

Report to the Cabinet

Meeting to be held on Thursday, 5 September 2019

Report of the Director of Growth, Environment and Planning

Part I

Electoral Divisions affected:
Great Harwood, Rishton &
Clayton-le-Moors; Heysham;
Preston Central West;

The Outcomes of the Consultation on County Council Owned Traveller Sites (Appendices 'A' and 'B' refer)

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Executive Summary

The County Council own three Traveller sites, in Lancaster, Hyndburn and Preston. The City/Borough Councils undertake the day to day management of the sites on our behalf.

At the meeting of Full Council on 14 February 2019, it was proposed to declare the sites surplus to the County Council's needs, generating a saving of £131,000 relating to the maintenance and running costs, subject to the outcome of a full consultation on the proposal.

This report outlines the results of the public consultation, and the equality analysis, ensuring cabinet is provided with appropriate information when considering the options.

This is deemed to be a Key Decision and the provisions of Standing Order C19 have been complied with.

Recommendation

Cabinet is asked to:

- (i) Note the findings from the public consultation set out at Appendix 'A' and the findings and analysis contained in the Equality Impact Assessment set out at Appendix 'B'.
- (ii) Approve that the Traveller sites are declared surplus to the County Council's needs.

Background and Advice

The County Council owns and pays for the running of three Traveller Sites, located in Hyndburn, Lancaster and Preston. In February, Full Council resolved to declare the three sites surplus to LCC requirements, subject to full consultation. It confirmed that if the sites were to be sold then any sales would be subject to a condition that the sites could only be used as Traveller sites.

The revenue budget for Traveller sites totals £131,000 per year and covers running costs and maintenance issues due to deterioration through age, occupation and misuse. The County Council has no statutory responsibility to provide accommodation for Travellers.

There are 19 Pitches at Lancaster, 14 Pitches at Preston and 15 Pitches at Hyndburn. There is also an educational block on the Preston Site.

Public consultation

The County Council has undertaken a comprehensive consultation, to ensure views were sought on the proposals. The sites have been visited on a number of occasions by staff to advise the individual residents on site about the proposal and the consultation process.

The consultation took place from 7 May to 3 of July 2019, a questionnaire was made available on the council website, with paper copies available in local libraries and upon request. Officers attended all three sites to support residents undertake the consultation, where needed. Contact details for Advocacy Access were also given as arrangements had been made for this organisation to provide residents with independent support to take part in the consultation if they preferred.

During the consultation the County Council confirmed that if the sites were to be transferred then any sales would be subject to a condition that the sites could only be used as Traveller sites.

Consultation responses and key themes

The consultation had been designed to capture information from an individual or on behalf of a family. It was anticipated that one questionnaire would be received per pitch, although multiple copies were available, and additional responses were encouraged. Appendix A summarises the consultation response in more detail with 191 completed questionnaires returned.

Residents consider the sites to be their home and have lived there for numerous years, in many cases all their lives. Groups of families live on site, children attend local schools and residents attend local health care facilities, residents feel safe on these established sites. Individuals have raised concerns and suggestions as they feel frightened/upset at what may happen on site if the sites are sold.

The general view from the consultation (particularly from residents) is that Lancashire County Council should retain the sites, and that selling the site could

result in residents losing their homes, families being split up, and that a new landlord could have a negative impact. Those responding raised concerns that they will become homeless, or forced to live on the road. Some residents believe the Council have a duty to provide safe accommodation.

Suggestions on what to do differently included alternative and better management of the sites and to increase rents.

If sold those responding suggested a buyer should have understanding of Gypsy, Roma, Traveller Communities, and should have experience of running a Traveller site.

It is recognised that the sites are homes and some residents have always lived there. There is fear and concern among those responding about the consequences of the sites being sold including concerns that, once sold, residents will be moved on by the potential new owner. The primary concerns are around the use of intimidation, threats, violence and bullying by new potential owners.

Options

If Cabinet decide to retain the sites, whilst some savings may be achievable, the liability for the site would remain with the County Council and a budget would therefore need to be retained. Options could include changes to the management arrangements, but this is unlikely to achieve significant savings, and would need agreement by the City/Borough Councils. The consequence of changes may have a detrimental long term effect as referred to in the Equality Analysis. Another option could be to lease out the sites. However, this would require further input into the leasing arrangements and may bring about the same consequences that sale would. This could also divide the community or be unpopular with some residents. Rental increases have been undertaken each year, however further increases to charges on the site has a limit, which could ultimately make the site unaffordable. Management and rental changes were the main suggestions from the consultation.

If Cabinet decide to sell the sites, full savings would be achieved. However, this has raised serious concerns amongst residents that they may be moved on, or that new residents and the potential new owner, may cause problems on and off the site. Other than a use condition were the sites to be disposed, the council are unable to offer further protection to address the concern that individual tenants could be moved on in the future. However, it will be noted that in the consultation findings one of the current councils managing a site is considering whether to request a transfer to them of the individual site in their area.

If the decision is made to dispose of the sites it should be noted that from the consultation there have been expressions of interest in the site, and these have primarily been from a Traveller background. Residents from all three sites are more fearful of this outcome. However, a decision to sell may generate interest from other parties that may address this concern.

