

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	14 May 2014
DIRECTOR	Pete Leonard & Angela Scott
TITLE OF REPORT	Proposed Byelaw regarding Camping in Designated Places
REPORT NUMBER:	H&E/13/090
CHECKLIST RECEIVED:	YES

1. PURPOSE OF REPORT

The purpose of this report is to obtain a decision from Council on progression of a byelaw to prohibit unauthorised camping to various designated sensitive areas - a proposed byelaw is presented for Council's approval. The byelaw would apply in the areas shown in the maps annexed to the draft byelaw. The report provides background information on unauthorised camping activity and related work being undertaken to address the issues.

2. RECOMMENDATIONS

The Council is recommended to:

Decide whether to approve a camping byelaw and the areas to which to would apply as set out in Appendix A and instruct officers to complete the statutory process for seeking confirmation of such byelaw from Scottish Government.

3. FINANCIAL IMPLICATIONS

Should Scottish Ministers in due course confirm a byelaw then costs of approximately £6000 would be incurred in placing a press advert in accordance with the Local Government (Scotland) Act 1973 and erecting extensive signage which would be required in the designated areas. Any costs could be contained within existing Housing and Community Safety budgets however future decisions through the budget setting process may impact on this.

4. OTHER IMPLICATIONS

Byelaw procedures are set out in the Local Government (Scotland) Act 1973. Section 201 of the Act provides that local authorities “*may make byelaws for the good rule and government of the whole or any part of their area, and for the prevention and suppression of nuisances therein*”. Standing order 38 of the Council’s Standing Orders and Orders of Reference means that the making of byelaws requires approval at Full Council. Confirmation of the byelaw by the Scottish Ministers would be required before they could come into force. Hence, a camping byelaw cannot be achieved without the Scottish Ministers’ agreement.

Legal Services have written to officers at the Scottish Government as earlier instructed by Council. A response has been received offering technical views mainly concerned with clarification of defined areas and on the activity sought to be prohibited.

5. Progress

Members will be aware that there are clear links between the work that the Council is undertaking in respect of identification of short term halting sites for Gypsy/Travellers and the development of a byelaw and the ongoing review that the Equal Opportunities Committee of the Scottish Government have begun.

The aim of the proposed byelaw is to prevent people from camping on the most sensitive, high profile public places, where the adverse visual and other physical consequences of encampments are likely to attract the most attention together with complaints and negative media coverage.

All of the Council’s recent experiences with unauthorised encampments have involved Gypsy/Travellers. This is one of series of steps intended to address the issues taking account of the Council’s public sector equality duty. It is considered that a byelaw identifying specified places where camping is not permitted and making a breach of the byelaw an offence may act as a signpost and discourage camping in these areas. If successful it may help foster good relations in that tensions may ease between the settled community and Gypsy/Travellers if the potential negative impact of, and negative media coverage on unauthorised encampments on the listed places were to cease.

Although there are existing provisions in law for dealing with problem individuals/groups/sites, the Aberdeen experience is that this is not working. The view is that Aberdeen has faced unprecedented instances of unauthorised encampment activity.

The byelaw is needed over and above the current legislative powers. In terms of Unauthorised Encampment activity last year (2013), there were 81 in Aberdeen – (38 private & 43 Council). The costs associated with the Council encampments were as follows – Clear up costs - £66,305.20, Legal costs - £1,156.00 and Sheriff Officer fees - £5087.30. There have been 26

Unauthorised Encampments to date this year but costs have not yet been determined.

There have been various potentially high profile flashpoint incidents over the last three years, namely at Riverview Drive, Dyce, Torry and Calder Park and Hazlehead Academy last year and more recently at Queens & Kings Links and Aulton Playing Fields. These incidents saw increased media coverage, higher numbers of enquiries/complaints, serious potential breach of social media good practice and etiquette as well as considerable costs associated with clear ups and legal recovery.

Intelligence and evidence suggests that when these encampments arise, it is evident that high levels of fly tipping, increased levels of waste including human excrement arise. Many of these are repeat in nature and recur at the most sensitive of places which not only is unsightly and potentially health hazardous but causes a disruption to organised events and sporting facilities through lost amenities.

This behaviour is in breach of the following current legislation;

- Trespass Scotland Act 1865
- Parks & Outdoor Areas Management Rules 2014
- Environmental Protection Act 1990
- Special Waste Regulations 1996

Although reports of this behaviour are regularly reported when unauthorised encampments arise, it has not always been possible for the public authorities to categorically prove who carried out these acts. While it is not realistic to expect a byelaw to remedy the situation entirely it is hoped that a byelaw will assist in preventing this kind of situation arising at these sensitive sites, which would have a beneficial impact on community relations.

Byelaw

A byelaw to prohibit camping in designated areas is included at Appendix A. This has been developed from the very draft suggestion considered at the Council meeting on 1 May 2013 to take account of issues raised by members and others and with a focus on equality issues. Should Council decide to approve a camping byelaw the Council must approve the wording of this as part of its decision.

Reflecting that the most problematic activity occurs on sensitive areas the byelaw would apply to the areas shown on the maps annexed. Location maps have been prepared with clearly defined the boundaries of the areas within which camping are to be prohibited – the maps are on display in the Members Lounge. The areas have been chosen for inclusion given the historical nature of usage as unauthorised encampments – sometimes in repeat form and to protect these areas for the enjoyment of the wider community. Some areas have also been included in response to previous consultations undertaken.

The byelaw would also have a preventative aspect in so much as if it discourages camping in these areas it should prevent problems of fly tipping and environmental hazards occurring at these highly visible and sensitive areas and avoids the requirement for repeat, regular eviction orders – reducing court time, associated cost savings and reducing the impact of eviction on the travelling community.

