

Report to the Cabinet

Report reference: C/124/2006-7.
Date of meeting: 12 March 2007.



Portfolio: Housing.

Subject: Land to the Rear of 30-36 Poundfield Road, Loughton.

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Recommendations:

(1) That the residents of 30, 34 and 36 Poundfield Road, 42 and 44 Alderton Hall Lane and 70 Greenfields Loughton be given an opportunity to purchase plots of the Council-owned former garage site to the rear of 30-36 Poundfield Road, Loughton for £20,000 subject to:

(a) a covenant being placed on the land restricting the land's use to garden use only and prohibiting the construction of any permanent structures on the land;

(b) the whole of the land being purchased by the residents;

(c) the land being purchased by no less than three of the residents who have expressed an interest;

(d) the residents obtaining the required planning permission for a change of use for the land;

(e) the residents accepting the Council's offer and submitting a planning application for the required change of use within 6 weeks of being advised of the Cabinet's decision;

(f) the residents completing the purchase of the land within 8 weeks of receipt of planning permission (subject to an extension of this period by mutual agreement of the Head of Housing Services and the residents);

(g) the purchasers being required to break up and dispose of the existing concrete surface and erect and maintain appropriate dividing fencing at their own cost;

(h) the purchasers agreeing amongst themselves the divisions of the land and the associated pro-rata purchase price arrangements; and

(i) the purchasers sharing the Council's standard valuation and Land Registry Search Fees and each paying the Council's standard legal fee;

(2) That, in the event of four or more of the residents being unable or unwilling to purchase the land on the above conditions, or the timescales set out within 1(e) and 1(f) not being met by the residents, the land be declared surplus to housing requirements and, in accordance with the Code of Practice on Surplus Land and Property within the Local Charter between the District Council and local councils, Loughton Town Council:

(a) be notified of the Council's intention to dispose of the land on the open

market;

(b) be given 28 days to register their interest to purchase the freehold of the land (in accordance with the timescales set out in the Local Charter); and

(c) be advised that no discount on the sale price is offered;

(3) That, in the event of the Town Council expressing an interest to purchase the land, the Housing Portfolio Holder be authorised to consider the request and to determine and implement the District Council's response;

(4) That, in the event of the Town Council not expressing an interest to purchase the land, the land be offered for sale freehold on the open market by the Head of Legal Administration and Estates (without a covenant restricting its use to garden use), subject to;

(a) An overage clause being included in the terms of sale requiring the purchaser to pay the Council 35% of the difference between the purchase price and any subsequent increased land value due to planning permission for residential development, or any other use, being received within the following 10 years;

(b) Any valuations associated with the overage clause being agreed between the parties, but in the event of disagreement, the valuations being determined by the District Valuer; and

(c) The Head of Legal Administration and Estates being authorised to agree the detailed terms and particulars of the sale; and

(5) That the capital receipt arising from the sale of the land to the rear of 30-36 Poundfield Road - plus any further capital receipt from overage payments that may arise - be recycled to provide additional social housing grant to Estuary Housing Association and used to maximise the amount of affordable housing that can be provided on other Council-owned sites being planned for development.

Background:

1. At the meeting of the Cabinet on 5 February 2007, consideration was given to 5 options for the future use of the Council-owned former garage site to the rear of 30-36 Poundfield Road, Loughton. A plan of the site is attached at Appendix 1. This followed the refusal of a planning application for the development of two bungalows on the site by Estuary Housing Association; the Area Plans Sub-Committee decided that the proposal would introduce backland development and represented an over-development of the site, which would be out of keeping with the character of the surrounding area.

2. It was intended that these two bungalows would have been built for sale, with the estimated £135,000 development surplus being utilised as a subsidy towards the provision of affordable housing on other Council-owned sites that will developed by Estuary as a package.

3. In the light of the planning refusal, the option recommended to the Cabinet by the Housing Portfolio Holder at the February meeting of the Cabinet was to sell the land, unconditionally, on the open market. This was because - although the lack of planning permission would significantly affect the potential purchase price - bearing in mind the site's recent planning history, it is possible that a speculative developer could purchase the land, with a view to submitting a planning application for residential development and pursuing any subsequent refusal to a planning appeal.

4. It was proposed that an overage clause be included in any sale. This is a clause to describe a payment, in addition to the original sale price, which the Council would receive if planning permission for a different use is received. The amount received would be linked to the increase in land value. The Head of Legal Administration and Estates advised that, through an overage

clause, the Council should require receipt of 35% of the difference between the current value (i.e. the purchase price) and any increased value due to planning permission being received for an alternative purpose.

5. However, one of the other options considered by the Cabinet was to sell the land to six neighbouring residents of the site. This was in the light of an enquiry being received from six residents expressing an interest in purchasing the land (subject to price) for it to be parcelled-up by them into six separate plots for incorporation within the residents' existing (mainly) rear gardens.

6. It was apparent from the discussion at the Cabinet meeting that some members felt that further consideration should be given to the residents being given "first refusal" to purchase the land. For this reason, it was agreed that a decision on this matter should be deferred to this meeting.

