

Executive Report

Ward(s) affected: Send

Report of Joint Strategic Director: Place

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## **Send Hill Disused Sandpit – Supplementary Estimate - Stage 2 (invasive) contamination survey**

### **Executive Summary**

Land West of Winds Ridge, Send Hill, known as Send Hill Disused Sandpit, is a former landfill site. The asset was transferred to the Council in the 1980s and is identified in the Council's asset register as Surplus. It is currently used as amenity land for the purposes of public recreation. It is allocated in the Local Plan as a site for housing development.

The site is contaminated due to being used for landfill. Formal landfill records confirm the waste types were Household, Commercial, Special, Liquid Sludge and Industrial Waste. If the site were to be developed, it is anticipated that a significant amount of remediation work may need to be undertaken.

In order to inform the Executive's decision on whether to dispose of the asset this report seeks approval of a supplementary estimate of £25,000 to pay for a Stage 2 (invasive) contamination survey.

With the knowledge gained from the results of the survey, the Council can obtain a more informed residual land valuation with which to advertise the sale of land on the open market and thereby obtain best consideration with risks and opportunities being made explicit. There are risks and potential gains from both options which are explained in the report.

## **Recommendation to Executive**

That the Executive approves a supplementary estimate of £25,000, from the Budget Pressures Reserve, for the purpose of commissioning a Stage 2 (invasive) contamination land survey.

### Reasons for Recommendation:

- To inform a more accurate valuation of the land and generate a more detailed picture of the types of waste present.
- The land may be heavily contaminated and does not support service delivery.

### **Is the report (or part of it) exempt from publication?**

No

## **1. Purpose of Report**

- 1.1 The purpose of this report is to seek approval from the Executive for a supplementary estimate of £25,000 to be made available for the commissioning of a Stage 2 (invasive) contamination land survey of the asset known as Send Hill Disused Sandpit, before any decision is made on the possible sale of the asset. The land is currently listed in the Council's asset register as Surplus.

## **2. Strategic Priorities**

- 2.1 In agreeing the supplementary estimate, informed decisions can be taken on the disposal of the asset, which may lead to new homes being built. This supports the corporate priority to "provide and facilitate housing that people can afford" under the corporate theme of Homes and Jobs – Residents having access to the homes and jobs they need.

## **3. Background**

- 3.1 The land sits to the west of Send Hill opposite Winds Ridge. It was used for sand extraction between the 1940s to late 1970s and was subsequently used as a landfill site until 1985. The landfill recorded waste types were Household, Commercial, Special, Liquid Sludge and Industrial Waste. The freehold interest was transferred to the Council on 17 April 1985. It is held as surplus amenity land.
- 3.2 The site, along with the land immediately to the south-west of it, is earmarked in the Local Plan for development under 'Policy A43'. The site is allocated for approximately 40 homes (Town & Country Planning Act

Use Class C3) and 2 Traveller Pitches (Sui Generis) (see Appendix 1)

- 3.3 All concerns regarding development of the site were addressed before the site was allocated and the Local Plan adopted in 2019. The planning inspector's comments were as follows:

"Policy A42 Clockbarn Nursery, Tannery Lane, Send, Policy A43 Land west of Winds Ridge and Send Hill, Send and Policy A45 Land at the rear of the Talbot, High Street, Ripley are modest-sized housing allocations (with 2 traveller pitches in the case of A43) on the edges of these villages. A42 is on the site of the Clockbarn Nursery; A44 and A45 are adjacent to existing development and are enclosed by vegetation. They are well-located and proportionate in relation to the villages; their allocation would have limited impact on the openness of the Green Belt and in each instance, it would be possible to create good defensible boundaries. Their size is modest enough to have only a very limited effect on vehicle movements. There are therefore exceptional circumstances to alter Green Belt boundaries to provide for the allocations."

- 3.4 The land is surplus amenity land used for the purposes of public recreation. The Council maintains the land and carries out regular ground maintenance works at a cost of £3,500 per year. However, recent incursions caused a large wildfire, fly tipping and unauthorised tethering and grazing of animals to the annoyance of residents and users of the space. Garden waste is also fly tipped on the land. Assets and Property officers now appoint a security firm to undertake weekly patrols to keep watch and so minimise the chance of such activities. This is an additional cost to the Council's revenue budget of £975 per year.
- 3.5 A desk-top contamination survey was carried out by the adjoining landowner and shared with the Council. This identifies the landfill waste types as Household, Commercial, 'Special', Liquid Sludge and Industrial Waste. The report concluded that there is significant ground contamination with a high risk associated with ground gases (Carbon Monoxide, Hydrogen Sulphide and Methane) and aggressive ground conditions (metals, Petroleum Hydrocarbons (TPHs), Polycyclic Aromatic Hydrocarbons (PAHs), Asbestos, Sulphates, Volatile Organic Compounds (VOCs). These pose significant ongoing risks to public users and neighbours.
- 3.6 The Council must comply with the Occupiers Liability Act 1984 to protect users of the land. Investigation and remediation works would be required before any development which heavily impacts the value of the land.
- 3.7 The Executive Liaison Group considered a draft report on the disposal of the asset at its meeting on 5 October 2022. The report contained details

pertaining to a possible disposal and included land valuations with and without the benefit of planning permission.

- 3.8 The Group felt that a Stage 2 (invasive) contamination survey would provide a more informed view on a potential disposal with knowledge of both the possible contaminants and an indication of possible remediation costs. Officers have sought quotations for a Stage 2 (invasive) contamination survey to understand the nature of the contaminants present and better inform the land valuation. Once a survey is completed, officers will bring a report on the possible disposal of the land before the Executive.
- 3.9 Three quotations have been received for a Stage 2 survey with core samples, gas and groundwater monitoring. The cheapest of these was £21,989 plus VAT. As there is no current budget for this work, the Executive is being asked to approve a supplementary estimate for this expenditure plus contingency as explained in section 5 below.

#### **4. Consultations**

- 4.1 Ward Councillors, Guida Esteves and Susan Parker, were consulted. Councillor Esteves agreed that proceeding with the survey was a realistic request from the Executive before any decision is made on a disposal. However, she questioned whether the survey would provide the necessary detail for a fully informed decision.
- 4.2 Lead Councillor for Resources, Councillor Tim Anderson was consulted and is of the opinion that officers should instruct a Stage 2 (invasive) contamination survey. Councillor Anderson understands that the results of the survey would enable a residual valuation to be obtained by deducting the estimated remediation costs from the reported valuations, upon which to advertise the land on the open market. However, there is a risk that the survey does not provide the surety and accuracy sought by Councillors as core samples will only provide indicative results and a broad assumption on cost estimates. Once the survey is completed, Councillor Anderson is of the opinion that the property should be recommended for sale on the open market.
- 4.3 The Corporate Management Board (CMB) were consulted and concluded that a contamination survey posed many risks including the possibility that it reveals significant contaminants such that any remediation costs are more than any development value.

#### **5. Key Risks**

- 5.1 Contaminants pose significant ongoing risks to public users and neighbours should they escape the bounds of the site into neighbouring land and may lead to possible claims against the Council. The Council must comply with the Occupiers Liability Act 1984 when anyone visits or enters the site. Gas monitoring ceased from 2000 onwards.
- 5.2 If the Council instructs a Stage 2 (invasive) contamination survey it may give a better indication of contaminants, costs for remediation and residual value. However, this may in turn reveal significant contaminants and remediation costs more than the independent valuations received.
- 5.3 The Council is currently, and will remain, responsible for the administration of the waste (but not removal) on this site whether the land is disposed of or not, as it would not be administered by the Environment Agency. Records of gas monitoring and landfill are kept securely by the Council and if the site were to be developed, officers' time would be used in administering the waste on the site.

