

Delegated Decisions by Cabinet Member for Safer & Stronger Communities

***Monday, 15 August 2011 at 12.00 pm
County Hall, New Road, Oxford***

Items for Decision

The items for decision under individual Cabinet Members' delegated powers are listed overleaf, with indicative timings, and the related reports are attached. Decisions taken will become effective at the end of the working day on Tuesday 23 August 2011 unless called in by that date for review by the appropriate Scrutiny Committee.

Copies of the reports are circulated (by e-mail) to all members of the County Council.

These proceedings are open to the public



Peter G. Clark
County Solicitor

August 2011

Contact Officer: **Julie Dean**
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Note: *Date of next meeting: 5 September 2011*

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.

Items for Decision

1. **Declarations of Interest**
2. **Questions from County Councillors**

Any county councillor may, by giving notice to the Proper Officer by 9 am two working days before the meeting, ask a question on any matter in respect of the Cabinet Member's delegated powers.

The number of questions which may be asked by any councillor at any one meeting is limited to two (or one question with notice and a supplementary question at the meeting) and the time for questions will be limited to 30 minutes in total. As with questions at Council, any questions which remain unanswered at the end of this item will receive a written response.

Questions submitted prior to the agenda being despatched are shown below and will be the subject of a response from the appropriate Cabinet Member or such other councillor or officer as is determined by the Cabinet Member, and shall not be the subject of further debate at this meeting. Questions received after the despatch of the agenda, but before the deadline, will be shown on the Schedule of Addenda circulated at the meeting, together with any written response which is available at that time.

3. **Petitions and Public Address**
4. **Approval to Tender for a Contract to Provide Traveller Site Management Services for the Royal Borough of Kensington and Chelsea**

Forward Plan Ref: 2011/138

Contact: Richard Webb, Acting Head of Trading Standards & Community Safety

Report by Director for Social & Community Services (**CMDSSC4**)

The Royal Borough of Kensington and Chelsea owns and manages a single traveller site. This site contains 19 pitches and a community facility. An invitation to tender for a contract to manage this site was recently issued by the authority. The County Council's Gypsy and Traveller Service expressed interest in tendering for the contract and has passed the pre-qualification questionnaire stage of the tendering process. A tender has been submitted by the 2 August deadline.

This report provides background to this opportunity to tender to provide the site management service for the Royal Borough of Kensington and Chelsea. The report contains a full appraisal of the costs, benefits, opportunities and risks involved should Oxfordshire County Council be awarded the contract. Cabinet Member approval is required to enter into a contract for the provision of services to another authority. This paper is intended to enable the Cabinet Member of Safer and Stronger Communities to decide whether to authorise the provision of traveller site management services for the Royal Borough of Kensington and Chelsea.

RECOMMENDATION

The Cabinet Member for Safer and Stronger Communities is RECOMMENDED to:

- (a) approve the provision of traveller site management services to the Royal Borough of Kensington and Chelsea, and**
 - (b) authorise the Council's officers to enter into a legal agreement to that effect with the Royal Borough of Kensington and Chelsea.**
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Division(s): N/A

CABINET MEMBER FOR SAFER AND STRONGER COMMUNITIES 15 AUGUST 2011

TENDER FOR THE PROVISION OF A GYPSY AND TRAVELLER SITE MANAGEMENT SERVICE ON BEHALF OF THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

