

Wiltshire Council

Cabinet

12 June 2018

Subject: Disposal of Council Land in Rudloe

Cabinet members: Councillor Toby Sturgis
Cabinet Member for Spatial Planning, Development
Management and Strategic Property

Key Decision: Yes

Executive Summary

The Council's freehold land holding in Rudloe comprises a vacant community centre; vacant retail unit; Public Open Space; car park and hardstanding.

An initial proposal was received in 2016 from GreenSquare for an affordable housing regeneration scheme involving their existing land and housing stock, but also requiring the Council's land in Rudloe. Their scheme would result in an increase in affordable housing but also the loss of the existing (now closed) community centre building.

The options for the Council's freehold land and property to be considered are:

- an open market sale of part or the whole of the site;
- a transfer of the whole site to GreenSquare; or
- a lease of the vacant community centre to a community group or other party but otherwise retain the status quo.

Strategic Assets & Facilities Management and Housing jointly recommend the preferred option to be to engage in negotiations with a view to a transfer the Council's freehold land and property holding to GreenSquare on terms to be agreed, for a regeneration scheme of affordable housing.

Proposals

1. To declare the Council's freehold land and property holding in Rudloe (See Annex 1 – Plan) as surplus and for disposal either in its entirety or selectively. If a disposal of part only of the site transpires as the outcome, elements of the site would remain in Council ownership.
2. To support the recommendation on the preferred option to engage in negotiations with GreenSquare with a view to a transfer to GreenSquare of

the Council's freehold interest required for their regeneration scheme within an agreed timescale, potentially at an under-value and on terms to be agreed.

3. To confirm disposal of part or the whole of the Council's freehold land and property in Rudloe on the open market if negotiations are unsuccessful with GreenSquare.

Reason for Proposal

To confirm the freehold interests of the Council's assets in Rudloe can be sold, with the primary aim to increase affordable housing provision in Rudloe through partnership working with GreenSquare to enable their proposed regeneration scheme.

Alan Richell
Interim Director Housing & Commercial Development

Wiltshire Council

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Purpose of Report

1. The purpose of this report is to present the options to Cabinet so that they might make a decision on whether to declare the freehold interest of the Council's land holding in Rudloe for disposal either selectively or as a whole, and to confirm a preferred option for disposal.

Relevance to the Council's Business Plan

2. The opportunity to engage with GreenSquare to deliver additional affordable housing is in line with Strategic objective 3:
 - a. providing everyone with access to a decent, affordable home with emphasis on addressing affordable housing needs, and
 - b. to ensure a continuous supply of housing over the plan period.
3. This is underpinned by Core Policy 43 providing affordable homes.
4. The disposal of assets raises capital to assist and support the Council's medium term financial plan (MTFP) which subsequently supports the Council's Business Plan and its aims and targets. Specifically, the business plan describes taking a *commercial approach to managing assets* as part of the *Working with partners as an innovative and effective council priority*.

Main Considerations for the Council

5. The future of a community facility that has limited viability owing to its size and condition and is currently void.
6. The opportunity to partner with GreenSquare to deliver their affordable housing and regeneration scheme increasing the housing stock, potentially involving a transfer at under-value and forgoing a capital receipt.

7. The potential re-modelling of the existing Public Open Space as part of GreenSquare's regeneration scheme.
8. The sale of part or parts of the Council's freehold land and property in Rudloe if engagement and negotiations are unsuccessful with GreenSquare.

