

## EXETER CITY COUNCIL

### SCRUTINY COMMITTEE - COMMUNITY

27 FEBRUARY 2007

#### MOTORBIKE MISUSE IN PRIVATE AND PUBLIC OPEN SPACES

##### 1. PURPOSE OF REPORT

- 1.1 To inform Members on the issue of unauthorised motorbike use (**UMU**) on open space land in Exeter generally, and specifically on land to the north of the City around Mincinglake Valley Park (see Plan 1)
- 1.2 This report is in response to a petition presented to Council on 12 December by Cllr Martin, on behalf of residents of Beacon Heath, asking that *“the Council take action to ensure motorbikes are not ridden in or near the parkland to the north of the Beacon Heath Estate causing noise and nuisance to residents”*

##### 2. BACKGROUND

- 2.1 UMU takes place in various locations around the city, typically on parkland, derelict land and privately owned farmland on the edge of urban areas.
- 2.2 This is a problem for a number of reasons:
  - i) **Noise pollution** - people living nearby, and those visiting the site, can find this extremely annoying and upsetting.
  - ii) **Safety** - the motorbikes often travel at considerable speed and are a threat to other users of a site. Often they are unregistered and presumably uninsured.
  - iii) **Site damage** - churning of footpaths and grass etc. Boundaries are also vandalised in order to gain access to sites.
- 2.3 UMU is a difficult issue to manage because:
  - i) It can take place on land that is in private (sometimes unknown) ownership.
  - ii) Motorbikes are fast and manoeuvrable and so physically difficult to intercept/stop.
  - iii) They can ‘escape’ over relatively rough terrain.
  - iv) Groups of people may be involved, which can have safety implications for officers or others who attend to try to control the issue.
  - v) Although UMU is illegal it requires the presence of a police officer to attend an incident in order for the legislation to be enforced.
  - vi) Police have to prioritise their workload. UMU often seems to be low down on their priority list. Experience has demonstrated that it can take a long time for the police to attend incidents, or they may not attend at all.

- vii) UMU, on any particular site, is often sporadic and so it is difficult to plan the deployment of resources to deal with the issue.
- viii) UMU may only take place for a relatively short period of time and the perpetrators often depart before the police or Council staff etc arrives.
- ix) It is not possible to have barriers that completely prevent unauthorised motorbike access while at the same time allowing access for a range of authorised use e.g. pushchairs, wheelchairs, cycles.
- x) It is often undesirable to control UMU by erecting barriers as this may limit access by other users, and there may be implications under the Disability Discrimination Act.
- xi) If UMU is successfully controlled on a particular site then this often has the effect of moving the problem on to another part of the city.

- 2.4 From time to time certain sites become ‘hot-spots’ for UMU. This might be because a particular landowner is not concerned about this misuse of their land, or perhaps because a group of people in a locality gain access to one or more motorbikes.
- 2.5 It may be possible to assemble a package of measures that reduces the problem. Each locality where UMU takes place is different, and so unique individual ‘packages’ of mechanisms have to be deployed to address the particular problem. The various options & mechanisms that may be deployed to try to control UMU are summarised in Appendix 1.
- 2.6 Implementing such measures can often reduce the incidence of UMU in an area, but this may involve a high level of resource deployment – both staffing and money. Due to the nature of the problem it is often unrealistic to expect to completely prevent this activity in a locality.
- 2.7 In practice it is likely that any success in reducing UMU will only come about by partnership working between different services within the Council and outside agencies. Much of the UMU takes place on privately owned land and in order to reduce UMU it is necessary to work in partnership with landowners. It is probably unrealistic to expect the issue to be dealt with to any useful extent unless this happens.

### **3. THE BEACON HEATH AREA**

- 3.1 In the case of the land referred to in the petition, there are two separate UMU ‘hotspots’, each with multiple owners. Some of these owners are keen and able to work with the Council, but others live some distance away and may not be in a position to assist very much. Since the petition officers have again been in touch with the key landowners in the Beacon Heath area and have proposed further discussions on possible ways forward.
- 3.2 The local police officer for this beat has always worked closely with the Council to try to control this problem in the Valley Park. Discussions are taking place with him on the options for dealing with the current situation, and officers will update the committee at the meeting.

- 3.3 In theory the problem could be solved by an active police presence, but it is likely that this will only displace it, leaving the land vulnerable again in the future. The most fruitful course of action would appear to be closer working with the landowners, or their representatives, and with the police, to make the land less accessible. Coordinating this with an active police presence would be even more effective. This would also have the effect of displacing the problem, but the likelihood of it returning would be reduced.

#### **4. PROPOSAL**

- 4.1 Officers should liaise further with the stakeholders, and in particular the landowners (including those in neighbouring areas who may suffer from any displacement of the activity), and then draw up a package of measures that could be put in place to try to reduce the problem. These should include, where practicable, barriers, signs, an easy reporting structure, and if possible an agreement with the police for targeted action.

