

Hampshire and Isle of Wight Local Government Association

3 June 2005

The Joint Authorities' Gypsy and Traveller Panel - Actions taken to date and proposals to improve the management of Unauthorised Encampments

Report by Head of Estates Practice, Hampshire County Council

Recommendations

That the members of the Hampshire and Isle of Wight Local Government Association are invited to:

- (1) Endorse the work of the Joint Authorities Gypsy and Traveller Panel to date and support proposed next steps of the Panel in the management of Gypsy and Traveller issues in Hampshire;
- (2) Recognise the future issues facing the Panel and its constituent members including the importance of appropriate policy provision in preparing Local Development Frameworks to enable provision to be made in response to housing needs assessments and short-stay stopping places to be provided to protect the ability of local authorities to better manage unauthorised encampments on their land;
- (3) Authorise the further contact and liaison with adjoining local authorities beyond the boundary of Hampshire to achieve consistency with sub-regional provision for gypsy and traveller accommodation and a consistent approach to the housing needs assessment;
- (4) Thank Councillor Mrs June Fulcher of Havant Borough Council and Councillor Mrs Cecily Sutton of Winchester City Council for their contributions to these challenging issues through the Chairmanship and Vice-Chairmanship of the Joint Authorities Gypsy and Traveller Panel.

1. Introduction

1.1 This report:

- i) describes the actions taken to date by the Joint Authorities' Gypsy and Traveller Panel set up under the auspices of HIOW to improve the liaison with Travellers and the management of unauthorised encampments in Hampshire: and
- ii) informs Members of proposed next steps to respond to legislative changes requiring assessment of gypsy and traveller needs and the resulting provision of sites and accommodation for gypsies and travellers.
- iii) identifies future issues for the Panel and all of the local authorities in Hampshire, including the provision and management of additional facilities for gypsies and travellers, joint assessments of housing needs and cross boundary working with

other authorities beyond Hampshire.

2 **Background**

2.1 The Panel has held quarterly meetings since it was set up in 2002 under the chairmanship of Councillor Mrs June Fulcher of Havant Borough Council and the Vice Chairman Councillor Mrs Cecily Sutton of Winchester City Council.

2.2 All 14 local authorities in Hampshire are represented on the Panel by members and officers, together with Hampshire Police, the Association of Parish Councils, representatives of adjoining local authorities and other interested bodies such as the National Farmers Union.

2.3 Over the past three years there has been a significant increase in the number of unauthorised encampments, both during the summer period and also continuing during the traditionally quieter winter months. The increases in unauthorised camping, both on public and private land, has created problems for the landowners and increased concern of the settled population in the vicinity of the encampments. This has generated increased complaints to local authorities about encampments which have revealed misunderstandings and frustrations with the procedures which local authorities are required to complete in order to secure repossession of their land.

2.4 The local authorities' response to the increase in encampments has been affected by significant changes in legislation placing a greater emphasis on local authorities to provide suitable locations for stopping places via the housing and planning systems. Unauthorised encampments have recently extensive publicity and recent judicial decisions have established case law which guides how unauthorised camping needs to be addressed by local authorities. Notably, local authorities are required to take into account detailed assessments of the health and educational welfare of the unauthorised campers in deciding on action to be taken to re-possess publicly owned land.

2.5 Gypsies have been pursuing their nomadic lifestyle throughout Britain for over 500 years although in recent times other groups of Travellers have emerged and the principal groups with which local authorities will be involved are defined as follows:

- i) Gypsies and Travellers is used as a generic term to denote the whole population of these groups, families and individuals who subscribe to gypsy/traveller culture and/or lifestyle. The term encompasses ethnic gypsies and travellers and those who fall within the legal definition.
- ii) Gypsy is the term used for those families who are recognised as an ethnic minority under European legislation in their own right.
- iii) Irish Travellers are also recognised as a separate ethnic group.
- iv) New or First Generation Travellers have no ethnic status and originate from the settled community.

3 **The Role of Local Authorities in Relation to Gypsies and Travellers**

- 3.1 The involvement of local authorities with gypsy and traveller issues arises from one or more of the following:
- i) The need to recover possession of Council land which has been the subject of unauthorised encampment.
 - ii) Provision of Gypsy liaison services and/or management of permanent/temporary sites of which the County Council manages 4 permanent residential sites at Star Hill (Near Hartley Wintney), Penny Hill (Near Yateley), Tynfield (Near Whiteley) and Bury Brickfields (Eling). Southampton City Council manages a former County Council site at Kanes Hill, Sholing.
 - iii) Provision of children's and adults services involving assessments of need and the provision of support in the form of educational and welfare services.
 - iv) Assessment of the needs of Gypsies and Travellers in the preparation of planning and housing policy including six-monthly counts for the Office of the Deputy Prime Minister.
- 3.2 It is important to distinguish between the statutory and discretionary roles of local authorities which are set out below.
- 3.3 Local authorities no longer have a duty to provide permanent Gypsy sites following the repeal of the Caravan Sites Act 1968, but are now required to undertake a housing needs assessment and develop a strategy response to identified needs under the provision of the Housing Act, 2004. Draft proposals have been circulated by the Office of the Deputy Prime Minister (ODPM) which would require Local Planning Authorities to include gypsy provision within future Local Development Frameworks.
- 3.4 Local authorities do have a duty to investigate the welfare and education needs of encampments on their land as set-out in guidance issued by the Home Office and the then DETR in 1998. The ODPM has also issued guidance on needs assessments and the requirement to include all circumstances of health, welfare and the human rights of both the settled and travelling community when undertaking an assessment of any application through the Courts to recover vacant possession. Failure to comply with these procedures and wider statutory obligations may result in a challenge to the Council's decision-making progress and a prolonged and costly Court appeal with the result that the unauthorised encampment may remain as a minimum for the duration of the appeal.
- 3.5 The statutory obligations and guidance encourages local authorities to work together to ensure that each authority undertakes appropriate and full investigations prior to deciding what steps to take to recover their occupied land. A body of case law has been established involving many local authorities which have failed to ensure their compliance with statute and central government guidance on investigative procedures and have failed to secure re-possession.

