

**LETCHWORTH COMMITTEE
29 JULY 2015**

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

7

**TITLE OF REPORT: LAND AT RADBURN WAY & BALDOCK ROAD,
LETCHWORTH**

REPORT OF THE HEAD OF FINANCE, PERFORMANCE & ASSET
MANAGEMENT

1. SUMMARY

- 1.1 To consult with Letchworth Committee on a proposal to dispose of land owned by the District Council between Radburn Way and Baldock Road, Letchworth Garden City.

2. RECOMMENDATIONS

- 2.1 That Letchworth Committee gives its comments on the proposal to dispose land owned by the District Council between Radburn Way and Baldock Road, Letchworth.

3. REASONS FOR RECOMMENDATION

- 3.1 To consult with Letchworth Committee.

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.

6. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 6.1 Contact has been made with an adjoining landowner Hertfordshire County Council. The County Council's Freeman House comprises a detached Elderly Persons' Home. HCC advise it is now functionally obsolete. Around September 2015 a newly constructed Elderly Persons' Home at Lannock, Letchworth Garden City will open. At this point Freeman House will then be available for disposal.
- 6.2 The land is located within Letchworth South East Ward. Prior to the Cabinet meeting of 28 July 2015 Councilors Booth, Cunningham and Levett were contacted and advised a report is due to be considered by Cabinet and offered the opportunity to discuss this proposal.

7 BACKGROUND

- 7.1 The Council owns registered freehold land HD425991. This land is 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 three of the garden agreements came to an end, leaving just the two agreements for the land rear of numbers 167-175 and 177-179 Baldock Road. The footpath between 45 Radburn Way and Freeman House is also owned by the District Council under a separate registered title HD498359.
- 7.2 This report relates to the District Council land between 15-45 Radburn Way and 167-189 Baldock Road together with the footpaths adjacent to 45 Radburn Way and 167 Baldock Road and the site of Freeman House owned by Hertfordshire County Council. There are no proposals for changes to the Radburn Way allotment site apart from the potential use of the shared entrance nor are there any proposals for the land rear of 201-203 Baldock Road. It is intended that the Radburn Way allotment shall continue as an allotment site. The land rear of 201-203 Baldock Road has been let for bee keeping.
- 7.3 A nomination for this whole area (i.e. the land now proposed for sale, the allotment site and the area let for bee keeping) as an Asset of Community Value was received in April 2014. The allotment area was subsequently listed but the other areas were not.
- 7.4 In the 1950's the District Council's land between 15-45 Radburn Way and 167-189 Baldock Road was part of a much larger area of land subject to the Letchworth (Town Development) Compulsory Purchase Order 1957. At that time the houses at 167-203 Baldock Road existed but those in Radburn Way had not been built. Research suggests that at least two of the Baldock Road residents rented the land south of their houses for uses such as agricultural, orchards or garden extensions. None of these original tenancies are still in place.
- 7.5 A report is on the District Council's land between Radburn Way and Baldock Road is due to be considered by Cabinet at its meeting on 28 July 2015, the day before Letchworth Committee's meeting. Cabinet's decision will be reported to Letchworth Committee on the 29 July 2015.

8. ISSUES

- 8.1 It seems that following objections from two residents at 167-189 Baldock Road, the 1957 compulsory purchase order was amended to exclude part of the land that was immediately rear of the Baldock Road houses. This allowed the two existing Baldock Road residents who had established agreements to continue renting and using some but not all of the land behind their houses. The remainder of the land in the area south of Baldock Road was acquired and subsequently Jackman's Estate was built including the properties adjacent at 1-45 Radburn Way.
- 8.2 In the past the District Council has identified the land located between 15-45 Radburn Way and 167-189 Baldock Road for housing. On a number of occasions over the years local residents have claimed that the land to the rear of their Baldock Road houses is subject to a "covenant" that requires the maintenance of its existing use. Previously this claim has resulted in the District Council removing the land from its housing allocations.
- 8.3 On 28 September 2010 a presentation was made by a local resident to Cabinet (Min. 41) that claimed a covenant created in 1958 protects the land,

referred by the resident as a “buffer strip”, that restricted use to agricultural land in perpetuity and that it cannot be built on.

- 8.4 The existence of the “covenant” has never been established by the District Council. Officers have carried out research of the District Council’s records and also reviewed documentation relating to the 1950’s compulsory purchase order. No “covenant” has been found that restricts the land to its current use nor is there any legal restriction found that would stop residential development. Furthermore, checking the registered title for the land reveals no such covenant has been registered against this title (number HD425991).
- 8.5 On a number of occasions the District Council has written to the residents who claim that the “covenant” exists asking for proof. The residents have been unable to provide written evidence to support their claim. Officers are of the view that there is no “covenant” in existence that would restrict residential development. Notwithstanding this, Legal Services have again written to the resident who made the 28 September 2010 presentation asking for evidence of the “covenant”. The resident has not provided any additional paperwork or a formal legal document showing that the District Council has entered into the claimed restrictive covenant.
- 8.6 The resident responded to Legal Services by referring to previous letters from both Hertfordshire County Council and the District Council dated 15 February 2002 and 23 September 2003. The resident repeated the previous assertions that assurances were given to residents by Mr F Such, a previous Head of Technical Services. The resident also claimed that Mr Woolston, a previous District Council Chief Executive, had indicated that the land could not be developed.
- 8.7 Hertfordshire County Council owns Freeman House. This is immediately adjacent to the District Council’s land. HCC has declared Freeman House surplus to requirements, approved its disposal and has recently carried out public consultation for the site that included outline proposals for residential development on just HCC’s land.
- 8.8 The recent availability of the Freeman House site has prompted the District Council to review the options for its own land. One of the issues for development of the District Council’s land has been establishing suitable highway access. By marketing two publicly owned sites together it would be possible to provide vehicle access to the District Council’s land via HCC’s land and then Radburn Way. HCC has been approached about this proposal and has expressed willingness to work with the District Council subject to first obtaining planning permission, joint marketing and agreeing terms on how the proceeds will be split.
- 8.9 HCC has obtained advice from Transport Consultants that the most feasible option for gaining access to the District Council’s land is via the Freeman House site.
- 8.10 An alternative or additional access might be via the garages between 14 & 15 Radburn Way. These garages were included with those properties transferred to North Hertfordshire Homes in 2003. The transfer reserved rights of access for the benefit of District Council’s retained land, including that held under

registered title number HD425991 between Radburn Way and Baldock Road. Subject to planning and highways approval, it could be possible to provide a second access to the District Council's land off Radburn Way via the garage forecourts. This would require use of the shared access on the District Council's land north of the Radburn Way garage site that is also used by the Radburn Way allotment site. The Transport Consultants have not yet reviewed this option.

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. Also 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

- 14.1 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 Min. 41
- 17.3 Background papers and correspondence 1955 to 2015
- 17.4 Report to Cabinet 28 July 2015