

Name of meeting: Cabinet
Date: 26 May 2020
Title of report: Disposal of land at Kenmore Drive, Cleckheaton

Purpose of report

This report requires Cabinet to consider the objections received as a result of advertising the Council's intention to dispose of open space on a council-owned site at Kenmore Drive, Cleckheaton. Should Cabinet approve the disposal of open space it also seeks Cabinet approval to dispose of the site to Housing 21 at 'less than best consideration' to deliver an 80 bed, older people's extra care facility for affordable rent homes and public open space. The site is shown on the plan at **Appendix 1**.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes The spending on this site will be in excess of £250,000 The land has a value of £1.375m and any discount given is likely to exceed £250,000.
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Key Decision – Yes Registered : 17/04/2019 Private Report/Private Appendix – Yes (Private Appendix 4)
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director (Finance)? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Karl Battersby - 18/03/2020 Eamonn Croston - 18/03/2020 Julie Muscroft - 19/03/2020
Cabinet member portfolio	Cllr Cathy Scott – Housing and Democracy Cllr Musarrat Khan – Health and Social Care

Electoral wards affected: Cleckheaton

Ward councillors consulted: Cllrs John Lawson, Kath Pinnock and Andrew Pinnock

Public or private: Public (Appendix 4 in private).

Appendix 4 of this report is in private, as the information it contains includes personal data that identifies the objectors to the Council's intention to dispose of open space.

GDPR – GDPR has been considered and there is no personal data contained in this report.

1. **Summary**

- 1.1 The Kirklees Housing Strategy (2018-2023) was approved by Full Council on 12th September 2018 setting the overarching ambition for housing in Kirklees. As part of the evidence base for the growth element of the Strategy, a Housing Delivery Plan including a programme of housing land disposals and development was approved by Cabinet on 29th August 2018. Cabinet received a further update report on the Housing Delivery Plan on 20th January 2020.
- 1.2 The Delivery Plan includes six sites for extra care provision to support the Council's strategic priority for more specialist accommodation and affordable housing. This report relates to one of these at Kenmore Drive, Cleckheaton.
- 1.3 The Council advertised its intention to dispose of open space in accordance with Section 123(2A) of the Local Government Act 1972, to which objections were received. In accordance with paragraph (v) of Part O of the Constitution the objections received have to be referred back to Cabinet for consideration.
- 1.4 The purpose of this report is to:-
- ask Cabinet to consider the objections received and approve the disposal of open space;
 - advise members of the outcome of the delegated selection of a delivery partner for Kenmore Drive;
 - advise members of the site proposals;
 - recommend that Members approve the disposal of land at Kenmore Drive at 'less than best consideration' to the selected registered provider - Housing 21 for an extra care scheme subject to Housing 21 securing Homes England grant;
 - delegate powers to officers to negotiate and agree terms of the discount and disposal; and
 - approve the allocation of Section 106 affordable housing contributions as a grant to Housing 21 towards the provision of affordable homes on the site.

2. **Information required to take a decision**

- 2.1 The Kenmore Drive site (1.68ha) comprises rough scrubland which slopes upwards from north to south. Access to the site is open and it is used informally by the public.
- 2.2 The principle of residential development is established on the site. It benefits from a housing allocation in the recently approved Local Plan (site H762 – estimated capacity 58). The Council secured outline planning approval for up to 55 homes with associated access in December 2017.

Section 123 – Disposal of open space

- 2.3 As a result of a previous Cabinet approval received on 17 January 2017 to dispose of the land at Kenmore Drive the Council advertised its intention to dispose of the whole site,

which constitutes open space, in the Press News on 22 September 2017 and 29 September 2017 with a deadline for objections by 13 October 2017. No objections were received. A copy of the notice is attached at Appendix 2.

2.4 The Council re-advertised its intention to dispose of the southern half of the site to a third party for extra care housing in 2019. Notices advertising the intention to dispose of open space were placed in the Press News on 12 April 2019 and 19 April 2019 with a deadline for objections by 8 May 2019. A copy of the notice is attached at Appendix 3.

2.5 One written objection was submitted on behalf of eight people. The full objection is included for consideration at Private Appendix 4.

2.6 The points raised by the objectors are in relation to concerns over how any proposed development on the land may affect the stability of their retaining wall, not the potential loss of open space.

The points raised by the objectors would be dealt with at the planning stage and an opportunity to object to any proposed development would be presented when a planning application was submitted. The Government's National Planning Policy Framework and accompanying National Planning Practice Guidance state that policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. In accordance with policy these protection issues will be dealt with through the planning process.

