

## 1 Consultation: Powers for dealing with unauthorised development and encampments

### 1. **What evidence is there of unauthorised development and encampments in your community, and what issues does this raise for the local community?**

The Council has evidence of unauthorised encampments in the borough see Que 2

#### **Issues**

- Damage to fences/ gates to obtain access to land
- Collection of waste during the period of encampment and clear up once the site is vacated.
- Prevents the land being used for its intended use i.e. Rugby Club/ Car parks/ Allotments.
- Fear of Crime and anti – social behaviour

### 2. **We would like to invite evidence of unauthorised encampments which have occurred in the last 2 years, as follows:**

**The number of instances where trespassers have occupied land without authorisation, including the location and scale of the encampment.**

Private Land is also not included as they are able to remove unauthorised encampments using different legislation than Public Land. Highways Land will be included in the response from Essex County Council.

2016 – 23 unauthorised encampments

2017 – 20 unauthorised encampments

Location 1 April 2016 – 31 March 2017	Number of caravans
Severalls	1
Hilly Park Nature reserve	5

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Flakt Woods (Easter Park)	3
Phillip Morant School, Rembrandt Road	8
Fordham Heath (Parish Council Land)	0
Phillip Morant School, Rembrandt Road	5
Warren Lane	4
Leisure World	0
Severalls Lane	1
Leisure World, Cowdray Avenue	0
Leisure World car park, Cowdray Ave, Colchester	1
Flakt Woods (Easter Park)	3
Britannia Works, St Botolphs Circus, Colchester (Britannia Way Carpark)	6
Axial Way & Via Urbis Romanae (LAND OFF THESE ROADS)	3
Land to the West and East of Broxted road and Mile End	3
Britannia Works, St Botolphs Circus, Colchester (Britannia Way Carpark)	2
Cuckoo Farm	0
Severalls Lane	3
Sheepen Road	7
Colchester Leisure World	2
Colchester Leisure World	2
United Way (Boxted Road end), Colchester. CO45LD	0
United Way (Boxted Road end), Colchester. CO45LD	3

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Location of Encampment 2017 -2018	Number of caravans
Britannia Works, St Botolphs Circus, Colchester (Britannia Way Carpark)	6
Warren Lane	3
Britannia Works, St Botolphs Circus, Colchester (Britannia Way Carpark)	10
Sheepen Road car park	6
Axial way (Flakt woods	3
Colchester Leisure World	2
Recreation Field, New cut	0
Seven Star Green	9
Fordham Heath (Parish Council Land), just off Huxables Lane	0
Colchester Stadium, Land east & West of Boxted Road, Mile end	15
Windmill Green, Kelvedon Road	14
Colchester Rugby Club, Mill Road playing field, Mill Road, Mile end	15
Land on West and East Side of Boxted Road, Mile End Severalls	11
Land on West and East Side of Boxted Road, Mile End	6
Leisure World car park, Cowdray Ave, Colchester	0
Castle Park	0
St Georges playing Field	0
Leisure World car park, Cowdray Ave, Colchester	2
Colchester Stadium, Land on West and East Side of Boxted Road, Mile End, Colchester.	0
Colchester Park & Ride, Colchester	0

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***Whether the land in a. required cleaning or repair once the encampment had left, and if so, what was the cost?***

I have been advised that all land following an encampment requires some clearance however the amounts are not always recorded.

Location	Action	Cost to Parks & Rec	Costs to Zones	Repairs to deter access
Colchester Rugby Club	Removed fly tipped waste	£1,740	1,400.00	£1,000
Axial Way / Via Urbis Romanae	Removed fly tipped waste	x	£1,103.00	x
Shrub End Sports Ground	Repair damaged gate	x	x	£85.00
Leisure world				
Colchester Rugby Club	Remove small amount of waste		£150.88	
Langham community Centre			£150.88	
Britannia Car Park			£150.88	
Holt Drive Open Space	Soil Heap to deter access			£500.00

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c. How was each unauthorised encampment encouraged to leave, how long did it take, and was the local authority able to move them on; or did the police become involved?

