

Wards Affected: All Wards but primarily Bletchley and Fenny Stratford, Ashland and Simson. Walton Park

Report considered by Cabinet – 28 February 2012

FENNY LOCK REVIEW

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Executive Summary:

This report advises Members of the outcome of the Fenny Lock Review and makes recommendations regarding the future of the Fenny Lock site, alternative proposals for the use of the available finance, and managing future need.

The review, which included an extensive consultation process, concluded that better value for money in terms of meeting need in the most cost effective way can be obtained by increasing the supply of housing rather than continuing with the Fenny Lock scheme at this time. It notes that the issues are finely balanced and considers such factors as the comparatively high cost of the proposed new pitches, the low number of traveller households in high need and the opportunities to meet a greater range of need through the alternative use of the capital currently allocated to Fenny Lock.

1. Recommendation(s)

- 1.1 That the scheme to develop a travellers' site at Fenny Lock be stopped as the site represents poor value for money in terms of meeting priority housing need.
- 1.2 That the investing the £1.2m in new Council-owned 'wheelchair standard' bungalows, targeted to release social rented family homes units for households in the highest level of need (i.e. "Band 1"), be agreed.
- 1.3 That the commitment to meet the needs of gypsies and travellers in a cost effective and sustainable manner be re-affirmed;
- 1.4 That, in the Site Allocations/Development Management part of the Core Strategy process, alternative sites to Fenny Lock and Bottle Dump which are capable of cost-effective and sustainable development be considered.
- 1.5 That the needs of the 3 gypsy and traveller households in the highest need ("Band 1") be met by making a more cost-effective bid to the Homes and Communities Agency to refurbish/expand the existing site at Willen Road.

2. Background

- 2.1 The Council already has a good history of making provision for gypsies and travellers in Milton Keynes. It provides and manages two sites (at Calverton Lane and Willen Road) and has allocated 3 new sites in its Local Plan (at Fenny Lock, Bottle Dump and Newton Leys).

2.2 On 26 July the Cabinet agreed to suspend development of the Fenny Lock site pending the outcome of a value for money review (Minute C41 refers). The Review has now been completed and is at **Annex A** to this Report (circulated under separate cover). In summary the Review noted that:

- (a) If the Fenny Lock project was cancelled this would result in the greatest Financial Impact to the Council;
- (b) Funding for Aids and Adaptations achieved high scores across all categories;
- (c) Public consultation showed a preference for the remaining £1.2m to be spent on obtaining new homes for people in housing need.

3. **Issues**

3.1 The issues are finely balanced and can be summarised as follows:

3.2 The site has a valid planning permission and £600,000 has already been spent. If the project does not proceed it could be considered inequitable on a number of grounds and a waste of money. The Council received £1.8m from the Government specifically to build the Fenny Lock site for Gypsies and Travellers. Whilst there are site/development-related technical problems with the site, the £1.8m was given to the Council to overcome these difficulties.

3.3 The costs of Fenny Lock are significantly above the current national average. In January 2012 the Homes and Communities Agency (HCA) advised that bids for Traveller Pitch Funding required subsidy below £90,000 per pitch for new schemes (with a national average of around £63,000). Fenny Lock equates to £180,000 per pitch.

3.4 The Review noted that a large number of families were in need of permanent accommodation. In December 2011 there were 363 households in the highest level of housing need ("Band 1"). 31 households had been placed in bed and breakfast accommodation at a cost of around £50 per household per night.

3.5 Lower numbers of traveller households with high need - the Council's Gypsy and Traveller Accommodation Assessment set the overall level of need at 36 households (which could be met by developing the sites in the Local Plan and from vacancies arising from the existing sites). However the Fenny Lock Review showed that the overall level of need appeared to be lower at 20 households (of which only 3 were in "Band 1").

3.6 Greater levels of need could be met by spending on Aids and Adaptations to properties for people with physical disabilities/older people and that there was a need for approximately 101 wheelchair standard bungalows.

3.7 Consequently, in terms of unit costs, the development of the Fenny Lock site does not appear to represent value for money because:

- (a) The cost of £180,000 per pitch is considerably higher than the national average of £63,000 (and the maximum of £90,000 per pitch);

- (b) The unit cost of new build housing can be as low as £70,000 - £80,000 per unit and wheelchair housing can be between £117,000 - £130,000 per unit;
- (c) The unit cost of obtaining new supply from existing housing can be as low as £40,000 - £120,000.

3.8 In terms of meeting housing need, the Fenny Lock project does not appear to represent value for money due to:

- (a) The high number of people in “Band 1” at 363 households, some of which were in bed and breakfast accommodation outside of Milton Keynes at a cost of £50 per night per household;
- (b) The high need to build new wheelchair standard housing for people with physical disabilities (approximately 101 homes);
- (c) Only 3 gypsy and traveller households are in “Band 1” which could potentially be met by improving Willen Road rather building a new site.

