



WEST OXFORDSHIRE
DISTRICT COUNCIL

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Name and date of Committee	CABINET - 25 MAY 2022
Report Number	Agenda Item 9
Subject	DISPOSAL AND DEVELOPMENT OF LAND AT WALTERBUSH ROAD, CHIPPING NORTON FOR CUSTOM BUILD ZERO CARBON HOMES
Wards affected	Chipping Norton
Accountable member	TBC
Accountable officer	Claire Locke, Group Manager Email: claire.locke@publicagroup.co.uk
Summary/Purpose	To agree to the funding option, to seek approval to enter into a legal agreement with the enabling developer GreenAxis to develop eight custom build net-zero carbon homes, and to dispose of the land for that purpose.
Annexes	Annex A - site plan showing land ownership Annex B - Indicative development designs Annex C - Costed options for development
Recommendation/s	That Cabinet agree: (a) to support the development of eight net zero carbon affordable homes at Walterbush road as set out in 3.1 and Annex C. (b) to allocate S.106 funding of £40,000 for the planning fee, as part of the gap funding to provide affordable homes and to enter into a legal agreement with GreenAxis, the developer, to enable them to apply for planning permission to develop eight homes on the site, (c) to allocate further S.106 funding of £221,000 as gap funding to cover the cost of providing the homes as affordable with a 20% discount against market value. (d) to dispose of the site, once planning permission has been obtained, so that GreenAxis can enter into legal and financial agreements with the individual residents who will be buying the homes.

	<p>(e) to enter into agreements/impose covenants with GreenAxis and future occupiers requiring that the 20% discount remains in perpetuity based on the high level provision set out in this report.</p> <p>(f) to delegate authority to agree the final terms of the above agreements to the Chief Finance Officer and Interim Head of Legal Services.</p>
Corporate priorities	<p>Meeting the Housing needs of our changing population.</p> <p>Climate action</p>
Key Decision	YES
Exempt	NO
Consultees/ Consultation	<p>Ward Members</p> <p>Chipping Norton Town Council</p>

1. BACKGROUND

1.1 The Council owns a grassed area of land on the southern edge of Chipping Norton in a predominantly residential area. The land, title reference ON286341, was transferred to the Council in November 1968 by the Trustees of the Chipping Norton Football Supporters Club for £150. The transfer comes with a covenant to maintain a six foot high chain link fence, on concrete posts, to the south eastern and north eastern boundaries. The covenant does not restrict access to the land. It was previously a playground but the play equipment was removed sometime ago, so the site is now vacant.

1.2 The Council has been exploring opportunities to utilise the site to support self-build or custom build housing. Affordable plots for self-build homes are in short supply in the district and the Council maintains a self-build register which currently has 80 individuals/families recorded who are seeking a self-build plot.

1.3 In order to bring forward homes that meet the Council's ambitions to deliver net-zero carbon housing, a custom build scheme has been developed, working with an enabling developer. The developer will contact those on the self-build register and then work with interested buyers to build the homes. Custom build means that the developer will obtain planning consent for all eight homes but then future owners will help design the internal design and fittings.

2. MAIN POINTS

- 2.1. The site is currently constrained by overhead cables. The Council successfully bid for Brownfield Land Release and Self and Custom Build funding, via One Public Estate, from the Ministry of Housing, Communities, and Local Government. The £78,000 secured is to fund the diversion of overhead power lines, facilitating safe site access.
- 2.2. The land has a market value of £250,000. Its value is constrained by its historic use and location. It is unlikely to be acceptable in Planning terms to develop this site for market homes due to its previous community use. Policy E5 of the adopted Local Plan seeks “retention of local services and facilities to meet local needs and to promote social wellbeing, interests, interaction and healthy inclusive communities”. It would therefore be difficult to justify the loss of community space, albeit currently disused, for a commercial return. However, a socially led housing development would fit with the Local Plan and NPPF policy by increasing housing supply in a sustainable location. The site is ideally located for schools, shops, GP and access to open spaces.
- 2.3. The delivery of custom built homes will meet a local housing need, making good quality affordable, net-zero carbon homes more accessible to people with a local connection, who wish to be involved in designing their own homes. The homes must provide the buyer's main residence so will not be available to buy for second homes or to-let.
- 2.4. The Council will set out in a legal agreement with the developer its requirements for site development. This will include the provision of eight net-zero carbon homes aligning with the Council's Sustainability Standards Checklist energy KPIs, the number of parking spaces

and the community provision. Proposals for community facilities need to be developed in more detail but initially include an E-Vehicle Car Club with charge points for community use, dedicated Allotments and a Community Compost Club.

