

Record of officer decision

Decision title:	Approval to conclude lot sales of smallholding estate
Date of decision:	20 July 2017
Decision maker:	Director for economy communities and corporate
Authority for delegated decision:	Cabinet decision of 3 October 2016 item 42 recommendation (8) to take all operational decisions necessary to implement the [disposals programme] and, following consultation with the relevant cabinet member and section 151 officer, to conclude sales.
Ward:	Countywide
Consultation:	The cabinet member and s151 officer were consulted on 7 13 18 and 19 July, and were supportive of the decisions.
Decision made:	To exchange and complete sales of the small holding lots for the price as listed to those purchasers in appendix 1.
Reasons for decision:	<p>The Smallholding Estate was offered to the open market in accordance with the agreed disposal programme approved by cabinet on 13 October 2016. The portfolio was divided into 13 'sub-estates' and 59 Lots as part of a strategy to maximise value and taking account of tenancy structures. The Estate was offered for sale by private treaty and by way of an informal tender process to maximise financial return, to support the local economy (including the agricultural sector), to support the welfare of the tenants, to minimise timescales and for community benefits.</p> <p>The Smallholdings Estate was marketed in accordance with agreed promotion strategy and to the timescales stipulated. The closing date for offers was midday, Wednesday 5th July. All offers received were carefully logged and analysed in detail.</p> <p>The decision to exchange contracts and conclude the sales takes into account the small holding policy agreed by cabinet on 3 December 2015.</p> <p>In assessing bids against the policy to ensure best value is achieved and an open market value is realized, specific account was taken of many factors including:</p> <ul style="list-style-type: none"> • The monetary value of offers • The nature of stipulated priorities (numerous prospective purchasers submitted offers on multiple properties with an order of preference stated) • Accommodating the plans of current tenants and likely ongoing landlord/tenant relationships • Financial references • The ability to proceed to timescales requested • Levels of preparatory work undertaken including viewings, interaction with Fisher German, legal investigations

	<p>and data room usage, and</p> <ul style="list-style-type: none"> • Risk factors including projected contract numbers and the likely complexity of proposed transactions
<p>Highlight any associated risks/finance/legal/equality considerations:</p>	<p>Finance</p> <p>The gross recommended sales values are more than the indicative guide prices. The capital receipt(s) receivable by the council will be net of tenant compensations payable, agent's fees, legal fees and other administrative costs.</p> <p>The net receipt(s) receivable will be higher than the council's approved MTFS assumptions and will therefore provide a favourable benefit.</p> <p>Legal</p> <p>The council approved the sale of the small holding estate on 5 December 2015 and this decision concludes the sales. The conveyancing process is to be undertaken by external solicitors.</p> <p>Risks</p> <p>There is a risk that preferred bidders do not progress to exchange and completion. This risk has informed the appraisal of bids received and 'proceedability' has been taken into account. Under-bidders will be brought forward in the event that a preferred bidder does not complete.</p> <p>There is a risk that sales do not complete due to unidentified land rights issues; this risk has been mitigated through a rigorous approach to collating a data room including searches and land title information in advance of marketing and special legal support has been procured to support the process.</p> <p>There is a risk of legal challenge to the decision to dispose of the estate. The policy decision to dispose of the estate and the decision to agree the disposal plan have not been subject to challenge and are not out of time for such a challenge. The current decision is within the approved policy, and the officer has been duly authorised by Cabinet to take all operational decisions to implement the disposal.</p> <p>There is a risk that a lengthy negotiation will adversely impact tenants and/or deter preferred bidders from completing. This risk has been mitigated by ensuring that all bidders were aware of intended completion timescales; accurate and necessary information has been available to inform bidders; legal support is in place to progress implementation; tenants have been provided with access to support and kept informed of events.</p> <p>Equality</p> <p>Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:</p> <p>A public authority must, in the exercise of its functions, have due regard to the need to -</p> <ol style="list-style-type: none"> eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

	<p>The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.</p> <p>The tenants affected by this change are impacted differently where age is a factor; this arises because of the different statutory bases of the two different tenancy types involved resulting in a greater degree of security being afforded to older tenants with retirement or lifetime tenancies. To mitigate such impacts all tenants have been given access to a grant to enable them to access advice to help determine their future choices. The estate was marketed in such a way that tenants had an opportunity to bid on an equal footing with other potential bidders. Negotiations with preferred bidders will, where such bidders are not an existing tenant, continue with tenants' welfare in mind. Tenants are being kept informed of events and reminded of the sources of advice and support available.</p>
<p>Details of any alternative options considered and rejected:</p>	<p>Not proceeding with the sales on the terms outlined in appendix 1.</p> <p>Advantages None, the alternatives were considered by cabinet on 3 December 2015.</p> <p>Disadvantages Would not comply with the approved disposals policy and would adversely impact the council's ability to achieve the outcomes expected from the sales. Professional fees incurred will be payable with no benefit to the council, prospective purchasers may be lost and the land may decrease in value if the land is not farmed.</p>

Details of any declarations of interest made:	Cabinet member has had contact with the selling agents (Fisher German) as a prospective purchaser on a property unrelated to this disposal.

Signed....



..... Date:

20/7/2017.