

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 16th October 2017
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PORTFOLIO: Urban Renewal - Cllr Ajaib
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PART I **KEY DECISION**

SMALL SITES STRATEGY UPDATE - WEXHAM PHASE 3 AND LAND ADJACENT MERCIAN WAY

1 Purpose of Report

- 1.1 On the 17th July 2017 Cabinet delegated authority to the Assistant Director, Finance & Audit, as the Council's s.151 Officer, to effect the disposals of the Mercian Way and Norway Drive sites to Slough Urban Renewal ("SUR") for a transfer sum that represents no less than the best value land valuation and subject to there being no objections received by the Council in response to the publication of the statutory notices of the Council's intention to dispose of these sites
- 1.2 Formal objections were received on 20th July 2017, post the 17th July Cabinet meeting, in regards to the disposal of land at Norway Drive Recreation Fields and the purpose of this report is to enable Cabinet to consider the objections to the proposed disposal having regard to the subsequent investigation into the objections undertaken by Moot Hill Partners, dispute resolution consultants, on behalf of the Council.
- 1.3 No objections were received within the consultation period to the disposal of open space at Mercian Way but this report also seeks to reduce the property to be disposed of at Mercian Way on commercial viability grounds.

2 Recommendation(s)/Proposed Action

The Cabinet is requested to resolve:

- (a) That, having considered the objections to the proposed disposal (Appendix 1) and the summary report of the subsequent independent investigations (Appendix 2), Council officers should proceed on the basis that the General Fund site at Norway Drive will be disposed to and developed by SUR for a commercial led mixed tenure housing scheme, subject to Cabinet approval of a transfer sum that represents no less than best value.

(b) That The Lodge building at Mercian Way be removed from the demise of the Mercian Way disposal land as it's not a commercially viable disposal and involves the enforced displacement of a local resident.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The creation of expediently delivered high quality new housing, will maximise the value of the Council's asset base, increase council tax receipts and provide an income stream that can be used to contribute towards the provision of front line services.

3a. **Slough Joint Wellbeing Strategy Priorities**

The potential new housing being constructed will create local employment opportunities whilst increasing apprenticeship opportunities, enabling local people to improve their learning and skill base. Delivering new homes will improve the quality of the built environment and the image of the town whilst providing much needed housing accommodation. The scheme is to be designed with security as a key consideration and will be constructed in line with current Health and Safety regulations.

3b. **Five Year Plan Outcomes**

Working effectively and expediently with SUR to deliver commercially led sites is addressing the five year plan outcomes through:

- **Outcome 1** – Ensuring that the schemes are designed in line with amenity requirements will contribute towards our children and young people having the best start in life,
- **Outcome 2** – High quality new homes will attract residents who are more likely to take responsibility for their own health, care and support needs,
- **Outcome 3** – New well designed homes will contribute towards ensuring Slough is an attractive place where people choose to live, work and visit; and
- **Outcome 4** – The delivery of new private and affordable homes will directly contribute towards our residents having access to good quality homes.

4 **Other Implications**

a) Financial

SUR is a Limited Liability Partnership owned by SBC and Morgan Sindall Investments Ltd ("MSIL"). Part of its objective is to make a commercial return for the partners.

The delivery cost of commercially led schemes is covered by development sale receipts.

On private general fund sites the land value represents the Council's equity investment into SUR. This equity investment is documented in what is termed a loan note. The loan note put simply is a document which records the fact that the Council has loaned money to SUR which is intended to be repaid on the development's completion.

