

# CABINET

23 JUNE 2023

## REPORT OF THE ASSETS PORTFOLIO HOLDER

### **A.5 PETITION: SUSPEND PROPERTY DEALING AND DEVELOPMENT OF TDC LAND PARCELS IN GREAT AND LITTLE OAKLEY AND OFFER THE LAND TO THE PARISH COUNCILS**

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

To formally report the receipt of a petition submitted requesting the suspension of property dealing and development of TDC land parcels in Great and Little Oakley and offer the land to the Parish Councils.

##### **EXECUTIVE SUMMARY**

An e-petition submitted by Tom Howard, as lead petitioner, was received on 6 February 2023. By the closing date of 12 May 2023, the petition had been signed by 46 persons. The petition stated:-

*“We call on Tendring District Council to immediately suspend the property dealing procedure and any plans to develop or sell for development the following sites in the Great Oakley and Little Oakley: • Woodlands, Great Oakley – Ref GO001G • Sparrows Corner, Great Oakley – Ref GO002G • Seaview, Little Oakley – Ref LO001H • Bayview Crescent – Ref LO002BH • Bayview Crescent, Little Oakley – Ref LO002CH Furthermore, we request that Tendring District Council explores alternative options that would retain this important amenity land in these rural Parishes. We specifically request, that Tendring District Council initiates discussions with Great Oakley Parish Council and Little Oakley Parish Council to explore options for them to take on all of these sites either via purchase for a nominal fee (e.g. £1 per plot) or a 99 year lease with a nominal peppercorn rent (e.g. £1 per annum) in exchange for the Parish Councils taking on the maintenance liability”.*

Asset management is an executive function and therefore the Cabinet is the appropriate body to consider this matter.

In accordance with the Council's adopted Scheme for Dealing with Petitions this Petition is being presented to the Cabinet on the basis that the Petition contained between 30 and 249 signatures.

Having discussed the petition it will be for Cabinet to decide what action, if any, will be taken. The Cabinet's decision will then be reported to Full Council in July,

##### **RECOMMENDATION(S)**

**That, having duly considered the Petition together with the information provided in this report, the Cabinet decides what action, if any, it wishes to take.**

## REASON(S) FOR THE RECOMMENDATION(S)

To comply with the adopted scheme for dealing with petitions, as set out in the Council's Constitution.

## ALTERNATIVE OPTIONS CONSIDERED

There are several courses of action available to the Cabinet once the petition has been considered, including:

- *No action (with reasons as to why no action is proposed)*
- *Taking the action requested in the petition*
- *Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)*
- *Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.*
- *Referring the petition to a Committee or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament)*
- *Holding a public meeting*
- *Holding an inquiry*
- *Providing a written response to the lead petitioner setting out the Council's views on the request in the petition*
- *Deferring consideration of the petition to a future Cabinet meeting*
- *Calling for a referendum (if permitted under legislation and subject to costs)*

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

In respect of the Corporate Plan 2020/24 Priority Themes the Committee's decision will contribute to:

- Strong Finances and Governance (and specifically using assets to support priorities).

### LEGAL REQUIREMENTS (including legislation & constitutional powers)

Asset Management is an executive function which, sits with the Cabinet collectively and, individually, to the Portfolio Holder for Assets (depending on the nature of the decision required) in Schedule 3 of Part 3 of the Council's Constitution. The overall function of the Council's Executive is the discharge, in accordance with the Council's Budget and Policy framework all functions of the Council (including "local choice functions") except those functions which cannot by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and other legislation, be the responsibility of the Executive.

Section 123 (2) of the Local Government Act 1972 provides that the Council should not dispose of land other than for Best Consideration (highest price) reasonably obtainable without secretary of state consent.

The General Disposal Consent (England) 2003 provides a discretionary power for the Council to dispose at less than best consideration, provided that the undervalue is less than £2m and the Council is satisfied that such disposal will enhance the social, economic or environmental wellbeing of the area. TDC has adopted a Community Asset Transfer policy to set a framework around the consideration of proposed transfers.

The Council's Property Dealing Procedure is contained within Part 5 of the Constitution, approved by Full Council.

Article 13 of the Constitution sets out the Principles of Decision Making to be followed for all decisions:

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) Due consideration of all the relevant factors and options, taking into account the results of any consultation undertaken and professional advice of Officers;
- (c) Respect for human rights, and equality and diversity;
- (d) A presumption in favour of openness;
- (e) Clarity if aims and desired outcomes; and
- (f) Transparency (i.e. explaining what options were considered and giving the reasons for that decision).

The Cabinet would need to consider the full implications of the decision, if it was minded, to support the petition and further research and advice would be necessary before an informed decision could be made.

#### **FINANCE AND OTHER RESOURCE IMPLICATIONS**

There are no direct financial implications at this stage, but as indicated elsewhere in this report, a review of the financial implications would need to be explored further in determining a final position as the property dealing process unfolds.

#### **USE OF RESOURCES AND VALUE FOR MONEY**

*External Audit expect the following matters to be demonstrated in the Council's decision making:*

- A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;*

- B) *Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and*  
 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.*

*As such, set out in this section the relevant facts for the proposal set out in this report.*

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;	Not Applicable in this instance.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Nothing in addition to those matters already set out in the report.
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.	Not Applicable in this instance.

