

Agenda Item No: 7
Report To: Cabinet
Date: 10th March 2016
Report Title: Chilmington Gypsy Site
Report Author: Sharon Williams
Head of Housing
Portfolio Holder: Cllr Clokie, Portfolio Holder for Housing and Home
Ownership



Summary: This report seeks authority to finalise negotiations with Kent County Council (KCC) for the future management and disposal of the freehold of Chilmington Gypsy Site.

The expertise of the specialist Gypsy and Traveller team within KCC would strengthen the management of the site. KCC already own or manage the majority of managed gypsy sites across Kent and have extensive experience and knowledge and are well versed in responding to issues likely to arise on the site.

Key Decision: NO

Affected Wards: Great Chart with Singleton

Recommendations: **The Cabinet be asked to:-**

- (i) Authorise the Head of Housing and the Portfolio Holder for Housing and Home Ownership to negotiate terms for the disposal of Chilmington Gypsy Site for a nominal amount to KCC, such terms to include restrictive covenants, a restriction on title and overage, and that, in the event of future disposal the land will only be used as a gypsy site.**
- (ii) Approve the terms of disposal are to include:**
 - (a) That the site is to be kept as a gypsy site in perpetuity with no less than the same number of pitches currently provided unless agreed otherwise.**
 - (b) That KCC should use its best endeavours to keep the site in a lettable condition and to ensure that all**

plots on the site are let.

(iii) Authorise the Head of Legal and Democratic Services to enter into the necessary documentation to give effect to the decision.

Policy Overview:	The Council as Local Planning Authority is required by planning policies to ensure that there are an appropriate number of pitches available within its Borough for Gypsies and Travellers
Financial Implications:	The Council is required to obtain the best consideration for the transfer of ownership of land, however in this instance it is suggested that the land be transferred at a nominal value of £1 in view of the onerous conditions being placed upon KCC which will effectively restrict use of the site for any other purpose and ultimately would significantly reduce the value of the land.
Risk Assessment	YES – included within the body of the report
Community Impact Assessment	To be undertaken in conjunction with KCC prior to disposal.
Other Material Implications:	
Exemption Clauses:	
Background Papers:	None
Contacts:	Sharon.williams@ashford.gov.uk – Tel: (01233) 330803 Sharon Williams, Head of Housing

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Purpose of the Report

1. To seek authority to finalise negotiations with Kent County Council (KCC) for the management and disposal of Chilmington Gypsy Site, shown on the attached plan at Appendix 1, for a nominal sum.

Issue to be Decided

2. Whether to authorise the Head of Housing and the Portfolio Holder for Housing and Home Ownership to negotiate the final arrangements for the future management and disposal of the Chilmington Gypsy Site to KCC for a nominal amount.
3. To agree the terms of disposal to include the following points:
 - i. the site be retained as a gypsy site in perpetuity with no less than the same number of pitches as currently provided unless otherwise agreed with this Authority.
 - ii. KCC be required to use their best endeavours to keep the site in a lettable condition and to ensure that all plots on the site are let.
 - iii. if the land forming the site is sold by KCC for more than they pay for it, the difference between the price they acquire it for and the sale price be paid to the Council
4. If the above is agreed to authorise the Head of Legal and Democratic Services to enter into the necessary documentation.

Background

5. In the past Chilmington Gypsy Site has presented the Council with some significant challenges both operationally and financially. The site comprises 16 plots situated on an old land fill site. It is managed by one part-time officer, who has to call on other colleagues to visit the site with her to ensure her health and safety. This can present difficulties at times with the resilience of the management service that can be provided.
6. The site has had a chequered history of vacant plots, theft of electricity supplies, problems with managing rubbish and fires, etc. A couple of years ago, despite significant capital investment, the site was in a very poor condition with only a few plots let and significant bills in relation to high electricity and water consumption. Officers approached KCC to manage the site on our behalf but this did not proceed at the time due to the high costs on site and the level of investment required to gain control of the site
7. A significant effort has been made to improve the management and financial viability of the site and currently the income levels show that the site can pay for itself. However we have little resilience in terms of management of the site and we do not have the same levels of expertise as KCC who have a specialist Gypsy and Traveller Unit and manage most of the sites across

Kent. There is concern over staff safety with local staff managing this site and being vulnerable to repercussions for actions taken on the site.

