

**Minutes of Heatherside Ward Residents Association meeting to discuss the future  
protection of Heatherside Recreation Ground**

**(17th July 2020 7p.m. Heatherside Recreation Ground)**

Present

Committee members - Kirsty North, Larry Bain, Caroline Hibberd, Katherine Sargent

Heatherside Borough Councillors - Kristian Wrenn, John Skipper, Graham Tapper

Heatherside and Parkside County Councillor - Edward Hawkins

SHBC Councillors - Rebecca Jennings-Evans, Alan McClafferty

Representatives from Surrey Police

Apologies received from Detective Inspector Alick James, Surrey Heath Police Borough Commander

**1) Welcome and introduction**

Kirsty North welcomed everyone to the meeting and explained the Covid-19 precautions we had put in place to ensure everyone was safe. This included keeping numbers attending to a minimum by asking for only one person from each household to attend, social distancing and mask wearing at the meeting and the use of wipes and hand sanitiser for anyone using the microphones. A copy of the risk assessment carried out before the meeting can be seen on our website at

<https://heathersidewra.weebly.com/outdoor-meeting-Covid-19-risk-assessment.html>

Kirsty introduced our Borough and County Councillors and thanked them for attending. She also introduced the Leader of the Council, Cllr Alan McClafferty and Cllr Rebecca Jennings-Evans who represents Lightwater but currently has responsibility for the Greenspaces portfolio at Surrey Heath Borough Council (SHBC).

In advance of the meeting HWRA had supplied a number of questions to the various speakers. These were taken from posts on social media and questions sent to HWRA during and after the Traveller incursion. A copy of the questions can be seen at APPENDIX A at the end of the minutes. Meeting attendees were also able to ask questions throughout the meeting and a microphone was provided for this purpose.

## **2) Heatherside Recreation Ground Boundary - proposals and possibilities**

Cllr McClafferty spoke first on behalf of SHBC and used the list of questions we had sent as a list to work through. The full SHBC responses to our questions can be seen at APPENDIX B at the end of the minutes. A number of audience questions were asked alongside these so for clarity they are also reproduced here with the additional question responses included in asterisks. SHBC responses are in italics.

### **Heatherside Recreation Ground Boundary**

1. Given that there is now documented evidence of the removal of the posts in order to gain access to the field, does SHBC now accept that the wooden posts are not fit for purpose?

*The existing wooden posts are of a standard design and were installed as a result of the last UE in 2015 so it could be considered that they have acted as a deterrent for the past 5 years (as there has been a number of UE's in different areas of the borough in the intervening years). Also, the removal of the posts did require a level of effort by the group, including the use of a chainsaw, however it is accepted that they were only ever meant as a deterrent and would not stop anyone determined to get onto the site.*

\*Cllr McClafferty made the point that the posts are clearly not fit for purpose if they are the only means of protection for a site\*

2. As there is evidence of criminal damage has SHBC made any claim against the Travellers for compensation?

*Criminal damage is usually a police matter and any claim the Council may have for actual losses would be a civil matter and the Council would need to be satisfied that there are reasonable prospects of success both in terms of any Court proceedings and enforcement. Unfortunately it is unlikely the Council would recover Court costs and be able to enforce any Court order for damages against Travellers.*

\*The additional point was added here that often car/vehicle number plates used on Traveller vehicles are incorrect and the lack of a fixed address makes it even more difficult to make any legal claims.\*

3. Are there sufficient funds available to provide a more robust boundary protection?

*There currently doesn't exist a dedicated budget for greenspace protection however a recent review has highlighted areas where further measures can be implemented and a strategy proposing a programme of improvements will be brought forward for consideration by the council's Executive by August 2020. These planned improvements will require a capital budget attached to them which would need to be agreed by the Executive.*

\*Cllr McClafferty explained the process whereby additional works outside of the regular SHBC budget provision could be funded via a proposal to be presented to the council's Executive\*

4. If there are insufficient funds, would SHBC be agreeable to residents privately funding a design of their choice?

*This could be considered as part of the consultation. However, it would be preferable for the council and residents to work together on mutually agreeable designs.*

\*Cllr McClafferty made the point that while crowdfunding could potentially be a way to raise funds for work to be carried out, any works would still be subject to planning permission and the agreement of the landowner (SHBC). He also explained that the works could potentially cost tens of thousands of pounds meaning crowdfunding might not be possible.\*

5. What boundary protection methods have been found to be successful in other areas?

*On sites such as Heatherside one of the most effective methods, based on similar case studies, is the installation of raised earth "bunds" around the perimeter of the park. These are also relatively low maintenance and less detrimental to the aesthetics of the park (once they have grown over with grass and wild flowers), but are very effective at keeping vehicles off the site. However – nothing is 100% encampment proof.*

\*Questions were raised at this point regarding the additional protection that might be offered by a ditch/bank combination rather than just a bank. The suggestion being to use a digger to excavate a ditch and make the bank from the excavated material. Cllr McClafferty explained that a ditch could potentially be a hazard to park users, especially in the dark. Also the depth of ditch that would be needed to create the suggested 3ft high bank could potentially be very dangerous. He added that information from other councils suggested there was no additional increase in security for sites where a ditch was combined with the bank. Any planned protection for the site needed to be weighed up against the potential risks to users. The point was also made by Cllr Tapper that a ditch would need regular maintenance to ensure it remained clear otherwise it could

quickly be filled with mowing and other green waste and also litter which might blow into it.

