

MAIDSTONE BOROUGH COUNCIL

CABINET

8th June 2011

REPORT OF DIRECTOR OF REGENERATION & COMMUNITIES

Report prepared by Sarah Anderton and Andrew Connors

1. Bid to the Homes & Communities Agency's Traveller Pitch Fund

1.1 Issue for Decision

1.1.1 To consider a bid to the Homes & Communities Agency for funding to deliver a new public Gypsy and Traveller site in the borough by 2014/15.

1.2 Recommendation of Director of Regeneration & Communities

That Cabinet:

1.2.1 Agrees in principle to seek to provide additional public Gypsy and Traveller pitches, subject to the availability of funding;

1.2.2 Agrees to work in partnership with Town & Country Housing Group to:-

- a. Develop a bid to the Homes & Communities Agency's Traveller Pitch fund; and
- b. Implement new pitches in the borough by 2014/15, if the bid is successful.

1.2.3 Agrees to delegate authority to the Director of Regeneration and Communities to finalise the details of the bid by 20th June and to progress contractual and financial arrangements with Town & Country Housing Group.

1.3 Reasons for Recommendation

Background

1.3.1 The borough has a significant number of Gypsy and Traveller residents, the highest number of any of the boroughs and districts in the south east. The greatest majority of the borough's gypsies

live on privately-owned sites. The 2005/6 Gypsy and Traveller Accommodation Assessment found that 20% of respondents had a preference for a publicly managed site. Furthermore household incomes were found to be low with the result that private site purchase is beyond the means of many Gypsy and Travellers.

- 1.3.2 There are 2 public sites at Stilebridge Lane, Marden (18 pitches) and Water Lane, Ulcombe (14 pitches) which are owned by the Council and managed by KCC. These sites are long established, fully occupied, have a low turnover of pitches and have waiting lists. Whilst the stock of private sites has expanded through the granting of planning permissions, no additional public pitches have been provided since these two sites were established in the 1970s.
- 1.3.3 Additional affordable public pitches in the borough from a site of some fifteen pitches would therefore be a substantial permanent addition to the existing stock. The pitches will also contribute to the borough need of seventy-one pitches for the period 2006 -16 agreed by Cabinet on 9th February 2011.
- 1.3.4 Additionally, the availability of alternative provision is frequently a significant issue at planning and enforcement appeals. A further public site would add to the availability of pitches under public control and thereby contribute to addressing this concern. It may also be possible to provide a mix of more flexible shorter term tenancies in addition to longer term tenancies, subject to satisfactory management.
- 1.3.5 The Council's overall planning strategy for Gypsy accommodation will be part of its LDF Core Strategy and Gypsy & Traveller accommodation issues feature in both the existing and the emerging Housing Strategy. Provision for a new public site in the borough is also a priority scheme project in the West Kent Local Investment Plan anticipated to be delivered in the later part of the 2011-15 period.
- 1.3.6 A suitable site for new public pitches has not yet been identified.

HCA's Affordable Homes Programme and Traveller Pitch Fund

- 1.3.7 The HCA recently published the Affordable Homes Programme Framework, in which they are seeking offers from providers to deliver a new supply of affordable housing over the next four years. Delivery proposals will cover the 2011-15 Spending Review Period and outline the provider's requirement for funding from the HCA to support that delivery. The HCA will invest £4.5bn in new affordable housing through the programme.

