

Meeting:	Director for economy, communities and corporate
Meeting date:	Monday 18 September 2017
Title of report:	Transfer of land for regeneration
Report by:	Housing development officer

Classification

Open

Decision type

Non-key

Wards affected

Leominster East;

Purpose and summary

To seek approval to re-allocate council owned land, at Waterworks Lane, Leominster to Stonewater Housing Association in order to deliver self-build affordable housing for veterans.

Recommendation(s)

That:

- (a) the land at Waterworks Lane, identified in Appendix 1, be transferred at no cost to Stonewater Housing Association on condition that the land is used to provide an affordable self-build housing scheme for veterans delivering a minimum of 10 units.**

Alternative options

1. Sell the land on the open market. This would provide the council with a one off capital receipt, but it would not advance the council's strategic aims. In addition, there could be no guarantee that any subsequent development of the land would provide affordable housing or enable skills development for veterans.
2. Retain the land in the council's ownership. The land identified could continue to be utilised by the council for alternative uses where appropriate.

3. Retain the land for potential development through the council's Development Partnership. This option was considered and discussed but was deemed not viable due to the size of the site.

Key considerations

4. In March 2009, Cabinet confirmed its support for officers to investigate the viability of delivering affordable housing on a number of sites in the council's ownership which were potentially due to become surplus to requirement.
5. The council's preferred housing partners were asked to express their interest in the identified sites and provide estimates to deliver affordable homes.
6. In October 2011, Cabinet member approval was given for WM Housing (Kemble Housing Ltd) to be selected as the preferred partner to deliver affordable housing on a number of sites. However, WM Housing did not deliver the affordable housing on the site at Waterworks Lane, Leominster and therefore the site was returned to the council and remains undeveloped.
7. In January 2017, the council's preferred housing partners were again asked to express their interest on delivering a self-build scheme for veterans. Stonewater was the only organisation who confirmed their interest in progressing the scheme.
8. Stonewater and military charities are in contact with a number of veterans interested in being involved. This scheme could meet two of the five specific aims of the Herefordshire Armed Forces Community Covenant: Encourage activities which help to integrate the armed forces community into local life and encourage the armed forces community to help and support the wider community.
9. Stonewater was tasked with finding appropriate land/sites so that the scheme could progress. During their appraisal Stonewater identified an area adjacent to Waterworks Lane that could be regenerated and would be an ideal location for the veteran's self-build scheme. As a result, Stonewater approached the council's strategic housing team to enquire whether the land at Waterworks Lane was surplus to requirement with a view of including it into the regeneration for the self-build.
10. Herefordshire Council is a signatory of the Herefordshire Armed Forces Community Covenant and co-ordinates a cross sector Civilian Military Task Group (CMTG), whose role is to deliver the aims of the covenant.
11. To address the needs of the armed forces community in the county, the CMTG has developed an action plan and housing for ex-service personnel is a priority.
12. Whilst precise figures are difficult to establish, a newspaper survey in 2013 estimated that across the UK, approximately 9,000 ex-service personnel were homeless after leaving the military, which accounts for one in ten of the total homeless population.
13. Anecdotal evidence from the Military Charities Helpdesk, operated from Franklin House by the Royal British Legion (RBL) and the Soldiers, Sailors and Airman Association (SSAFA) indicates that homelessness amongst ex-service personnel continues to be a problem in the county.
14. Following the example of a number of successful projects across the country, involving the Community Self Build Association (CSBA), officers have met with CSBA, local

registered social landlords (RSL's) and military charities with a view to developing and delivering a veterans self-build project in Herefordshire.

15. A project of this kind not only provides much needed housing but enables veterans to learn useful construction skills, which in turn could lead to employment.
16. In respect of overall housing targets, Leominster has a local target of 2,300 new dwellings for 2011-2031. Between 2011 and 2017, there were 173 new dwellings completed and in April 2017, there were almost 650 outstanding planning permissions in the town. However, this is still well short of the overall target and additional small schemes will still be required during the plan period to achieve the target.
17. It is therefore recommended that the site identified in appendix 1 be transferred to Stonewater Housing Association at no cost, on condition that they provide a self-build affordable housing scheme for veterans delivering a minimum of 10 units of housing.

