

FOR PUBLICATION

AGENDA ITEM

PROPOSALS FOR THE FUTURE USE OF THE FORMER GARAGE SITE AT HADY LANE (H000)

MEETING: 1. CABINET
2. EXECUTIVE MEMBER FOR HOUSING

DATE: 1. 3rd DECEMBER 2013
2. 25th NOVEMBER 2013

REPORT BY: HOUSING SERVICE MANAGER – BUSINESS
PLANNING AND STRATEGY

WARD: ST LEONARDS

COMMUNITY ASSEMBLY: SOUTH ASSEMBLY

KEY DECISION REFERENCE (IF APPLICABLE): (339)

FOR PUBLICATION:

BACKGROUND PAPERS FOR PUBLIC REPORTS:

TITLE: LOCATION:

1.0 PURPOSE OF REPORT

1.1 For Members to consider and make an in principle decision on the options available for the future use of the former garage site at Hady Lane.

2.0 RECOMMENDATIONS

2.1 That, subject to the land being identified as suitable for the development of a site for residential caravans, it is offered for sale to

a family, who permanently reside in the Borough and who currently occupy adjacent land (Option 1).

- 2.2 That, if the offer of sale is rejected, the Business Planning and Strategy Manager be authorised to develop proposals for the site to be redeveloped as a permanent Gypsy and Traveller Site (Option 2).

3.0 BACKGROUND

- 3.1 The former garage site and adjacent unused parking area at Hady Lane (shown with a red boundary in **Appendix 1**) is subject to a number of proposals for its future use. The garage site is Housing Revenue Account Land and is currently derelict and not in use.
- 3.2 A family, that currently own and are occupying without authorisation the land adjacent to the former garage site (shown with a blue boundary in Appendix 1), have submitted a Planning Application (Application reference CHE/13/00089/FUL) to develop the former garage site into a residential traveller site for their sole use.
- 3.3 This application was submitted in March this year and is currently undetermined.
- 3.4 The family had previously sought Planning Permission (Application reference CH/12/00052/FUL) to develop the blue boundary land they are currently occupying into a two pitch traveller site and associated facilities. This application was refused in May 2012 on the basis of a) inadequate information relating to the ability to demonstrate that the site could be adequately serviced with sewerage and b) the absence of a land contamination assessment to determine the suitability or otherwise of the site.
- 3.5 Subsequently the Council considered further information received from the travellers as part of an enforcement report, when it was resolved:
- That Planning Committee note the continued unauthorised occupation and consequential operational development of Land to the West of the Garage Site, Hady Lane, Chesterfield and that due to the new information received and changed circumstances that enforcement action is warranted as the long term residential occupation of the land is unacceptable.

- That appropriate investigations be made with housing officers into finding an alternative site which the travellers could relocate to and which could provide a temporary or long term solution to address the risks to the safety of the travellers arising from the occupation of the former landfill site.
 - Planning Committee further resolve that if the occupants of the unauthorised development do not engage positively with the Council in the next 6 months to be appropriately relocated then enforcement action including injunctive proceedings, if required, are authorised to remove them from the existing site on Hady Lane.
- 3.6 Investigations into alternative sites have been explored by officers with Derbyshire County Council (DCC), Leisure Services, Housing Services and Kier but unfortunately no sites had been identified and therefore no sites had been put forward.
- 3.7 Planning Officers received written confirmation that the travellers would work with the Council in finding an appropriate relocation site, however the process of considering alternative sites was pre-empted by their planning application for the site currently under consideration. This was submitted within 6 months of the committee resolution referred to above at paragraph 3.4.
- 3.8 The family consider the former garage site suitable, having regard to its proximity to their own land, which they had purchased and that it will allow the children of the family to continue to attend a local school and for the extended family to continue to be registered with a local doctor's and dentist's surgery. The family would like to have a base from which to travel and also have access to health care, (the site is close to the Chesterfield Royal Hospital at Calow).
- 3.9 On the current undetermined application, DCC have commented that the site is bounded to the west by the former landfill site and they have expressed a concern that due to its proximity there is a possibility of gas migrating and entering the proposed accommodation and that permission should be refused.
- 3.10 However, this view is not based on any quantified risk assessment. The applicants were informed of the requirement for a land contamination assessment in a letter dated 14th March 2013, however no study has been submitted and therefore no determination has been made. The Coal Authority has also requested a Coal Mining Risk

assessment to consider the coal mining legacy of the site and this has also not been forthcoming.

