

COUNCIL

27<sup>th</sup> April 2022

Report of the Director of Housing

## **GYPSY AND TRAVELLER SITE UPDATE**

### **PURPOSE OF REPORT**

To update the Council in respect of the work that has been undertaken to bring forward a site at Knabhall Lane, Tansley as both a permanent and temporary Traveller site, to advise of a recently announced Government funding programme for Traveller sites and to determine the Council's future approach.

### **RECOMMENDATION**

1. That Council notes the work undertaken to date and the findings of the geotechnical ground investigations and ecological assessments.
2. That, having regard to the conclusions of the geotechnical and ecology assessments, Members consider ceasing the pursuit of the Knabhall Lane site as a location for a temporary and permanent Traveller site.
3. A further assessment of badger activity on the site is commissioned by the Council.

### **WARDS AFFECTED**

Matlock St Giles

### **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 REPORT**

- 1.1 At full Council on the 27<sup>th</sup> July 2021 approval was granted for an allocation of £25,000 to fund the assessment of the proposed traveler site at Knabhall Lane in Tansley. The assessments included geotechnical and land contamination surveys. As a responsible land owner the Council should be aware of the state of the land in its ownership. The Council's Contract Standing Orders required three quotes to be sought for the work. Whilst three companies were approached, only one tender was returned and RSK was

appointed at the end of October 2021. The cost of the surveys was less than originally anticipated at £11,518.

- 1.2 During the course of preparing the site for the geotechnical and land contamination survey, an outlying badger sett was discovered. This sett was not present when the site was first surveyed by the Council's appointed ecologist. The presence of the outlying sett caused delay and modification of the proposed survey works. This meant that about 30% of the site could not be investigated without causing harm to the badger. Fencing was erected to ensure a suitable exclusion zone around the sett and to protect the routes across the top half of the site used by the badger. Ground investigations took place between 3<sup>rd</sup> and 9<sup>th</sup> December with support from the Council's appointed ecologist. Derbyshire Police received calls about the works and attended on site. The Director of Housing, the Council's appointed ecologist, RSK and their sub-contractors met the Police and local badger group on site and agreed to the fencing off of the top portion of the site around the sett.
- 1.3 Prior to the commencement of the site surveys, low lying vegetation was cut back and several small sheds and structures were removed along with materials left behind on the site. This was necessary to ensure the levels on the site would be clear to RSK and their sub-contractors. There was a delay in clearance works starting due to some residents blocking access to the site, given their concerns about the badger sett.
- 1.4 At all times, the Council, RSK and their sub-contractors acted within the guidance provided by the Council's appointed ecologist. No further contact about the works has been received from Derbyshire Police.
- 1.5 Unfortunately the laboratory results for the soil and gas samples were delayed and the full report was only received at the end of March 2022. Some additional gas monitoring results are still outstanding but this is due to the required sampling period.
- 1.6 The full report provided by RSK is extensive and in summary the main findings are:
  - Made ground was encountered across the site reflecting the history of the site as a landfill site
  - Due to the exclusion zone to protect the badger sett, the full ground investigation could not be completed and this will need to be considered in any future development
  - The contamination levels are relatively low and do not inhibit development although lead and arsenic levels within the made ground may pose a risk to the health of future site users. A remedial capping layer should be placed within any proposed garden areas or soft landscaping or alternatively the soil could be removed.
  - Ground gas monitoring did not indicate the presence of elevated ground gas, however two further rounds of sampling have yet to complete (due to atmospheric conditions) and the recommendations are subject to these final results. RSK recommend that ground gas protection measures should be detailed in a ground gas mitigation design and verification report, which will require approval from the Council prior to confirming the final development design.
  - The depth of the made ground could not be confirmed as the maximum reach of the excavator was exceeded. The deep made ground could not be assessed at the top of the site due to the badger sett. A bigger excavator could not access the site given the size of the lane and the turning area required.
  - The presence of a back filled quarry has significant implications for proposed structures and their foundations, e.g. for day rooms and amenity blocks. The placement of buildings over the quarry site will require alternative foundations e.g. piles, and

further ground investigations. Lightweight temporary structures may be feasible but again further assessment will be required once their design is finalised. The ground in external areas of the site within the footprint of the backfilled quarry may require improvement to facilitate its use as hard standing/caravan pitches to avoid unacceptable settlement issues.

1.7 RSK have made the following recommendations;

- Further intrusive ground investigations to determine the ground conditions and contamination in the north-eastern area of the site i.e. where the badger sett is located
- Confirmation of the lateral and vertical extent of the backfilled quarry
- Additional testing of the top soil where its reuse is proposed on site
- Geotechnical assessment once development proposals/building types have been finalised
- Geotechnical assessment of the quarry highwall issues, where necessary
- Production of a Remediation Method Statement to confirm the specification and validation of the clean capping layer in gardens/soft landscaping
- Production of a ground gas mitigation design and verification report and third party inspection and verification of ground gas membranes installed in new structures

## **2 ECOLOGY**

2.1 The site continues to have an outlying badger sett present and this presents a significant obstacle both to the completion of the ground investigations and the future use of the site. The Council's appointed ecologist has advised that the Council would need to conduct further investigations to determine if the sett has remained an outlying sett or if it has become a main sett. In addition once planning permission was approved, a licence would be required in order to interfere with the sett. To inform the planning process the Council would be required to develop a mitigation strategy. This would be informed by requesting information from the local badger group and undertaking a survey of neighbouring land to assess the links between the sett on the site and other setts nearby.