- 4.2 Across the city officers should continue to monitor each situation/location.

#### **5. RECOMMENDED that:**

- 1) Officers work with stakeholders and promote their involvement with implementing a package of measures to try to reduce the problem on land on the northern edge of the City.
- 2) The Council write to the Police Commander to seek his assistance in targeting this problem in a positive and sustainable way.

#### **HEAD OF LEISURE AND MUSEUMS**

Originator: Martin Davies

S:PA/LP/ Committee/207SCC6  
14.2.07

COMMUNITY & ENVIRONMENT DIRECTORATE

#### **Local Government (Access to Information) Act 1985 (as amended)**

#### **Background papers used in compiling this report:**

None

## MECHANISMS FOR CONTROLLING UNAUTHORISED MOTORBIKE USE

	Advantages	Disadvantages	Comments
<b>1. Direct management of land by the Council - ownership or lease</b>	<b>Boundaries</b> – these can be managed to make them more secure. Access points can be managed to make it less attractive for motorbikes to gain access and less easy to escape.	<b>Cost</b> - capital/revenue costs of land purchase or rental. Capital costs to make boundaries and access points secure. Revenue costs for land management & staffing.	The Council will probably only ever own or directly manage a small proportion of the urban fringe land. However, where there is a particular ‘hotspot’ it may, as part of a package, be a useful way of dealing with the issue.
	<b>Prosecutions</b> - the Council, as landowner or leaseholder, can take action against UMU (As opposed to having no jurisdiction on privately owned land).	<b>Cost</b> – the Council would pick up the costs of prosecutions.	As a general rule, bona fide use of an area by the general public reduces the incidence of anti-social behaviour. Use of an open space by the general public probably has some influence on reducing the incidence of UMU.
	<b>Encourage good use</b> - the area can be managed to make it make more attractive/ inviting and so encourage bona-fide access.	<b>Cost</b> – the Council would pick up the cost of direct management.	Council ownership/lease of land on the urban fringe formalises bona-fide public access and provides more opportunities for informal recreation and wildlife enhancements.
			One possibility is for ECC to buy/rent some of the privately owned land that is currently being used for UMU. The land could then also be used for informal recreation.  Access points onto public access land should normally be such that they allow a range of users (of different abilities) to gain access to the land. This normally means that motorbikes can also get through the barriers/gates. However, this can still act

			as a deterrent as UMUs cannot easily gain access or egress to/from the land in question – and if police do attend a site incident then it can make it easier to apprehend the UMUs if their ability to exit the land quickly and easily is impaired.
<b>2. Private landowners' management</b>	<b>Opportunity for careful management</b> - landowners can, if they so choose, actively manage their land to try to prevent unauthorised uses taking place.	<b>Potential neglect</b> - land on the urban fringe is often difficult to farm and so it is often effectively 'abandoned' with little effort to control access.	Farming on the urban fringe can be difficult due to fragmentation of land holdings and persistent trespass & vandalism. Some owners no doubt hold onto land hoping to sell it for development. This can make it more difficult to work with landowners as they can be reluctant to take actions that may effect the chances of them obtaining planning permission in the future.
	<b>Duties</b> - landowners have a duty to prevent anti-social activities taking place on their land. For example, under s.79 of the Environmental Protection Act 1990 noise emitted from premises, so as to be a nuisance, constitutes a statutory nuisance in respect of which the Council could take enforcement action, including service of an abatement notice.		There may be scope for landowners & local authorities to work in partnership to control anti-social activities taking place on land e.g. provide assistance and advice on management of boundaries/access points.
<b>3. Police and the law</b>	<b>Police have powers</b> – police can attend incidents and have legislation that they can draw upon to seize motorbikes and prosecute offenders.	<b>Evidence is required and the landowner's support is needed</b> - the police have to actually catch UMUs in the act, or obtain suitable evidence to take action.	The Council needs to discuss with the police what level of priority should be given to try to address this issue.  This could be taken up through the Community Safety Partnership, but deciding levels of priority is always a question of making best use of the resources available.

