	REPORT TO CABINET TO BE HELD ON 16 MARCH 2021
	Key Decision YES Forward Plan Ref No
Corporate Aims People/Place	Cabinet Portfolio Holder Cllr Carl Maw Portfolio Holder for Stronger Communities & Housing & Cllr Liz Colling Portfolio Holder for Inclusive Growth

REPORT OF: DIRECTORS (NE) & (RB) – 21/20

WARDS AFFECTED: EASTFIELD

SUBJECT: Better Homes Project – Consideration of objections to the sale of land for the development of affordable homes

RECOMMENDATION (S):

1. Consider objections and representations made by members of the public to the proposed sale of land at Westway and Lingholm Crescent, Eastfield.
2. Instruct officers to proceed with the sale of this land to Beyond Housing for the purpose of developing affordable homes on the terms as set out previously in report 20/226 on the condition that the sale shall only complete subject to the developer obtaining planning permission.

REASON FOR RECOMMENDATION (S):

This report provides a follow up to the recommendations within Cabinet report **15 December 2020 (report ref 20/226)**. It provides feedback on objections made to the proposed sale of land at Westway and Lingholm Crescent, Eastfield.

The report recommends the sale proceeds on the terms as set out in report 20/226 subject to planning permission.

HIGHLIGHTED RISKS: see attached risk matrix

1. INTRODUCTION

- 1.1 In December 2020 Cabinet considered reports 20/237 and 20/266.
- 1.2 Report 20/237 set out the strategic case to deliver a step change in the delivery of new affordable homes within the Borough through the Councils Better Homes Project. That report highlighted the benefits of taking a more strategic approach to the use of Council land to help deliver additional affordable homes and gave the ahead for a detailed options appraisal regarding options around Joint Venture or a Development Agreement. As part of that report the need for some 'early success sites' (e.g. sites that could provide a start on site in 2021 and completion of additional affordable homes by 2022) was also identified.
- 1.3 Report 20/266 provided background detail on three 'early success' sites that could deliver over 60 additional homes through the option of direct disposal to a Registered Provider. Two of these sites (land at Westway Eastfield and land at Lingholm Crescent, Eastfield) were recommended for disposal to Beyond Housing.
- 1.4 Both the land at Westway and Lingholm Crescent is deemed to be 'public open space'. Officers were therefore instructed to:

*"Advertise the proposed sale of this land in accordance with **Section 123 of the Local Government Act 1972** and report back to Cabinet in February 2021 to enable the consideration of any objections or representations to the sale made to it by members of the public".*
- 1.5 This process has now been completed and this report highlights the representations and objections raised. See **Appendix 1**.
- 1.6 This report highlights these key objections and invites consideration by Cabinet of the issues raised.
- 1.7 The majority of concerns raised are planning matters. The report recommends that the sale proceeds subject to the developer securing planning permission

and therefore addressing the concerns raised to the satisfaction of the Planning Authority.

2. CORPORATE AIMS

2.1 Better Homes: A good quality home for all

We will:

- Work with our partners such as Registered Providers to ensure high quality, affordable and accessible homes are developed that meet the needs of local residents, including future generations;
- Ensure we have a good mix of homes, a mix of types and tenures including homes that meet the needs of all ages including those with disabilities;
- Further improve our work to prevent homelessness and help vulnerable people to live independently in their homes;
- Develop additional interventions to tackle rough sleeping including additional supported accommodation.

3. BACKGROUND AND ISSUES

3.1 Report 20/266 of December 2020 highlighted three potential sites for the provision of affordable housing. Two of these three sites these sites are deemed to be public open space and the Council is therefore required to consider any objections prior to their disposal. These two sites are:

Land Between 54-56 Westway, Eastfield

3.2 This land is well maintained public open space located in the centre of the Eastfield housing estate. The land is accessed off Westway with a pathway through that leads to Ryfield Road. The land is in a predominantly residential location and is adjacent to Beyond Housing stock.

