

Public Document Pack

Legal and Democratic Services



To: All Members of the Strategy and Resources Committee

Dear Councillor

STRATEGY AND RESOURCES COMMITTEE - THURSDAY, 1ST FEBRUARY 2018

Please find attached the following report for the meeting of the Strategy and Resources Committee to be held on Thursday, 1st February 2018. This report was marked to follow and not included in the original Agenda pack published previously.

3. FUTURE USE OF THE WELLS SITE (Pages 3 - 12)

This report recommends the development of the Wells site for residential accommodation and community use and how best to achieve this objective.

For further information, please contact Fiona Cotter, 01372 732124 or fcotter@epsom-ewell.gov.uk

Yours sincerely

A handwritten signature in black ink, appearing to read "K. Beldan".

Chief Executive

This page is intentionally left blank

Future Use of The Wells Site

Report of the: Head of Property & Regeneration

Contact: Mark Shephard, Rod Brown

Urgent Decision?(yes/no) No

If yes, reason urgent decision required:

Annexes/Appendices (attached): **Annexe 1 – Site Plan**

Other available papers (not attached): Report to Council 8 Dec 2015 – Adoption of Social Centre Service Review Recommendations

Report Summary

This report recommends the development of the Wells site for residential accommodation and community use and how best to achieve this objective.

Recommendation (s)

That:

- (1) The residential redevelopment of the Wells site, including the provision of a community facility of up to 1,500 sq ft (to be operated and managed by the community) is undertaken by the Council or its wholly owned trading company;**
- (2) PwC (PricewaterhouseCooper) be engaged to advise on how to achieve the outcome set out in recommendation 1 above at a cost of up to £15,000 to be funded from the Corporate Project Reserve**
- (3) the Head of Property and Regeneration, in consultation with the Chief Finance Officer and Chief Legal Officer, be authorised to act on the advice received from PwC.**

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 This proposal supports the Council's four year Corporate Plan and Medium Term Financial Strategy specifically focusing on the Key Priority of Managing our Resources through maximising returns from properties and other investments, and identifying new sources of revenue and maximising our existing income.

2 Background

- 2.1 At its December 2015 meeting, Council agreed to consolidate EEBC's social centre provision to one site at the Longmead Centre in Sefton Road, thereby releasing the Wells site from future operational use.
- 2.2 Approved recommendations for the Wells site included:-
 - 2.2.1 To use the site for housing, either through development by the Council or a sale to a developer;
 - 2.2.2 Subject to evaluation, to ensure that a community facility forms part of the redevelopment;
 - 2.2.3 To enable the Wells Centre to remain open as a community facility with existing hirers continuing to use the venue, until such time as a decision is taken on the future use of the building (subject to the hirers providing caretaking services and having the appropriate insurance). For the avoidance of doubt, the Wells Centre will remain open to existing hirers until such time that the site is required for physical redevelopment.
- 2.3 The extent of the Council's freehold ownership is shown hatched green and edged red at **Annexe 1**. It lies adjacent to the Karibu Residential Children's Home (shown hatched blue) which is owned and operated by Surrey County Council (SCC).
- 2.4 SCC were approached to consider the potential for a joint redevelopment of both sites. Unfortunately, as an operational Children's Home, SCC advised that it would require relocation thus rendering a joint scheme incompatible with EEBC's more immediate aspirations. A dialogue will be maintained with SCC to monitor the situation.
- 2.5 The Council's freehold title contains no restrictive covenants i.e. subject to planning permission; there are no limitations on the redevelopment potential of the site. In contrast, the Committee should note that the Council's separate small land holding containing the historic Well itself was gifted to EEBC on the basis that it would be fenced off and maintained by the Council as an ancient monument. For the avoidance of doubt, the two sites are separate and the ancient monument does not form part of the former social centre site.
- 2.6 The Wells site is characterised by the following:-
 - 2.6.1 **Public Right of Way** – the Wicker Way (named after the Epsom Salts discoverer, Henry Wicker), connects Spa Drive to Well Way and traverses the Wells site. The Wicker Way is close to the site's existing boundary and will likely be retained in its existing location.

- 2.6.2 **Playground** – the play area was constructed in 2007 with the aid of a Lottery Grant. The funding was subject to a 10 year repayment obligation (in the event of redevelopment) which has now expired. A Council led redevelopment would look to retain or re-provide a playground in a new scheme.
- 2.6.3 **Community Facility** – a Council led redevelopment would look to retain a community managed facility of up to 1,500 sq ft (subject to the submission of a viable business case by the community).
- 2.6.4 **Topography** – any redevelopment will need to consider the sloping nature of the site; a factor which can often be helpful in minimising the impact of parking with the appropriate use of undercroft spaces.
- 2.6.5 **Location** – the site is within the Green Belt, near a Site of Special Scientific Interest (SSSI), near a Site of Nature Conservation Interest (SNCI), near Common Land and near a local nature reserve. It is of course, also surrounded by the Wells Housing Estate.
- 2.6.6 **Ecology** – it is anticipated that the outcome of a Part 1 Ecology Survey will confirm the presence of bats.
- 2.6.7 **Parking** – as part of any redevelopment, appropriate parking will be provided.
- 2.7 Whilst none of the above prevent development, it is likely they will act to increase its cost compared to an unencumbered site.

