

Report of: Business Manager, Financial and Asset Management

Title: Boat Dwellers – Walton Well Road

Ward: North

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Key Decision: No

Lead Member: Alex Hollingsworth

Scrutiny responsibility: Finance

RECOMMENDATIONS

That the Executive Board agrees to:

1. Formalise the currently undocumented occupation of the former allotment and the adjoining river bank by granting a legal agreement to the boat dwellers to moor, subject to them first having obtained planning consent for the mooring of boats.
2. Only if planning consent is not granted and or the legal agreement with the boat dwellers is not completed, to authorise the Business Manager to proceed with the legal process to evict them from the site.
3. Confirm that in all future similar cases officers should inform local ward Councillors when evictions are planned.

Introduction

1. This report outlines the history of the use of land adjoining Walton Well Road and the actions before and after officers discovered unauthorised occupiers situated on it. There are important principles arising out of this matter, which the Executive Board is asked to consider, which will provide guidance to officers when considering future similar cases.

Background

1. In 1992 the land identified in Appendix A, situated off Walton Well Road, was occupied by a licence granted to Mr Robertson for use as an allotment.

2. This occupation continued until April 2004, when a letter was received from a Mr Williams indicating that Mr Robertson was no longer interested in maintaining an allotment, and that Mr Williams would like to continue to use the land for that purpose. Although it was not possible to transfer the licence, officers agreed to permit Mr Williams to occupy the site, and pay the rent, with the intention of formalising the legal arrangements at a later date.
3. In September 2004 a letter was received from Berkeley Homes stating that the land was being occupied by a number of people who were living both on the land and a number of boats moored to the riverbank. They were concerned about the growth in the encampment and the effect this might have on their proposed future redevelopment of the Lucy site adjoining the land.
4. In late October 2004, after additional concerns were raised by Oxford University (whose students live in the nearby houses), planning enforcement officers, and a local resident, officers visited the site to discover 6 boats moored alongside the land, signs of rough sleeping on it (a tepee plus a rough shelter with bedding) and considerable piles of rubbish scattered around. The land was plainly not being used as an allotment as indicated by the photographs taken at the time – Appendix B.
5. On the 29th October a standard notice was therefore served on the boats indicating that they should cease their trespass and remove their possessions from the site – as per the copy attached as Appendix C.
6. Having given the occupants a considerable period in which to vacate, and as by the end of January 2005 it was plain that the 4 remaining boats had no intention of moving off the site, officers then sought legal advice as to the appropriate next steps to evict the unauthorised occupiers.
7. The advice provided by Legal and Democratic Services was that in order to remove the boats it was necessary to serve a 1 month notice on all parties who had any possible claim to the licence of the land, indicating that they were in breach of its use as an allotment, and accordingly notices were served on Mr Robertson, Mr Williams, and Cripsey Meadow Allotment Association (who were not directly involved, but via whom Mr Williams had asked officers to communicate).
8. Notices were served on the various parties on the 24th and 31st of March 2005. However following approval of the Council's Notice of Motion on the 25th April (detailed in Appendix D) no subsequent action has been taken.

Issues

9. The primary issue in this case is one of principle. It is generally considered appropriate for officers to remove trespassers as soon as possible in order to preserve the Council's assets so as to avoid granting them occupation rights, and to stop the nuisance they generally cause the neighbours.
10. It is therefore recommended officers should continue to take action against trespassers when one or all of the following issues arise on their trespass on any site
 - a) Does the occupation prevent the Council using the property now or in the future?
 - b) Will the occupation prevent the lease or sale of the property?
 - c) Where appropriate, has rent been paid?
 - d) Is the public complaining about the occupation?
 - e) Are the Council's interests being prejudiced in any other way?
11. As in this case there is only limited hearsay evidence of disturbance to the neighbours, the allotment rent has been paid, and there are no plans to dispose of the land, none of the above criteria are being breached.

Recommendations

12. If the Executive Board agrees that these are sufficient circumstances in this case to warrant the unusual approach of granting these boat dwellers a licence to occupy the land and moor their boats, then officers recommend that
 - A. The licence is granted at a commercial rate for moorings, and that appropriate sanitary facilities, a safe means of access from the road down to the boats and alongside them is provided at the expense of the applicants.
 - B. The licence will be granted only if a planning consent for permanent moorings is granted.
 - C. And that the applicants will submit a planning application within 8 weeks of the Executive Board decision, and will diligently provide any additional information required by the planning department to consider the application.
13. Only if terms of the licence cannot be agreed, or the planning application is not granted, then the Executive Board is recommended to authorise the Business Manager to re-instate the legal proceedings to evict the boat dwellers, within a reasonable timescale to allow them to relocate their boats.

Appendices

A Plan of the site

B Photographs of the site taken in October 2004 and May 2005

C Notice served in October 2004

D Approved Council Notice of Motion

THIS REPORT HAS BEEN SEEN AND APPROVED BY:

Portfolio Holder: Alex Hollingsworth

Legal and Democratic Services: Lindsay Cane

Financial Management: Paul Sheppard