Proposed Way Forward:

7. The Housing Portfolio Holder has reflected on the comments made at the Cabinet meeting and is now of the view that the six residents should first be given an opportunity to purchase the land, at the market value assessed by the Council's Estates and Valuation Division. However, it is recommended that this should be subject to a covenant being placed on the land restricting the land's use to garden use only (which would prohibit the construction of any permanent structures on the land, including extensions, garages etc).

8. Accordingly, the land has been valued at £20,000, taking account of the effect of the covenant and the fact that the residents would have to meet the costs of breaking up and disposing of the existing concrete surface, providing dividing fencing and finishing the surface to their enlarged gardens. In addition, as usual, the residents would be required to share the Council's valuation costs (£255 +VAT) and the Land Registry Search Fee (£30) and each pay the Council's standard legal fee (£250 + VAT). It would also be necessary for the residents to obtain planning permission for the change of use, prior to the purchase, for which they would also incur a cost. The Head of Planning and Economic Development has advised that it is highly unlikely that planning permission would not be granted.

9. However, if the residents are unable or unwilling to pay the market value of £20,000 (and the associated costs) between them, it is recommended that the land be declared surplus to housing requirements and be subject to disposal.

10. In view of this "fall-back" position of disposal, it is important to set some reasonable time limits for the residents to meet, to ensure that they progress the matter. It is therefore suggested that the residents be given a period of 6 weeks to accept the Council's offer and submit a planning application for the required change of use and, once planning permission has been received, a period of 8 weeks to complete the purchase of the land. Since it is possible that this deadline may not be met for reasons beyond the residents' control, it is suggested that this limit may be extending with the mutual agreement of the Head of Housing Services and the residents.

11. Since the last report to the Cabinet on this issue it has been established that, if the land is declared surplus to housing requirements, the provisions of the Code of Practice on Surplus Land and Property within the Local Charter between the District Council and local councils will apply. Under the Code of Practice, the District Council must notify the local council (in this instance Loughton Town Council) of the Council's intention to dispose of the land on the open market. The Town Council would then be given 28 days to register their interest to purchase the freehold of the land. Where "the proposed use of the land is supported by the District Council", the Code does make provision for a discount to be offered of up to £25,000, or 25% of the open market value (whichever is the lower). However, it is suggested that no discount on the sale price be offered in this instance.

12. In the event of the Town Council expressing an interest to purchase the land, it is suggested that the Housing Portfolio Holder be authorised to consider the request, in accordance with the Code of Practice, and to determine and implement the District Council's response.

13. However, in the event of the Town Council not expressing an interest, it is suggested that the land be placed on the open market, **without** a covenant restricting its use to garden use, with an overage clause included within any subsequent sale, as outlined earlier in this report.

Treatment of any Capital Receipt:

14. In order to mitigate the effect of the estimated £135,000 subsidy loss from the refusal of planning permission - which has a detrimental effect on the number of affordable properties that can be provided on the Council's other sites being developed by Estuary - as before, it is recommended that the capital receipt from the sale of the land (plus any further capital receipt that may arise from any overage payment if the land is sold on the open market) is recycled to provide additional social housing grant to Estuary Housing Association. This will help to maximise (to a small extent) the number of affordable properties that can be provided on the other sites, which would otherwise be sold on the open market.

Statement in Support of Recommended Action:

15. The proposal will give six residents neighbouring the site "first refusal" to purchase the land, at the market value, to enlarge their gardens. However, if this is not taken up by the residents, the Code of Practice advocates that Loughton Town Council be given an opportunity to express an interest in purchasing the land. If there is no interest, the sale of the land on the open market (with an overage clause) would maximise the capital receipt. In any event, the capital receipt will be used to help increase the number of affordable homes that can be provided on another Council development site.

Other Options for Action:

16. The five main options appear to be:

- (a) the three options set out above;
- (b) the three options set out above, but with different terms;
- (c) encourage Estuary Housing Association to appeal against the planning refusal;
- (d) retain the land in the Council's ownership; and
- (e) re-construct garages on the site.

17. However, options (c)-(d) were discounted by the Cabinet at the February meeting.

Consultation undertaken:

18. The two ward members for the area around Poundfield Road (Cllrs Law and Farr) were consulted on the draft report considered by the Cabinet in February 2007, and their comments were included within the report. They would like the Council to sell the land to the neighbouring residents, since they believe that this would solve an ongoing problem, without the threat of any other buildings being proposed.

Resource implications:

Budget provision: Nil.

Personnel: Nil.

Land: As set out in the report.

Council Plan/BVPP reference: Meeting Housing Need.

Relevant statutory powers: Housing Act 1985.

Background papers: Housing Policy File – “Poundfield Road Development”
Environmental/Human Rights Act/Crime and Disorder Act Implications: Nil.
Key Decision Reference (if required): N/A.



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**Land to the rear of
 30 to 36 Poundfield Road
 Loughton**

Drawing No. LD/Gen/C/0063/02

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