

Report to Cabinet

Subject: Proposed Sale of Land at Killisick Lane

Date: 5 October 2023

Author: Property Services Manager

Wards Affected

Coppice

Purpose

To seek approval to dispose of land at Killisick Lane as identified outlined in red on the attached plan at Appendix 1 and to seek approval for the method of disposal via the open market.

This report also seeks to delegate authority to the Chief Executive in consultation with the leader of the Council to agree the final sale price in line with market value and the Council's Rules for dealing with land and Buildings.

The report seeks approval in principle, to sell the Council's land jointly with a neighbouring landowner in order to secure best value and a comprehensive development on site, delegation is sought to the Chief Executive in consultation with Legal Services to prepare a collaboration agreement to facilitate the joint sale.

Key Decision

This is a key decision as it is likely to result in the Council receiving income in excess of £500,000 and is likely to be significant in terms of its effect on communities living or working within two or more wards of the Borough.

Recommendation(s)

THAT Cabinet:

- 1) Agrees to dispose of the Land at Killisick Lane (as shown outlined in red on Appendix 1) through private treaty on the open market as detailed in this report.**
- 2) Delegates authority to the Chief Executive in consultation with the Leader of the Council to accept the best offer for the Land.**

- 3) **Agrees in principle to the joint sale of the Council's land with the Arnold Parochial Charities adjoining land, subject to a collaboration agreement being agreed by both parties.**
- 4) **Delegates authority to the Chief Executive in consultation with the Leader of the Council and the Legal Services Manager to prepare and complete a collaboration agreement with Arnold Parochial Charities to facilitate the joint sale of land.**
- 5) **Delegates authority to the Chief Executive in consultation with Legal Services Manager to agree Heads of Terms and Conditions of Sale for the disposal.**

1 Background

- 1.1 The Council has a land holding at Killisick Lane (the Land) of approximately 15 acres, shown edged red in Appendix 1.
- 1.2 The Land is adjacent to two parcels of land which are privately owned by different entities. All parcels of land under the Council's ownership are in a similar condition, have been left uncultivated, and are quite overgrown. They are used by local dog walkers and residents informally for recreational purposes. All parcels of land have been allocated for housing within the Local Planning Document (LPD). The Local Planning document was adopted in 2018 following extensive consultation and examination by the planning inspectorate.
- 1.3 The Council previously explored disposing of the Land in conjunction with the other two landowners under a collaboration agreement and terms were drafted. The Council then published a notice of the intention to dispose of the land in August 2022, however, after the consultation the Council decided not to proceed at that time.
- 1.4 The Council was recently made aware that one of the adjacent landowners had taken the decision to proceed with the disposal of their parcel of land and had begun the marketing process. The Council has therefore reviewed its position to seek to ensure that a comprehensive form of development is achievable, in accordance with the LPD and the Development brief for the three sites to the north east of Arnold Supplementary Planning Document (SPD). Securing a comprehensive form of development will also create opportunities to enhance the Hobbucks Local Nature Reserve adjoining the site.

Consultation

- 1.5 As per the approved report dated 24th July 2023, the Council advertised the

intention to dispose of the Land in accordance with s.123 (2A) of the Local Government Act 1972. The notice of intended disposal was advertised for two consecutive weeks in the Nottingham Evening Post ending 18th August 2023. The notice was also published on the 'Have Your Say' page on the Council's website to encourage consultation responses.

- 1.6 In response to the consultation on the disposal the Council received 198 written objections relating to the disposal of the site.
- 1.7 An online petition was also submitted to the Council calling for the Council to stop the sale of the land. The petition received 1911 signatures, 1006 of these were from postcodes NG3, NG4, NG5, NG6, NG14 and NG15 which all cover the Gedling Borough Council area. They do also cover other areas within Nottinghamshire but for the purposes of this consultation we shall categorise all 1006 as responses from Gedling residents.
- 1.8 The written objections have all been considered carefully as part of the consultation process. Appendix 3 shows the numbers of responses broken down into areas of concern and the narrative to support the petition. There are several reoccurring themes or concerns throughout the objections and therefore we have categorised these and responded below.

