

TITLE OF REPORT: PROPOSALS FOR LAND AT KITS LANE, WALLINGTON, BALDOCK
REPORT OF THE HEAD OF FINANCE, PERFORMANCE & ASSET MANAGEMENT

1. SUMMARY

- 1.1 To present proposals received for land owned by the District Council at Kits Lane Wallington.

2. RECOMMENDATIONS

- 2.1 To ascertain the views of the Committee on the proposals received by the District Council so the Committee's views can be reported to Cabinet at a future date.

3. REASONS FOR RECOMMENDATIONS

- 3.1 At a Cabinet meeting on 22 March 2011 (Meeting Minute Number 124), the land was declared surplus to the Council's requirements, in principle, subject to a further report back to Cabinet. Following the meeting, the owner of Les Arbres at 3 The Street made an offer to the Council to acquire the freehold of Area B, being partly garden lawn and predominantly woodland that forms part of the garden to 3 The Street.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Rushden and Wallington Parish Council has proposed either to acquire Areas A and B for a nominal sum or to lease for a period of 25 years at a peppercorn rent.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 Consultation has been undertaken with Rushden and Wallington Parish Council.
- 5.2 The Parish Council has registered its interest in acquiring or leasing land at Wallington in order to preserve it for the community of Wallington and to support their plans for preservation of wildlife habitat and proposals for a George Orwell walking tour.
- 5.3 Councillor Steve Jarvis had been notified of the proposal to sell Area B to the owner of 3 The Street.
- 5.4 Consultation has been undertaken with North Hertfordshire Homes regarding Area A. They are only interested if the land has development potential.

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 28th June 2013.

7. BACKGROUND

- 7.1 The District Council owns an area of land at Wallington, Registered Title Number HD497864. This land is outlined in black, marked Areas A, B and C shown on the plan in Appendix I. The land comprises the following elements:

- Area A: Adjacent to 7 Kits Lane measuring approximately 0.24 acres. This is mainly wooded;
- Area B: Adjacent to 3 The Street also measuring approximately 0.24 acres. This is partly garden lawn and predominantly woodland and forms part of the private garden of 3 The Street; and
- Area C: A long narrow strip running parallel to Kits Lane. This mainly comprises steep grass embankment and parking.

The Planning Officer has advised that all of the land is within a Conservation Area.

- 7.2 The owner of 3 The Street made an offer to purchase Area B. Negotiations for a sale ensued on a subject to contract, without prejudice basis. The owner wished to purchase Area B so that they may formalise its established use as part of their property's garden. There are hedges along the boundary with Kits Lane and The Street. It would appear that the only way of accessing the lawn and woodland of Area B is via 3 The Street. Area C, the embankment, is not proposed to form part of this sale. The hedging and embankment prevent easy public access to Area B which naturally forms part of the garden of 3 The Street.
- 7.3 In order to protect the amenity value, it is proposed that the sale will be subject to a covenant requiring the purchaser to maintain the existing trees on the land.
- 7.4 The District Council informed Rushden and Wallington Parish Council of Cabinet's decision of 22 March 2011. The Parish Council were further informed that an offer had been received for the land and terms had been agreed subject to contract.
- 7.5 Rushden and Wallington Parish Council informed the District Council that following representations from Wallington residents and discussing the matter at a full Parish Council meeting, the Parish Council would like to register its interest in acquiring or leasing the land adjacent to 7 Kits Lane (Area A) and the land adjacent to 3 The Street (Area B) in order to preserve both areas for the community use of Wallington. They have not indicated any proposal for the embankment (Area C).
- 7.6 The Parish Council proposed to:
- (i) Purchase the District Council's land (Areas A and B) for a nominal sum; or
 - (ii) Lease the District Council's land (Areas A and B) for a term of 25 years at a nominal peppercorn rent.

- 7.7 The District Council has approached North Hertfordshire Homes, the owner of 7 Kits Lane, to ascertain if it has any interest in purchasing or leasing Area A. North Hertfordshire Homes has expressed an interest to acquire Area A subject to the land having development potential.
- 7.8 The proposal to dispose of the parcels of land as described contribute to two of the Council's priorities – working with our communities and living within our means.

8. SELECTING OPTIMUM PROPOSAL FOR LAND

- 8.1 Should Area B be sold to the adjacent private house owner, the land will continue to be used as part of the house owner's garden. The sale will produce a receipt for the District Council. The sale will be subject to a covenant to maintain the existing trees on the land and subject to suitable legal protection entitling the District Council to a share of any development value uplift should the land be developed in the future.
- 8.2 Should Areas A and B be sold or leased to Rushden and Wallington Parish Council, the Parish Council proposes to preserve the land for use by the Wallington community. The sale or lease would produce nil or nominal receipt or revenue for the District Council. The sale or lease will be subject to a clause obliging the Parish Council to maintain the existing trees on the land. The sale will be subject to suitable legal protection entitling the District Council to a share of any development value uplift should the land be developed in the future. The lease will contain a clause prohibiting development on the land and will be excluded from the security of tenure provisions of the Landlord and Tenant Act 1954. The Parish Council has indicated that it may have to raise its annual precept to fund acquisition costs. It is not clear yet how the Parish Council will fund future ongoing maintenance.
- 8.3 Currently, the District Council does not maintain Areas A, B or C. A sale or leasing of the land will reduce its legal obligations under the Occupier Liability Acts 1957 and 1984.

