

Chichester District Council

THE CABINET

5 June 2018

Ministry of Housing, Communities and Local Government Consultation - Powers for Dealing with Unauthorised Development and Encampments

1. Contacts

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2. Recommendation

- 2.1 That the Cabinet approves the proposed response to the government's consultation paper – 'Powers for dealing with unauthorised development and encampments' set out in the appendix to this agenda report.**

3. Background

- 3.1 In April 2018 the government announced a review of the powers available to deal with unauthorised traveller encampments and development. A consultation paper has been published by the Ministry of Housing, Communities and Local Government (MHCLG) and the period of consultation will expire on 15 June 2018.
- 3.2 The issue of unauthorised encampments and development was raised most recently during a debate in the House of Commons in October 2017, when the government heard strong views that in spite of a range of powers already in place, unauthorised development and encampments remain a significant issue causing genuine difficulties in some communities. Concerns were voiced that there is a widespread perception that the rule of law does not apply to those who choose a nomadic lifestyle, and that available enforcement powers do not protect settled communities adequately.
- 3.3 Since 2010, the government has made a concerted effort to address these matters, including the publication of revised planning guidance and the reform of the Temporary Stop Notice procedure. More recently, in 2015, the guidance, "Dealing with illegal and unauthorised encampments", encouraged local authorities, the police and landowners to work together to tackle the problems.

- 3.4 In response to such issues, and as members are aware, in 2015 the Council working in partnership with West Sussex County Council (WSCC) and other West Sussex district and borough councils and the former Homes and Communities Agency completed the gypsy and traveller transit site on land owned by the Council that formed part of the Contract Services Depot in Westhampnett. This provision enables the Police to respond using a more extensive range of powers to move encampments that are trespassing on private or public land. The transit site is run by WSCC on behalf of all the authorities.
- 3.5 The consultation paper recognises that despite the powers already available to local authorities, there remain a range of issues of concern to local communities including:
- trespassing on private land
 - occupying public land, including playing fields and children's playgrounds
 - damage to property
 - extensive litter and waste
 - the public and private cost of cleaning or protecting unauthorised sites
 - noise and antisocial behaviour
 - abusive and threatening behaviour
 - carrying out development without planning permission

The government now wishes to obtain views about the effectiveness of existing powers in order to inform future proposals.

4. Outcomes to be achieved

- 4.1 To respond to the government consultation and set out issues of concern and the experience of the Council in dealing with unauthorised encampments and related development.
- 4.2 Considerable time is spent, particularly by the Council's planning enforcement team in dealing with such issues. Improvements or enhancements that may be made by government to existing powers and procedures as a result of feedback on the consultation are likely to be of benefit to the community.

5. Proposal

- 5.1 The proposed response to the consultation is attached in the appendix to this report.
- 5.2 The key points to be made include the following:
- Considerable difficulty is experienced in establishing whether individuals qualify for gypsy status, i.e. whether they have "a nomadic way of life", which is the test set out in Government guidance, 'Dealing with illegal and unauthorised encampments'. It is suggested that local planning authorities are given wider powers of access to information to assist in applying this test.
 - Further but similar difficulties are experienced in relation to planning appeals and it is suggested that the Planning Inspectorate should be able to insist

that evidence in respect of gypsy status is produced before an appeal is processed.

- Considerable difficulty is also experienced in persuading the courts, in respect of an application for an injunction, that an anticipated breach of planning control comprising an unauthorised encampment should be prevented.
- Experience shows that once an encampment has been established on traveller owned land, the courts are reluctant to order the occupiers to leave unless or until planning permission has been refused by the local planning authority or on subsequent appeal, instead opting to order only that the status quo remains and no further development is carried out. This is commonly achieved by the granting of an injunction to prevent the use and development of the unauthorised development to continue.

5.3 Matters relating to trespasser encampment are also addressed in the proposed response.

6. Alternatives that have been considered

6.1 The Council could decide not to respond to the consultation paper. However, it is considered essential that a response is provided as the issues of unauthorised encampments and development are frequently experienced within the District.

7. Resource and legal implications

7.1 There are no direct resource implications and providing a response does not result in any additional costs for the Council.

8. Consultation

8.1 None.

9. Community impact and corporate risks

9.1 This consultation is intended to enable the experience of local authorities regarding the impact of unauthorised encampments and the effects of current policy and practice to be put forward to government so that the need for further legislative or policy changes can be considered.

9.2 The Council's response may result in an improvement to guidance and procedures, thus enabling more effective enforcement action to be taken.

10. Other Implications

Crime & Disorder		None
Climate Change and Biodiversity		None
Human Rights and Equality Impact		None
Safeguarding		None
General Data Protection Regulations (GDPR)		None

11. Appendices

11.1 Proposed Response to MHCLG Consultation

12. Background Papers

None