

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: Sale of Land at Hitchin Road, Weston known as The Snipe.**

REPORT OF: Paul Quin - Interim Estates Surveyor / Philip Doggett – Principal Estates Surveyor

EXECUTIVE MEMBER: Councillor Ian Albert, Finance & IT

COUNCIL PRIORITY: SUSTAINABILITY, A BRIGHTER FUTURE TOGETHER

**1. EXECUTIVE SUMMARY**

Report seeking approval of the sale of North Hertfordshire District Council's (NHDC's) freehold interest in land at The Snipe, Hitchin Road, Weston based on terms negotiated following Cabinet's resolution on 15<sup>th</sup> December 2020 (minute number 14). The land is an allocated housing site in the adopted North Herts Local Plan. The commercially sensitive terms are set out in the Part 2 report.

**2. RECOMMENDATIONS**

- 2.1 That Full Council grant approval for the Council to enter into a binding contract with the purchaser, conditional upon the grant of planning permission for a residential development as described in Part 2 of this report.
- 2.2 That Full Council approve the sale to be entered into jointly with the neighbouring landowner and to share the proceeds on the basis of an apportionment equivalent to the percentage of ownership.
- 2.3 That Full Council approve that the costs of sale and allowable expenses be shared in proportion as stated in 2.2.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1. These recommendations are made as a result of extensive marketing by the Council's appointed agents and take into consideration current Council policies on sustainability and carbon emissions, whilst achieving best consideration.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Do nothing – following the Cabinet decision on 15th December 2020 declaring the land surplus to Council requirements and authorising its disposal, doing nothing is not recommended option as it would fail to deliver housing supply or capital receipt. It would also leave the Council responsible for maintaining the land.
- 4.2 There were bids which could have resulted in a higher capital receipt, however these depended upon what was judged to be unachievable densities of development. When equated on a like for like basis to the recommended bidder, the capital receipt would have been in fact lower. Given the much greater level of risk associated with such higher density, these bids were not considered to be deliverable. Therefore, these options are not recommended.
- 4.3 There were 2 unconditional offers, however the prices were very significantly below the offer being recommended for acceptance. Whilst these could have resulted in an immediate capital receipt for the Council (subject to completion of legal formalities), the substantial deficit in receipt is not considered justifiable in comparison to the subject to planning proposal which is based upon density in close accordance with the Council's stated planning allocation. For this reason, the unconditional offers are not recommended for acceptance and would not constitute best value.
- 4.4 The Council could have marketed their land holding in isolation without the involvement of the adjoining landowner. The clear advice from the Council's development consultant was that critical synergy would be lost in achieving the optimum planning outcome, given potentially varying timescales for development and the real possibility of the adjoining owner going to market at a faster pace and therefore jeopardising a commercially sound outcome for the Council. This course of action is not therefore recommended.

#### **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1 The Executive Member for Finance and IT has been consulted during the process and is supportive of the recommendations set out herein.
- 5.2 The relevant Ward Member, Cllr Jarvis, has been consulted and expressed concern as to how the proposals accord with the proposed action contained within the Council's Climate Change strategy which seeks Passivhaus standards of energy efficiency and sustainability (or similar) on Council land disposals.
- 5.3 As a result of this consultation and with careful consideration toward such standards, special care has been taken in appraising offers for the land, to ensure that best possible standards are achieved, whilst balancing commercial considerations set out within this report.

#### **6. FORWARD PLAN**

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

## **7. BACKGROUND**

- 7.1. On 15<sup>th</sup> December 2020 (minute number 14), Cabinet declared this land surplus to the District Council's requirements and the decision to place it upon the open market or pursue alternative development options be delegated to the Service Director for Resources, in consultation with the Executive member for Finance and IT.
- 7.2 During the intervening period, the land has been placed on the open market and offers invited by informal tender on an unconditional basis or subject to planning. As a result, the anticipated capital receipt for the Council is expected to exceed the sum originally anticipated in the 15<sup>th</sup> December 2020 decision and above the threshold that can be approved by Cabinet. Accordingly, the matter is reported to Full Council at this stage, to ensure that due Governance is observed.