3 Woking Borough Council (Thameswey Group)

- 3.1 The Council has previously received informal development consultancy advice from Thameswey - Woking Borough Council's housing trading company.
- 3.2 The assistance culminated in a high level feasibility report to provide an indication of potential redevelopment. It proposed the site could support approximately 25 dwellings comprising a mixture of one and two bedroom flats, together with 4 maisonettes and a community facility of up to 1,500 sq ft. The building could be arranged over ground plus three upper floors.
- 3.3 It should be stressed that the indicative report was for information only and did not form part of any further work, for example, the preparation of a planning application. Its purpose was to guide an understanding of the redevelopment potential of the site and to place the future site options in context.

4 Future Site Options

- 4.1 The Council (as landowner) has two principal options – to sell the site to a third party developer or look to retain ownership and redevelop the site itself.

Site Sale

- 4.2 A straightforward sale of the site would maximise the sale proceeds to the Council. In turn, competing housing developers would seek to maximise their offer price by excluding, or severely limiting the provision for affordable housing or community use.
- 4.3 Alternatively, the Council could seek to invite conditional bids – for example, on the condition that the purchaser provides a community facility. Whilst accepting there would be a reduction in the sale proceeds (to reflect the loss of residential in lieu of the community space), conditional sale agreements are difficult to enforce in the public sector due to the risk of attracting EU procurement legislation (not applicable to the private sector).
- 4.4 EU procurement law applies to land sales in situations where the Council wishes to exercise control e.g. impose a condition or obligation on a developer. In doing so, the Council is creating a “public works contract” and such contracts must be published as a notice in the Official Journal of the EU (OJEU) and follow a strict, regulated and time intensive process.
- 4.5 The advantage to the Council of following the full OJEU process would be to have complete control over the sale and subsequent development. However, the OJEU process does not readily lend itself to small or medium sized land disposals.
- 4.6 Smaller private sector developers (who would otherwise be interested in the site) are dissuaded from bidding due to the time and cost implications of pursuing an OJEU bid. Similarly, larger developers could be dissuaded from bidding due to the site failing to meet their minimum size requirements.
- 4.7 The likely restricted market participation from developers could potentially place the Council at risk of breaching its duty under S123 of the Local Government Act 1972 to attain best value from land disposals.
- 4.8 In view of the Council’s likely desire to influence development (in its capacity as landowner as distinct from the Local Planning Authority), and the resulting OJEU procurement difficulties this would give rise to, a sale of the site is not recommended.

Retain Ownership

- 4.9 For the Council to consider retaining ownership, the income generated by the redeveloped site must be capable of servicing the Council’s loan commitments. The Council would need to borrow funds from the Public Works Loan Board (PWLB) to finance the construction and associated costs of the development.
- 4.10 High level cash flow modelling based on the indicative feasibility report of 25 dwellings (including a 1,500 sq ft community facility), indicated that every dwelling would need to be offered at full market rent for the scheme to generate sufficient income to cover the Council’s borrowings.

- 4.11 Whilst providing a community-managed facility of 1,500 sq ft, the scheme fails to offer any affordable rental units. It follows that if any dwellings are offered on an affordable rental basis, the development immediately becomes financially unsustainable as insufficient income is generated to cover the Council's borrowings.
- 4.12 To realise a capital receipt and thereby reduce its level of borrowing, the Council could consider the sale of some flats on long leases. The scheme could then offer a mix of tenures – those for sale and those available for market and affordable rent. The exact proportion of each type offered will be the subject of further appraisal work.
- 4.13 It is recommended that the site is retained freehold by the Council (or its wholly owned company). A sale of some flats (on long leases) at market value would serve to reduce the Council's overall funding requirement to a level that allows the loan repayments (both interest and capital) to be covered by the retained income producing units.
- 4.14 As part of the financial due diligence process, officers will explore the availability of grant funding and whether S106 / CIL payments can be used. If available, these will have the effect of reducing the Council's borrowing requirement and enable further dwellings to be retained for income generation.
- 4.15 Officers will also investigate the most favourable fiscal point at which to transfer ownership of the Wells site to the Council's wholly owned trading company, Epsom & Ewell Property Investment Company Ltd (EEPIC). A transfer to EEPIC will provide the commercial flexibility to progress the development.

