

NEGOTIATED STOPPING POLICY AND TEMPORARY TRANSIT AGREEMENT
TEST VALLEY BOROUGH COUNCIL

1. This Policy has been developed to ensure that the nomadic way of life of gypsies and travellers can be facilitated with the Borough with a High Court injunction in place, prohibiting named and unnamed individuals from entering onto defined land within the Borough and setting up encampment and/or occupying the land for residential purposes including the occupation of caravans/mobile homes, storage of vehicles, caravans and residential paraphernalia. A copy of the injunction order can be found at Schedule 1 of this policy.

2. The injunction has been obtained as a proportionate response to an increasing number of 'unauthorised encampments' which have occurred within the borough and which have been accompanied by one or more of the following aggravated factors:
 - a. Aggressive and/or violent and/or threats and/or intimidation and/or anti-social behavior by occupants of the encampment to residents, businesses and visitors to the borough
 - b. Criminal damage

- c. 'Commercial' fly tipping
- d. Open human defecation / open deposit of use nappies and soiled tissue paper
- e. Loose dogs and animals causing nuisance to others
- f. Obstruction of highways
- g. Breaking and entering into private and/or public land and/or causing damage to the land
- h. Open fires
- i. Abandoned gas canisters
- j. Interruption to business/sporting events/community events

3. The Council acknowledges that

- a. The injunction will have an impact on the Gypsy and Traveller community;
- b. That the Human Rights Act 1998 and the Equality Act 2010 recognises and protect individuals with those protected characteristics, and there are consequent obligations on the Council as a Public Body as a result of this protection;

- c. That the aggravating factors identified at paragraph 2 above are in no way representative of the Gypsy and Traveller community generally, and, to the extent that those individuals who engage in this activity identify as Gypsy or Traveller, that they are a small and non-representative minority within those groups.
 - d. That the Council has an obligation to support genuine cases of need.
 - e. The Council must always take into account the best interests of the child, which is a primary consideration.
4. In light of the above, the Council recognises the need to find an appropriate and balanced and proportionate response to the issues outlined in paragraph 2 above, to minimise the impact on the settled community and private and Council owned land caused by those unauthorised encampments of the nature described above, whilst at the same time ensuring it protects the rights of Gypsy and traveller community in accordance with the Equalities Act 2010 and The Human Rights Act 1998.
5. The injunction is founded on the basis that it is only those encampments which are present 'without lawful permission' of the landowner and/or planning permission which are prevented. Therefore, there will, and must, be a clearly communicated basis upon which that permission will be granted, so as

to satisfy any individual who wishes to 'stop-up' for a period that they are doing so in such a way as to not amount to a contempt of court.

6. This policy represents the basis upon which a person or persons may seek lawful permission from the Council to 'set-up camp' within its Borough. The Council may only grant lawful permission as a landowner in respect of land which it owns. Therefore, if an individual or group of individuals wishes to use a piece of *private* land for the purposes of encamping for a period, they must obtain the prior permission of the landowner, and if requested, provide evidence of this to the Council. If such permission is not obtained and evidenced, the encampment will be considered a breach of the injunction if it is on land protected by the injunction. Similarly, a person or persons must obtain the prior permission of the council prior to setting-up camp on land which is owned by Test Valley Borough Council. The relevant contact details will be advertised on the Council's website.

7. If the individual or individuals have either the benefit of a planning permission from the Local Authority, or the benefit of 'General Permitted Development' rights, to encamp on the land, as defined in the General Permitted Development Order 2015, then providing they have the consent of the landowner to remain on the land, then no further evidence other than

consent from the landowner will be required. For the avoidance of doubt, the circumstances in which Permitted Development will exist are set out in Schedule 2 of this Policy.

8. The Council will consider any application for negotiated stopping in line with the following considerations. The applicants will need to sign (or indicate their consent, which will be recorded in writing by a Council officer) to the 'Negotiated Stopping Agreement' which can be found at Schedule 3.

In determining an application the Council will consider the following:

- a. Is the site suitable? The officer will assess whether the site is one which can reasonably accommodate an encampment, regard will be had to:
 - i. Whether the presence of vehicles will interrupt local amenities;
 - ii. Whether there is free and easy access to the site, for example, to enable emergency services to attend if necessary, and for delivery and removal of portable toilets;
 - iii. Whether the site is sensitive, for example, in a wholly or mainly residential neighbourhood, near schools, or care homes, or if it is a Site of Special Scientific Interest, or a nature reserve

