

Report To:	Cabinet
Date:	26TH JUNE 2023
Heading:	PROPOSED POTENTIAL LAND EXCHANGE
Executive Lead Member:	CLLR T HOLLIS – EXECUTIVE LEAD - STRATEGIC HOUSING AND CLIMATE CHANGE
Ward/s:	HUTHWAITE & BRIERLEY, KINGSWAY AND SUTTON CENTRAL & NEW CROSS
Key Decision:	YES
Subject to Call-In:	

Purpose of Report

To advise Members and seek approval, in principle, to the proposal to exchange Council owned (General Fund - GF) land at Hardwick Lane, Sutton in Ashfield and Central Avenue, Kirkby in Ashfield with Council owned (Housing Revenue Account - HRA) land at Clegg Hill Drive, Huthwaite for the purpose of potential future house building.

Recommendation(s)

1. To note the content of the report and the need for new affordable homes to meet increasing levels of demand for housing from local residents.
2. To approve an application being made to the Secretary of State for Levelling Up, Housing and Communities (DLUHC) for consent to change the use of a small parcel of land on the edge of the Central Avenue allotment site. The land is currently designated as allotment land but has never been used for this purpose and is currently overgrown scrubland.
3. To approve consultation with local residents. To seek their views on a proposal to change the designation of Hardwick Lane rec from recreational (open space) to land suitable for development. The consultation will be in accordance with section 122(2A) of the Local Government Act 1972 and any objections will be brought back to Cabinet for consideration.
4. To note that officers are seeking further advice in respect of the financial regulations relating to the appropriation of land from the GF to the HRA and vice-versa
5. The following further recommendations only apply if points 2, 3 and 4 above are concluded satisfactorily, with no outstanding issues that Members need to consider;
 - To approve the proposed land exchange, with Council GF land at Central Avenue, KIA and Hardwick Lane, SIA, being exchanged for an equivalent sized parcel of HRA land at Clegg Hill Drive, Huthwaite.
 - To grant delegated authority to the Executive Director of Operations and the Corporate Resources Director to determine any additional financial adjustment needed to ensure the GF receives full value for the sites being exchanged.
 - To approve the proposal to develop the exchanged sites at Central Avenue, KIA and Hardwick Lane, SIA for affordable housing to meet local need.
 - To grant delegated authority to the Executive Director of Operations, in conjunction with the Corporate Resources Director, to negotiate and formalise final scheme costs, property mix, specification and delivery.
 - To grant delegated authority to the Executive Director of Operations, to procure and appoint a contractor to develop the site.
 - To grant delegated authority to the Executive Director of Operations to contract, on behalf of the Council, with Homes England, for the purposes of receiving subsidy to ensure that developments are viable and fall within a maximum payback period of 40 years.

Reasons for Recommendation(s)

The Council has a corporate objective to ensure there is sufficient safe and appropriate housing for local residents and building new council homes is an important part of this.

The Council's land holdings have been reviewed and new Council homes built on appropriate sites.

Demand for affordable housing remains exceptionally high and the Council has reaffirmed its commitment to continue with the new build programme. With new sites being increasingly difficult to find and achieve financial viability, it is important that creative solutions are considered, hence the land exchange proposal.

Alternative Options Considered

Not to consider a land exchange. This was rejected because the sites in question cannot be developed on their own for social housing purposes, using our existing methodology. The reason for this is that the cost of the HRA purchasing the land from the GF and the cost of building new homes and maintaining them over 40 years exceeds the expected rental income. The only way to make them financially viable is through the proposed exchange as this eliminates the bulk of the land purchase cost.

Detailed Information

As outlined above, demand for affordable housing is high and rising. With properties being lost from the housing stock through the Right to Buy and few Registered Providers (Housing Associations) actively developing new homes in the District, it is important the Council seeks to address the issue of affordable housing supply and has an ambitious new build housing programme to help achieve this.

Site details

- Central Avenue, KIA (GF)

The Council owned garage site on Central Avenue and the land immediately adjacent to the site is the area under consideration.

The title deeds show that the adjacent land is part of the neighbouring allotment site. However, the land has never been used as allotments and it would be too expensive to clear and cultivate the land for this purpose. No allotment holders would be affected, or allotments lost as a result of the proposal. Access to and from the existing allotment site would be maintained. To change the parcel of land in question from designated allotment land would require Secretary of State consent.

- Hardwick Lane, SIA (GF)

Hardwick Lane Rec as it is known is designated recreational (open space) land. On the Council's Strategic Housing and Economic Land Availability Assessment (SHELAA) it is identified as being developable land.

The Council is very conscious of the need to ensure residents have access to good quality open spaces and Hardwick Lane rec is under consideration as part of this

proposal only because there are a number of alternative parks and amenities in the local area.

The Council is duty bound to consult with local residents if we wish to consider changing the designated use of a site. The consultation will need to be in accordance with section 122(2A) of the Local Government Act 1972. The intention is to consult and consider the responses from local residents. If there is meaningful feedback opposing the change the matter will be brought back to Cabinet for further consideration and any other actions relating to the site will be put on hold.