5 Redevelopment of the Wells Site

- 5.1 In summary, a Council led housing redevelopment of the site would potentially offer the following:-
 - 5.1.1 Full control of the development process.
 - 5.1.2 Provision of a community facility of up to 1,500 sq ft (subject to self-management by the community).
 - 5.1.3 High quality private and affordable housing to provide a potential income stream to the Council.
- 5.2 To provide the Council with greater certainty over the potential scale, density and development cost of the site, an external development consultant is currently undertaking an initial desktop scoping and pre-planning exercise. The work builds on the earlier feasibility report and will contain the level of detail necessary to engage with residents.

- 5.3 The desktop scoping and pre-planning work includes:-
 - 5.3.1 Critique the existing feasibility report and prepare a specification for the community element of the development. Advise on any required surveys e.g. topography, drainage, ecology etc
 - 5.3.2 Preparation of individual professional team consultancy briefs and subsequent tendering of contracts. The professional team will be responsible for working up a planning application and includes development manager, planning consultant, architect and cost consultant.
 - 5.3.3 Preparation of a development programme.
 - 5.3.4 Preparation of initial development appraisals for the project and subsequent preparation of the necessary budget requirement to secure full planning.
 - 5.3.5 Meeting with residents and key stakeholders to provide pre-planning consultation and feedback.
- 5.4 The Development Manager would coordinate the professional team and hold all design meetings, issue minutes and report to the Council. They will be fully responsible for liaising with key stakeholders, residents and handling all queries.
- 5.5 Post planning submission, a report will be brought back to full Council to consider the most appropriate vehicle for development delivery. This will provide the Council with the opportunity to take stock and consider its development risk profile in the context of either:-
 - 5.5.1 Funding and directly appointing a contractor to build the scheme or,
 - 5.5.2 Procuring a Joint Venture (JV) development partner to undertake the scheme.
- 5.6 Both the above options will likely require the Council to undertake a full OJEU compliant procurement process to appoint the contractor or JV partner.

6 Financial and Manpower Implications

- 6.1 PwC will provide advice on how best to structure the development, at an estimated cost of £15,000, with due consideration given to any associated taxation implications.
- 6.2 The Corporate Projects Reserve balance currently stands at £1,517,000. Releasing £15,000 would reduce the reserve to £1,502,000.
- 6.3 Under the Medium Term Financial Strategy, the Council has committed to retain a minimum £1m balance in this reserve.

6.4 **Chief Finance Officer's comments:** *Developing the Wells site has the potential to deliver a long-term residential asset with associated income streams. However, the long-term financial impacts will only be accurately established once the professional advice and full due diligence exercises have been undertaken.*

6.5 *PWC's advice will ensure all taxation implications are given due consideration throughout the various phases of the development.*

7 Legal Implications (including implications for matters relating to equality)

7.1 Under Section 123 of the Local Government Act 1972, the Council can dispose of land in any manner it wishes, subject to certain constraints, A council shall not, without the consent of the dsecretary of state dispose of land for a consideration less than the best which can reasonably be obtained. In this context, a disposal excludes a granting a lease of less than seven years.

7.2 Under section 1 of the Localism Act 2011 local authorities have a general power of competence that enables them to do anything that a private individual is entitled to do, as long as it is not expressly prohibited by other legislation. Section 4 of the same Act directs that anything which is done for a purely commercial purpose should be done through a company.

7.3 Section 1 of the Local Government Act 2003 provides a power to the Council to borrow a) for any purpose relevant to its functions, or b) for the purposes of the prudent management of its financial affairs.

7.4 **Monitoring Officers comments:** *No further comment, for the purposes of this report, to add to the legal implications set out above*

8 Sustainability Policy and Community Safety Implications; Partnerships

8.1 No implications for the purpose of this report.

9 Risk Assessment

Risk	Level	Mitigation
A site sale would not guarantee the opportunity to provide up to 1,500 sq ft community managed accommodation.	L	An OJEU compliant land sale is followed to allow the enforcement of sale conditions.
An OJEU compliant land sale would deter bids from willing and able developers.	H	A non-OJEU compliant land sale would place the Council at an unacceptable risk of legal challenge.
The opportunity is lost to provide market rent and affordable rent dwellings.	L	The Council retains ownership and full control of the site composition.