Report by Director for Social and Community Services

Introduction

1. Oxfordshire County Council owns and maintains 6 gypsy and traveller sites within Oxfordshire. These sites vary in size from 5 to 24 plots. Each plot consists of a concrete hard-standing area and a utility block containing a kitchen, toilet and amenity area.
2. The Oxfordshire County Council owned sites are maintained by the County Council's Gypsy and Traveller Service. Site management typically involves-
 - (a) Ensuring the sites and plots on the sites are maintained with repairs being commissioned as necessary to keep all facilities operational and the hard-standing, fencing, etc. in good condition.
 - (b) Ensuring that the sites remain safe for residents and visitors.
 - (c) Collection of rent from residents.
 - (d) Collection of payment for utilities.
 - (e) Ensuring plots remain occupied and managing a fair allocation policy to ensure vacant plots are allocated on the basis of need.
 - (f) Ensuring all residents agree to, and abide by, pitch licence agreements.
 - (g) Working to facilitate good relationships between the gypsy and traveller and settled communities.
 - (h) Acting to prevent misuse of site facilities and unauthorised residency.
3. The County Council's Gypsy and Traveller Service also manages 5 sites owned by Buckinghamshire County Council under a contract for the provision of site management services with that Council. This contract commenced in June 2008, was renewed in April 2009 and expires in 2014.
4. In 2010 the service also entered into a contract for the provision of traveller site services for Brent Housing Partnership. Brent Housing Partnership operates a single traveller site consisting of 30 plots.
5. The Gypsy and Traveller Service has a strong reputation as a result of its track record in providing effective site management services both within and outside of Oxfordshire. Positive feedback has been received from both Buckinghamshire County Council and Brent Housing Partnership on the services provided.

6. An opportunity has arisen to tender to provide site management services for the Royal Borough of Kensington and Chelsea. This authority operates a single traveller site, called Stable Way, with 19 plots. A tender has been submitted already since the deadline for submission of tenders was 2nd August 2011. However, we are able to withdraw this tender if the decision is taken not to proceed with the tender process.

Exempt Information

7. None

Stable Way Background

8. The Stable Way travellers' Site has been in existence since 1974. The site was originally located in the borough of Hammersmith Fulham, but following a parliamentary boundary change in 1995 it is now within the Royal Borough of Kensington and Chelsea ('the Borough') on land leased by the Borough from Transport for London. Recently the Site has officially been renamed as 'Stable Way' from its previous name of Westway Travellers' Site.
9. The Stable Way site houses Travellers of Irish heritage and comprises of 19 pitches. At present approximately 46 adults and 47 children live on the Site. It also has a community facility, known as the 'Hut', on a former plot.
10. The Stable Way site is approximately 5 miles from the site currently managed on behalf of Brent Housing Partnership.

Service Specification

11. The Borough is inviting tenders to provide site management services for the Stable Way site. Under the contract to be awarded the contractor will be responsible for providing the day to day site management on the Stable Way Site. This will involve providing for a daily presence on the Site, being on hand to liaise directly with the residents, building and maintaining good relationships with both the residents and local services and contributing to an inclusive and positive living environment.
12. The contractor will be required maintain a successful site, which will be kept to its optimum standard along with promoting social cohesion both among the families that live on the site and between the local housed communities. The service will foster open and positive relationships between the residents and the Site Manager, encouraging residents to be engaged and involved in the running of the site. Specifically, the Contractor will be required to:
 - a) Ensure a Site Manager / Warden is present on site daily during office hours;
 - b) Report any unauthorised occupation on the site to the Borough and take all necessary steps to remove unauthorised occupiers;

- c) ensure residents are aware of and understand site rules and regulations and that residents comply with them;
 - d) Take new residents through a Site Handbook, helping them to settle in;
 - e) Talk with residents about the Site, be available and encourage participation in the Stable Way residents' association;
 - f) Act on resident feedback and report progress to them regularly.
13. In addition, the service provider is required to-
- a. Assist residents to apply for Housing Benefit.
 - b. Operate a waiting/transfer list for the allocation of vacant pitches in accordance with policy guidance given by the Borough.
 - c. Assist with the processing of applications to the waiting/ transfer list.
 - d. Grant licences for the allocation of pitches on behalf of the Borough.
 - e. Set rent and service charges levels in consultation with the Borough.
 - f. Work with residents to keep rental arrears to a minimum.
 - g. Ensure that the site remains safe and well maintained.
 - h. Take action to address breaches of site licence agreements.
 - i. Assist in dealing with licence disputes.
14. The contract being tendered is a 2 year contract with option to extend for up to 2 further years.

