

**CABINET
24 MARCH 2020**

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: LAND ADJACENT TO 9 NORTH END, KELSHALL, HERTS

REPORT OF THE INTERIM PROPERTY CONSULTANT

EXECUTIVE MEMBER: COUNCILLOR KEITH HOSKINS

COUNCIL PRIORITY: ATTRACTIVE AND THRIVING

1. EXECUTIVE SUMMARY

- 1.1 To seek Cabinet's approval for the declaration as surplus to the District Council's requirements approximately 0.31acre of land adjacent to 9 North End, Kelshall, as shown edged red on the plan at Appendix A.

2. Recommendations

- 2.1 That the land be declared surplus to the District Council's requirements and then placed on the open market for sale on a subject to planning basis or with the benefit of planning, subject to a successful planning application by the District Council for residential development.
- 2.2 Following receipt of offers for the land identified in Appendix A, the decision to accept an offer is delegated to the Service Director for Resources, in consultation with the Executive Members for Finance and IT. Offers will be evaluated against alternative development options and the environmental credentials of any proposed design.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To provide a financial receipt to help fund the District Council's capital programme.
- 3.2 Marketing the land on the open market will maximise interest from developers and self builders and satisfy the requirements to obtain the best price reasonably obtainable. An offer should only be accepted at a price reflecting residential development value.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Continue with the letting of the land on a garden licence to the owner of 9 North End, Kelshall for a nominal annual rent.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Consultation on the principle to dispose of the land has been made with Cllr Gerald Morris for Ermine Ward. [No comment to date]
- 5.2 Details of the proposal were provided to the Kelshall Parish Council Clerk, concerns over development within Kelshall and the termination of the tenancy were expressed in a telephone conversation by the Clerk, Gillie Gartside.
- 5.3 The tenant of the land has been advised of this report to Cabinet and for the District Council's intention to consider the disposal of the land for residential development. They have expressed an opinion that planning consent may not be achievable.

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 19th December 2019.

7. BACKGROUND

- 7.1 The site is of 0.31 acres and located on the edge of Kelshall village adjacent to 9 North End adjoining open countryside.
- 7.2 The land represents the opportunity to provide a development plot for at least one detached house with access from the road frontage
- 7.3 It is currently used as garden land for 9 North End under a garden licence from the District Council at a nominal annual rent, terminable upon 6months notice.
- 7.4 Disposal of this property has previously been considered by Cabinet:

Cabinet Meeting - 22nd November 2016 – Minutes Item 89 – Land and Property Review

The land adjacent to 9 North End, Kelshall was listed within Table 5 of the Land and Property Report presented to the Cabinet.

RESOLVED:

- (1) That the details of the land and property disposals from 2011-2016 be noted;
- (2) That it be noted that options for the sites previously approved for disposal, as listed in Table 4 of the report, are still being progressed, and that account should be taken of the emerging North Hertfordshire Local Plan; and
- (3) That the sites identified in Table 5 of the report be declared as surplus to the Council's requirements; that disposal options for these sites be investigated in more detail; and that Cabinet be advised about them as appropriate.

The Cabinet has not considered the disposal of this property since November 2016.

- 7.5 The property is not allocated for residential development within the emerging Local Plan, however under Policy SP2 Kelshall is listed as a Category B village for which the following extract applies:

4.14 Category B villages are those with a lower level of facilities such as village halls and public houses. Category B villages will be allowed to accommodate limited infill development that does not expand the built core of the village into the surrounding countryside.

- 7.6 It is considered that a planning application to develop this site could be considered compliant with emerging Planning Policy, subject to appropriate design and relation with the adjoining property. The current use of the land within a residential curtilage presents the argument that development of the site would not result in an expansion of the village into the countryside.

8. RELEVANT CONSIDERATIONS

- 8.1 The sale of this site for residential development will make a contribution to housing supply by bringing forward a windfall site and offer valuable new family housing in the village.

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. The Cabinet decision in November 2016 was that Cabinet be advised about disposal options for this site. Therefore although the proposed disposal may possibly fall within the delegated authority of the Service Director: Resources, because the disposal might be below £250,000 (Constitution paragraph 14.6.12 (b) 1 A) the matter has been brought back to Cabinet for consideration. Officers may refer their authority under delegated powers to Cabinet.
- 9.2 There may be specific legal implications relevant to the sale of the property e.g. covenants on title, easements, third party rights. However preliminary title investigations do not reveal any issues that would frustrate the proposed development.
- 9.3 The Contract Procurement Rules and specifically Appendix I apply to the sales of land or property. If Cabinet were to sell 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.
- 9.4 Section 123 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 consent to the disposal for less than best value.
- 9.5 The Council has not advertised the proposed sale in accordance with sections 123(2A) and 127(3) of the Local Government Act 1972 and section 233(4) of the Town and Country Planning Act 1990 as the property is not considered open land being enclosed and privately occupied as garden land. This land does not fall within the definition of open space.
- 9.6 There may be specific legal implications relevant to the sale of the property e.g. covenants on title, easements, third party rights. Preliminary title investigations do not reveal any issues.

- 9.7 The Council would need to ensure that they serve a relevant and compliant notice on the tenant to end any tenancy held over the land.

10. FINANCIAL IMPLICATIONS

- 10.1 The sale will generate a capital receipt to assist in funding the Council's capital investment programme.

11. RISK IMPLICATIONS

- 11.1 The sale of assets reduces the risk to the District Council arising from the duties under the Occupiers Liability Act 1957 and 1984.

- 11.2 There are no risks relevant to the consideration of this decision. The declaration of the land as surplus to the District Council's requirements will allow the property to be openly marketed and sold at best value. Risks may exist as to the sale price achieved due to planning policy and design requirements to provide a sympathetic and acceptable development.

12. EQUALITIES IMPLICATIONS

- 12.1 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.

- 12.2 Any land that is offering potential for new housing may benefit the wider community as noted at 8.1. There may be those who exhibit a protected characteristic within this wider community. The consideration of sympathetic development and adequate parking facilities may ensure that no adverse impacts are experienced by the existing community.

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 from this report.

15. APPENDICES

- 15.1 Appendix A -- Location Plan of Land to be Declared Surplus

16. CONTACT OFFICERS

- 16.1 Chris Robson, Senior Estates Surveyor, christopher.robson@north-herts.gov.uk
Ext: 4752

16.2 Peter Lapham, Interim Property Consultant, peter.lapham@north-herts.gov.uk
Ext 4612

16.3 Isabelle Alajooz, Contracts and Property Solicitor, isabelle.alajooz@north-herts.gov.uk
Ext: 4346

17. BACKGROUND PAPERS