Location 1 April 2016 – 31 March 2017	Date	Number of Days	Number of caravans	Lead agency
Severalls	25/08/16		1	ECTU
Hilly Park Nature reserve	6/05/16	6	5	ECTU
Flakt Woods (Easter Park)	12/05/16	7	3	ECTU
Phillip Morant School, Rembrandt Road	26/05/16	6	8	ECTU
Fordham Heath (Parish Council Land)	26/05/16		0	
Phillip Morant School, Rembrandt Road	21/06/16	1	5	ECTU
Warren Lane	14/07/16	6	4	ECTU
Leisure World	18/07/16	0	0	
Severalls Lane	10/08/16	7	1	ECTU
Leisure World, Cowdray Avenue	22/08/16	0	0	
Leisure World car park, Cowdray Ave, Colchester	15/09/16	4	1	ECTU
Flakt Woods (Easter Park)	19/09/16	7	3	ECTU
Britannia Works, St Botolphs Circus, Colchester (Britannia Way Carpark)	23/09/16	6	6	ECTU
Axial Way & Via Urbis Romanae (LAND OFF THESE ROADS)	29/09/16	9	3	ECTU
Land to the West and East of Broxted road and Mile End	10/10/16	7	3	ECTU
Britannia Works, St Botolphs Circus, Colchester (Britannia Way Carpark)	17/10/16	4	2	ECTU

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Cuckoo Farm	19/10/16	1	0	
Severalls Lane	27/10/16	7	3	ECTU
Sheepen Road	30/10/16	6	7	ECTU
Colchester Leisure World	31/01/17	5	2	ECTU
Colchester Leisure World	06/02/17	3	2	
United Way (Boxted Road end), Colchester. CO45LD	07/02/17	0	0	
United Way (Boxted Road end), Colchester. CO45LD	5/04/17	6	3	ECTU

Date	Number of days	Location of encampment 2017 -2018	Number of caravans	Lead
04/04/17	6	Britannia Works, St Botolphs Circus, Colchester (Britannia Way Carpark)	6	ECTU
05/04/17	6	Warren Lane	3	ECTU
10/04/17	1	Britannia Works, St Botolphs Circus, Colchester (Britannia Way Carpark)	10	ECTU
	2	Sheepen Road car park -12/04/17 12/04/17 12/04/17	6	ECTU
13/04/17	6	Axial way (Flakt woods)	3	ECTU
24/05/17	4	Colchester Leisure World	2	ECTU
08/06/17	1	Recreation Field, New cut	0	ECTU
8/06/17	4	Seven Star Green	9	POL
09/06/17	1	Fordham Heath (Parish Council Land), just off Huxables Lane	0	POL

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13/06/17	4	Colchester Stadium, Land east & West of Boxted Road, Mile end	15	POL
26/06/17	3	Windmill Green, Kelvedon Road	14	
03/07/17	3	Colchester Rugby Club, Mill Road playing field, Mill Road, Mile end	15	ECTU
17/07/17	6	Land on West and East Side of Boxted Road, Mile End Severalls	11	ECTU
20/07/17	5	Land on West and East Side of Boxted Road, Mile End	6	ECTU
21/08/17	1	Leisure World car park, Cowdray Ave, Colchester	0	POL
26/08/17	0	Castle Park	0	POL
26/08/17	0	St Georges playing Field	0	POL
27/11/17	4	Leisure World car park, Cowdray Ave, Colchester	2	ECTU
29/03/18	0	Colchester Stadium, Land on West and East Side of Boxted Road, Mile End, Colchester.	0	POL
29/03/18	1	Colchester Park & Ride, Colchester	0	POL

### ***Do you think that the existing powers made available to local authorities to remove unauthorised campers from land are effective?***

There are two powers available to local authorities

- Section 77/8 Criminal Justice & Public Order Act 1994
- Part 55 Civil Procedure Rules

Section 77/8 Criminal Justice & Public Order Act 1994 is most commonly used as this is the quicker process (7-10 days). It does prevent the same group of travellers from returning to the same site within three months.