Assessment of Feasibility of Meeting the Contractual Requirements of the Royal Borough of Kensington and Chelsea.

15. In general terms the site management service the Borough is seeking is substantially similar to the function performed by the Gypsy and Traveller Service in respect of the Oxfordshire County Council owned sites. It is also similar to the service provided under the existing contracts managed by the unit. The service has prior successful experience in meeting all the Borough's service specification requirements either within Oxfordshire or under the existing external contracts. Therefore, there are no doubts about the Service's competence to provide the service expected by the Borough.
16. A site visit has been carried out by the Gypsy and Traveller Service Manager. This visit confirms that the site should not present any challenges that are not

familiar to the Service already and that the site is substantially similar to those already managed by the Service.

17. The tender has been submitted to provide the service as specified by the Borough, with a site manager permanently based on the Stable Way site. However, we have also offered a different service without this permanent presence on site. This alternative service presents no additional risk but could be provided at a lower cost. This alternative proposes that the service required by the Borough could be delivered using existing resources from within the Gypsy and Traveller Service. The Gypsy and Traveller Service Manager is confident that the site could be managed to meet the Borough's expectations without expanding the unit if this were to be an acceptable approach to the Borough.

Legal Implications

18. Advice on the draft contract with the Borough has been provided by Legal Services. As a result a request for amendment has been submitted in respect of a clause which requires the service provider to indemnify the Borough against employment rights claims which could arise when a replacement contractor is appointed. This clause is unclear as currently drafted and we have suggested an alternative form of drafting. This proposed amendment is still under consideration by the Borough's lawyers. The contract will not be entered into unless and until these provisions are in a form satisfactory to the Council. In effect, whilst we are seeking to improve the drafting of the clause, we will need to accept liability for any employment rights if the contract is terminated.
19. All other issues commented upon by Legal Services have been clarified or resolved. The main legal/commercial implication is that the contract requires us to indemnify (compensate) the Borough for any loss etc. suffered by them as a result of any breach the agreement by us. This indemnity is uncapped. The benefit of including an indemnity (rather than relying on standard contractual rights) is that the indemnity potentially covers wider types of loss and may not require the non-breaching party to mitigate its loss.
20. This indemnity means that Oxfordshire County Council would be liable for any loss suffered by the Borough as a result of our failure to meet contractual obligations in respect of the Stable Way site. This might include, for example, any claim for injury arising as a result of the site not being maintained in a safe condition. This is the same liability that we have in relation to the Oxfordshire County Council owned sites and the sites we manage under contract on behalf of others. This risk is mitigated through the service's management and risk assessment procedures, requiring annual fire safety checks, weekly electrical inspections and weekly general health and safety inspections as well as informal daily site assessments completed by the site management team. It is worth noting that the Council's standard service agreements also contain a similar indemnity provision and therefore it is not unusual.

Financial and Staff Implications

21. The service specification issued by the Borough requires a dedicated site manager/ warden to be present on site during office hours. In the opinion of the Gypsy and Traveller Service Manager this may be unnecessary. Therefore, a tender has been prepared containing 2 alternative approaches. The first will meet the Borough's requirement for a dedicated site manager/ warden. This site warden will be employed by Oxfordshire County Council. The alternative utilises existing Gypsy and Traveller Service staff to manage the site.
22. A tender price of £60,000 per annum has been submitted. Rental income from the residents on the site is to be retained by the service provider and used to offset the site maintenance costs. This income is estimated to be in the region of £85,000 per annum. Therefore, the total income under this contract will be in the region of £145,000 per annum.
23. The Gypsy and Traveller Service Manager estimates that site maintenance will cost approximately £40,000 per annum. A provision of £10,000 per annum has also been allowed for drain clearance, pest control, etc. These estimates are based on costs associated with the maintenance of the sites we currently manage and is supported by a site visit which confirmed the condition of the plots on the Stable Way site. Management supervision, holiday cover, etc. will be provided from existing staff. Allowing for staffing costs and ancillary costs such as increased travel costs, the tender includes a management fee of £18,000 per annum. In addition, existing costs of approximately £26,000 would be off-set should we need to employ a site manager/ warden or £47,000 should the contract be awarded on the basis that we manage the site with existing staff. As such, the actual financial benefit to the County Council from this contract will be in the region of £44,000 to £65,000 depending on the contract arrangement.
24. Rule 105 of the Council's Financial Procedure Rules (Part 8.2 of the Constitution) states:

