" data-bbox="400 1016 1370 1279"> <tr> <td colspan="2">Please indicate which aim is relevant to the report.</td> </tr> <tr> <td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td></td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td></td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td></td> </tr> </table> <p>The council has to ensure it meets the requirements set out within The Equality Act 2010, which makes it unlawful to treat someone less favourably because of a range of protected characteristics, including race, nationality or ethnic or national origins. The following of a nomadic lifestyle is lawful, indeed it is a culture that is recognised and protected through legislation.</p>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,		Advance equality of opportunity between people who share a protected characteristic and people who do not share it		Foster good relations between people who share a protected characteristic and people who do not share it.	
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CORPORATE PRIORITIES (tick those relevant) ✓	
Growth	
Environment	
Communities	✓

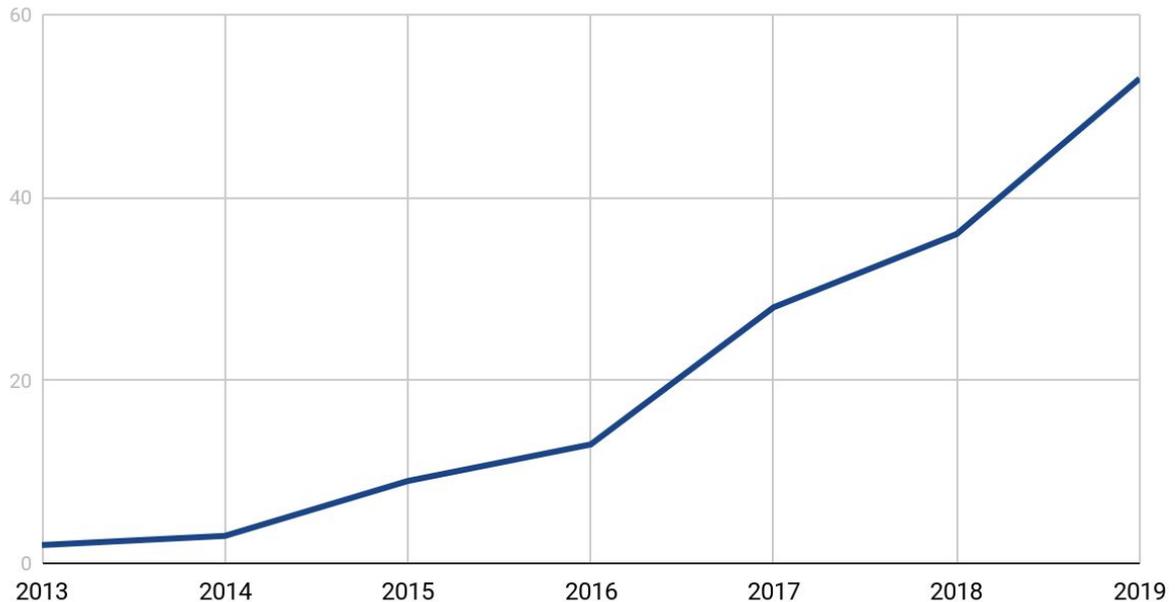
1. Introduction and Background

1.1. The frequency and duration of unauthorised encampments has grown considerably in recent years.

- 2013: 2
- 2014: 3
- 2015: 9
- 2016: 13

- 2017: 28
- 2018: 46 (figure increases to 55 when other groups have joined initial groups at the same location)
- 2019: 53 (Year to date)

