

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

PART 1 – PUBLIC DOCUMENT

Any interest to declare or conflict and any dispensation granted: None

SERVICE DIRECTORATE: Commercial

1. DECISION TAKEN

To approve sale of North Hertfordshire District Council's (NHDC's) freehold interest in land south of Clare Crescent, Baldock to Foxberry Developments Limited, based on updated terms negotiated with Foxberry since Cabinet's resolution in July 2021. The updated terms are set out in the Part 2 report.

2. DECISION TAKERS

Councillor Sam Collins, Executive Member for Enterprise, the Arts and Transport, in consultation with Steven Crowley, Service Director: Commercial.

3. DATE DECISION TAKEN:

31st January 2022.

4. REASON FOR DECISION

- 4.1 To release surplus property to provide a financial receipt to help fund the capital programme.
- 4.2 To enable the development of new homes, including affordable homes for local applicants in North Hertfordshire.
- 4.3 To promote compliance with fundamental elements of NHDC's Climate Change Strategy in regard to land disposals.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 There are currently no other realistic sale or development options open to NHDC. The proposed sale of the whole provides greatest certainty of a capital receipt and supports a new housing development on the combined sites, including flats to let at affordable rents.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

- 6.1 A report was presented to Cabinet on 20th July 2021 seeking a declaration that the land is surplus to NHDC's requirements, and seeking authority to dispose of the land based on transaction terms presented in the Part 2 report to Cabinet. Cabinet resolved as follows (Item 31):

- (1) *That Cabinet declares the land surplus to NHDC's requirements.*
- (2) *That Cabinet authorises disposal of the land on the transaction terms presented, subject to 2.3 and 2.4.*
- (3) *That officers negotiate with Foxberry Developments on the Passivhaus BREEAM, or similar standards requirements for the development.*
- (4) *That the final decision on disposal be delegated to the Executive Member for Enterprise, the Arts and Transport in consultation with the Service Director: Commercial.*

6.2 Councillor Sam Collins, Steven Crowley and Ian Couper, Service Director: Resources, have been updated during the negotiations to dispose of this land.

6.3 The relevant Ward Members for Baldock Town Ward have been consulted, namely Councillor Jim McNally, Councillor Michael Muir and Councillor Michael Weeks.

6.4 NHDC's Asset Management Group has been updated on negotiations.

6.5 NHDC's intention to dispose of this land was advertised in accordance with section 123 of the Local Government Act 1972 in the Comet newspaper on 10th & 17th June 2021. Comments and objections to the proposed disposal were invited by 12 noon on 2nd July 2021. No such feedback was received.

7. FORWARD PLAN

7.1 This decision is a key Executive decision that was first notified to the public in the Forward Plan on the 22nd June 2021.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

8.1 Terms to sell NHDC's landlocked site south of Clare Crescent, Baldock to Foxberry Developments Limited were agreed in late 2020, subject to contract, for a residential scheme of 16 private houses and 8 affordable flats (to let to local applicants), to be built on both NHDC's land and adjoining land already owned by Foxberry. NHDC's land is indicated shaded pink edged blue on the site plan forming Appendix A. Foxberry's land is indicated on the same plan shaded yellow.

8.2 NHDC's Cabinet approved sale of the land on 20th July 2021, subject to delegated approval to be obtained for Passivhaus (or similar) amendments to the development's specification to be negotiated, in accordance with NHDC's Climate Change Strategy.

8.3 Foxberry Developments was granted full planning permission for their residential scheme on 4th November 2021 (Planning reference: 20/02507/FP) subject to completion of a Section 106 agreement.

8.4 In addition to receipt of a capital sum for NHDC, in excess of estimated open market value for NHDC's landlocked land, the proposed development will bring a benefit of 8 new affordable flats to let, for local applicants.