The initial areas/locations are as follows;

Hazlehead Park, Lochinch Park, Westburn Park, Duthie Park, Stewart Park, Seaton Park, Calder Park, Bay of Nigg, Kingswells Park & Ride, Riverview Drive, Aberdeen Exhibition & Conference Centre, Queens Links, Kings Links, Aulton Playing Fields, Alan Douglas Park, Eric Hendrie Park and Westfield Park.

Officers have consulted Police Scotland and the Procurator Fiscal regarding a potential byelaw.

Police Scotland would be responsible for enforcing a byelaw and Police Scotland's final response is awaited.

The Procurator Fiscal would be responsible for prosecuting offences under any future byelaw and the Procurator Fiscal response is attached at Appendix B.

There has been a robust consultation exercise with partners and Community Councils which has sought feedback on the byelaw proposals. The questions asked were;

1. Do you think that the byelaw is appropriate to prevent overnight camping in designated areas?
2. Are you content with the areas proposed for the byelaw?
3. Are you content with the wording of the proposed byelaw?
4. Do you have any other comments on the proposed byelaw?
5. What ideas do you have to better manage this situation?

The consultation exercise carried out as part of the Equality and Human Rights Impact Assessment (EHRIA) – attached as Appendix C, clearly showed that businesses and community councils (with the exception of Mastrick, Sheddocksley and Summerhill) and parent councils representing the interests of the settled community are in favour of the introduction of a byelaw. Nigg Community Council, perhaps one of the areas most adversely affected by unauthorised encampments stated the urgent need for “managed halting sites” to be provided. Mastrick, Sheddocksley and Summerhill Community Council have indicated that the current legislation already in place covers the situation.

The Grampian Gypsy/ Traveller Inter-agency Group, Grampian Regional Equality Council and North- East Scotland Equality Network are unsupportive of this approach without having the provision of alternative suitable

accommodation in place. Several contributors are concerned that this is proposing a two-tiered response to the situation as private landowners will not be offered the same protection and cover as the local authority. In response to this, although many of the facilities are Council run and owned, this approach will go some way to protecting public assets – i.e. it is in the interests of all citizens and Council Tax payers to see these types of problems resolved.

The Gypsy Traveller Liaison Officer/Site Manager has also undertaken on site consultation with the service users at Clinterty and through an outreach approach with those Gypsy/Travellers at the various unauthorised encampments this year. Unsurprisingly, the consensus is that the byelaw is not welcome; however Gypsy/Travellers would welcome the delivery of increased short term halting sites.

Council officers have liaised with counterparts across the country and although unauthorised encampments do exist in other local authority areas, the challenges that Aberdeen face is unprecedented in scale, presumably due to the local economy and the associated employment opportunities. Therefore, this is very much a local solution to resolve the local challenges and the impact on resources

6. IMPACT

Addressing the social, health and housing needs of Gypsies/Travellers supports various objectives within the single outcome agreement and five-year business plan.

Equalities and human rights issues need to be considered in the context of the Council's public sector equality duty as set out in s 149(1) of the Equality Act 2010. Members attention is directed to the EHRIA appended. There are various negative and positive impacts likely to arise through the implementation of a byelaw.

The first Scottish Parliament Inquiry into Gypsy/ Traveller life took place in 2001 and made 37 recommendations to improve services and access to services for the Gypsy/ Traveller community. One of these highlighted the need for suitable stopping places for Gypsy/ Travellers. Thirteen years later, there remains a local and nationwide shortage of suitable "official" accommodation for Gypsy/Travellers. Opposition to potential "official" site development, whether through the negative experience of the settled community around high profile unmanaged, unauthorised encampments and/or discrimination has meant that there is still a shortage of official sites and that Gypsy/ Traveller families still face the stress of being "moved on" and difficulty in accessing education and health services.

In spite of this, Aberdeen City Council have provided additional stop over facilities in the short term at Clinterty and there remains provision within the Local Development Plan to develop facilities linked to new build development

at Loirston, Grandholm and Newhills expansion sites as well as already approving the progression of a short term halting site at Howes Road. The accompanying EHRIA demonstrates the challenge in balancing the needs of the Gypsy/Traveller community with those of local businesses and settled community. (See Section 4 and 5 of the EHRIA for the Impact Assessment Tests) Members should also be aware of the council's need to have due regard to comply with the General Duty of the Equality Act (2010) as set out in Section 3 e. Attention should also be given to Section 3f of the EHRIA where members can see where this proposal achieves some of the council's Equality Outcomes (agreed and published in April 2013 for 2013-17), and may contribute towards some. This section also shows how this proposal on its own, without the provision of alternative suitable accommodation in place will not meet the Equality Outcomes.

Unauthorised camping is a subject that attracts a high profile in local media. Discussions about a camping byelaw are likely to be a matter reported nationally.

7. MANAGEMENT OF RISK

Care must be taken that public expectation is not raised unrealistically that a camping byelaw may be secured and that should it be, then it would eradicate camping problems in the city. There will inevitably be instances where displacement will occur and we would manage this in similar terms to the current approach by working with Gypsy/Travellers on a case by case basis.

Within the risk management section of the EHRIA (section 7) the following actions are recommended

Provision of alternative official accommodation

Action plan to build bridges, improve communication and foster good relations and

Regular monitoring of the situation.

8. BACKGROUND PAPERS

Update report and minute of Council meeting 31 October 2013.

Update report and minute of Council meeting 18 December 2013.

9. REPORT AUTHOR DETAILS

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