There was a brief discussion of the form which a bund around the park could take. The suggestion of an earth bank with a centre core of either concrete or hardcore seemed to be popular with meeting attendees. It was also suggested that materials for this might be cheaply obtained as construction companies often needed to dispose of hardcore and earth. The bund would circle the park with regular small gaps so that park users could access the site.

Cllr McClafferty was also asked what additional protection might be added to the gate as this would remain a weak spot even with the addition of a bank around the recreation ground. He explained that a height restrictor could be added to stop tall vehicles such as caravans accessing the site. These have proved a successful deterrent in other areas.

He added that no scheme could be 100% incursion proof to the most determined people but that hopefully improvements would make the site sufficiently secure to act as a deterrent. \*

#### 6. What are the ideas regarding boundary protection that the councillors have?

*There are a number of measures that can be taken which can be brought forward for discussion as part of the consultation.*

\*During the discussion Graham Tapper agreed that the current wooden posts were not sufficient and that concrete bollards would present little in the way of any increased deterrent to Travellers as they could be easily ripped out of the ground. He explained that a ditch on its own could easily be breached with the use of planks to cross it and as explained earlier it would collect rubbish and be a potential hazard for someone to fall into. He agreed with the view that a bund would be the best solution and explained that this type of protection has worked well in places where a mound has been installed including Andover and Guildford.\*

#### 7. During the UE was the gate onto the field deliberately left open? If so, why?

*The vehicle gate was never left open deliberately but during the UE the padlock was unofficially removed and by this point an access point had already been created with the removal of the bollards.*

8. Whilst we note that SHBC have indicated that a review of land protection will be carried out and consultation with residents held, there has been no indication of the likely timescale for such a process, could you therefore provide this? It would seem pertinent to make sure this happens quickly, with changes to the boundary protection being agreed and in place prior to next year's travelling season commencing.

*A paper will be going to Executive in August proposing a schedule of work to begin as of immediate effect. The schedule of works will be priority rated and sites that have been identified as vulnerable and/or have been subject to a recent UE will be prioritised for completion before the next travelling season.*

\*Cllr McClafferty explained that a review had been carried out of all SHBC owned pieces of land in the borough where an unauthorised encampment could potentially take place. This review has been carried out at the request of Cllr Jennings-Evans who is the portfolio holder for Greenspaces at SHBC. Each site has been ranked based on the degree of protection at the site and coded red, orange or green. Green sites are those with the greatest amount of protection and red those with the least. Sites with the least protection and those where one or more incursion has occurred would be prioritised for future works. There have been 9 unauthorised encampments in 5 years within SHBC and 2 of them have been at Heatherside. \*

9. Local feeling would seem to indicate that the type of boundary that would be most suitable is a bank and ditch combination (with or without reinforcement of the bank). If this is agreeable to SHBC and can be demonstrated to be agreeable to residents, then can we dispense with the lengthy review and consultation process and move straight to the construction process?

*Depending on cost and complexity it may be possible to expedite this work but we would still need to carry out due diligence in terms of consultation and also take into consideration residents in other parts of the borough that may feel they have an equal right to be considered as a priority (e.g. those living near Frimley Green, The Grove, London Road Rec).*

\*As explained above this will be discussed at the August Executive meeting and then hopefully action can begin to start work to protect the various sites. Unfortunately there is no way to fast track this process.

Concerns were raised that the current banning order only lasts 3 months but it was pointed out that the order only prevents the same group accessing the land anyway and that by the time the order runs out the summer travelling season will be over. \*

### **3) Transit sites and Council responsibilities (SCC, SHBC)**

There was quite a long discussion around the issue of transit sites and permanent Traveller sites and Edward Hawkins our County Councillor outlined some of the difficulties SCC faces in implementing them.

At present there are no transit sites in Surrey but it has been identified that 2 are needed, one in east Surrey and one in west Surrey, ideally with 20 pitches at each site. Where transit sites are available and have spaces the police are able to move Travellers on from illegal encampment sites immediately rather than having to go through a lengthy court process to make them leave. They would also mean that Travellers would have a legal place to stop while passing through Surrey, though it was mentioned that in counties where they are provided they are often not used very much.

Surrey County Council needs to agree with the 11 borough councils where transit sites would be sited. However these sites tend to be contentious and there is often a lot of local opposition when sites are proposed. Even though they have offered to provide land SCC are not able to force Borough Councils to approve planning permission. Consequently SCC have not so far been able to build any sites. Representatives of the various councils have been talking about possible sites for years but there has been no progress.

Recently Michael Gove and Tim Oliver (SCC Leader) have been discussing this issue and it is hoped that the current stalemate may end and sites may be built within the next couple of years.

Edward Hawkins added that he and colleagues at SHBC have recently had training in Traveller planning issues which he hopes will help the situation. He also highlighted the need for the creation of permanent Travellers sites within the borough in addition to the transit sites mentioned above. He explained the difference between transit and permanent sites and said there are currently 2 permanent sites in Surrey Heath, at Swift Lane in Bagshot and Kalima in Chobham.