4 **Legislation**

- 4.1 The Criminal Justice and Public Order Act 1994, provided authorities with additional

powers to seek vacant possession of unauthorised encampments, provided Government guidance which accompanied the changes in legislation, has been followed.

- 4.2 The judgement in the Carmarthenshire County Council case in 2002 provided Gypsy families with the right to claim an aversion to housing and therefore an entitlement to more suitable accommodation. This requirement for accommodation for gypsies and travellers will now need to be considered along with the settled community's housing needs in the preparation of local development documents.
- 4.3 At its meeting on 19 April 2005 the Panel supported the principle of preparing a countywide assessment of accommodation for Gypsies and Travellers in order to include a larger catchment area and therefore a more robust and reliable survey. The Panel also considered that this housing needs assessment would be better co-ordinated by the Hampshire Strategic Housing Officers' Group. When completed the survey will be used to inform the preparation of strategic housing plans for each local planning authority.
- 4.4 It is anticipated that these assessments will identify the need for accommodation to be made available in each local planning authority area. The nature and location of such facilities will then need to be agreed between adjoining local planning authorities in order that these may be provided in the most effective way. All neighbouring County and Unitary authorities are being consulted to ensure that the assessment process is sound and contains the same methodology to enable data to be exchanged across local authority boundaries within and beyond Hampshire. This process should enable a more strategic overlay of accommodation across the South East and enable consideration to be given to the travelling and static needs of the gypsies and travellers. This work is being monitored by the Panel to achieve a continuity of approach.

5 **Actions of the Joint Authorities Panel**

- 5.1 The Panel's first actions were aimed at improving the understanding and consistency of the approach taken by the local authorities and Hampshire Police towards unauthorised encampments.
- 5.2 A joint protocol was agreed and adopted with Hampshire Police regarding unauthorised encampments in response to changes in legislation and circumstances within Hampshire.
- 5.3 The exchange of information available to local authorities has been improved by the introduction of a database with the intention of improving the understanding between Gypsies and the local community and also to identify their travel patterns within the County.
- 5.4 Consideration was also given by the Panel to the selection of short stay sites so that travellers may be directed to these sites by the Police following the introduction of amendments to the Criminal Justice and Public Order Act in February 2004.
- 5.5 The Members of the Panel authorised the setting-up of three officer Sub-Groups to identify possible temporary/short-stay stopping places in the north, south-east and south-west of Hampshire. The groups are currently undertaking a review of the travel patterns within Hampshire which will be factored into the selection of possible short-

stay sites. The availability of short-term sites would allow the gypsies and travellers on unauthorised encampments to be directed to suitable sites with the co-operation of the Hampshire Police.

5.6 The intention of the Sub-Groups is to identify at least one short stay site in each local authority area and have a joint protocol with all authorities in Hampshire for the shared use of such sites. The development of sites within individual local authority areas will be subject to agreement by members of each local authority, the grant of detailed planning permission and the availability of Central Government grant aid for construction.

5.7 Given the pattern of movements by the travelling community, it is anticipated that with approved stopping places a more managed approach will enable a marked reduction in unauthorised camping and the more appropriate management and cost-effective operation of managing unauthorised encampments.

5.8 Information shared with authorities in Hampshire indicate that the financial costs of regaining vacant possession and site clearing in Hampshire in the 2004/5 financial year was approximately £200,000.

5.9 Currently, 100% capital grant is potentially available from a Challenge Fund of Central Government for the construction of short-stay sites although agreement still has to be reached with the local authorities on the management of such stopping places. It is proposed that this will be a joint initiative involving all local authorities in Hampshire.

6 **Next Steps**

6.1 Through the Panel, it is proposed that the following actions be taken:

(i) further investigative and feasibility work be completed aimed at establishing a network of short stay stopping sites throughout the county;

(ii) the development of this network will require the policy support of all local authorities within Hampshire and their involvement as local planning authorities in determining applications for planning consent;

(iii) allocation of resources to establish and manage the facilities.

6.2 Representatives of the travelling community will be involved at an early stage when undertaking the countywide housing needs assessment and in the identification and consultation regarding short stay accommodation. Improvements will be made to the sharing of information and to find ways of encouraging travellers to act in a way to minimise the problems created for the settled community. This could involve individual decisions by authorities for greater toleration of specific encampments where the travellers have a pattern of recorded behaviour which has not created problems within the immediate locality.

7 **Future Issues for the Panel**

a) To agree the most effective way for individual local authorities to collectively manage the gypsy and traveller encampments in the county in the light of changing legislation and case law. This will increasingly put the onus on local authorities to

provide and manage sites in order to increase the availability of accommodation for gypsies and travellers.

- b) To develop a joint response to the housing needs assessments which can be expected to include a requirement to provide land and sites for gypsies and travellers.
- c) To work with adjoining authorities beyond the boundary of Hampshire to achieve consistent and workable provision for gypsies and travellers on a sub-regional basis.

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Annex: 0

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