

## EXECUTIVE DECISION RECORD SHEET

<b>Names of Decision Makers:</b>	<b>Councillor Andrew Williams, Councillor Margaret Griffiths, Councillor Nicholas Tiley.</b>
<b>Portfolios:</b>	<b>Leader of the Council and Portfolio Holder for Community Leadership, Deputy Leader of the Council and Portfolio Holder for Housing and Portfolio Holder for Finance and Resources respectively.</b>
<b>Date of Portfolio Holder Decision:</b>	<b>22 September 2009</b>

<b>Title of Decision:</b>	<b>Affordable Housing Development Land to the rear of Ninian Road and Argyll Road</b>
<b>Decision made and reasons:</b>	<p><b>Decision</b></p> <p>To transfer the land to the rear of Ninian Road and Argyll Road to Hightown Praetorian and Churches Housing Association (“HPCHA”) at nil cost to enable the provision of 11 new affordable homes for social rent, subject to planning consent being granted.</p> <p>The capital accounting entries relating to a “non-money receipt” be made to reflect the disposal of the site at nil value for affordable housing purposes.</p> <p><b>Reasons</b></p> <p>Having regard to the contents of the report as a whole and to the annexes to it:</p> <p>There is a demonstrable need for more affordable housing in the Borough given that demand for it far exceeds supply. In providing 11 affordable homes, the Council would not be taking steps to meet a target for its own sake; it would be serving people in urgent need of affordable housing, such as people who are currently homeless or living in overcrowded conditions, and doing so in an appropriate timeframe.</p> <p>The decision therefore serves to fulfil clear policy objectives in terms of increasing the availability of affordable housing in the Borough through the use by the Council of its own land and resources and the mechanism of nomination rights.</p> <p>Given the high growth pressures in the Borough, and in Hemel Hempstead especially, one of the priorities is to minimise additional Green Belt losses through the use of other, appropriate, locations, the above site being such a location as it was removed from the Green Belt and designated as land for affordable housing development after extensive consultation and a Public Inquiry.</p> <p>The principle of affordable housing development has been properly established as part of the formal Local Plan process and there has been no change of circumstances since such as to warrant a change in position.</p> <p>The identification of sites for housing which might otherwise have constituted alternatives to the above site, is being progressed through the statutory processes associated with the new Local Development Framework and will therefore not be achieved until at least 2012.</p>

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The responses of the interested party who made an offer to purchase the land to the points the Council has raised (all as set out in detail in the Background section of the report), fail to provide certainty as to the future use of the land and thus cannot reasonably be seen as an appropriate way forward in terms of a means of meeting pressing needs in a timely manner.

Having duly taken into account all the matters addressed in the report, and no extraneous matters, it is concluded that a transfer to HPCHA as indicated above provides the appropriate solution for the Borough, making a key difference in terms of progressing important strategic Council priorities, as opposed to acceptance of the Offeror's offer/sale on the open market, which, on the basis of the valuation/offer, has been identified as an option which would provide instead what may be seen as a modest capital receipt. In such context, the proportionate decision is to proceed with the transfer.

### **Reports considered:**

Report to Cabinet 30 June 2009 (Appendix One) [Point of Clarification for the report: the date at the top of the Cabinet report annexed is given as 30 May 2009 but the item was put on the agenda for, and considered at, the Cabinet meeting on 30 June].

### **Officers/Councillors/Ward Councillors/Stakeholders Consulted:**

Head of Housing and Community Services  
Head of Planning and Regeneration

### **Officers/Councillors/Ward Councillors/Stakeholders Consulted on Cabinet Report:**

Director of Communities, Customers and Housing  
Head of Housing and Community Services  
Head of Planning and Regeneration  
Corporate Assets Group  
Affordable Housing Working Group  
Hightown Praetorian and Churches Housing Association  
Ward Councillors  
Residents of Argyll Road and Ninian Road

### **Monitoring Officer/ Chief Financial Officers Comments:**

The Deputy Monitoring Officer's comments have been incorporated in the report.