Edward pointed out that the settled Travellers in Chobham follow the rules and do not cause any problems. He explained that many of them had been heavily involved in community efforts to help during the Covid-19 pandemic and that this was a good example of the positive side of permanent sites.

### **Responses from SHBC to questions about transit sites**

1. If there were to be local authority transit site places available, would Travellers be charged to use them?

*Groups of Travellers moving to the temporary transit site would be charged rent to stay temporarily on the site (circa £60 per week based on other transit sites).*

2. Where does the quoted figure of 19 pitches to be provided by SHBC come from? Does this refer to a shortfall of permanent pitches?

*No figures for transit site pitches has been provided by SHBC. This could be a Surrey wide figure set by SCC*

\*Graham Tapper clarified that in the Surrey Heath Borough Council Local Plan there is a figure of 12 permanent pitches to be provided in 2020 with this figure increasing each year to a total of 19 by 2027. However, the Local Plan has not yet been formally adopted. \*

3. SCC are apparently working with the 11 Borough/District Councils to identify potential transit sites – how far has this progressed and when are residents likely to be informed of where potential sites are located?

*Potential sites have been suggested in different locations in the County but as yet nothing agreed.*

4. What facilities are provided at transit sites?

*Basic amenities and services would be provided such as water supply, shared toilets, washing facilities/utility room, and waste disposal*

5. Who pays for the purchase of land and construction of sites?

*This could vary from an individual council to a consortium of neighbouring councils working in partnership.*

6. Is any central government funding available towards the initial capital outlay for the provision of transit sites?

*Dedicated funding has been withdrawn but there may be money available via other funding streams.*

7. What sort of size would transit sites be in terms of land size and number of pitches?

*This can vary significantly depending on the area/need. However, typically they would be big enough to accommodate 20 pitches.*

*\*Edward Hawkins explained that a site of this size might be as large as the Heatherside field to allow accommodation for all the pitches, toilet and shower facilities, laundry facilities and so on, so not an insignificant piece of land to be found.\**

8. How would a transit site be staffed?

*Typically they would be staffed by a site manager. Although this could vary.*

9. What would be the hours of operation?

*24/7*

10. What would be the maximum length of stay?

*This can vary from site to site and would be a consideration of the decision. Typically it is no longer than 12 weeks with no return within a set time period (usually 6 months).*

11. Does the existence of transit sites assist in the removal of UEs from private land (such as a farm) or do they only assist when the UE is on local authority land?

*A transit site would only assist a local authority because only local authorities can apply for orders under section 78 of the Criminal Justice and Public Order Act 1994. Private land owners would use their common law powers for which the availability of a transit site has no relevance.*

### **Other Council responsibilities and Issues**

The Heatherside borough councillors explained that they had had a meeting with an officer at SHBC to discuss the latest unauthorised encampment and the current lack of



protection. They expressed frustration that the site had once again had an unauthorised encampment on it and made it clear that they were keen to work with other SHBC elected members, regardless of their political affiliations, to try and get more permanent solutions for sites across the borough.

Kristian Wrenn said how frustrated he had been that the process of moving the Travellers on had taken such a long period of time and that he would like to see steps taken to see the area protected immediately but understood that the proper council procedures had to be followed. He said he would press for work to be carried out as soon as possible after the August meeting assuming that the proposed works were approved. He also urged residents to write to Michael Gove to express their frustration with the current system.

The councillors were asked about the cost of the clean up operation. They estimated this to be about £10K when court costs, officer time, portable toilet costs and clean up costs were added up. Since 2015 there have been 9 unauthorised encampments on Surrey Heath land with the most expensive costing £32K and the least £5K.

Costs across the county were also queried and a figure of approx £450K on SCC land was given. Exact figures aren't available and Cllr McClafferty explained that despite residents feeling it was their right as council tax payers to demand the exact breakdown of figures it would not be a productive use of officers time to trawl through all the records to find this out. Members of the public are able to make Freedom of Information requests to the relevant Councils but these may be turned down if the cost of collecting the data exceeds a certain amount.

To protect the 75 pieces of land identified as vulnerable to unauthorised encampment in Surrey Heath the cost has been estimated at around £300K.

Audience members also complained about the amount of time it had taken for the Travellers to be moved on. The Councillors explained that this was due to a delay in getting a court date. Unfortunately the legal system has been affected by the Covid-19 situation as much as other areas and this led to an unavoidable delay.

A member of the audience made the point that residents could help by not giving work to Travellers as a lack of employment would make the areas less attractive to stop in. Offering to pay cash in hand for trades often associated with the Travelling community such as tree surgery, driveway work or employing those without proper waste carrier licenses encourages them to return to the area.

### **General Questions and responses from SHBC**

1. Do the Travellers pay council tax in any other areas?

*Not known*

2. Were the provided toilets actually used?

*Yes some of them were used. It is standard practise under the council's duty of care to provide toilet facilities*

3. How much did it cost to provide the toilets?

*£1980*

4. Can our councillors, both Borough and County, assure residents that they will work together on these issues regardless of political affiliation?

*Yes. Since the borough elections last year there has been a number of examples of ward councillors and the county councillor working together for the benefit of Heatherside residents.*

5. Have there been permanent sites in Surrey historically that have been closed and where were these?

*There has never been a transit site in Surrey. Over the years permanent sites have been closed for various reasons, but also new sites have opened.*

6. Was a skip provided for use at the UE? If so, was it used?

*No.*

7. Communication by SHBC/councillors on when enforcement action was going to take place was not very timely, was this deliberate? If not, what changes will be made to ensure that communication is better in future? Note that this was a major criticism by residents during the previous UE at Heatherside.

