

Gypsy & Traveller Site - Billington Consultation

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This report relates to a decision that is Key

Purpose of this report

The report sets out the results from the formal consultation on a proposal to make changes to Greenacres and The Stables Gypsy and Traveller site in Billington. The report is seeking approval for the Council to proceed with the recommendations in the report.

RECOMMENDATIONS

The Executive is asked to:

- 1. take into consideration the Consultation results;**
- 2. in light of the consultation responses, authorise the Director of Community Services to continue to co-ordinate robust action under planning, licencing, environmental health, community safety, housing and other relevant powers to bring the site up to the following standards:**
 - Compliant with planning and licencing regulations**
 - Safe and well maintained**
 - Well managed and accessible to the authorities**
- 3. agree, in the event that recommendation 2 (above) does not bring the site up to standard, Officers will bring a recommendation to Executive, to acquire Greenacres and The Stables as a single site using a CPO if required; and**
- 4. agree to the estimated costs of £9m, for the Councils original proposal to acquire the site and build a new Council owned and managed site, being accounted for in the Councils Medium Term Financial Plan.**

Background

1. Greenacres and The Stables is a privately owned Gypsy and Traveller site located in Billington, Leighton Buzzard. There are a number of issues with the site that need to be addressed including:
 - breaches of planning permissions
 - absence of licensing
 - unsafe infrastructure (sewage, clean water and electricity)
 - anti social behaviour and crime including previous reports of modern day slavery.
2. Identifying a resolution to the issues at Greenacres and The Stables is not just a matter for the Council to address. Any resolution needs a collaboration of key partners working together to be successful.
3. Council officers met with Chief Officers, or their delegates, from Bedfordshire and Thames Valley Police Forces, Office of the Police Crime Commissioner and Bedfordshire Fire and Rescue Service to discuss Greenacres and The Stables and talked about potential resolutions. All agencies confirmed their strategic support to work with the Council in developing a long term solution to address the issues at the site.
4. A report was received at the Executive in August explaining the issues in more detail and setting out proposals to resolve the issues.
5. Approval was given to begin a 12 week consultation on the following proposals that were being considered:
 - **Develop a new Council owned and managed Gypsy and Traveller site:**

This option involves the Council acquiring the site either by negotiation or Compulsory Purchase Order. The Council would also acquire land in the area, as close to the current site as possible, to develop a new Council owned and managed Gypsy and Traveller site. Once completed the existing site would be dismantled and a change of use applied for.
 - **Discontinuance and injunction:**

This option involves the Council removing the existing planning permissions and replacing them with new planning permissions and conditions.

Injunctions would then be used to remove any occupants on site that are not legally entitled to be there. The Councils existing planning enforcement approach would then be used for any further breaches of conditions.

Consultation approach

6. A 12 week consultation was launched on 22 August and closed on 14 November 2017.
7. Consultation has taken the form of a consultation document (Appendix A) and questionnaire (Appendix B) however people were also able to give their feedback through a dedicated email and telephone number. Meetings were also held with residents from the site and with other representatives.
8. The consultation was promoted to residents on the site, the local community and the wider stakeholders and residents of Central Bedfordshire through letters, visits, traditional and social media.
9. Questionnaires and consultation documents were sent by post to all of the residents on the site.
10. The Bedfordshire Clinical Commissioning Group Gypsy and Travellers Health Inequalities Report identified that G&T residents may have lower literacy levels than the general population. Therefore, to ensure that all residents had an opportunity to take part in the consultation, a team of eight officers visited the site to hand deliver the questionnaires and consultation documents to each accessible plot. Officers engaged with residents and assisted with the completion of questionnaires on the day and answered questions from residents on site at the time.

Consultation feedback

11. A total of 382 responses were received through the questionnaire. Most of these responses (80%) were from local residents although some (5%) were from residents on the site.
12. There was a clear majority in favour of the option to acquire the site and develop a new Council owned and managed site although the residents on the site did not support this option.
13. 54% of respondents supported the option to develop a new Council owned and managed Gypsy and Traveller site however 42% did not with 4% neither agreeing nor disagreeing. The comments made about this option showed there was significant concern about anti social behaviour and crime and they wanted to see it addressed (18% made a comment about this) however, the most common comment was concern about the cost of this option (24% made this comment).