		<p>Where the activity takes place on private land the landowner needs to agree to enforcement on his/her land since no offence will have been committed (under s.34 of the Road Traffic Act 1998) if the motorcyclist has the owner's permission to be there.</p>	<p>It is likely that this issue would be tasked to a Neighbourhood Beat Manager (NBM), although NBMs generally are not the officers who respond to emergency calls, their role being to look for longer-term solutions to problems.</p>
	<p><b>Prosecution</b> - S34 of the Road Traffic Act 1988 provides a general prohibition of driving motor vehicles, other than on roads, without lawful authority. (Subject to exemption for private landowners referred to above)</p>	<p><b>Police resources / priorities</b> - police are normally very slow to attend a reported incident (up to 2 hrs waiting for police) or, quite often, they do not attend at all.</p>	<p>The police would normally be willing to prosecute where offences have been committed – assuming that offenders can be reliably identified.</p>
	<p><b>Confiscation</b> - S59 of the Police Reform Act 2002 provides the Police with powers to confiscate vehicles where they have reasonable grounds for suspecting that a vehicle is being driven in contravention of s.34 of the Road Traffic Act 1988 (see above) and that this is causing, or likely to cause, annoyance to members of the public.</p>		<p>In the past the police in Exeter have deployed officers on motorbikes to catch UMUs. This was <u>very</u> effective. After the police caught some UMUs in Mincinglake Valley Park the incidence of UMU in the area dropped to zero for some considerable time.</p> <p>However, the police do not have an off-road capability with motorcycles. This problem with motorbikes has evidenced itself elsewhere and tackling it has been difficult. The police, looking into their capabilities, undertook some research. Ultimately, these activities are a public nuisance and the cost of equipping the force with machines and training riders etc were considered, along with the implications of an off road pursuit. All this raised concerns in terms of proportionality and justification - especially if a UMU was injured or killed while</p>

			the police were trying to intercept them. The police view is that the best method of dealing with the issue is through community intelligence, ascertaining how/where they get onto the land, working with the landowners and finding out whom the culprits may be. Officers can then either pay visits to the alleged offenders' homes, or when the bikes are active –they may deploy officers to the known entry/exit points for the land.
	<p><b>Insurance</b> - S143 of the Road Traffic Act and CMVehicle Insurance Regulations prohibit use of vehicles without insurance on roads &amp; other public places. [Need to do a bit more research on this – there is some confusion about what legislation is being referred to here – MARTIN]</p>		<p>If the motorbikes are being used off-road, but are actually road-legal, they will have registration numbers and may well come out onto the public roads after they have been off-roading. If caught they can be warned or even the bikes immediately seized under S59/60 PRA 2002. However some UMUs cover up their registration numbers.</p> <p>If the motorbikes are not road-legal, and are purely off-road machines, then culprits are often likely to live very close by or will have vehicles (vans or trailers) in which they bring the bikes to the locations. It should be noted that if motorbikes are used only on the land then the riders will not need insurance, MoT or driving licence.</p>
<b>4. Environmental Health legislation &amp; other areas of influence</b>	Local authorities have nuisance powers under the Environmental Protection Act 1990. This may be difficult to enforce if the landowner has taken reasonable steps to prevent access to their land.		Local authorities can take legal action against landowners who give permission for (or fail to control) this activity on their land. However, this would probably be limited to enforcement action for statutory nuisance (under s.79 of the Environment Protection Act) as outlined above.
<b>5. Council staff – attending</b>	<b>Direct authority</b> - staff are able to approach UMUs on land	<b>Limited authority</b> - UMUs can ignore any instructions	There are staff safety issues. UMU can take place in relatively isolated locations and may involve groups of people.

<p><b>incidents on Council owned or controlled land.</b></p>	<p>under the Council’s control, and instruct them to leave.</p>	<p>from Council staff, in which case police assistance will be required. UMUs can easily evade people who wish to stop them.</p>	<p>Community patrollers have been involved in obtaining details of vehicles used to transport motorbikes to land. They sometimes approach motorcyclists and speak to them.</p>
<p><b>6. Public Support</b></p>	<p><b>Reporting</b> – the public, including neighbours, can report UMU to the police.</p>	<p>Limited police response – to date, the police have normally been very slow to attend reported incidents.</p>	<p>Members of the public often say that, after some time, they stop reporting the matter to the police because, in their view, the police rarely respond to reported incidents. Police prioritise their responses – even to 999 calls. UMU incidents will normally not attract a high priority, and then there is a view that it is a further waste of resource to attend after the event, if the offenders have already gone.</p>
	<p><b>Informing</b> - notices placed on-site (by the Council) can encourage the general public and neighbours to anonymously report motorbike users (to the police) if they recognise them and know where they live. The police support this approach. It can be quite successful in reducing or curtailing UMU in the short term but needs sustained effort by neighbours and site users.</p>		<p>A process can be followed whereby a formal warning letter can be sent to alleged offenders, so that, should a person from that address be caught, a prosecution could follow immediately with no further warnings. This may act as a deterrent and the Council or police could do this under the Anti-social Behaviour escalation process, but further escalation through the system to Anti Social Behaviour Order would then depend on the offender(s) being caught again. [Have not received any comment from Legal on this particular issue – I’ll ask for some input to be provided in time for the steering group meeting next week – MARTIN] Also, the police could be asked to visit alleged offenders. Landowners could also receive copies of any injunction letter.  The Council does not encourage members of the public to try to deal directly with UMUs. However, some people do engage them directly</p>