## **8. RELEVANT CONSIDERATIONS**

- 8.1. Development consultants Aitchison Raffety were instructed by the Council to advise upon marketing strategy and methodology. Assessing the planning prognosis and taking account of necessary infrastructure detail of the new development, Aitchison Raffety advised that the land should be marketed jointly with the adjoining parcel of land which is in private ownership. It was determined that synergy could be achieved by combining the sites, with one Highways solution, one overall drainage solution and optimisation of Affordable Housing within a new development.
- 8.2 The apportionment of land equates to 61.9% in relation to Council owned land and 38.1% to the private landowner whose identity is confirmed in Part 2.
- 8.3 As mentioned at 2.2 above, each owner is to share proceeds as well as allowable costs and share of selling costs according to the percentages confirmed at 8.2 above.
- 8.4 Marketing details as attached in the Appendix to Part 1 of this report were prepared and circulated to a cross section of developers. A total of 120 sets of details were circulated.
- 8.5 35 full information packs were sent out as a result to parties expressing firm interest, as a result of which 18 offers were received. 16 of these offers were conditional upon planning consent and 2 were unconditional, as outlined at 4.3 above.
- 8.6 A detailed analysis was carried out by Aitchison Raffety and a report dated 12<sup>th</sup> September 2023 was presented to officers for further consideration. This report is shown as Appendix A to Part 2.
- 8.7 Apart from the capital sums received by tender, officers paid close attention to the associated details of those offers which demonstrated the strongest attention to energy efficiency and sustainability issues. Whilst Passivhaus standards were the ideal target, in line with the actions set out in the Climate Change Strategy, negotiations had to be carefully balanced by the need to accommodate the joint seller, who was focussed on achieving the best financial outcome. Whilst the Council might have declared that their percentage of the land be developed exclusively to Passivhaus standards, the layout of any new development would not necessarily accommodate such a definitive split.

- 8.8 With the considerations of 8.7 in mind, each offer was analysed to establish the most favourable bidder, given a balance of monetary offer and attention to Council's Climate Change Strategy.
- 8.9 After careful analysis, it transpired that Party A (identified in Part 2) compared favourably with Party B (also identified in Part 2), whose stated philosophy was focussed upon energy efficiency and sustainability. Both parties planned to build to Future Homes standards, significantly beyond current Building Regulations.
- 8.10 After reviewing both bidders' proposals, it was considered that Party A offered the overall best result for the Council. Further detail is provided in Part 2 of this report.
- 8.11 Since identifying the preferred bidder through the afore-mentioned analysis, work has been carried out by both sides. The purchaser has carried out further diligence, whilst the Council's Legal Services have issued a draft contract for sale, with the usual enquiries before contract being addressed.
- 8.12 Before seeking Full Council approval to the transaction, officers have sought to establish that all fundamentals are clearly understood between the parties, such that the report set out herein, accurately portrays the true position that the Council will be authorised to agree to.
- 8.13 Each bidder would have made a number of assumptions, some based upon desktop studies, rather than physical and/or intrusive investigations. Only once a purchaser is confident that they have an agreement subject to contract, will they embark upon the additional expense of the latter.
- 8.14 During the intervening period since agreement in principle, further confirmatory investigations have been carried out by the purchaser. Notably, a drainage solution has proven to be potentially more challenging than originally thought from desk top research. The final solution will only be established once a Full Planning Application is prepared and considered.
- 8.15 By way of an appropriate way forward, the purchaser has agreed to work on an open book basis, with the Vendor/s having the option to instruct independent consultants by way of cross checking. Should the end solution prove more expensive than the allowance of £100,000 already provided for in the purchaser's calculations, an equitable share of the costs will be entered into between all parties. Our selling agents advise that this would be consistent with the approach taken by any other potential buyers,
- 8.16 The North Hertfordshire Council adopted Local Plan 2011 – 2031 indicates an estimated density of 40 dwellings on the combined land, with an Affordable Housing quota of 40%. By analysing layouts and precedents of other sites granted planning consent in North Hertfordshire, Aitchison Raffety's advice is that potentially as many as 45 units could be deliverable. Some offers proposed many more units than this but were discarded as being unrealistic.
- 8.17 Subject to Full Council approval, it is proposed that the price, which is conditional upon the grant of planning permission, will be determined by applying a gross rate per sq ft to the consented scheme. This number is established by calculating the equivalent price offered by each party, assuming 40 units are consented, and which are expected to have a footprint of 50,000 sq. ft.