14. 51% supported the Council's view that the discontinuance and injunction option was not a suitable solution, and 37% disagreed. 12% neither agreed nor disagreed. The comments made about this option were more varied but the most common comments were calling for more enforcement (12%) and that planning permissions should apply to all (8%).
15. The full analysis of the questionnaire feedback is provided in Appendix C.
16. Feedback from the telephone conversations and the meeting with residents from the site was positive and constructive.
17. In total 16 residents contacted the Council on the dedicated consultation phone line, some making repeat contact to follow up on issues raised. The majority of callers (11) identified themselves as land owners on The Stables and Greenacres, 2 callers were their nominated representatives and 2 callers were non-gypsy and traveller residents living on site. 1 caller was a resident of Billington.
18. The majority of people who contacted the phone line confirmed that they were not in favour of the Council's preferred option. The main issues related to land ownership, planning permissions, utility connections and homelessness. Residents who were concerned about their own housing arrangements were signposted to the Council's Housing Options service.
19. Some residents from the site have articulated very clearly that they would not move onto a new Council owned Gypsy and Traveller site.
20. On 9 October, a meeting was held with six site residents. During the meeting officers sought clarification as to whether the residents were able to talk on behalf of all residents on the site. The residents confirmed that this was the case
21. Residents explained that they did not support the option to develop a new Council managed site as they felt settled and did not want to sell their land and lose their homes.
22. The Council has established a productive and open dialogue with these key site residents. There is agreement on the need for change and residents were keen to work with the Council on resolving issues on the site and maintaining longer term improvements and made several suggestions.

Consultation findings

23. The Council set out the need for change in its previous report to the Executive. This rationale has not changed.

24. The feedback from those residents living on the site does not support the action proposed by the Council however the consultation results show that a clear majority of people support the Council developing a new site albeit there are concerns about the cost of doing so.
25. That said the consultation has opened dialogue with site residents which has given the Council the opportunity to work with them to address key issues on the site. Site residents are telling us that they will work with us now and in the future to achieve this.
26. If the Council and partners can work with residents this would be the most cost effective approach and possibly be more effective at resolving the issues in the longer term as the residents will be making changes themselves rather than having them imposed on them.
27. However, the Council has also been clear that the issues identified on this site must improve. Although there may be an alternative option to consider the Council's position on the need for improvement has not changed and the acquisition of the site continues to be a viable long term option to address the issues on this site.

Recommendations

28. The Council should take into consideration the Consultation results, noting the views of both the site residents and residents living in the wider community.
29. Taking into account the Council's statutory duties, consultation feedback and a firm offer from a representative group of site residents that they are willing to work with the Council to resolve the issues. It is recommended that the Director of Community Services co-ordinates robust action under planning, licencing, environmental health, community safety, housing and other relevant powers to bring the site up to the following standards:
 - Compliant with planning and licencing regulations
 - Safe and well maintained
 - Well managed and accessible to the authorities
30. Improvements on the site must be made and they must be sustainable in the longer term. Using the available legislation to resolve the issues identified will prove challenging but it is essential that significant improvements are seen in the coming months. The level of improvement needed and timescales would be agreed by a Council Project Board involving key stakeholders.
31. If sufficient improvement is not made on the site the Council should then proceed with the original proposal to acquire the site. The planning and initial work for this possibility should begin in parallel with the recommendation in paragraph 30.

32. As part of the planning for the original proposal to acquire the site the Council should now account for the estimated cost of £9m in the Councils Medium Term Financial Plan.

Reason/s for decision

33. The rationale for the recommended approach is:
- The consultation results show a clear majority of support for the option to build a new site.
 - There is significant public concern about the cost of this option.
 - The consultation has opened up constructive dialogue with site residents.
 - Site residents acknowledge changes need to be made and confirmed their support to work with the Council which should be explored further.
 - The Council will progress acquisition of the site if the use of existing legislation and powers does not bring sufficient and sustainable change to the site.

Next steps and timescales

34. Subject to agreement the Council will establish a formal Project Board to progress work to:
- a. ensure that all legal options are pursued to make the Greenacres and The Stables site:
 - compliant with planning and licensing regulations
 - safe and well maintained
 - well managed and accessible to the authorities
 - b. define in detail the site standards to be achieved
 - c. agree how the Council will work with site residents to achieve the standards
 - d. agree how progress will be measured
 - e. set review meetings and conduct site visits
 - f. Agree the timescales for reporting back to Executive with recommendations based on the outcome of the work.
35. Begin a parallel planning process to plan and undertake initial work for acquisition of the site should it become necessary.

