

TITLE OF REPORT: REGENERATION OF JOHN BARKER PLACE, HITCHIN

REPORT OF THE HEAD OF HOUSING AND PUBLIC PROTECTION
PORTFOLIO HOLDER: COUNCILLOR BERNARD LOVEWELL

1. SUMMARY

- 1.1 This report seeks approval from Cabinet to enter in to a Development Agreement for the regeneration of John Barker Place, Westmill, Hitchin.
- 1.2 The proposed regeneration scheme for John Barker Place includes the provision of new shops, a purpose built Community Centre, extra units of affordable housing and the relocation of the Multi-Use Games Area.

2. RECOMMENDATIONS

- 2.1 That Cabinet authorises officers to enter in to the attached Development Agreement for the regeneration of John Barker Place, Westmill, Hitchin.
- 2.2 That Cabinet supports the proposal to use the new amount of £1.327m, from the Community Benefit Fund, to finance a new Community Centre and development of the surrounding area.
- 2.3 That Cabinet agrees the Council can acquire ownership of the remaining area surrounding the Community Centre from North Hertfordshire Homes (NHH) for the sum of £1.
- 2.4 That Cabinet agrees to the transfer of the Multi-Use Games Area (MUGA) from its current location, on NHH owned land, to Council owned land on the site of the existing Community Centre.
- 2.5 That Cabinet approves a waiver of the Council's Contract Procurement Rules in relation to the appointment of a contractor for the regeneration project.
- 2.6 That Cabinet delegates authority to the Chief Executive, in consultation with the relevant portfolio holder, to agree minor changes concerning any aspect of the regeneration scheme providing they do not materially alter the agreed scheme.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To enable the regeneration scheme for the John Barker Place area of Westmill, Hitchin to proceed.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council could decide against supporting the regeneration proposal, however the new shops, Community Centre and additional affordable housing units would then not be realised.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 Consultation has been undertaken with Community Regeneration Project Board and it has given its full support to the proposed regeneration scheme.
- 5.2 Consultation has been undertaken with the Westmill Community Association who were supportive of the proposals for the provision of a new Community Centre and the surrounding area.

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 17th June 2013.

7. BACKGROUND

- 7.1 The Cabinet agreed at its meeting on the 29th January 2013 :

(1) That officers be authorised to enter into negotiations to produce a Development Agreement for the regeneration of John Barker Place, Westmill, Hitchin;

(2) That the commitment of £1.096m be agreed for this scheme from the Council's budget for affordable housing, subject to the availability of capital funds;

(3) That the proposal to use £865k from the Community Benefit Fund to finance a new Community Centre be supported; and

(4) That it be agreed in principle that, subject to other regulatory approvals, the Community Centre can be rebuilt adjacent to its present location and the current building be subsequently demolished.

- 7.2 The newly proposed regeneration scheme focuses solely on the John Barker Place area of Westmill. Should this scheme be successfully implemented, opportunities to regenerate the area around Freemans Close would be reviewed in future years to assess whether a further regeneration scheme could be brought forward.

- 7.3 The proposed regeneration scheme is consistent with the Council priority of 'working with local communities' and also with the priority 'to improve the sustainability of estates comprised primarily of social rented housing' that is contained in Council's Housing Strategy 2008-2013. The regeneration of the Westmill Estate is also identified as a priority in the Council's Local Investment Plan 2011-2015. The opportunity to retain, but also update, an existing community hall facility is in accord with the aspirations of the Council's Community Halls Strategy, October 2011.

8. THE PROPOSED REGENERATION SCHEME

- 8.1 NHH will oversee the delivery of the whole regeneration project and subject to planning consent, the scheme would deliver the following improvements :

- Two existing shops, a supermarket and take-away, would be rebuilt towards the corner of John Barker Place and Mattocke Road. The supermarket will be increased substantially in size, removing necessity to travel to the town centre for a greater selection of foodstuffs, a key consideration given the cost of such travel for families on lower incomes and the more elderly population demographic that surrounds John Barker Place. Both businesses would be able to continue to operate until the new units are ready for their occupation.

