

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	The Executive
Date:	19 th December 2016
Subject:	Proposed Development of Gypsy and Traveller Sites
Portfolio Holder(s):	Aled Morris Jones
Head of Service:	Shan Lloyd Williams
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Local Members:	Councillor R Meirion Jones, Councillor Alun Mummery and Councillor Jim Evans

A –Recommendation/s and reason/s
<p>The Executive is recommended to approve: -</p> <p>R1. To note progress since the Executive’s approval to proceed with preliminary site development investigations at Penhesgyn and Star and proposed key milestones for project delivery.</p> <p>R2. To approve, in principle, the use of Compulsory Purchase Order(s) in order to secure land essential for the development of Gypsy and Traveller Accommodation in the event that officers are unable to secure the same by negotiation.</p> <p>1.1 Background</p> <p>1.2 Members will recall that the Executive resolved on 31st May 2016 “that land at Penhesgyn near Penmynydd be selected as a possible allocation to meet the accommodation needs of Gypsy and Travellers, subject to the outcome of further investigations to confirm the suitability of the site from a highway safety and health impact perspective and be included in the Joint Local Development Plan.</p> <p>1.3 On the 25th July 2016 The Executive resolved “that the County Council should carry out further investigation into Site 1, Strip of land between A55/A5 between Llanfairpwll and Star Crossroads to confirm suitability with regard to further assessment of any safety or technical risks posed by the site, and to consider whether the site design can resolve these issues;”</p> <p>1.4 Both resolutions included that an appropriate consultant should be appointed in order</p>

to prepare site design and subsequent planning applications.

2.1 Current Position

2.2 To progress this resolution, tender documents were prepared with a view to appointing suitably experienced multi-disciplinary construction consultants to support and deliver on Council objectives.

2.3 The tender notice was posted on the Sell2Wales via the NPS Framework – Wales Public Sector Construction Consultancy and 2 bids were received by the closing date on 17th October, 2016. The tenders have been evaluated on both price and quality and, following a period of seeking further clarification and due diligence, the tender evaluation panel confirmed the bid submitted by Capita.

2.4 Capita have demonstrated that they have the relevant experience, capacity and expertise to deliver Gypsy and Traveller accommodation sites. The consultancy service being provided include, but are not limited to, Project Management, Architecture, Landscape Architecture, Highway and Infrastructure Engineering, Planning, Quantity Surveying and CDM duties.

Capita have confirmed that their dedicated delivery team have experience of working on similar multi-disciplinary projects and in-particular on two recent Gypsy and Traveller sites in South and North Wales.

2.5 Key project milestones have been identified and the project will be split into five principal stages, namely:

Description of Key Targets	Target Date
Stage 1: Project inception – Initial Site Design Options and Costings.	December 2016 / January 2017
Stage 2: Planning application and Pre-Application Consultation.	February / March 2017
Stage 3: Detailed Design and Specification.	March / April 2017
Stage 4: Tender Documentation and Procurement of Contractor.	April / May 2017
Stage 5: Construction Contract.	July / December 2017

A risk register is being developed jointly with Capita in order to ensure that risks are managed in a comprehensive manner. The main risks to project delivery as identified at the outset include securing Planning Permission and potential delays due to objections and delays as a result of Compulsory Purchase procedures.

On the advice of the Council's Legal Services, specialist legal advice has been sought from independent legal advisors on a number of matters relating to the project. The legal advisors have now provided written advice on the four legal issues raised by the Council. The members of IACC project board shall be taking account of the advice in the project plan.

3.1 Local Development Plan Update

3.2 A series of Hearings chaired by a Planning Inspector to assess the soundness of the Deposit Joint Local Development Plan took place between 6 September and 1 November 2016.

3.3 The Hearing Session about Gypsy and Traveller Provision was held in Caernarfon on 30 September 2016 with contributions from JPPU Staff and IACC Officers. The Inspector has identified certain action points arising from the Hearing, main action points relating to Gypsy Traveller Matters include: -

- No need to include temporary stopping site (i.e. land near Star) as an allocated site in the emerging LDP, but that the Plan's explanatory text or policy (via Matters Arising Changes) should record the need for temporary stopping sites and set out the matters to be considered
- The Council's favoured site at Penhesgyn to accommodate 4 pitches to be put forward as Matters Arising Changes to the policy and proposals map.
- Minor changes to wording of Gypsy and Traveller Policies and explanatory text.

3.4 The Council will consult on proposed **Matters Arising Changes** to the Plan, which will include the proposed allocation of the Penhesgyn Site, and amendments to text to cover temporary stopping places in January 2016, giving interested persons 6 weeks to comment. All representations received will be sent to the Inspector for his consideration and to decide whether an additional Hearing is required before he completes his Report.

The Inspector's Report is expected towards the end of March 2017. The Inspector's Report will then be submitted to both Isle of Anglesey County Council and Gwynedd Council for adoption.

4.1 Land Acquisition Update

4.2 Penhesgyn – One landowner affected. The Council will have to acquire part of an agricultural field for the purpose of constructing vehicular access to the proposed permanent traveller site. Initial communication with the landowner would indicate that they are not a willing seller.

4.3 Star – Two landowners affected. One is engaging with the Council in our proposed

purchase of their land; however, the second has not responded to recent correspondence.

