
REPORT TO THE MEETING OF THE EXECUTIVE 6 DECEMBER 2021**PORTFOLIO: STRATEGIC PLANNING – CLLR I H WARD****REPORT FROM ASSISTANT DIRECTOR, LEGAL & DEMOCRATIC****SUBJECT: COMPULSORY PURCHASE OF LAND AT MICHELIN FARM, RAYLEIGH****1 DECISION BEING RECOMMENDED**

- 1.1 That the Executive agrees to bring forward a report to consider using the Council's compulsory purchase powers to acquire land at Michelin Farm, Rayleigh, once initial investigations and survey works have been undertaken.
- 1.2 To approve a draw down from reserves of £25,000 to enable officers to prepare a business case for the compulsory purchase of land at Michelin Farm, Rayleigh.
- 1.3 To delegate responsibility to the Assistant Director, Place and Environment and Assistant Director, Legal and Democratic, to negotiate the potential voluntary purchase of the land, in parallel to the Compulsory Purchase Order (CPO) process, and report this back to the Executive for consideration.

2 KEY DECISIONS DOCUMENT REFERENCE No: 11/21**3 REASON/S FOR RECOMMENDATION**

- 3.1 The Council's Allocations Plan was adopted on 25 February 2014. The site is allocated for Gypsy and Traveller accommodation under Policy GT1 of the Allocations Plan. There is still an identified need for Gypsy and Traveller accommodation within the district.
- 3.2 Agreement to prepare a business case for the making of a CPO will allow preliminary processes to be carried out at the same time as negotiations with landowners are ongoing, saving both time and supporting the negotiating process. Full Council approval will still need to be sought to proceed with a CPO to acquire any property interest that cannot be secured via negotiated settlement.

4 THE SITE

- 4.1 The site is currently known as Michelin Farm and is situated at the junction of the A1245 and A127 edged red on the attached plan. It is approximately 9.5 hectares.
- 4.2 The wider part of the site is subject to planning permission for commercial development granted under planning reference 18/01022/OUT and development relating to this has commenced.

5 PROPOSAL

- 5.1 It is recommended that the Executive agrees to consider the use of the Council's CPO powers to deliver a Gypsy and Traveller accommodation site. A drawdown of funds would be required for officers to be able to prepare a business case which will be reported back to Full Council for a decision to proceed with the making of the Order.
- 5.2 This initial stage ensures that there is a robust case for the making of the CPO and allows for preliminary processes to be carried out whilst at the same time be in negotiations with the landowners to purchase the land voluntarily. This is in line with the guidance, "Compulsory Purchase and the Criche Down Rules", published by the Department of Communities and Local Government (revised July 2019). There ought to be a 'compelling case' for acquisition and the public benefit outweighs the impact on those affected.
- 5.3 It is considered that this will facilitate negotiations with the landowners as it shows that the Council is genuine in its proposal to deliver the site. It would also be justified to use CPO powers as a last resort if a genuine attempt and negotiation does not resolve in a voluntary purchase of land.
- 5.4 The use of CPO powers requires a compelling case in the public interest to be made. This report explains the context and justification for recommending that the Executive agrees in principle to use such powers.
- 5.5 To compulsorily purchase the land, the Council must have a relevant statutory power and authority to do so. The Council must use the most specific and appropriate power available to it.
- 5.6 In this case the Council's planning powers under section 226 of the Town and Country Planning Act 1990 (TCPA 1990) are the most appropriate as the site would be developed for the gypsy and traveller accommodation.
- 5.7 As a result of the Allocations Plan having been adopted, the land is allocated for Gypsy and Traveller accommodation under policy GT1 of the Allocations Plan. The allocation seeks to provide 15 pitches and the provision of amenity land. The need for this accommodation was identified in 2009 and is referenced as a requirement to meet need, as set out in Policy H7 ('Gypsy and Traveller Accommodation') of the Core Strategy.
- 5.8 The Guidance states that in considering whether to confirm the Order, the Secretary of State will take into account the extent to which the land being acquired fits with the purpose of the Council's Local Plan.

