

Wiltshire Council

Cabinet

July 2015

Subject: Land at Wiltshire Drive & Bradley Road Trowbridge

**Cabinet member: (Cllr Toby Sturgis)
(Area of responsibility Strategic Planning, Property, Waste
and Strategic Housing)**

Key Decision: No

Purpose of Report

1. To seek authorisation for this Council as both landowner and local planning authority to formalise arrangements relating to the disposal of land at Wiltshire Drive Trowbridge, namely:-
 - a) Disposal of the Nursery Land to a single party on the terms agreed.
 - b) Disposal of the remainder of the site on a restricted basis.

Background

2. Cabinet declared this site surplus to the requirements of the Council at its meeting on 17th January 2012. The main buildings were demolished in 2014.
3. As part of the pre marketing for sale due diligence process, a number of key risks were identified. Carter Jonas advised the Council on some of these risks and has assisted the Council with negotiating an acceptable way forward to reduce them. This report is to provide the authority for the Council to proceed to formalise these arrangements.

Main Considerations for the Council

4. From the various statutory powers and responsibilities the Council has, in relation to this site the key responsibilities lie within various sections of Local Government Act 1972 (as amended), the National Planning Policy Framework 2012 (NPPF - which requires Local Planning Authorities to take account of the wider socio economic and environmental dimensions in planning for sustainable growth; the Wiltshire Council Strategy sets out how sustainable growth can be delivered locally in accordance with national policy) and also from the Town and Country Planning Act 1990.

Nursery Land

5. The site includes an area (“the Nursery land”) that has been leased out on a long lease for several decades. Terms within that lease have an interaction with the main site which have a detrimental effect on the main site.
6. Officers have investigated how these could be minimised. This involved seeking Counsel’s opinion on the use of the Council’s appropriation powers. This guided Officers to initiate negotiations with the Tenant of the Nursery land (‘the Tenant’). These negotiations have led to an opportunity to dispose of the Council’s Landlord status to the Tenant (plus a small adjoining part, all as shown edged red on the plan provided in Appendix A) as an off market disposal and in so doing, regularise aspects of the lease that affect the main site. Carter Jonas has engaged and negotiated acceptable terms with the Tenant and recommended that the Council formalises this arrangement now.

Wiltshire Core Strategy

7. The Wiltshire Core Strategy (WCS) identifies three Principal Settlements namely Chippenham, Salisbury and Trowbridge. These settlements are considered strategically important and are the primary focus for development.
8. It seeks to deliver new employment and housing development in the most sustainable pattern in a way that prioritises the re-use of previously developed land, to deliver regeneration opportunities and to limit the need for development on greenfield sites. It also promotes development that seeks to maximise community benefits such as safe and accessible pedestrian routes and high quality public spaces in line with the NPPF, whilst minimising environmental and social impacts.
9. It also identifies the key issues and considerations for the Trowbridge community area including the delivery of housing growth to strengthen the viability for entertainment and cultural facilities in the town.
10. This site is located within the urban area of Trowbridge and is considered to be in a prominent gateway position located on a main transport corridor leading to the centre of Trowbridge from the south of the town.
11. A number of key regeneration sites in central Trowbridge, around the town centre have, due to various reasons, taken several years to be redeveloped; principally due to the state of the general economy and its impact on the viability of those sites. A number of sites are still vacant or available for redevelopment and provide the opportunity for new uses including retail, leisure and commercial in accordance with the Trowbridge Masterplan. These are referred to in ‘Core Policy 28: Trowbridge Central Areas of Opportunity’ of the Wiltshire Core Strategy and are safeguarded for uses that support the area’s regeneration and complement the town centre.
12. In order not to undermine the delivery of those sites, consideration needs to be given as to how the Wiltshire Drive/Bradley Road site (as shown edged in blue on the plan provided in Appendix 1) is marketed and sold.

13. It is proposed that the Council markets and sells this property on a restricted basis and seeks to secure a buyer that is focused on developing the site for residential purposes (to include sheltered accommodation, care use, open market and affordable housing) plus any other ancillary/community uses which promote people coming into contact with each other and creates a healthy place to work, live and play (subject to planning permission).
14. To do so it is proposed that the marketing and bidding information relating to its sale reflects the position that only residential led schemes will be considered and measures will also be incorporated into the legal agreements relating to its sale to effect this.
15. The Council's appointed agent for this site has considered both the marketability and potential impact on value by marketing the site in this way and confirm that the impact will be limited with little or no impact on the open market value.
16. An application to record a public footpath under Schedule 14 of the Wildlife and Countryside Act 1981 has been submitted to the Council to Modify the Definitive Map and Statement of public rights of way and is being processed in accordance with the Act by the Council's Rights of Way team. The application reference is 2015/03 and details can be seen at:-

http://php.wiltshire.gov.uk/row/row_search.php

Further details of the procedure the Rights of Way team follow for processing these applications can be found at:-

<http://webarchive.nationalarchives.gov.uk/20150722000001/http://publications.naturalengland.org.uk/publication/31038>

Officers and Carter Jonas has considered the uncertainty over what the outcome of the application will be and are of the view that it does not have a detrimental impact on the value or marketability of the site.

Safeguarding Considerations

17. Local Authorities are required by legislation to secure in their area, early education places for all three and four year olds together with 40% of two year olds. This proposal will allow the nursery to have more control and greater flexibility to remodel the site and improve safeguarding measures in the future. It will support the nursery to meet the growing demand for additional early years places that will be required in Trowbridge not only due to the growth of housing, but the Government's plans to increase free early education places from 15 to 30 hours for working parents of three and four year olds.
18. Since demolition of the main buildings on the main site, it has attracted some anti-social behaviour which is being monitored with assistance from the Police. The site needs to be re-developed to reduce the risk of it attracting

such activities and adopting the recommendations of this report will help take a step closer to achieving that.