Community impact

18. This project will provide a real opportunity to assist ex-service personnel to integrate into the local community. It will also develop a currently derelict brown field site, which will have a positive impact on the look of the local area and enable veterans to learn new employable skills. The project will positively contribute to the council's corporate plan objectives as it will enable residents to live safe, healthy independent lives and increase the number of affordable housing units delivered.

Equality duty

19. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
20. The decision outlined in the report will not have a detrimental impact on the council fulfilling its equality obligations, but will enhance its equality duty by fostering good relations and offering opportunities to a specific group to enable integration within the community and offer the opportunity to learn new life/work skills.

Resource implications

21. The council's Property Services Department estimate a value of circa £60,000 if the site was sold on the open market.
22. The delivery of the scheme is dependent on the site being transferred at no cost to the housing partner, meaning that the council will forgo the potential receipt on condition that

the proposed scheme is delivered. There are viability issues affecting the site in relation to flooding/drainage and these will need to be addressed by Stonewater.

23. Any decision to support the disposal of this particular site at no cost does not constitute a blanket policy for the future disposal of council-owned land.
24. In order to protect the council's financial interests, an overage or clawback provision will be included in the disposal/transfer to ensure the site cannot be sold for an alternative use or profit.
25. The disposal/transfer of the site will be conditional on planning permission being achieved and the assurance of delivery within two years of full planning being granted.
26. Agreement to support the recommendation would be in accordance with the council's corporate plan priority to enable residents to live safe, healthy and independent lives.

Legal implications

Section 123 of the Local Government Act 1972 provides that the council shall not dispose of land for less than the best consideration that can be reasonably obtained. However, the Local Government Act 1972 General Consent Order 2003 (DCLG Circular 06/03) removed the requirement to seek specific consent for any disposal of land where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted (i.e. the undervalue) is £2 million or less and provided the disposal contributes to:

- The promotion or improvement of economic wellbeing
- The promotion or improvement of social wellbeing
- The promotion or improvement of environmental wellbeing

When considering the power to dispose of land, the Circular also provides that when considering whether to exercise the power to dispose, councils should have regard to their community strategy, comply with "normal and prudent commercial practices", including obtaining the view of a professional qualified valuer in assessing the undervalue amount to ensure the General Disposal Consent applies to the disposal.

With regard to state aid, all disposals need to comply with the European Commission's State Aid rules. When disposing of land at less than best consideration, councils are providing a subsidy to the owner, developer and/or occupier of the land. When this occurs, the council must ensure that the nature and amount of subsidy complies with state aid rules, particularly if there is no element of completion in the sale process. Failure to comply with these rules means that the aid is unlawful and may result in the benefit being recovered with interest from the recipient.

The De Minimis regulation allows small amounts of aid, less than £185,842 over three rolling years, to be given to an organisation for a wide range of purposes. As the land appears to be valued at £60,000 this amount comes within the De Minimis regulation. If this mechanism is used, there is no need to notify or obtain approval but records of aid granted must be kept and the rules of De Minimis followed.

The Council's Legal team will be able to prepare the relevant documentation and include appropriate site specific covenants, indemnities and the reservation of rights, following an analysis of the title. The contract will require return of the site if development is not substantially

complete within a specified period of transfer. A restriction will be placed on the legal title, protecting the social housing requirement and ensuring that the accommodation will be allocated in terms of the agreed scheme.

Risk management

1. Should approval be given to transfer the site at no cost, then ongoing dialogue with Stonewater will ensure that the site is progressed through to completion.
2. Delivery of the scheme will be at Stonewater's own risk and funding will be sourced from the Homes and Communities Agency.
3. If approval is not given, the council will not be able to fulfil its obligation to address the needs of ex-service personnel.
4. If approval is not given, then an opportunity for the council to comply with the Herefordshire Armed Forces Covenant will be missed or delayed.
5. There is the risk that the media could highlight that the council is giving away free land. However, the long term advantages of delivering a scheme like this will out weight the immediate financial costs to the council by providing housing that will promote health and wellbeing for ex-service personnel.
6. The site sits within a residential area where planning permission would normally be granted, however objections from residents and the parish council could be received. In order to minimise this risk, full consultation will take place with the local community and parish council.
7. Stonewater Housing Association shall ensure there is compliance with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety. Which may apply to Employees and other persons working in the performance of its obligations under this approval?

Consultees

8. None identified

Appendices

9. Appendix 1: Site plan

Background papers

10. Cabinet Report 2011