

Disposal of public open space - Land at Leyfields and Netherstowe, Lichfield.

Report of the Leader of the Council



Date:	12 th January 2021
Agenda Item:	N/A
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Key Decision?	NO
Local Ward	Curborough
Members	Ward Councillors:- Colin Ball and Dave Robertson

CABINET

1. Executive Summary

- 1.1 This issue is brought to Cabinet as a matter for urgent consideration in order to ensure that the decision on sale of the land in question is determined prior to any consideration of the planning application submitted on the sites.
- 1.2 At a Cabinet Meeting of 4th September 2018, approval was granted, subject to securing planning consent, to the disposal of two pieces of land at, Leyfields, and Netherstowe, Lichfield, to Bromford Housing Association, for the provision of affordable housing.
- 1.3 The land at Leyfields is shown edged red on **Plan A**, and the land at Netherstowe edged red on **Plan B**. Both areas of land are defined as being, public open space.
- 1.4 Following Cabinet approval, the Council entered into a conditional contract to dispose of the sites to Bromford Housing Association.
- 1.5 Bromford has subsequently submitted planning applications for the provision of 16 affordable homes at Leyfields, and 8 affordable apartments at Netherstowe. Both planning applications are currently under consideration.
- 1.6 Under the provisions of the Local Government Act 1972, before disposing of public open space, a Local Authority must give notice of its intention by advertising in a newspaper circulating in the area in which the land is situated, for two consecutive weeks, and consider any objections to the proposed disposal which may be made. Ideally this process should have been done before the contract was entered into with Bromford, but once it was identified that this process has not been carried out it was immediately addressed under instruction of the Leader of the Council.
- 1.7 Notice was published in the Eastern edition of the Express and Star Newspaper on the 18th and 25th November 2020, seeking representations on the proposed disposals by no later than 12.00 noon on Wednesday 2nd December 2020.
- 1.8 The placement of these advertisements provided notice of the proposals, giving local people an opportunity to submit their comments, and ensures compliance with the legislative requirements, and the Council also included details on our website.

- 1.9 This report provides an overview of the responses received to the Council's proposal to dispose of the sites.

2. Recommendations

- 2.1 It is recommended that Cabinet gives consideration to the representations received following the advertisements of the intention to dispose of the public open spaces at Leyfields and Netherstowe, and either :
1. Confirms the disposal of the two pieces of land at Leyfields and Netherstowe, Lichfield, subject to securing planning consent, to Bromford Housing Association, for the provision of affordable housing,
OR
 2. Recommends that the sale should not take place and refer the matter to Council in light of the legal and MTFS implications.

3. Background

- 3.1 At a meeting of Cabinet on 4th September 2018, approval was granted to dispose of those council-owned sites known as, "Leyfields" and "Netherstowe", shown on **Plans A and B** respectively appended, to Bromford Housing Association Limited.
- 3.2 The Council has subsequently entered into a conditional contract to dispose of these sites to Bromford for the purpose of redevelopment for affordable housing.
- 3.3 Because both sites are defined as public open space, it is a requirement of the Local Government Act 1972, that before disposing of such land, the intention to dispose should be advertised for two consecutive weeks in a newspaper circulating in the area in which it is situated, and any objections to the proposed disposal must be considered.
- 3.4 This requirement to advertise the disposal of public open space is distinctly separate from any notification /consultation undertaken as part of the Planning Application process.
- 3.5 This report deals with the proposed disposal of the open space sites at Leyfields and Netherstowe and not any subsequent redevelopment, which is subject to the separate statutory Planning Application process, which enables parties to make any objections / representations.
- 3.6 It is acknowledged that without a sale of the land, any development could not take place, irrespective of whether planning permission is granted, and it is recognised that whilst distinctly different, the two activities are linked.
- 3.7 The required notice was advertised in the Eastern Edition of the Express and Star Newspaper on 18th and 25th November 2020, and advised that any objections or representations regarding the proposed disposals be submitted in writing or via e-mail by no later than 12.00 noon on 2nd December 2020 , and the grounds for any objection should be stated.

- 3.8 A total of 66 (sixty-six) responses were submitted by the deadline of 12.00 noon on 2nd December 2020, being summarised by location and type of response:

Location by Response	Responses	Objects	Approves
Leyfields only	2	2	-
Netherstowe only	5	5	-
Leyfields & Netherstowe	55*	54	1
General – No site Referenced	4	4	-
	66 total**		

Note: - * 39 responses materially based on a letter submitted with petition in August 2020, objecting to Netherstowe Planning Application -20/01120/FUL. The petition submitted in respect of Planning Application 20/01120/FUL comprised 1,067 objections, being still under consideration.