Loss of Land for Recreational Purposes

- 1.9 The main objection raised in relation to the potential disposal of the Land is that there would be a loss of recreational land for the local residents. The development of the housing allocation would not result in the loss of the existing Hobbucks Local Nature Reserve. Whilst parts of the housing allocation to the west including land under the ownership of the Borough Council is currently used informally for recreational purposes, it is not within the extents of the Hobbucks, with the exception of a small parcel of land to the southern corner which is required to create an access to the housing allocation. The loss of this small area of land is clearly detailed on the LPD policies map, which defines the extent of the adopted Killisick Lane housing allocation H8.
- 1.10 Other LPD policies would require the housing allocation to provide a minimum of 10% public open space. Emerging statutory requirements introduced through the Environment Act 2021 may require future planning application to provide a minimum of 10% Biodiversity Net Gain (BNG). These local and emerging national requirements will therefore provide further opportunities to enhance the Hobbucks Local Nature Reserve.

Impact upon Wildlife and Biodiversity

- 1.11 As detailed above, there is an emerging requirement for major housing proposals to provide 10% BNG through the planning process.

- 1.12 Should a planning application be forthcoming, a protected species survey will be required to identify the presence of any protected species on site. The presence of any protected species would need to be mitigated, should planning permission be granted.
- 1.13 A tree survey would also be required to assess the value of the trees on site. Where possible, the Council would expect trees and hedgerows to be retained as part of any proposals to develop the land.

Impact upon Local Infrastructure, including the Provision of School Places and the Availability of Healthcare Services

- 1.14 Another reoccurring objection was the impact on the current local infrastructure. Should a planning application be forthcoming, Gedling Borough Council would consult Nottinghamshire County Council and the NHS. Planning obligations would be sought where it is necessary to mitigate the impact of any proposals upon local infrastructure. Any specific requirement would be determined by the Planning Committee.

Previous Decision Not to Sell the Land & Consultation Process

- 1.15 Following the previous consultation in 2022, there was some objection to the disposal of the site and the decision was taken not to dispose of the site at that time. Since then, as detailed in para 1.4, circumstances have changed, which has resulted in the decision to revisit disposal of the site. The consultation has been undertaken in order to let the local residents have their say on the new proposals. Since the previous consultation, the owners of the adjacent private land are in the process of selling their site, and a planning application is expected imminently from a house builder. This significantly impacts the decisions regarding the Council's Land at Killisick Lane.
- 1.16 In order to secure more comprehensive form of development on the wider housing allocation, the Council needed to act quickly to consult on potential sale of the Land. Otherwise, there is a significant risk that individual landowners could progress discrete housing proposals, which could be to the detriment of the area. If it is possible to secure a more comprehensive form of development, the Hobbucks Nature Reserve will not only be preserved but could also be improved and extended, which is something that local residents who use the area will welcome. This would meet the needs of the borough for new homes and would also ensure the local nature reserve is enriched.
- 1.17 The Council ran a consultation and advertised the potential disposal of the site for two consecutive weeks in the local newspaper, as required by statute, giving residents the opportunity to respond. We have continued to receive responses since that date and they will be taken into consideration when any decisions in relation to the land are made. Further consultation would be required should an application for planning permission be submitted.

Removal of the Land from the Green Belt

- 1.18 The site is allocated for housing in the Local Planning Document (LPD) and comprises part of site H8 (Killisick Lane). The general principle of developing housing on this site is therefore established. The LPD comprises part 2 of the local plan for Gedling Borough. The LPD which was subject to extensive public consultation was examined by an independent Planning Inspector who endorsed the plan and the Killisick Lane housing allocation. The LPD was adopted by Gedling Borough Council on 18 July 2018 and at this point the Killisick Lane site was removed from the Green Belt. The Council has a statutory duty to prepare a local plan and allocate land for housing development to meet our local housing requirements, which are determined by the Government. Housing development will change the character of the area, but this has been balanced against the need to provide housing in sustainable locations and meet need.

Alternative Housing Developments

- 1.19 Concerns have been expressed that development should be concentrated on existing sites within the built-up area. The availability of such sites were fully considered prior to the release of any Green Belt land. There are two sites in the main built-up area of Arnold and Daybrook which have been allocated in the LPD to meet part of the Council's housing requirements. These include the former Daybrook Laundry site and the land at Rolleston Drive, formerly comprising offices and a depot in the ownership/control of Nottinghamshire County Council. While the site at Daybrook has not come forward, planning permission has been granted for 131 homes on Rolleston Drive and significant progress has been made to deliver homes. The site owner is currently seeking to procure a new contractor to complete the development as their modular homes contractor has gone into administration.

Flooding and Drainage

- 1.20 A number of the objections to the proposal is that there would be issues with flooding and drainage in the area. Should a planning application be forthcoming, full drainage details would be required and advice would be sought from the Lead Local Flood Authority and Environment Agency. Planning Committee would need to be satisfied that the development would not have unacceptable flooding/drainage impacts.