- Clegg Hill Drive, Huthwaite (HRA)

The HRA site located off Clegg Hill Drive is land locked and is only accessible through a neighbouring parcel of land that sits within the GF. The value of the land is reduced as a result of the access issue. The entire site is circa 13.1 acres in size, with the HRA section being just under 10 acres.

Exchange proposal

The following proposal is subject to actions identified above, namely an application to the Secretary of State to change the designation of the land at Central Avenue, KIA and the consultation with residents on the land at Hardwick Lane being concluded satisfactorily and without further issue.

The land in question at Hardwick Lane and Central Avenue totals approximately 3.51 acres. The proposal is to exchange this for an equivalent sized parcel of land at Clegg Hill Drive. As the HRA land at Clegg Hill Drive is considered to be of lower value because of the access issues, the intention is for the General fund to be compensated up to the value of any shortfall. Discussions and agreement on any shortfall will be based upon an independent site valuation and the financial advice currently being sought.

Officers have sought legal advice regarding the power to appropriate land from the GF to the HRA and vice-versa and determined there is a power of appropriation under section 122 of the Local Government Act 1972. In respect of appropriating land from the HRA to the GF this is conditional on the land not being needed for the purpose for which it is held. The land is not being held specifically for housing purposes as it is inaccessible, and not considered to be a viable site to deliver social housing due to the significant infrastructure costs that would be required to be able to undertake development. By undertaking the exchange, the Council is enabling housing to be delivered in a more cost effective and efficient way.

Future development

The Council needs to have a pipeline of sites that are potentially suitable for development if it is to increase affordable housing supply and meet local housing need.

If the issues relating to Central Avenue, KIA and Hardwick Lane, SIA are concluded satisfactorily, and the land exchange proposal is approved this would make both sites suitable for potential future development.

Hardwick Lane could accommodate up to 30 new homes whereas the land at Central Avenue has the potential for 17. On the basis of current development costs, and assuming a Homes England

contribution, the sites are viable to develop as they payback within the required 40 years. If Homes England funding is not forthcoming, both sites become unviable.

As part of the recommendations within this report, assuming other outstanding issues are resolved, Members are being asked to support the development of new affordable housing on both sites, with further authority for the scheme composition and delivery being delegated to the Executive Director of Operations and the Corporate Resources Director.

The options for Clegg Hill Drive will be considered separately, these do not form part of this report.

Implications

Corporate Plan: The Corporate Plan identifies a need to ensure there is sufficient housing available in the District of the right size, type and quality, ensuring an adequate supply of affordable housing.

Legal: The Council is able to appropriate land from the General Fund to the HRA and vice versa, but must do so in accordance with the powers under which the appropriations are to be made, and in compliance with wider public law decision making principles.

Section 19 of the Housing Act 1985 provides power to appropriate land from the General Fund into the HRA. Where land has at any time been acquired or appropriated for the use of allotments, then Secretary of State consent will be required to the appropriation. Section 122 of the Local Government Act 1972 provides the power for the Council to appropriate land out of the HRA and into the General Fund, and there is a requirement that the land is no longer required for the purpose for which it is held immediately prior to the appropriation. There are also open space notice requirements and the Council will need to make adjustments to its accounts to reflect the appropriations.

Finance:

There are no direct financial implications arising from the in-principle support for the recommendations in this report. There will be a one-off cost of obtaining specialist financial advice which is yet to be determined but is not expected to be excessive and will be funded from the Economic Development and Place Reserve. [PH 07/06/2023].

Budget Area	Implication
General Fund – Revenue Budget	N/A
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
Failure of the Secretary of State to approve the change of use of the land at Central Avenue from designated allotment land.	No further action relating to the proposed land exchange will take place until the outcome of any application to the Secretary of State is known.
Responses to the consultation on the designation of the land at Hardwick Lane to show strong support for retaining the land as open space	All consultation responses will be considered and where there is (negative) feedback to the proposal the consultation findings will be brought back to a future Cabinet Meeting for consideration. No further action relating to the proposed land exchange will take place until the outcome of this is known.
Further financial and accounting advice reveals barriers and obstacles to the land appropriation.	The findings and options will be considered. No further action relating to the proposed land exchange will take place until the outcome of this is known.
Escalating development costs	Any new development scheme is carefully costed before a commitment is given. A robust process will be followed and any development will only proceed if it is deemed economically viable. This includes access to Homes England funding.

Human Resources:

The are no HR implications.

Environmental/Sustainability:

The proposal to change the use of Hardwick Lane rec would mean the potential loss of an open space amenity, along with the flora and fauna associated with it. In making this recommendation we have taken account of other open space in the local area and balanced this with the need to meet local housing need.

In respect of the Central Avenue site, no allotments would be lost. The area in question is uncultivated scrubland.

Equalities:

No equalities issues have been identified.

Other Implications:

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

Not applicable

Background Papers

Not applicable

Report Author and Contact Officer

Phil Warrington

Assistant Director – Strategic Housing

Phil.warrington@ashfield.gov.uk

01623 608893

Sponsoring Director

Paul Parkinson

Executive Director of Operations.

Paul.parkinson@ashfield.gov.uk

01623 608893