- The Westmill Community Centre would be rebuilt adjacent to its current location (design and construction to be in accordance with the principles of the Councils Community Halls Strategy (Version 1) dated October 2011).
- The youth outdoor activity area, also known as the Multi-Use Games Area (MUGA), would adjoin the new Community Centre to provide better youth provision synergy with the use of the centre. The facility would also be located alongside the area of internal community space which would be attributed for use by young people, linking the internal and external facilities for ease of use and supervision by adults.
- The garage area leading to the Community Centre would be refurbished and landscaped in order to provide improved ambiance, increased safety and parking facilities
- 39 units of affordable housing would be delivered and managed by NHH, an increase of 35 units (as one of the existing occupants is an owner/occupier) comprising 23 social rented units and 16 intermediate rented units. 37 units contain two bedrooms and 2 contain one bedroom. The social rented units will consist of 15 houses and 8 flats and the 16 intermediate rented units will all be flats
- Associated highways would be provided for and there will be increased parking surrounding the shops as well as adequate parking for residents and visitors
- A new informal play area will be provided adjacent to the new houses

8.2 A plan is attached at Appendix A that illustrates the proposed changes in more detail.

8.3 The development of the scheme has been divided in to two phases over a longer period in order allow the shops, Community Centre and MUGA to continue their operations during the development. Phase 1 includes delivery of the new Community Centre, MUGA and landscaping of the existing garage area. Phase 2 involves the construction of new shops and delivery of the affordable housing units and new play area. The indicative project timeline for the regeneration scheme is as follows :

Activity	Indicative timeframe
Planning applications submitted	September 2013
Planning consents issued	January 2014
Contractor appointed	April 2014
Phase 1	
Commence works to Community Centre phase	June 2014
Demolish existing building, provide new centre, MUGA and landscape surrounding area	July 2015
Phase 2	
Begin construction of parking area (tbc)	June 2015 (tbc)
Commence construction of new shops and flats	August 2015
Demolish existing shops, build houses and provide new play area	April 2017

- 8.4 The proposed Development Agreement, attached at Appendix B outlines the responsibilities of both NHH and the Council in respect of the regeneration project. NHH has drawn up separate agreements with the shop keepers. The Council will undertake negotiations on a new lease with the Westmill Community Association in due course.
- 8.5 The majority of the land covered by the proposed regeneration scheme is owned by NHH. However, the Community Centre is situated on land owned by the Council. In order for the new Community Centre to be built *before* demolishing the existing building and to tidy up the boundary in the surrounding area, it is proposed that the NHH owned land, adjacent to the NHDC owned land, be transferred in to Council ownership (as shown in Annex F of the Development Agreement). The cost of this transfer has been set at £1, the minimum value for this type of transaction.
- 8.6 The development has been phased to ensure continuity of service for the Community Centre, youth facilities and the MUGA. There is however no temporary provision for the play area due to the difficulties in finding an appropriate location that also minimises health and safety concerns due to the ongoing building works that will be underway during Phase 2. In addition, the existing apparatus is old and would need renewing. The nature of the apparatus for the play area means it would require permanent, rather than temporary, fixing and new apparatus would not be easily transferred to its permanent location. As a result, discussions will be undertaken with the Council's Children and Play Services Team and the Coffee Mill to mitigate the impact by providing more activities for young children as well as seeking to provide additional events in the Community Centre and/or Oughton Primary School.
- 8.7 The Community Benefit Fund (CBF) features in one of the schedules to the Stock Transfer in March 2003, called the Community Benefit Agreement. Its purpose is to provide facilities for Tenants of NHH or the community at large, and some examples would be enhancements to community centres, provision of recreation areas and road safety initiatives.
- 8.8 The CBF is calculated as a proportion of the VAT savings that NHH make when undertaking works under the Development Agreement that was entered into between NHH and the Council in 2003 plus the proceeds of sales of properties that were transferred to NHH that are held subject to long leases to the Heritage Foundation, less their costs. NHH are obliged to send the Council details of every proposed project that will spend some of the funds in the Community Benefit Account for the Council to comment on. NHH are obliged to take account of the Council's comments.
- 8.9 In January 2013, the Cabinet supported the proposal to utilise £865k from the CBF for the development of a new Community Centre and the surrounding area. A Quantity Surveyor has subsequently estimated the total cost to be £1.327m. The cost is significantly higher due to the increased size of the Community Centre, the inclusion of the MUGA in this area and the works required to clear the site and landscape the area. It is anticipated that this would be the maximum cost payable and that the final total will be less than this amount as the contract for the development of the Community Centre area will be offered jointly with the contract for the rest of the regeneration scheme.
- 8.10 As at 31st March 2013, the balance of the CBF stood at £1.084m. Should this proposal proceed, NHH will 'forward fund' the building of the new Community Centre by providing the full funding of £1.327m when required. The timing of this regeneration project may well mean the CBF would be put in to deficit, however this is not unusual as subsequent receipts will eventually balance the account.