*As soon as it the council became aware of the incident a statement was released on the council website and via social media (shared on the local Facebook Groups). This was followed up by regular updates, in partnership with the police, on progress re court action and eventual eviction. The council's communications team kept a close eye on local social media and responded to specific comments where appropriate.*

8. The clean-up operation does not appear to have been very thorough, who's at fault for this? What quality control checks are being carried out on the clean-up to ensure that it is thorough?

*The site clear up began the minute the park was vacated and was carried out by experienced council contractors and officers working safely and methodically. This response was widely praised by many local residents. There were reports of missed areas which may or may not have been as a result of the encampment – but have now been addressed.*

9. Does the serving of the section 78 order on the land only apply to the particular Travellers who were there for this UE, or does it apply to any group of Travellers?

*Only applies to these Travellers as per below:*

*Sections 77-78 Criminal Justice and Public Order Act 1994*

*can only be used by a local authority;*

*can be used on any land within the local authority's area, irrespective of ownership;*

*are used to remove identified individuals from land;*

*only require the involvement of the courts when unauthorised campers do not leave when directed to do so;*

*possession is enforced by local authority officers or private bailiffs employed by the local authority;*

*the return of unauthorised campers and/or their vehicles to the location within three months carries criminal sanctions.*

10. Elmbridge Borough Council obtained a 3-year injunction preventing unauthorised encampments (UE) in 2018, why can SHBC not obtain the same?

*The council has sought advice from two barristers to look at a wider injunction however the evidence is not sufficient to justify this. In short, we cannot demonstrate a sufficient number of incidents over the past few years. i.e. Elmbridge had 25 UE's in a six month period compared to Surrey Heath which had 9 in the past 5 years on borough owned land.*

\*Cllr McClafferty explained that it was extremely difficult to get a judgement of this type and that Councils who had tried to do so had been turned down as they had experienced too small a number of incidents.

He did however explain that Michael Gove is presently trying to bring in a new trespass law which would mean any unauthorised encampment would become an offence of criminal trespass. He encouraged residents to write to Michael Gove at [michael.gove.mp@parliament.uk](mailto:michael.gove.mp@parliament.uk) if this was something they were in support of. \*

#### **4) Policing issues**

Detective Inspector Alick James, The Surrey Police Borough Commander was invited to the meeting but was unfortunately not able to attend. We will ask him to attend an HWRA meeting in the future to discuss resident's concerns on policing issues as this is something he has expressed a desire to do.

In his absence PCSO Wakeling and PC Finnegan attended the meeting. We had provided a list of policing questions to the Police in advance of the meeting and the responses to these had been emailed back to us by Alick James. Kirsty read the questions and answers out which were as follows. (These can also be seen at the end of the minutes at APPENDIX C.)

*Dear members of the Heatherside Ward Residents Association (HWRA),*

*I am sorry that I cannot attend your residents meeting on the 17th July 2020 and I extend my thanks to those local residents who visited me at Heatherside Recreation Ground on the 29th June 2020 to share their concerns with me and for the questions which have been submitted by the HWRA. I would welcome another opportunity to speak with you in all person but in my absence please accept this letter in which I will address those questions posed about Police action during the recent unauthorised encampment at Heatherside Recreation Ground. I also remind residents of my video on the Surrey Heath Beat Facebook page which deals with some of the frequently asked questions.*

#### ***Why did the Police prevent residents from protecting the field and so actively assist in the setup of the unauthorised encampment (UE)?***

*Surrey Police have a duty to protect people from harm and to prevent a breach of the peace. Trespass is a civil offence and not a criminal one and therefore Police did not have a power to prevent a trespass. People putting themselves in harm's way to prevent a civil trespass will have been given words of advice to ensure that they had first regard for their own welfare and to prevent a breach of the peace.*

#### ***How many reports of illegal activity connected with the UE did the police receive and how many were acted upon during the course of the UE?***

*Information can be provided to Police in a number of ways, through online reporting, 101 or 999 in an emergency. On receipt of this information a report is created on our ICAD system. This report is created to manage the initial call, to take details of what has happened, to assess the risk of immediate harm and then allocate out for a response — the time for which will be dependent on the risk identified. Some information will remain ICAD based where the threshold for recording as a crime is not met according to the Home Office Counting Rules, and others will be transferred to NICHE. NICHE is used to record offences and conduct investigations.*

*During the period of the encampment there were one hundred and fifty one records created on NICHE in Surrey Heath. With regards to activity linked to the encampment there were three recorded incidents of common assault reported contrary the Criminal Justice Act, six incidents of criminal damage recorded contrary to the Criminal Damage Act 1971, two thefts recorded contrary to the Theft Act 1968, one offence recorded under the Road Traffic Act 1988, one under the Animal Welfare Act 2006 and one under the Public Order Act 1986 which targeted the community at the encampment.*

