

**TITLE OF REPORT: LAND AT RADBURN WAY AND BALDOCK ROAD,  
LETCWORTH GARDEN CITY**

REPORT OF THE HEAD OF FINANCE, PERFORMANCE & ASSET  
MANAGEMENT

PORTFOLIO HOLDER: COUNCILLOR T.W. HONE

**1. SUMMARY**

- 1.1 At its meeting of 28 July 2015 Cabinet's agreed in principle to disposal of land between Radburn Way and Baldock Road, Letchworth Garden City.
- 1.2 Cabinet's decision was subject to Letchworth Committee raising no substantive objections to the proposal and further discussions with Hertfordshire County Council on various property options to be reported back to Cabinet.

**2. RECOMMENDATIONS**

- 2.1 That Cabinet notes the comments from the consultation with Letchworth Committee and Hertfordshire County Council, including the request from Letchworth Committee for a further referral back to Letchworth Committee.
- 2.2 That Cabinet decides whether to proceed with this disposal of its land at Radburn Way and Baldock Road working in partnership with Hertfordshire County Council.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To provide a financial receipt to help fund the 2016-2021 capital programme.
- 3.2 To work in partnership with Hertfordshire County Council.
- 3.3 To provide additional housing in North Hertfordshire.
- 3.4 To report back to Cabinet the outcome of discussions with Hertfordshire County Council.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Retain the District Council's land.
- 4.2 Disposal of the District Council's land independently of Hertfordshire County Council.
- 4.3 A land swap with Lannock School grounds, buying Freeman House from HCC and selling NHDC's land at Radburn Way to HCC.

**5. FORWARD PLAN**

- 5.1 This report contains a recommendation on a key decision that was first notified to the public on the Forward Plan on 19 December 2013.

## 6. CONSULTATION WITH EXTERNAL ORGANISATIONS, WARD COUNCILLORS AND LETCHWORTH COMMITTEE

- 6.1 As reported previously to Cabinet, contact has been made with Hertfordshire County Council and Letchworth South East Ward Councillors. Letchworth Committee was consulted at its meeting of 29 July 2015.

## 7. BACKGROUND

- 7.1 As reported to Cabinet on 28 July 2015, the Council owns land between Radburn Way and Baldock Road, Letchworth Garden City. Part of it is used to provide the Radburn Way allotments and the remainder has been let under five garden agreements to adjacent residents in Baldock Road. Recently two of the garden agreements have been surrendered.

- 7.2 Freeman House adjacent to NHDC's land is owned by Hertfordshire County Council. HCC has made a decision to dispose their property.

- 7.3 At the meeting of Cabinet of 28 July 2015 it was resolved (minute 37):

(1) That, subject to the Letchworth Committee raising no substantive objections to the proposal, it be agreed, in principle, to offer for sale on the open market the Council's freehold property as shown on the plan attached to this report outlined black, shaded light grey and marked "NHDC land" that is located between Radburn Way and Baldock Road, Letchworth Garden City;

(2) That it be agreed to work in partnership with Hertfordshire County Council on the joint sale of the District Council's land and the adjacent HCC's property; further exploration of a possible "land swap" with HCC; the possibility of NHDC purchasing Freeman House from HCC; and the possible use of Freeman House on a temporary basis for the housing of homeless persons and families (once the existing occupants are relocated) to alleviate the use of bed and breakfast accommodation; and

(3) That, after discussions with Hertfordshire County Council, the outcome be reported back to Cabinet.

**REASON FOR DECISION:** To provide a financial receipt to help fund the 2016-2021 Capital Programme.

- 7.4 Following Cabinet's meeting of 28 Jul 2015, Letchworth Committee was consulted on the 29 July. The Letchworth Councillor's debated the report and acknowledged that NHDC had some responsibility to maximise assets, however all aspects needed to be considered, including social value.

- 7.5 Letchworth Councillors had some concern about whether developing this piece of land was the best thing for the Jackmans Estate. There was also concern as to whether any land swap with the County Council would leave NHDC with a piece of land that could be developed, particularly as some Councillors understood that Lannock playing field land would not be able to be developed for some years.

