

DISPOSAL OF THE DEVELOPMENT LAND AT HAMMONDS RIDGE

REPORT OF: DIRECTOR OF PEOPLE AND COMMERCIAL SERVICES
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Wards Affected: Burgess Hill Meeds and Hammonds Ward
Key Decision: No
Report to: Cabinet
11 November 2024

Purpose of Report

1. To seek Cabinet approval to the disposal of the vacant site owned by MSDC to the south of Selby Close, Hammonds Ridge, Burgess Hill.

Recommendations

2. Cabinet is recommended to:

- (i) **Agree to the Disposal of the vacant site owned by MSDC at Hammonds Ridge**

and subject to that agreement it is recommended that: -

- (ii) **Prior to any disposal a payment is made to Wates Group Properties Ltd to remove the restrictive covenant that exists on the land.**

Background

3. The District Council adopted its Site Allocations Development Plan Document ('Sites DPD') in 2022. The Sites DPD allocates site SA14: Land to the south of Selby Close, Hammonds Ridge, Burgess Hill for 12 flats plus community use. The site therefore forms part of the Council's housing land supply and contributes towards addressing the housing need identified in the recently submitted District Plan.
4. MSDC owns the freehold interest of the site which extends to 0.16 Hectares (0.38 acres) and is registered under title number WSX252199 (shown on the plan at Appendix 1).
5. The allocation of this site means that the principle of development has been accepted, and this position of certainty makes the site attractive to developers. In order to secure the timely delivery of this site it is recommended to dispose of it. This would also have the advantage of generating a net capital receipt for the Council.

Site History

6. The Land was transferred to the Council on 7 December 2000 from Wates Second Land Limited for £1, pursuant to the requirements of a S106 Agreement.
7. Since 2000 the site has been used as a storage yard and is currently vacant. The site is currently maintained on an ad-hoc basis through the Green Spaces contract to ensure vegetation is not overgrown.

8. The Mid Sussex Local Plan (2004) notes that the Hammonds Farm area of the town had expanded significantly in the late 1990's, including 1,500 dwellings and a Tesco Superstore. However, it also notes that community facilities that were planned alongside this development had not yet been delivered – namely provision of a new primary school, community buildings and playing fields.
9. This site was allocated in the Mid Sussex Local Plan for development of a community building (policy BH24).
10. During the process of preparing the Sites DPD, the Council's Estates department promoted the site for assessment for potential allocation. The site was assessed as having potential for 12 flats and was subsequently included within the Sites DPD (Policy SA14) and subject to public consultation as part of the plan making process. The Planning Inspector concluded the site should be allocated. The Sites DPD was adopted by the Council in 2022.
11. Policy SA14: Land to the south of Selby Close, Hammonds Ridge includes a policy requirement to deliver the 12 flats as part of a mixed-use development scheme which includes a community use. This requirement was included due to the previous allocation (BH24) and the existence of a legal covenant.

Legal Covenant

12. As part of the original transfer, the Council covenanted with Wates Group Properties Ltd with terms that limited the future use of the Land to 'the Relevant Use' for a period of 79 years from the date of transfer.
13. 'Relevant Use' is defined in the transfer as 'use of the Land as a building and site for the local community's purposes and/or for other use or uses (if any) which may in the future be deemed a Relevant Use'.
14. This is a restrictive covenant in the form of an overage provision that provides that, if at any time before expiry of 79 years from the date of transfer (i.e. before 7 December 2079), the Land or any part of it is used or occupied for any purpose other than the 'Relevant Use', developed, or disposed of on terms permitting use not consistent with the 'Relevant Use', without the covenant being discharged the Council must give notice of such to Wates and must pay to Wates 50% of the open market value of the Land.
15. The covenant states the payment must be made within 42 days of the date that the open market value of the land is agreed. This can be interpreted as to be on completion of any sale which would crystallise the open market value.
16. In such circumstances and as part of any proposed disposal MSDC would need to be explicit with any purchaser that there is an obligation on MSDC to remove the covenant which would make any disposal transaction more difficult.
17. Discussions had taken place with Wates in 2018 regarding the possibility of removing the covenant in advance of taking the site to market, details of which are provided in the Exempt Annex to this report.
18. More recent discussions have taken place with Wates, and they confirmed in writing on 8 July 2024 their willingness to complete the transaction on the terms agreed in 2018, and that they have Director's agreement to such a transaction.

