

COUNCIL
08 JULY 2021

Report of the Director of Housing and the Director of Regulatory Services

GYPSIES AND TRAVELLERS

PURPOSE OF THE REPORT

To update the Committee in respect of a Gypsy and Traveller family who have presented themselves as homeless and in relation to the work that has been undertaken to bring forward a site at Knabhall Lane, Tansley as both a permanent and temporary Traveller site.

RECOMMENDATION

1. The Council notes the progress to date concerning the identified temporary and permanent site at Knabhall Lane, Tansley.
2. That Council approves a capital budget of £25,000 in 2021/22 for costs associated with further assessment of the Knabhall Lane site up to and including the submission of applications for temporary planning permission and permanent planning permission, to be financed from Capital Receipts.
3. That in the interim period prior to the provision of a temporary or permanent site, Council delegates authority to any two of the Chief Executive, Director of Regulatory Services, Director of Housing, Director of Community and Environmental Services, Director of Corporate and Customer Services, to direct the Traveller family to specific Council owned sites, for temporary occupation until such time that a temporary or permanent site is established.
4. That subject to recommendation 3, Council identifies the following sites as temporary tolerated sites:
 - Agricultural Business Centre, Bakewell
 - Old Station Close, Rowsley
 - Matlock Station Car Park
 - Artists Corner Car Park, Matlock Bath
 - Matlock Bath Station Car Park
 - Land at Middleton Road, Wirksworth
 - Fishpond Meadows Overspill Car Park, Ashbourne
5. That authority be delegated to the Neighbourhoods Manager to initiate the installation of height barriers where appropriate, to protect the Council's vulnerable, town centre car parks where this does not undermine the provision of effective car parking provision for all vehicles.
6. That Council approves a capital budget of £10,000 in 2021/22 for costs associated with the installation of security measures, to be financed from Capital Receipts.

WARDS AFFECTED

All Wards outside the Peak District National Park.

STRATEGIC LINK

The District Council's duties under Planning and Housing legislation underpin its corporate objectives in relation to the whole of the District. The delivery of a permanent Traveller site is a specific priority for the Council within its Corporate Plan, under the theme of 'Prosperity: Supporting better homes and jobs for you'.

1. BACKGROUND

- 1.1 'Traveller' is a generic term used to describe groups of people whose lifestyle or culture is rooted in a nomadic way of life.
- 1.2 Gypsies and Travellers are a part of British life and have been so for many centuries. They make up a very small minority of the wider population. Some Gypsies and Travellers live in caravans or other vehicles and follow a lifestyle that is nomadic, or semi-nomadic, in that it involves travel for at least part of the year.
- 1.3 Gypsies of Romany origin (English, Welsh, Scottish and European Travellers) and Irish Travellers live in Derbyshire, or use many parts of Derbyshire as traditional stopping places and have done so for hundreds of years. Other Travellers are also found within the County.
- 1.4 Romany Gypsies are an indigenous ethnic minority group, which is thought to have originated in India. Their language is Romanes. Irish Travellers are an indigenous, nomadic ethnic minority group found in Ireland and Britain. Their language is Cant or Gammon, although they predominantly speak English.
- 1.5 New Travellers are former house-dwellers who now travel. They are not a recognised ethnic group. Many New Travellers have been travelling for a number of years and some have children who have only ever known a travelling lifestyle.
- 1.6 Travelling Show People are people who organise and run fairgrounds. A Show Person will often refer to him/herself as a Traveller. However, the term Show People is used to differentiate people who organise fairgrounds from other travelling communities.
- 1.7 The work of Derbyshire authorities with the various travelling communities is co-ordinated through the long established Derbyshire Travellers Issues Working Group (TIWG). This is an officer group that brings together all of the Derbyshire district and borough councils, Derby City Council, Derbyshire County Council, Derbyshire Constabulary, the health community, the Environment Agency and Derbyshire Gypsy Liaison Group.
- 1.8 TIWG has produced a guidance document that sets out the commitments of the various partner agencies. In relation to the district and borough councils, these relate to statutory functions, such as dealing with planning enquiries, receiving homelessness applications and managing both authorised and unauthorised Traveller encampments.

- 1.9 The document recognises that providing these services often involves making difficult decisions, but commits TIWG members to treating all sections of the community fairly.
- 1.10 The most recent significant work co-ordinated through TIWG has been the Derbyshire and East Staffordshire Gypsy and Traveller Accommodation Assessment undertaken in 2014/2015 and currently being updated. This work is explained in more detail in the section relating to the Local Plan below
- 1.11 The Derbyshire Dales District Council area does not currently contain an authorised Traveller site. However, from time to time, unauthorised sites appear in the District. Sometimes these sites are established on land that is owned or administered by the District Council and it is these sites that the District Council has a duty to manage. Sites established on the public highway are managed by the Highway Authority which, in our case, is usually Derbyshire County Council.
- 1.12 In addition to the temporary encampments of Travellers who are passing through the District, the District Council is also aware of one family group of Gypsies with an accepted local connection to the area. The particular circumstances of this family are such that they wish to access a permanent site within the District on which to live. At the present time no such site is available and as a consequence they also travel around the District, moving from site to site. Because of their circumstances this family's encampments are often lengthier than those of Travellers who are 'passing through' and they often occur on land that is administered by the District Council.
- 1.13 In dealing with these different forms of Traveller encampments the District Council must have regard to a number of legal duties and these are set out in the following sections of the report.
- 1.14 At the Council meeting on the 2nd of September 2020, Members chose the Council owned site at Knabhall Lane in Tansley as the preferred site to take forward for development as a temporary and a permanent traveller site. Members also gave delegated authority to the Director of Housing to prepare and submit planning applications in respect of the temporary / permanent use of the site.

