

POLICIES AND PROCEDURES FOR DEALING WITH UNAUTHORISED USE OF PRIVATE LAND AS A CARAVAN SITE.

1. Introduction

The purpose of this policy and procedure document is to:

- Provide guidance to all Council officers on the Council's approach to unauthorised caravan sites on private land to ensure consistency of approach and proper liaison between departments and compliance with planning law.
- Ensure that the Council can discharge its duties to those living on the site and neighbouring residents by licensing caravan sites under the Caravan Sites Act 1968
- Enable those running sites or living on sites and neighbours of the sites to be informed of the Council's approach and likely response.
- Assist those living on sites to access services that they need provided by the Council and the health services.
- Ensure that the Council complies with its obligations under the Human Rights Act 1998
- Ensure that the Council properly discharges its obligations to business rates and council tax payers by collecting charges properly due

2. Scope of this Document

This policy only deals with unauthorised use of private land as a caravan site where the owner of the land has consented to this use. If the landowner is taking action to have a site removed, no action should be required.

For these purposes a "caravan site" includes the residential use of the land by people occupying caravans, vans, buses, bendovers, coaches, trailers and tents. In other words any temporary structure or vehicle used for accommodation.

The identity of the residents is not material to this policy. It therefore includes use of the site by both traditional Gypsies and Travellers.

3. Planning Permission

Use of a site, as a permanent caravan site requires planning permission. Whether or not planning permission will be granted for a particular site will depend on the particular features of the site and the planning policies. **As contained in the Herefordshire Unitary Development Plan.**

4. Toleration of sites without permission

The Council's policy is that they will not tolerate sites without permission, except in very exceptional circumstances and that sites should therefore have permission or be cleared.

This is for the following reasons:

- It is important for both site residents and local residents to have certainty about which sites are tolerated and why so that they can be clear about the future use of the site and any constraints on such use enabling them to plan their lives and the dealings with their homes accordingly.
- Consideration of an application for planning permission gives the local planning authority the opportunity to control development through the imposition of appropriate conditions and to ensure such matters as the protection of the environment, visual amenity and amenity for local residents and highway safety are properly addressed.
- If there is no permission this prevents an assessment being made and then controls being enforced on the number of residents on the site that can appropriately be accommodated on the site without a major adverse effect on the environment, other local residents, traffic safety.
- Enforcement, in the absence of planning permission, results in stress due to uncertainty.
- The Council's experience of sites that have operated in the county without permission is that the numbers living on site have grown, there have been adverse effects from the increased size of the sites in terms of the impact on other residents, the environment.
- The Council, mindful of its duty to the whole community, cannot properly discharge its legal obligations to protect against nuisance to other residents or protect the safety of residents on the site (sometimes including children) under the Caravan Sites Act 1968 unless the site has planning permission. For example, such matters, as drinking water quality, sanitation and fire safety cannot be satisfactorily addressed.

The Council's experience is that the nature of the mobility of occupants of caravans, means that the impact of a caravan site can alter on frequently basis as residents arrive or leave and that more people arrive if toleration occurs, increasing the impact of the site on others and making toleration less acceptable.

5. The Council's Approach to New Sites

When there is reason to believe that there is a new caravan site in use without planning permission the Council's approach is set out below. The aim will be that once the site has been identified and it is clear that it is not going to be removed quickly, steps will be taken to establish the position and decide on appropriate action.

5.1 Non domestic rates

Where there is a site on which residential caravans, tents or other structures and vehicles are being moved around regularly, or where the occupants are transient but the site is permanent the district valuer will treat the site as a business subject to non-domestic rates. The site owner will be contacted and asked for details so that an assessment can be made of rateable value.

A site can be rated regardless of whether or not it has planning permission or a site licence. The rating legislation makes the site owner liable for rates.

Once the site is on the valuation list, future liaison will be with the Council's Revenues Department.

5.2 Applying for Planning Permission and Preparing for Possible Enforcement Action

When the use of a site is identified, the person believed to be the owner will be sent a letter together with a form to apply for planning permission and a requisition notice.

This letter invites the site owner to enter into pre-application discussions about the site whilst also preparing the Council for enforcement action should the need arise. It also provides the owner with the information and forms they need to seek planning permission, should they choose to do so. The letter will make clear that the Council's policy that toleration is only an option in the most exceptional circumstances and set a deadline by which the application should be received after which enforcement action will be considered. It will also make clear that if they think there are exceptional circumstances why the site should be tolerated, they should make these clear.

5.3 Visit to residents

Residents will be visited by planning enforcement officers or gypsy officers. Each person who is resident on the site will be interviewed and letters left for any additional persons who are not present in a plastic bag attached to their caravan or home inviting them to contact the officer concerned.

