

Report to Cabinet 15 January 2014

Proposed Multi-Agency Agreement for the Management of Encampments across West Sussex and the Provision of a Transit Site

Report of the Director of Community Services
Report Number DCS/025

1. Purpose

- 1.1 District and Borough Councils are responsible for assessing the permanent and transit needs of the Gypsy and Traveller communities, and for meeting their needs via the Local Plan. This report deals with the issue of transit needs only, and proposes that the Council should adopt a holistic approach by entering into a partnership arrangement with all the West Sussex authorities. As part of this arrangement the Westhampnett Depot near Chichester would be redeveloped as a 9-10 pitch County-wide Transit Site.
- 1.2 Currently there are no public transit sites in West Sussex and, without such a site, the powers open to the Police to move unauthorised campers on is very limited.

2. Recommendations

- 2.1 **Subject to all West Sussex authorities formally confirming their commitment to the scheme, Cabinet is requested to approve that the Council enters into a multi-agency partnership arrangement for the effective management of unauthorised encampments across West Sussex and that the Director of Community Services in, consultation with the Portfolio Holder for Leisure and Culture, is given delegated authority to agree the details of such arrangements with his West Sussex counterparts.**

3. Reasons for the Recommendations

- 3.1 Currently there are no public transit sites in West Sussex and, without such a site, the powers open to the Police to move unauthorised campers on is very limited. Early in the year all the West Sussex authorities agreed to jointly commission and fund an independent study into the pros and cons of providing a Transit Site in West Sussex. The Study recommends that the West Sussex authorities should develop a Transit Site as a County-wide resource; that the partners, together with Sussex Police, develop a holistic, multi-agency way of managing both the Transit Site and unauthorised encampments. All authorities would equally contribute to both the running costs and the capital costs of the project. A grant from the Homes and Communities Agency (HCA) might be available to defray some of the costs.
- 3.2 The approach signalled in this report supports the Councils strategic planning position, as articulated through its local plan, and specifically the Councils duty to work cooperatively with surrounding authorities to meet community need.

4. Issue to be Resolved and Proposal

4.1 West Sussex continues to experience unauthorised encampments (UEs). In the last 5 years there were 25 unauthorised encampments in Crawley, broken down as follows:

- (a) 15 on CBC land
- (b) 2 on West Sussex County Council land
- (c) 8 on private Land

Although the number of unauthorised encampments in Crawley has been greatly reduced in recent years, the risk is ever present, with significant resource implications for the Council.

4.2 The Police can use discretionary powers under Section 61 of the Criminal Justice and Public Order Act 1994 (CJA) to direct unauthorised campers to leave the site if they have caused a public order offence or caused criminal damage. However, Section 61 is rarely used as strict conditions need to be met before the Police use this power and therefore landowners are left to seek repossession via the civil courts.

4.3 The Police have further discretionary powers, under Section 62 of the CJA, which allow them to direct trespassers to a publicly-owned transit site if one is available in the County area. Currently there are no publicly-owned transit sites in West Sussex and, therefore, Police cannot use this power. If such a site was available, the Police could direct the unauthorised campers to the site. If they do not leave when directed, or they return to the county area within three months of being directed, they would be committing a criminal offence.

4.4 An independent report was commissioned earlier in 2013 by the Chief Executives of West Sussex County, District and Borough councils, to assess whether a transit site would assist in managing unauthorised encampments and to inform partners of the pros and cons of a transit site.

4.5 The Study recommends that the West Sussex authorities develop a Transit Site to be used as a County-wide resource and that partners, together with Sussex Police, develop a holistic, multi-agency way of managing both the Transit Site and unauthorised encampments and that the arrangements should be based on the East Sussex model. The main findings were:

- a) Evidence from around the UK shows that providing a transit site, if managed well, reduces the numbers of unauthorised encampments and the overall cost associated with managing encampments
- b) For it to work well there needs to be a consistent multi-agency approach to managing both the transit site and unauthorised encampments, based on the County taking the lead role in both the management of the site and enforcement activities
- c) East Sussex Councils have adopted a multi-agency approach to unauthorised encampments (UEs) and have been successful in reducing the number of unauthorised encampments year on year.
- (d) A strong partnership with the Police, supported by robust data-sharing, is key
- (e) The perception that the transit site will always be full is not supported by the evidence
- (f) Transit sites should be close to key road networks
- (g) Grant funding is available from the Homes and Communities Agency (HCA)
- (h) Good design and robust management limited to 10 pitches are key elements of effective transit provision.