- 7.6 Letchworth Committee resolved that (minute 34):

As the Letchworth Committee have some concerns regarding proposed use of this land, Cabinet be requested to report back to this Committee,

particularly in respect of discussions with Hertfordshire County Council regarding land swap proposals and consideration of social value, prior to a final decision being made.

**REASON FOR DECISION:** To enable the Letchworth Committee to comment on the proposals for the Land at Radburn Way & Baldock Road.

## **8. DISCUSSION WITH HERTFORDSHIRE COUNTY COUNCIL**

- 8.1 On 18 August 2015 a meeting was held between Officers of Hertfordshire County Council and North Hertfordshire District Council to review various options for disposal and land swaps and consider whether Freeman House could be temporarily be used to house homeless people and families:
- 8.2 Option one. A land swap is carried out whereby HCC transfer its former school playing field land at Lannock to NHDC in return for NHDC transferring its land between Radburn Way and Baldock Road to HCC; with a balancing payment being made if applicable. HCC advised this could not be recommended as HCC's Cabinet have made a decision to retain the playing field land against potential education requirements, and specific Department for Education consent to dispose would be required; it is urban open land; an allocation in the Local Plan Review would be required for it to have development potential; and neither Council can evidence best value whilst planning uncertainty exists over both sites.
- 8.3 Option two. NHDC acquire HCC's Freeman House and site. HCC advised this could not be recommended as without planning permission and open market completion HCC won't get best consideration; there are two parts to such a sale, the housing development site and the access plot fro the benefit of NHDC's land to the rear of HCC's land, and the potential value of the access is only realisable once planning permission for that has been established; so HCC would sell in two parts anyway.
- 8.4 Option three. HCC acquire NHDC's land between Radburn Way and Baldock Road. HCC advised this could not be recommended as without planning permission and open market competition NHDC won't get best consideration; a sale to HCC could be attacked for being at less than best consideration; HCC would not want to buy in uncertain circumstances; and if HCC buy with no planning permission in place, HCC would expect to face a harder planning road than if NHDC are partners in achieving a scheme that accords with the Local Plan Preferred Option for the site and which would add to local housing supply and NHDC's capital receipts.
- 8.5 Option four. HCC grant a short term lease of Freeman House to NHDC for use as Bed and Breakfast accommodation for homeless people. HCC advised that this could not be recommended as the NHDC Housing Service have advised that prior adaptation works would be required and there is no business case for a short period of use whilst HCC look to obtain planning permission for residential redevelopment.
- 8.6 Option five. HCC and NHDC work together to effect a joint sale of the Freeman House site together with the land between Radburn Way and Baldock Road. This is the option that HCC wish to pursue because they state that it is the only sensible basis for co-operation to unlock housing supply and capital receipts for both Councils.
- 8.7 Mr Andrew Wearmouth (a local resident) used the opportunity for public participation at the 28 July 2015 Cabinet meeting (Minute 26 (ii) and Letchworth Committee on the 29 July (Minute 34) to comment about the

report on the land at Radburn Way/Baldock Road. He referred to acquisition of the land in the 1950's and the Minister's letter at the time of consent to the original Compulsory Purchase Order for the Jackmans Estate. It was Mr Wearmouth's view this letter implied a promise not to develop that land.