19. Given the length of time the land has remained undeveloped (due in the main to the restriction upon it), the rising costs of construction and interest rates, the ongoing requirement to maintain the land, and reduced valuations, the certainty of concluding a transaction quickly at a guaranteed price (as opposed to some future level that is subject to planning and other uncertainties) has an appeal from a developer perspective.
20. Wates Group also own a strip of land of approximately 0.05 hectares in size, which wraps around the north and east of the site at Hammond's Ridge which would assist with any future development. Wates have agreed that this land would be transferred as part of any arrangement regarding the removal of the covenant.

Planning Considerations

21. As an adopted allocation within the Council's Development Plan, the site is included in the housing requirement and contributes to meeting the district's housing need. Whilst the site yields a small number of dwellings (12) and would ordinarily be expected to deliver early during the plan period, the Sites DPD Inspector recognised the potential viability and deliverability issues impacting this site and concluded an indicative delivery timescale of 6-10 years from adoption.
22. On this basis, the site does not currently contribute towards the Council's five-year housing land supply. Disposing of the site would increase the potential for it to be delivered in a timely manner. Subject to receiving planning consent, it would contribute to the five-year housing land supply.
23. Other planning matters would be for Planning Committee to consider at the appropriate time

Disposal Strategy

24. In 2021 Officers obtained marketing appraisals for the site from three agents which provided a guide on the expected gross sales receipt based on their own residual valuations. This is provided in the Exempt Annexe.
25. This valuation was based on a conditional sale to a residential developer, subject to planning permission being granted, removal of the restrictive covenant and transfer of the sliver of land.
26. Since 2021, rising inflation, increased interest rates and affordability issues have further impacted the housing and construction market with a subsequent impact on land valuations.
27. In light of the above, Officers obtained a further valuation in March 2024 which is detailed in the Exempt part of the report.
28. Given Wates' willingness to conclude an agreement on the originally agreed terms (as detailed in the Exempt Annexe), it is recommended that The Council concludes an agreement with Wates on that basis prior to disposal of the site.

Legal Context

29. The sale of land and property falls within existing policies, procedures, and levels of authority.
30. The independent market valuations have provided an indication of the site value, and this will be determined by an open tender process which will demonstrate market value.

Policy Context

31. Effective and efficient management of the Council's property portfolio including disposal of surplus assets is consistent with the policy intention of becoming financially self-sufficient and generating funding to support the Council's future ambitions and in the support of services.
32. The Officer Scheme of Delegation delegates all 'property' matters to the Assistant Director for Commercial Services and Contract, in consultation with the Assistant Director, Governance, except in a number of specific instances, including in relation to disposals where the land/ buildings have been declared surplus and the value is over £100,000
33. This decision is therefore an Executive function and is for Cabinet to make.

Financial Implications

34. The sale would secure a receipt that has been demonstrated to be at market value and would be available to support the Council's ambitions as opposed to other forms of financing.
35. The sale removes any future financial risk of ownership of a non-operational asset.

Risk Management Implications

36. The site has been vacant for over 20 years and the Council is liable for the security and maintenance of the site together with any safety implications associated with it. The sale of the site will ensure that the Council has no future liabilities or risks associated with it.
37. The Council could seek to develop the site with all the inherent financing and construction risks together with the management resourcing requirements. The sale of the site to a capable and proven property developer negates any such risks.
38. Should the restrictive covenant not be lifted the site may not be attractive to any residential developer unless any such costs could be offset by a reduction in land value which then negates any benefit for the Council.

Equality and Customer Service Implications

39. Not Applicable

Other Material Implications

40. None

Sustainability Implications

41. None. The responsibility for compliance with planning policy and meeting environmental standards will become the responsibility of the purchaser.

Appendices

Appendix 1 – Site Plan

Appendix 1 - Location Plan: Land at Hammonds Ridge