We are required to follow the above process regardless of the size of encampment or where they are located.

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### ***Do you think local authorities could improve their use of existing powers?***

Colchester Borough Council works in partnership with the ECTU (Essex Countrywide Travellers Unit) to provide a response service to unauthorised encampments on publicly owned land 365 days per year. Possession of all sites has been obtained by the ECTU within 9 days and the majority within 7 days. The time taken is determined by the legal process that local authorities are required to take.

<b>Working Days</b>	<b>Process</b>
<i>excl weekends</i>	Encampments visited within 1 working day of initial report
Day 1	Visited, welfare checks complete, assessed, details gathered
Day 2	Direction to Leave served/period of stay agreed if within code
Day 3	Court application submitted
Day 4/5	Court Summons Served
Day 6/7	Court attended, and order served
Day 7 onwards	Site Clear

- It is cost prohibitive to prosecute for fly – tipping. Court papers need to be served on an individual at a premises and cannot be served on a caravan on a highway.
- Statutory nuisance legislation requires the need for evidence of continuing and persistent nuisance and the majority of encampments leave within a week. Residents are reluctant to provide evidence against travelling groups.



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### ***What other powers may help local authorities deal with unauthorised encampments?***

It would be helpful if Councils could have additional powers to remove large scale encampments 10 + caravans; where the normal use of the land is prevented i.e. school playing field.

### ***Do you consider that the current powers for police to direct trespassers to leave land are effective?***

They are effective if used consistently. We have welcomed the new Police team in Essex for the management of unauthorised encampments and rural crime and have noted a more consistent approach to the use of their emergency powers.

### ***Would any new or revised powers that enable police to direct trespassers to leave land make it easier to deal with unauthorised encampments?***

They should be able to use their Section 61 emergency powers for encampments of less than 6 caravans when the other criteria are met.

### ***Do you consider that the Government should consider criminalising unauthorised encampments, in addition to the offence of aggravated trespass? If so, how should a new offence differ, and what actions and circumstances should it apply to?***

We are not aware of criminal action being taken for aggravated trespass,

### ***What barriers are there to the greater use of injunctions by local authorities, where appropriate, and how might they be overcome?***

There is a significant cost associated with the obtaining of a High Court injunction.

Encampments traditionally occur between April and October. The Council would require significant evidence of the negative impact of the travellers and be able to demonstrate in High Court a high volume of unauthorised encampments within the district. Individuals are reluctant to provide evidence against Traveller families.

Where one local authority within Essex obtains an injunction this may have a negative impact on the surrounding local authorities.

Injunctions should be easier to obtain and targeted against travelling groups who have a history of ASB and fly-tipping.

### ***Do you have any suggestions or examples of how local authorities, the police, the courts and communities can work together more successfully to improve community relations and address issues raised by unauthorised encampments?***

The Council promote community cohesion by ensuring the prompt removal of any black bag waste and any waste left following the site being vacated

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***Are there ways in which court processes might be modified in a proportionate way to ensure unauthorised encampments can be addressed more quickly?***

The Courts in Essex appear to be efficient in hearing the majority of cases within 7 days

**12- 18 referred to Planning Enforcement as they relate to unauthorised development.**

***19. Are there any specific barriers to the provision of more authorised permanent and transit sites? If so, is there any action that the Government could take to help overcome those barriers?***

Colchester has a permanent authorised site. The Provision of transit sites is being discussed at County Level

***20. What impact would extending local authority, police or land owner powers have on children and families and other groups with protected characteristics that public authorities must, in the exercise of its functions, have due regard to under their Public Sector Equality Duty?***

New powers should target the negative behaviours including fly-tipping of some unauthorised encampments. This would not affect the public sector duty.

***21. Do you expect that extending the powers referred to above would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller***

Colchester works in partnership with the ECTU to provide a consistent approach to the management of unauthorised encampments in the borough. In addition, the ECTU deliver Health outreach and partnership working with GPs and Health Partners. They establish links with Schools to improve attendance and achievement. Promote fire safety on the sites and foster community cohesion.