- 1.3.8 Within the HCA's new Affordable Homes Programme there is a specific, ring-fenced Traveller Pitch fund of £60million with priority for funding focused on the provision of new or additional pitches on permanent sites. 100% of site costs are grant eligible. A key consideration for the HCA will be the extent to which the proposal represents value for money.
- 1.3.9 The HCA will welcome offers from local authorities, housing associations, and traveller community groups working with Registered Providers (RPs). Although they will consider standalone proposals for single schemes, the HCA is strongly encouraging local authorities to work with RPs (principally housing associations) and other larger investment partners to access the pitch fund. The aim is that traveller pitch proposals will be presented as an element of an individual RP's larger Affordable Homes Package bid for HCA funding. The RP would act as 'Developing Agent' on the local authority's behalf and would be the recipient of the grant funding.
- 1.3.10 HCA officers have advised that they expect the schemes that are due to be delivered in the latter two years of the programme to be more indicative in nature and not necessarily based on specific sites at offer stage. This would be the situation with this Council's proposal; the bid would constitute the RP's commitment to the HCA to deliver fifteen pitches in the borough on an, as yet, unidentified site by the end of 2014/15.
- 1.3.11 Housing and Spatial Planning Officers have had discussions with a number of RPs who expressed an interest in assisting the Council to make a bid. Distinguishing issues have been the willingness of RPs to forward fund pre-construction elements significantly in advance of the receipt of grant (which the HCA pays upon scheme completion), willingness to submit a non site specific bid, willingness to submit the planning application, and differing views on the supplementary information needed in a bid to the HCA.
- 1.3.12 Assuming a successful bid, the role of the RP would be:
- To submit a HCA scheme bid, acting as a Developing Agent on behalf of the council;
 - To work with the Council to search for and identify an appropriate site/s;
 - To lead the detailed site assessment process;
 - To assist with pre-planning application public consultation (with the Council);
 - To lead the evaluation of costs associated with the site delivery; and

- To lead the site delivery process, including the scheme design, planning application submission, site development and the tender for works as a design and build contract.

1.3.13 Based on these discussions, the recommendation is that Town & Country Housing Group is selected as the Council's partner in this process, as they are prepared to undertake all of the above specified roles and responsibilities. A summary of the outcomes of the discussions with RPs is attached in an exempt Appendix. It is intended that the site/scheme will be owned by the Council and that management of the site will be undertaken by KCC, subject to negotiation, as with the two existing public sites.

1.3.14 The bid process takes place over a number of months and has already commenced. The timetable is as follows;

3rd May 2011	Deadline for initial bids to be submitted to the HCA. Town & Country HG bid submitted including non site-specific proposal for 15 pitches in the borough.
May-June	Assessment/negotiation between HCA, RPs and local authorities to refine bids.
20th June – 4th July 2011	HCA national aggregation and analysis of the final programme.
w/c 4th July	Ministerial and national HCA Board sign off of aggregate programme (subject to provider contracts) and confirm successful bids.
July 2011	Initial contracts signed between RPs and the HCA.

Costs

1.3.15 The costs incurred in submitting the bid are being met by Town & Country 'at risk' that the bid may not be successful.

1.3.16 Town & Country has recruited Lawson Queay Surveyors (LQS) from their Consultants Framework. LQS's tender provided best value for money. LQS will act as Employers Agent and Construction Design Management Coordinators for this project. Should the HCA bid be successful, Town and Country would be looking to tender the works as a Design and Build Contract.

1.3.17 The indicative costs provided by Town & Country for the purpose of submitting the bid, estimate a scheme cost of some £1,960,705. This is based upon a worst case scenario in terms of potential costs and would equate to a sum of £130k per pitch (based on a 15 pitch scheme). Given constrained public finances, it is imperative that

the best use is made of limited public funding, and also the resources contributed by providers.

- 1.3.18 In order to offer value for money, and to seek to demonstrate an effort to reduce costs and the funding per pitch, the initial bid to the HCA is based on a grant requirement of £1.885m. This equates to a grant requirement of £125k per pitch. Once a suitable site has been identified and Town & Country are able to undertake a site inspection, they will be in a position to provide more informed and accurate figures for the build costs. Town & Country and LQS would seek to ensure that the project's overall costs do not exceed the set budget for which grant is available.
- 1.3.19 Subject to Cabinet's consideration, these costs will be further reviewed and refined during the bid offer assessment and negotiation process ahead of the HCA's national aggregation and analysis of the final programme starting on the 20th June.
- 1.3.20 As set out in paragraph 1.3.12, one of Town & Country's roles would be to project manage the delivery of the site itself. A breakdown of the estimated scheme costs show an overall project management fee of 5.04% of the build cost (contract sum) estimated at £1.7m, which equates to £85,680.
- 1.3.21 There are general rules applying to the choice of purchasing procedure for contracts at stated financial threshold levels, within the Council's Purchasing Guide. For works, supplies or services contracts, which represent a total value/income to the contractor of £75,000 to £156,441, at least three written tenders are required in advance, following advertisement by public notice. This procedure applies even though the costs will be paid through grant by the HCA and not from Council funds.
- 1.3.22 The overall project management fee is estimated to exceed £75k. The Director of Change, Planning and the Environment has agreed to waive the Contract Procedure Rules for the requirement to obtain competitive tenders in this case due to the extensive market testing and discussions that have taken place with a number of RPs who had expressed an interest in partnering with the Council.