8.5 Negotiations with Foxberry for Passivhaus amendments to the specification, as a proposed legal obligation in the land sale contract, have taken place as follows:

- The specification amendments negotiated relate to the 8 affordable flats to let. Changes include:
 - (a) Electric vehicle (EV) charging points to be fitted for 25% (3 spaces) of the 12 parking spaces; and solar panels added to the south-facing roof area to support communal areas of the building.
 - (b) Infrastructure for all EV charging points (12) to be installed, at a cost (by land sale price reduction) set out in the Part 2 report.
 - (c) Installation of triple glazing with a U-value of 0.8 W/m²K , equivalent to Passivhaus window standards at 0.8 W/m²K; at a cost set out in the Part 2 report.
 - (d) A “fabric first” approach to insulation and minimising heat loss, for walls and floors, with U-values at 0.21 W/m²K for walls and 0.12 W/m²K for floors; at a cost set out in the Part 2 report. The roof U values negotiated are within a Passivhaus range at 0.1 – 0.12 W/m²K.
- Agreement has been reached with Foxberry to implement elements (a), (c) and parts of (d) above, at a total cost (sale price reduction) set out in the Part 2 report.
- NHDC has been advised in the negotiations by an independent sustainability architect and an independent quantity surveyor.

8.6 As part of the land sale negotiations, the purchaser has requested that NHDC shares (equally) increased Section 106 costs (set out in Part 2 report) announced in September 2021 due to ecology (biodiversity) requirements. Given the status of NHDC’s bargaining position with this land, and the market for the site, it is recommended NHDC accepts incurring half these ecology costs, at a cost set out in the Part 2 report.

9. LEGAL IMPLICATIONS

- 9.1 On 20th July 2021, Cabinet resolved that the final decision on disposal be delegated to the Executive Member for Enterprise, the Arts and Transport in consultation with the Service Director: Commercial.
- 9.2 Section 123 of the Local Government Act 1972 allows a Council to dispose of land in any manner it wishes provided that the consideration is the best that can reasonably be obtained, unless the Secretary of State consents to the disposal for less than best value.
- 9.3 NHDC has advertised the proposed disposal of the land in accordance with section 123 of the Local Government Act 1972.
- 9.4 The Contract Procurement Rules and specifically Appendix I apply to the sales of land or property.

10. FINANCIAL IMPLICATIONS

- 10.1. The sale will not generate revenue for NHDC.
- 10.2 The proposed total reductions from the original proposed sale price would result in a net capital receipt for NHDC as set out in the Part 2 report. This figure is considered to remain in excess of open market value of the landlocked land.

- 10.3 Disposal of the land will eliminate spending further financial resources to address anti-social behaviour on the land, such as removal of fly-tipping.
- 10.4 The future of New Homes Bonus is very uncertain, but an increase in residential property numbers may result in a Bonus being received following build completion.

11. RISK IMPLICATIONS

- 11.1 The sale of the District Council's land will reduce the risks to NHDC arising from the Occupiers Liability Act 1957 and 1984.
- 11.2 Risks relating to the sale of this land are governed by the terms of the contract and are subject to the purchaser progressing to an exchange of contracts.
- 11.3 Foxberry has now agreed the Section 106 agreement.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies 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.
- 12.2 Any land that is offering potential for new housing may benefit the wider community. There may be those who exhibit a protected characteristic within this wider community. The addition of suitable housing may support the more vulnerable in the community.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and "go local" policy do not apply to this decision. As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1 Environmental Impact Assessment (Sustainability Appraisal) has been undertaken. This has been considered and is detailed in the following Local Plan submissions and the allocation of this site (BA7):
<https://www.north-herts.gov.uk/planning/planning-policy/local-plan/local-plan-examination/examination-library>.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no human resource implications from this report.

16. BACKGROUND PAPERS

- 16.1 None.

17. APPENDICES

- 17.1 Appendix A – Site Plan.

NOTIFICATION DATE

Signature of Executive Member Decision Taker



Date 01/02/2022

Signature of Service Director: Commercial.....