**Total adjusted to disregard multiple and duplicate submissions.

- 3.9 Of the 66 responses received, 61 object to the disposal of one or both sites, whilst 1 supported the proposed disposal of both - 4 responses did not refer to either site, objecting to the disposal of green space in general, and 2 respondents did not provide grounds to substantiate their position.
- 3.10 It is noted 39 objections materially referenced issues relating to Bromford’s initial Planning Application 20/01120/FUL for the Netherstowe site, being substantially based on a letter submitted with a petition objecting to that application, in response to the separate planning consultation process. A copy of that letter is available for review.
- 3.11 A broad summary of the themes raised by respondents is outlined below:

Themes Raised	Observations
Redevelopment	Too much development in Lichfield; Develop Brownfield sites first.
Amenity	Loss of Amenity; adverse impact on existing views and loss of light.
Loss of Green Space	Loss of green space for recreation and enjoyment, with adverse impact on health and well-being.
Infrastructure	Impact on existing Infrastructure; pressure on parking, pedestrian safety and increased congestion.
Ecology	Loss of Ecology, and adverse impact on Wildlife and Nature.
Planning Policies / Statements	Proposals in context of existing Planning Policies.
Affordable Housing	Need for Affordable Housing recognised by some respondents.
Technical Construction Aspects	E.G. - the requirement to undertake, “gas protective measures”.
Notification Process	Letter accompanying Petition objecting to Netherstowe Planning Application, cited consultation as, “very, very poor”, and by inference the disposal advertisement process.

Note: Not all themes identified were made by all respondents, nor did they necessarily relate to both sites. It is intended the above synopsis is a fair representation of the observations made from analysis of responses received across both sites.

- 3.12 Copies of all objections and representations submitted are available for review, and have been redacted to preserve the anonymity of respondents.
- 3.13 **Plan C** attached to this report shows open spaces in the proximity of the Leyfields and Netherstowe sites for information purposes, including Stychbrook Park, Stowe Pool recreation area and the existing expanses of open land at Netherstowe.

3.14 In considering the proposed disposal of the Leyfields and Netherstowe sites, it is useful to review the identified housing need within Lichfield District as at 1st November 2020, and summarised, below:

Need by Property Type - Number of Bedrooms	Housing Applicants by preference of location		Applicants currently living in Curborough Ward
	Lichfield District	Lichfield City	
1 Bed	720	444	76
2 Bed	476	289	33
3 Bed	244	147	34
4 Bed	54	30	8
5 Bed	8	2	-
5+ Bed	-	-	1
Total applicants	1502	912	152

information supplied from the housing register, Homes Direct.

3.15 According to data provided by the Office for National Statistics, in Mid-2019, the estimated population of Curborough Ward was 4,285.

3.16 Within Curborough Ward, 76 households are on the applicants register seeking 1 bedroom homes, and a further 67 households are seeking 2 and 3 bedroom homes.

3.17 The planning Applications submitted by Bromford propose the construction of the following houses:

Netherstowe: - 8 x 1 bedroom flats.

Leyfields: - 4 x 1 bedroom flats ; 8 x 2 bedroom houses; 2x 3 bedroom houses and 2 x 4 bedroom houses.

3.18 In the event either or both of the proposed disposals are not approved there will be an adverse impact on the Approved Budget due to the capital receipt value, which will require Cabinet and Council approval.

Alternative Options	The options available are for Cabinet to decide either to confirm the disposal as above, or alternatively to recommend to Council not to dispose of the land, noting the loss of potential affordable homes and the financial MTFS implications
Consultation	<ol style="list-style-type: none"> 1. The required Newspaper advertisements advising of the Council's intention to dispose of Public open space have been placed, and objections / representations received. This advertisement process is distinctly separate from the planning process. 2. Consultation was undertaken with the then Ward Members and the Asset Strategy Group areas as part of the original Cabinet Report process, and that report was a publicly available document. 3. Current Ward Members have been advised of the advertisement process for

the proposed disposal of this public open space.

4. Bromford Housing Association has submitted Planning Applications for the proposed provision of affordable housing at sites at Leyfields and Netherstowe. Interested parties have also been able to make representations on the proposals as part of the planning consultation process.

Financial Implications

1. The disposal of the sites are budgeted to generate a capital receipt of £527k.
2. The disposal will relieve the Council of any future potential maintenance liabilities. Existing routine site maintenance costs are: Leyfields - £3.6k pa; Netherstowe - £2.2k pa; i.e. £5.8k total pa.
3. The proposals would deliver 24 affordable houses / flats across both locations (subject to Planning), which would generate £4k to the District Council each year in Council Tax income, based on the Approved Band D rate of £180.07. The total Council Tax yield for all preceptors would be £44k per annum based on the Approved Band D Rate in Lichfield City of £1,845.76.
4. Because the proposed properties comprise affordable housing, no Community Levy Infrastructure payment will be received by the Council.
5. The original Cabinet report advised the Council would benefit from a, "New Homes Bonus" grant of circa £88k over a 4 year period. The future of New Homes Bonus is currently very unclear with a consultation now planned for 2021. In the interim period, allocations have been made for a single year. Therefore based on 24 affordable homes, a single year allocation would yield £40k to the District Council and £10k to Staffordshire County Council based on a national average Council Tax of £1,749.88 and an affordable housing supplement of £350 per property.
6. If it is decided not to dispose of either or both sites there is the potential for Bromford to make a legal claim against the Council for breach of Contract. The scope of any potential claim has not been explored or quantified at this stage this however, this could be a significant six-figure sum.