## **6. Financial Implications**

- 6.1 The Council has undertaken three independent valuations of the site. The first considered the land value as it currently stands based on the knowledge officers currently have of the levels of contamination and estimated remediation required for any future development.
- 6.2 The second and third valuation considered the land value with and without the benefit of planning consent but did not include any allowances for remediation of the contamination.
- 6.3 The Executive is asked to note that a Stage 2 (invasive) contamination land survey will still present a caveated report on what is contained within the landfill. The investigation will involve taking core samples to provide an indication of what is present within the ground, but it will not present or guarantee an absolute answer of what contaminants are contained within and across the whole site. Similarly, the provision of remediation costs will be refined, but will remain broad estimates based on the core samples.
- 6.4 Three quotations have been received for a Stage 2 survey with core samples, gas and groundwater monitoring. The best value quote was £21,989 plus VAT, which is the recommended quotation. The other quotes were £35,900 plus VAT and £23,000 plus VAT. There is no current budget available to pay for this work. Hence, the Executive is being asked to approve a supplementary estimate for this expenditure from the Budget Pressures Reserve. Officers recommend an additional £3,000 be added as a contingency with a total supplementary estimate request of £25,000.

- 6.5 Should the Executive wish to further evaluate the results obtained from the Stage 2 survey, specialist quantity surveying advice may be required at an additional cost to the Council.
- 6.6 Should the survey return favourable results and the land is sold, any capital receipt is not currently accounted for in the capital programme budget and would provide a financial benefit to reduce the Council's underlying need to borrow for the capital programme and in turn reduce the Council's General Fund borrowing cost (Minimum Revenue Provision and debt interest).

## **7. Legal Implications**

- 7.1 The Council acquired the land pursuant to the Town and Country Planning Act 1971. There is a restriction on the title which states that "no disposition of the land is to be registered unless made in accordance with the Town and Country Planning Act 1971 or some other Act or authority". The 1971 Act was replaced by the Town and Country Planning Act 1990.
- 7.2 As the land was acquired for planning purposes and, pursuant to s233(1) of the Town and Country Planning Act 1990, the Council is authorised to dispose of it.
- 7.3 The land is surplus amenity land which is used for the purposes of public recreation. Whilst the land is not formally designated as open space, it is considered open space because it falls within the definition of open space under s336 of the Town and Country Planning Act 1990 being "any land laid out as a public garden or used for the purposes of public recreation, or land which is a disused burial ground". The Executive should note that this is not a constraint to any future development and the ownership of a site does not change a site's planning status.
- 7.4 There is a formally designated footpath crossing the eastern edge which is maintained by Surrey County Council (Footpath No. 58). This right of way would remain should the land be disposed of.

## **8. Human Resource Implications**

- 8.1 There are no human resource implications and the matter would be finalised within existing resources.

## **9. Equality and Diversity Implications**

- 9.1 An impact assessment has been carried out. See appendix 3.

## **10. Climate Change/Sustainability Implications**

- 10.1 There are no climate change or sustainability implications arising from the recommendations laid out in this report.

## **11. Summary of Options**

- 11.1 The options available to the Council are:

11.1.1 Do nothing – The Executive can decide on the disposal of the land without the survey and associated cost. There is a risk of possible future claims against the Council if contaminants escape the bounds of the site. In addition, the Council would have to comply with the Occupiers Liability Act 1984.

11.1.2 Complete a Stage 2 (invasive) contamination survey – Procure and commission the survey at an estimated cost of £21,989 plus VAT. Officers also recommend an additional £3,000 be added as a contingency meaning that the Executive would need to approve a supplementary estimate of £25,000 in total.

## **12. Conclusion**

- 12.1 The land is contaminated however the nature and extent of the contamination is unknown. The cost of remediating the land for the purposes of redevelopment is also unknown.
- 12.2 The Executive, in authorising a supplementary estimate for a Stage 2 (invasive) contamination survey, will have ensured that the Council has understood its position in relation to the Occupiers Liability Act 1984 and will have more informed knowledge of the contaminants present.
- 12.3 The Executive is advised to note the contamination risks identified in undertaking the survey as described in section 5 as well as the financial risks laid out in paragraph 6.3.
- 12.4 In completing a survey the Council will have completed all the necessary due diligence to make an informed decision on any future disposal of the land and inform any valuation to ensure best consideration.

## **13. Background Papers**

None

## **14. Appendices**

Appendix 1 – Local Plan, Policy A43

Appendix 2 – Land Registry plan

Appendix 3 – Equality Impact Assessment