As the mix of development is yet to be determined in detail, this is proposed as the most equitable method by which to establish the end price. To simply base it upon the number of units could result in a disadvantageous outcome, if for instance, a lesser number of larger units should be delivered.

- 8.18 Hence, in the event of a larger scheme involving greater square footage gaining a consent, the gross price can easily be calculated.
- 8.19 Certain allowable expenses are to be agreed against the gross price, such as payments, drainage solutions and technical issues, all of which are identified in the proposed contract for sale. The exact extent of these costs will remain unknown until a scheme is formally consented and specific details agreed with the Council's Planning Department and County Highways. A range of anticipated outcomes is given in Part 2.
- 8.20 A long stop date equating to 30 months beyond exchange of contracts is to be incorporated into the contract. The purchaser has up to 15 months within which to secure a planning consent. Only if there is a live application still under consideration, or an appeal current, there is provision for the contract to be extended until the long stop date.

## **9. LEGAL IMPLICATIONS**

- 9.1 The decision to approve this proposed sale is required to be made at an ordinary meeting of Full Council in accordance with paragraph 4.4.1 (u) of the Council Constitution. This paragraph reads as follows: "*to authorise the disposal (by sale or lease) of land or buildings where the sale price, premium or initial annual rent (after the expiry of any rent free period) exceeds £2,500,000*".
- 9.2 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 consents to the disposal for less than best value.
- 9.3 The Council has 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 and must evaluate any public response as part of the decision-making process. In accordance with S.123 of the Local Government Act, notices have been placed in the Stevenage Comet newspaper, giving opportunity for any objections to be raised by no later than 18<sup>th</sup> April 2024. Approval of this proposed disposal is subject to there being no objections which are considered by the Council's Principal Surveyor and Legal Services to demonstrate a contravention of the Act. Any such objections will be duly considered and the authors of such advised as to the Council's findings.
- 9.4 By entering into the proposed contract for sale, the Council will be bound to sell their freehold interest in the subject land in the event of planning permission being granted for a minimum of 40 houses with a 40% proportion of Affordable Housing and the joint seller will also be bound to the same contract. The purchaser will similarly be bound to complete the purchase in the event of planning consent equivalent to, or greater than the abovementioned extent.
- 9.5 The Council is represented by in house Legal Services, who will protect the Council's interests in the matter. The Purchaser is to provide an undertaking to meet the sellers' reasonable abortive legal costs should the transaction not proceed.

Normally this would also include an undertaking to cover the Council's costs, however, if this proceeds, these will be covered from the proceeds of sale.

## **10. FINANCIAL IMPLICATIONS**

- 10.1. Upon completion of the proposed sale, a capital receipt will be received. An estimated range of outcomes is identified in Part 2. The capital receipt will be used to fund future capital expenditure and can also be invested to generate investment returns until it is needed.
- 10.2. Costs of sale such as legal and agent's fees, the latter being based upon 1.25% of the sale price, are to be met out of the proceeds. These will be treated as an off-set against the capital receipt.
- 10.3. Should the purchaser fail to complete the purchase after contract, £100,000 of the deposit monies shall be non-refundable.
- 10.4. The land does not currently command rental revenue and therefore no loss is anticipated by this sale. The sale also removes any risk and costs involved holding the land.
- 10.5. As referenced earlier in this report and at 9.4 above, the gross proceeds and costs of sale are to be split between the joint selling parties.