2 KNABHALL LANE PROGRESS

- 2.1 As with any development, early advice from the Planning Department is key to establish the reports and information needed to support an application. The Director of Housing undertook a site visit with colleagues from the Planning Department and agreed to follow up issues concerning badgers, land contamination and access to utilities.
- 2.2 In relation to badgers, local knowledge indicated that a badger sett existed on the North of the site. Specialist advice was sought and a report has been provided which in summary indicates that whilst badgers may have been on site in the past, there is no current evidence of badgers on the site. Although no badger field signs were found to indicate current badger activity in the survey area, it remains likely that the site is within an existing clan territory and that badgers forage in the area around the site. However, the situation can change at any time and therefore, due care should be taken at all times.
- 2.3 In relation to ground conditions, local knowledge indicates that the site has previously been used as a refuse tip. This presents various problems, both in terms of the materials that may have been deposited on the site and also the ability of the site to

support foundations and buildings. An initial desktop land contamination assessment has therefore been undertaken which comprises both an Environmental Assessment element and a Geotechnical Assessment element. These present more challenges. Specifically the Environmental Assessment indicates a risk to people occupying the land concerning contaminants and the build-up of gasses which could cause harm to people and buildings. The consultant's report states that 'Intrusive ground investigation and further assessment is recommended to determine the ground's contamination status and gas generation potential to assess the risks posed to the future development.

2.4 The geotechnical assessment indicates that the site is underlain in the west by a relatively small gravel pit/ quarry which may have been backfilled with domestic waste up until the 1960s. The presence of a backfilled gravel pit/ quarry on-site has significant implications for proposed structures and their foundations (e.g. amenity block). Deep soft / loose ground and highwall issues may potentially exist in the area of the former mineral excavation. Geotechnical issues should be suitably investigated and assessed once development proposals are finalised.

2.5 In order to progress matters further, the consultants recommend that:

- Intrusive ground investigation be undertaken to determine the ground conditions including the lateral and vertical extent of made ground/refuse tip;
- Chemical laboratory analysis of soils;
- In-situ and laboratory geotechnical testing, depending on building type and construction;
- Undertake a gas monitoring programme;
- Interpretative site investigation report with generic quantitative analysis of laboratory results.

2.6 The badger survey and the desktop land contamination survey were relatively low cost pieces of work funded from existing Council budgets within the Housing Department. However, in order to commission the intrusive studies now recommended by the consultants, detailed briefs would need to be prepared and the works procured in accordance with Council standing orders. This is time consuming and costly exercise which would require additional budgetary provision. Whilst detailed cost estimates have not yet been invited, it is anticipated that costs of up to £25,000 could be expected.

2.7 The provision of utilities is another constraint that will impact on the delivery of the site. An assessment of the electrical needs has informed a request to Western Power concerning the costs associated with providing an electrical supply to the site. The Land Contamination Survey identified the likelihood of a local aquifer being able to provide a drinking water supply to the site. The provision of such a supply is complicated by the fact that the land above the aquifer is contaminated and would itself need further assessment. In terms of sewerage and surface water drainage, it is unlikely that the site could meet its own needs and further work is needed to identify the best method of disposing of water from the site.

2.8 All of the work undertaken to date has been done at minimal cost. However, it is clear that in order to progress the site further, additional funds would need to be made available prior to the submission of any application for planning permission. Members are therefore requested to consider the Council's position and instruct officers accordingly.