Frequency of Unauthorised Encampments



- 1.2. Since 2018, numerous incursions in Thanet have been as a result of two family groups. These families whilst comprising of individually small groups (6-8 caravans) are a draw to other more transient groups meaning that incursions vary from 5-6 vehicles to in excess of 20. This group is linked to the 50+ incursions within the district in 2018 and most of the incursions in 2019.
- 1.3. Historically these incursions have used TDC land, KCC land and private land, however there has been a growing tendency to use TDC land.
- 1.4. The Equality Act 2010 makes it unlawful to treat someone less favourably because of a range of protected characteristics, including race, nationality or ethnic or national origins. The following of a nomadic lifestyle is lawful, indeed it is a culture that is recognised and protected through the Act.
- 1.5. It is therefore imperative that full consideration of this Act is given when the council determines what action to take against unauthorised encampments.
- 1.6. The Equality Act does not give a legal right to trespass, however, trespass is a civil rather than a criminal offence. Sections 77-78 of the Criminal Justice and Public Order Act gives local authorities the power to direct individuals to remove their vehicles and belongings and to leave our land, or any land occupied without the consent of the landowner, when and if required.
- 1.7. Prior to considering the issuing of a section 77 notice, the council is required to undertake an assessment of any welfare needs or concerns of every individual at the location. Only when (and if) officers undertaking visits to the encampment are satisfied that there are no welfare concerns will a notice be issued.

- 1.8.** Before a court application for and order to facilitate the removal of groups engaged in unauthorised encampments, the council response takes account of the issues of behaviour, whether, criminal, anti-social or nuisance, in combination with the impact on the landowner and settled community rather than simply because encampments are present at a specific location. It is not unusual to negotiate the duration of an encampment meaning that authority from court to facilitate a removal is not always required.
- 1.9.** Decisions to evict or not must, of course, be balanced (as directed by legislation and Government guidance), and be compliant with the terms of the Human Rights Act 1998, demonstrating legality, necessity, and proportionality.
- 1.10.** The Police have powers to evict people from unauthorised encampments, as provided for by Sections 61 and 62 A-E, Criminal Justice & Public Order Act 1994 and have their own criteria and thresholds that must be met prior to the issue of a section 61 notice.
- 1.11.** S.187B of the Town and Country Planning Act 1990. Section 222 of the Local Government Act 1972, gives power to local authorities to apply for preventive injunctions in order to prevent unauthorised encampments. Following the outcome of the London Borough of Bromley green space injunction legal advice was at the current time the district did not fulfil the background criteria to support an application in Thanet.
- 1.12.** Over 70 locations across Thanet have been assessed as vulnerable to vehicle based unauthorised encampments. A programme of additional security measures for locations is under discussion but at best estimates will take several years to facilitate. A district wide Public Space Protection Order is being considered across foreshore and cliff top locations.
- 1.13.** Legal advice has been sought as to the use of the current Anti-Social Behaviour (ASB) PSPO covering Margate and Ramsgate town centres. Legal advice states that whilst the PSPO should not be used to prohibit the encampments they can be an effective tool to tackle waste.
- 1.14.** Legal advice has been sought as to the use of existing bye laws with regard to no overnight camping in specific parts of the district. Whilst byelaws are not commonly used they are a tool which we can utilise in future with adequate signage, but only if those engaged in unauthorised vehicle based encampments can be advised of other suitable locations.
- 1.15.** Section 124 of the Housing and Planning Act 2016 places a duty on local authorities under the Housing Act 2004 to assess the accommodation needs of Gypsies and Travellers in their area as a distinct category. Instead, it specifies that local housing authorities should consider the needs of people "residing in or resorting to their district with respect to the provision of sites on which caravans can be stationed, or places on inland waterways where houseboats can be moored".
- 1.16.** The Travellers Review Group was set up at the Overview & Scrutiny Panel to review and report back to the Panel an understanding and managing the impact of Traveller unauthorised encampments in the Thanet area; whilst ensuring that TDC continues to undertake its obligations to the Traveller community and Thanet residents.

- 1.17. The review group were asked to investigate the impact of Traveller incursions in Thanet and make recommendations to the Overview and Scrutiny Panel on what the Council could do to mitigate the impact of the incursion (if necessary) whilst still meeting its obligations to local residents and the Travellers.