- iv. Proximity to highways, or other features which may present as a hazard to the proposed occupants of the encampment
 - v. The size of the encampment
 - b. Does the encampment benefit from planning permission? The nature of the encampment will need to benefit from the General Permitted Development Order 2015, or have obtained specific consent from the Local Authority.
 - c. Has the welfare checklist been completed? This will need to be undertaken for all encampments that come into the borough. Have any steps necessary arising out of the welfare checks been taken into account and has the best interests of any children on the encampment been considered.
 - d. Do the vehicles have functional toilet facilities, if not the Council will need to direct persons to the nearest appropriate facilities and where appropriate portable toilets may be able to be provided by the Council for a small fee.
- 9. During the currency of an encampment, Council officers will attend to ensure that there are no issues being either directed toward, or caused by, the

encampment. The aim of the Council is to facilitate a harmonious balance between the rights and needs of the settled community and the Gypsy and Traveller community to assist community cohesion.

Covid-19

10. The Council acknowledges that some gypsies and travellers will be considered vulnerable during Covid-19 and may need to socially distance or self-isolate on the same site or a separate site away from family members. Where this is the case they should contact the Council on [ENTER A TELEPHONE NUMBER] or email [ENTER DETAILS], so that suitable arrangements can be made and where necessary toilet facilities and rubbish disposal can be arranged in a manner that reduces the opportunity for the virus to spread to others within the community.

Schedule 1 – Injunction Order

Schedule 2 – General Permitted Development

Schedule 3 – Negotiated Stopping Application

This application determines the basis upon which the Council is to provide 'lawful permission' for the applicant to stop-up on the identified land so as to comply with the terms of the unauthorised encampment injunction. Please complete each section. The Council will complete their section, and a copy of this agreement and the Negotiated Stopping Policy will then be retained by both parties.

The applicant will provide to the Council, and the Council will provide to the applicant, a nominated point of contact so that any issues can be discussed and remedied. In the event that the applicant has any issues or concerns, or is subject to any aggressive/violent or anti-social behavior from others, they should contact the Council and/or Police as soon as possible.

By agreeing to the terms of this agreement, and upon the Council granting permission as outlined in this agreement, the applicant is assured that they will not be in breach of the terms of the unauthorised encampment injunction.

Section 1 – For the Applicant to Complete

Name of Applicant:

Date:

Location:

Nominated Point of Contact:

Telephone Number:

When did you arrive?:

How long do you need to remain at this location?:

How many people are you travelling with?:

How many vehicles, including caravans, are you travelling with?:

Please list VRMS:

What is the reason for your stay?:

Have you been shown a copy of the Negotiated Stopping Policy?: Y/N

Have you been shown a copy of the unauthorised encampment injunction?

Y/N

By staying at this location, we agree to the following:

- I, and those I am travelling with, will not:

- deposit waste at this location, and will take away and lawfully dispose of all waste unless specific arrangements for waste disposal are agreed with the Council
 - Allow or cause any open fires or burning of material
 - use threatening/violent or antisocial behavior towards residents and/or other lawful visitors to the site
 - openly defecate or urinate and will use the toilet facilities contained within our own vehicles. If we require toilet facilities due to malfunction and/or unavailability of our own facilities, we will notify the Council who will discuss with us the provision of portable toilet facilities or agree the use of local services
 - play loud or amplified music.
 - Use motorised bikes/scooters/quad bikes or other similar vehicles which may present as a nuisance or hazard
- I, and those I am travelling with, will keep all animals on a leash/tether and under control at all times when they are in the open air and will notify and agree with the Council the animals that are permitted on the Land pursuant to this agreement.

- The size of the encampment will not exceed _____ persons and _____ vehicle

- We will leave the site by no later than 4.p.m. on _____ and will leave the site clean and tidy, taking all waste and gas canister with us

- We understand that if we breach the terms of this agreement the agreement will terminate forthwith and we will be required to leave the land forthwith.

Section 2 – for the Council to Complete

Name of allocated Council Officer:

Telephone number:

Is the location Public or Private Land: Public/Private

Has access been obtained peacefully and without any criminal damage? Y/N

Is the location/proposed location of the encampment in an obstructive location: Y/N

Does the encampment benefit from planning permission, or permitted development in accordance with the General Permitted Development Order

2015: Y/N

Has section 1 of this application been explained to and completed by the applicant: Y/N

Has the welfare checklist been completed: Y/N

I confirm that the above named applicant, along with ____ (enter number) of other individuals and _____ (enter number of vehicles) has permission to remain at _____ until 4.p.m. on _____.

Signed: _____ (Council Officer)

For an on behalf of the Test Valley Borough Council

Dated: _____

Signed: _____ (Applicant)

Name: _____

Dated: _____

I confirm that I have read, or have had read to me, the terms of this agreement, which have been explained and which I understand and agree to.