The land value represents the Council's "equity investment" in SUR which means the risk of the development and land value remain with the Council. As a result the precise level of capital that will be returned to the Council at the end of the development will depend upon whether there are sufficient funds available from the eventual sale of the completed development.

b) Risk Management

Risk	Mitigating action	Opportunities
Legal – SUR is sued by creditors of the joint venture	There are clear firewalls between the Council and the SUR	The SUR is already compliant with EU and UK regulations.
Property – House prices could fall, resulting in anticipated sales values being unachievable.	MSIL are a commercial partner and will ensure all development realised is financially viable and synced to market cycles.	
Human Rights	No risks identified	
Health and Safety – workers are harm or killed during the course of construction or local residents are harm accessing the sites.	Morgan Sindall is a national construction company with established Health and Safety procedures. Any external main or sub contractors need to comply with the partnership's Health and Safety policy.	
Employment Issues	No risks identified	SUR is implementing a local economic benefit programme (SMEs, training, apprenticeships etc) so that the more activity SUR does, the greater the potential benefit in relation to job creation.
Equalities Issues	No risks identified	
Community Support	No risks identified	
Communications	No risks identified	The development of small sites is a positive story that makes the best use of Council assets. The potential exists to promote SUR to highlight how the JV is helping the Council deliver a range of sites throughout Slough.
Community Safety – local residents/ workers harmed during construction.	Morgan Sindall is part of the Considerate Constructor Scheme (CCS).	Utilising the Considerate Constructor Scheme will reassure residents that the construction works are being built in accordance with best practice.
Finance - The transfer land value is not market value	External consultants will be appointed to confirm market value.	If land values increase during the promotion period this will be reflected in the land value.

Risk	Mitigating action	Opportunities
Finance – Exposure to increased risk due to speculative development activities on the private units.	Morgan Sindall Group PLC is a top 5 construction and regeneration company quoted on the main London stock exchange with an annual turnover of circa £2.2bn.	SBC loan notes issued to the SUR are at LIBOR + 6.5% generating significantly higher rates of return for a relatively modest risk. These returns are separate and in addition to SBC's land receipt and share in development profits.
Finance – Higher than anticipated construction costs	The land price is fixed at transfer and both the SUR (MSIL/ SBC) would lose profit if costs are not well managed.	
Timetable for Delivery – scheme delays		Using the existing legally established subsidiary company will ensure expediency in delivery.
Project Capacity – lack of resource delaying delivery	SUR have employed additional management staff to cover the new work streams.	The ever increasing development programme helps secure a skilled workforce focussed on the regeneration of Slough.
Governance – Poor performance	The SUR has an established board of directors that are already competently directing the company's business.	Board members are from both the private and public sector ensuring a balance between commerciality and long term objectives.
Performance – failure to develop land transferred to subsidiary	The SUR is already developing sites successfully and pays SBC interest from the moment the land is transferred.	Increasing and improving the number of projects and resource within the SUR will improve its long term viability and success.

c) Human Rights Act and Other Legal Implications

The developments are within the scope envisaged during the establishment of SUR which was procured through a process compliant with EU and UK Regulations.

With regard to General Fund property, Local authorities are generally under a duty to comply with Section 123 (2) of the Local Government Act 1972 which requires that, except with the consent of the Secretary of State, a Council shall not dispose of land under this section for a consideration less than the best that can reasonably be obtained. Independent valuations will confirm that best value has been achieved on each site.

Also, under Section 123(2A) of the Local Government Act 1972 the Council may not dispose of any land consisting of or forming part of an open space unless, before such disposal, they cause notice of their intention to do so to be advertised for two consecutive weeks in a newspaper circulating in the area in which the land is situated and consider any objections to the proposal disposal which may be made to them. Such consideration involves taking into account all relevant matters and balancing the advantages and disadvantages of the proposed disposal and considering whether the proposed disposal should proceed having regard to the objections raised.

d) Equalities Impact Assessment (compulsory section to be included in **all** reports)

There are no equalities issues associated with this report.

e) Property Issues

The option agreement will set out the conditions SUR needs to satisfy before the land is transferred from the Council to the joint venture company. These conditions will include, amongst others, the grant of satisfactory planning permission for the development of the property. As mentioned above, Section 123 (2) of the Local Government Act 1972 prevents the Council from disposing of land for less than the “best that can reasonably be obtained” without the consent of the Secretary of State.