Land Disposal

2.7 Cabinet approved a report on 29th August 2018 which set out the approach to delivering the growth element of the Housing Strategy and provided a clear framework to guide activity to support housing growth. Delegated authority was given to the Strategic Director of Economy and Infrastructure, in consultation with the Portfolio Holder for Health and Social Care (formerly Adults and Independence) to select partners and negotiate and agree terms of disposal to bring forward extra care housing schemes at pace. Cabinet also received a report on progress with the Housing Delivery Plan sites on 20th January 2020 which included an update on the Kenmore Drive site.

2.8 The options for securing a delivery partner for extra care schemes include:-

- a. 'calling off' an existing framework;
- b. setting up/establishing a framework of our own and 'calling off' that;
- c. procuring extra care facilities via an EU compliant procurement; or
- d. disposing of land to a delivery partner on agreed terms, but without including any binding development obligations.

2.9 There is a limited number of specialist extra care registered providers with an interest in delivering this type of accommodation in the Kirklees area. Given the lengthy lead in time for this type of development and the Council's desire to move at pace, the Strategic Director, after taking advice from the Housing Growth Board, recommends that in order to achieve a start on site by 2021:-

- in this instance, the project should proceed via a direct land disposal route (d);
- Housing 21 (formerly Housing and Care 21), a major player in the extra care market with proven expertise in delivering this type of development, be

- engaged to design a scheme 'at risk' and bring forward the site following land disposal; and
- work commence in parallel to establish a process to select specialist delivery partners for future council-owned extra care sites.
- 2.10 Housing 21 is a not-for-profit, leading national specialist provider of extra care and retirement housing and care services for people with modest means. They deliver affordable, contemporary, person-centred care and housing that meets individual needs, improves well-being and promotes independent living. They currently have over 18,000 properties to buy and rent across England. They offer a range of care and support services, including specialist dementia care, which are regulated by the Care Quality Commission. Their extra care model consists of purpose-built apartments to buy or rent with 24 hour on-site support. Social responsibility is at the heart of their approach. Schemes are staffed and funded to support community integration and resilience.
- 2.11 Housing 21 has identified Kirklees as a priority investment location and they have an appetite to acquire and bring forward the Kenmore Drive site. They have secured Investment Board approval and funding to progress an extra care scheme at risk.
- 2.12 Comprehensive development of the site is required to comply with planning requirements. Given the scale and massing associated with this type of development, its visual impact and the size of the site, there is a need to outweigh this with public benefit and ensure the whole site is improved to enhance the quality of place and make a real difference to this neighbourhood. This has been considered in the development of proposals.
- 2.13 Housing 21 has prepared a detailed scheme layout for the site at risk. The southern portion of the site will be self-contained and accommodate an 80 apartment, extra care scheme. The scheme is for a mix of one and two bed affordable rent homes with on-site care along with a cafe and communal facilities which will be open to the wider public. Housing 21 will develop and then manage the scheme on completion (integrated model). Adult Services has confirmed this model is acceptable. Homes England are supportive of the scheme and a bid is currently in progress. Any disposal would be subject to Housing 21 securing Homes England grant funding.
- 2.14 The northern part of the site will remain as public open space and will be improved to provide increased access to greenspace, leisure and health opportunities for the benefit of the surrounding community and a net gain in biodiversity to support the Green Agenda and climate emergency.
- 2.15 Development costs of extra care housing schemes are high due to the significant areas of non-residential floorspace and this is further increased on this site due to topographical constraints. Appendix 5 summarises Housing 21's high level appraisal assumptions. It demonstrates there is likely to be a viability gap and a requirement for the council to dispose of land at 'less than best consideration'. It also outlines the significant socio-economic benefits that the scheme will bring.
- 2.16 The scheme is reliant on:-
- Homes England grant funding;
 - Housing 21's own borrowing and use of Recycled Capital Grant;

- the Council contributing land value; and
- the Council granting secured Section 106 affordable housing contributions to Housing 21.