4.4 Should acquiring the land via negotiation prove unsuccessful, it is considered prudent to seek a further Executive resolution to utilise Compulsory Purchase powers if this option is the only reasonable prospect of securing site ownership. The principle of using compulsory purchase powers in relation to making land available for Gypsy and Traveller sites is voiced in paragraph 23 of the Welsh Assembly Government's Circular 30/2007 Planning for Gypsy and Traveller Caravan Sites where it is said:

“Authorities should also consider whether it might be appropriate to exercise their compulsory purchase powers to acquire an appropriate site.”

4.5 Once the Compulsory Purchase Order (CPO) scheme is finalised a further resolution will be sought to make the CPO.

4.6 Our legal advisors have indicated that the use of powers under Section 56 of the Mobile Homes (Wales) Act 2013 (“MHWA”) may be appropriate to secure land for the proposed sites. Under section 56 the Council has the power to compulsorily acquire land where it appears to the Council that:

- a) a mobile home site or an additional mobile home site is required in its area; or
- b) that land which is in use as a mobile home site should in the interest of users of mobile homes be taken over by the local authority.

4.7 The power conferred under section 56 of MHWA is only exerciseable if the Council is authorised by the Welsh Ministers to exercise it. The exercise of compulsory purchase powers is supported by the Welsh Government only where there is a compelling case in the public interest. Paragraph 14 of the National Assembly for Wales Circular 14(2)/2004 (“NAFWC14(2)”) states that:

“A compulsory purchase order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a compulsory purchase order sufficiently justify interfering with the human rights of those with an interest in the land affected, having regard, in particular, to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights, and, in the case of a dwelling, Article 8 of the Convention.”

4.8 The Human Rights Act 1998 (“HRA 1998”) incorporated into domestic law the Convention. Under the HRA 1998 it is unlawful for a public body to act in contravention of the Convention.

Article 1 of the First Protocol protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of of possessions except in the public interest and subject to the relevant national and international laws.

Article 8 protects private and family life, and home and correspondence. No public authority can interfere with these rights except if it is in accordance with the law and necessary in the interest of national security, public safety, or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The Council must take these rights into consideration when deciding to exercise its compulsory purchase powers and strike a balance between the rights of the individuals in the land affected and the public interest.

4.9 The Council will need to justify its use of the compulsory purchase power for an order to be confirmed. Paragraphs 13 to 20 of the NAFWC14(2) sets out guidance on those justifications. The Council must be able to demonstrate that:

- i) It is authorised by statute to purchase land compulsorily for a particular purpose and the CPO is necessary to achieve this purpose.
- ii) There is a compelling case in the public interest that sufficiently justifies interfering with the rights of those with an interest in the land affected. The provisions of Article 1 of the First Protocol and Article 8 should be taken into account.
- iii) Adequate resources are or are likely to be available to implement both the CPO within the statutory timeframe following confirmation and the CPO scheme within a reasonable time frame.
- iv) There is a reasonable prospect of the CPO scheme going ahead (for example there is no planning impediment).
- v) There is no alternative site or alternative means of bringing about the objective of the CPO (i.e. alternative schemes must be considered).
- vi) The CPO is a measure of last resort and negotiations for acquisition by agreement have been pursued but proved unsuccessful.

Consideration will need to be given to the above at the time of making the CPO.

4.10 Officers will have regard to two important sources of guidance in relation to principles and procedures for dealing with Compulsory Purchase, namely NAFWC/14(2) and the Compulsory Purchase Procedure Manual.

4.11 Officers will continue to engage with the current owners over the principle of acquisition by negotiation. Starting CPO procedures does not bind the Council to acquiring the land, but it does demonstrate our intention clearly to those with an interest in the land. It is hoped the Council can avoid the need for statutory action and can secure the land through negotiation.

<p>5.1 Holyhead Update</p> <p>5.2 In accordance with the resolution of The Executive held on 31st May 2016 the Housing Service is currently undertaking research into the travelling pattern of Irish Travellers through the port of Holyhead. This report is expected to be complete by the end of January 2017.</p> <p>6.1 Project Governance</p> <p>6.2 A Project Board has been established to steer and manage project delivery. The Board meets on a monthly basis and meetings are chaired by Dr Caroline Turner - Assistant Chief Executive and comply with Corporate Governance Procedures.</p>

B – What other options did you consider and why did you reject them and/or opt for this option?
See previous reports to the Executive dated 31 st May, 2016 and 25 th July, 2016.

C – Why is this a decision for the Executive?
Relates to the Council Budget and Corporate plan.

D – Is this decision consistent with policy approved by the full Council?

E – Is this decision within the budget approved by the Council?
Yes

F – Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	Discussed with SLT 28/11/16 and their comments have been noted.
2	Finance / Section 151 (mandatory)	No objections
3	Legal / Monitoring Officer (mandatory)	Discussed with Legal and comments have been taken into consideration.
4	Human Resources (HR)	No comment
5	Property	
6	Information Communication	

	Technology (ICT)	
7	Scrutiny	
8	Local Members	
9	Any external bodies / other/s	

G – Risks and any mitigation (if relevant)		
1	Economic	No comment
2	Anti-poverty	
3	Crime and Disorder	
4	Environmental	
5	Equalities	
6	Outcome Agreements	
7	Other	

H - Appendices:

I - Background papers (please contact the author of the Report for any further information):