

# Gloucester City Council

<b>Meeting:</b>	<b>Cabinet</b>	<b>Date:</b>	<b>10 January 2024</b>
<b>Subject:</b>	<b>Transfer of Sites in Podsmead to Enable the Regeneration of the Estate</b>		
<b>Report Of:</b>	<b>Cabinet Member for Performance and Resources Cabinet Member for Planning and Housing Strategy</b>		
<b>Wards Affected:</b>	<b>Podsmead</b>		
<b>Key Decision:</b>	<b>Yes</b>	<b>Budget/Policy Framework:</b>	<b>Yes</b>
<b>Contact Officer:</b>	<b>David Evans: City Growth &amp; Delivery Manager</b>		
	<b>Email: <a href="mailto:david.evans@gloucester.gov.uk">david.evans@gloucester.gov.uk</a></b>		<b>Tel: 01452 396847</b>
<b>Appendices:</b>	<b>1. Draft Heads of Terms for the Sale of Sites in Podsmead to Gloucester City Homes</b>		
	<b>2. Plans Showing the Sites in Podsmead that are the Subject of the Report</b>		

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 The Council and Gloucester City Homes (GCH) have drafted heads of terms for the disposal by the Council of sites in its ownership at Podsmead. This being with the intent of enabling the regeneration of the Podsmead estate through the provision of affordable housing as well as commercial, leisure and community facilities.
- 1.2 This report seeks Cabinet's approval of the draft Heads of Terms for the disposal of the sites within its ownership to GCH, and delegated authority to implement and/or facilitate the delivery of estate regeneration in line with those heads of terms (save for regulator matters). It is proposed that the sites will be sold at a sum that is below market consideration in order to deliver specific Council objectives. This would mean disposing of the land at an undervalue and is a key consideration for Cabinet to take into account.

### 2.0 Recommendations

- 2.1 Cabinet is asked to **RESOLVE** that delegated authority be given to the Head of Finances and Resources, in consultation with the Cabinet Members for Performance & Resources and Planning & Housing Strategy, the Head of Communities and the Head of Place to:

- (1) conclude and agree heads of terms with Gloucester City Homes (GCH) for the disposal of the freehold interest in the areas of sites shown edged Red on the Plan ("the sites") whether by one or more transactions, and that a cost benefit analysis informs the final decision on disposal;
- (2) take all necessary steps and undertake necessary procedures, including entering into any legal arrangements or other documentation as may be required

to implement or facilitate estate regeneration in line with those heads of terms (save for regulator matters).

### **3.0 Background**

3.1 Members will recall the report to Cabinet on 7 December 2022, which summarised the history of discussions held between the Council and Gloucester City Homes with the intent of delivering a housing-led regeneration scheme in parts of Podsmead. At the time the scheme proposed by GCH comprised a mix of affordable and market housing, commercial space and new community space. The Cabinet considered the plans and proposals presented by GCH and:

***RESOLVED that delegated authority is given to the Property Commissioning Manager, in consultation with the Cabinet Members for Performance & Resources and Planning & Housing Strategy, the Head of Communities and the Head of Place to:***

***(1) negotiate heads of terms with Gloucester City Homes (GCH) for the disposal of the freehold interest in the areas of sites shown edged Red on the Plan (“the sites”) whether by one or more transactions, and that a cost benefit analysis informs the final decision on disposal***

***(2) negotiate heads of terms with GCH on an agreement to provide affordable homes within the regeneration of the estate***

***(3) if so required, to seek authority from the Secretary of State to dispose of the sites on the proposed terms***

***(4) negotiate terms with Gloucester United Schools Trust (GUS) for the release, relaxation or variation of the restrictive covenants affecting the sites.***

### **3.1 Recent Revisions to the overall Masterplan**

Since the consideration of the above report GCH has drafted an amended scheme for the regeneration of the estate, which is different to that seen by Cabinet in December 2022. This is as a result of the following factors:

3.2 Firstly, Homes England announced in June 2023 that grant funding provided through the Government’s Affordable Homes Programme can now be used to fund replacement homes alongside new affordable homes, as part of wider estate regeneration plans. Grant funding would alter the financial viability of the scheme, presenting opportunities for a greater proportion of affordable homes. Homes England has confirmed to GCH its support for Podsmead regeneration subject to a bid being submitted and evidence of a deliverable programme.