Contribution to the Delivery of the Strategic Plan

The proposal contributes to delivery of the Council's Strategic Plan 2020-24:

1. **Enabling People-** By engaging collaboratively with Bromford Housing Association, the proposed land disposals will enable the construction of affordable housing helping address existing demand. New homes will provide opportunities for families to secure a future in Lichfield, enable them to become part of the community.
2. **Shaping Place-** The release of the sites at Leyfields and Netherstowe for the provision of new affordable housing will create new homes and represents a positive investment in the future of those local communities.
3. **Developing Prosperity-** The proposed disposals enable the construction of affordable housing within Lichfield, and represents a significant financial investment by Bromford within the communities, creating employment opportunities during the construction phase, and housing for low income families.
4. **A Good Council -** In working collaboratively with Bromford Housing Association, the release of the sites will enable the provision of affordable housing for low income families currently in housing need. The disposals will generate a capital receipt for the Council.

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<p>Equality, Diversity and Human Rights Implications</p>	<ol style="list-style-type: none"> 1. The provision of additional affordable homes at Leyfields and Netherstowe will have a positive impact on the supply of affordable housing in Lichfield and create housing opportunities for those currently in housing need, and amongst lower income groups.
<p>Crime & Safety Issues</p>	<ol style="list-style-type: none"> 1. Whilst undertaking routine grounds maintenance at the Leyfields site, operatives have on occasion been presented with evidence of discarded drugs paraphernalia, and fly tipping, necessitating appropriate handling and safe disposal. The presence of such items is strongly suggestive of instances of anti-social behaviour at the Leyfields site. 2. It is considered the provision of affordable housing would reduce the likelihood and potential for anti-social behaviour, at both locations.
<p>Environmental Impact</p>	<ol style="list-style-type: none"> 1. The decision to dispose of these sites in isolation will have no impact, however, as an enabler of the provision of affordable housing, there will be Environmental Issues that require consideration. 2. In submitting Planning Applications in respect of the sites , Bromford have commissioned and provided a comprehensive suite of documents / studies as part of their submissions , including: <ol style="list-style-type: none"> a. Drainage plans / Reports b. Transport Assessment c. Lighting Assessment d. Ground Investigation reports e. Planning Statement f. Topographical Survey g. Arboricultural Survey / Report h. Ecological Survey and Reports i. Design and Access Statements 3. Bromford Housing Association is an established, provider of social and affordable housing with an extensive portfolio of 44,000 homes housing circa 100,000 occupants, and has an experienced development team with a track record of delivering new residential housing provision. In 2018-19 circa 1,200 homes were completed by Bromford.
<p>GDPR/Privacy Impact Assessment</p>	<ol style="list-style-type: none"> 1. It is considered the disposal of these sites will not have any GDPR/Privacy implications and a Privacy Impact Assessment has not been undertaken.

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	<p>Following consideration of representations submitted, the Council decides against disposal of both or one of the sites at Leyfields and Netherstowe.</p> <p>The proposed affordable housing will not be constructed.</p> <p>A potential claim against the Council could be made if we are unable to fulfil any contractual obligations, with resultant reputational damage, and adverse financial impact.</p> <p>The Council will also be unable to secure a capital receipt that is budgeted in the Approved MTFS.</p>	<p>Advertisements placed in accordance with requirements of LGA 1972, and responses received given consideration as part of decision-making process.</p> <p>Any decisions reached will involve careful deliberation of representations received and seek to achieve a balance between Policy requirements and needs.</p> <p>Cabinet has previously granted consent to the disposals at their meeting of 4th September 2018.</p> <p>The proposed construction of affordable housing at these locations is subject to the consultation provisions of the Planning process.</p> <p>The conditional contract between the Council and Bromford, governs the contractual obligations and relationship between the parties.</p>	<p>Likelihood: Yellow Impact: Red Severity of Risk: Yellow</p>
B	<p>Advertisement process is challenged, resulting in re-advertisement and delay to decision-making process.</p>	<p>Advertisements placed in accordance with requirements of LGA 1972, and responses received given consideration as part of decision-making process.</p>	<p>Likelihood: Green Impact: Green Severity of Risk: Green</p>
C	<p>Challenge to decision arising from consideration of responses/ representations made following placement of advertisements.</p>	<p>Full visibility of responses received is available to Council Member(s) involved in determining whether to dispose of Leyfields and Netherstowe land, being supplementary to this report.</p>	<p>Likelihood: Green Impact: Green Severity of Risk: Green</p>

Background documents

Relevant web links