EXECUTIVE SUMMARY:

Between May and September 2017 officers have managed a further summer of unauthorised camps on Elmbridge council owned land which have had a significant impact on residents of the Borough.

The cost of managing the incursions this summer has totalled £24,186, which does not include staff time.

The way in which the Borough manages unauthorised encampments has been reviewed in conjunction with Surrey Police and amendments to the Gypsy and Traveller Protocol will be presented to Members at a later date.

RECOMMENDATION: THAT

(A) MEMBERS NOTE THE OFFICER REVIEW OF THE UNAUTHORISED ENCAMPMENTS THAT TOOK PLACE IN ELMBRIDGE DURING 2017;

(B) A REVIEW OF THE OPEN SPACE BYELAWS TAKE PLACE AS SET OUT IN THE REPORT; AND

(C) A MEMBER TASK GROUP BE ESTABLISHED AS SET OUT IN THE REPORT

REPORT:

1. Summary

2. Between May and September 2017 officers have dealt with a series of unauthorised camps on Elmbridge council owned Land which have had a significant impact on residents of the Borough.

3. In addition to the large number of camps (14 unauthorised encampments in 2017, 14 in 2016) this year also noted a marked increase in the size of some of the unauthorised encampments with 5 of the later camps being significant in size (*between 40 and 70 vehicles in total) and therefore the impact on the community even greater.
4. A debrief was held jointly with Surrey Police to review the unauthorised encampments from 2017, and to seek any learning that could be used to improve the joint response in future years.

5. The main learning points from the debrief were:
   - The pre-prepared communications statements to be updated working with Police colleagues to provide more information on average duration of encampments and to offer reassurance to affected communities about police awareness and additional patrols.
   - Residents to be encouraged to report anti-social behaviour connected with unauthorised encampments through the Council website.
   - Further work be carried out to explore other legal powers that could be used in the event of an unauthorised encampment (see section below)
   - As a priority, Transit sites are explored across Surrey to provide a short stay site for groups (see section below)
   - The Traveller and Gypsy Protocol to be updated in line with the experiences from 2017
   - A Rough Sleepers protocol to be annexed to the above to manage instances of homeless camping: unauthorised encampments on public open spaces

6. In addition, the Leader of the Council, and Chief Executive met with the Surrey Police and Crime Commissioner to work jointly to provide greater reassurance to dealing with future unauthorised encampments.

7. **Recent unauthorised incursions**

8. Incursions recorded on Elmbridge owned land for 2017 are listed below. In addition to this list there were some additional incursions on private land.

<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
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<tbody>
<tr>
<td>16/05/2017</td>
<td>Xcel</td>
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<tr>
<td>16/05/2017</td>
<td>George Froude, Walton</td>
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<tr>
<td>25/05/2017</td>
<td>Waterside Drive, Walton</td>
</tr>
<tr>
<td>23/06/2017</td>
<td>Longmead road, Weston Green</td>
</tr>
<tr>
<td>06/07/2015</td>
<td>Cobbs Green, Lower Green</td>
</tr>
<tr>
<td>21/07/2017</td>
<td>Brooklands community Park*</td>
</tr>
<tr>
<td>19/07/2017</td>
<td>Leg of mutton, Cobham</td>
</tr>
<tr>
<td>02/08/2017</td>
<td>Leg of mutton, Cobham- FURTHER*</td>
</tr>
<tr>
<td>16/08/2017</td>
<td>West Molesey Rec, Walton Road*</td>
</tr>
<tr>
<td>25/08/2017</td>
<td>West End Rec, Esher*</td>
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<tr>
<td>25/08/2017</td>
<td>Coronation Rec, Hersham Road*</td>
</tr>
<tr>
<td>05/09/2017</td>
<td>Walton Station Car park</td>
</tr>
<tr>
<td>06/09/2017</td>
<td>Waterside Drive, Walton</td>
</tr>
<tr>
<td>04/10/2017</td>
<td>Hollyhedge Road, Cobham</td>
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</tbody>
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9. This continues to be the highest number of unauthorised camps in the Borough’s history and has been a very expensive and time consuming
process for all involved. The continued impact of the unauthorised
encampments has highlighted the need to continually review and update
the protocol working closely with Surrey Police colleagues to simplify and
explain the process that the Council is duty bound to follow where
unauthorised encampments take place on our land and to take in to
account new legislation which may be used. In addition, it is important to
offer reassurance and deal with the anti-social behaviour that has often
accompanied these camps.

10. The total cost of managing the incursions, clearing and securing the sites
has come to £24,186 this summer. This figure does not include staff time
which is also an extensive amount of time across a number of teams who
work together to manage each incursion.

11. **Site security**

12. Physical security measures have now been completed (posts, ditches and
trees) at each of the camps in previous years. Further works are also
planned at Waterside Drive linked to the new Sports Hub development and
also in light of similar issues with homeless ‘camper vans alongside the
Weir Public House. Previous works at Cobbs Green and Longmead Road
have also been revisited with Ward Councillors and additional security
measures are being installed in these areas due to the repeat unauthorised
encampments despite previous security measures having been installed.

