

5. DISPOSAL OF SURPLUS COUNCIL LAND AT IMBERHORNE LANE CAR PARK

REPORT OF: Head of Corporate Resources
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Wards Affected: All
Key Decision: Yes
Report to: Cabinet
13th August 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 Imberhorne Lane car park, East Grinstead, shown edged in red on the plan at Appendix I to this report ("the Site"), which is currently used as a public car park.
2. It sets out proposals for a 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.

Recommendation

3. *Cabinet is recommended to:*

- (a) Declare the parcel of Council land at Imberhorne Lane, East Grinstead, 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 of Regulatory Services to enter into a contract, conditional upon the grant of satisfactory full planning permission for residential development of forty per cent affordable homes and sixty 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 owns the Site, which has been used as an out-of-town public car park, with 68 long stay parking spaces, and no disabled and/or parent and toddlers parking spaces.
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. Moreover, a report to Scrutiny Committee for Customer Services and Service Delivery (11 October 2017) informed Members that during 2016/17, the site was part of a programme of works to resurface and reline various car parks around the District at a total cost of £100,136, which was funded by both capital and revenue budgets. A total of £19,620 has been spent on reactive and preventative maintenance on this car park since 2014, and if it is to be retained, it will require another £30,000 to bring it into a good state of repair.
 8. A review of assets has demonstrated that this Site, in this location, 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. The site is flat and surrounded by residential accommodation along Imberhorne Lane, and extends to an area of 0.18 ha (0.44 acres).
 9. The Site does not generate income, as it is not regulated by pay and display charges. It is rarely monitored by the Parking Services Team due to the complexities of enforcing a stay of a vehicle over the 23 hour parking period the site allows. In the 2017 – 2018 financial year, thirteen Penalty Charge Notices were issued in the belief vehicles had exceeded the parking period, which resulted in the recovery of only £125.00. Several of the vehicles were not registered with the DVLA as they had been transferred to the motor trade (meaning the owner could not be traced), which suggests a private dealer was using the car park for storage.
 10. The Site is identified in the Council's Strategic Housing Land Availability Assessment (SHLAA) as a site considered suitable for high-density development. It is next to large commercial units and there are many examples in the locality of flatted developments. It would make efficient use of site in a fairly sustainable location and is allocated in the East Grinstead Neighbourhood Plan as suitable for residential development. The latter noted that if the Site was to be redeveloped for residential housing, a suitable alternative car park should be identified.
 11. Officers are investigating re-provision, in an alternative location, of a regulated and monitored car park facility on Imberhorne Lane recreation ground, in order to alleviate on-street parking during football games.

Proposed Disposal

12. 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.

13. The proposed disposal will be subject to Bidder A obtaining satisfactory planning permission for a development of 30 residential units comprising 12 affordable homes and 18 private commercial market homes, (subject to planning).

Policy Context

14. In 2016/17, West Sussex County Council (WSCC) undertook a review of the existing waiting restrictions in East Grinstead and put forward proposals to try and improve road safety, reduce congestion and provide additional parking spaces where possible. These proposals have now been approved and the associated works to introduce the changes are complete. The Site is therefore not considered to fall within any Controlled Parking Zones (CPZ) due to its distance from the town centre; and there are no plans to make any further extensions to the Residents' Parking Scheme (RPS).
15. 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.
16. Making the land available in this way directly assists the Council in its ambition to bring forward housing in the District. Delivering affordable homes in the District feeds into the Council's policy objectives of better lives in the District.
17. Officers have taken account of the pressing need to increase the supply of affordable housing within the district, and specifically, within the area of East Grinstead. Housing Services has advised that there are currently 1,382 households on the housing register for Mid Sussex and 265 of those households have indicated a preference to be housed in East Grinstead. The need is broken down into 115 needing one bed homes, 122 needing 2 bed homes, 23 needing 3 bed homes and 5 needing 4 bed homes.
18. 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

19. 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.
20. 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.

21. 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.
22. 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.
23. The provision of 40% 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 40% affordable homes effectively unlocks the Site for housing development as a whole line with Central Government Policy.
24. 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 40% 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

25. 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

26. The disposal will generate a capital receipt for the Council and reduce capital and revenue spend on the car park maintenance.
27. The disposal will result in the loss of revenue income from the car wash operator at £6,000 p.a., mitigated by a saving on the non-domestic rates liability of £5,510 p.a.

28. 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

29. 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

30. In determining this proposal the Council is required to have regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation. It is considered that the decision to dispose of the Site will not have an adverse impact on any of the protected characteristics. However, any planning application would consider these and other factors in the usual way.

Background Papers

31. Parking Services Annual Review 2016/17, Report to Scrutiny Committee for Customer Services and Service Delivery, 11 October 2017
32. Potential Disposal of Potentially Surplus Council Land, Report to Cabinet Member for Resources and Economic Growth, 19 March 2018

Appendix I - Location Plan