3.9 Consequently the remaining funds should be spent on providing new housing for the high number of households in “Band 1”. Ideally this would be wheelchair standard housing for people with physical disabilities/older people, targeted to households who can release accommodation for homeless households or other households in “Band 1”. This option would thus meet a range of identified needs. It would also broadly be within the original aim of the Government’s allocation which was to provide new accommodation in the form of a Council-owned asset.

4. **Alternative Options**

4.1 The Review Paper sets out a wide range of alternative options.

5. **Implications**

5.1 Policy

Current national planning policy and guidance for gypsy and traveller and travelling showpeople sites is set out in Circular 01/2006 and Circular 04/2007.

The Fenny Lock site was one of the sites identified for Gypsies and Travellers in the Council’s Local Plan. This went through an extensive consultation process, as outlined in the Review Paper and it has a planning permission.

5.2 Resources and Risk

Resources – Stopping Fenny Lock has the greatest ‘Financial Impact’. This is because around £600,000 has already been spent/committed on the project. If the project is cancelled then any costs incurred to date would be considered abortive. These costs would be no longer eligible for capital expenditure and must be met from revenue expenditure. The effect of this would be a charge to the General Fund of the £600,000. This sum would need to be resourced from revenue within the year that the charge is made. The cost would

therefore be met from the Council's Building Assets Renewal Reserve, which is currently a revenue reserve. The Reserve will then be restored to its existing level by using £600,000 from the £1.8m capital grant funds (the Building Assets Renewal Reserve will then contain a mixture of capital and revenue resources). The amount of capital grant available for other schemes will therefore be £1.2m.

Risk – The Council has given a clear and firm commitment to develop Fenny Lock by putting it in its Local Plan, granting planning permission, bidding for the funds and then starting work. If the Council decided to cancel the project then there is a risk that a case could be made that it is failing in its duties under the Equalities Act and the Human Rights Act. This is because of the legitimate expectation created by previous Council decisions that this project will progress to completion. However, an Equalities Impact Assessment has been carried out which is available on the Council's web site at <http://bit.ly/EqIA-FennyLockReview> and at **Annex B**.

The Senior School Organisation and Planning Officer has advised that in terms of provision of school places, across Milton Keynes as a whole the Council will have an increasing deficit of school places and schemes are being put in place to tackle this. There is a shortfall for the in area schools for the Fenny Lock development. So although the additional number of pupils anticipated is very low, it will be in the context of an existing shortage of places.

Y	Capital	Y	Revenue	N	Accommodation
N	IT	Y	Medium Term Plan	N	Asset Management

5.3 Carbon and Energy Management

If new homes were to be built or if the project at Fenny Lock were to proceed then the properties would comply with the Code for Sustainable Homes thus meeting the Council's energy management and planning policy.

5.4 Legal

Under the Local Government Act 1999, a local authority has to secure continuous improvement having regard to economy, efficiency and effectiveness. A key way to secure best value is to test, challenge and, if necessary, stop projects.

Under Section 225 of the Housing Act 2004 the Council has a duty to assess the needs of Gypsies and Travellers.

Under the Equalities Act 2010 a public authority must, in the exercise of its functions, have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it [(b)]. In this scenario, having due regard means, in particular, to the need to:

- (a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; and
- (b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it

The Equalities Act recognises Gypsies and Travellers as having a protected characteristic. Case law has also established that the Government has a duty to “facilitate the gypsy way of life” for ethnic gypsies and travellers under the Human Rights Act.

Under the Housing Act 1996 a person is homeless if their accommodation consists of a moveable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted both to place it and to reside in it. If a traveller household is in “priority need” and if they are homeless then the local authority has a duty to ensure that accommodation is made available. The Review notes that the case law surrounding this issue suggests that if a traveller pitch cannot be found then conventional housing may have to be offered.

Current national planning policy and guidance for gypsy and traveller and travelling showpeople sites is set out in The Government proposes to replace these circulars with a new, Planning Policy Statement. Local planning authorities will have to plan for a five-year supply of traveller pitches/plots. If a local planning authority does not do this then the draft policy asks them to “treat favourably” applications for a temporary permission.

5.5 Other Implications

Y	Equalities/Diversity	Y	Sustainability	Y	Human Rights
N	E-Government	Y	Stakeholders	N	Crime and Disorder

Equality and diversity

There are significant implications for equalities and diversity, human rights and stakeholders in these proposals. In brief, Gypsies and Travellers are one of the most disadvantaged groups in society. Authorised travellers’ sites can provide the basis for local authorities to tackle their inequalities. In turn this will reduce the number of unauthorised sites and the tensions they can create between travellers and the settled community and reduce the need for costly enforcement action. The provision of good quality sites also plays an important role in promoting community cohesion and sustainability whilst ensuring that local areas are inclusive for all irrespective of their background.

Set against this is the pressing need faced by the 363 households who are in “Band 1”, which is the highest level of housing need. The Council also has a further 160 homeless households in temporary accommodation and its Comprehensive Equality Scheme 2010 – 2013 sets out a target to reduce the number of homeless households in temporary accommodation to 70.

Background Papers: Fenny Lock Review Paper
Equalities Impact Assessment
<http://bit.ly/EqIA-FennyLockReview>