

# MIDDLESBROUGH COUNCIL

## EXECUTIVE REPORT

### Review of Non-Strategic Assets – First phase disposals (residential sites)

Executive Member for Resources

Executive Director of Regeneration

22 August 2012

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### PURPOSE OF THE REPORT

1. To seek Executive Land and Property Sub-Committee approval for the disposal of residential sites within the Non-Strategic Assets Transformation Project and for changes to the proposed method of disposal of a number of these sites.

### SUMMARY OF RECOMMENDATIONS

2. That Executive Land and Property Sub-Committee agrees:
  - a) that, following consultation, the decision to dispose of residential sites in this report, should stand, with the exception of Haxby/Slingsby Close;
  - b) in principle the disposal of five small residential sites to Registered Providers (RPs) of social housing at nil consideration for the development of affordable housing, subject to the development of business case reports for each site;
  - c) that approvals for the affordable housing schemes and detailed business cases for each disposal be delegated to the Directors of Regeneration and Resources;
  - d) that this approach be adopted for other sites within the scope of the Non-Strategic Assets Review which are considered suitable for affordable housing; and,
  - e) a three-month opportunity to allow further development of outline proposals recently received from a public/private partnership in respect of the former Thorntree Library / Youth Centre site.

### IF THIS IS A KEY DECISION WHICH KEY DECISION TEST APPLIES?

It is over the financial threshold (£150,000)

X
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It has a significant impact on 2 or more wards

X
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Non Key

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### DECISION IMPLEMENTATION DEADLINE

For the purposes of the scrutiny call in procedure this report is:

Non-urgent

X
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Urgent report

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## BACKGROUND AND EXTERNAL CONSULTATION

### Background

3. The Council agreed a review of non-strategic assets as part of its joint transformation programme with Mouchel.<sup>1</sup> Under the terms of the Partnership contract, the Council requested that Mouchel prepare a series of Detailed Business Cases outlining potentially economically advantageous options for disposals of land and property. The Residential Development Detailed Business Case identified 48 sites owned by the Council, 23 of which were already approved for disposal and proceeding to sale.
4. On 4 April 2012, Executive Land and Property Sub-Committee approved open market disposals of the residential sites to which this report refers, with the proviso that opportunities for joint affordable housing schemes with RPs be explored before the sites were marketed. It was noted that this was in line with the approach approved by the Executive Member for Regeneration and Economic Development on 19 January 2011. A reserve price for each site was set, based on average capital values less fees, and it was agreed that the sums achieved would be used to reduce the Council's capital borrowing.
5. It was also agreed that, as part of the disposals process, there would be appropriate consultation with ward members and the general public. The Council has now completed public consultation relating to the decision to dispose of these sites for residential development, and the key findings are outlined below. A summary document of the comments received and officer responses is available on request.

Site	Responses
Haxby Close / Slingsby Close	43 objections
Margrove Walk	18 objections
Cornforth Walk	1 petition received (56 signatures)
Overdale Road	2 objections
Royston Avenue	2 objections
Park End sites	3 objections
Former Thorntree Library / Youth Centre	1 objection
General objection to sites proposed for appropriation	1 objection

6. The Haxby Close / Slingsby Close site generated a large proportion of objections, with local residents keen that the site be retained as open space as it is used for recreational activities and provides a safe area for children to play. In addition, concerns were raised as to the impact on the character of the area and regarding vehicle access to the site, parking and additional traffic. In response to the local resident opposition, and following consultation with internal and external stakeholders, this site was retracted from the original list of sites for development and will not be sold at this time (as agreed by Executive Land and Property Sub-Committee at its meeting of 9<sup>th</sup> July 2012).
7. Two sites in Park End also raised a substantial number of objections (Margrove Walk and Cornforth Walk). Respondents stated that these sites provide a safe area for children to play and they are well used for this purpose. Additional issues mentioned included the potential for increased traffic, road safety issues and problems with parking. Some time after the consultation the Council received a 27-signature petition objecting to the development of the land at Margrove Walk, on the basis of the Commons Act 2006. However, to date no application has been received; if and when such an application is received, the Commons Registration Authority will deal with it in the usual manner, and it is expected that the landowner will object to the application, as it does not consider the land has been used in accordance with the Act.

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<sup>1</sup> For the purposes of the review, 'non-strategic assets' are defined as land and property that the Council does not use for service delivery purposes.

