

5. DISPOSAL OF SURPLUS COUNCIL LAND AT BOLNORE ROAD DEPOT

REPORT OF: Head of Corporate Resources
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Wards Affected: All
Key Decision: Yes
Report to: Cabinet
4th June 2018

Purpose of Report

1. The purpose of this report is to inform Cabinet of the outcome of the Head of Corporate Resources' investigation into the development potential of a parcel of Council land at Bolnore Road, Haywards Heath, shown edged in red on the plan at Appendix I to this report ("the Site"), which until recently was used as a Council depot.
2. It sets out proposals for residential development of the Site, asks Cabinet to declare the Site surplus to existing operational requirements and needs, and seeks authority for the Head of Corporate Resources to dispose of the Site to Bidder A on the terms set out in the exempt Appendix 2 to this report in order to generate a capital receipt for the Council and homes in a sustainable location with 50% of those being affordable homes.

Recommendation

3. ***Cabinet is recommended to:***

- (a) Declare the parcel of Council land at Bolnore Road, Haywards Heath shown edged in red on the plan at Appendix I to this report ("the Site") surplus to existing operational requirements and needs;***
 - (b) Approve the disposal of the Site to Bidder A for residential development, subject to the grant of satisfactory planning permission, in accordance with the terms set out in the Exempt Appendix 2; and***
 - (c) Authorise the Head of Corporate Resources and the Head Regulatory Services to enter into a contract, conditional upon the grant of satisfactory full planning permission for residential development of fifty per cent affordable homes and fifty per cent commercial homes, for the disposal of the Council's freehold interest in the Site to Bidder A on the main terms and conditions set out in the Exempt Appendix 2; and on such other terms and conditions as the Head of Regulatory Services recommends to protect the Council's position.***
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Background

4. The Council's predecessor the Urban District Council of Cuckfield acquired the Site, together with other land from the trustees of the community of the Holy Cross Convent Haywards Heath on 22nd August 1967 for use as a horticultural nursery site, but by the mid 1970's the site had ceased to be used for horticultural activities and was utilised as an informal depot. On 7th September 2000 the Council and the sisters of the Holy Cross Convent, Haywards Heath entered into a Deed of Release of Covenants. Various covenants restricting the use of the Site and the erection of buildings on the Site were released in so far as and for the purposes of the Council fulfilling its statutory duties as a local authority.

5. On 27th March 2018 the Cabinet Member for Resources and Economic Growth considered a report on the potential disposal of potentially surplus Council land, which proposed that various sites mentioned in the report should be investigated, to establish their current use and importance to the Council with a view to identifying those that are surplus to current operational needs and have development potential. The objective being to bring such sites forward for development either by the Council or others. The Cabinet Member was recommended to:
 - (a) agree, in principle, to the disposal of the various sites listed in the Appendix of the report that are potentially surplus to existing operational requirements and needs and have development potential; and
 - (b) authorise the Head of Corporate Resources to investigate the status of each parcel of land and to test the market to allow officers to bring forward and report back to Cabinet or Cabinet Member for Resources and Economic Growth, site-specific proposals for the disposal and/or development of those parcels of land that are considered surplus to existing operational requirements and needs and have development potential.
6. The Cabinet Member for Resources and Economic Growth approved the recommendation.
7. The Site, which was an operational depot before being decommissioned a few years back, is now used as an ad-hoc storage facility by various Council departments. A review of the asset has demonstrated that this Site is an underused site that is no longer required for the operational functions of the Council and is, in effect, surplus to the Council and with development potential as a brownfield development site.
8. The site is flat and surrounded by a thick vegetation of trees on land lying on the cul-de-sac at Bolnore Road, and adjacent to Beech Hurst Park and extends to an area of 0.49 ha (1.21 acres).
9. The Site is identified in the Council's Strategic Housing Land Availability Assessment (SHLAA) and allocated in the Haywards Heath Neighbourhood Plan as suitable for residential development.

Proposed Disposal

10. Officers have explored a number of disposal options in order to expose the Site to the best market and suitable purchasers. An agent was appointed to assist the Council with the marketing process and the negotiation of suitable terms with potential purchasers, to ensure that the disposal complies with the Council's statutory duty to secure the best consideration that can be reasonably obtained.
11. The proposed disposal will be subject to Bidder A obtaining satisfactory planning permission for a development of 18 residential units comprising 9 affordable homes and 9 private commercial market homes.