Forward Funding

- 1.3.23 The HCA will not stage payments to the RP. It will make a single grant payment upon completion of the scheme. Town and Country have indicated that the build costs can be front funded by them stipulating that payment will be made to the contractor upon completion in their build contract, so there will be a relatively short lead in time before their costs will be recouped from the HCA.

- 1.3.24 There is the potential that the RP could incur significant pre-construction costs two or more years before the grant will be paid (eg site investigations, planning application costs). It is proposed that a budget for estimated pre-construction costs be agreed with Town and Country. Based on indicative costs and a similar comparable scheme, this is thought to be in the region of £250k to £415k.
- 1.3.25 Should the council be convinced of the need, it could offer to help meet these advanced costs ('forward funding') in the knowledge that expenditure would be recouped at the end of the project when the HCA grant is paid. The current capital programme includes a small budget to support the development of a gypsy site or sites. The sum available is £48,000 and is allocated in 2011/12.
- 1.3.26 The act of forward funding the balance of the acquisition and other pre-construction costs by the Council would constitute capital expenditure as the asset acquired would be recognised on the Council's balance sheet. The expenditure will require financing from resources such as capital receipts but, on completion, the grant would replace the funds utilised. As the grant would be received post completion of the scheme it would effectively be recycled into the financing of the future capital programme.
- 1.3.27 In order to ensure that this approach is affordable, some realignment of funding will be required around the period between commencement and receipt of grant. The resources available to finance the capital programme will not be reduced in total however the need to forward fund this scheme may mean greater pressure on resources earlier in the programme period. At the meeting in May 2011 Cabinet considered the additional resources available from one-off underspend in 2010/11 and transferred the sum of £0.8m to general balances. This unallocated sum could be considered as a possible method of mitigating any risk to the Capital Programme should the grant be delayed or not received.
- 1.3.28 The risk borne by the Council in forward funding the cost is the failure of Town & Country to complete the works and therefore the failure to meet the grant criteria. A legal agreement will be required between the Council and Town & Country and should include appropriate clauses to ensure the progress toward completion is adequate and that the RP takes the necessary action to obtain the grant on the Council's behalf as well as confirming the arrangements for reimbursement to the council once the grant is paid.

Revenue consequences

1.3.29 The inclusion of an additional site or sites in the Council's portfolio will increase repair and maintenance costs and the management charge from Kent County Council. In the case of the two existing sites the income generated from rents falls slightly short of being sufficient to cover direct costs. The shortfall is approximately £19,000 over the two sites in 2010/11. Charges from the Housing and Property Services teams are not covered by the rent and service charge income. An additional site will have an impact on costs and at this stage it should be assumed that an increase in revenue funding of £10,000 will be required. Identification of a site or sites and detailed design work will enable this figure to be more accurately estimated at a later time and this will be submitted for consideration as part of the Medium Term Financial Strategy.

1.4 Alternative Action and why not Recommended

1.4.1 Cabinet could decide not to make a bid for HCA funding at this time. The Traveller Pitch fund is a ring fenced fund providing 100% costs of new Gypsy and Traveller pitches. The current funding round is not expected to be repeated for a further four years. To not make a bid on this occasion would represent a missed opportunity to access scarce public funding.