Background

9. Rudloe Community Centre is a 4,000 sq ft community building in Rudloe built circa 2000 (see Annex 2 – Picture of community centre). The property and adjoining car park (but not the external play facilities or open space) were leased to the Rudloe Community Association (RCA) who vacated in July 2017 owing to problems resourcing the ongoing management of the centre. The building is currently void and has become the focus for some anti-social behaviour. Box Parish Council licence the play area forming part of the Public Open Space.
10. The community centre is approximately 1.7 miles from Springfield Community Campus and has regular bus connections.
11. Wiltshire Council's freehold interest in the wider Rudloe site comprises the community centre as well as a small retail unit, Public Open Space and parking areas (See Annex 1 – Plan). GreenSquare, a Registered Social Landlord, has land and property adjacent to the Council's land and have identified the opportunity for wider regeneration to improve their existing social housing and to provide additional affordable units.
12. To bring the community centre back into long term beneficial use as a community facility, significant expenditure is required. Informal, ballpark estimates suggest expenditure by the Council of circa £95k over the next 10 years although some repairs are needed more immediately to the roof, electrics and boilers. Beyond 2028 both electrical re-wiring and a new roof will be needed on top of these costs.
13. In addition to these capital costs (assuming the Council as landlord remains responsible for external and Mechanical and Electrical repairs under any lease to a community organisation) annual revenue expenditure of circa £8k may be required on reactive maintenance. This estimate may increase once formal condition reports are undertaken. In addition, as well as initial compliance expenditure in the region of £5.5k, potential roof repairs of £10k are required (all informal estimates). These figures assume a tenant would be responsible for all internal repairs and decoration, as well as ongoing building compliance during a tenancy.
14. GreenSquare has been making representations over several years in connection with Council assets in Rudloe. The assets and community centre were the subject of a Cabinet Report and Decision dated 24 May 2012 (See Annex 4) where it was resolved to work with GreenSquare and the local community to explore options for the community centre and council owned land together with GreenSquare assets. It was resolved that a further report be brought to the Cabinet Capital Assets Committee outlining the outcomes of the feasibility work and a financial appraisal and to seek approval for any proposals to transfer ownership of and/or remodel the

community centre. However, these proposals never got off the ground owing to financial viability issues at the time.

15. In 2016 GreenSquare re-approached the Council with a further proposal to acquire the Council's land and buildings in Rudloe to enable land assembly for a regeneration scheme to be delivered for the area. Early indications are that the transfer of the Council's land would be for a nominal sum, however, this would have to be determined through engagement with GreenSquare and if the case, may be subject to a further Cabinet report.
16. GreenSquare require the backing of a Cabinet decision to provide the certainty they require to engage further with the Council to negotiate a transfer and formalise their development plans and budgets with a view to commencing the planning process.
17. There are concerns about the potential impact of the loss of the community centre under Core Policy 49 (Protection of Services and Community Facilities) which may impact on any planning application for alternative uses, including a residential regeneration of the wider area. A marketing exercise has been completed by the Council over a six month period to ascertain levels of community demand for the community centre and to fully explore any potential occupier interest for a short term lease. This resulted in circa 12 enquiries mainly being from private individuals (for a dance school, martial arts school, therapy centre etc) and some community initiatives (café, pre-school, community radio). Two enquiries which are outlined in Annex 3, resulted in formal proposals supported by business plans.

Overview and Scrutiny Engagement

18. There has been no engagement with Overview and Scrutiny at the time of this report.

Safeguarding Implications

19. There are no safeguarding implications with this proposal, as the community centre has already been closed for 10 months.

Public Health Implications

20. There are no public health implications with this proposal, although regeneration by GreenSquare may result in a better quality housing stock in the area.

Procurement Implications

21. A decision to dispose of the freehold interest or lease the property does not have any direct procurement implications. However, when the appointment of agents to market the assets or when pre-marketing surveys are required, their procurement is carried out in accordance with the Council's procurement rules and policies.
22. Wiltshire Council will need confirmation that any joint venture or direct transfer of land to GreenSquare at an undervalue (for a nominal sum) does not breach State

Aid, or the Council's procurement rules. This will need to be considered by the Council's Legal Unit.

Equalities Impact of the Proposal

23. There is considered to be no equality impact as a result of this decision.

Environmental and Climate Change Considerations

24. Where a sale envisages potential development, any environmental and/or **climate** change issues are best considered through the planning application process.

Risks that may arise if the proposed decision and related work is not taken

25. The community centre may remain void for a further period without a clear **strategic** decision on its future. This would incur void management costs, rating liability, the further deterioration of the building which could become a further focus for anti-social behaviour.

26. The opportunity for GreenSquare to submit a planning application **incorporating** the Council's land to deliver a regeneration scheme with the expected increase in affordable housing provision (for which there is an identified need), could be missed.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

27. The risk that there are Title issues which might make a transfer of the site difficult. Title issues might arise during legal due diligence in preparing the site for transfer or sale.

28. A risk that may arise is that due to legislative or other changes a service need arises for an asset after it has been sold and the Council then has to look to acquire or rent in an asset.

29. The disposal of the community centre will result in the loss of a community facility and a potential venue for pre-school provision in Rudloe. It is considered that this should be managed through the planning process, although the evidence of the marketing campaign (as referred in paragraph 17) will be a material consideration.