- 2.5. GreenAxis will need to submit a planning application with the fee being £40,000. If GreenAxis need to borrow this funding, at risk, the borrowing costs are significant. The Council is therefore asked to advance this sum. The Planning Fee forms part of the gap funding explained below and will therefore be funded from S.106. Land ownership will not transfer until after Planning Permission has been obtained, to protect the Council's interest in the site. A legal agreement is therefore needed with GreenAxis to give them the required interest in the land to support the Planning Application.
- 2.6. The legal agreement has already been prepared and will be signed once Cabinet agrees to the recommendations in this report. A planning application should therefore be submitted in early June. Subject to approval being granted potential buyers will be contacted in the Summer.
- 2.7. If Planning Permission is granted the Council will then transfer the site ownership to GreenAxis, who will then develop the site and sell the units to future homeowners. Cabinet is asked to agree to the disposal of the site but specifically for the provision of eight net zero carbon homes. This development use will be restricted by legal agreement at point of transfer.
- 2.8. The Council will utilise S.106 funding to provide these homes as affordable with a 20% discount against market value. The Council therefore intends to impose restrictions on the onward sale of units so that the discount remains in perpetuity. This means that when the initial home owners sell the properties on, they will need to obtain market valuations and then discount the sale by 20%. Prospective buyers would need to meet the eligibility criteria for an affordable home i.e. household income less than £80,000. Provisions will ensure owners do not profit from the original 20% discount and the affordable units are protected. However requirements must not restrict sale or be too complicated. If owners cannot find purchasers who meet the criteria, there will be a default position of repaying WODC 20% of the market value at point of sale. Not all mortgage lenders will lend on discount market homes so this could affect purchaser's choice of mortgage product. However, there are examples of this approach working elsewhere. If the 'in perpetuity' clause becomes restrictive it will be revisited.
- 2.9. It is important that the site has its own positive identity. This will help both with marketing but also in communications to promote a built example of the Net Zero Carbon Toolkit. The name 'Weavers Fold' has been suggested. Historically, Chipping Norton was known for the manufacture of high quality Tweed, using the local sheep's wool. The words 'Weavers' and 'Fold' are associated with this industry and bring together the end to end process of producing Tweed. It also reflects the use of local and natural products.

3. FINANCIAL IMPLICATIONS

- 3.1. The Council has considered a number of options for housing provision on this site. A financial breakdown for each option is set out in Annex C.

Summary of options

A - Market Homes

No discount, so does not address affordability. Unlikely to be granted planning permission but if approved would generate the greatest capital receipt of £525,000. May need to repay £78,000 OPE funding (see risks).

B - 10% discount against Market Value

Some discount but not truly affordable so does not attract S.106 funding. Discount likely to be viewed favourably for planning but still doesn't provide the social value provided by affordable homes.

C - Affordable homes with 20% discount against Market Value

Truly affordable homes, which are likely to gain planning consent and achieve local and national recognition. Achieves against Council's affordable housing priority. Limits capital receipt to the land value of £250,000. Gap funding totalling £261,000 provided with S.106 funding.

D- Mix of Affordable and Market Homes

(i) 6 affordable and 2 market homes

(ii) 4 affordable and 4 market homes

Options (i) and (ii) provide some affordable units but the mix with market homes is unlikely to be supported by planning. If approved it would generate (i)£68,750 - (ii) £137,500 more in capital receipt from the market homes than an 'all affordable' scheme. Risk that £78,000 OPE funding would need to be repaid.