To sell the sites would achieve the full savings, both day to day running costs and in respect of future maintenance liability. However, there will remain an element of

uncertainty in achieving the full savings in 2020/21 as it is dependent on the current interest resulting in completed transfers of all three sites before April 2020.

Cabinet are required to fully consider the consultation responses and equality impact assessment including as set out in more detail in the appendices, when considering the proposal and in particular prior to taking any decision to declare the sites surplus.

Minimising adverse impact

Risk management

The sites are well managed and residents seem happy. Changes to the current arrangement results in a risk that the sites will deteriorate both physically and operationally.

Changes to ownership could lead to future problems for existing residents on the sites and for the local housing authorities. It could lead to unauthorised encampments on highways and other land.

Financial

The agreed saving in relation to Travellers Sites was in total £131,000, to be fully delivered in the 2020/21 financial year.

If this proposal is agreed then the saving will be achieved in line with the profile identified within the service challenge saving template. However, there will remain an element of uncertainty in achieving the full savings in 2020/21 as it is dependent on the current interest resulting in completed transfers of all three sites before April 2020.

Legal

Lancashire County Council are able to provide sites (under s.24 Caravan Sites & Control of Development Act 1960) but no longer have a statutory duty to do so.

The borough councils have responsibilities under housing / planning acts (although not a statutory duty to provide traveller sites). S.124 Housing & Planning Act 2016 requires local housing authorities to consider (in respect of their districts) the needs to people residing in or who wish to reside on sites where caravans can be stationed. Local Planning Authorities need to consider Planning Policy for traveller sites in conjunction with the National Planning Policy Framework and they must assess the need for sites; identify land for sites and increase traveller sites in appropriate locations.

The residents of the sites have licences under the Mobile Homes Act 1983 which contains implied terms and express terms. The implied terms include rent increase protection. This means that any owner would only be able to increase the rent if the occupier were served with a notice of increase in compliance with the Act and the increase must be agreed by the occupier or determined by a tribunal. There is a presumption that an increase cannot be more than the RPI increase. The cost of

certain improvements can be charged if the owner acts in compliance of the Act and again they are agreed by the occupier or determined by a tribunal. A resident cannot be evicted except by a Court Order and the site owner had established one of the grounds being that a Court was satisfied that a resident was in breach of the licence agreement and had failed to remedy that breach in a reasonable time and that it is reasonable for that agreement to be terminated; a resident was not occupying the pitch as his / her only main residence; or the condition of the mobile home was having a detrimental effect on the site. The implied terms of the Mobile Homes Act 1983 would apply to any owner of the site however another owner may change the express terms of the licence and so could become more restrictive than the County Council's licence (as detailed in the consultation). The Mobile Homes Act 1983 ensured that site owners were complying with Article 8 of the European Convention of Human Rights right to respect for private and family life.

A new site owner would need to transfer the existing licence to manage a protected site. They would need to satisfy the Borough Council that they had the ability to comply with conditions of the licence; they had the finance to be able to manage the site and that the person was competent to manage the site. Any sale would need to be conditional upon the new owner being able to transfer the existing licence to themselves.

In respect of the Leighton Street site, there was a grant agreement dated 7 October 2010 made between (1) Homes Community Agency (HCA now Homes England) & (2) Lancashire County Council that the County Council must use the property "for the purpose of sites for and providing services to Gypsies and Travellers and not prior to the effective date (6 October 2020) dispose any part of the Property without the prior written consent of the Agency. The HCA may however release the restriction on the property if the County Council repay some / all of the grant monies at the HCA's discretion. The HCA would need to agree to any disposal for this site before 6 October 2020.

Cabinet are required to fully consider the consultation responses and equality impact assessment when considering the proposal.

The county council can include a condition on any sale of the site in order to protect the Article 8 (ECHR) rights of the existing residents. Unfortunately, the county council cannot provide a guarantee that a new owner will not change the terms of the current licence, which may have an impact on the resident's right to a private and family life.

The Article 8 issues refer to future impacts that are out of the control of the council. Decision makers will be mindful of giving due consideration to all the feedback. This will need to be considered in light of the council's duty to ensure it is able to set a lawful budget that allows it to meet the needs of the community as a whole.

Human Resources

The staffing implications for the County Council are minimal as there are no County Council employees attached to the sites.

Where the City/Borough Councils have employees attached to the sites through their day to day site management arrangements, they may need to consider TUPE if the sites are sold to an external third party, this will be a matter for the City/Borough Council and the external third party to consider.

Equality and Cohesion

An Equality Analysis is set out at Appendix 'B' which provides a more detailed explanation of what the duty requires and which analyses the potential impact of a decision. Either option would have a direct impact on GRT communities, who are included amongst the race/ethnicity/nationality protected characteristic group.

The responses to the consultation demonstrate the concerns of the residents.

Property Asset Management

If the decision is made to proceed with disposal of the sites, they will be declared surplus to operational requirements.

Whilst Lancashire County Council own the sites they will continue to be liable for property-related holding costs.

List of Background Papers

Paper	Date	Contact/Tel
None		
Reason for inclusion in Part II, if appropriate		
N/A		