Corporate Implications

Community Safety

36. The Council has a statutory duty under the Crime and Disorder Act 1998 to do all that it reasonably can to reduce crime and disorder in its area. Evidence provided by both Bedfordshire and Thames Valley police forces show that a significant number of crimes are directly linked to the Greenacres and The Stables Traveller site.
37. The Council receives regular reports of fly tipping on to adjacent land and surrounding area from the site and also ongoing anti social behaviour from young people linked to the site. There have been three well documented Modern Slavery Operations on the site since 2011. Thames Valley and Bedfordshire police forces are able to link a significant number of crimes to the site. The proposed action would support changes that lead to improvements and monitoring of the site where criminality and disorder can be managed robustly.

Procurement

38. The Council will follow the Councils procurement procedures for any procurement related to the proposal.

Risk

39. There are financial risks in the recommendations. The Council can apply for funding from the Homes and Communities Agency for the new site option however this is not guaranteed. The funding for addressing these issues is not in the Councils current Capital Programme and approval will need to be given by Council to add project costs into the Councils capital programme once known.
40. The Council has been working with partners to try to find a resolution to the issues on the site for a number of years. During this time the Council has been seen as failing to act and failing to resolve the issues on this site. The Council does not have sole responsibility for finding a solution to the issues and concerns outlined in the report but continuing our current approach poses a reputational risk to the Council.
41. The report identifies health and safety risks and concerns for people living on the site because of the lack of infrastructure, absence of planning permissions and licensing and density of caravans in some areas on the site. The recommendations seek to reduce these risks in the longer term.

Legal Implications

42. The Council has a wide range of legal powers available to it with which it can attempt to tackle the issues referred in this and the previous report to the Executive. These include planning enforcement powers, powers relating to the management of caravan sites, environmental powers and community safety legislation.
43. However, this is a complex site in multiple ownerships. Therefore the numerous issues on this site would take a considerable amount of time and resources to tackle effectively. Positive progress can only be obtained if residents are responsive and co-operative. The alternatives involve action to address the problems at the site comprehensively and by dealing with it as a single unit.
44. A discontinuance notice under section 102 of the Town & Country Planning Act 1990 would mean, in effect, the removal of the planning permission for the site as a whole. Such a proposal would need to be authorised by the Secretary of State and, if upheld would give rise to a right to compensation, payable by the Council for all those who legitimately occupy the site, under the existing permission.
45. The ultimate option is for the Council to acquire the land either by agreement, or more likely by way of compulsory purchase, most likely under the 1990 Act.
46. Decisions of public bodies to force owners to sell their land under Compulsory Purchase Orders (CPOs) in order to enable a new development can be contentious. The Human Rights Act 1998, Convention rights Article 1 of the First Protocol provides that no natural or legal person "shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law". Individuals also have a right under Article 8 to respect for their private and family life and their homes.
47. A compulsory purchase order must demonstrate that there are rational grounds to conclude that a substantial public interest exists which outweigh the landowner's rights. A fair balance must be struck between the public interest, and an individual's right to the peaceful enjoyment of his possessions. Any interference with that right must be necessary and proportionate. A Compulsory Purchase Order should not be made unless there is 'a compelling case in the public interest'.
48. Consideration should be given to:
 - The problems with the estate that necessitate its redevelopment
 - What other options have been considered and discounted
 - Ensuring full consultation has taken place with owners and occupiers
 - Details of the new housing that will be built and the form of tenure

- Details of the funding for the project
 - Details of the planning permission for the new development.
 - The benefits of the new development
 - How existing Council or housing association tenants will be dealt with, what assistance will be given to private tenants to find new accommodation, and what assistance will be provided to owner occupiers to find new homes.
49. The courts have not suggested that the option followed must be the 'least intrusive' of those available, but the question of whether a less intrusive option is available will always be relevant to the question of whether the case is in fact 'compelling'.
50. Given the potential impact of implementation of the option to build a new site the Council has completed a formal consultation on this and a less costly option. The consultation complied with public law requirements. Following formal consultation alternative options are being considered.
51. There are additional duties and requirements detailed below in respect of equalities and human rights issues and these will require further consideration once the consultation has concluded. In particular the public sector equality duty in the Equality Act 2010 must be considered before a final decision is taken. This duty requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
52. If after the Council has explored all legal options and the site is still not up to the required standard the Council will seek further authorisation from Executive to acquire Greenacres and The Stables as a single site.
53. If the Council considers that the best solution for dealing with the future planning operation, use of the existing site and provision of a new managed site is to acquire the site via CPO, details of the CPO process its purposes and the interests in the land to be acquired will be reported to Members.
54. A CPO should be served on owners and leasees and occupiers. Reasonable enquiries should be made to establish these. In the event of this information not being available/obtainable individual service may be dispensed with.