Loss of Hedgerows and Trees

- 1.21 Another objection raised multiple times was the potential loss of existing hedgerows and trees. Should a planning application be forthcoming, Gedling Borough Council would expect existing boundary hedgerows and green

corridors to be retained. As detailed above, it will be necessary for any developer to comply with the Council's existing policies and emerging requirements to provide a minimum of 10% BNG.

Layout, Residential Amenity and Crime

- 1.22 Should a planning application be forthcoming, it would be necessary for a developer to provide full details of the proposed development including the layout of the proposed houses, public open spaces, roads and plans for each dwelling, prior to the commencement of development. There would be full public consultation with key stakeholders including local residents, and the proposals would be assessed in light of national and local planning policies. The specific requirements would be determined by the Planning Committee

Noise, Construction Traffic and Disturbance

- 1.23 As with the above, should a planning application be forthcoming, Gedling Borough Council would secure a construction management plan to ensure that residential amenity is safeguarded. Gedling Borough Council also has powers under other legislation to take action in relation to noise where this becomes a statutory nuisance.

Highway Implications

- 1.24 Should a planning application be forthcoming, Gedling Borough Council would consult Nottinghamshire County Council in their role as Highways Authority and ensure that compliance with national and local planning policies is secured having regard to the submitted plans/details.

Affordable Housing

- 1.25 Should a planning application be forthcoming, Gedling Borough Council would require the delivery of 43 affordable homes across the H8 housing allocation in accordance with the Local Planning Document, the Affordable Housing Supplementary Planning Document (SPD) and the Interim Planning Policy Statement for First Homes. The specific requirements would be determined by Planning Committee.

Climate Change and Air Quality

- 1.26 Should a planning application be forthcoming, Gedling Borough Council would assess the application considering national and local planning policies, including the Low Carbon planning guidance for Gedling Borough. This includes practical guidance on forms of sustainable design and construction and includes a checklist guide for developers to assist in the submission of major planning applications. Advice would also be sought from the Council's

Scientific Officer.

Increases in Litter & Fly Tipping

- 1.27 There is no evidence to suggest that the impacts of litter and fly tipping would increase as a result of housing being delivered on the housing allocation. Gedling Borough Council does however have powers to deal with these matters as part of its public protection function.

Property Values

- 1.28 Gedling Borough Council is unable to give weight to the impact upon property values when considering any planning application for residential development.

Conclusion

- 1.29 Taking all the above into careful consideration the Council are satisfied that the majority of the concerns raised in the objections can be mitigated through the planning process, if a planning application is submitted by the future purchaser of the Land, which would be required as part of the conditions of sale to ensure the land is developed comprehensively.
- 1.30 When disposing of land, the Council's Rules for Dealing with Land and Buildings must be taken into account. In accordance with those rules, the Council has advertised the disposal of this site prior to any decision being taken. In terms of the method of disposal, it is proposed that this site is disposed of through the open market as the level of interest in the site is unknown, but it is considered the site is easily marketable.
- 1.31 The sale will need to be marketed through the use of an agent to generate interest with the aim of achieving an offer which represents the best consideration that can be obtained for the site.
- 1.32 In addition to the method of disposal, the rules require that prior to any disposal, a valuation of the site is required to ensure that the Council is achieving best value in the sale price. An indicative valuation of the site has been undertaken and details are provided in exempt Appendix 2. If approval to dispose of the land is granted, the Council would seek to enter into a collaboration agreement with the one other landowner who has not yet marketed the land, namely Arnold Parochial Charities, in order to sell the land as one parcel. This would ensure best value for the land and would also help to ensure a comprehensive scheme is delivered.
- 1.33 If approval for disposal is given, an agent would be appointed through a contract, to market the land on behalf of the Council and the other landowner,

and would lead on the entire sale and marketing process.