The Proposal

8. Following the intensive efforts to make improvements on the site it is essential that the site is closely managed to maintain improved income levels and minimise the potential for anti social behaviour. Whilst this was achieved with an intense effort from officers from the Housing Options Team assisting the part time officer responsible for managing the site, this level of input cannot be sustained in the longer term due to the pressures on the wider team.
9. Since the Council has very little resilience in providing an intensive management of the site with only one part time officer, negotiations were reopened with KCC last year about the potential for them to take the site over. KCC have initially assessed the situation and are impressed at how the site has been turned around and how we have managed to improve income levels.
10. KCC have indicated that they would be interested in taking over ownership of the site and are preparing a business case to obtain approval to proceed. Their motivation for wanting to take over ownership is that they will be able to achieve economies of scale in that the more sites that they have the more robust and resilient their management arrangements become.
11. It is therefore proposed that the Council proceeds with negotiating the disposal of the Gypsy Site to KCC. Disposal is favoured since this will limit the Council's liabilities in the longer term in relation to the site. A management agreement is weaker and this would allow KCC to pull out of management arrangements or to transfer costs onto the Council in the future.
12. It is important to note that this proposal only relates to the Gypsy site in the Council's ownership which is shown on the attached plan at Appendix 1. There is an adjacent privately owned Gypsy site, which is outside the Council's control and therefore will not be included within this proposal.

Risk Assessment

13. As the Council would have less direct control over the site, there are some perceived risks associated with the disposal of the site as follows:
 - i. KCC may choose to sell the site in the future
 - ii. KCC could potentially seek to change the use of the site
 - iii. KCC may potentially not keep the site fully let
 - iv. KCC could potentially not manage the site very well
14. Each of the above risks can be mitigated against by ensuring that these areas are included within a legal agreement setting out the terms of the disposal.

15. In addition, the KCC Gypsy and Traveller Unit are seen as experts in the field and are extremely knowledgeable about Gypsy culture. They have tried and tested methods for managing most situations which could arise on a site since they either manage or own the majority of managed sites in Kent and have a good relationship with the local authorities they work with.
16. KCC have confirmed that they would not have any objections to the inclusion of the recommended clauses within a legal agreement.
17. The table below shows the sites currently either owned or managed by KCC

Sites	District	Pitches
Aylesham	Dover	14
Barnfield	Sevenoaks	35
Coldharbour	Tonbridge & Malling	26
Greenbridge	Canterbury	18
Heartenoak	Tunbridge Wells	3
Polhill	Sevenoaks	7
Three Lakes	Swale	14
Windmill Lane	Tonbridge & Malling	14
Starbridge	Maidstone	18
Water Lane	Maidstone	14

18. KCC have a very close working arrangement with the Police in this field and have a very strong knowledge base about the gypsy families in Kent. This will enable them to make sound management decisions on the site. The Gypsy and Traveller Unit within KCC have a very strong awareness of risk and a proven track record for managing this well.

Community Impact Assessment

19. It is intended that as part of the disposal negotiations a Community Impact Assessment is undertaken.

Other Options Considered

20. The most practical and robust situation for the future management of the Gypsy site is to work closely with KCC. KCC's preference is that they take over ownership of the site rather than a management agreement. It is recommended that whilst a management agreement is an option, this would mean that Ashford would have an ongoing financial liability for the site and face the risk that KCC could terminate the agreement and return the management responsibility to the Council at any time.

Consultation

21. There is no formal requirement for consultation, however if the recommendations set out in the report are agreed, then a consultation exercise will be undertaken with the residents on the site.

Implications Assessment

22. The Council is statutorily required to dispose of land at the best consideration reasonably obtainable. Best consideration is not always the highest price as regard can be had to ethical as well as commercial considerations although these must be in balance. The terms on which the land is disposed are material to the assessment of the consideration. Market value has been assessed by a professionally qualified valuer but it is proposed that KCC take on not only the site but the management and running of it. If the proposal contained in this report is approved, there will also be restrictions and conditions placed on the disposal.
23. The General Disposal Consent 2003 provided that express Secretary of State consent is not needed to a disposal of land at less than the best consideration where the difference between the unrestricted value of the land and the consideration accepted is £2m or less (which it definitely is in this case) and the purpose for which the land is to be disposed of is likely to contribute towards the achievement of the promotion or improvement of economic, social or environmental well-being.
24. This proposal also protects the Council's financial interests in the longer term as, although the costs to the general fund have been significantly reduced in the past year, there are risks that this will be difficult to maintain within the resource that the Council has and therefore this site could easily fall back to creating costs with damage, anti-social behaviour and lost rental income as a result.
25. There is one member of staff who carries out duties in relation to Chilmington site management, this is just one part of her role so it is not considered that TUPE would apply. The time that these changes free up will be filled with duties similar to those she is already performing in the rest of her role and will help provide additional, much needed, capacity.
26. Chilmington Gypsy Site borders another piece of land which is a privately owned Gypsy Site, over which we have very limited control. The disposal is only for the Council owned site and therefore KCC would also have limited control over the private site. It may be argued that there is very little value in a site of this nature as it is unlikely that the site could be used for any other purpose and although the disposal is suggested to take place for a nominal value such as £1, this reflects the fact that it is in the Council's interests for this disposal to take place and the onerous conditions that will be placed on KCC regarding future use.

Handling

27. If members agree the recommendations for disposal Officers will finalise the negotiations with KCC picking up the areas identified in the risk assessment to include these within a legal agreement.
28. A discussion has taken place with the ward member and It will be important to provide reassurance to the local community, including the Parish Council, about ensuring a continued focus to improve the management of this site using the expertise and vast experience of the KCC specialist Gypsy and Traveller Unit.