- 3.11 It is considered that without a specialist land contamination assessment quantifying the risks to and from the development, a proper and thorough consideration of the planning issues can not be secured. The original application was refused on the basis of a lack of information for the Planning Committee to consider and at present there is potential for this outcome to happen again.
- 3.12 In order to progress the planning application, Development Management sought to commission a desk based study (phase I and II) of the site to quantify risks and consider mitigation. Housing Services have agreed that the consultant appointed can undertake an assessment of the land however the family appealed to the Planning Inspector against non determination of the application and the securing of such an independent study by the Council has therefore not been pursued.
- 3.13 A decision on the Councils intentions for the future use of the site was to be an important consideration for the Inspector since this will determine if the site is available for the development. The planning application was considered by Planning Committee on 28th October 2013 this did not determine the application, just established the Council's case to be put forward at the planning appeal. Following this meeting the family has now withdrawn its appeal and confirmed their intentions to carry out the relevant studies for a resubmission of their application.
- 3.14 It should be noted that the family have not held any discussion with Housing Services about their intentions to secure the former garage site land. It is therefore not clear whether they would be intending to purchase or lease the land from Housing Services.
- 3.15 There are therefore four potential options for the future use of the land that Members are asked to consider.

4.0 OPTION 1: CURRENT PLANNING APPLICATION FOR REDEVELOPMENT AS A GYPSY AND TRAVELLER SITE

- 4.1 The redevelopment of the site into a traveller site would meet a Strategic Housing requirement. The Derbyshire Gypsy and Traveller Needs Assessment carried out in 2008 identified a need for a single

pitch in Chesterfield Borough, however this identified need was not included in the East Midlands Spatial Strategy. The baseline data used for this study is now out of date and in need of review. Derbyshire County Council has commissioned a further Gypsy and Traveller Needs Assessment and the fieldwork for this is currently underway, with an estimated completion date for December 2013. This study will be too late for inclusion in the Council's Sites and Boundaries DPD; however a separate consultation and adoption process will be necessary in respect of traveller / gypsy sites.

- 4.2 A factor that resulted in low Gypsy and Traveller pitch requirement in Chesterfield in the last study was the very low number of illegal encampments within the Borough in the years preceding the study. However evidence collected from the required bi-annual gypsy and traveller caravan count is likely to indicate that there is a need for a site/s in Chesterfield, as each year since the study there have been unauthorised encampments in the Borough.
- 4.3 If the option to allow the redevelopment of the former garage site into a traveller site is taken then the land could either be sold or leased to the applicants. Kier Asset Management have carried out a valuation of the land for this purpose and advise that the sale of the land would generate a capital receipt of £10,000 to the Housing Revenue Account.
- 4.4 Alternatively, the option to lease the land to the applicants, for the development of a traveller site the value of the lease would generate an income of £500 per pitch per annum to the Housing Revenue Account.

4.5 **Option 1 Summary:**

To agree to the sale / or lease of the former garage site at Hady Lane at a full market value, with suitable terms for the future use of the site subject to satisfactory planning approval to the family who have submitted a planning application for its redevelopment.

5.0 **OPTION 2: HOUSING SERVICES DEVELOPS THE SITE FOR GYPSY AND TRAVELLER PROVISION**

- 5.1 Proposals for Housing Services to redevelop the site as a Gypsy and Traveller site could be considered. The same issues identified with the current Planning application would apply, however there are other benefit and considerations that need to be taken into account.