- 3.2. The S.106 funding proposed is only for 20% discount affordable homes, so would not be utilised on the market homes in options A and D (it can be used on affordable homes in Option D) or the 10% discount homes in option B. The S.106 will fund the gap in affordability which is not covered by the gross development value. This means that whilst a 10 or 20% discount is applied some of that can be funded by the net value generated by the development which would otherwise come to WODC as a capital receipt. If the Council sought to maximise its capital receipt and funded the full discount from S.106 the Council would be generating a significant profit from an affordable housing development and would not be able to utilise the S.106 and would have to repay the OPE funding of £78,000.
- 3.3. The enabling developer will fund the construction of the units and then pay the Council a capital receipt of £250,000 for the land value on the final sale of the units.
- 3.4. The enabling works to move cabling was initially estimated at £78,000. However, the costs have now increased to £93,000. The additional £15,000 is being split between the developer and WODC, with the £7,500 payable by the Council being covered by the gap funding.
- 3.5. The delivery of affordable homes in areas of high land and property value is often subsidised and housing associations seek funding to underpin delivery. Subsidy levels vary from £25,000 per home up to around £42,000 (recent facilitated shared ownership in Oxfordshire through Growth Deal and local 106 combined funds). The gap funding for Walterbush Road would be £32,625 per home, if the 20% discount is applied. The Council has unallocated S.106 funding which can be allocated to meet the gap funding for this scheme.

- 3.6. The details of the funding, cost liability and capital receipt will be set out in the legal agreement. The profit margin GreenAxis is applying is 12%. It is normal for developers to apply a margin of 9 - 15%. This profit is built into the build cost figures in Annex C.

LEGAL IMPLICATIONS

- 3.7. The Council considered procurement options for appointing an enabling developer. Expressions of interest were sought and four developers submitted their interest. On review of these companies and their experience, it was concluded that GreenAxis was most suitable. Specialist legal advice concluded that an open procurement was not required due to the value of the works but instead the Council would just need to satisfy its own procurement rules. GreenAxis was therefore appointed via a procurement waiver, due to the specialist nature of the works required and benefits that should be delivered across the wider site.
- 3.8. The Council sought advice from its in-house legal team to consider the use of S.106 funding to fund an 'all affordable' development on this site.
- 3.9. It is proposed that the ownership of the land transfers to GreenAxis once Planning Permission has been obtained. If the Council retains ownership until all properties have been built the Council would have to pay the developer for construction, process individual legal agreements and deposits from each of the eight purchasers and then subsequently complete the sales, taking the balance of the funds on completion. If ownership for the whole plot transfers once consent has been obtained then the developer can deal directly with the new home owners and pay the Council a capital receipt based on an agreed formulae.

4. RISK ASSESSMENT

- 4.1. With appropriate legal agreements in place there is limited risk to the Council.
- 4.2. Legal and Specialist Housing Officer advice is that there are no specific provisions which can be identified which prevent the Council utilising S.106 funding for delivery of affordable homes on land which it owns. However, it could still be challenged, if it was perceived that the Council was benefitting from the S.106 and it will be mitigated by clear accounting which shows that the Council does not benefit from the allocation of S.106, it will receive no net gain, as the S.106 is only funding the discount on the homes. The Council will only receive the capital receipt for land value it would have received if the land was sold on the open market.
- 4.3. The £78,000 OPE funding received was to unlock the site and fund enabling works to reroute cables which were affecting the sites viability. The bid also referred to the provision of affordable homes. Options that do not deliver affordable homes and/or deliver a capital receipt above land value are likely to trigger a reclaim of that enabling funding, as it would no longer be necessary to make the development viable.
- 4.4. There is a risk that house prices reduce or that build costs increase which could alter the net capital receipt the Council receives. However, these changes would likely be reflected in a reduction to the market value of the land anyway.

- 4.5. It is possible that eight custom build buyers cannot be found, however this is considered unlikely due to the considerable number of people on the self build register and the market pressure for new homes.
- 4.6. The Council is engaging with Chipping Norton Town Council so that they can help shape proposals for the site. This should help gain local support for the development which will benefit local people.
- 4.7. There is a reputational risk for the Council if the development is not supported locally. However, it is hoped that good design, net-zero carbon development and the wider community provision that will be delivered will mean there is general support.
- 4.8. The development does not yet have planning permission, so there is a risk approval is not granted or that changes are required to the scheme that mean it is no longer viable. Ownership of the site will only transfer to the developer if planning consent is granted.

5. EQUALITIES IMPACT (IF REQUIRED)

- 5.1. Not relevant at this stage - equalities impact of any proposed community provision will be considered at later stages.