Conclusion

29. The proposed disposal of Chilmington Gypsy Site will enable a more effective management of the site by a KCC team recognised as experts in the field. This will provide more resilience for management of the site than the arrangements currently in place.
30. Although there are some perceived risks, these can be minimised and managed via the legal agreement in relation to the disposal.
31. It is in the Council's interests to dispose of this site and allow those with the relevant expertise and staffing at KCC to manage it.

Portfolio Holder's Views

32. I fully support this proposal to transfer ownership of the Chilmington Gypsy Site to KCC with the relevant legal clauses as set out in the report. KCC manage the majority of Gypsy sites across Kent and have a vast amount of experience in this regard. I believe that this will provide a stronger management focus on the site and this will ultimately benefit the local community.

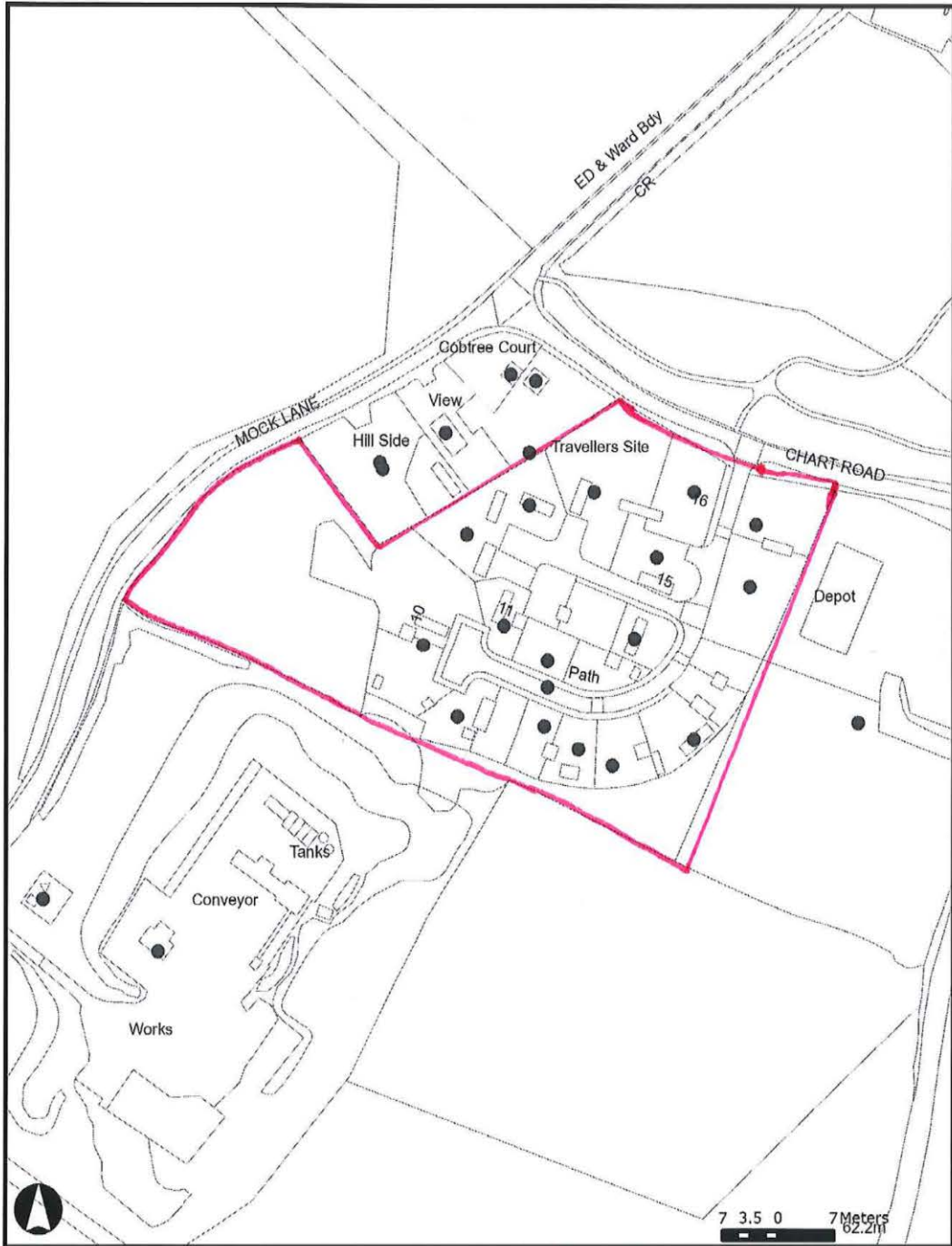
Contact: Sharon Williams, Head of Housing.

Tel: 01233 330803

Email: sharon.williams@ashford.gov.uk



Chilmington Gypsy Site



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