30. The risk that engagement with and a transfer to GreenSquare does not proceed owing to a failure to agree satisfactory terms with the Council, planning refusal, Homes England funding unavailability or viability issues in connection with the proposed regeneration scheme. This will be monitored through close liaison with GreenSquare through existing relationships.

31. There is a risk that the proposed net gain in affordable housing of the scheme may change as development proposals progress, which could result in an increase or decrease in numbers subject to planning outcome and/or viability. This will be monitored through close liaison with GreenSquare through existing relationships.

32. As mentioned above, Wiltshire Council needs to consider the possibility that the undervalue, the benefit of which will go to Greensquare, is a breach of the State Aid regulations that seek to prevent distortions in the market caused by the favouring of commercial entities by the state (in this case Wiltshire Council). Advice from central government is that because of the difficulty of being certain as to whether in any situation a state aid breach has definitely occurred then state aid assessments are made on a balance of risks basis.
33. State Aid Regulations are concerned with trade between EU member states. If the commercial situation being considered has no inter-state implications then there is no question of state aid breach. Here because of the local focus, and relatively small size of the project it can be argued that there is no inter-state issues. This is supported by a fairly recent series of ECJ cases that develop the arguments for local projects. There is still a possibility of a challenge from a competitor of Greensquare but that risk of challenge is considered to be low.
34. In addition to these considerations, the Council's obligations under Section 123 of the Local Government Act will need to be considered. A transfer to GreenSquare may be considered a disposal at less than best consideration, but (subject to the terms agreed with GreenSquare) may be within The General Disposal Consent (England) 2003, which allows the Council to disposal of the Council's interest in the land where the Council considers such disposal will help to secure the promotion or improvement of the economic, social or environmental well-being if its area AND the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds). If not, the consent of the Secretary of State will need to be sought and obtained. The final terms of any disposal may be subject of a further Cabinet decision.
35. If as a part of the sale of the land, obligations are put on GreenSquare to build on it affordable housing this then will make the transaction (for the purposes of the Procurement and Contract Regulations 2015) a Development Contract. If this is the case, that the transaction is a Development Contract, then unless the following exceptions are met, the deal should be tendered in accordance with PCR 2015 with a tender advertisement in the Official Journal of the EU. The exceptions are: 1) the value of the development work to GreenSquare (and NOT what is paid to the Council) is less than the current EU works threshold of £4,104,394; 2) the obligation contained in the contract is conditional, that is not an obligation to develop but an obligation that if they do decide to develop it will be affordable housing. This consideration will be monitored through close liaison with GreenSquare through existing relationships.

Financial Implications

36. A transfer of the Council's land holding at Rudloe at potential "under-value" to GreenSquare will reduce capital receipts and the amount that the Council can invest in its communities and/or be used to reduce borrowings and thus free up revenue for delivering services.
37. A transfer of the Council's land holding in Rudloe to GreenSquare on appropriate terms would result in an increase in the affordable housing delivery above policy

compliant levels if planning for the envisaged proposals was successful, without significant capital investment from the Council.

38. Alternatively, the disposal of surplus assets on the open market is not only integral to the Council's medium term financial planning but often makes good asset management sense too. The realisation of capital from the sale of assets is used to support the MTFP and Council Business Plan.

Legal Implications

39. Legal due diligence will be required and input from the Legal Unit to confirm the legal basis for a transfer or sale of land to GreenSquare or other parties, and to prepare documentation to formalise contracts and transfer.
40. The assets will be categorised as strategic assets due to their strategic importance and will not be available for Community Asset Transfer unless this Committee subsequently decides otherwise.
41. If a transfer to GreenSquare is approved, the terms of the transfer will need to meet the requirements of s123 of the Local Government Act 1972 to achieve best consideration or fall within The Local Government Act 1972: General Disposal Consent (England) 2003. If not, the consent of the Secretary of State will need to be sought and obtained.
42. The legal implications in regard of State Aid and Procurement Regulations has been considered in paras 34 to 35 above
43. Any disposal of Public Open Space would need to follow the procedure as set out in S.123 (2A) of the Local Government Act.

Options Considered

44. A Cabinet decision on the most appropriate option for the Council to pursue in connection with the future of the community centre and the Council's wider land ownership in Rudloe is requested.
45. Options and the advantages & disadvantages of each, are set out in Annex 3 at the end of this paper, being exempt due to the presence of sensitive financial information.