9. LEGAL IMPLICATIONS

- 9.1 The Area Committee has within its terms of reference to consider the policies and actions of Cabinet as to their appropriateness to the needs and aspirations of local communities.
- 9.2 With regards to the proposed sale:
- (i) Section 123(1) of the Local Government Act 1972 provides that a local authority may dispose of land held by them in any manner they wish.
 - (ii) Section 123(2) of the Local Government Act 1972 provides that a local authority may not dispose of land otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained unless the local authority has the prior consent of the Secretary of State.
- 9.3 In relation to Section 123(2) the Secretary of State has issued a general consent for disposals at less than best consideration that can reasonably be obtained.
- 9.4 A disposal at less than best consideration is subject to the condition that the undervalue does not exceed £2,000,000. It is also subject to the requirement that it is likely to achieve (in the whole or part of NHDC's area) any one or more of the following objects:

- (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.

The benefit from any (or all) of (i), (ii) or (iii) must justify the discount from best consideration. This is in line with the powers of well-being in Section 2 of the Local Government Act 2000.

- 9.5 In the event that either of the proposed disposals is approved, Legal Services will advise on the legal documentation necessary to give effect to the disposal.
- 9.6 Preliminary title investigations do not reveal any issues that would frustrate either of the proposed disposals.

10. FINANCIAL IMPLICATIONS

- 10.1 There is no budget in place for the maintenance of Areas A, B and C. However, there is an ongoing liability to maintain the trees which would be handed to the purchaser or lessee of the Areas in the terms and conditions of the agreement.
- 10.2 The District Council will seek to be reimbursed for the incremental costs incurred in completion of a disposal or award of a lease from the purchaser or lessee.

11. RISK IMPLICATIONS

- 11.1 As mentioned in paragraph 8.3, disposing of the Council's interest in this area of land will remove the liabilities arising from the Occupier Liability Acts 1957 and 1984.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1 October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5 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 their 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 do not have any direct equality implications.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Public Services (Social Value) Act was passed at the end of February 2012. Under the Act, public bodies in England and Wales are required to consider how the services they commission and procure might improve the economic, social and environmental well-being of the area.

- 13.2 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 direct Human Resource implications to this report.

15. APPENDICES

- 15.1 APPENDIX 1: Plan: approximate and for identification purposes only.
- 15.2 APPENDIX 2: Letter from Rushden and Wallington Parish Council, dated 28 June 2013.

16. CONTACT OFFICERS

- 16.1 Christopher Robson
Graduate Estates Surveyor
Property Services
Telephone: 01462 474252
E-Mail: christopher.robson@north-herts.gov.uk
- 16.2 Liz Green
Head of Policy and Community Services
Telephone: 01462 474230
E-Mail: liz.green@north-herts.gov.uk
- 16.3 Marie Searle
Property Solicitor
Legal Services
Telephone: 01462 474218
E-Mail: marie.searle@north-herts.gov.uk
- 16.4 Tim Neill
Accountancy Manager
Finance
Telephone: 01462 474461
E-Mail: tim.neill@north-herts.gov.uk
- 16.5 Fiona Timms
Risk Manager
Performance and Risk Management
Telephone: 01462 474251
E-Mail: fiona.timms@north-herts.gov.uk
- 16.6 Kerry Shorrocks
Corporate Human Resources Manager
Human Resources
Telephone: 01462 474224
E-Mail: kerry.shorrocks@north-herts.gov.uk

17. CONTRIBUTORS

- 17.1 Andrew Mills
Service Manager
Grounds Maintenance
Telephone: 01462 474272
E-Mail: andrew.mills@north-herts.gov.uk

- 17.2 Karl Wilkins
Tree Officer
Parks and Open Spaces
Telephone: 01462 474296
E-Mail: karl.wilkins@north-herts.gov.uk

- 17.3 Debbie Ealand
Housing Development Liaison Officer
Housing
Telephone: 01462 474526
E-Mail: debbie.ealand@north-herts.gov.uk

18. BACKGROUND PAPERS

- 18.1 Plan: approximate and for identification purposes only (at Appendix 1).
- 18.2 Land Registry Title Plan and Register for Title Number HD497864.
- 18.3 Letter from Rushden and Wallington Parish Council, dated 28 June 2013 (at Appendix 2)