2 Proposal

- 2.1 It is proposed that Cabinet approves the disposal of the Land at Killisick Lane, shown edged in red on the attached plan at Appendix 1, through private treaty on the open market. This will require marketing of the site through the use of an agent. Private bids will then be received by the agent on behalf of the Council with the Council ultimately disposing of the site to the bidder who offers the best consideration.
- 2.2 It is proposed that delegated authority is given to the Chief Executive in consultation with the Leader of the Council to approve the successful bid in relation to the Land once the marketing process and negotiation of sale is complete. In accordance with the Council's rules for dealing with land, this should be the highest bid. Any proposal to consider a lower bid must be considered by the Executive.
- 2.3 It is proposed that the Council sell their land together with the Arnold Parochial Charities' land parcel (Appendix 5) as a joint sale, with the terms of that sale, the marketing process and financial contributions to be agreed through a collaboration agreement. By selling the land together to one developer, this will ensure comprehensive development of the site and ensure best value for the Council land. At this stage, agreement in principle is sought to ensure that appropriate terms and conditions can be agreed between the parties.
- 2.4 It is proposed that the terms of the collaboration agreement be agreed by the Chief Executive in consultation with the Leader of the Council and the Legal Services Manager. The terms of the agreement will reflect sale in accordance with the Council's Rules for dealing with Land. Any cost born by the Council in respect of marketing on behalf of the Arnold Parochial Societies will be recovered from the sale price.
- 2.5 Finally, it is proposed that the Chief Executive in consultation with the Legal Services Manager agrees any heads of terms or conditions of sale in relation to the site. It is essential that the land is sold for the purposes of development and as such there will be a condition of sale to ensure that the successful bidder obtains the necessary planning consent.

3 Alternative Options

- 3.1 The Council has the option to do nothing as it is under no statutory requirement to dispose of the Land, however, the Land forms part of the Council's housing land supply and has already been allocated for housing development in the

LPD, to meet part of the Borough Council's housing requirements. Disposal will also ensure that a comprehensive form of development can be achieved with improvements secured for the Hobbucks Nature Reserve. The sale would also result in a capital receipt to support vital Council services.

- 3.2 The Council could sell its land independently of the APC. At this stage in principal agreement is being sought to sell jointly, however this will be subject to satisfactory terms and conditions being agreed through a collaboration agreement. If terms cannot be agreed, the issue will be brought back to the Executive.

4 Financial Implications

- 4.1 A budget has already been established in 2023/24 of £45,000 to support costs associated with the disposal including marketing and any pre-sale surveys.
- 4.2 The Council will receive a capital receipt for the sale of the Land. The statutory arrangements for capital receipts in England & Wales permit the costs of disposal to be financed from the capital receipt generated from sale proceeds, at this point the earmarked reserved used to fund the revenue expenditure in the first instance will be replenished.

5 Legal Implications

- 5.1 Any disposal of Council land must be undertaken in accordance with the correct legislative disposal power and in accordance with the Council's Rules for dealing with Land and Buildings. The proposed disposal method is through private treaty on the open market which is an accepted form under the rules. This method is preferred as the level of interest is unknown but the land is considered to be marketable.
- 5.2 This land is being disposed of under s.123 of the Local Government Act 1972 and as such the land must be disposed of for the best consideration following a valuation of the site by an independent qualified valuer.
- 5.3 As the land has been used informally as recreation land, the disposal of the site has been advertised in accordance with s.123 (2A) of the Local Government Act 1972 prior to any decision to dispose. The title documentation for the sites also requires disposal to be in accordance with the appropriate Act or authority. The requirements for disposal under the Local Government Act 1972 have been followed.
- 5.4 Any disposal of the site jointly with another landowner would require an appropriate agreement to be entered into to ensure costs are effectively managed and any marketing is acceptable to both parties. Parties will

ultimately also need to agree a price for sale which achieves best value.

- 5.5 Any external advice including a marketing agent, or surveys, will need to be procured in accordance with the Council's Contract and Procurement Rules.
- 5.6 As part of the disposal process, consultation has been undertaken with residents. Members must have regard to the consultation responses as part of any decision making process.
- 5.7 The Council's Rules for dealing with Land and Buildings also require any sale to be conditioned to ensure that appropriate planning consent for development is required.

6 Equalities Implications

- 6.1 An equalities impact assessment can be found in Appendix 4.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 There have been a number of objections to this disposal raised in relation to Environmental Impacts, responses to those points are highlighted in the body of the report. It should be noted that any planning application would be accompanied by appropriate ecological surveys as detailed in the report.

8 Appendices

- 8.1 Appendix 1 – Site Plan
- 8.2 Appendix 2 – Exempt Appendix Valuation
- 8.3 Appendix 3 – Summary of consultation responses
- 8.4 Appendix 4 – Equalities impact assessment
- 8.5 Appendix 5 – APC Land

9 Background Papers

- 9.1 None

10 Reasons for Recommendations

- 10.1 To allow the land to be sold jointly with the neighbouring site to enable the land to come forward for housing as per the Local Planning Document
- 10.2 To allow the site to be developed comprehensively rather than into smaller individual developments which are more likely to have a detrimental impact on the area.
- 10.3 To ensure the appropriate delegations are in place to progress the disposal with appropriate agreements and legal advice.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer