

# Taunton Deane Borough Council

## Planning Committee – 21 July 2010

### Injunction proceedings at Oxen Lane North Curry

#### Report of the Legal Services Manager

(This matter is the responsibility of Executive Councillor Mark Edwards)

#### 1. Executive Summary

To update Members on the personal circumstances of the remaining residents at Oxen Lane and to seek authorisation to continue injunction proceedings against them

#### 2. Background

Following the unauthorised occupation of Oxen Lane by 18 gypsy families in October 2004, the Council instituted injunction proceedings against all the residents in January 2005, with a view to securing their removal from the site and the re-instatement of the land to its former agricultural condition. In April 2007 an interim injunction was granted preventing any occupation of the land for the purposes of a residential gypsy site, although such injunction was not enforceable against those families resident on the site at April 2007.

Since that time various families have left the site of their own accord, one family left following a Court Order and direct action was taken against a further resident who has been re-located to another authorised site.

There are two remaining families on the site, the Smiths and the Hollands who have been there since 2004 and who are protected at the present time from the terms of the interim injunction.

#### 3. Direct action and the current proceeding

In May 2010 the Council instructed its Counsel to prepare committal proceedings against the only remaining resident on the site who was not protected under the terms of the interim injunction. However, prior to the issue of those proceedings the resident left the site for a short period of time during which the Council took direct action to remove his caravan and possessions from the land . These were

placed in safe storage and subsequently transferred to the authorised site at Otterford.

The Council's DLO then proceeded to clear the bulk of the land of all unauthorised fences, hard standings and the road way as far down as the two remaining plots 8 and 16 which are lawfully occupied.

Currently the gravel taken from the hard standings and road way are stored on site in the form of a rough bund but this is not a permanent feature and without ownership of the land the Council is unable to secure the land physically against further incursions.

In accordance with earlier instructions the Council's Barrister was instructed to prepare papers to re-instate the injunction against the two remaining families and seek their permanent removal from the land.

Both families, the Smiths and the Hollands, have been offered a permanent alternative site at Otterford and these sites remain available to them. Further personal needs assessments were carried out on the 2<sup>nd</sup> July 2010.

In respect of the Holland family since their needs were last assessed one of the daughters has married and her husband, Luke Steven, is now also resident on the site. There are no particular health problems although all the family are registered with the doctor in North Curry. The youngest daughter who previously attended Heathfield School is now being home educated. It is believed that John Holland is not longer resident at the site.

The Smith family now have three children. The eldest attends Heathfield School, the middle child attends North Curry Primary School and the youngest child is under one. All are registered with the doctor in North Curry but there are no particular medical needs.

However, the Council has recently received a planning application on behalf of both families ie a single application for two pitches at the end of the site currently forming plots 8 and 16. The application has not yet been validated as the plan submitted in support was inadequate. The agent has however asked that the Council withhold taking any further enforcement action as they believe that the application has a chance of success because the works carried out by the Council to clear the rest of the site "preclude further occupation by other families" As explained earlier in the report this is not the case. The Council cannot physically secure the land and the current arrangements, such as they are, are temporary. In addition, both families have been offered alternative permanent sites at Otterford..

#### **4. Finance Comments**

There will be legal cost incurred in proceeding with the Court action but these have been budgeted for.

## **5. Legal Comments**

There are no legal reasons not to proceed although the seeking of an injunction is a discretionary matter. Counsel's advice is that the Council should proceed at this time.

## **6. Links to Corporate Aims )**

None

## **7. Environmental and Community Safety Implications**

**None**

## **8. Equalities Impact**

## **9. Risk Management**

## **10. Partnership Implications**

None

## **11. Recommendations**

It is recommended that the Council continues with injunction proceedings to secure the removal of the remaining families at Oxen Lane and the re-instatement of Plots 8 and 16 to their former condition.

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