6. ECOLOGICAL AND CLIMATE EMERGENCY IMPLICATIONS (IF REQUIRED)

- 6.1. This scheme will provide for net-zero carbon development built in alignment with Council's Sustainability Standards Checklist energy KPIs and Net Zero Carbon Toolkit. This provides an opportunity to showcase a built example of the Toolkit which has already won national acclaim, promoting and encouraging developers to respond proportionately to the climate emergency, designing well beyond a minimum Building Regulations standard.
- 6.2. A Community EV hub is planned which would support and encourage local people to switch to electric or hybrid vehicles.
- 6.3. Opportunities for ecological enhancement will be considered in the Community allotment and composting development.

7. ALTERNATIVE OPTIONS

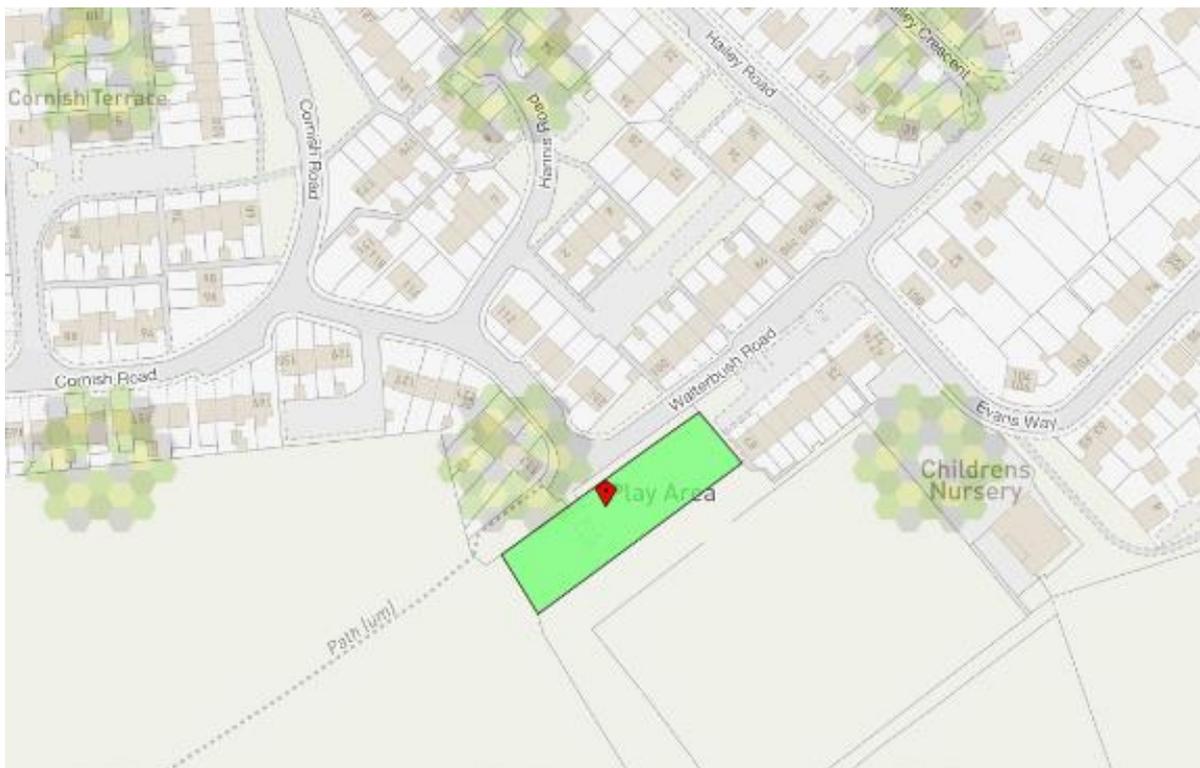
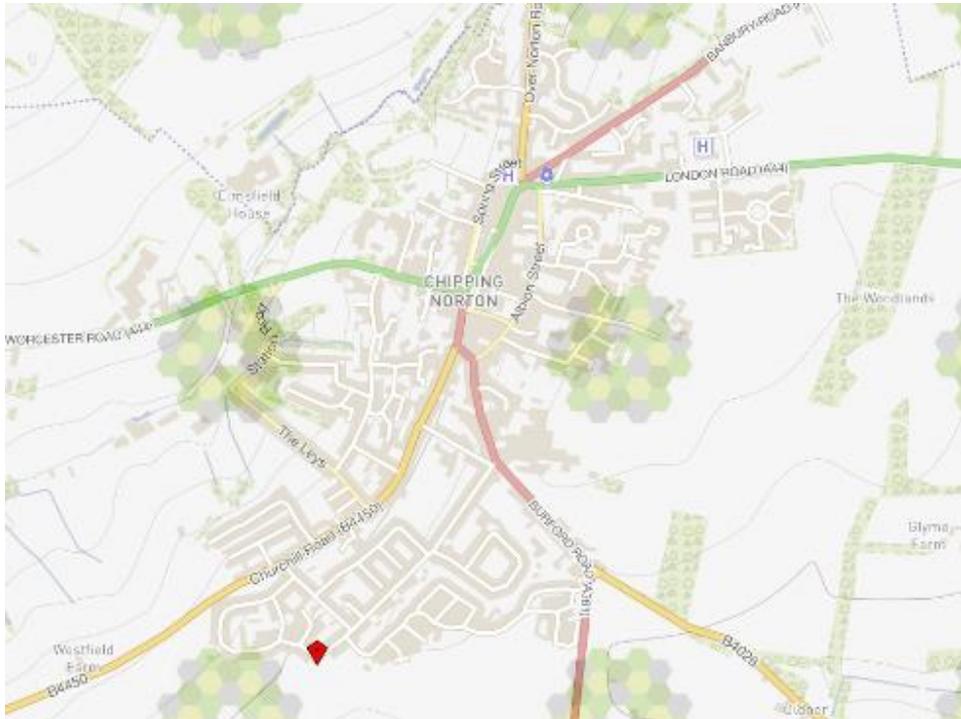
- 7.1. The Council could select options A, B or D as set out in 3.1 above and Annex C. However, the planning risk suggests options A and D would not be successful and option B does not deliver truly affordable homes and would provide limited additional financial benefit to the Council.
- 7.2. The Council could choose to retain the site and not develop homes, handing back the funding it has acquired. Alternatively the Council could seek other routes for housing development but these will either present greater financial risk for the Council or result in fewer benefits from the development or a lower level of capital receipts.

