

Council House Building Programme - Warren Lane / The Depot

Housing Committee Tuesday, 21 June 2022

Report of: Executive Head of Communities

Purpose: For decision

Publication status: Unrestricted

Wards affected: Oxted South

Executive summary:

This report seeks approval for a potential new scheme at the Warren Lane depot site, Hurst Green. This will involve re-designing the existing depot site to rationalise it and free up approximately half of the space to develop up to 22 homes for families on the Council's housing register.

This report supports the Council's priority of: Creating the homes, infrastructure and environment we need

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Recommendation to Committee:

It is recommended that:

- A. Officers prepare proposals for and seek pre-application planning advice for the redevelopment of part of the Warren Lane depot site for up to 22 new affordable dwellings; the rationalisation of the depot site and to approve a budget for the pre-application stage of £80,000. This budget will cover the appointment of an architect, Employers Agent and other specialist consultants, surveyors to act for, or advise, the Council and the commissioning of any necessary surveys. These are necessary to take the proposal to pre-application advice stage, all subject to the Council's Standing Orders and Financial Regulations.
- B. That in the case of recommendation A, authority also be given for Officers to commence the process of appropriating the land for planning purposes in accordance with Section 122 (1) of the Local Government Act 1972.

Reason for recommendation:

The recommendations support one of the Council's key strategic objectives and seeks to address in part the district's need for affordable rented housing.

Introduction and background

- 1 The Warren Lane depot site would be an allocated site under the Local Plan 2033 with an estimated yield of 50 homes once the depot and its operations had been relocated. In 2018 a review was carried out by Asset Management to relocate the depot and an alternative site was not found.
- 2 A property adjacent to the depot site, 122 Mill Lane, was purchased on the open market in 2021 to provide an alternative access point (once demolished) to the depot. This means that part of the site can be redeveloped whilst the depot can still operate on the other part.
- 3 The depot is currently used by:-
 - Biffa, who has been granted a lease, for refuse/recycling truck parking, refuelling and cleaning;
 - the East Surrey Rural Transport Partnership (ESRTP), who has been granted a lease, for parking and office space.
 - TDC Officers (depot, building maintenance, street cleansing staff etc) who use some of the office space and meeting/welfare space.

In order to free up approximately half the site for housing the depot site will need to be rationalised and redesigned to make better use of the space. This will involve some demolition of buildings, an alternative office space for TDC Officers (either from conversion of an existing building or temporary/modular provision) and ESRTP who will be provided other accommodation onsite to ensure adequate parking and truck manoeuvres. Biffa and ESRTP will be consulted as part of the process and the conditions of their leases will be taken into account to ensure that they are not inadvertently broken.

- 4 If and when an alternative site for the depot can be secured the remainder of the site will be developed for housing (phase 2).
- 5 An architect's feasibility suggests that 22 family houses can be built on the phase 1 of the site with associated parking and landscaping.
- 6 This is a complex site and we will be working with an employer's agent and architect to assess which surveys and consultants will be needed. They will also assist us in the redesign and reprovision of the depot with input from colleagues to ensure that the design meets services needs going forward. Detailed proposals for the housing would also be drawn

up. This would then be submitted for pre-application planning advice. We aim for this to be considered towards the end of 2022.

- 7 The pre-application process allows our employer's agent to advise the Council on the expected costs of a scheme, based on detailed surveys and design; in preparation for Committee and briefing on the full budget.
- 8 Following the outcome of the planning pre-application advice Officers will return to Committee to seek approval for a full budget for the scheme and approval to submit a full planning application. In addition, Committee will be provided details of the proposal to transfer land from the General Fund to the Housing Revenue Account.
- 9 Property and land that is already held in the general fund can be appropriated for planning purposes and then held by the Council under the statutory provisions of Part 9 of the Town and Country Planning Act 1990. The practical consequence (by virtue of section 237 of the Town and Country Planning Act 1990, as amended by Schedule 9 of the Planning Act 2008) is that the demolition, erection, construction or carrying out of any maintenance of any building or work on the land and subsequent use of the land is authorised under those planning powers, if the works are done in accordance with planning permission, even if they interfere with third party rights. On completion of any development the land would need to be appropriated to housing land.