Conclusions

46. The community centre (and retail unit) is currently a financial and physical liability for the Council. Whilst there is some community demand locally, the community building has recently been handed back by the previous tenants. The building is regarded as unfit for purpose owing to size and configuration; as well as condition, current and future maintenance and capital costs. This provides a risk to any business plan proposed for the centre without financial and management support from the Council. There are in summary three options for Cabinet to consider:

47. Option 1: An open market sale of all or selective assets in Rudloe to a third party could be considered although the planning risk for alternative (say residential) uses of the community centre in particular is likely to be of concern and the developer market may be limited. An unconditional sale based on existing use as a community centre would not command a significant value but would divest the Council of its management liability and provide a modest capital receipt. If a disposal of part only of the site transpires as the outcome, elements of the site would remain in Council ownership.
48. Option 2: Alternatively, the regeneration proposals from GreenSquare offer a potential solution to the Council in assisting with the provision of additional affordable housing delivery to meet housing need. It would however rely on the Council transferring the land at a potential under-value, grant funding to GreenSquare from Homes England and also a successful planning permission all of which may take a number of years to achieve. If required, an acceptable compensation (financial or otherwise) for the loss of the existing community centre would need to be funded and agreed by GreenSquare as part of the scheme, potentially through the planning process. GreenSquare have stated they have very limited means to contribute to this due to the fact that the proposed re-development scheme is only marginally viable.
49. Option 3: There is community focussed and local private interest in leasing the community building (from two parties in particular) although the cost of premises management is significant and undermines viability. Once the pre-school is moved from its premises at the Primary School, the community centre could provide alternative accommodation but at a cost to the Council. A commitment from Wiltshire Council to provide both capital and revenue funds for initial and ongoing building maintenance would be required over the long term.
50. Strategic Assets & Facilities Management and Housing recommend **Option 2** for strategic benefits of enabling an increase in affordable housing provision and the social benefits of regeneration of the area. This is dependent on confirmation of the legal considerations outlined above by the Council's Legal Unit. It is also dependent on agreement of satisfactory terms for the Council and both grant funding being provided to GreenSquare by Homes England as well as Planning Consent being achieved by GreenSquare.
51. Option 2 would require declining to lease the community centre to the pre-school and other organisations whilst negotiations with GreenSquare proceed or pending an open market sale.

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Background Papers

None

Appendices

Annex 1: Land Registry Plan of Council's Freehold Interest in Rudloe

Annex 2: Photograph of Community Centre

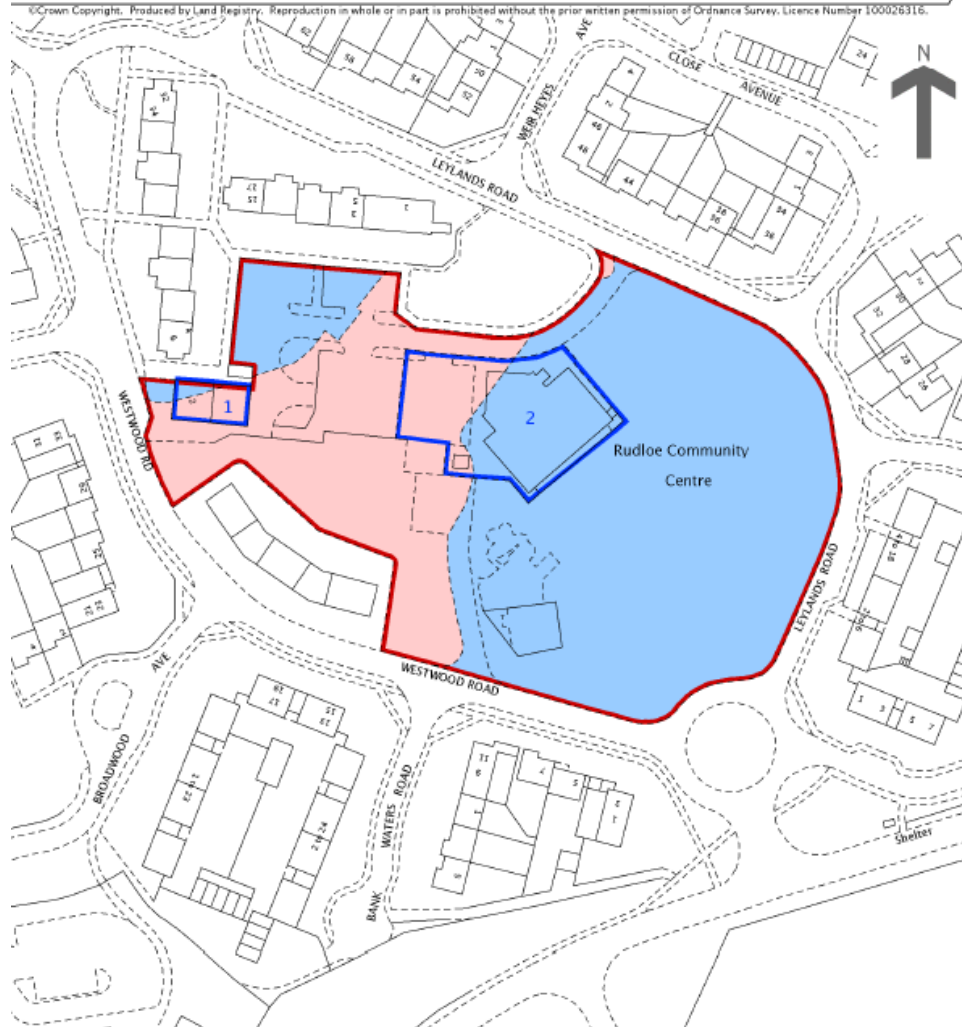
Annex 3: Summary of Options and advantages and disadvantages for each option

