

**TITLE OF REPORT: DISPOSAL OF LAND AT DARK LANE, SANDON TO ENABLE THE DELIVERY OF AFFORDABLE HOUSING**

JOINT REPORT OF THE HEAD OF FINANCE, PERFORMANCE & ASSET MANAGEMENT AND HEAD OF HOUSING & PUBLIC PROTECTION

**1. SUMMARY**

- 1.1 The purpose of this report is to seek Baldock and District Committee support for Cabinet's decision to approve the disposal of Council owned land at Dark Lane, Sandon to Howard Cottage Housing Association at 50% of its market value to enable the provision of affordable housing.
- 1.2 Cabinet resolved the following at its meeting on the 29<sup>th</sup> January 2013 :
- (1) the disposal of the Council owned land at Dark Lane, Sandon, to Howard Cottage Housing Association at 50% of its market value be approved, subject to no substantive objections being raised by the Baldock and District Committee; and
  - (2) the provision of a housing grant of up to £380k to Howard Cottage Housing Association be approved, to enable the delivery of affordable housing on the site, subject to the availability of capital funds.

**2. RECOMMENDATION**

- 2.1 That the Baldock and District Committee support the Cabinet decision to approve the disposal of the Council owned land at Dark Lane, Sandon, to Howard Cottage Housing Association at 50% of its market value.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To enable the provision of affordable homes that will help to meet an identified housing need in the village.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The Council could decide against supporting the development scheme, however the affordable housing would not be delivered.
- 4.2 The Council could market the site to determine whether there are other potential purchasers. This process could take at least 12 months to conclude.

- 4.3 The Council could consider any of the remaining development options provided by Howard Cottage Housing Association (HCHA), however all three scenarios require a higher grant commitment from the Council to that already proposed.

## **5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS**

- 5.1 The development scheme was presented at the Sandon Parish Council meeting 9<sup>th</sup> May 2012, and they were supportive of the proposals.
- 5.2 The Housing and Environmental Health Portfolio Holder, Councillor Bernard Lovewell, and the Finance & IT Portfolio Holder, Councillor Terry Hone, have been consulted on this scheme and support the proposals as set out in the recommendations.
- 5.3 The Ward Councillor, Cllr Steve Jarvis, has been consulted and is supportive of the proposals.

## **6. FORWARD PLAN**

- 6.1 This report contains a recommendation on a key decision that was first notified to the public in the Forward Plan on the 1st December 2012.

## **7. BACKGROUND**

- 7.1 In October 2004 a housing needs survey (HNS) was undertaken in Sandon Parish in partnership with the Parish Council and the Community Development Agency for Hertfordshire. The conclusions of the HNS identified the requirement of 12 affordable housing units to meet housing need in the village.
- 7.2 The Council is responsible for the maintenance of the land at Dark Lane which is currently unused (see Appendix A for a plan of the site). The cost of the maintenance is negligible. The land was previously used as a sewage works prior to the new treatment plant being installed alongside. There are limited options available for the development of the land due to the presence of water pipes under part of the site.
- 7.3 Sandon is covered under *Policy 7 (Selected Villages beyond the Green Belt)* of the saved policies in *District Local Plan No 2 with Alterations* and the Council will normally permit development proposals if the site lies within the main area of the village. The whole of the Council owned Dark Lane site is located within the selected village boundary and therefore the provision of market housing is permissible.
- 7.4 At its December 2006 meeting, Cabinet agreed to sell this land at a 50% discount to North Hertfordshire Homes (NHH) to build six affordable homes to meet the housing need identified in the survey. NHH submitted a planning application in May 2008 for 6 houses on the site adjacent to the road frontage *within* the selected village boundary. NHH subsequently obtained planning permission on appeal.
- 7.5 The sale was under offer for approximately three years before NHH finally withdrew due to the cost of the development, the lack of central government grant and due to the fact that a survey had revealed the presence of newts on the site. Newts are a protected species and can only be moved outside of their breeding season, which is May - August. NHH had been aware of this issue for approximately 2 - 3 years before they decided to withdraw from the scheme.

- 7.6 The proposals contained in this report are consistent with the Council priority of 'Working with local communities' and the priority of 'encouraging the sustainability of rural communities', that is contained in the Council's Housing Strategy 2008-2013.

## **8. ISSUES**

- 8.1 The new scheme is similar to that proposed by NHH. It concerns the land being transferred to HCHA at a 50% discount (which was also the case for the previous proposed disposal to NHH) and it will provide six affordable houses and an equivalent pocket park on the site.
- 8.2 The site conditions have increased build costs due to complicating factors such as the existence of a pond, a requirement for piled foundations and the widening of the highway. HCHA has confirmed, via a consultant Quantity Surveyor, that the pure build costs per square metre are reasonable for a scheme of this nature and they regard the total development cost as value for money for this development.
- 8.3 HCHA has developed four options that vary the tenure mix of properties being delivered. As the scheme costs are high, Option 2 has been proposed as it provides the most affordable scenario in terms of capital commitment by the Council.
- 8.4 The delivery of the six affordable units will help to meet the housing need that was established in the parish. HCHA will develop a local lettings plan with the Council that will introduce criteria concerning the allocation of these dwellings to persons with a local connection to Sandon. This will prioritise those with a housing need who also have a local connection to the village.
- 8.5 As the planning permission does not limit the land to development for affordable housing, it is prudent to ensure that the terms of the transfer place this restriction on the land. The recommended mechanism for restricting development on the land is to impose a requirement on the buyer to make an additional payment to the Council in the event that the land is used for anything other than affordable housing. Such payment is known as an overage payment.
- 8.6 HCHA has written to the Council outlining how an overage clause would adversely affect their ability to charge the properties for security purposes. It is likely that the bank will either reject the properties altogether or, best case, would reduce their value. HCHA has therefore confirmed in writing to the Council, advising of the issue with their bankers, their commitment and plans to deliver affordable housing on the site and their intention that this should remain so in perpetuity.