*There were two hundred and eighty eight ICADS recorded in the whole of Surrey Heath during the period of the encampment. Twenty two of these reports concern crime or Anti-Social Behaviour attributed to the community camping at Heatherside and two concern the local residential community targeting those camping. Removing those calls which were made to alert Police of the establishment of the encampment, sharing dissatisfaction with the Police response or which would duplicate recording of the offences referenced in the preceding paragraphs brings the total of ASB reported to twelve incidents. There were an additional seven online reports made to Surrey Police.*

*All of the reports were acted upon, from being risk assessed and recorded, to being built into patrol plans, to information being shared with the Council as lead agency, to Police attendance and subsequent investigation of offences. If individuals are concerned with how their case was investigated I would advise contacting the investigating officer or submitting a complaint through our online form available at [www.surrey.police.uk](http://www.surrey.police.uk).*

***Do the Police consider that sufficient manpower was available to Police the whole area during the UE to reassure residents and keep illegal activity suppressed?***

*Yes, there were sufficient resources available to provide a proportionate response to the reports being made. Police resourcing did not go under set minimum staffing requirements.*

***Why was the explanation flyer only delivered to a few households and not publicised on local social media (given the obvious police presence on said SM)?***

*The flyers were distributed to households which were thought to be immediately impacted whilst later information about the encampment was added to the Surrey Heath Beat Facebook page in order to address a larger audience.*

***Why did it take so long to issue a reference number to collate reports?***

*A reference number was available immediately.*

***Were any local residents cautioned for behaviour towards the Travellers?***

*Yes, some local residents were given words of advice.*

***Were the Travellers spoken to regarding respecting the restrictions in place as a result of Covid-19, such as not using the play equipment?***

*Yes, members of the community at the encampment were spoken to about adhering to restrictions and the parents of some children requested Police cordon off the area to assist them in managing their behaviour.*

***Since when did maintaining a permanent patrol in an area become surveillance?***

*An overt police patrol would not be considered surveillance under the Regulation of Investigatory Powers Act 2000.*

***Do you think that the communication on reported incidents by the police to the local community was sufficient? In particular no statement was made regarding the use of crow-scarers by a resident aimed at the UE.***

*I do think that communication to the local community was sufficient but I am always open to suggestions as to how this can be improved. There were a number of statements and videos released, the Corporate Communications team assisted in responding to questions on social media and I personally attended for the Borough Commander event.*

*I hope that this letter assists with your meeting on the 17th July and I reiterate my offer to attend future events.*

*Yours sincerely*

*Alick James*

## **5) Other Questions**

There were no other questions so the meeting ended. We will update residents of any developments as we hear of them.

## **APPENDIX A - Questions supplied in advance of the meeting to SHBC and Surrey Police**

### **Heatherside Recreation Ground Boundary**

1. Given that there is now documented evidence of the removal of the posts in order to gain access to the field, does SHBC now accept that the wooden posts are not fit for purpose?
2. As there is evidence of criminal damage has SHBC made any claim against the Travellers for compensation?
3. Are there sufficient funds available to provide a more robust boundary protection?
4. If there are insufficient funds, would SHBC be agreeable to residents privately funding a design of their choice?
5. What boundary protection methods have been found to be successful in other areas?
6. What are the ideas regarding boundary protection that the councillors have?
7. During the UE was the gate onto the field deliberately left open? If so, why?
8. Whilst we note that SHBC have indicated that a review of land protection will be carried out and consultation with residents held, there has been no indication of the likely timescale for such a process, could you therefore provide this? It would seem pertinent to make sure this happens quickly, with changes to the boundary protection being agreed and in place prior to next year's travelling season commencing.
9. Local feeling would seem to indicate that the type of boundary that would be most suitable is a bank and ditch combination (with or without reinforcement of the bank). If this is agreeable to SHBC and can be demonstrated to be agreeable to residents, then can we dispense with the lengthy review and consultation process and move straight to the construction process?

### **The Law Around Unauthorised Encampments**

1. Explain how trespass is a civil matter
2. S62A para 5 (Criminal Justice and Public Order Act 1994) implies that if there are insufficient places at a transit site then the power to direct UEs to such a site cannot be used. Is this correct?



3. If SHBC were to provide a transit site, could it only be used to redirect UEs within Surrey Heath, or could it be used to redirect UEs in the whole of Surrey?

### **Transit Sites**

1. If there were to be local authority transit site places available, would Travellers be charged to use them?

2. Where does the quoted figure of 19 pitches to be provided by SHBC come from? Does this refer to a shortfall of permanent pitches?

3. SCC are apparently working with the 11 Borough/District Councils to identify potential transit sites – how far has this progressed and when are residents likely to be informed of where potential sites are located?

4. What facilities are provided at transit sites?

5. Who pays for the purchase of land and construction of sites?

6. Is any central government funding available towards the initial capital outlay for the provision of transit sites?

7. What sort of size would transit sites be in terms of land size and number of pitches?

8. How would a transit site be staffed?

9. What would be the hours of operation?

10. What would be the maximum length of stay?

11. Does the existence of transit sites assist in the removal of UEs from private land (such as a farm) or do they only assist when the UE is on local authority land?

### **Police Action**

1. Why did the Police prevent residents from protecting the field and so actively assist in the set up of the unauthorised encampment (UE)?