- 5.2 By retaining and developing the land, Housing Services would retain control of the land and be able to ensure satisfactory management of the site through tenancy agreements. An initial estimate suggests that the size and layout of the site would be sufficient to support two pitches. Redevelopment of the site into two pitches would enable the Council to meet the Housing Need of the family in Option 1 and part meet need expected to be identified in the Gypsy and Traveller Needs Assessment that is currently being completed. Whilst Government guidance does not specify dimensions for a gypsy or traveller pitch, as a general guide an average family pitch must be capable of accommodating an amenity building, a large trailer and touring caravan, drying space for clothes, a lockable shed for bicycles, wheelchair storage, parking space for two vehicles and a small garden area. Smaller pitches must be able to accommodate at least an amenity building, a large trailer, drying space for clothes and parking for at least one vehicle. Individual parking spaces should be a minimum of 2.4 × 4.8 metres. Where space permits the inclusion of a garden or play space on each pitch is recommended.
- 5.3 At the current time there is currently up to £90,000 per pitch available from the Homes and Communities Agency (HCA) for the development of Gypsy and Traveller sites. The £90,000 cannot cover the whole scheme costs and Housing Services (General Fund) would have to contribute additional resources (including the land value) into the site.
- 5.4 If the option to access HCA funding was taken then the scheme would have to be delivered by March 2015. Therefore Planning permission would likely be required by March/ April 2014 at the latest.
- 5.5 The HCA money for Gypsy and Traveller sites is only available up to 2015 and there are no plans for further Gypsy and Traveller Site funding to be included in the proposals for the next HCA Bid round from April 2015 onwards. If a bid is not made by early 2014 it is unlikely the option of external funding from the HCA will be available in the future.
- 5.6 If this option was taken, consideration would need to be given to the management. The Housing Service does not have any experience of the management of a gypsy and traveller site, however management options could include the Derbyshire Gypsy and Traveller Liaison Group, who manage a number of sites across Derbyshire or a Housing Association with an attached specialist supported housing provider.
- 5.7 Further consideration of how the site would be developed would also need to be considered. The designing and development of the site

could be contracted through a 'design and build' agreement with a Housing Association if there are insufficient resources and expertise within the Council.

5.8 Option 2 Summary:

For Housing Services to redevelop the site into two gypsy and traveller pitches through accessing HCA funding.

6.0 OPTION 3: REDEVELOPMENT AS A RECREATIONAL AREA

6.1 In addition to the proposals submitted by the family, or potential proposals for Housing Services to redevelop the site, local residents have enquired about a Community Group developing the site as a Community Garden or recreational facility.

6.2 Several meetings took place between local residents and Leisure and Housing staff to look at their options and proposals in February / March 2013. The local residents have been advised of the need to constitute themselves as a group before they could access funding opportunities and then submit more detailed proposals; however as at 1st November 2013 no detailed information has been received.

6.3 A representation received by Planning proposing the change to recreational use from two local residents was considered under the traveller site application rather than as a separate application as no details were provided.

6.4 Option 3 Summary:

Await submission of proposals from local residents seeking to utilise for the purpose of a recreational area.

7.0 OPTION 4: REDEVELOPMENT OF SITE AS RESIDENTIAL

7.1 The options to either develop the land ourselves for new affordable provision or sell the land as a residential site have significant limitations, due to the proximity of the landfill site and the comments made by DCC about migrating gases at paragraph 3.6.

7.2 A planning application to develop the site for residential - either private or affordable housing - would in all likelihood be rejected on this basis.

An application for a residential development of the site would have to contend with the same issues as the family application regarding risk, however it also would not meet current planning policy in terms of location (Green Field), unlike a proposal for a traveller site.

7.3 **Option 4 Summary**

Not applicable - the site is not current suitable for residential use.

8.0 **FINANCIAL IMPLICATIONS**

8.1 The sale of the land to the family would raise a capital receipt of £10,000 to the Housing Revenue Account.

8.2 The lease of the land would yield an annual rent to the Housing Revenue Account of £500 per pitch on the site.

8.3 The costs of redeveloping the site for a Gypsy and Traveller site are at present unknown, however a significant proportion of the cost could be covered by a bid to the HCA. The rent charged on the site would be an affordable rent at approximately £500 per pitch per annum. This would be an income to the General Fund.