Other options considered

- 9 Officers will need this Committee's approval to seek full planning consent for an application for Warren Lane depot and Officers will return to a future Committee with that request.
- 10 If the Council decided not to appropriate the land there is the potential that third parties (who may have rights over the land) could bring injunction proceedings which could stop the construction of a future development or delay its delivery. By exercising appropriation powers, the threat of injunction proceedings for the infringement of third parties rights would be extinguished. Affected parties would still receive compensation but they will not be able to delay or stop the development.

Consultation

- 11 Ward members have been consulted.
- 12 Following a pre-application planning meeting and before the full planning submission we will hold a public consultation meeting to gather feedback from local residents and make any changes as necessary.
- 13 We will be consulting with users of the depot as the project progresses and with colleagues in Asset Management, Localities, IT and Housing.

Key implications

Comments of the Chief Finance Officer

- 14** The £80,000 cost of the proposal contained within this report will be funded from the Housing Revenue Account (HRA) and not impact General Fund budgets. Should the scheme go ahead, the General Fund would need to be appropriately recompensed by the HRA for the site acquisition, remodelling the depot and any associated costs.

The independent valuation, coupled with consideration of the cost of remodelling the site, will ensure that both the HRA and General Fund will achieve value for money from the transfer.

Once a value for the land has been obtained, a further assessment should be made of whether the costs of acquiring the land, remodelling the depot and constructing the scheme compares favourably with alternate options for the site, to ensure that the scheme offers value for money for the Council as a whole.

Comments of the Head of Legal Services

- 15** Owners of buildings that benefit from Rights of Light or other easements can apply to the Courts for an injunction if their Rights to Light or other easements are negatively impacted by development proposals. The Court would then decide the appropriate remedy, which may include a temporary injunction, followed by a permanent injunction or an award for damages. In the private sector parties normally negotiate claims and the amount of compensation largely depends on the commercial bargaining position of the parties and can be related to the value of the development being undertaken.

Section 122 of the Local Government Act 1972 empowers councils to 'appropriate' land. The effect of appropriation (via section 203 of the Housing and Planning Act 2016) is to remove the threat of an injunction and to ensure that compensation paid to the affected neighbouring owners is a reasonable compensatory sum for the interference caused to the right of light or other easement.

Under section 204 of the Housing and Planning Act 2016, compensation is payable for such interference, but it is limited to diminution in value of the land caused by the interference with the owners' rights.

For the reasons stated in the report, the exercise by the Council of its statutory powers of appropriation in the circumstances is reasonable and proportionate. The significant public benefits to be derived from the proposed redevelopment are of sufficient magnitude to justify the appropriation. An outline planning application submission and commissioning initial consultants should confirm the principle of re-developing the site is acceptable.

Strategy and Resources Committee – Land Transfer

16. As the scheme would require the disposal of land from the General Fund to the Housing Revenue Account a paper will be submitted to Strategy and Resources Committee around the time that a request for approval of full budget/submission of planning application is brought back to Housing Committee. This will be subject to an independent valuation but should provide a capital receipt for the General Fund.

Equality

The letting rather than the development of housing for sale is key to issues of equality. New housing developed reflects the housing priorities at the time it is conceived, is designed to mitigate against fuel poverty, be mobility friendly and be of a size sufficient to promote working from home.

Climate change

The new housing will be designed to achieve the Council's adopted target of Net Zero Carbon (operational) and any essential tree removals will be replaced in accordance with the Compensatory Tree Planting scheme together with a commitment to deliver bio-diversity net gain on each development.

Appendices

None

Background papers

None

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