The person visiting the residents will have the following information with them:

- A form for completion of interview (welfare check form).
- A housing application form.
- A gypsy site pitch application form.

The interviews will be conducted using the form shown in Appendix 3 which will deal with the following issues:

- Their previous accommodation history e.g. addresses or sites occupied previously.
- Their previous history of living, working or attending school in the county.
- Where they could go if they are required to leave.
- Where they work if they or family members are employed or self employed (They will be given a leaflet about the local job centre if interested in finding work).
- Where they or family members receive education if attending an educational establishment (They will be given a contact number for the Education

Department if they have children of school age and asked to agree to the Department having details of their child).

- Whether they would accept housing if required to leave (if so, they will be given a housing application form and also advised of the phone number to contact if they become homeless).
- Whether they have any health needs or any family member has any special needs or disabilities (They will be given the number to contact to obtain a GP and the contact number for the Travellers' health visitor service and asked to agree to information being passed to that service).
- Whether any family member requires assistance from the Council's Social Care department e.g. child in need or adult with physical or mental disability. If so, they will be asked to agree to information being passed to that service.
- Whether they wish to apply for a pitch on a council site (they will be given an application form and advised to return it to the Gypsy service).

The Council's policy of not tolerating caravan sites, except in the most exceptional circumstances, will be explained to them. In particular, it will be explained to them that permission should be obtained for the site it is likely that the site will be removed and the deadline that the owner has been given.

If any resident has difficulty with reading or writing, we will put them in touch with the Travellers Liaison officer to assist them with completing any of the forms.

5.4 After the visit

5.4.1 Contacting other departments and forwarding information

After the visit:

- Any housing application form will be sent to housing to process.
- Any application for a pitch on a council site will be sent to the gypsy service to determine. They will also be asked what alternative sites might be available for use by the residents if required to leave.
- The officer will notify other departments and organisations of the number of residents on site and areas of need e.g. health.
- Specific needs e.g. of a particular child or adult to health services, will be passed to that department where the site resident has agreed.
- Any concerns about health and safety of occupants on site, fire safety or noise nuisance, will be passed to environmental health to investigate.
- Revenues will be notified of the existence of the site so that they can ask the district valuer to assess it for rating purposes.

For this purpose, each department and the health services will have a named contact person who will receive this information.

5.4.2 Assessing the position

If no application for permission has been received by the deadline, the appropriate Planning Officer and Environmental Protection Manager will decide on the appropriate enforcement action in consultation with the Legal Department. They will take account of the following:

- The impact of any enforcement action on the rights of the site residents for respect for their home and family life. Taking into account the availability of places to go, the availability of housing accommodation, gypsy site pitches and the impact on household members eg because of health, education or work.
- The response of the site owner and track record of site owner. His or her history of compliance or lack of compliance and co-operation on planning and site licensing matters. In particular, whether disregard of planning and site licensing requirements are deliberate and flagrant.
- Any complaints received from residents in the area.
- The impact on residents in the area and on the amenity and environment, particularly visual amenity and property values of other properties in the area.
- The impact of the site on other matters, eg access and highway safety.
- The safety of residents on the site and the need for licensing controls to protect residents and others.
- The ability of the Council to control the size and extent of the site and health and safety aspects of licensing if the site is tolerated. This would include consideration of the extent to which a s106 agreement would secure sufficient control
- The need to maintain public confidence in the planning and licensing systems by controlling unauthorised development

6 S 106 agreements

In exceptional circumstances a s106 agreement may be entered into with the site owner to secure the future use of the land. This method might be used to secure some control over a tolerated site where the s106 would contain the limits of the tolerated use.

7 Toleration

This would be highly exceptional. A personal permission avoiding the need for those individuals on site to leave is an option to be considered.

8 Enforcement action

Action considered will include:

- Injunction to have the site removed.

- Injunction against the owner not to permit any additional residents on the site and / or not to allow those leaving to return and no one else to join either indefinitely or pending the determination of a planning application.
- Enforcement notice requiring the site to be removed or numbers limited. Numbers likely to be number of vehicles and structures but in some circumstances a limit on the number of occupants may be appropriate.
- Injunction requiring the use of the site to cease without a caravan site licence.

In cases where there are specific problems with the site such as health and safety concerns or nuisance, the following additional action will be considered:

- Environmental health action e.g. because of noise nuisance or statutory nuisance.
- Action against individuals for public nuisance.
- An Anti Social Behaviour Order against individual residents.

9 Preventing an increase in unauthorised use

Where information is received that the use of an unauthorised site is increasing, the planning department will liaise closely with the legal department. Consideration will be given to obtaining an injunction against the owner not to permit any additional residents to join the site and / or restricting any extension of the site pending determination of any application for permission or conclusion of other enforcement action.