2.2 The permission of neighbouring land owners would be required to undertake an extended survey of the area which involves bait and latrine marking. Given the strength of local opposition, it is unlikely that permission would be given by adjacent landowners. The most appropriate way forward would be to place trap cameras on site to monitor activity and then review if the sett has remained an outlying set or become a main sett. The presence of several adult badgers and/or cubs would indicate the sett has become a main sett. If the development of the site was to proceed, the sett could be moved, but again given local opposition, this is only likely to happen within the site. This would still impede the overall developable area and place badgers in close contact with any future occupants and any pets they may have. In any event, once planning permission had been achieved, works could only take place between 1<sup>st</sup> July and the end of November.

2.3 During the planning process it is quite likely that those opposed to the development of the site would seek to challenge the Council's efforts to undertake a survey of the badger sett. Without conducting a wider assessment of the clan territory and instead relying on the camera trap information, there is the potential for objections to be raised

which may hinder the Council's ability to secure the necessary licence from Natural England.

### **3 GOVERNMENT FUNDING FOR TRAVELLER SITES**

- 3.1 The government announced a £10m fund for traveller sites on the 20<sup>th</sup> March 2022. Applications close on the 13<sup>th</sup> June 2022. Local authorities in England can bid for capital funding for new or improved accommodation for travellers. The funding is available for the financial year 2022/23 only and it appears that projects must be delivered within the financial year i.e. be shovel ready. The funding is available for new or refurbishment of transit sites, new temporary stopping places, refurbishing existing facilities, new permanent pitch or plot provision, improvements to existing sites, acquisition of land and funding ancillary buildings.
- 3.2 At this stage, the presence of the badger sett, the requirement to only undertake works between July and November and with successful bids informed by August/September 2022, it is highly unlikely that a successful bid could be delivered between September and the end of November. The site still has other constraints which would significantly reduce the likelihood of obtaining grant funding including the lack of a water supply, drainage and electrical supply.
- 3.3 The Council's Development Agent for the Council Housing scheme, Nottingham Community Housing Association are able to support the design process for the Knabhall Lane site or any other opportunity that should arise in the future.

### **4 REMEDIATION AND DEVELOPMENT COST ESTIMATES**

- 4.1 The report by RSK has identified several key recommendations, that would require significant investment in order to complete both the understanding of the ground conditions and the works required in order for the ground to support buildings;
  - Investigate piling and high wall checks - £50,000 - £60,000
  - Further soil sampling up to £5,000
  - Removal and replacement of contaminated soil £66,000
  - Piling foundations £100,000
- 4.2 Given the size of the site, the estimated costs and the number of pitches to be provided, Officers consider that it would not be financially viable to spend such significant amounts of money in preparing the site for development.
- 4.3 The Council's appointed ecologist has recommended further assessment of the badger sett using a camera trap. This is a relatively low cost option at around £1,000. Given the Council's commitment to protecting badgers on its own land, officers recommend that the Council proceeds with the camera trap assessment. The results can be shared with the local badger group, so adding to the local knowledge concerning badger activity in the area.

### **5 CONCLUSION**

- 5.1 The site has several constraints which are difficult to untangle. A further badger survey is required to determine whether the outlying sett has become a main sett. In this regard, it is likely that neighbouring landowners will not consent to assisting with

surveys and/or moving the sett on to their land. This means the badger sett will potentially always remain on the site.

- 5.2 The badger sett has impeded the land contamination and geotechnical survey and it seems likely that without the sett eventually moving, the Council will not be able to complete a full assessment of the entire site. The extent of the ground investigations and piling using heavy machinery close to the sett would disturb the badgers and would be illegal. This places a significant restriction on the site and the ability to provide the number of pitches required to meet identified need. There would also be a significant risk of developing a part of the site without full knowledge of knowing what is in the adjacent ground or how stable it is.
- 5.3 The timetable for government funding makes it very difficult to deliver a realistic bid that can be delivered within the period allowed for the protection of the badger sett, i.e. between the 1<sup>st</sup> July and the end of November.
- 5.4 Given the results of the land contamination and geotechnical surveys, and the complications caused by the badger sett, Officers have concluded the site is not developable at reasonable cost.

## **6 NEXT STEPS**

- 6.1 If Council agrees with the recommendation to stop works concerning the Knabhall Lane site, then attention must return to finding an alternative opportunity. Previous assessments have thrown up very few opportunities, either on land in the Council's control or in private ownership. Nonetheless officers will review again all of the relevant information collected before. Members are also requested to pro-actively assist in the identification of potential sites for consideration.
- 6.2 In relation to Knabhall Lane, if Council approves the camera trap survey then the Council's appointed ecologist will be asked to undertake the survey. The results will be shared with residents and local badger group. The use of the site will be the subject of a future report.

## **7 RISK ASSESSMENT**

### **7.1 Legal**

The continuation of the proposed development of this site is of high risk due to the presence of a badger set on the land. To continue to undertake works or surveys without establishing whether this is a main set could result in a criminal offence. If there is still a wish for this site to be used, then the Council must be sure that there is no disruption to the badger set that would result in a criminal offence.

### **7.2 Financial**

The expenditure on the surveys can be contained within the existing budget. The financial risk is assessed as low.

## **8 OTHER CONSIDERATIONS**

8.1 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. (Heading 4)

8.2 Climate change: A CCIA is not considered necessary for this report.

## **9 CONTACT INFORMATION**

9.1 Robert Cogings, Director of Housing

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## **10 BACKGROUND PAPERS**

RSK Report of Knabhall Lane