13. **Legal Powers**

14. There are a range of legal powers available to the Council to manage
unauthorised encampments however at the current time, the most effective
power in most cases has proven to be Section 77 of the Criminal Justice
and Public order act. Where the vehicles and trespassers fail to comply
with a section 77 Notice directing that they leave, an Order for Removal is
sought from the Magistrates Court authorising the forcible removal.

15. In the majority of cases over the past few years, unauthorised
encampments have been on the whole peaceful and have normally been
resolved within 10-14 days.

16. Following the unauthorised camps towards the end of the summer 2016,
officers trialled a new approach and served the group with a Community
Protection Warning, and then a Community Protection Notice (CPN) due to
the prolonged and persistent nature of the camps by the same group. This
approach can be used again in the event of a prolonged camp by the same
group which was not the case in 2017.

17. Breach of any requirement in the CPN, without reasonable excuse, would
be a criminal offence, subject to a fixed penalty notice (which attracts a
penalty of £100) or prosecution. On summary conviction, an individual
would be liable to a level 4 fine (currently up to £2,500). On conviction, the
magistrates’ court would have the power to order forfeiture and destruction
of any item used in the commission of the offence – for instance, noise equipment or vehicles. Where necessary, the court can also issue a warrant allowing a constable or local authority to seize such items

18. A number of other Boroughs have been trialling other legal powers that may be used to manage unauthorised encampment as can be summarised:

19. **Spelthorne**
   Similar to the scenario set out above, Spelthorne have been dealing with a repeat unauthorised encampment from the same group and have issued a Community Protection Warning Notice. The effectiveness of this power is still being evaluated and Elmbridge have already started to trial this power where repeat unauthorised encampments occur.

20. **Runnymede**
   The High Court issued Injunctive proceedings protecting Green and Open Spaces related to a group of travellers known to RBC as well as persons unknown. This was required as they had moved off land that they recently purchased (without planning permission) within RBC further to an earlier s.187b Planning Injunction preventing them from occupying that land in question pending a final trial in October 2017.

21. **Harlow**
   Harlow Council and Essex County Council jointly applied for a district-wide injunction, banning 40 named persons from setting up unauthorised encampments on any land in Harlow. The injunction was sought after the town experienced 109 different unauthorised encampments for nearly 18 months.

22. It also protects 322 vulnerable sites across Harlow including parks and playgrounds, business areas, highway verges, schools, cycle tracks, previously occupied sites and some private land from person’s unknown setting up unauthorised encampments.

23. The injunction was felt to be appropriate in the case of Harlow due to the sheer scale of the number of incursions which is not currently the case in Elmbridge.

24. **Kingston**
   The Royal Borough of Kingston upon Thames has recently experienced two unauthorised large traveller encampments at Alexandra Recreation Ground from 10th to 13th August 2017 and at Fairfield Recreation Ground from 13th to 14th August 2017. Both encampments were successfully evicted under existing bye-laws within a short time frame which has resulted in prevention of crime and disorder and anti-social behaviour and a cost effective operation.

25. In order for Elmbridge Borough Council to consider the method used by Kingston, a review of Elmbridge Borough Council’s existing byelaws need to be undertaken in the first instance. A review would assist to establish
whether the existing byelaws are fit for purpose or require updating. If it is intended to create a new byelaw, then we would need to revoke the relevant existing byelaw at the same time as applying for a new one to avoid duplication and to consider the processes of the same. At this stage, the Council is due to review its byelaws as far as it is relevant to public spaces.

26. Further work would subsequently be needed to consider how the Council could best enforce the byelaw as the removal of offenders would need to be undertaken by a constable or an officer of the Council. It cannot be extended to an employee of a private security firm, or contractor for example even though authorised to act by the Council. Kingston have been able to enforce the byelaws as constables under the Greater London Parks & Open Spaces Order 1967. The resources required to support the enforcement of byelaws would need to be carefully considered.

27. Police powers

28. Surrey Police may, in certain circumstances, use their discretionary powers under section 61 of the Criminal Justice and Public Order (CJPO) Act 1994 to direct that the vehicles and their occupants and other property leave the land. This power may be used where the trespassers have caused damage to the land or property, or have used threatening, abusive or insulting words or behaviour, or there are 6 or more vehicles on the land AND there are aggravating factors as detailed in ACPO Guidance on Unauthorised Encampments Section 5 and Surrey Police Force policy. This is very much an action of last resort and is most commonly used for large scale unauthorised encampments.