- 4.6 If the West Sussex authorities wish to develop a multi-agency arrangement, similar to the East Sussex model, all of the following components would need to be in place for it to be effective:
- (a) A suitable transit site within the West Sussex county boundaries, which meets Government guidelines
 - (b) The County Council taking responsibility for the effective running of any transit site and any enforcement activity in the County area.
 - (c) All Districts and Boroughs signing up to a multi-agency approach and all authorities equally sharing any capital and revenue costs.
 - (d) Sussex Police using its discretionary Section 62 powers to move on unauthorised campers.
- 4.7 Finding a suitable location for a transit site is not going to be without its difficulties. Officers of Chichester District Council have been looking for suitable sites in which to locate a transit site for some time now and believe they have found an appropriate location at the Westhampnett Depot. The redevelopment of the Depot site has presented the Council with an opportunity to free up half an acre which could be used as a permanent transit site. It should be noted that no other suitable site across West Sussex has been identified for this purpose, despite an extensive search of Council land records and a public 'call for sites' associated with the Local Plan process.
- 4.8 The proposed site is located a few miles outside Chichester City Centre and is accessible to the A27 and local amenities. Development of the Westhampnett site would require planning permission.

5. Implications

5.1 Resource, Legal and Equality Implications

- 5.1.1 The gross capital cost of the scheme will be in the region of £1.3m. This includes the cost of the land, building costs and internal and external resources to manage the project. Therefore, the cost per authority would be in the region of £162,500.
- 5.1.2 If we are successful in achieving Homes and Communities Agency funding (assuming a grant of £60,000 per pitch) and the site can be fully functional by 31 March 2015, then the cost per authority would be £95,000.
- 5.1.3 Once the site has been developed, the running of it will be passed to West Sussex County Council. The County will also co-ordinate all enforcement activities across the area. For this to work effectively each authority will need to nominate a lead officer to work up a new partnership agreement. It is recommended the Director of Community Services is given the delegated authority to agree the details of the multi-agency arrangements and that the Head of Finance agrees the cost sharing protocols with the other authorities.
- 5.1.4 The on-going revenue costs of the multi-agency arrangements are likely to be in the region of £10,000 – £15,000 per annum per authority.
- 5.1.5 The capital and revenue costs of the transit site will be shared equally between the District and Borough Councils.
- 5.1.6 Subject to Cabinet agreeing the recommendations, the additional revenue costs will be included in the 2014/15 budget proposals that will be brought to the next meeting of the Cabinet. The capital contribution will be included in the proposals for the capital programme which will be part of the same report.
- 5.1.7 The Public Sector Equality Duty (Section 149 of the Equality Act 2010) requires public bodies to consider all individuals when carrying out their day to day work, whether that is shaping policy or delivering services. The general duty states that a public authority must have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity; and
- Foster good relations

The Equality Act outlines nine 'protected characteristics' to which the general duty applies. One of the nine is 'race'. Romany Gypsies and Irish Travellers are recognised under English law as distinct ethnic minority groups and are therefore legally entitled to protection. There is also protection under the Human Rights Act.

5.2 Community Impact and Corporate Risks

5.2.1 Chichester District Council will give consideration to the need for site specific public consultation; the proposal itself has been developed in response to wider consultation and on-going engagement over the last few years.

5.2.1 It is possible that planning permission is not granted, or is refused following an appeal. In those circumstances Chichester D.C. will have incurred abortive costs. The Council will bear a share of the abortive costs in such circumstances.

5.2.3 The biggest risk to the Council is the extent to which the transit site will be effective in deterring unauthorised encampments. Although the study suggests a multi-agency approach is the way forward, and that the East Sussex model has been successful in reducing the number of encampments in East Sussex, it may not eliminate them completely.

5.2.4 The Police's powers are discretionary and, as public authorities, it is required by law to undertake Human Rights and Welfare assessments. In some cases it will not be appropriate to move people on immediately.

5.2.5 Transit sites are known to act as a deterrent to unauthorised encampments and many travellers decide not to camp in areas with transit sites. However, if the site becomes full, the Police will not be able to invoke their S62 powers as there will not be an alternative site to which to direct the travellers. The East Sussex experience is that the site is rarely full. However, it is difficult to ascertain whether the East Sussex site is not full because of the area not being one of choice for Travellers.

5.2.6 The Police and Crime Commissioner has gone on record as saying that if a transit site is provided in West Sussex the Police will actively use its S62 powers. For this to work, all partners need to have a full buy-in to the arrangement.

5.2.7 This project will only succeed if all the authorities in West Sussex agree to proceed with the multi-agency approach, as set out in this report, and also agree to share both the initial capital costs and the on-going revenue costs. Chichester DC will only proceed with the project subject to each authority gaining formal approval.

6. Background Papers

Independent report commissioned in 2013 by the Chief Executives of West Sussex County, District and Borough Councils, to assess whether a transit site would assist in managing unauthorised encampments and to inform partners of the pros and cons of a transit site (paragraph 4.4 refers).

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