

## Appendix 1

This Report will be made public on 6 November 2018.



Report Number **C/18/44**

**To:** Cabinet  
**Date:** 14 November 2018  
**Status:** Key Decision  
**Head of service:** Andy Jarrett, Chief Strategic Development Officer  
**Cabinet Members:** Councillor David Monk, Leader of the Council,  
Councillor Dick Pascoe, Property Management and Environmental Health,  
Councillor Malcolm Dearden, Finance.

**SUBJECT: OTTERPOOL PARK GARDEN TOWN - UPDATE**

**SUMMARY:** This report considers the option for securing further parcels of land within the site of the proposed Otterpool Park Garden Town.

### **REASONS FOR RECOMMENDATIONS:**

Cabinet are asked to consider the recommendations in order to request council to authorise additional borrowing and to enable, subject to council approval of the budget, acquisitions to proceed and to enable the project to be taken to the stage where development can commence.

### **RECOMMENDATIONS:**

1. To receive and note report C/18/44.
2. To recommend to full council that it borrows an additional £10 million to enable the council to purchase land for the Otterpool Garden Town project and to progress the scheme to the point where development can commence.
3. Subject to the council approving the additional borrowing recommended above to authorise the Corporate Director - Place and Commercial in consultation with the Leader of the Council, the Cabinet Member for Finance and the Cabinet Member for Property Management and Environmental Health to acquire property in the Otterpool Park Garden Town area.

## **1. BACKGROUND**

- 1.1 On 18 July 2018 cabinet resolved to authorise the purchase or enter into options in respect of certain properties adjoining the A20 at Newingreen in order to facilitate the development of Otterpool Park Garden Town (minute 20 and report C/18/19).
- 1.2 Since then, further masterplanning work suggested acquisition of an additional property adjoining the A20 has become necessary to deliver the new road connection. The cost of this can be covered from within the existing approved £3 million budget. In accordance with the previous authorisation (minute 20.2 c) the Head of Strategic Development Projects (now the Chief Strategic Development Officer) after consulting the Leader has entered into negotiations to purchase the property.
- 1.3 This report, for the reasons explained below, recommends the purchase of additional properties over and above those already authorised.
- 1.4 In addition, since the decision on 18 July 2018 it has become apparent that in order to progress the development monies will need to be made available to deliver the garden town and at this stage specifically to enable the scheme to progress to the point where development can commence. Expert advice will need to be obtained a wide range of issues, including the provision of infrastructure and utilities.

## **2. FURTHER PURCHASES**

- 2.1 The decision of the cabinet on 18 July 2018 (above) and the subsequent decision to buy the additional property mentioned in paragraph 1.2 means the council will purchase the most vital areas of land. However, for the reasons set out below, it is considered that the further purchases should be made to facilitate the development of the garden town and to secure the land / properties. It should be appreciated that the majority of properties will not be needed by the council for 8 – 10 years, nevertheless it is considered that authority should be given for officers to acquire appropriate land and buildings.
- 2.2 The arguments in favour of securing further land now and granting delegated powers to acquire land can be summarised as follows: -
  - The owners' lives have been disrupted through the council's plans and through no fault of their own; many of them have found the uncertainty upsetting and feel it has left them unable to plan their future. As stated above in some cases the properties will not be needed for 8 – 10 years, although the properties are not blighted in any statutory sense the council's plans may make it more difficult for them to sell. It is a matter of fairness that the council should enable them to "get on with their lives".
  - Whilst the properties immediately essential for the development of the town have been identified already, acquisition of further properties will make the

development easier, for example in relation to the proposed secondary school.

- Securing further land is contemplated in the initial collaboration agreement with Cozumel Estates Ltd.
- It will avoid having some properties surrounded by new development which will look incongruous.
- Delegated powers will enable speedier decisions to be made on the acquisition of properties that become available for purchase. It should be appreciated that the council will receive a rental income from the properties. It is unlikely this income will cover all the costs of borrowing and managing the properties however it will mean that some of these costs are offset.
- In the long run the costs should be neutral, as the value of the property will be retained and it can ultimately be re-sold if for any reason development did not take place (assuming purchase is at market rate).

2.3 The contrary arguments are: -

- If the council acquires properties this will entail further borrowing.
- The rental income may not cover the borrowing costs albeit that some will be offset.
- There will be certain costs involved in managing the properties.
- Some works may need to be undertaken to put some of the properties in a condition where they can be rented out.
- The properties may not be needed for 8 – 10 years.

2.4 Whilst there are undoubted risks in acquiring additional properties and various pros and cons which are set out above, it is considered that the arguments in favour of embarking on a process of securing property now further the council's objectives of developing the garden town to such an extent that the advantages in doing so outweigh the disadvantages. It should be noted that the balancing of the risks are not financially driven.

2.5 As indicated above the Council will wish to obtain some return on the properties. Non – residential properties can be let out on agricultural or business tenancies. So far as the residential properties are concerned the advice the council has received is that it could let them out through either a company or offer non – secure tenancies itself.