29. Section 62A of the CJPO Act gives a power to the Police to direct that the vehicles and their occupants and other property leave the land where there are more than 2 people with at least 1 vehicle between them and, where the landowner has asked the police to remove the trespassers from the land AND when there is an alternative authorised pitch available for them on a suitable site within the local authority area. Section 62B-E relates to the failure to comply with such a direction, including powers to seize vehicles, and interpretation. This Police power cannot currently be used within Surrey. It will only be relevant in Surrey once there are vacant pitches available, or Transit Sites are established and available for use.

30. Gypsy, Roma Traveller Liaison Officer (GRTLO) role

31. Following the prolonged spate of unauthorised camps in 2016 it was recognised that additional resilience was required to support the existing GRTLO role in case of leave, sickness, holiday leave or with a prolonged series of unauthorised encampments.

32. The role of the GRTLO is to meet with the Human Rights obligations of the Council and to discuss with the travellers what their needs may be in terms of welfare, education, housing, this should not be seen as an enforcement
role, but more suited to someone with good interpersonal skills to discuss and assist the travellers.

33. To increase the resilience and ability to respond effectively in the event of prolonged unauthorised encampments a professional company was appointed for 2017 to provide support carrying out the initial welfare checks supporting the GRTLO’s and the enforcement role.

34. GRC Bailiffs provided support to EBC with the 5 large unauthorised encampments over the summer (Brooklands, Leg of Mutton, Molesey Rec, West End Rec, Coronation Rec). The support was invaluable at this time, as the scale of the unauthorised encampments would have taken a large number of man hours to complete the welfare checks within the existing Liaison Officer role.

35. The service provided by the company was extremely efficient and effective with each being resolved on average within 5 days. The total cost for the external service was £11440 (see Appendix A).

36. **Transit sites**

37. Transit sites are authorised Gypsy and Traveller sites which are used for short stays (28 days to 3 months). They are provided on a permanent basis by local authorities and have basic amenities and services. All transit sites are managed, and subject to council tax and rent. Transit sites are unlikely to be suitable for the size of some of the larger camps which have been experienced in the summer, however the presence of a transit site would make easier for the police to justify use of their discretionary section 62A powers to direct trespassers to leave the land for a transit site.

38. It is still however the case that Police guidance (ACPO) expects the local authority/landowner to lead in such a scenario, but collaboratively, having this option would make the decision-making process clearer for the officer when formulating a rationale whether to evict.

39. This would be considered as an additional tool to deal with unauthorised encampments working jointly with the council, but would still need to be proportionate and considered in conjunction with the factors under section 61 and 62A listed above.

40. Temporary or emergency sites may be more suitable for large scale incursions. Provided the Council commits to supplying the infrastructure required to run the site (running water, toilet facilities, refuge collection etc.) including a site manager they can be used by the Police in the same way as transit sites. Rather than a permanent short stay site it is a pop up temporary site operated as part of an emergency response to large scale incursions.

41. County-wide encampments are being reviewed at a senior level by a Chief Inspector. At the same time Surrey Chief Executives working closely with
Surrey Planning Officers Group and Surrey Housing Officers Group are reviewing possible Transit site.

42. The Police and Crime Commissioner has also written to the Home Secretary highlighting the issues faced seeking a more joined up approach to tackle not only the management of encampments but also the source of the problems they can cause.

43. **Joint Elmbridge Gypsy, Roma & Traveller Protocol**

44. The Joint Elmbridge Gypsy & Traveller Protocol explains the process that the Council is bound to follow where unauthorised encampments take place on our land. The Protocol was last updated in April 2017 following the experiences from the 2016 summer and to take in to account new legislation at that time.

45. Following the learning from this summer, a further review and update is underway, taking in best practice from neighbouring authorities and the learning from 2017. The amended protocol will be presented to a meeting of Member task group and then Individual Cabinet Member Decision making for approval.

46. **Member Task Group**

47. Further to the review above, it is proposed that a task and finish Member Task Group be set up with a remit to consider

- Consider potential Transit sites in Elmbridge\ Surrey
- Review the work to improved security measures for the Boroughs Open Spaces
- Consider the outcome of the review of the Council's Byelaws
- Consider the review of the Joint Elmbridge Gypsy, Roma and Traveller Protocol

**Financial implications:**
The costs of the welfare assessments will be met within existing budgets and will be reviewed at the end of 2017

**Environmental/Sustainability Implications:**
None

**Legal implications:**
As contained within the report

**Equality Implications:**
A revised Equality Impact Assessment will be completed as a part of the updated protocol.

**Risk Implications:**
As contained within the report
Community Safety Implications:
The revised protocol will provide an effective resource for managing unauthorised encampments ensuring any unauthorised encampments in 2018 can be resolved as swiftly as possible.

Principal Consultees:
Council Management Board
Head of Legal Services
Head of Planning Services
Head of Housing
Communications Manager
Customer Services Training Manager
Surrey Police

Background papers:
None

Enclosures/Appendices:
Appendix A: Summary of 2017 unauthorised encampments
Appendix B: Letter from Police and Crime Commissioner

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