3.3 Cabinet had previously given consent to release this land to Yorkshire Coast Homes back in 2009 but was not taken forward. Beyond Housing have worked up a new scheme for 10 units on the site. A draft project plan and development timetable has been worked up with a view to potential start on site in 2021.

Land at Lingholm Crescent (adjacent to Musham Bank roundabout, Eastfield)

3.4 This site is located on the eastern edge of the Eastfield estate and is within Council development limits. The site is adjacent to Beyond Housing stock. Again this site was considered as part of the Land Group process as having development potential. However, it was recommended in December 2009 (Report No: 09/737) that no action be taken until reconfiguration of the Musham Bank roundabout had taken place as part of the Middle Deepdale

development. The works to Musham Bank were completed a number of years ago reopening the development potential for this site.

- 3.5 Beyond Housing have worked up a proposed scheme for around 22 units on the site. A draft project plan and development timetable is being worked up for the site with a view to potential start on site in 2021.
- 3.6 Report 20/266 also set out the financial implications of the proposed sale along with the Heads of Terms (see summary in 6.2).
- 3.7 Further to report 20/266 officers have advertised the proposed sale of this land in accordance with **Section 123 of the Local Government Act 1972** to enable the consideration of any objections or representations to the sale made to it by members of the public.
- 3.8 As per the statutory guidance this involved placing two consecutive notices in the local press of its intentions to dispose of the land.

4. CONSULTATION

- 4.1 The Council is required to advertised the proposed sale in accordance with **Section 123 of the Local Government Act 1972** and consider of any objections or representations to the sale made to it by members of the public (the purpose of this report).
- 4.2 The official Notice Period for this process was between the 7th and the 28th of January. Further to this residents were given a further 28 days to lodge their objections and representations.
- 4.3 The sale of the land to them is subject to obtaining planning permission and therefore the normal statutory planning consultation process requirements.

5. ASSESSMENT

- 5.1 In total there have been 27 representations from members of the public. An anonymised summary of concerns submitted is included in **Appendix 1**. In addition Eastfield Town Council object to the sale of both sites.
- 5.2 The respondents are opposed to the proposed sale of land for a variety of reasons. These include matters that would be subject to detailed consideration as part of any statutory planning process.
- 5.3 The majority of concerns relate to planning related matters. These include:
 - Concerns over the impact of additional traffic and parking.
 - Concerns over the impact on wildlife and the loss of green space.
 - Concerns over loss of recreational space for children and activities.
 - Concerns about lack of amenities to support new homes.

- 5.4 Whilst concerns around the impact of the development are understandable, these ultimately need to be balanced against the need to develop a much needed affordable homes within the Borough. In addition the majority of comments relate to matters that would be considered in detail as part of the planning process. This report recommends that the sale proceeds subject to planning permission
- 5.5 This report is concerned with the principle of the sale of land. The detail regarding the design of the building, the impact on neighbouring properties during the construction phase, the impact of the development on the wider community and the impact on the environment, visual amenity and loss play areas are all matters for the Planning Committee to consider when determining whether to grant permission for the development or not.
- 5.6 A number of objections highlight issues around access traffic and parking. As part of this planning process key agencies North Yorkshire Highways Department are statutory consultees and would of course be invited to comment to help shape any proposals going forward.
- 5.7 One of the objections to the sale of land at Westway refers to a rejected village green application for this parcel of land. Indeed this land does not have a village green status and there are no covenants or restrictions preventing development.
- 5.8 One of the objections relates to the timing of the publication notice and the view that the publication of a notice during the pandemic has hindered the ability of the public to raise objections (e.g. the distribution of petitions). The process for publishing a sale notice and receiving feedback does not however require the use of petitions or public meetings. Rather it requires the submission of individual representations in writing to the Council. At the request of Cabinet the consultation period was extended a further 28 days over and above the statutory requirement. It is not therefore considered that the pandemic has hindered the ability of the public to raise representations. As per other Council functions including consultations around planning matters, the core work of the Council and its decision making process is continuing regardless of the pandemic.
- 5.9 Another objection is that the notice for sale does not specify the purpose of the sale and the purpose of the sale was reported separately in the Scarborough Evening News. With regard to this, the Council has followed the requirements on it as set out in legislation (which does not require the Council to specify what the future land use may be). It is clear however that all of the objectors are aware of the purpose of the sale from the SEN and Council press release.
- 5.10 Another objection is that the sale of the land is being made at a discount to meet housing quotas. This objection is outside the scope of the legislation. The decision to sell land at less than open market value to achieve a social purpose (e.g. affordable homes) is within the gift of the Council.