2. How many reports of illegal activity connected with the UE did the police receive and how many were acted upon during the course of the UE?
3. Do the Police consider that sufficient manpower was available to Police the whole area during the UE to reassure residents and keep illegal activity suppressed?
4. Why was the explanation flyer only delivered to a few households and not publicised on local social media (given the obvious police presence on said SM)?
5. Why did it take so long to issue a reference number to collate reports?
6. Were any local residents cautioned for behaviour towards the Travellers?
7. Were the Travellers spoken to regarding respecting the restrictions in place as a result of Covid-19, such as not using the play equipment?
8. Since when did maintaining a permanent patrol in an area become surveillance?
9. Do you think that the communication on reported incidents by the police to the local community was sufficient? In particular no statement was made regarding the use of crow scarers by a resident aimed at the UE.

#### General Questions

1. Do the Travellers pay council tax in any other areas?
2. Were the provided toilets actually used?
3. How much did it cost to provide the toilets?
4. Can our councillors, both Borough and County, assure residents that they will work together on these issues regardless of political affiliation?
5. Have there been permanent sites in Surrey historically that have been closed and where were these?
6. Was a skip provided for use at the UE? If so, was it used?
7. Communication by SHBC/councillors on when enforcement action was going to take place was not very timely, was this deliberate? If not, what changes will be made to ensure that

communication is better in future? Note that this was a major criticism by residents during the previous UE at Heatherside.

8. The clean-up operation does not appear to have been very thorough, who's at fault for this? What quality control checks are being carried out on the clean-up to ensure that it is thorough?

9. Does the serving of the section 78 order on the land only apply to the particular Travellers who were there for this UE, or does it apply to any group of Travellers?

10. Elmbridge Borough Council obtained a 3-year injunction preventing unauthorised encampments (UE) in 2018, why can SHBC not obtain the same?

## **APPENDIX B - SHBC responses to HWRA questions (answers supplied via Alan McClafferty)**

1. Given that there is now documented evidence of the removal of the posts in order to gain access to the field, does SHBC now accept that the wooden posts are not fit for purpose?

The existing wooden posts are of a standard design and were installed as a result of the last UE in 2015 so it could be considered that they have acted as a deterrent for the past 5 years (as there has been a number of UE's in different areas of the borough in the intervening years). Also, the removal of the posts did require a level of effort by the group, including the use of a chainsaw, however it is accepted that they were only ever meant as a deterrent and would not stop anyone determined to get onto the site.

2. As there is evidence of criminal damage has SHBC made any claim against the Travellers for compensation?

Criminal damage is usually a police matter and any claim the Council may have for actual losses would be a civil matter and the Council would need to be satisfied that there are reasonable prospects of success both in terms of any Court proceedings and enforcement. Unfortunately it is unlikely the Council would recover Court costs and be able to enforce any Court order for damages against Travellers.

3. Are there sufficient funds available to provide a more robust boundary protection?

There currently doesn't exist a dedicated budget for greenspace protection however a recent review has highlighted areas where further measures can be implemented and a strategy proposing a programme of improvements will be brought forward for consideration by the council's Executive by August 2020. These planned improvements will require a capital budget attached to them which would need to be agreed by the Executive.

4. If there are insufficient funds, would SHBC be agreeable to residents privately funding a design of their choice?

This could be considered as part of the consultation. However, it would be preferable for the council and residents to work together on mutually agreeable designs.

5. What boundary protection methods have been found to be successful in other areas?

On sites such as Heatherside one of the most effective methods, based on similar case studies, is the installation of raised earth "bunds" around the perimeter of the park. These are also relatively low maintenance and less detrimental to the aesthetics of the park (once they have grown over with grass and wild flowers), but are very effective at keeping vehicles off the site. However – nothing is 100% encampment proof.

6. What are the ideas regarding boundary protection that the councillors have?

There are a number of measures that can be taken which can be brought forward for discussion as part of the consultation.

7. During the UE was the gate onto the field deliberately left open? If so, why?

The vehicle gate was never left open deliberately but during the UE the padlock was unofficially removed and by this point an access point had already been created with the removal of the bollards.

8. Whilst we note that SHBC have indicated that a review of land protection will be carried out and consultation with residents held, there has been no indication of the likely timescale for such a process, could you therefore provide this? It would seem pertinent to make sure this happens quickly, with changes to the boundary protection being agreed and in place prior to next year's travelling season commencing.

A paper will be going to Executive in August proposing a schedule of work to begin as of immediate effect. The schedule of works will be priority rated and sites that have been identified as vulnerable and/or have been subject to a recent UE will be prioritised for completion before the next travelling season.

9. Local feeling would seem to indicate that the type of boundary that would be most suitable is a bank and ditch combination (with or without reinforcement of the bank). If this is agreeable to SHBC and can be demonstrated to be agreeable to residents, then can we dispense with the lengthy review and consultation process and move straight to the construction process?

Depending on cost and complexity it may be possible to expedite this work but we would still need to carry out due diligence in terms of consultation and also take into consideration residents in other parts of the borough that may feel they have an equal right to be considered as a priority (e.g. those living near Frimley Green, The Grove, London Road Rec).

### **The Law Around Unauthorised Encampments**

1. Explain how trespass is a civil matter

Trespass has been accepted by the Courts as a civil matter as far back as 1874 (Ellis vs Loftus Iron and Co) It's been common law for a long time. Sections 61 to 63 and 68 of the Criminal Justice and Public Order Act 1994 are exceptions to this rule. The law can prescribe that trespass may be a criminal act in certain circumstances.