9. LEGAL IMPLICATIONS

- 9.1 The General Power of Competence contained within the Localism Act 2011 came into force on 18 February 2012 and effectively replaced the previous wellbeing powers. The statutory General Power of Competence gives a local authority the power to do “anything that individuals generally may do”. Section 1(4) of the same Act confirms that in using such power the local authority may do so for the benefit of the authority, its area or persons resident in its area. This power is relevant when confirming that the Council has power to enter into the Legal Agreements set out in detail in this Report.
- 9.2 The Council is the Strategic Housing Authority for this area under the provisions of the Housing Act 1985 (as amended) and is empowered to promote schemes in fulfilment of its strategic objectives.
- 9.3 The proposed arrangements with NHH will not constitute state aid because the arrangements will fall within the, block exemption permitting some forms of assistance to various bodies, the block exemption is contained in the European Commission Regulation (EC) No 800/2008.
- 9.4 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. 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. However, the Secretary of State has issued a General Disposal Consent (2003) which permits disposals at an undervalue if it is likely to contribute towards the improvement of the social or economic well-being of a local authority’s area provided that the undervalue is not greater than £2,000,000.
- 9.5 Cabinet has within its terms of reference the authority to approve the disposal of land or buildings for a consideration or annual rent that exceeds £250,000 but does not exceed £2,500,000. Cabinet is also empowered to approve the purchase or appropriation of land and buildings where the market value of the transaction or the annual rent exceeds £250,000 and does not exceed £1,000,000 The Strategic Director of Finance Policy and Governance has delegated authority to dispose of land and buildings which have been declared surplus to requirements or to acquire land, provided that the consideration does not exceed £250,000. The Strategic Director of Finance Policy and Governance also has delegated authority to grant, negotiate and settle terms of leases, licences and all other minor land matters where the initial rent does not exceed £50,000. However an Officer may always refer a delegated decision to Cabinet rather than make the decision.
- 9.6 In order to implement the project envisaged within the attached Development Agreement the parties will need to undertake an EU compliant procurement process to select a contractor to undertake the construction of the various elements of the scheme.
- 9.7 It is envisaged that this procurement will be undertaken on a joint basis with NHH taking the lead and NHDC providing information and support where it is necessary. NHH will run the procurement process because the vast majority of the project as outlined in the Development Agreement is on land belonging to NHH, the sole elements relating to the Council are the Community Centre and Multi Use Games Area.
- 9.8 NHH are a public body and are obliged to undertake any procurement in an EU compliant manner. The Council can therefore be assured that the procurement process that will be undertaken in relation to the various elements of the Development Agreement will proceed in a manner that will be sufficient to satisfy the legal obligations that the Council is subject to.

- 9.9 In order to effect this arrangement the Council will need to authorise an explicit waiver of its own procurement rules. Cabinet has within its power the authority to 'waive' the Council's Contract and Procurement rules the relevant grounds for doing so are contained in those rules. One such ground that is applicable in these circumstances provides that the Council may waive its obligation to follow its own procurement rules if it is in the Council's overall interest to do so.
- 9.10 Therefore Cabinet is asked to provide a specific waiver of the Council's obligation to follow its own procurement rules to ensure that the project envisaged in the Development Agreement can proceed. The overall project is in the Council's best interests because it will provide a number of facilities that will be of benefit to the residents of the District.

10. FINANCIAL IMPLICATIONS

- 10.1 The estimated costs for the proposed regeneration scheme are illustrated below :

Revised John Barker Place Funding Strategy

Subsidy Requirements:

	Estimated Cost (£,000)	Borrowing Capacity (£,000)	Subsidy Req. (£,000)
New Community Centre	1,327	0	1,327
New Shops	700	260	440
Affordable Housing	4,900	2,240	2,660
Totals:	6,927	2,500	4,427

Subsidy Sources:

	Contribution (£,000)
Community Benefit Fund	1,327
Rowan Homes	2,004
NHDC	1,096
Total:	4,427

- 10.2 At its meeting in January 2013, the Cabinet agreed funding of £1.096m from its budget for affordable housing, subject to the availability of capital funds. The availability of funding is also subject to future Cabinet decisions on whether the affordable housing budget can be carried forward, as due to the phasing of the project, the delivery is likely to be completed in 2017. The Council is required to pay 40% of the housing grant amount upon the acquisition of the land and 40% at start on site with the remaining grant amount of 20% being paid upon completion of the housing units. As result, it is unlikely

NHH will receive the final grant payment until 2017/18, with the other payments being made at the appropriate point in the intervening years.