3 **NEGOTIATED STOPPING PLACES**

- 3.1 In the absence of a currently available permanent site the District Council has a legal duty to accommodate the homeless Travellers on one or more temporary sites. The term used to describe a site on which Travellers may be sited temporarily is a negotiated stopping place. At the present time Derbyshire Dales District Council has not identified any such sites.
- 3.2 As no negotiated stopping places have been identified the Council's ability to control the location of the homeless families is extremely limited. Officers have no sites to which they can direct them and should they choose to occupy a site officers have no powers to direct them to another site, even though another site might be more suitable. As a consequence, recent encampments on sites in Matlock Bath and Matlock have been prolonged and have given rise to increased levels of public and Member complaint.
- 3.3 In order to address this situation, it is suggested that a number of sites are identified across the district for potential use as negotiated stopping places for use by the homeless families only, until such time as a permanent site is available for use. It is also suggested that officers be granted delegated authority to direct the families to these sites, having first informed rather than consulted, Ward Members of the intention to carry out such a direction.
- 3.4 It is further suggested that any one negotiated stopping place should generally be used for no more than 8 weeks at any one time, subject to the review of any extraordinary circumstances that might arise, for example with respect to issues such as health and welfare.
- 3.5 In order for such a system to work it is necessary to identify sites that may be used as negotiated stopping places. The list below has been compiled from officers' knowledge of District Council owned sites where encampments comprising the homeless families have previously been managed successfully and is recommended for adoption.
- Agricultural Business Centre, Bakewell
 - Old Station Close, Rowsley
 - Matlock Station Car Park
 - Artists Corner Car Park, Matlock Bath
 - Matlock Bath Station Car Park
 - Land at Middleton Road, Wirksworth
 - Fishpond Meadows Overspill Car Park, Ashbourne.
- 3.6 Officers recognise that a system of consent for these negotiated stopping places may not be popular, but nevertheless feel it is the only effective way of managing the encampments of the homeless families until a permanent site is available. As such, it will be necessary for Members to accept that these sites will be used from time to time. The alternative currently is that any one of these sites might be used by the families, with the Council having no ability to direct them to an alternative site.
- 3.7 In order to ensure that decisions are made in a considered and appropriate manner, it is suggested that authority is delegated to specified members of the Corporate Leadership Team and that all such decisions must be agreed by 2 such officers in consultation with each other. It is recommended that the following officers are

granted that delegated authority: Chief Executive, Director of Regulatory Services, Director of Housing, Director of Community and Environmental Services, Director of Corporate and Customer Services.

4. PROTECTION OF VULNERABLE CAR PARKS

- 4.1 In order to ensure that the Council's off-street pay and display car parks are protected from unauthorised use by Travellers, it has been necessary to install height barriers on a number of sites including Temple Car Park - Matlock Bath, Agricultural Business Centre – Bakewell and Lido Car Park – Matlock.
- 4.2 Whilst the installation of height barriers is not a fail-safe means of protecting sites and is not appropriate for all sites, it does act as a deterrent to unauthorised use. However, the installation of height barriers is not appropriate in all cases since the District Council must ensure that adequate provision remains for the parking of high sided vehicles.
- 4.3 Officers are therefore considering a number of solutions to protect vulnerable sites, however in the interim it will be necessary to make additional provision in the Capital Programme for the installation of height barriers in those locations determined appropriate by the Council's Neighbourhoods Manager.

5. RISK ASSESSMENT

Legal

- 5.1 The District Council is seeking to address the lack of authorised Gypsy and Traveller Sites within the District to meet its duties under the Planning Policy for Traveller Sites 2015. In the absence of a permanent site, the temporary site will minimise the risk of legal action being taken against the Council for failing in its statutory duty to provide such a site.
- 5.2 The Council also has duties under the Homelessness Reduction Act 2017. The temporary site, reduces the risk of challenge against the Council for failing in its duties under the homelessness legislation.
- 5.3 The Council is also under a duty to protect its assets and ensure they are used for their intended purpose. Therefore eviction of illegal encampments is a necessary but temporary solution to the lack of authorised sites within the District. However due to the lack of a permanent site the risk of a legal challenge is medium to high and without the use of a temporary site to place families, the risk would be high.

Financial

- 5.4 The cost of officers' time and planning fees associated with the report recommendations can be met from within existing budgets.
- 5.5 The costs of the further investigations and assessments relating to land contamination and geotechnical issues at the Knabhall Lane site are estimated at up to £25,000. The costs of provision of utilities has not yet been determined.
- 5.6 The costs for the installation of height barriers in those locations determined appropriate by the Council's Neighbourhoods Manager are estimated at up to £10,000. These works will reduce the risk of lost income caused by a traveller encampment.

- 5.7 There is currently no provision in the capital programme for the £25,000 associated with the Knabhall Lane site or the £10,000 for height barriers at vulnerable car parks. Therefore, members' approval is requested for capital budgets in 2021/22, which can be financed from capital receipts.
- 5.8 A report elsewhere in the agenda for this meeting explains that internal sources of funding for the Council's capital programme are becoming depleted. The financial risk is, therefore, assessed as medium.

Corporate Risk

- 5.9 The corporate risk in terms of the Council's reputation and failing to fulfil a legal obligation, is high.

6. OTHER CONSIDERATIONS

- 6.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

7. CONTACT INFORMATION

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8. BACKGROUND PAPERS

29 th January 2016	Report to Council (Gypsies and Travellers)
26 th January 2017	Report to Council (Gypsies and Travellers Update)
12 th July 2018	Report to Community & Environment Committee (<i>Gypsies and Travellers Update</i>)
15 th November 2018	Report to Community & Environment Committee (<i>Gypsies and Travellers Update</i>)
10 th December 2018	Report to Community & Environment Committee (Gypsies and Travellers – Discharge of Homelessness Duty)
21 st February 2019	Report to Community & Environment Committee (Gypsies and Travellers – Discharge of Homelessness Duty)
26 June 2019	Report to Community & Environment Committee (<i>Gypsies and Travellers</i>)

30 October 2019	Report to Community & Environment Committee (<i>Gypsies and Travellers</i>)
2 September 2020	Report to Council (Gypsies and Travellers)

9. ATTACHMENTS

None