2. S62A para 5 (Criminal Justice and Public Order Act 1994) implies that if there are insufficient places at a transit site then the power to direct UEs to such a site cannot be used. Is this correct?

No it contains a duty to consult only. We would say the section is aimed at mitigating the effect of removal.

3. If SHBC were to provide a transit site, could it only be used to redirect UEs within Surrey Heath, or could it be used to redirect UEs in the whole of Surrey?

If there is no transit pitch available the police can refuse to move the Travellers on. So if the transit site is full the same applies as no suitable pitch is available.

The act in Sect62A (d) states

(d) if it appears to the officer that the person has one or more caravans in his possession or under his control on the land, that there is a suitable pitch on a relevant caravan site for that caravan or each of those caravans;

In respect of a transit site whilst we could decline to take Travellers from outside the Borough if it was an SHBC only site, if the Police asked would we refuse? There isn't enough demand to justify an SHBC only site. The transit site project is county wide so if it feeds into that we have to accept anyone.

Police are refusing to use powers under S61 of the Act and I wouldn't assume they will use them under Sect 62 either, the period for compliance is 3 months so not very helpful.

## **Transit Sites**

1. If there were to be local authority transit site places available, would Travellers be charged to use them?

Groups of Travellers moving to the temporary transit site would be charged rent to stay temporarily on the site (circa £60 per week based on other transit sites).

2. Where does the quoted figure of 19 pitches to be provided by SHBC come from? Does this refer to a shortfall of permanent pitches?

No figures for transit site pitches has been provided by SHBC. This could be a Surrey wide figure set by SCC

3. SCC are apparently working with the 11 Borough/District Councils to identify potential transit sites – how far has this progressed and when are residents likely to be informed of where potential sites are located?

Potential sites have been suggested in different locations in the County but as yet nothing agreed.

4. What facilities are provided at transit sites?

Basic amenities and services would be provided such as water supply, shared toilets, washing facilities/utility room, and waste disposal

5. Who pays for the purchase of land and construction of sites?

This could vary from an individual council to a consortium of neighbouring councils working in partnership.

6. Is any central government funding available towards the initial capital outlay for the provision of transit sites?

Dedicated funding has been withdrawn but there may be money available via other funding streams.

7. What sort of size would transit sites be in terms of land size and number of pitches?

This can vary significantly depending on the area/need. However, typically they would be big enough to accommodate 20 pitches.

8. How would a transit site be staffed?

Typically they would be staffed by a site manager. Although this could vary.

9. What would be the hours of operation?

24/7

10. What would be the maximum length of stay?

This can vary from site to site and would be a consideration of the decision. Typically it is no longer than 12 weeks with no return within a set time period (usually 6 months).

11. Does the existence of transit sites assist in the removal of UEs from private land (such as a farm) or do they only assist when the UE is on local authority land?

A transit site would only assist a local authority because only local authorities can apply for orders under section 78 of the Criminal Justice and Public Order Act 1994. Private land owners would use their common law powers for which the availability of a transit site has no relevance.

## General Questions

1. Do the Travellers pay council tax in any other areas?

Not known

2. Were the provided toilets actually used?

Yes some of them were used. It is standard practise under the council's duty of care to provide toilet facilities

3. How much did it cost to provide the toilets?

£1980

4. Can our councillors, both Borough and County, assure residents that they will work together on these issues regardless of political affiliation?

Yes. Since the borough elections last year there has been a number of examples of ward councillors and the county councillor working together for the benefit of Heatherside residents.

5. Have there been permanent sites in Surrey historically that have been closed and where were these?

There has never been a transit sites in Surrey. Over the years permanent sites have been closed for various reasons, but also new sites have opened.

6. Was a skip provided for use at the UE? If so, was it used?

No.

7. Communication by SHBC/councillors on when enforcement action was going to take place was not very timely, was this deliberate? If not, what changes will be made to ensure that communication is better in future? Note that this was a major criticism by residents during the previous UE at Heatherside.

As soon as it the council became aware of the incident a statement was released on the council website and via social media (shared on the local Facebook Groups). This was followed up by regular updates, in partnership with the police, on progress re court action and eventual eviction. The council's communications team kept a close eye on local social media and responded to specific comments where appropriate.



8. The clean-up operation does not appear to have been very thorough, who's at fault for this? What quality control checks are being carried out on the clean-up to ensure that it is thorough?

The site clear up began the minute the park was vacated and was carried out by experienced council contractors and officers working safely and methodically. This response was widely praised by many local residents. There were reports of missed areas which may or may not have been as a result of the encampment – but have now been addressed.

9. Does the serving of the section 78 order on the land only apply to the particular Travellers who were there for this UE, or does it apply to any group of Travellers?

Only applies to these Travellers as per below:

Sections 77-78 Criminal Justice and Public Order Act 1994

can only be used by a local authority;

can be used on any land within the local authority's area, irrespective of ownership;

are used to remove identified individuals from land;

only require the involvement of the courts when unauthorised campers do not leave when directed to do so;

possession is enforced by local authority officers or private bailiffs employed by the local authority;

the return of unauthorised campers and/or their vehicles to the location within three months carries criminal sanctions.

