

LAND AT ORMONDE AVENUE, EPSOM

Report of the: Head of Property
Contact: Simon Young
Urgent Decision?(yes/no) No
If yes, reason urgent decision required: N/A
Annexes/Appendices (attached): Annexe 1: Map of the land
Other available papers (not attached): None stated

REPORT SUMMARY

This report proposes that a small piece of land be transferred to Rosebery Housing Association, to facilitate residential development of their adjacent site.

RECOMMENDATION (S)

That the Head of Property, following consultation with the Chairman of the Strategy and Resources Committee, the Director of Finance & Resources, the Head of Housing & Environmental Services, and the Head of Legal & Democratic Services, be authorised to transfer the land shown hatched black on the attached map to Rosebery Housing Association, on such terms as he considers appropriate.

Notes

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

- 1.1 This proposed disposal will contribute towards the Council's key priorities of Managing Our Resources and Supporting Our Community, by making best use of Council land and supporting in the delivery of new affordable housing.

2 Background

- 2.1 Rosebery Housing Association (RHA) has reviewed its land holdings and has been looking at opportunities to develop new housing in the Borough. RHA owns a parcel of land at Ormonde Avenue on the Longmead Estate, Epsom. The site was previously used as a small garage court serving nearby residents.

- 2.2 In 2014, RHA submitted a planning application seeking planning permission for the demolition of the 9 garages and erection of 1x three-bedroom house and 1x 2 bedroom house, with associated parking, replacement parking and soft and hard landscaping. The application was refused by the Council in July 2014. RHA appealed against this decision.
- 2.3 The main issue in the appeal was the impact of the development on parking in Ormonde Avenue and Hollymoor Lane, having specific regard to traffic, living conditions and pedestrian safety. By a decision dated 8 January 2015, the Planning Inspector allowed the appeal and granted planning permission for the development.

3 Proposals

- 3.1 It can be seen that part of the development site is on land which is owned by Epsom & Ewell Borough Council. The land is subject to rights in favour of RHA, including a right of way over the land. Whilst the development which has planning consent could not be built without the Council's land being transferred, it would be possible to reconfigure the site to avoid encroaching on our land. Planning consent having previously been given for development of the site, it would perhaps be difficult to resist a future application.
- 3.2 The development as currently consented, however, is considered to make good use of the site. It would provide much needed new housing.
- 3.3 RHA have asked that the Council consider transferring the land for nil cash consideration. In return, two options have been suggested. The preferred option is summarised below. The other option requests a substantial payment from the Council to RHA in order to make the proposal viable; officers do not believe this would be a good proposition.
- 3.4 The preferred option is an offer for the properties to be built as affordable rented properties and for the Council to be given nomination rights for a time in respect of those properties. This would add to the affordable housing stock in the borough and would enable us to house two households in need from those currently on our Housing Needs Register. Increasing the pool of affordable housing stock to which we can nominate would have a financial benefit, though it is difficult to quantify what this would actually be.
- 3.5 The full details are yet to be worked out and, hence, it is suggested that finalising the details be delegated to the Head of Property as set out in the recommendation. It is likely that the nomination rights would be time limited, but most likely for a long period – perhaps in sync with the general nomination agreement which was put in place when the Council's housing stock was transferred to RHA. This will be a matter for discussion.

4 Asset Management Plan 2012-2016

4.1 The Asset Management Plan 2012-2016 is currently under review and this will in due course be reported to committee. The plan as it stands includes the following provisions which are relevant to this report.

Disposal Criteria	Comment
All disposals are governed by the obligation to secure the best consideration which can reasonably be obtained pursuant to Section 123 of the Local Government Act 1972, although non-financial benefits may form part of the consideration.	See separate section of this report.
The property is declared surplus to requirements by the relevant service department, after concluding that operational life cannot be extended by repair, adaptation or other measures. The decision to be confirmed by Corporate Management Board.	The property is not, and has not been in use by any Council service, so this is not applicable.
An option appraisal is carried out to determine alternative operational use or other reason to retain the property. This exercise would encompass potential for income generation with or without further investment and whether it is possible to improve efficiency by a part or split disposal.	There is no scope or need for operational use of this property.
Is there scope for a Community Asset Transfer or sharing option?	No – this is not a realistic option given the nature of the land, its location and existing rights in favour of RHA.
If there is no potential for alternative use or Community Asset Transfer the preferred option should be a sale but this should be governed by an assessment of current market conditions and a review of longer term operational requirements.	See separate section in relation to “best consideration”.
The Strategy and Resources Committee determines the best means of disposal - sale, long lease or short term lease/licence based on advice from the Corporate Property Officer or external agent	This report meets this requirement.
In the case of development land or property for refurbishment the requirement for an overage provision (‘claw back’) should be considered	This is not considered to be applicable in all the circumstances.
The Strategy and Resources Committee must approve the method and terms of all sales and of other disposals where a decision has not been delegated to Officers.	This report meets this requirement. Strategy & Resources Committee is recommended to give specific authorisation to officers to finalise the precise terms.