8.4 The use of the land as a recreational area would not have any capital or revenue implications.

9.0 **LEGAL IMPLICATIONS**

9.1 If the family do not agree to purchase the former Garage Site from the Council or wish to rent a pitch on a developed site. Then enforcement action under the Town and Country Planning Act 1990 would need to be taken to prevent them occupying the land on which they currently reside.

9.2 If they then presented themselves to the Council as homeless under the Housing Act 1985, the Council may have a duty to secure them alternative accommodation. This would not have to be land on which they could reside in their caravans, but the Council's duty could be discharged by offering them 'bricks and mortar'.

9.3 The family may also decide to vacate their land and find an unauthorised site within the Borough. If this is Council land then the

Council may need to take action under the Criminal Justice and Public Order Act 1994 to remove them.

9.4 A suitable sale or lease document would be required for all options.

10.0 PROPERTY ISSUES

10.1 The properties issue are dealt with in Section 3.

11.0 RISK MANAGEMENT

Description of the Risk	Impact	Likelihood	Mitigating Action	Resultant Impact	Resultant Likelihood
<u>Option 1</u> Reputational Risk from Planning Inspectors decision	H	L	Detailed case presented by Chesterfield into reason why no determination and lack of information on the risks associated in developing the site	L	L
Local Opposition to site development	M	H	Close working with local elected members Decision made on basis of adherence to planning policy only	M	M
<u>Option 2</u> Local Opposition to development	M	H	Close working with elected members Decision made on basis of adherence to planning policy only Management and enforcement of tenancy condition where required	M	M

Description of the Risk	Impact	Likelihood	Mitigating Action	Resultant Impact	Resultant Likelihood
Development may not be possible to meet HCA timescales	H	M	Procure delivery of design and build of site by a suitably experienced Housing Association	M	M
<u>Option 3</u> Decision required before detailed proposals are provided No detailed proposals are provided and opportunity for options 1 and 2 is lost	M H	H M	Members could delay decision and request that detailed funded proposals are prepared and submitted by a fixed date Members choose to disregard this option and enabling delivery of either option 1 or 2	M L	M L
<u>Option 4</u> Not applicable as option cannot be pursued	N/A	N/A	N/A	N/A	N/A

12.0 EQUALITIES

12.1 Both options one and two are likely to result in positive impacts for the wider gypsy and traveller community through provision of authorised pitches, which are also anticipated to be required as a result of the forthcoming needs assessment. However, as details including the number of pitches that would be provided on the site are not yet fully known, it is not possible to anticipate the precise impact of either of the options at this stage. Options 3 and 4 do not include sufficient detail at this stage to undertake a full equality impact assessment. Therefore, a full Equality Impact Assessment will be undertaken following the availability of further details and before a final decision is

taken.

13.0 RECOMMENDATIONS

- 13.1 That, subject to the land being identified as suitable for the development of a site for residential caravans, it is offered for sale to a family, who permanently reside in the Borough and who currently occupy adjacent land (Option 1).
- 13.2 That, if the offer of sale is rejected, the Business Planning and Strategy Manager be authorised to develop proposals for the site to be redeveloped as a permanent Gypsy and Traveller Site (Option 2).

14.0 REASONS FOR RECOMMENDATIONS

- 14.1 To enable the Council to satisfactorily meet any site provision requirements identified in the Derbyshire Gypsy and Traveller Needs assessment for Chesterfield

ALISON CRAIG

HOUSING SERVICE MANAGER – BUSINESS PLANNING AND STRATEGY

You can get more information about this report from Alison Craig, Business Planning and Strategy Manager on ext 5156 or James Crouch on ext 5150.

Officer recommendation supported/not supported/modified as below or Executive Member's recommendation/comments if no officer recommendation.



Signed

Executive Member

Date 25.11.13

Consultee Executive Member/Support Member comments (if applicable)/declaration of interests