10. Elmbridge Borough Council obtained a 3-year injunction preventing unauthorised encampments (UE) in 2018, why can SHBC not obtain the same?

The council has sought advice from two barristers to look at a wider injunction however the evidence is not sufficient to justify this. In short, we cannot demonstrate a sufficient number of incidents over the past few years. i.e. Elmbridge had 25 UE's in a six month period compared to Surrey Heath which had 9 in the past 5 years on borough owned land.

## APPENDIX C - Email from Detective Inspector Alick James to HWRA

Heatherside Ward Residents Association  
By email to: heathersidewra@gmail.com



Detective Inspector Alick James  
Surrey Heath Borough Commander

16<sup>th</sup> July 2020

Dear members of the Heatherside Ward Residents Association (HWRA),

I am sorry that I cannot attend your residents meeting on the 17<sup>th</sup> July 2020 and I extend my thanks to those local residents who visited me at Heatherside Recreation Ground on the 29<sup>th</sup> June 2020 to share their concerns with me and for the questions which have been submitted by the HWRA. I would welcome another opportunity to speak with you in all person but in my absence please accept this letter in which I will address those questions posed about Police action during the recent unauthorised encampment at Heatherside Recreation Ground. I also remind residents of my video on the Surrey Heath Beat Facebook page which deals with some of the frequently asked questions.

**Why did the Police prevent residents from protecting the field and so actively assist in the setup of the unauthorised encampment (UE)?**

Surrey Police have a duty to protect people from harm and to prevent a breach of the peace. Trespass is a civil offence and not a criminal one and therefore Police did not have a power to prevent a trespass. People putting themselves in harm's way to prevent a civil trespass will have been given words of advice to ensure that they had first regard for their own welfare and to prevent a breach of the peace.

**How many reports of illegal activity connected with the UE did the police receive and how many were acted upon during the course of the UE?**

Information can be provided to Police in a number of ways, through online reporting, 101 or 999 in an emergency. On receipt of this information a report is created on our ICAD system. This report is created to manage the initial call, to take details of what has happened, to assess the risk of immediate harm and then allocate out for a response – the time for which will be dependent on the risk identified. Some information will remain ICAD based where the threshold for recording as a crime is not met according to the Home Office Counting Rules, and others will be transferred to NICHE. NICHE is used to record offences and conduct investigations.

During the period of the encampment there were one hundred and fifty one records created on NICHE in Surrey Heath. With regards to activity linked to the encampment there were three recorded incidents of common assault reported contrary the Criminal Justice Act, six incidents of criminal damage recorded contrary to the Criminal Damage Act 1971, two thefts recorded contrary to the Theft Act 1968, one offence recorded under the Road Traffic Act 1988, one under the Animal Welfare Act 2006 and one under the Public Order Act 1986 which targeted the community at the encampment.

There were two hundred and eighty eight ICADS recorded in the whole of Surrey Heath during the period of the encampment. Twenty two of these reports concern crime or Anti-Social Behaviour attributed to the community camping at Heatherside and two concern the local residential community targeting those camping. Removing those calls which were made to alert Police of the establishment of the encampment, sharing dissatisfaction with the Police response or which would duplicate recording of the offences referenced in the preceding paragraphs brings the total of ASB reported to twelve incidents. There were an additional seven online reports made to Surrey Police.

All of the reports were acted upon, from being risk assessed and recorded, to being built into patrol plans, to information being shared with the Council as lead agency, to Police attendance and subsequent investigation of offences. If individuals are concerned with how their case was investigated I would advise contacting the investigating officer or submitting a complaint through our online form available at [www.surrey.police.uk](http://www.surrey.police.uk).

**Do the Police consider that sufficient manpower was available to Police the whole area during the UE to reassure residents and keep illegal activity suppressed?**

Yes, there were sufficient resources available to provide a proportionate response to the reports being made. Police resourcing did not go under set minimum staffing requirements.

**Why was the explanation flyer only delivered to a few households and not publicised on local social media (given the obvious police presence on said SM)?**

The flyers were distributed to households which were thought to be immediately impacted whilst later information about the encampment was added to the Surrey Heath Beat Facebook page in order to address a larger audience.

**Why did it take so long to issue a reference number to collate reports?**

A reference number was available immediately.

**Were any local residents cautioned for behaviour towards the travellers?**

Yes, some local residents were given words of advice.

**Were the travellers spoken to regarding respecting the restrictions in place as a result of Covid-19, such as not using the play equipment?**

Yes, members of the community at the encampment were spoken to about adhering to restrictions and the parents of some children requested Police cordon off the area to assist them in managing their behaviour.

**Since when did maintaining a permanent patrol in an area become surveillance?**

An overt police patrol would not be considered surveillance under the Regulation of Investigatory Powers Act 2000.

**Do you think that the communication on reported incidents by the police to the local community was sufficient? In particular no statement was made regarding the use of crow-scarers by a resident aimed at the UE.**

I do think that communication to the local community was sufficient but I am always open to suggestions as to how this can be improved. There were a number of statements and videos released, the Corporate Communications team assisted in responding to questions on social media and I personally attended for the Borough Commander event.

I hope that this letter assists with your meeting on the 17<sup>th</sup> July and I reiterate my offer to attend future events.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alick James', with a horizontal line drawn through it.

Alick James