8. Concerns have also been raised with regards to the concentration of sites in the Park End ward potentially leading to a cumulative loss of open space. The Council's Landscape and Design team was consulted on this matter and an assessment of provision in Park End conducted.
9. This confirmed that these sites are not designated as open space within the Council's Green Spaces Strategy, with the main focus for provision and investment in recreational space in the ward being the nearby Neighbourhood Park on Sandringham Road. However, development on a number of sites is contrary to Local Development Framework designations as follows: Overdale Road and Cornforth Walk (both Primary Open Space); and, Penrith Road (Local Centre). These designations will be a material planning consideration should an application to develop the sites for housing be submitted.
10. It is now proposed that the decision to dispose of the remaining sites should stand (subject to the planning policy matters referred to in the preceding paragraph). It is further proposed that five of the smaller, lower value sites should be considered for disposal at nil value to RP partners and that the disposal route for Thorntree Library / Youth Centre be determined following consideration of recently received proposals. The proposed disposal route by site is summarised in the table below.

Site agreed for disposal	Ward	Disposal route
Margrove Walk	Park End	Open market
Grassington / Rylestone / Beechwood	Beechwood	Open market
Former Thorntree Library / Youth Centre site	Thorntree	To be determined following consideration of public/private partnership proposals.
Cornforth Walk	Park End	Partner RPSs at nil value.
Overdale Road	Park End	
Royston Avenue	Park End	
Evesham Road (subject to resolution of Ground Lease)	Park End	
Penrith Road	Park End	

11. The proposed changes could mean that the Council would receive £878,325 (minimum) less in capital receipts than current valuations. However, releasing lower value residential sites to partner RPSs for development at nil consideration may bring wider benefits to the town than sale to a private developer, especially where the likely capital receipt would be low, and where the prevailing market suggests minimal open market interest.

## THE CASE FOR DISPOSAL TO RPs AT NIL CONSIDERATION

### Developing the business case

12. The Council is usually required to dispose of land on the basis of the best consideration reasonably obtainable. However, there are cases where it may dispose at less than the best consideration when such disposals involve indirect benefits which cannot be taken into account in assessing best consideration. Such disposals are vital tools in maximising value for money in pursuit of wider strategic objectives and outcomes. There are many instances where this may arise, including the provision of affordable housing in excess of that which would be required by planning policy.
13. In order to evidence that it has acted reasonably and with due regard to its fiduciary duty it will be important for the Council to prepare a business case report, summarising the key facts of any such proposal. This will both test and demonstrate that value for money will be obtained and provide a clear audit trail in decision-making. It is proposed that such a report will form the basis for approvals to be sought from the Directors of Resources and Regeneration for the disposal of each site. Key essential information will include assessments of:

- a) the best consideration that would otherwise be receivable;
  - b) the consideration likely to be receivable on the proposed particular terms and conditions and, where available, the actual consideration offered; and,
  - c) any direct and indirect benefits associated with the disposal.
14. It will then be possible to assess whether the benefits at c) match or exceed the under-value, i.e. the value at a) less the value at b). This report considers some of these matters in broad outline terms in the following paragraphs in order to demonstrate that there is a sound case for progressing matters to a more detailed assessment for each site.

### **Current market conditions and realising site values**

15. Significant numbers of higher value private housing is proposed across the town, some of which already has planning permission. The availability of more economically viable housing development land will be an important consideration for private developers when considering appraising the potential of the lower value sites considered in this report. Whilst originally considered potentially saleable, soft market testing of a number of these sites suggests minimal private developer interest, and even then only in a nil value disposal.

### **Potential Monetary Benefits**

16. It is also reasonable to conclude that any Council Tax, New Homes Bonus and Affordable Housing Enhancement generated from developing the sites for social housing may not otherwise be realised in the medium to longer term, and should, therefore, count as a cash benefit of transferring the land at nil consideration. By way of illustration, the five sites proposed for nil value disposal could potentially generate approximately £500,000 in New Homes Bonus/Affordable Housing Enhancement in total over 6 years. Also, the Council will save small sums in not having to maintain the sites over the medium to long term whilst the sites remain undeveloped.

### **Wider Benefits**

17. The non-cash benefits of taking affordable housing developments forward are numerous. Firstly, there will be the increase in the number of affordable homes in the area, which are scarce, and which the Council is seeking to increase to help stem the population outflow, which has just been confirmed as remaining a major problem with the publication of the 2011 Census data. This initiative will help to reduce the waiting lists for affordable housing within Middlesbrough. The Tees Valley Strategic Housing Market Assessment recommends the delivery of 189 affordable units per year in Middlesbrough. The Council will also benefit from the construction in the area that would otherwise not come forward. This will create and sustain training and employment during the construction of the dwellings.