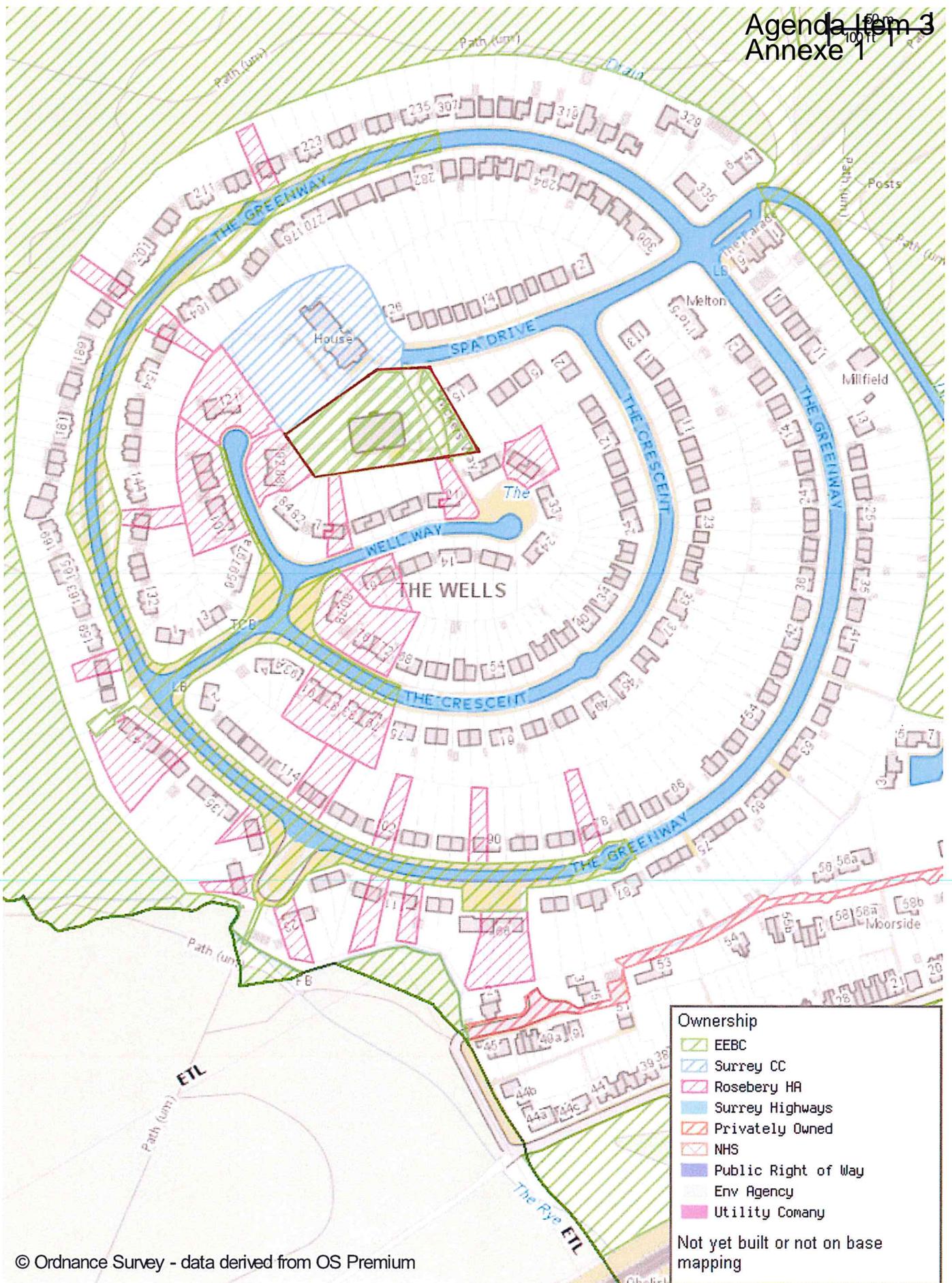
Risk	Level	Mitigation
The opportunity is lost to provide up to 1,500 sq ft community managed accommodation.	L	The Council retains ownership and full control of the site development.
The Council does not have sufficient in-house expertise or capacity.	L	An external professional team will be responsible for working up a planning application and includes development manager, planning consultant, architect and cost consultant.
Failure to consult with residents and key stakeholders.	L	The development manager is responsible for co-ordinating the professional team and consulting with residents / key stakeholders to provide pre-planning consultation and feedback.

L – LOW; M – MEDIUM; H – HIGH

10 Conclusion and Recommendations

- 10.1 This report considers the future use of the Wells site and recommends retaining the freehold ownership for redevelopment.
- 10.2 A Council led housing redevelopment of the site would potentially offer the following:-
- 10.2.1 Full control of the development process.
 - 10.2.2 Provision of a community facility of up to 1,500 sq ft (subject to self-management by the community).
 - 10.2.3 High quality private and affordable housing to provide a potential income stream to the Council.

Ward(s) Affected: (All Wards);



Ownership	
	EEBC
	Surrey CC
	Rosebery HR
	Surrey Highways
	Privately Owned
	NHS
	Public Right of Way
	Env Agency
	Utility Company
	Not yet built or not on base mapping

© Ordnance Survey - data derived from OS Premium

EEBC Map

Scale: 1:2500

Printed on: 25/5/2017 at 10:49 AM



© Epsom and Ewell Borough Council

This page is intentionally left blank