Public Health Implications

19. As mentioned in paragraphs 16 and 17 above, adopting the recommendations of this report is a step towards providing the nursery with greater control and flexibility whilst also allowing the main site to be sold for re-development. Such a redevelopment will of course require planning permission and building regulation approvals and other regulatory consents. All of these will assist to achieve a better environment for the local community and enhance its health and wellbeing. To achieve that, the Council needs to secure a buyer that will do so.

Environmental and Climate Change Considerations

20. As with the points made above in paragraphs 16,17 & 18, redevelopment of the site will require planning permission, building regulation approval and other regulatory consents which will make sure that all modern standards are met by the development that limit environmental impact. Any development on the site will be privately owned and will not form part of the council's carbon footprint.

Equalities Impact of the Proposal

21. It is not felt that the Proposal and decisions sought in this report have a detrimental impact on equalities. Members of the local community will have the opportunity to raise any concerns they have not only through the pre-planning application submission consultation the buyer is likely to undertake but also during the planning application statutory consultation period.

Risk Assessment

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

Nursery Land

22. Consideration would need to be given to appropriate the main site for planning purposes or to market the site with the interactions of the current lease on the main site. Counsel's opinion and the advice of the Council's agent are against these routes without initially seeking to negotiate a solution, which is now the subject of this decision.
23. The main risks of not taking this decision will be an impact on cost and reputation:-

Appropriation

- a. Additional officer time and specialist legal advice will be required to seek to appropriate the site. This is difficult to quantify but is envisaged to be tens of thousands of pounds.
- b. Marketing the main site for sale will be delayed which will consequently delay when a planning application to re-develop the site would be made and ultimately when a capital receipt is realised.
- c. The goodwill developed with the Nursery proprietor will be lost.
- d. Monitoring the site to reduce anti-social behaviour will need to be extended.

Market the site with the interaction

- e. If the main site is marketed with the current interaction with the Nursery land, buyers will need to factor into their bids an element of risk to reflect the uncertainty over how much of the site may not be developed due to that interaction. This risk will be reflected in the offer and will result in a negative impact on the capital receipt.
- f. All the above will in varying degrees have a detrimental effect on the local community.

Wiltshire Core Strategy

24. The Council would offer the site on an unrestricted basis. The main risks of not taking this decision will again be an impact on cost and reputation:-
- a. Prospective buyers commit considerable resources seeking professional advice to carry out due diligence on sites they bid for. Should the Council not give guidance from the outset on the types of bids it will and will not engage with, bidders will be wasting their resources. The Council risks being criticised for not being transparent with the market place and may result in fewer prospective buyers engaging with future property sales. This will reduce competition for sites and reduce the number and level of bids.
 - b. With the absence of providing any guidance to the market place, a competitive offer could be received for the site from a developer/buyer for a proposed use (that it wishes to pursue to get planning consent for) that may have an impact on the ability to secure the regeneration of brownfield sites in the Central Area of Trowbridge for appropriate uses as defined by the Wiltshire Core Strategy. Introducing considerable restrictions are extremely difficult to implement part way through the bidding process. They will also have an impact on timings and delay the completion of a sale contract.

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

Nursery Land

25. There is a requirement for the Council to carry out accommodation works relating to the provision of lighting along the agreed specific access over the main site to the Nursery land. This has been factored into the confidential appraisal undertaken by Officers and Carter Jonas that supports the recommendation of this report. No significant risks have been identified with taking this decision.

Wiltshire Core Strategy

26. Restricting, through the sale process, the potential uses the main site could be put to will assist the delivery of the key principles of the WCS and assist with the re-development of some of the remaining Town Centre brownfield sites. Whilst any future alternative proposals for the main site will require planning permission, putting measures in the sale agreement will further support the general aims of the WCS. Restricting the sale in this way may turn away a special purchaser for the site which may pay more than the market value for it, however the risk of this (due to the size and configuration of the site) is considered to be low.
27. Restricting the marketing and sale in this way may result in the Council not obtaining best consideration for the site (a legislative requirement for disposal of land and buildings under the Local Government Act 1972) however it is generally accepted that residential value usually attracts the highest land value and the likelihood of a special purchaser interest (who may pay in excess of market value) is considered remote. No significant risks have been identified with taking this decision.

Financial Implications

28. Risks relating to financial implications have been explained in the remainder of the report. However in the wider context, taking these decisions will enable the site to be brought to the market for sale quickly which will then enable the Council to secure a capital receipt sooner. Full financial details of the proposal are commercially sensitive and are included as part 2.

Legal Implications

29. This report seeks decisions that will assist the delivery of the decision of Cabinet referred to above. It has been prepared in conjunction with Officers in the legal property team. There will be implications on how the agreements relating to the sale are legally formalised to reflect the two decisions but these have been accounted for in the risk appraisal above and will be negotiated in the detailed terms of the sale agreements.

Options Considered

30. The options have been covered in the risk appraisal above. They are to either take the decisions or not in each case.

Conclusions

31. The conclusions reached having taken all of the above into account.

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July 2015

Background Papers

The following unpublished documents have been relied on in the preparation of this report:

Communications with the Council's agent Carter Jonas.

Appendices

Appendix 1 - Plan