2.17 Disposal at 'less than best consideration' potentially has state aid implications and this issue is covered below.

Expected Impact, Outcomes, Benefits and Risks

- 2.18 The development of 80 affordable extra care homes on the site will help to address the housing crisis in Kirklees and specifically contribute to the need for more specialist accommodation. There is an overall need for 1730 new homes a year across the district. Of these, 1,049 need to be affordable homes. There is also a specific need now and in the future for more extra care for rent and sale. The net additional extra care provision needed by 2030 (Need, Demand, Supply and Gap Analysis for Extra Care Housing in Kirklees – Peter Fletcher Associates 2016) is 1016 units (388 units of housing with care for rent and 628 additional units for sale or shared ownership).
- 2.19 The project will deliver a specifically designed, quality housing and care support scheme with integrated community facilities. The offer will enable older people to live independently for longer in their own home and help to maintain a good quality of life.
- 2.20 As well as the above, it is well documented that this type of scheme can also help to reduce social isolation, improve wellbeing and integrate older people into the wider community. The presence of an on-site care team also supports the emphasis on the prevention agenda. Housing 21 will deliver and maximise a range of socio-economic benefits which are outlined in Appendix 5.
- 2.21 The scheme is expected to reduce care costs for the Council. It will also help to maximise the use of available accommodation in Cleckheaton, helping the housing market to operate more effectively. It will provide older people with more appropriate housing, reduce under occupancy and free up other housing, including family homes, to meet identified housing demand.
- 2.22 The scheme will bring significant investment into Kirklees facilitated by disposal of land at less than best consideration. Indirectly, as outlined in Appendix 5 this will bring other social and economic benefits to the district, such as job creation, apprenticeships and wider benefits to the local economy and local supply chains.
- 2.23 A new planning permission is required and Housing 21 will take the planning risk and bear all other development costs, making use of their own borrowing capacity and recycled capital grant. The planning process will ensure the amenity of the surrounding neighbourhood is protected through the imposition of conditions on the development layout and design. Housing 21 has undertaken pre-application on the site and a planning application is due to be submitted.
- 2.24 Whilst the amount of open access will reduce, the community will benefit from improved access to better quality and useable greenspace. This will bring leisure and health opportunities and the gain in biodiversity will support the Green Agenda.

State Aid

- 2.25 State Aid is present when land is disposed of by the Council at less than best consideration. The decision of the European Commission on Services of General

Economic Interest (SGEI) gives an exemption from the need to notify any State Aid for all compensation for social housing, subject to certain conditions.

- 2.26 As the body giving the State Aid, the Council must inform the beneficiary (Housing 21) of specific requirements to avoid overcompensation and the parameters to repay compensation and these would be covered in the formal sale arrangements.

3 Implications for the Council

3.1 Working with People

As part of the scheme development, the local community has had the opportunity to influence development proposals through pre-application consultation and will have a further opportunity through the formal planning process. This will allow the community to be engaged in positive change in their neighbourhood.

The scheme will support vulnerable adults. The extra care model will allow older people to live independent lives for as long as possible and maintain their health. The model supports people as they get older, enabling them to look after themselves and providing different levels of care and support as they move through later phases of life. Extra care is based on a preventative approach addressing problems before they happen and helping people get back to living the way they want after a period of illness or injury.

The Council and Housing 21 will promote the housing offer to the local community as a suitable housing option for older age during the construction stage. Housing 21 are experienced in developing inter-generational opportunities within this type of scheme to fully integrate developments into the local community and stimulate cohesion. They are committed to developing opportunities with the local community as the proposals progress.

3.2 Working with Partners

The scheme involves working collaboratively with a Registered Provider (RP) – Housing 21. This offers an important housing investment route, helping to meet objectives in the Kirklees Economic Strategy, Housing Strategy and Housing Delivery Programme.

Collaboration with Housing 21 will maximise and expand the investment, revenue resource, skills and specialisms available to the Council to support the delivery of a quality, specialist housing scheme. Their involvement will also result in a quicker and more predictable start on site than could be secured through a market approach, thereby supporting the requirement to deliver challenging housing targets at speed.

Delivery is dependent on Housing 21 securing Homes England grant funding. Good working arrangements are established with the funder to secure available funds and promote the scheme.

- 3.3 **Place Based Working** An assessment of need for older people's accommodation has been undertaken and this evidences a requirement within the locality. Cleckheaton has one of the highest percentages of population aged 65 and over living in a one person household in the authority.

The development of the site will contribute to the attractiveness of the area by improving an overgrown area of land. Improved open space and access to surrounding footpath networks will support health and wellbeing outcomes.

The extra care scheme will provide community facilities which will be available for wider community use, increasing access to facilities and stimulating integration. Housing 21 recognise their responsibility to the wider community surrounding their developments and incorporate a range of measures to ensure positive contributions are made.

3.4 **Climate Change and Air Quality**

Taking into account the Climate Emergency resolution we are exploring all opportunities to encourage energy efficient building methods on the scheme to support the delivery of low carbon housing. We are also continuing to look at improvements to environmental standards.