### **Affordable Housing Funding Context**

18. Finally, disposal at nil consideration is increasingly a prerequisite of any development using funding from the Homes and Communities Agency's (HCA) Affordable Housing Programme (AHP). This is not surprising given that Government Support for Social Housing development has been massively reduced by the Coalition Government. During 2008-2011 £8.4billion was available for the National Affordable Housing Programme over the three-year spending period. Following CSR 2010 only £4.6billion is available over a four year period 2011-2015, and £2.4billion of this was already committed in 2011/12 for schemes previously approved.
19. An important aspect of the HCA's new Affordable Housing Framework is that funding is allocated entirely on the quality of the bids and the key deciding factor is value for money. The HCA's new Framework is very clear that RPs and local authorities must be innovative and utilise their assets and surpluses to increase the supply of affordable homes. The guidance states that local authorities and RPs should put their land assets in at either nil value or at a

reduced rate. Clearly, contributing land at nil value will provide better value for money and increase the competitiveness and the chance of success of any proposals which seek to use AHP funding. Clearly, where grant funding is not available the argument for nil value disposals is that affordable rents could not be achieved. Proposals which produce the most outputs (dwellings) with the lowest amount of grant per unit are most likely to succeed. Again, even where there is no HCA grant funding, RPs must similarly demonstrate value for money. It should also be noted that areas other than Middlesbrough will all be competing for resources in order to develop the best value for money schemes and to make the scarce government grant, and RP investment, go further. This proposal helps Middlesbrough compete in that wider market place to help draw in Government support and RP investment which will otherwise go elsewhere in the region or country.

### **Initial Interest**

20. Initial discussions with partner RPs have already indicated a strong proposal to develop one of the sites with HCA funding, with a more tentative proposal from a public/private sector partnership to develop the Thorntree Library / Youth Centre site which is currently earmarked for open market disposal. It is now proposed that further discussions take place to develop the detailed business case for each of the sites identified for nil value disposal for affordable housing, and for the open market site referred to above. In addition, as two of the proposed RP disposal sites have yet to be soft market-tested, they will be discussed with private sector developers to determine the level of interest, if any.
21. It is proposed that RPs and the public/private partnership be given three months to bring forward firm proposals which can then be translated into detailed business cases. Furthermore, it is proposed that in all cases terms be agreed within 6 months of any final decision to dispose with development commencing on sites disposed at nil consideration within 24 months.

### **IMPACT ASSESSMENT**

22. An initial screening assessment was undertaken and there was no evidence that the proposal could have a disproportionate adverse impact on a group or individuals holding a protected characteristic. The assessment found that the proposal would increase affordable housing development in the area. There is also sufficient open space within the area, given the close proximity of the Neighbourhood Park on Sandringham Road, to address concerns about the loss of play area space.

### **OPTION APPRAISAL/RISK ASSESSMENT**

23. The Council will prepare a detailed business case report, summarising the key facts of any proposal to dispose at less than best consideration. This will test and demonstrate that value for money will be obtained and provide a clear audit trail in decision-making.

### **FINANCIAL, LEGAL AND WARD IMPLICATIONS**

24. **Financial implications** - The changes proposed in this report could mean that the Council would receive £878,325 (minimum) less in capital receipts than current valuations.
25. **Legal implications** – It will be essential to comply with relevant legislation, including EU regulations on procurement and disposals, including State Aid rules. There will also be various routine legal matters and planning policy considerations relating to the disposals.
26. **Ward Implications** – The proposed changes to routes of disposal cover assets in Park End and Thorntree. The original decision to dispose, which is unaffected by this report, also covers an asset in Beechwood.

## RECOMMENDATIONS

27. That Executive Land and Property Sub-Committee agrees:

- a) that, following consultation, the decision to dispose of residential sites in this report, should stand, with the exception of Haxby/Slingsby Close;
- b) the disposal of five small residential sites to RPSs at nil consideration for the development of affordable housing, subject to the development of business case reports for each site, and resolution of matters relating to Local Development Framework designation on three of the sites;
- c) that in accordance with the approach approved by the Executive Member for Regeneration and Economic Development on 19 January 2011 approval of affordable housing schemes and detailed business cases for each disposal be delegated to the Directors of Regeneration and Resources;
- d) that this approach be adopted for other sites within the scope of the Non-Strategic Assets Review which are considered suitable for affordable housing; and,
- e) a three-month opportunity to allow further development of proposals recently received from a public/private partnership in respect of the former Thorntree Library / Youth Centre site which is currently designated for open market disposal, with further reports brought forward as necessary.

## REASONS

28. To ensure that the Council obtains value from its asset portfolio, that agreed sums for disposals are achieved as quickly as possible, and to secure wider benefits, in particular in relation to addressing the shortfall of affordable housing in the town.

## BACKGROUND PAPERS

- Local Authority Asset Management Best Practice - Disposal of land at less than best consideration – RICS (December 2011).
- 2011-15 Affordable Homes Programme – Framework, Homes & Communities Agency and DCLG, 2011.
- Middlesbrough Council Green Spaces Strategy 2007-2012.

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