- 10.3 The current budget available for this scheme is £1.028m. The remaining funds may be provided from a possible 'under spend' on the Dark Lane, Sandon development. Cabinet agreed at its January 2013 meeting a maximum grant figure for this development on the understanding that any reduction in the funding required would reduce the Council commitment accordingly. In addition, there may be the possibility of a contribution from the affordable housing budget in future years should an allocation be agreed by the Council during its annual budget setting process.
- 10.4 As part of the planning obligations in relation to the development of the St Andrews House site in Hitchin, NHH is required to provide four units of affordable housing 'off site' as part of the John Barker Place regeneration. Should the Council provide capital funding towards the remaining 35 units, the average grant would be £31,314 which represents good value for money for the provision of affordable housing and is similar to the grant levels the Homes and Communities Agency paid to registered providers in the last National Affordable Housing Programme.
- 10.5 The negotiation of a new Community Centre lease may reduce the Council's overall revenue liability, especially if the Community Association take on more responsibilities for repairs and maintenance, an intention expressed within the recently adopted Community Halls Strategy and being applied as community centre leases are renewed. As it will be a new building built to modern standards of insulation and energy efficiency the requirements for repairs and maintenance should be minimal in the short term.
- 10.6 The transfer of the MUGA in to Council ownership and the maintenance of the additional area surrounding the Community Centre will result in a revenue cost for the Council. This will be addressed as part of the NHH's broader responsibilities under a S106 (of the Town and Country Planning Act 1990 as amended) agreement where they need to ensure adequate 'developer contributions' to mitigate the impact of their scheme.
- 10.7 NHH was not chosen for 'partner status' with the Homes and Communities Agency (HCA) for the 2011-2015 National Affordable Housing Programme and is therefore not part of the mainstream delivery programme. However in the unlikely event that funding is forthcoming from the HCA, the subsidy arrangements for this scheme will be re-negotiated.

11. RISK IMPLICATIONS

- 11.1 The following table provides a broad view of the main risk factors associated with this regeneration proposal. Each item will be broken down further and managed more closely by the Technical Officers Group, that is highlighted in the Development Agreement.

Risk	Risk Level	Controls
Either party terminates Development Agreement	High	<ul style="list-style-type: none"> • Ensure both parties happy with terms of Development Agreement prior to finalising • Key parties to participate in project meetings • Potential issues to be highlighted at the earliest stage and raised at project

		meetings for collaborative approach to solution
Community Centre refuses to move into new premises	Medium	<ul style="list-style-type: none"> • Consult centre management on design and specification of new building; • Early discussions with Westmill Community Association on the potential terms of the new lease; • Construct new building before demolishing existing to allow continuity of service; • Tri-partite development agreement to tie all parties into that programme and outcomes; • Check existing lease for potential legal remedies.
New scheme does not obtain planning consent	Low	<ul style="list-style-type: none"> • Carry out appropriate public and stakeholder consultation on design to ensure public support; • Obtain pre-planning advice from Council planners and ensure compliance with requirements.
Public and stakeholders oppose the new design	Low	<ul style="list-style-type: none"> • Thorough consultation with local residents and stakeholders to secure support; • Joint NHH/Council communications strategy to deal with any negative publicity that arises.
Owners of properties covered by the site (1 maisonette and 3 garages) refuse to sell.	Medium	<ul style="list-style-type: none"> • Ensure reasonable offers that meet market prices; • CPO applied as necessary.
Required subsidy funding is not obtained or generated.	High	<ul style="list-style-type: none"> • Plan land transfers and construction expenditure around receipt of sales income from Rowan Homes to ensure its availability; • Timely application for CBF funding; • Early approval of NHH funding; • Early decision by Cabinet on Council funding and highlight future request for 'carry forward' of budget due to project phasing; • Sensitive timing of payment of any agreed NHH funding to ensure affordability by the Council.
Cost of community centre and associated landscaping exceeds budget of £1.327m	Medium	<ul style="list-style-type: none"> • Increase contribution from CBF • Reduce size of community centre • Review other sources of funding

The use of two separate architects could lead to inefficiency and/or scheme inconsistencies	Low	<ul style="list-style-type: none"> • Develop specifications in timely manner • Arrange joint meeting and approach
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12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th 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 scheme as proposed here has positive equality implications in terms of increasing choice and availability of suitable social housing units, including for single people or couples, by the provision of enhanced supermarket and play areas close to the residential areas, and the provision of a more flexible, and adaptable new community hall with youth facilities to latest standards of build.

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 implications arising from this report.

15. APPENDICES

- 15.1 Appendix A - Plan of regeneration proposals for John Barker Place.
- 15.2 Appendix B - Proposed Development Agreement.

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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
- 17.2 The Council's Local Investment Plan 2011-2015
http://www.north-herts.gov.uk/index/housing/housing_strategy/lip-2.htm
- 17.3 The Council's Community Halls Strategy (Version 1, adopted October 2011)
http://www.north-herts.gov.uk/index/community_and_living/community_centres_and_facilities/community_halls_strategy.htm