- 5.11 A number of objections state a lack of amenities in Eastfield to support new housing. Again it is considered that this issue is considered with the context of the Councils Local Plan and associated policies.

6. IMPLICATIONS

6.1 Policy

No new implications.

6.2 Legal

Section 123 Local Government Act 1972 permits the Council to dispose of land at less than best consideration that can be reasonably obtained where the purpose for which the land is to be disposed is likely to contribute to the 'promotion or improvement of social well-being' in respect of the whole or part of its area, or of all or any persons resident or present in the area;

The sale of land on the agreed terms is conditional upon the land being used for the purpose of developing affordable homes.

Under the provisions of Section 123 of the Local Government Act 1972, the Council is required, prior to selling land, to advertise the sale of Public Open Space and to consider any objections or representations made by members of the public. This process has been undertaken by the Councils Estates Department in line with statutory guidance.

This report recommends the land is sold to Beyond Housing as per the Heads of Terms as set out in report 20/226. These are:

- The sale of land is subject to Beyond Housing obtaining planning consent.
- The land is sold at £5000 per plot.
- The land is sold for the purpose of providing 100% affordable housing
- The affordable homes developed meet the Councils requirements as set out in its Affordable Housing Supplementary Planning Guidance including requirements around tenure mix, size, affordability and lettings.
- Any potential receipts received by Beyond Housing for potential future sales are recycled back into the Borough to provide additional replacement affordable homes.
- Any 'surplus' generated through the development (e.g. cash generated via shared ownership sales/ rents over a 25 year period) that exceeds actual development cost is recycled back into the Borough to provide additional affordable homes.

6.3 Financial

The sale of this land to Beyond Housing shall generate a capital receipt. Whilst this is less than 'open market value' the Council is permitted to dispose of land at best consideration in order to 'promote social well-being'.

There are no other financial implications for the Council.

6.4 **Planning Implications**

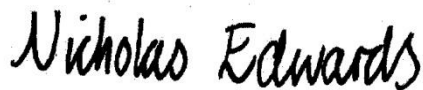
Beyond Housing would be required to seek planning approval from the Council. The sale of the land to them is subject to obtaining planning permission.

6.5 **Crime and Disorder Implications**

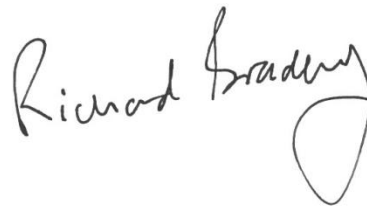
Crime and Disorder implications are planning considerations.

6.6 **Environmental Implications**

To be considered as part of the planning process.



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IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR.

Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1	Mar 2021	Beyond Housing are unable to secure planning permission	The development does not proceed. The sale does not proceed.	Consideration of planning matters must be separate to any decisions regarding land sale. Sites within development limits.	B3	A1	Housing Manager	
2	Mar 2021	The Council decides not to sell the land	The development does not proceed and the 'early success' sites for affordable homes are not provided.	The Council agrees to the terms of sale.	A4	A1	Housing Manager	
3	Mar 2021	Beyond Housing are unable to develop the homes due to viability issues	The development does not proceed and the 'early success' sites for affordable homes are not provided.	This could have implications for the Councils capital receipts and would be subject to further reports	B3	A1	Housing Manager	

Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

Likelihood:

A = Very Low
 B = Not Likely
 C = Likely
 D = Very Likely
 E = Almost Certain

Impact

1 = Low
 2 = Minor
 3 = Medium
 4 = Major
 5 = Disaster