6 THE LAW

- 6.1 Under section 226 (1) of the Town and Country Planning Act 1990, the Council has powers to acquire any land in its area;

- a) *“if the authority think that the acquisition will facilitate the carrying out of development, or redevelopment, or improvement on, or in relation to the land; or,*
- b) *is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area which the land is situated.”*

- 6.2 In order to make an acquisition under a) above, the Council must also consider that the development, redevelopment or improvement will contribute to the promotion or improvement of the economic, social or environmental well-being of its area.
- 6.3 To justify the use of its power under section 226(1) (a) of the TCPA 1990, the government guidance advises that there needs to be a *‘clear strategic framework’* and *‘such a framework will need to be founded on an appropriate evidence base, and to have been subjected to consultation processes, including those whose property is directly affected.’*
- 6.4 In this case, the proposal is to seek in principle approval to make a CPO for the purpose of development that would make a contribution to the social well-being of the area.
- 6.5 The Council cannot currently demonstrate a 5-year supply of pitches and it remains that there is a need for a Gypsy and Traveller site within the district.
- 6.6 The Council must also demonstrate that there are no other impediments to proceeding with the development such as the need for planning permission, other consents or physical constraints. The land has been allocated as a Gypsy and Traveller site.
- 6.7 The Council must also demonstrate that it has the resources or at least will obtain the resources to pay for the CPO, compensation and other related expenditure to bring forward the Gypsy and Traveller accommodation site.
- 6.8 A CPO would be subject to statutory consultation procedures under the legislation.

7 ALTERNATIVE OPTIONS CONSIDERED

- 7.1 If the Council decides not to go ahead with the CPO of land, then the alternative would be to grant permission for private sites elsewhere in the District either by the Council or on appeal. However, in this scenario the Council would still not be providing the mix of private and municipal sites required in the Planning Policy for Travellers Sites 2015 (PPTS) and this would be to the disadvantage of some travellers without resource to fund their own land.
- 7.2 The Council is obliged by national planning policy plan for a sufficient number of pitches to address the needs of Gypsy and Traveller communities. The site forms Policy GT1 of the Council’s development plan which represents the

principal way in which those needs have been planned for. Progressing a CPO, and therefore helping to deliver new pitches on the site, may help to address these needs in fulfilment of national planning policy. Failure to address the needs of Gypsy and Traveller communities, through Policy GT1 or a suitable alternative strategy, risks the Council not fulfilling the requirements of national planning policy which may be a factor given weight in any applications of appeals relating to proposed new Gypsy and Traveller sites elsewhere in the district.

RISK IMPLICATIONS

- 7.3 There is a financial risk that the Council cannot afford to purchase the site and/or fund the ongoing revenue costs associated with it. This will be mitigated through the preparation of a Business Case to examine these costs in more detail before a recommendation is made to Full Council.

8 RESOURCE IMPLICATIONS

- 8.1 A drawdown of £25,000 from reserves is requested to cover the legal and survey costs associated with preparing the initial business case. If a decision is subsequently taken to proceed with a CPO the costs of supporting this process will be considerably higher but these cannot be quantified with certainty at this time.

9 LEGAL IMPLICATIONS

- 9.1 As above in section 6 of the report. There would be further legal implications to be reviewed and assessed as part of the business case to go ahead with making the CPO. Therefore, external legal advice would be required to provide a level of expertise and guidance on key areas such as planning, CPO law, land negotiations and acquisition documents.
- 9.2 There is also a risk that if the negotiations with the landowner fail and they object to the making of the order, then the Council will be dealing with a public inquiry scenario.

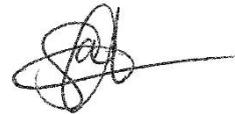
10 EQUALITY AND DIVERSITY IMPLICATIONS

- 10.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regards to the need:
- To eliminate unlawful discrimination, harassment and victimisation
 - To advance equality of opportunity between people who share a protected characteristic and those who do not.
 - To foster good relations between people who share a protected characteristic and those who do not.

10.2 The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnership and pregnancy/maternity.

10.3 The Equality Impact Assessment indicates that the proposals in this report will have a positive impact on the Gypsy and Traveller community.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.