5 Best Consideration

- 5.1 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 Secretary of State, dispose of land for a consideration less than the best which can reasonably be obtained. In this context, a disposal excludes granting a lease of less than seven years.
- 5.2 The Secretary of State has issued the General Disposal Consent (England) 2003. This is Annexed to Circular 06/03, which contains further relevant guidance.
- 5.3 The General Disposal Consent permits the Council to dispose of land for less than best consideration, provided that the Council considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of one or more of the following objects in respect of the whole or any part of the Borough, or of all or any persons resident or present in the Borough:
 - 5.3.1 The promotion or improvement of economic well-being;
 - 5.3.2 The promotion or improvement of social well-being; and
 - 5.3.3 The promotion or improvement of environmental well-being; andThe undervalue (the difference between the unrestricted value – the market value - and the terms for the disposal), does not exceed £2million.
- 5.4 Under the terms of the General Consent, the unrestricted value is to be assessed in accordance with a Technical Appendix. This in turn effectively requires that a report be obtained from a qualified valuer (a member of the Royal Institution of Chartered Surveyors).
- 5.5 This is also emphasised in the Circular, which states that an 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.”
- 5.6 In this case, it is proposed that the sale be for nil cash consideration, so it is arguable that the transaction is at an undervalue. The proposed grant of nomination rights is difficult to value. However the amount of the “undervalue”, if there is one, is very clearly less than £2million. Accordingly it is not proposed that a formal valuation be sought, and it is clear that the transaction is one which the Council can agree without specific consent from the Secretary of State.

6 Financial and Manpower Implications

- 6.1 The land clearly does have some value, though as a result of the rights already existing over it, it is difficult to quantify what that value is. Whilst the scheme as proposed requires a small part of the Council's land, it could arguably be redesigned to proceed without requiring this. It is a moot point whether the existing rights in favour of RHA are sufficient to allow them to develop the land without our involvement. Looking at the proposal in the round, it is considered that this is a transaction which should be supported.
- 6.2 **Chief Finance Officer's comments:** Quantifying the value of the land at this stage, is difficult as there is no exact definition of exactly what is being valued and the rights over it. The main financial benefits that would arise if the land is transferred would be affordable housing nomination rights for the Council which would help provide for two households currently on the Council's housing needs register. The budget required for homelessness in the Borough stands at £1.025m in 2016/17 and is a demand on the Council's General Fund.
- 6.3 The recommendation in this report will allow for the specific quantification of these points and terms before transfer of the land.

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

- 7.1 **Monitoring Officer's comments:** *The legal implications of the proposal are considered in the body of the report. Provided an appropriate agreement can be reached in respect of nomination rights, I have no concerns in relation to what is proposed.*

8 Sustainability Policy and Community Safety Implications

- 8.1 There are no implications arising from this report.

9 Partnerships

- 9.1 The Council transferred its housing stock to RHA, but retained nomination rights over former Council properties. It is essential that we work effectively together with RHA in order to deliver the best outcome for those who apply to join the Council's housing waiting list. We have recently worked with RHA in relation to a number of other properties, and if this matter can be agreed, it would further cement the relationship.

10 Risk Assessment

- 10.1 The main risks in relation to this matter are firstly in relation to securing appropriate nomination rights. We are confident that such agreement will be forthcoming. Secondly, there is a risk to the relationship with RHA and our work on other sites if we cannot agree this transaction.

11 Conclusion and Recommendations

- 11.1 Whilst it would not normally be in the Council's best interests to dispose of land for nil consideration, it is considered that, when taken in the round, this is a disposal which can be recommended. The positive points include the provision of more much needed new affordable housing in the Borough, the increase in the number of properties to which we can nominate households and the benefit to the relationship between the Council and RHA.
- 11.2 It is therefore recommended that the Head of Property be authorised to agree the terms of the transfer to RHA, subject first to consultation with colleagues and the Chairman of the Strategy & Resources Committee

WARD(S) AFFECTED: Court Ward;