Human Rights

55. The rationale for exploring options address the following serious human rights concerns:
- a. **Right to Liberty and Security:** it is absolutely forbidden to subject any person to torture or to any treatment or punishment that is inhuman or degrading.

This includes:

- Torture: deliberate infliction of severe pain / suffering, to punish, intimidate, or obtain information.
 - Inhuman treatment: treatment which causes serious physical and/or mental pain or suffering.
 - Degrading treatment: treatment arousing feelings of fear, anguish and inferiority capable of humiliating and debasing the victim.
- b. Local authorities are required to intervene to stop torture, inhuman or degrading treatment or punishment as soon as they become aware of it, even if a private individual is carrying it out.
- c. Prohibition of Slavery and Forced Labour: everyone has an absolute right not to be held in slavery or servitude or be required to perform forced or compulsory labour. A public authority must intervene to stop slavery, servitude or forced or compulsory labour as soon as aware of it.

56. In addition other aspects of human rights will need to be considered:

- a. Right to Respect for Private and Family Life: the right to enjoy living in their home without public authorities intruding or preventing them from entering it or living in it.

The Right may be restricted, provided such interference has a proper legal basis, is necessary in a democratic society and pursues one of the following recognised legitimate aims such as:

- public safety
- the economic wellbeing of the country
- the prevention of disorder or crime
- the protection of health or morals
- the protection of the rights and freedoms of others.

Interference must be necessary (not just reasonable) and should not do more than is needed to achieve the aim desired. Any action that is taken needs to be proportionate.

- b. Prohibition of Discrimination: the right to protection from discrimination in relation to all the other rights guaranteed under the Convention.

Financial and Risk Implications

57. The estimated cost of the option to build a new site is £9m. The £9m estimated cost covers the cost of acquiring Greenacres and The Stables site and the costs of acquiring and building associated with a new site. Funding for the proposal is not in the Councils current Capital

Programme and it is now recommended that the estimated £9m cost of the original proposal is accounted for in the Council's capital programme.

58. The costs of any alternative proposals are yet to be determined but they must be cost effective in comparison to the estimated £9m for a new site.
59. The development of a Council owned site will provide an income stream from pitch rental. No income stream would be anticipated from any alternative proposals.

Equalities Implications

60. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
61. Gypsies and Irish Travellers are recognised racial groups under the terms of the Equality Act 2010. An initial screening of the proposal highlighted that there are a range of vulnerable residents living on the site who might be likely to benefit from the proposal in terms of having the opportunity to live on a well managed and monitored site that will improve safety and wellbeing. However a risk was also identified that vulnerable people who are not eligible to live on a Gypsy and Traveller site would need to look for alternative accommodation.
62. The consultation has highlighted significant concerns relating to crime and antisocial behaviour which have been raised by residents living nearer to the sites. It is important that these issues are addressed in order to improve community relations.
63. The assessment has identified two vulnerable groups at risk of being adversely affected by the proposal:
 - People living in mobile homes and caravans which are being rented out as affordable housing. The demand for affordable housing is recognised in the Council's Housing Strategy 2016 - 2021
 - Gypsies and Travellers experience housing need as evidenced in the Bedfordshire Gypsy and Traveller Accommodation Assessment 2016. National research also indicates that Gypsies and Travellers experience some of the worst outcomes of any group, across a wide range of social indicators

64. The consultation has provided an opportunity for a meaningful dialogue to commence between the Council and site residents and to identify whether alternative options can be identified. It may be beneficial to explore these opportunities further before deciding to apply for a CPO.
65. A CPO should not be made unless there is a compelling case in the public interest. The question of whether a less intrusive option is available will always be relevant to the question of whether the case is in fact 'compelling'.
66. If the option of CPO is pursued there will be an adverse impact on the above groups and so there would be a need to develop a clear strategy as part of the CPO process for assisting occupiers to move to suitable housing or to alternative sites. The Council's Housing Options service will support any residents who need to find alternative accommodation.

Conclusion

67. A long term resolution is needed to address the issues on and emanating from Greenacres and The Stables Gypsy and Traveller site in Billington. Despite a range of multi agency approaches to resolve the problems no tangible progress has been made and the situation continues to deteriorate.
68. The recommendations in the report ensure the Council has explored all legal options to bring the site up to the required standards working with a representative group of site residents, but retains the option to purchase the site and build a new site if necessary.

Appendices

Appendix A:	Consultation Document
Appendix B:	Consultation Questionnaire
Appendix C:	Consultation Results
Appendix D:	Equality Impact Assessment

Background Papers

None

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