

# North Mundham Parish Council

www.northmundham.org

Skype: northmundham.pc

email: clerk@northmundham.org

Tel: 01243 203050

1 Charlmead East Wittering Chichester West Sussex PO20 8DN

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## CHAIRMAN'S UPDATE

I am conscious that a lot of people were annoyed or upset by the arrival of travellers with 24 caravans on the playing fields. Now that they have left us, I thought it would be useful to explain what we can and cannot do about it, when they visit us again. I will also try to explain why it took a bit of time to move them on. Although the law may appear to be straightforward, its practical application is not so easy.

The first thing to remember is that the playing fields are private land, owned by the Playing Fields Trust. The second point to remember is that unauthorised camping is not a criminal offence. Trespass is a civil offence, so landowners and local authorities must use legal processes to regain their property.

Bear in mind, too, that gypsies and travellers are recognised as a distinct ethnic group, and authorities must proceed carefully with due regard to the Human Rights Act and the Race Relations Act. There are a number of powerful interest groups, not least the All-Party Parliamentary Group on Gypsies, Travellers and Roma, which will scrutinise actions and call authorities to account. This makes authorities very careful how they act, lest they be challenged in court.

The main lead in these cases lies with the local authority- in our case West Sussex County Council - which has the power to direct travellers to leave, and may use that power when asked to by a private landowner. But this power is subject to a number of controls, and in particular before they take any action to evict, local authorities must first carry out welfare assessments of the unauthorised campers. Also, in the context of this particular incident and the very hot weather in the days before the event, the Home Office had issued advice to local authorities earlier in the year on mitigating the effects of Covid-19 on gypsies and travellers. This included advice on providing basic amenities such as water, sanitation and refuse collection. Particularly with children involved, this could make local authorities cautious about the use of their powers.

Many people look to the police to use their powers to move travellers. However, it is not a foregone conclusion that they will act in every case, even when the pre-conditions for use of their powers have been met. Their powers are discretionary, and they have to show that their use of them is proportionate (have the needs of the landowner or settled community been

balanced with the needs of the trespassers?), legal (have all the pre-conditions been satisfied?), accountable (can the police show the evidence that caused them to act?) and necessary (can eviction be justified as the only solution?). In any case police powers will not be used unless the impact on the settled community is deemed to outweigh any Human Rights Act 1998 considerations in respect of those occupying the land as trespassers

In this case the deciding factor was the ability to provide clear evidence that the field was already booked for use by young football players, and a significant number of them were involved and would be affected. So the needs of the settled community (to make the field available) were judged to outweigh the needs of the travellers to have somewhere to stay, the evidence was available (the field booking and the number of players who would be inconvenienced was documented), the legal requirements were met, and no other solution was available. It took a bit of time to establish the case, and we will have a better understanding of how to present it next time if we get a similar problem

I know that a number of local residents have said they were the targets for threatening behaviour, but the police say they received very few reports. In such cases it is important that details are reported to the police, because it provides evidence for them to assess the impact on the local settled community.

That still leaves a number of unpleasant aspects of the incursion, not least the litter and other unspeakable mess left behind. Our thanks go to those who helped clear up, and for the help from Chichester District Council who took the rubbish away. But that still leaves a lot of green waste - the product of the travellers' tree surgery - to clear up, and some other waste which is better left to decay.

I have glossed over a lot of the technical and legal detail which defines what we can and cannot do in these circumstances, and I would be happy to go into greater depth with anyone who wants to pursue it further. But if you think the law needs changing, then tell your MP.

Tim Russell, Chairman. 01243 781052. [t.russell@northmundham.org](mailto:t.russell@northmundham.org)

#### Your Parish Council

##### VACANCY

Tim Russell t: 781052  
[t.russell@northmundham.org](mailto:t.russell@northmundham.org)

Paul Chivers t: 789990  
[p.chivers@northmundham.org](mailto:p.chivers@northmundham.org)

Frances Neave t: 782391  
[f.neave@northmundham.org](mailto:f.neave@northmundham.org)

Rob Callaway-Lewis t: 07880713159  
[r.callaway-lewis@northmundham.org](mailto:r.callaway-lewis@northmundham.org)

Keith Phillips t: 07980666812  
[k.phillips@northmundham.org](mailto:k.phillips@northmundham.org)

Annie Maclean t: 01243 265804  
[A.maclean@northmundham.org](mailto:A.maclean@northmundham.org)

Peter Stephens t: 0774768699  
[p.stephens@northmundham.org](mailto:p.stephens@northmundham.org)

Hugo Wall t:278542  
[h.wall@northmundham.org](mailto:h.wall@northmundham.org)