The Council is the freehold owner of the property but it has been leased to the Wexham Court Parish Council, together with other land lying immediately to the east, for use as recreational land under a lease which expires on 31 March 2032. The Parish Council will therefore only be surrendering part of the land comprised in their lease, namely the open space which the Council proposes to dispose of. The remainder of the land in their lease including the children’s playground and bowling green will remain with the Parish Council.

The Council had also previously agreed to lease the land lying immediately to the north of the property to the Parish Council for use as amenity land in connection with the property and the other land referred to above. The lease for this was never completed and this agreement was surrendered by the Parish Council to the Council on 4 July 2013 and is presently being developed.

The Parish Council are obliged, under Section 127 of the Local Government Act 1972, to obtain best consideration that they reasonably can for their leasehold interest in the land proposed to be surrendered to the Council to enable the Council to then dispose of such land. The proposed surrender by the Parish Council to the Council will therefore be for full consideration. This proposed surrender to the Council will also be conditional upon satisfactory planning permission being granted for the development of the property.

5. **Supporting Information**

Land North of Norway Drive

5.1 Following July’s Cabinet meeting an objection (see Appendix 1) was received in regards to the disposal of Public Open Space at Norway Drive, Wexham. The petition was signed by over 30 residents and the objections focussed on:

- The Parish council has not acted with “due care and attention”, has failed to consult on the disposal and has breached the law and the Councillor’s Code of Conduct,
- As part of a village green application in 2004 SBC Cabinet decided that the site should be long leased to Wexham Court Parish Council “to be held as public open space in perpetuity subject to a covenant not to develop” and that subsequent developments at Oak House Care Home and Wexham Green have both been progressed on this premise,
- The loss of open space will be detrimental to the wellbeing of local residents who use the open space and to the rural environment of the area,
- Additional pressure on road, parking and domestic services; and

- Damage to the character and visual amenity to the neighbourhood.

5.2 The last three points above can be considered as part of a planning process but Moot Hill Partners, dispute resolution specialists, were appointed to investigate and report on the objections generally (see Appendix 2).

5.3 The investigations involved interviewing local residents, current and previous parish councillors and SBC officers. The conclusions of these investigations are set out in the summary report at Appendix 2.

Land Adjacent Mercian Way

5.4 Following the July approval, architectural feasibilities were commissioned from AED Architects to consider the quantum of development achieved by including The Lodge, Mercian Way within the current redevelopment proposals.

5.5 The architectural feasibilities (see Appendix 3) indicate that the inclusion of The Lodge generates up to an additional 3 no 3 bedroom houses. Based on build rates being procured by SUR on current small sites and factoring in the cost of demolition, the existing detached house, which has been well maintained, is worth more than the potential land receipt and profit share.

5.6 Given that The Lodge building is occupied and redevelopment would involve displacing a local resident it's recommended that this property be removed from the Mercian Way disposal site, whilst the surrender and disposal of part of the garden still be pursued.

6 Comments of Other Committees

6.1 This report has not been considered by any other committee.

7. Conclusion

7.1 In contrast to the other sites in the approved private led small sites programme, which have all been previously development, the above sites involve the loss of open space. The land at Mercian Way is ancillary to the recreation ground, no objections were received to it's disposal and the proposed exclusion of The Lodge is a predominately commercial decision. The land at Norway Drive has significant history and members need to make their decision based on what they feel is right for the whole community.

8 Appendices

Appendix 1 – Consultation Response to Norway Drive Open Space Disposal

Appendix 2 – Moot Hill Partners Summary Report on Norway Drive Open Space Disposal

Appendix 3 – Architectural Feasibilities for Mercian Way

Appendix 4 – Site Plans (1:2500)

9 Background Papers

Village Green Application – Land to the South of Wexham Nursery – September 2004

Small Sites Development Strategy Cabinet Report – September 2015

Small Sites Development Strategy Update Cabinet Report – March 2016

Small Sites Strategy Update – Additional General Fund Sites Cabinet Report – June 2016
Small Site Strategy Update – Wexham Phase 3 and Land Adjacent Mercian Way – July 2017
Moot Hill Partners Report on Norway Drive Open Space Disposal – September 2017