3.3 Secondly, and reflecting the requirement from Homes England, GCH has focused the regeneration on to a smaller, more deliverable scheme, comprising less sites within the estate.

3.4 The scheme now proposed by GCH, and which will be submitted to the Council for planning consent in spring 2024, is presented at Appendix 2. It comprises 8 residential sites and 2 areas of open space, and would involve the demolition of 64 homes and the construction of up to 177 new affordable homes as well as new retail, recreation and community facilities. The development would take place over a four year period, commencing in March 2025.

- 3.5 GCH describes the scheme as offering the following regeneration benefits:
- A clear new identity and sense of neighbourhood on arrival from Cole Avenue.
  - A renewed local centre with visual prominence on Podsmead Road providing a new retail offer.
  - A clear pedestrian priority route linking Tuffley-Bristol Road and safe walking to school and access to sports pitches and parks.
  - A new central park, giving it purpose and fronting homes.
  - The demolition and re-provision of 117 new homes, with a tenure mix to be determined to meet housing needs.
- 3.6 Three of the eight residential sites and the two areas of open space that are included within the Masterplan are in the ownership of the Council. These areas, which form the basis of this report and which are the same as those previously considered by Cabinet in December 2022, are delineated on the plan 2 at Appendix 1. The five adjacent sites are referred to as:
- Site 1 – 2.8 acres, proposed for housing  
Site 2 – 1.26 acres, proposed for housing  
Site 14 – 0.84 acres, proposed for housing  
Site A – 1.58 acres, proposed for landscaping and recreational open space  
Site B – 1.42 acres, proposed for landscaping and recreational open space
- 3.7 The development proposed by GCH on the Council's sites, which are the subject of this report, comprise the main areas of open space within the estate on Scott Avenue and Byron Avenue. GCH is proposing there the development of 107 affordable flats and houses, commercial space fronting the entrance to the estate, a new community space, and a park and play facilities. All of the development proposed is subject to securing Planning permission.
- 3.8 Draft Heads of Terms have been prepared, which are presented at Appendix 1. Members will note that the completion of the sale would be subject to a number of factors, including the securing of planning permission, the attraction of grant funding from Homes England, and the release of a restrictive covenant covering part of the scheme in favour of the Gloucester Schools Trust (see below). The types of commercial uses within the sites being transferred from the Council would be limited by a restrictive covenant, which is considered to be appropriate given the proximity of the retail units to the secondary school.
- 3.9 Members will note that the sale would be subject to a detailed phasing plan over the four year development process. GCH would pay a penalty to the Council should it fail to deliver the agreed number of affordable homes, or per home that is converted to open market. The amount of the penalty would be based upon an independent valuation of the scheme.
- 3.10 GCH has also agreed to take on the ownership from the City Council of the remaining open space within the estate, which would be enhanced with better landscaping and play facilities. On the plan at Appendix 2 this comprises the site to the east of site 2 on Byron Avenue, and the site between sites 1 and 14 on Scott Avenue. The transfer of these sites would be subject to a separate report to Council, setting out the management and maintenance implications of the transfer.

#### **4. Title Issues**

4.1 The sites that are the subject of this report are currently public open space, each landscaped and used for local recreation. In order to progress the disposal of the land the Council would need to be mindful of the following issues.

#### **4.2 Sale of Public Open Space**

The Council would need to advertise its intention to dispose (transfer) of the land in a local newspaper for two consecutive weeks, following which members of the public can write in and object to the Council's intention to dispose of the land. A Cabinet decision would be required to dispose of the land having first considered any objections received. It is recommended that this is undertaken once precise details of the scheme have been identified and we have a clearer idea of timescales, as advertising too early may result in further advertisements being required.

#### **4.3 Best Consideration**

The Council has a range of powers to dispose of the Property in question whether acquired for housing purposes or otherwise. The Council has a statutory duty to obtain the best consideration reasonably obtainable. However, in certain circumstances this does not apply. Section 24 of the Local Government Act 1988 permits a local housing authority to provide financial assistance to any person for the purpose of privately let housing accommodation and this may include the transfer of land at an undervalue. S25 of the Local Government Act 1988 states that Secretary of State consent is required to any such disposal.

