

Public Document Pack

Southend-on-Sea Borough Council

Legal & Democratic Services

Strategic Director: John Williams

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13 June 2019

THE COUNCIL - THURSDAY, 13TH JUNE, 2019

SUPPLEMENTARY PACK: REPORT OF STRATEGIC DIRECTOR (LEGAL & DEMOCRATIC SERVICES)

Please find enclosed, for consideration at the next meeting of the Extraordinary Council meeting taking place on Thursday, 13th June, 2019, the following report that was unavailable when the agenda was printed.

**Agenda Item
No**

3 Notice of Motion - Traveller incursions in the Borough (Pages 1 - 4)

Report of the Strategic Director (Legal & Democratic Services) attached

Robert Harris
Principal Democratic Services Officer
Legal & Democratic Services

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Southend-on-Sea Borough Council

Agenda
Item No.

3

Report of Strategic Director (Legal and Democratic Services)

to

Extraordinary Meeting of the Council

on

13 June 2019

Report prepared by: John Williams
Strategic Director (Legal & Democratic Services)

Travellers and the possibility of a Borough-wide Injunction

Part 1 (Public Agenda Item)

1. Purpose of Report

To provide advice on whether a Borough-wide injunction against unauthorised traveller encampments can be obtained.

2. Background and Advice

- 2.1 Resolution 4 of the Notice of Motion before Council states *“That Officers seek through the Courts a borough-wide injunction to deter illegal encampments and ensure their swift removal”*
- 2.2 The Council has the power to seek such an injunction under S.222 of the Local Government Act 1972 and Section 187B of the Town and Country Planning Act 1990.
- 2.3 To obtain such an injunction, the Council must have significant evidence to convince the Court that:
- The number of encampments, the scale of the encampments and the harm caused justify such a course of action;
 - Other action will not prevent further unauthorised encampments; and
 - An injunction is a proportionate response and is not targeting those in need, or seeking to prevent the facilitation of the travellers’ way of life.

- 2.4 Some councils have been successful in obtaining Borough-wide injunctions including Harlow Council.

In August 2017 I considered the Harlow injunctions and advised that the situation in Southend was not comparable:

“Harlow District Council obtained such an injunction in 2015 (and renewed in 2017) against named persons (originally 35, but now increased to 40) after suffering 109 different unauthorised encampments on its land in an 18 month period. There were further aggravating factors:

- *Attempts by the Council and the Police to remove the travellers from one site, simply resulted in them moving to another site within the same District.*
- *At times the encampments comprised up to 69 caravans and 280 people with associated vehicles, dogs and horses.*
- *There were a great number of complaints from residents, schools and businesses relating to various serious problems – significant damage, substantial fly tipping, human waste deposits, anti-social behaviour, social unrest etc.*

While we do have problems with traveller encampments on Southend BC land, they are sporadic and generally the travellers are moved on – and out of the Borough, quickly. Notices are served as soon as travellers arrive and possession proceedings commenced promptly. Where appropriate the Police will move the travellers on using the powers in S.61 of the Criminal Justice and Public Order Act 1994.”

I concluded that if there was a significant escalation in the frequency of encampments, the number of travellers involved and the scale of the problems caused by the travellers, then an injunction might be a possibility: However the evidence was insufficient at the present time.

My advice was circulated to all councillors.

- 2.5 Since Harlow obtained injunctions, a number of councils have been successful with similar actions. Other councils have not been successful; most recently the London Borough of Bromley (May 2019).

Whether the Court has been prepared to grant an injunction has depended on the strength of the evidence presented to it.

- 2.6 I have reviewed the position in Southend in the light of current case law, the number of encampments on Council land and the evidence of problems which have arisen.

The following factors are important:

- Since my advice in August 2017 there have been 12 unauthorised encampments on Council land which have been passed to Legal Services to pursue action.
- The numbers of caravans and vehicles comprising the encampments have not been of the scale experienced in Harlow.

- The travellers have been moved on quickly, in some cases before possession proceedings have even been commenced.
- There is close liaison with the Police, who have been prepared on occasions to use their powers under S.61 of the Criminal Justice and Public Order Act 1994.
- The Travellers generally leave the Borough once they are moved on.
- While the encampments have caused some problems, the impact and harm is not on the scale seen in some other districts, not least because of the short period of time they are in situ. Certainly the Council gets involved in clearing up rubbish after its land is vacated, but commercial fly tipping is not a general problem.
- The names of the travellers are generally unknown and to succeed with an injunction, at least some individuals need to be identified.

2.7 In the light of all the current information, I do not consider that the Council has the evidence to commence legal proceedings for a Borough-wide injunction, or stands any reasonable chance of convincing the Court that such an injunction should be granted.

A Borough-wide injunction is not a step to be taken lightly, given the human rights implications, the likelihood that it will simply move the problem to neighbouring districts and the work/costs involved.

I have consulted with Counsel who has confirmed that it is not possible at present to conclude that a Borough-wide injunction would be appropriate in Southend.

Of course the Council will keep the matter under review. If problems escalate then evidence will need to be gathered (and a significant body of evidence will be required of the harm and impacts) to enable a Borough-wide injunction to be considered.

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