LT Lead Officer Signature: _____

Assistant Director, Legal & Democratic

Background Papers:-

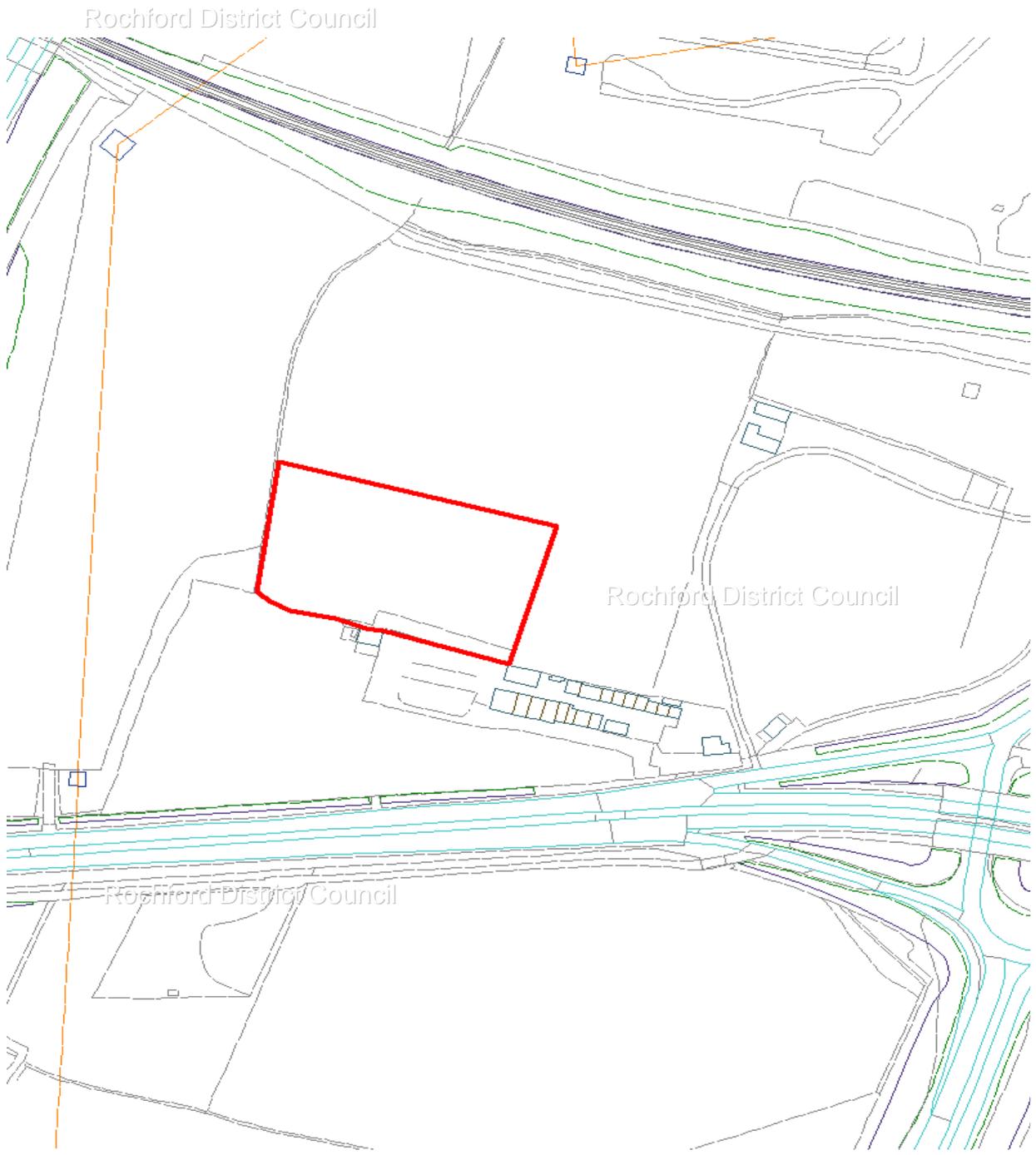
None.

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If you would like this report in large print, Braille or another language please contact 01702 318111.



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