4.4 The Council would need to ensure that public assets are not sold at an undervalue, save, if at all, with the consent of the Secretary of State. Once full details of the regeneration scheme are obtained the Council will instruct an independent valuer to value the land based on the whole project.

#### **4.5 Restrictive Covenants**

A portion of the sites included in the development proposal are covered by a restrictive covenant for which the beneficiary is the Gloucester United Schools Trust (GUS). The covenant restricts:

- The number of homes that can be developed to 8 houses per acre;
- Shops or business premises cannot be erected; and
- All buildings erected shall front certain roads.

Any breach of that covenant may result in a financial consideration being due to the trust on the uplift in the value of the land covered by the covenant. Given that both the Council and GCH are partners in the Masterplan and in the regeneration area, both could become liable for that consideration, should GUS enforce the covenant's provisions.

4.6 The Council and GCH jointly approached GUS in October 2021 to secure its consent in principle to allow the covenants to be lifted on the affected land to enable the regeneration to proceed. Following an independent valuation GUS has written to the Council agreeing in principle to allowing the covenants to be lifted or altered to allow development, subject to the payment of a minimum consideration and protection for the charity to secure any long term uplift in values achieved through the development. Within the Heads of Terms GCH proposes to reimburse all reasonable GUS costs including the Council's costs in dealing with the release of the covenants.

## **5.0 Social Value Considerations**

- 5.1 The economic and social benefits will be set out in the Economic and Social Plan accompanying any planning application. The regeneration of the estate would expect to deliver significant social value, improving the quality of life of residents and the built and natural environment within the estate. Officers will discuss with GCH how it and its development partners/contractors can deliver social value pursuant to the Council's Social Value Policy and maximise the social value benefits of the project.

## **6.0 Environmental Implications**

- 6.1 The development proposed would lead to a reduction in open space within the estate. It would, however, likely be a requirement of the scheme that the public open space that remains will be enhanced through better landscaping.
- 6.2 During the masterplanning and planning application stages, the development will fully explore the opportunities to enhance the environment, addressing green infrastructure as well as steps to tackle climate change. The Council will seek to minimise energy usage both in the construction methods used and the lifecycle of the properties developed.
- 6.3 Sustainable Urban Drainage Systems (SUDS) will be used across the site and the policy requirement of the draft City Plan will be expected to be fully adopted.
- 6.4 In addition, GCH will develop the site in accordance with the Registered Housing Association Living Homes Standard which sets out the minimum requirements for all new homes. The Standard is a significant improvement on current building regulations as it ensures better environmental credentials for new homes by focussing on 6 categories which cover the core functions of a home and how it interacts with the wider environment for the benefit of the end user; Energy, water, carbon, comfort, space and place.
- 6.5 GCH is currently implementing a programme to improve the environmental performance of its property stock within the city. Within the Heads of Terms GCH commits to ensuring that all the properties within its ownership will achieve EPC C rating on completion of the scheme.

## **7.0 Alternative Options Considered**

- 7.1 The report to Cabinet in December 2022 considered alternative options that the Council might pursue in order to deliver the regeneration.

## **8.0 Reasons for Recommendations**

- 8.1 To authorise officers to proceed towards completion of the sale of the sites. The agreement of the Heads of Terms by the Council would give confidence to both GCH and to Homes England that the scheme is deliverable.

## **9.0 Future Work and Conclusions**

- 9.1 Should Cabinet support the recommendations, the next steps would be as follows:
- Land valuation of the Council's sites
  - Submission by GCH of a planning application

- Submission by GCH of a grant funding bid to Homes England
- Secure release of the restrictive covenant on part of the sites held by Gloucester Schools Trust
- Consent of the Secretary of State to be sought if required
- Drafting followed by completion of a contract of sale, to be agreed by the Council in line with the recommendation

## **10.0 Financial Implications**

- 10.1 As noted within the body of the report, the proposal will see the Council provide land below market value. Assurances should be sought to ensure the land is only used as per the agreement and that the Council is entitled to a refund if the land is used to generate alternative profits.

As the land is to be sold below market value, necessary legal advice should be sought.