Policy Context

12. Local authorities like other public bodies are encouraged by the Government to keep their land holdings under review to ensure that it is not underutilised and it is Government policy that local authorities and other public bodies should dispose of surplus land wherever possible for development including for the provision of new homes.

13. Making the land available in this way directly assists the Council in its ambition to bring forward housing in the District.
14. Delivering affordable homes in the District feeds into the Council's policy objectives of better lives in the District.
15. Officers have taken account of the pressing need to increase the supply of affordable housing within the district, and specifically, within the area of Haywards Heath. Housing Services has advised that there are currently 1,250 households on the housing register for Mid Sussex and 381 of those households have indicated a preference to be housed in Haywards Heath. The need is broken down into 193 needing one bed homes, 158 needing 2 bed homes, 26 needing 3 bed homes and 4 needing 4 bed homes.
16. On this basis therefore, Cabinet is asked to endorse the approach that this site should contribute a greater proportion of affordable housing than the Council's policy (at 30%) would otherwise provide. This translates into three extra units on this site.

Powers and Legal Advice

17. Local authorities are given powers under Section 123 of the Local Government Act 1972 Act (the 1972 Act) to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease or assigning any unexpired term on a lease, and the granting of easements. The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies of less than 7 years), unless the Secretary of State consents to the disposal.
18. Paragraph 6 of Circular 06/03 Local Government Act 1972 General Disposal Consent (England) 2003 confirms that it is Government policy that local authorities and other public bodies should dispose of surplus land wherever possible. Generally it is expected that land should be sold for the best consideration reasonably obtainable. However, it is recognised that there may be circumstances where an authority considers it appropriate to dispose of land at an undervalue. Authorities should clearly not divest themselves of valuable public assets unless they are satisfied that the circumstances warrant such action. The Consent has been issued to give local authorities autonomy to carry out their statutory duties and functions, and to fulfil such other objectives as they consider to be necessary or desirable. However, when disposing of land at an undervalue, authorities must remain aware of the need to fulfil their fiduciary duty in a way which is accountable to local people. In this regards the courts have held that the councillors have the same responsibilities and duty of care as trustees.
19. The Consent effectively removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land, where the authority considers it will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area and the difference between the unrestricted value of the interest to be disposed of and the consideration accepted ("the undervalue") is £2m or less.
20. In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether or not any specific proposal to take such action falls within the terms of the Consent, the authority should ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue.

21. The provision of 50% of affordable homes within the proposed development scheme exceeds the local planning authority's requirement for 30% affordable homes and while the creation of affordable homes stands to be disregarded for the purposes of determining the commercial and monetary value of the Site, the provision of 50% affordable homes effectively unlocks the Site for housing development as a whole in line with Central Government Policy.
22. It has been necessary to undertake a valuation exercise to establish the impact on the value of the Site of imposing a condition that the development comprises 50% affordable homes against a valuation of the Site for a policy compliant development. The provision of affordable homes meets the first requirement of the General Disposal Consent and therefore, if the difference between the market value of the Site for a policy compliant development and the proposed scheme is less than £2m, the Council can rely on the General Consent and sell the land at the price stated in the Exempt Appendix 2 to this report. This appendix sets out the offers for the land for both schemes and it can be clearly seen that the difference in values is below that £2m threshold.

Other Options Considered

23. The alternatives are to:
 - (a) Do nothing and retain the site for their existing use, whilst bearing the cost of maintenance and the liability that arises with routine maintenance and security. The Council would forgo an opportunity to generate a capital receipt that could be invested in the delivery of services or income generating assets that could be used to deliver services.
 - (b) Consider retaining the site and developing for the delivery of Council services. No such use has been identified.

Financial Implications

24. The disposal will generate a capital receipt for the Council without impacting current revenues.
25. The costs associated with marketing, legal and other costs would need to be met from existing budgets but ultimately recovered from the capital receipt from site disposal, including an agents' fee of 2% of the sale price.

Risk Management Implications

26. The risk management implications of this report are detailed elsewhere in this report and in the Potential Disposal of Potentially Surplus Council Land report to the report to the Cabinet Member for Resources and Economic Development considered on 27th March 2018.

Equalities statement

27. It is not expected that any protected groups would be affected by this decision as the Site is not subject to public use. However, any planning application would consider these and other factors in the usual way.

Background Papers

28. Potential Disposal of Potentially Surplus Council Land, Report to Cabinet Member for Resources and Economic Growth, 19 March 2018

Appendix 1- Location Plan