## **9. LEGAL IMPLICATIONS**

- 9.1 Cabinet has within its terms of reference the authority to approve the disposal of land or buildings where the purchase price exceeds £250,000 but does not exceed £2,500,000. The Strategic Director of Finance Policy and Governance has delegated authority to dispose of land and buildings which have been declared surplus to requirements, provided that the consideration does not exceed £250,000. However an officer may always refer a delegated decision to Cabinet rather than make the decision.

- 9.2 Section 123 of the Local Government Act 1972 gives a Local Authority the power to dispose of land provided that it does so for the best price reasonably obtainable. The consent of the Secretary of State is required for any disposal where the consideration is less than the best that can reasonably be obtained, and the Secretary of State has issued a general consent in this regard (the General Disposal Consent 2003). Under the general disposal consent a Local Authority can dispose at less than best consideration if:
- a) The local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or all or any persons resident or present in the area;
    - i) The promotion or improvement of economic well-being;
    - ii) The promotion or improvement of social well-being;
    - iii) The promotion or improvement of environmental well-being; and
  - b) The difference between unrestricted value of the land to be disposed of and the consideration for disposal does not exceed £2,000,000
- 9.3 The Head of Finance, Performance and Asset Management has considered all of the above factors, in conjunction with the Head of Housing & Public Protection, and it is considered that the proposals will deliver social well-being benefits to the District as a result of the provision of needed affordable housing.
- 9.4 Officers are therefore recommending a disposal at less than best consideration reasonably obtainable because of the social well-being benefits which officers believe will flow from the recommended sale.
- 9.5 Under S123 (2A) of the Local Government Act 1972 a local authority may not dispose of open space unless it has advertised the disposal for 2 consecutive weeks in a newspaper circulated in the area in which the land is situated, and has considered any objections received. Advertisements were placed in 2006 in advance of the prior decision to dispose of the land to NHH.
- 9.6 Preliminary title investigations do not reveal any issues that would frustrate the proposed disposal.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 HCHA will pay the Council 50% of the land value. This will provide a capital receipt to the Authority that can be used to support funding of the capital programme. It should be noted that no other offers were received for this piece of land at the time that the original NHH offer was accepted.
- 10.2 HCHA will formally tender the works again in order to establish best value and has confirmed that in the event the total scheme costs exceed the estimated value or if sales of the shared ownership units yield less funding than expected, they will underwrite the risk and would not seek further grant from the Council.
- 10.3 The Housing Association Grant funding is made available by the Council in order to assist in the delivery of affordable housing. Cabinet has already agreed that £400k could be carried forward from the 2011/12 budget for the proposed scheme.

- 10.4 The maximum housing grant proposed in this report is £380k. If the total costs of the scheme are less than predicted and/or the purchasers of the shared ownership units buy more than an initial 30% stake in the properties, HCHA have stated that they will reduce the capital grant requested from the Council accordingly. HCHA have also made a bid for capital funding to the Homes and Communities Agency for funding for this development. Should the bid be successful, HCHA would need to complete the development by March 2015 in order to benefit from this funding and it would reduce the Council grant requirement by around £60k.
- 10.5 This scheme is regarded by officers as providing substantial social and community benefits and therefore, if supported by Cabinet, an undervalue is allowable in this instance.
- 10.6 Should the Council proceed with this scheme it will benefit from the receipt of a New Homes Bonus revenue payment of around £1.4k per dwelling over a six year period commencing with the completion of the project.
- 10.7 Alternatively, Members may consider it appropriate to undertake a marketing exercise for this site to determine whether other potential purchasers can be identified.

## **11. RISK IMPLICATIONS**

- 11.1 The risks associated with this proposed development will be substantially mitigated as HCHA has a good track record for delivering rural schemes of this size and nature.
- 11.2 In terms of the type of housing to be delivered on the site, HCHA has confirmed in writing its intention that affordable housing will be provided in perpetuity.
- 11.3 The Council has successfully funded the provision of affordable housing over recent years, however there are significant financial challenges that may result in the withdrawal of this support in the near future. There is therefore a risk that this scheme would not be funded by the Council and as a result, could not be delivered.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 The Equality Act 2010 came into force on the 1<sup>st</sup> October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5<sup>th</sup> April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The proposals made in this report make a number of positive contributions to the Council's equalities agenda; these include the provision of social housing to meet outstanding and evidenced local need, the ability for those with a connection to this rural settlement to live there, and the provision of a play space for young children.

### **13. SOCIAL VALUE IMPLICATIONS**

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

### **14. HUMAN RESOURCE IMPLICATIONS**

- 14.1 There are no Human Resource implication arising as a result of this proposal.

### **15. APPENDICES**

- 15.1 Appendix A – Plan of the Dark Lane site.

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## 17. BACKGROUND PAPERS

17.1 The Council's Housing Strategy 2008-2013  
[http://www.north-herts.gov.uk/index/housing/housing\\_strategy/local\\_housing\\_strategy\\_2008\\_2013.htm](http://www.north-herts.gov.uk/index/housing/housing_strategy/local_housing_strategy_2008_2013.htm)

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