Housing 21 have specific targets to ensure their businesses operate sustainably and accept responsibility for their environmental impact on local communities. On extra care schemes they currently commit:-

- to a reduction in operational carbon emissions against a 3 year baseline – 1 ton per year per extra care scheme
- to carbon savings made during the year due to use of renewable energy – 1 ton per year per extra care scheme
- to environmental programmes with local groups, schools and colleges – 10hrs (2 x 5hr) per scheme per year.

Net gain in biodiversity and landscaping on the site will also support the climate change agenda.

3.5 **Improving outcomes for children**

As in 3.3, Housing 21 are committed to developing opportunities for inter-generational working through the development and operation of the scheme.

3.6 **Other (eg Legal/Financial or Human Resources)**

To enable the scheme to come forward, it is likely that the Council will be required to dispose of the site at 'less than best consideration'.

The General Disposal Content (England) 2003 allows the Council to dispose of land at an undervalue not exceeding £2 million where the disposal will help secure the promotion or improvement of the economic, social or environmental well-being of an area.

The level of the likely undervalue is not yet confirmed. This will be determined following a comprehensive assessment of Housing 21's appraisal once they have detailed costings.

The justification for the Council selling the land at 'less than best consideration' is contained in Appendix 5.

4 **Consultees and their opinions**

4.1 Local ward members have been fully engaged in the process to date, attending the pre-application meeting with Planning officers and providing officers with advice on the best way to engage with their community.

4.2 All three members were taken to visit a recently completed Housing 21 extra care scheme in Doncaster to assist with their understanding of the housing offer. They are all supportive of the scheme and the benefits it will bring to the locality.

- 4.3 A pre-application community consultation took place on 30 January 2020 at the local library. Approximately 320 properties received an invitation to the event in addition to local businesses, ward members, and District Councils. The event was also publicised in the local press and on social media.
- 4.4 This was attended by 53 people and 20 feedback forms were completed. 30% of respondents were positive about the development and had no objections to the proposals.
- 4.5 The main area of concern was the proposed access down Kenmore Drive and 55% of respondents referred to this with comments raised regarding the construction period in the short term and the long term and access to the completed development.
- 4.6 Other comments raised covered:-
- Kenmore Road being used as rat run;
 - The effect on house prices;
 - The plans being too big for the site;
 - Flooding which occurs down to Rooks Avenue;
 - The lack of amenities in Cleckheaton;
 - Car parking provision not being big enough;
 - The legality of building on the site;
 - No green space would be left; and
 - An extra care scheme would be better than general housing.

5 Next steps and timelines

- 5.1 If approved the next steps will be to prepare the land for disposal and will include:-
- both parties agreeing Heads of Terms;
 - securing full planning approval (Housing 21);
 - agreeing valuations and discount post planning consent;
 - Securing Homes England Shared Ownership and Affordable Housing Programme (SOAHP) grant;
 - disposal of the site to Housing 21;
 - establishing appropriate governance arrangements to oversee the delivery of the project, management of the scheme and achievement of housing outputs.

6 Officer recommendations and reasons

- 6.1 Cabinet, having considered the objections received as a result of the advertisement of its proposals to dispose of open space, approve the disposal of the open space on the basis that the objections received in relation to any proposed development on the site can be considered as part of the planning process and the land can be better utilised for the provision of an extra care facility.
- 6.2 Cabinet give their approval to dispose of the land at 'less than best consideration' to a specialist extra care provider, Housing 21, and grant S106 affordable housing contributions as set out in this report to ensure that the scheme is viable.
- 6.3 Cabinet delegate authority to the Strategic Director, Economy and Infrastructure to:
- negotiate and agree the terms of disposal with Housing 21; and
 - determine the appropriate level of discount following comprehensive assessment of Housing 21's development appraisal

- 6.4 That authority be delegated to the Service Director, Legal, Governance and Commissioning to enter into and execute any agreement and other ancillary documents necessary to dispose of the land to Housing 21 for use as extra care housing.
- 6.5 The reason for these recommendations is that, as set out in the report, the Kenmore Drive site will contribute to the delivery of the Council's housing strategy, specifically in relation to providing a range of products to support housing growth and a long term supply of affordable housing, and meeting the housing needs of the most vulnerable groups. It will also contribute to the Green Agenda. Selling the site to Housing 21 at an undervalue will ensure that the scheme is viable.

7. **Cabinet portfolio holder's recommendations**

- 7.1 The relevant Portfolio Holders support the officer recommendations and would ask that Cabinet do the same.

8. **Contact officer**

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9. **Background Papers and History of Decisions**

17th January 2017 Cabinet Report
29th August 2018 Cabinet Reports
12th September 2018 Full Council
20th January 2020 Cabinet Report

10. **Service Director responsible**

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