2.6 As far as which approach to take is concerned the council letting out the residential properties on non – secure tenancies would be the simplest. In both scenarios the costs of managing the properties would be the same. The formation of a company would entail additional work on its formation,

governance and relationship with the council. There would undoubtedly be costs in setting it up and servicing it. As it would be formed merely to hold the land pending the development the company itself would have a finite life. As the council is able to let out residential properties on non-secure tenancies where it holds those properties pending development of the land then the extra costs and complications of forming a company do not appear to be justified, indeed it is difficult to see what advantages there would be.

2.7 A further possibility would be for the council to transfer the properties to Oportunitas to let them out. Whilst this would avoid the expenses in forming a new company there are no advantages in using the company, indeed there are disadvantages. The properties will be eventually transferred to the joint venture and the use of the company would add an additional level of complexity to the transaction and would also reduce the flexibility of the Council in the setting up of any joint venture. In respect of the properties already acquired this would mean in effect that stamp duty land tax would be paid twice. The only way to avoid this would be for the shares in Oportunitas to be acquired by the joint venture. This would in reality entail the winding up of Oportunitas in its present form.

2.8 The houses will be acquired under S227 Town and Country Planning Act 1990 (as amended) for the purposes of development and not for the provision of housing accommodation. Consequently the houses will be managed separately from the council's social housing stock (which they will not form part of) and there will be no implications for the housing allocations policy. Non – secure tenancies are not subject to 'Right to Buy' legislation.

2.9 There are obviously some risks to purchasing the properties at this stage and there will be costs involved in maintaining / improving and managing them. It is envisaged that the dwellings will be managed on behalf of the council by a private agent in the same way that the properties of Oportunitas are managed.

### **3. THE NEED FOR EXTERNAL ADVICE**

3.1 A project of the complexity, scale and novelty of Otterpool Park Garden Town will involve a team made up both of council officers and external consultants. Aside from financial and legal issues, advice will need to be sought on a wide range of issues e.g. utilities, infrastructure, and transport.

3.2 In addition it will be necessary to engage with statutory and other bodies some of whom will require payment before entering into discussions about the development.

3.3 Consequently, whilst officers will attempt to keep expenditure to a minimum, further costs are inevitable and so the sum requested does include an element of the amounts necessary to get the scheme to the point where development can commence.

## 4. COSTS AND PROCESS

- 4.1 To enable the council to secure the land it needs to and enable the project to proceed to the stage where development can commence it is estimated it will cost in the region of a further £10 million pounds over that already approved. Obviously not all of this would be spent at once and officers would attempt to reduce the total cost as much as possible whilst treating the owners fairly. Indeed not all of this money may be needed – it allows for contingency for any unforeseen additional land or property that the council needs to acquire to deliver the project.
- 4.2 Consequently it is recommended that the council be requested to authorise additional borrowing for £10 million to fund purchase of land for the Otterpool Park Garden Town and to enable the scheme to proceed to the point where development can commence.
- 4.3 As already outlined in the report, the financial implications of the proposed additional £10m investment in the Otterpool scheme are not fully known at this stage. However, indicatively, the annual interest cost of borrowing a further £10m will be about £250,000 in a full year. The full financial implications from the council's total investment in the Otterpool scheme will continue to be carefully monitored and reported to Council in accordance with agreed financial procedures.
- 4.4 If the budget is authorised by the council it is suggested that authority to authorise the acquisition of individual plots be delegated to the Corporate Director - Place and Commercial in consultation with the Leader of the Council, the Cabinet Member for Finance and the Cabinet Member Property & Environmental Health prior to authorising any purchase a report will be produced for the decision taker setting out the financial consequences of any particular purchase.

## 5. RISK MANAGEMENT ISSUES

- 5.1 The risks are summarised below:

Perceived risk	Seriousness	Likelihood	Preventative action
Income from rent does not meet borrowing costs/ rent fluctuates over time	medium	medium	Ensure that the costs are offset as much as possible by effective management of the properties. Consider capitalizing the borrowing costs as part of the council's overall investment in the Otterpool scheme.
Value of property is blighted if the council wanted	medium	low	Continue to rent out properties until the market picks up

to sell, or recession affects values			
Value of property and investment not recognised in transfer to a future Joint Venture	medium	low	Ensure negotiations on JV take proper account of the value of any property assets and advice taken on most tax efficient way to transfer land

## 6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

### 6.1 Legal Officer's Comments (NE)

There are no legal implications arising directly from this report but Legal will continue to seek external legal advice on any complex issues as and when needed.

### 6.2 Finance Officer's Comments (LW)

The key financial implications from the proposed additional investment are covered in the body of the report. The proposed additional borrowing to meet the capital investment can be contained within the council's existing authorised borrowing limit of £90m. It is anticipated the increase in the council's Capital Financing Requirement from the borrowing will be offset over time by future receipts from the project itself and is in accordance with the approved Minimum Revenue Provision policy. Consideration will need to be given to adopting a policy to capitalise borrowing costs for the council's overall investment in this scheme to help mitigate the revenue impact arising from it during the development phase.

### 6.3 Diversities and Equalities Implications

No equalities and diversities implications.

## 7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Andy Jarrett, Chief Strategic Development Officer

Telephone:

Email: [andy.jarrett@folkestone-hythe.gov.uk](mailto:andy.jarrett@folkestone-hythe.gov.uk)

The following background documents have been relied upon in the preparation of this report:

None