1.4.2 The Council could submit a bid without the partnership of a RP. However such stand alone proposals will not be considered until after the Affordable Rent programme packages, including any Traveller Pitch Funding proposals submitted as part of a package, have been assessed and agreed. There is a significant risk that funding will have been fully allocated before such stand alone schemes are assessed. A RP will also bring additional expertise to the process of bringing a potential site forward.

1.5 Impact on Corporate Objectives

1.5.1 This report's subject matter is directly relevant to the Council's Strategic Plan objective of making Maidstone a decent place to live. Specifically it would add to the stock of decent affordable housing in the borough.

1.6 Risk Management

1.6.1 'Forward funding': The Council will firstly enter into further discussions with Town & Country and the HCA through the bid offers assessment and negotiation process, to see if the HCA will

consider proposals for different funding profiles and to determine how the pre-construction costs associated with the site delivery will be met. If the Council is satisfied that a contribution to 'forward funding' is merited, a legal agreement will be prepared to confirm the terms for repayment.

- 1.6.2 Partnership arrangements: The partnership with Town and Country Housing Group can be dissolved should Cabinet not endorse the decision, and in the event that front funding the development proves unachievable, or if sufficient grant is not available from the HCA, the bid can be withdrawn prior to contracts being signed with RP's in July 2011. If the bid is successful, a legal agreement, in the form of a Developing Agent agreement or similar, will be prepared to confirm the terms of the Council's partnership with Town & Country Housing Group.
- 1.6.3 Indicative costs: The grant that has been applied for is based on estimated costs. There is a risk that actual costs relating to the delivery of this project will be greater than the estimated costs, due to the bid being submitted on a non-site specific indicative funding basis, with no detailed site assessment having been undertaken.
- 1.6.4 The HCA intend to operate framework contracts with providers on a flexible basis, recognizing that parameters may change. The contract will allow for variations and amendments to take into account changes in any range of parameters. Their contract management approach will allow for the application of flexibilities on a fully open book basis through quarterly reviews of the contract. They will also undertake a full strategic annual review, jointly with providers, of how the contract is operating, to capture all variations agreed in previous quarterly reviews.
- 1.6.5 However, it is unlikely to be possible at any stage during the programme period to respond to changes in contract parameters by increasing the rate of funding per unit (if additional funding is needed for whatever reason) to deliver the new supply outputs envisaged. It is expected that such additional funding would have to be generated from a provider's own resources or capacity (where that is achievable without adversely impacting their financial viability). The Council will therefore work with the HCA and Town & Country to maintain a strong focus on the management of costs throughout the programme period, including efficient procurement approaches to reduce costs.
- 1.6.6 The deliverability status and progress of the scheme will be monitored on a regular basis, and will form part of the Affordable Housing Delivery Risk Assessment process which is undertaken on

a quarterly basis. A value engineering exercise will also be undertaken by LQS throughout the duration of the programme to mitigate against the risk of the overall actual costs exceeding the budget for which grant is available. This process will include liaison between Housing, Town & Country, the HCA, Spatial Planning, Development Management and Finance.

1.7 Other Implications

1.7.1

1.	Financial	X
2.	Staffing	X
3.	Legal	X
4.	Equality Impact Needs Assessment	
5.	Environmental/Sustainable Development	
6.	Community Safety	
7.	Human Rights Act	
8.	Procurement	X
9.	Asset Management	

1.7.2 Financial: the potential financial implications are set out at paragraphs 1.3.15 to 1.3.29.

1.7.3 Staffing: the project will be delivered within existing staffing resources.

1.7.4 Legal: the need to have legal agreements with Town & Country HG is set out in paragraphs 1.3.28 and 1.6.2 of the report.

1.7.5 Procurement: procurement issues are addressed at paragraphs 1.6.21 to 1.2.22.

1.8 Relevant Documents

1.8.1 Appendices

Exempt appendix: outcomes of discussions with RPs.

1.8.2 Background Documents

IS THIS A KEY DECISION REPORT?

Yes

No

If yes, when did it first appear in the Forward Plan?

.....17th May 2011.....

This is a Key Decision because: it affects more than one ward or parish

Wards/Parishes affected: all parishes/wards