

CABINET

25 FEBRUARY 2022

REPORT OF THE LEADER OF THE COUNCIL

A.3 PRINCIPLE OF DISPOSAL OF LAND FOR ACCESS TO ADJOINING REDEVELOPMENT, VIA HOUSING ESTATE LAND IN STOURVIEW AVENUE, MISTLEY

(Report prepared by Andy White)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To consider, in principle, whether to dispose of land in Stourview Avenue, Mistley to provide access to an adjoining potential development.

EXECUTIVE SUMMARY

The Council has freehold ownership of land in Stourview Avenue and adjoining roads. The land includes dwellings and areas for a range of related amenity uses (an estate). The estate is of mixed tenure but the majority of dwellings remain in the Council's ownership and are tenanted. The estate area is shown edged red on the plan attached at Appendix A

A developer seeks access to adjoining potential development land shown edged pale blue on the plan attached at Appendix A via a verge and a section of scrub land to the East of Stourview Avenue; the land is within the estate and the sale of it offers the opportunity for the Council to gain a capital receipt and facilitate new homes with very little effect on the existing housing areas. The plan attached as Appendix A shows the potential access, which has planning permission, coloured Magenta.

Officers and a commercial agent acting for the Council have negotiated terms for the freehold disposal of the verge land and an isolated area North of the Council's housing. Full details of terms of the option are given in the report in Part B of this agenda.

Ordinarily this report would be presented by the Deputy Leader. In this case the Portfolio Holder has declared an interest and has asked for the report to be presented by the Leader of the Council.

RECOMMENDATION(S)

It is recommended that:

Cabinet resolves in principle to dispose of the land in Stourview Avenue, Mistley in order to facilitate access to a proposed adjoining development.

REASON(S) FOR THE RECOMMENDATION(S)

The proposed disposal will generate a capital receipt in the HRA which can be used for investment in priorities and will facilitate provision of new homes on the adjoining land.

ALTERNATIVE OPTIONS CONSIDERED

1. Declining to dispose of the land - not proposed – would not lead to any benefit to the Council or Community.

2. Disposing of the land to another party – not proposed – the land has a premium value to the adjoining developer.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES			
Corporate priorities include:			
Building and managing our own homes	Balanced annual budget		
10 year financial plan	Use assets to support priorities		
Support existing businesses			
OUTCOME OF CONSULTATION AND ENGAGEMENT			
The development and access has been subject to two planning applications and an appeal. The Chair of the Tenants’ Panel has been consulted on the generality and is supportive of the principle of disposal of underused resources in order to fund works and improvement.			
LEGAL REQUIREMENTS (including legislation & constitutional powers)			
Is the recommendation a Key Decision (see the criteria stated here)	YES/NO	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date): N/A	
<p>In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Cases assessing principles of Section 120 of Local Government Act 1972 confirm that the Council is obliged to ensure that the management of its assets are for the benefit of the district; this verge land is unused and disposal will provide a substantial capital receipt in the HRA and is viewed by the Officers to be of benefit to the district.</p> <p>Section 32 of the Housing Act 1985 together with the General Housing Consent 2013, Consent A gives the Council discretionary power to dispose of land held under Part II of the Housing Act 1985 that has not been developed/is vacant. In this case the land is held under Pt II of the Housing Act 1985. It includes no dwellings and accordingly Secretary of State consent is not necessary because the General Housing Consent 2013, Consent A applies.</p> <p>Section 123(1) Local Government Act 1972 indicates that, a local authority may dispose of land held by it in any way it wishes so long as (section 123 (2)) the land is disposed for a consideration not less than the best that can reasonably be obtained. Details of the proposed terms are set out in the report in appendix B of this agenda.</p> <p>The land is used only as verge and some scrub. It therefore does not need to be advertised prior to disposal as required for public open space.</p>			
<input type="checkbox"/>	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:		

Ordinarily this report would be presented by the Deputy Leader. In this case the Portfolio Holder has declared an interest and has asked for the report to be presented by the Leader of the Council.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The disposal of the land will provide a significant capital receipt within the HRA. Residential development can assist the Council on the wider financial position with New Homes Bonus and ongoing Council Tax income.

Terms for the proposed disposal are set out in the report in Part B of this agenda.

The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The disposal represents an opportunity for the Council to gain a capital receipt within the HRA which can be used to invest in priorities.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The negotiations have been led by external valuers and agents appointed. The process has been conducted in line with the Council's Property Dealing Policy. The Agent recommends that the deal outlined in the report in Part B of this agenda comprises the Best Consideration Reasonably Obtainable.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	

MILESTONES AND DELIVERY

It is proposed that solicitors are instructed directly upon the expiry of the call in period (or any call-in being resolved) and that completion is achieved as soon as possible following agreement between the parties' solicitors. The Deputy Chief Executive may elect to appoint external solicitors for resourcing reasons.

ASSOCIATED RISKS AND MITIGATION

Officers have not identified any significant risk associated with the proposals.

EQUALITY IMPLICATIONS

Officers have considered the proposals and have not identified any substantial effect. The potential capital receipt is significant and could facilitate HRA investment.

SOCIAL VALUE CONSIDERATIONS

The proposed disposal will facilitate the construction of new homes in the district and a capital receipt in the HRA which can be used to invest in priorities. The Council has no direct control over the engagement of employees for the development project or over the occupancy of completed dwellings but it appears likely that there will be local employment and homes resulting.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

New homes will be built to current standards.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	Officers have considered the proposals and have not identified any substantial effect. The potential capital receipt is significant and could facilitate HRA investment.
Health Inequalities	
Area or Ward affected	Lawford, Manningtree and Mistley

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>The Council has freehold ownership of land in Stourview Avenue and adjoining roads. The land includes dwellings and areas for a range of related amenity uses (an estate). The estate is of mixed tenure but the majority of dwellings remain in the Council's ownership and are tenanted. The adjoining potential development has planning permission.</p> <p>The developer proposes to form a new roadway off Stourview Avenue using TDC land which is unused verge and a separate section of scrub at present. The approximate location is shown on the plan attached as Appendix A.</p> <p>The developer seeks to secure access rights to facilitate the development, having gained planning permission.</p> <p>There is no direct impact on any currently tenanted land or dwellings. The verge is not used for any authorised domestic or recreational purpose.</p> <p>The proposed disposal could lead to benefit to the Council in two respects –</p> <ol style="list-style-type: none"> 1. The access provision of access unlocks a development site and could generate a significant capital receipt; and 2. The adjoining development, would contribute to the provision of homes in the District, and contribute to the provision of services by way of the New Homes Bonus and ongoing Council Tax income.
PREVIOUS RELEVANT DECISIONS
<p>On 17 October 2014 the Regeneration, Inward Investment and Asset Management Portfolio Holder authorised the initiation of the disposals process.</p>
BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
<p>Planning applications and considerations are available on the Council's web site.</p>

APPENDICES
Appendix A – Location Plan

REPORT CONTACT OFFICER(S)	
Name	Andy White
Job Title	Assistant Director – Building and Public Realm
Email/Telephone	awhite@tendringdc.gov.uk 01255 686933