8. BACKGROUND PAPERS

- 8.1. None

Annex A - site plan showing land ownership

Title reference: ON286341 (Land on the South East side of Walterbush Road, Chipping Norton)



Annex B - Indicative development designs



Option **10**
Scale 1:250 approx.

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Annex C - Costed options for development

Scheme Performance	Option A No Discount	Option B 10% Discount	Option C 20% Discount	Option D Market & 20% Discount Mix	
Housing Development	8x Carbon Zero Custom Build (CZCB) Homes	8x discounted CZCB Homes	8x Affordable CZCB Homes	(i) 2x Market Sale & 6x Affordable - All CZCB Homes	(ii) 4x Market Sale & 4x Affordable - All CZCB Homes
Open Market Value	£335,000	£335,000	£335,000	£335,000	£335,000
Sale Price (each home)	£335,000	£301,500	£268,000	2x £335,000 & 6x £268,000	4x £335,000 & 4x £268,000
Gross Development Value (GDV)	£2,680,000	£2,412,000	£2,144,000	£2,278,000	£2,412,000
Less Land Value	-£250,000	-£250,000	-£250,000	-£250,000	-£250,000
Build Cost	-£2,100,000	-£2,100,000	-£2,100,000	-£2,100,000	-£2,100,000
Abnormals	-£7,500	-£7,500	-£7,500	-£7,500	-£7,500
Total Developer Cost	-£2,357,500	-£2,357,500	-£2,357,500	-£2,357,500	-£2,357,500
GDV Margin	£322,500	£54,500	-£213,500	-£79,500	£54,500

Capital Receipt for WODC	Option A No Discount	Option B 10% Discount	Option C 20% Discount	Option D Market & 20% Discount Mix	
Land Receipt	£250,000	£250,000	£250,000	£250,000	£250,000
GDV Margin	£322,500	£54,500	-£213,500	-£79,500	£54,500
Less Abnormals	-£7,500	-£7,500	-£7,500	-£7,500	-£7,500
Planning Fee	-£40,000	-£40,000	-£40,000	-£40,000	-£40,000
S.106 Subsidy (GAP funding)	£0	£0	£261,000	£195,750	£130,500
Capital Receipt	£525,000	£257,000	£250,000	£318,750	£387,500
Additional capital receipt on top of the land value	£275,000	£7,000	£0	£68,750	£137,500