#### **MILESTONES AND DELIVERY**

Not Applicable in this instance.

#### **ASSOCIATED RISKS AND MITIGATION**

Not Applicable in this instance.

#### **OUTCOME OF CONSULTATION AND ENGAGEMENT**

The Council's adopted Scheme for Dealing with Petitions states, inter alia:-

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt.
- The appropriate Ward Member(s) will be informed of receipt of a petition and when and how the petition will be considered.
- When a petition is being considered by Cabinet or Council/Committee...the lead petitioner will be invited to address the Cabinet or Council/Committee, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to Cabinet or Council/Committee on behalf of the relevant petitioners.
- The lead petitioner will be informed, in writing, of the Cabinet or Council's decision and this information will also be published on the Council's website via the Minutes of the relevant

meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and address that meeting and if appropriate, answer any questions posed at the meeting.

**EQUALITIES**

*In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.*

*The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation.*

Not Applicable in this instance.

**SOCIAL VALUE CONSIDERATIONS**

There are no social value considerations relevant to this report having regard to the Public Services (Social Value) Act 2012.

The General Disposal Consent (England) 2003 (“the Order”) provides a discretionary power for the Council to dispose at less than best consideration, provided that the undervalue is less than £2m and the Council is satisfied that such disposal will enhance the social, economic or environmental wellbeing of the area. TDC has adopted a Community Asset Transfer policy to set a framework around the consideration of proposed transfers. Therefore, any decision to rely on the Order and dispose of land at an undervalue would need to demonstrate the social, economic or environmental considerations and benefits to justify the use of the Order.

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

There is no impact on the Council’s aim for its activities to be carbon neutral by 2030 including the actions, policies and milestones in its Climate Change Action Plan.

**OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS**

*Set out what consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are then set out below.*

**Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.**

<b>Crime and Disorder</b>	None
<b>Health Inequalities</b>	None
<b>Area or Ward affected</b>	The Oakleys & Wix

**PART 3 – SUPPORTING INFORMATION**

**ASSISTANT DIRECTOR (BUILDING & PUBLIC REALM)’S ASSESSMENT AND ADVICE**

Following a motion put to the full Council in November 2020 by Councillor Placey the Cabinet requested a review of Council owned assets that could be used for the construction of new Council homes or used or released in return for capital receipts in order to support Council priorities.

As part of that exercise a total of 69 sites were identified, with three already pending action after earlier decisions.

A report for Cabinet consideration was prepared identifying the sites and inviting determination of in respect of which of them to commence the property dealing procedure. Three previously identified sites were identified for priority disposal action, two of the then identified sites were identified for action.

On 15 July 2022 Cabinet agreed the identified priority actions and decided to progress with the property dealing procedure in relation to all of the identified sites.

Officers have begun to progress the identified priority actions, as resources permit, but no detailed assessment of any of the other sites has yet been undertaken.

On 04 November 2022 Cabinet considered a report outlining the Council's financial outlook including a number of housing and property investment requirements that could not be funded.

It is likely that looking forward it will be increasingly necessary to practice asset management in order to deliver property and other obligations and aspirations.

Section 123 of the Local Government Act 1972 provides that any proposal for disposal of open space must be advertised in the local press and representations taken into account. Any planning application will necessitate statutory and neighbour consultation and due consideration to any responses. Both of these would happen at a later stage in the property dealing process. Cabinet may wish to note the petition, thank the petitioner and request that these views and others are taken into account as the property dealing procedure unfolds, subject to available resources.

**Portfolio Holder's Comment:**

*"These five sites have been identified as part of a process to review potential development or other options throughout the District that identified a total of 69 sites for some potential action with the consideration of three others already under way. They should not be considered in isolation or outside of that process. No decision has been taken to build on or dispose of any land. This process was begun following questions raised at the full Council and has consumed considerable time and effort to get to this stage. Given the Council's financial position and aspirations for housing and public space improvement the Authority must look towards careful use and rationalisation of its properties in order to reduce costs, avoid clinging to unproductive space and facilitate investment in services and facilities.*

*I recommend that Cabinet notes the petition, thanks the petitioner and requests that these views, including potential transfer to parish councils, and others are taken into account as and when the property dealing procedure unfolds, subject to available resources.*

**PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.**

Published Minutes of the Cabinet meeting held on 15 July 2022.

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

E-Petition to the Council submitted by the Lead Petitioner (Ms. Caroline Saye).

Report of the Corporate Finance & Governance Portfolio Holder (A.5) – Initiation of the Property Dealing Procedure in order to explore the Development Potential of various areas of Council Land – submitted to Cabinet on 15 July 2022.

#### **APPENDICES**

None

#### **REPORT CONTACT OFFICER(S)**

<b>Name</b>	Keith Durran
<b>Job Title</b>	Committee Services Officer
<b>Email/Telephone</b>	<a href="mailto:kdurran@tendingdc.gov.uk">kdurran@tendingdc.gov.uk</a> (01255) 686585