Annex 4: Extract of Minutes of Cabinet Capital Assets Committee minutes of a meeting held in Council Chamber - Council offices, Bradley Road, Trowbridge, BA14 0RD on Thursday, 24 May 2012.

Annex 1 – Site Plan (within red boundary)

Land Registry
Official copy of
title plan

Title number **WT252238**
Ordnance Survey map reference **ST8470SE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Wiltshire**



- 1 = Retail unit
- 2 = Community Centre

Annex 2 – Photograph of Community Centre



Annex 3 is Exempt from Publication

Annex 4 – Extract of Minutes of CABINET CAPITAL ASSETS COMMITTEE
MINUTES of a MEETING held in COUNCIL CHAMBER - COUNCIL OFFICES,
BRADLEY ROAD, TROWBRIDGE, BA14 0RD on Thursday, 24 May 2012.

24 Rudloe Community Centre

Councillor John Thomson, Cabinet Member for Adult Care, Communities and Housing, introduced the report which sought initial approval to work with GreenSquare to explore options to re-develop the Rudloe Community Centre in conjunction with GreenSquare's assets and some Wiltshire Council land in the immediate area.

Councillor Thomson moved an additional recommendation 5, which sought to clarify the arrangements for reporting back to the Capital Assets Committee

Resolved

1. To seek approval to work with GreenSquare and the local community to explore options to remodel and to deliver a successful, well used and well resourced community centre
2. To explore options to use council owned land together with GreenSquare assets to generate funding to enable remodelling of the community centre
3. To explore options to transfer the ownership of the community centre
4. To explore opportunities to create wider links in the community e.g. with military personnel and their families.
5. That a further report will be brought to the Cabinet Capital Assets Committee outlining the outcomes of the further feasibility work and a financial appraisal to show how this will be funded, and to seek approval to any proposals to transfer ownership of and/or remodel the community centre.

Reasons for Decision

The existing layout of the community centre was not fit for purpose and it was not being used as a hub for community activities. New designs could create a layout which would maximise the space within the centre and provide facilities that would benefit different community activities. There was an established community in Rudloe with many local people wanting to see the community centre used to its full potential.

Rudloe was an area where the community would benefit from a well run, fully functioning community centre. Data from the 2001 census showed that Rudloe had a high percentage of vacant dwellings, which may be a result of the high turnover of military personnel within the area and a low percentage of ownership. The military accounted for almost 14% of the housing stock and was likely to be associated with a high turnover of population. The second was that of the total housing stock, Rudloe had a high proportion of social housing.

In 2011 the founding and long standing trustees of RCA stood down and a new group had since been formed. This group was keen to work with the council to find a solution to the current issues.

The proposal could help link Rudloe with the wider community to help create a sustainable community and provide a fully functioning community centre.