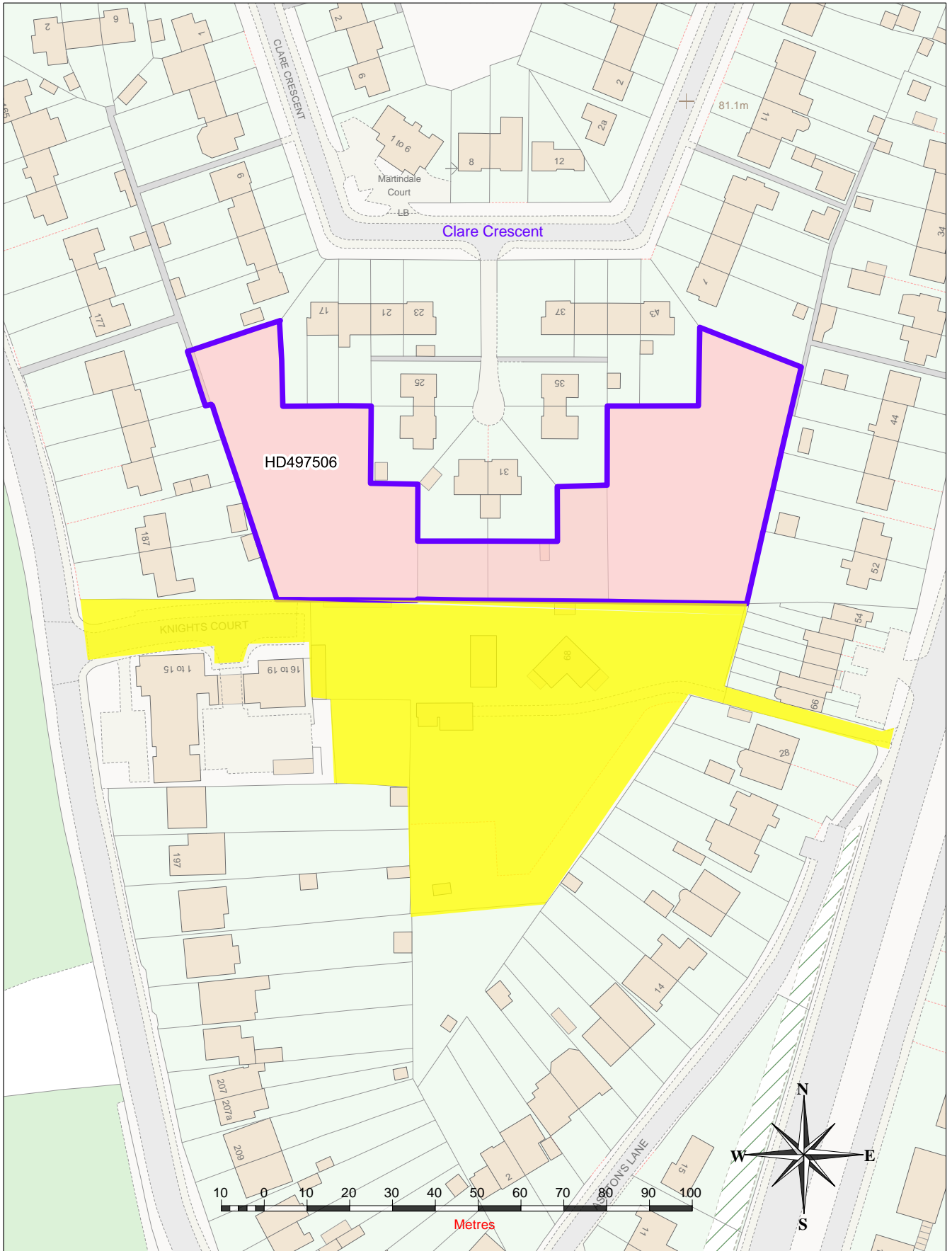


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Date.....31/01/2022.....

Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.

Call-in does not apply to NON-EXECUTIVE DECISIONS



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Date: 27:01:22

