

UNAUTHORISED ENCAMPMENTS AND FLY-GRAZING

Head of Service:	Piero Ionta, Head of Legal and Monitoring Officer
Report Author	Dan Clackson
Wards affected:	Nonsuch Ward;
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Appendices (attached):	None

Summary

This report seeks authority for Officers to take the necessary steps to deal with unauthorised encampments and fly-grazing within Nonsuch Park.

Recommendation (s)

The Committee is asked to:

(1) Confirm that the Nonsuch Park Joint Management Committee:

- a) does not tolerate any encampment occupying land within Nonsuch Park that does so without the Committee's prior consent, and that the Committee considers any such encampment as unauthorised.**
- b) does not permit any horse to be left on land within Nonsuch Park without the Committee's prior consent.**

(2) Nominate and authorise, effective until further notice, the following officers:

- **Head of Operational Services,**
- **Interim Assistant Head of Service (Streetcare),**
- **Interim Assistant Head of Service (Venues & Community Commercial Services),**
- **Interim Assistant Head of Service & Transport and Waste Manager,**
- **Deputy Streetcare Manager,**
- **Parking and Enforcement Manager,**

to:

- a) exercise powers under s.77 and s.78 of the Criminal Justice and Public Order Act 1994 to take any necessary steps to deal with unauthorised encampments occupying land within Nonsuch Park.**

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- b) exercise powers under s.1 of the Control of Horses Act 2015 to take any necessary actions and decisions to deal with fly-grazing of animals within Nonsuch Park.**

1 Reason for Recommendation

- 1.1 To ensure that the appropriate authority is in place to allow officers to take the steps necessary to deal with unauthorised encampments ('UEs') and fly-grazing within Nonsuch Park ('the Park') in a timely manner.

2 Background

- 2.1 A UE is when an individual or a group of individuals with vehicles, caravans, associated vehicles, plant, and trailers move onto a piece of land not owned by them, and they do so with the intention of residing on that land - without the permission of the landowner.
- 2.2 Further to the Agreement to amend the Agreement (dated 12 April 1937) regarding the management of the land known as Nonsuch Park, decisions with regard to dealing with UEs in the Park must be made on a case-by-case basis by the Nonsuch Park Joint Management Committee ('JMC').
- 2.3 The JMC holds four ordinary meetings across the year. As a result, in most cases, the delay in producing a report to the next ordinary meeting of the JMC for a decision with regard to dealing with a UE in the Park would seriously prejudice the interest of both Councils and local residents, as would the delay in convening a special meeting of the JMC for such a decision.
- 2.4 Consequently, UEs in the Park have been dealt with under delegated authority by the Strategic Leadership Team of EEBC, in consultation with the Chair of the JMC, via the Urgent Decision process, further to the Scheme of Delegation (Appendix 2) of the Epsom & Ewell Borough Council ('EEBC') Constitution. Since August 2024, three Urgent Decisions have been made in relation to UEs within Nonsuch Park:
- 2.4.1 Urgent Decision No. DEC 136 - Unauthorised Encampment in Nonsuch Park. Decision made 21 Aug 2024.
- 2.4.2 Urgent Decision No. DEC 155 - Unauthorised Encampment in Nonsuch Park. Decision made 19 June 2025.
- 2.4.3 Urgent Decision No. DEC 156 - Unauthorised Encampment in Nonsuch Park. Decision made 29 July 2025.

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2.4.4 In each case, a decision was required to confirm that the UE was not tolerated by the JMC – who are responsible for the management of the Park – so that consideration of the Council's powers under s.77 and s.78 of the Criminal Justice and Public Order Act 1994 could be acted upon.

2.4.5 In each case, it was necessary to make the decisions within a 24hr period, so there was not sufficient time to schedule a special JMC public meeting and in each case delaying the decision until the next ordinary meeting of the JMC would have seriously prejudiced the interest of both Councils and local residents

2.5 Though significantly faster than the Committee Decision process, the Urgent Decision process still results in a delay to Officers' ability to take action to deal with UEs in the Park. The risks in allowing a UE to remain in situ can include: the UE increasing in size, associated public order issues, an adverse effect on residents' and visitors' access and enjoyment of the Park, increased Officer resource required to monitor the UE, environmental damage, damage to land and property.

3 Proposal

3.1 In order to allow for UEs and fly grazing in the Park to be dealt with effectively and efficiently, the Committee is asked to approve authority for EEBC Officers to take the steps necessary to deal with UEs and fly grazing without the need for a Committee decision for each individual UE and incident of fly grazing within the Park. This will in turn avoid the need for the use of the Urgent Decision process.

4 Risk Assessment

Legal or other duties

4.1 Equality Impact Assessment

4.1.1 Gypsies and Travellers are protected from discrimination by the Equality Act 2010 and the Human Rights Act 1998. Local authorities follow advice and guidance from the Government as well as fulfilling statutory duties in relation to any action taken to deal with unauthorised encampments.

4.2 Crime & Disorder

4.2.1 Dealing effectively with UEs may support the efforts of both Councils in addressing crime and disorder within their boroughs, where relevant.

4.3 Safeguarding

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4.3.1 Welfare checks for individuals residing within encampments are conducted by Officers (or their agents) as part of the standard procedure for dealing with UEs.

4.4 Dependencies

4.4.1 None.

4.5 Other

4.5.1 None.

5 Financial Implications

5.1 Any costs incurred in exercising powers under sections 77 and 78 of the Criminal Justice and Public Order Act 1994 ('1994 Act') and s.1 of the Control of Horses Act 2015 (more information at section 6 of this report) would be rechargeable to the JMC.

5.2 **Section 151 Officer's comments:** Financial implications are included in the body of the report.

6 Legal Implications

6.1 Section 77 of the 1994 Act empowers a local authority to direct UEs to leave land:

(1) If it appears to a local authority that persons are for the time being residing in a vehicle or vehicles within that authority's area—

(a) on any land forming part of a highway;

(b) on any other unoccupied land; or

(c) on any occupied land without the consent of the occupier,

The authority may give a direction that those persons and any others with them are to leave the land and remove the vehicle or vehicles and any other property they have with them on the land.

Section 78 of the 1994 Act empowers a local authority to make a complaint to the local Magistrates Court to seek an order, if it is satisfied that persons and vehicles in which they are residing are present on land within that authority's area in contravention of a direction given under section 77, so as to require the removal of any vehicle or other property which is so present on the land and any person residing in it.

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- 6.2 In order for the JMC to use its s.77 and s.78 powers to remove UEs from the Park, it is necessary for the JMC to confirm that it does not tolerate any encampment occupying land within Nonsuch Park that does so without its prior consent, and that it considers any such encampment as unauthorised.
- 6.3 Under s.1 of the Control of Horses Act 2015, local authorities in England and Wales have specific powers to address the issue of fly-grazing, which involves horses being left on land without lawful authority. Local authorities are empowered to detain horses found in public places within their area if certain conditions are met. These conditions include having reasonable grounds to believe that the horse is present without lawful authority and, if the land is lawfully occupied, either obtaining the occupier's consent or reasonably believing that the occupier would consent to the detention without needing to seek explicit consent. Should the Committee agree to recommendation 1, both Epsom and Ewell Borough Council and the London Borough of Sutton will have confirmed that no horses left on land within Nonsuch Park have lawful authority to be there, so they are consenting to any horses left on the land being detained under the Act.
- 6.4 **Legal Officer's comments:** This proposal was shared with the Monitoring Officer at the London Borough of Sutton who has confirmed their support and agreement with this approach. A copy of this report was also shared with the current Interim Monitoring Officer prior to its publication, and they have not shared any further comments to be brought to this Committee's attention.

7 Policies, Plans & Partnerships

- 7.1 **Council's Key Priorities:** The following Key Priorities are engaged:
- Effective Council – the Officer authority sought from this report will enable UEs and fly-grazing in the Park to be dealt with effectively and efficiently.
- 7.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.
- 7.3 **Climate & Environmental Impact of recommendations:** None.
- 7.4 **Sustainability Policy & Community Safety Implications:** None.
- 7.5 **Partnerships:** None.
- 7.6 **Local Government Reorganisation Implications:** None for the purposes of this report. Any arrangements with respect to Officer authority to deal with UEs and fly-grazing in the Park may need to be reviewed prior to the demise of Epsom & Ewell Borough Council in 2027.

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8 Background papers

8.1 The documents referred to in compiling this report are as follows:

Previous reports:

- None.

Other papers:

- [EEBC Constitution Appendix 2 – Scheme of Delegation to Officers](#)
- Agreement to amend the Agreement (dated 12 April 1937) regarding the management of the land known as Nonsuch Park