## **11. RISK IMPLICATIONS**

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2. A number of unknowns exist prior to the contract becoming unconditional:
  - a. The purchaser may not succeed in gaining a planning consent. However, by entering into contract with Party A, it is considered that their Planning aspirations are realistic and therefore the optimum chances of success exist.
  - b. The demands of Hertfordshire Highways are outside of the Council's control and whilst generic estimations of S.106 costs have been factored in, excessive requirements such as new road layouts/roundabouts or crossings could add to allowable expenses.

Through negotiations and analysis of Party A's assumptions, it is judged that they are realistic and therefore the chances of greater than expected costs in this respect are mitigated.

- c. The price may be adversely influenced by higher than anticipated costs of a drainage solution. Nevertheless, the purchaser has made provision of £100,000 in their bid towards a viable solution and if this proves not to be adequate due to further complications being identified, the parties will gain a 2<sup>nd</sup> opinion on an "Open Book" basis.

- d. Whilst Party A's financial status is understood to be sound at this point in time, future changes to this prior to completion cannot be forecast. In the unlikely event of financial stress coming to bear upon the purchaser, it is conceivable that performance of the contract could become beyond their means.

## **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. There are not considered to be any direct negative equality issues arising from this report.
- 12.3. The offers received for sale of the land were dealt with in a fair and consistent manner leading to recommendations set out in 2.1- 2.3.
- 12.4. The development resulting from the sale of the land will include 40% affordable housing units which will likely have positive impacts that the wider community might benefit from such as enhanced community inclusion, access to affordable housing, potential increase of social mobility and potential reduction in homelessness.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. There is not a requirement for Social Value to apply to the sale of land, however ensuring that the 40% Affordable Housing units will be provided, does help to ensure Social Value benefits. The results of these steps are that a mix of Shared Ownership and Social rent units will be provided.

## **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1 An Environmental Impact Assessment was carried out ahead of the 15<sup>th</sup> December 2020 Cabinet decision and can be referred to within the following link and is within the Final Sustainability Appraisal:  
  
<https://www.north-herts.gov.uk/north-herts-local-plan-2011-2031>
- 14.2 As set out in this report, consideration has been given to the potential to meet the North Herts Council Climate Strategy action to require Passivhaus, BREEAM, or similar standards for all developments on land sold by the Council. Though a total of 120 developers were invited to bid on the site, not one offered to build to these standards. Nevertheless, through analysis of the offers that did come in, it has been possible to ensure building to the Future Homes Standards.
- 14.3 The Future Homes Standard is due to be implemented in 2025 and was recently consulted on. It will improve the energy efficiency and reduce emissions from new build homes through improvements to building regulations. It builds on improvements made in 2022 to building regulations part L on conservation of energy and part F on ventilation.

- 14.4 The 2025 Future Homes and Buildings Standards enhances air tightness levels and requires the use of low-carbon heating, particularly air source heat pumps. The Government anticipates that the Future Homes Standard will reduce emissions from buildings by 75-80% compared to those built under previous regulations from 2013 and considers buildings to be net zero compatible. The Energy Usage Intensity of homes built under the Future Homes Standard is around 45kWh/m2.yr which is significantly below older building regulations.
- 14.5 The Future Homes Standard does not achieve energy efficiency standards in line with Passivhaus Standard, which has requirements for very high airtightness levels, greater insulation, triple glazing and mechanical ventilation delivering space heating energy demand of 15kWh/m2.yr (a similar metric to the Energy Usage Intensity).
- 14.6 However, being Net Zero compatible and powered through low carbon technologies, the Future Homes Standard is a significant improvement on building regulations prior to the 2022 improvements and is broadly aligned with the Council's 2040 Net Zero district target.

## **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 The proposed land sale will have no impact upon North Herts council staff.

## **16. APPENDICES**

- 16.1 None.

## **17. CONTACT OFFICERS**

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**18. BACKGROUND PAPERS**

18.1 Attached Part 1 background papers from – Aitchison Raffety marketing particulars.

18.2 15<sup>th</sup> December 2020 Cabinet decision record. [CLICK HERE](#).