## **11.0 Legal Implications**

- 11.1 As the land was originally acquired as part of housing land, the land is held for housing purposes under the provisions of the Housing Act 1985. Section 32 of the Housing Act 1985 gives a local authority power to dispose of land held for such purposes with the Consent of the Secretary of State. The Secretary of state has given a General Consent for the disposal of vacant land held for housing purposes at any price.

- 11.2 It has been noted above that under s24 of the Local Government Act 1988, by transferring the land at an undervalue, the Council will be deemed to be providing financial assistance and that this is permitted with Secretary of State Consent. The Secretary of State has given a General Consent which permits all local authorities in England to disposal of land to registered providers of social housing at an undervalue for the purposes of s24 of the Housing Act 1988 for development as housing accommodation or development as housing accommodation and other facilities which are intended to benefit mainly the occupiers of the housing accommodation. The General Consent is conditional on:

- (a) the Transfer containing an obligation for the development to be completed within 3 years of the date of completion of the Transfer (which can be dealt with by means of a phased transfer and development);
- (b) a requirement for the housing accommodation to be let as social housing or a shared ownership lease (or some other defined uses which will not apply to this matter);
- (c) The aggregate value of financial assistance given under s24 (to all such providers) not exceeding £10 million in any one financial year.

- 11.3 This General Consent will apply to this disposal provided that the above conditions are met and that any commercial/retail properties forming part of the development are intended mainly to benefit the occupiers of the housing accommodation. If these conditions cannot be met then specific consent will be required from the Secretary of State.

- 11.4 Where the disposal is of public open space, prior to disposal a notice of the intention to dispose must be placed in the local press for 2 consecutive weeks, and any objections considered.
- 11.5 There are restrictive covenants which could affect the development. Steps will need to be taken for the negotiation of the release, relaxation or variation of those covenants. See the comments at 4.5 and 4.6.
- 11.6 The Council will also need to consider, because the land is being disposed of at less than best consideration, that it is providing a subsidy to the purchaser and must therefore comply with the obligations in the Subsidy Control Act 2022.

## 12.0 Risk & Opportunity Management Implications

Risk	Mitigation
Following the transfer of the property GCH does not implement the regeneration in whole or in part.	<p>The Heads of Terms includes reference to a phasing plan, which would set out a clear timetable for the development of all aspects of the scheme.</p> <p>The Heads of Terms includes a penalty clause requiring GCH to pay a fixed sum per home not delivered or per home converted to open market.</p> <p>Covenants can be included in the Transfer(s) to require GCH to carry out the proposed development, which would give some comfort and would enable the Council to take action against GCH in the event of the development not being completed.</p>
There is significant opposition to the redevelopment proposed amongst local residents.	GCH has and will continue to consult with local residents over the scheme, and public consultation will be a requirement of the planning application. The messaging needs to emphasise the estate-wide benefits that will accrue to all residents from the regeneration, including the improvements to community facilities and the remaining open space, and the provision of employment opportunities within the commercial units.
The scheme proposed by GCH fails to secure planning permission	The sale of the Council's sites is dependent upon GCH securing planning permission.

## 13.0 People Impact Assessment (PIA) and Safeguarding:

- 13.1 The PIA Screening Stage was completed and identified potential negative impacts as a result of this recommendation. This includes the impact on homeowners within the estate, particularly those whose homes would be replaced, and the users of

recreational facilities. A full PIA will be prepared to assess the negative impacts that the development could have on residents.

- 13.2 The impact on residents within the estate will be identified in an assessment of housing needs to be carried out alongside GCH prior to the implementation of the scheme.

#### **14.0 Community Safety Implications**

- 14.1 The scheme will be delivered in accordance with one of the 13 key principles of the City Plan, namely "*Deliver development that achieves high quality design and layouts that integrates new and existing communities, reduces crime and the fear of crime, builds positively on local distinctiveness and contributes to the creation of an active, connected and sustainable city.*"
- 14.2 Should the regeneration of the estate proceed it is expected that it would lead to improved civic pride, characterised by lower levels of crime and antisocial behaviour than currently witnessed within the estate.

#### **15.0 Staffing and Trade Union Implications**

- 15.1 There are no staffing and trade union implications.

**Background Documents:** None