- 8.8 Mr Wearmouth said that the Council's Draft Local Plan contains a policy that there should be a buffer strip between old and new developments. The same Draft Local Plan went out for consultation earlier in the year. Residents were assured that their submissions mattered and that serious consideration would be given to them. Submissions had been made about this piece of land by residents and by Sir Oliver Heald MP, but these were totally disregarded in the report to the Council's Cabinet.
- 8.9 Mr Wearmouth indicated that the land had been amenity for many people, and home to a diverse range of wildlife, both birds and animals. The Senior Estates Surveyor advises that most of the land has for many years been let to individuals and therefore had not been available for general use by the public. The Senior Estates Surveyor also stated that it was not planned to sell the Radburn Way allotment site and its current use would continue.
- 8.10 It would appear that on a number of occasions the District Council has amended its view on the options for the District Council's land. This was on the basis that it was said a restrictive covenant existed. At Letchworth Committee Mr Wearmouth acknowledged that, despite the past suggestions, no restrictive covenant existed on the land. Instead he referred to a promise.
- 8.11 Mr Wearmouth was asked when it was that the Council had reaffirmed its promise that the land should not be developed in the foreseeable future. He replied that it was about 10 years ago. At Letchworth Committee Councillor Hone, Portfolio Holder for Finance and IT, informed Councillors that describing the land as "never able to be developed" was not correct. The Local Plan was being developed as there was a requirement to provide housing.

## **9. LEGAL IMPLICATIONS**

- 9.1 Cabinet in exercising its functions have powers to dispose of land or buildings where the consideration is between £250,000 and £2,500,000.
- 9.2 The Contract Procurement Rules and specifically Appendix I apply to the sales of land or property. If Cabinet were to agree to dispose of this land, the Officers seeking to market and dispose of the land would be required to do so within the remit of the Contract Procurement Rules.
- 9.3 Section 123 of the Local Government Act 1972 allows a Council to dispose of land in any manner it wishes provided that the consideration is the best that can be reasonably obtained unless the Secretary of State consents to the disposal.
- 9.4 Under Section 123(2) the Secretary of State has issued a general consent for disposals at less than best consideration that can reasonably be obtained. This permits such disposals where:
- (a) the undervalue does not exceed £2,000,000; and
  - (b) 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.

If the proposed disposal proceeds at an undervalue then it can do so under this general consent.

9.5 Sections 123(2A) and 127(3) of the Local Government Act 1972 require a local authority wishing to dispose of open space to advertise its intentions in a local newspaper for 2 consecutive weeks and to consider objections. Authorities should carry out these procedures before making any final decisions.

9.6 There may be specific legal implications relevant to the sale of the property e.g. covenants on Title, easements and third party rights. However there is nothing revealed in the Land Registry paperwork that would prevent or hinder the disposal of the land for development

## **10. FINANCIAL IMPLICATIONS**

10.1 The sale of this site would generate a capital receipt for the District Council to assist in funding the overall capital programme. This site will contribute to providing additional housing in the district, thereby also generating Council Tax receipts and New Homes Bonus.

10.2 By proceeding in partnership with Hertfordshire County Council a higher overall value may be achieved for the land.

## **11. RISK IMPLICATIONS**

11.1 The sale of the District Council's land will reduce the risks to the Council arising from the Occupiers Liability Act 1957 and 1984.

## **12. EQUALITIES IMPLICATIONS**

12.1 The Equality Act 2010 came into force on the 1 October 2010. The Act created a new Public Sector Equality Duty, which came into force on the 5 April 2011. There is a general duty 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 recommendation of the report does not have a direct equality impact. The disposal of the land may prove beneficial to the adjoining leaseholders by way of additional residential facilities proposed by Hertfordshire County Council and by generation of a capital receipt to the Council, enabling provision or retention of Council services for the wider community.

## **13. SOCIAL VALUE IMPLICATIONS**

13.1 As the recommendations made in this report do not constitute a public sector 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

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

14.3 There are no human resource implications arising from this report.

#### **15. LOCATION PLAN**

15.1 Appendix A – The plan attached is approximate and for identification purposes only.

#### **16. CONTACT OFFICERS**

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#### **17. BACKGROUND PAPERS**

17.1 Land Registry freehold Title Numbers HD425991 and HD498359’.

17.2 Presentation to Cabinet 28 September 2010 and Minute. 41.

17.3 Background papers and correspondence 1955 to 2015.

17.4 Report to Cabinet 28 July 2015 and Minutes 26 (ii) and 37.

17.5 Report to Letchworth 29 July 2015 Committee and Minute 34.

17.6 Letter from Hertfordshire County Council dated 9 September 2015.