"Cabinet approval must be obtained before any negotiations are concluded about working for third parties."

There is a standing delegation to each Member of the Cabinet in Part 4.4 of the Constitution (Delegated Decisions by Individual Cabinet Members) to take decisions within his/her portfolio except in certain cases. This instance does not fall within any of the exceptions listed at (1)(a) – (i).

Risk Assessment

25. Entering into a service provision contract of this type does create some risk for the County. The service provision contract is similar to those we have in place with Buckinghamshire County Council and Brent Housing Partnership. Therefore, there are no significant concerns about our ability to meet the contractual responsibilities. The risks presented by extending our service

provision to encompass the Stable Way site are similar to the risks associated with the existing contracts. Clearly, we will be requiring the staff within the Gypsy and Traveller Service to cover a larger number of sites over a larger area but the Service Manager is confident that he has capacity within his team to meet the additional service responsibilities.

26. The site itself is insured by the Borough against fire, lightning, explosion, earthquake, riot/civil commotion, aircraft and terrorism. Therefore, we assume no liability or responsibility for the cost of major repairs to the site. The contract requires the service provider to ensure that the site remains safe and well maintained for residents. The tender price has been prepared based on previous experience of maintaining similar plots on other sites to provide confidence in the cost estimates for meeting this contractual responsibility.
27. Should we be successful in the tender process the existing service insurance will be extended to meet the contractual obligations in respect of personal injury and employer liability. Again, these risks are in line with the existing risks on both the Oxfordshire County Council owned sites and the sites managed under contract.
28. The contract does require the Service Provider to accept full responsibility for,-
 - a. death and personal injury;
 - b. loss or damage to property (including property belonging to the Council for which it is responsible);
 - c. breach of statutory duty; and
 - d. all actions, claims, demands, costs, charges, losses or expenses (including legal expenses on an indemnity basis);arising out of or in consequence of the performance or non-performance by the Service Provider of its obligations under this Contract. Again these are similar risks to those already carried by the County in relation to the County Council owned sites and those managed under existing contracts.
29. In addition, there is a small financial risk to the Council of not generating the rental income expected. However, this is a low risk given that the Service has a strong track record in this respect in relation to other sites it manages and considering that the rent is paid direct from Housing Benefit to the Service.

Corporate Policies and Priorities

30. The Gypsy and Traveller Service has a strong track record of delivering services on behalf of other authorities. This approach allows the County to achieve economies of scale and any surplus generated from contracts off-sets the costs of the Gypsy and Traveller Service and the management of County Council owned sites. Entering into a service provision contract with the Royal Borough of Kensington and Chelsea will enable the authority to further reduce the net cost of the service. This supports the Council's strategic objective of delivering efficient public services and is consistent with the Corporate

business strategy aim to explore ways to increase the benefit from joint service delivery and partnering arrangements.

RECOMMENDATION

31 The Cabinet Member for Safer and Stronger Communities is RECOMMENDED to:

- 1) approve the provision of traveller site management services to the Royal Borough of Kensington and Chelsea, and**
- 2) authorise the Council's officers to enter into a legal agreement to that effect with the Royal Borough of Kensington and Chelsea.**

NAME John Jackson
Director for Social and Community Services

Background papers: Nil
Contact Officer: Richard Webb Acting Head of Trading Standards & Community Safety, Tel: 01865 815791

August 2011

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