2. Current Situation

- 2.1. Establishing the exact cost of unauthorised encampments to the local authority is not possible as clearance and enforcement takes place as part of everyday workloads rather than distinct pieces of work.
- 2.2. The removal of waste and fly tipped rubbish is mostly undertaken as part of other collection rounds and it is therefore difficult to state how much each site costs to clear. However a separate clearance was undertaken at Dreamland Car Park in 2019 which cost £560, in addition to the usual daily car park rounds for bin emptying.
- 2.3. The cost of security and repairs following forced entry to sites varies considerably depending on what is required for example significant fencing was required at Jackey Bakers recreation fields in 2018 whilst only 3 bollards were required at Royal Esplanade Ramsgate.
- 2.4. As part of the Local Plan the Local Authority is required to assess if provision of Gypsy and Traveller accommodation is required. In previous assessments there has been no requirement needed. However, due to the rise in unauthorised encampments there is now a (cultural) need over the total plan period for 7 permanent and 5 transit pitches. These are not sites but vehicle pitches, these pitches can be delivered through the Local Authority or private sites. Unlike other areas, Thanet has no local authority or privately run sites.
- 2.5. There are three distinct types of sites, transit, temporary tolerated and permanent. Each of these sites require different levels of infrastructure and have different impacts, to look at options for all of these is a significant piece of work which is not achievable within the short timescale of the review group to report back to Overview and Scrutiny Panel. The Group has therefore concentrated on options for temporary tolerated sites.
- 2.6. The advantage with this type of sites is that it enables agencies to direct unauthorised encampments to this site to be tolerated for an agreed amount of time. This enables smoother enforcement on those unauthorised encampments which chose to ignore the direction and stay on other land. A temporary tolerated site also allows easier management of amenities such as waste collection and toilet provision, reducing the impact on the local area. A temporary tolerated site will also provide provision whilst working on longer term resolutions to fill the required allocation. Immediate planning permission would also not be required for a temporary tolerated site due to short term use.
- 2.7. The review Review Group looked at all TDC land based assets. Following this exercise, Officers from the Community Safety and Planning Teams identified five sites, listed in Annex 1, these were chosen due to being in public ownership, being of adequate size and location or previous use by unauthorised encampment. This also identified the advantages and disadvantage
- 2.8. The Review Group visited all of these sites and made observations around their initial suitability as a temporary tolerated site. Subsequently an options matrix was

completed measuring the advantages/disadvantages of each location and scoring them accordingly, with the three lowest scoring sites being the preferred options. .

- 2.9.** Additional work is required in order to establish the exact costs of chosen sites.
- 2.10.** The temporary tolerated sites have been subject to extensive officer/member conversation and assessment via the Traveller Task & Finish group and Traveller review Group and costs have been assessed as a tabletop exercise only. The group also heard representations from the KCC Gypsy and Traveller liaison team. Representatives of traveller communities in the district were also invited to attend the meetings but were unable to do so.
- 2.11.** In order to minimise impact it is proposed that the three sites identified from the options matrix are looked at to operate on a rotation basis and that further work is undertaken to assess the feasibility and cost implications of the sites. These sites are:
- Potten Street
 - Tivoli
 - Ramsgate Port
- 2.12.** The suggestion of three sites to be utilised on a rotational basis is a measured response to growth/contraction of numbers of unauthorised encampments across the district and reduces the impact for extended periods and provides a degree of stability for those within the traveller communities.

3. Recommendations

- 3.1.** That Overview & Scrutiny Panel recommend to Cabinet that further work is undertaken to assess the feasibility and cost implications of three temporary tolerated sites in the district at Potten Street, St Nicholas at Wade, Tivoli Brooks and Ramsgate Port, with a view to using them on a rotational basis.
- 3.2.** Overview and Scrutiny to report to Cabinet the recommendation to undertake further work to assess the feasibility and cost implications of three temporary tolerated sites in the district at Potten Street, St Nicholas at Wade, Tivoli Brooks, and Ramsgate Port, with a view to using them on a rotational basis.

Contact Officer:	Penny Button, Head of Safer Neighbourhoods
Reporting to:	Gavin Waite Director of Operational and Commercial Services.

Annex List

Annex 1	Table of Sites
Annex 2	Options Matrix

Corporate Consultation

Finance	Chris Blundell, Head of Financial Services and Deputy section 151 Officer
Legal	