### **S.151 Officer:**

The value for money implications above identifies that disposal may be made to a Registered Social Landlord under S25 of the Local Government Act 1988 at less than best consideration.

The site is made up of predominantly General Fund land which was acquired under Physical Training and Recreational Act powers but also includes HRA land. The valuation received from Brasier Freeth, Chartered Surveyors is based on the freehold sale of the site for affordable housing.

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As the disposal of the asset is proposed at nil value for affordable housing purposes, the disposal will need to be treated as a 'non money receipt' for capital accounting purposes and should be noted in the capital programme. My comments in the original report to Cabinet on 30.6.09 explains how a capital receipt would have been treated.

### **Implications:**

The transfer of this site to HPCCHA on the terms indicated will enable much needed affordable housing to be provided in the Borough in an appropriate timescale, as set out in detail in the background section of the report.

### **Risk:**

Failure to transfer the land to HPCCHA for the purpose of developing 11 affordable housing units would be expected to delay the delivery of the project and therefore local housing need would not be met to such extent given that need far outweighs provision. It would also be expected to put additional pressure on staff resources.

### **Value for Money:**

This report seeks approval for the disposal of Council owned land at nil cost. Generally, a local authority may not dispose of freehold property other than for the best consideration which can be reasonably obtained. For the purposes of this report, however, the Council can rely on the provisions of the 'General Consent under Section 25 of the Local Government Act 1988 for the disposal of land to Registered Social Landlords 2005'. Nomination rights would be secured by the Council if the proposed disposal receives approval. Nomination rights are valuable to the Council in that they are a means of discharging its responsibilities as a housing authority.

### **Options Considered and reasons for rejection:**

An offer has been made by an interested party to purchase the site from the Council for £17,000 and the report has been produced, following a delegation by Cabinet, in order to enable due consideration of that offer, by setting out all, and only, relevant points.

The Options Appraisal contained in the background section of the report provides a detailed analysis of the options.

**Portfolio Holders Signature:**

**Date:**

**Portfolio Holders Signature:**

**Date:**

**Portfolio Holders Signature:**

**Date:**

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<b>Details of any interests declared and any dispensations given by the Standards Committee:</b>
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<b>For Member Support Officer use only</b>
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Date Decision Record Sheet received from portfolio holder: 22/09/09
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Date Decision Published: 22/09/09	Decision No: PH/055/09
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Date of Expiry of Call-In Period: 29/09/09
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Date any Call-In received or decision implemented:
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### BACKGROUND

On 30 June 2009 Cabinet considered a report seeking approval for the transfer of land to the rear of Ninian Road and Argyll Road. A copy of the report is attached at Appendix One.

After considering presentations from a number of local residents and the three Ward Councillors, and after considerable debate, the Council considered transfer of the site but were informed of an offer to purchase the site from the Council for £17,000 made by an interested party ("the Offeror"). The minute relating to the meeting and the discussions that took place is set out in Appendix Two.

Cabinet agreed that a decision on the transfer of the site, after due consideration of the above-mentioned purchase offer made by the Offeror, be delegated to the Leader of the Council, the Deputy Leader of the Council and the Portfolio Holder for Finance and Resources..

Options Appraisal

### The Purchase Offer

The Offeror's offer to the Council in the sum of £17,000 purports to offer best consideration to the Council for its asset.

The site could be sold on the open market and provide the Council with a Capital Receipt of £16,787 based on a valuation by Brasier Freeth, Chartered Surveyors, based on the assumption that the freehold site would receive full conditional planning permission to construct 11 affordable homes.

In order to consider the offer expressly, as required, reference needs to be made to the relevant correspondence between the Offeror and the Head of Planning and Regeneration.

On 2 July 2009 the Head of Planning and Regeneration wrote to the Offeror in response to his offer to purchase the land and requested clarification of the following:

1. The Offeror's intended use of the land;
2. What building or other structural works would be necessary, if any;
3. When the proposed use or development of the land could be expected to be implemented and

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4. Whether the Offeror intended to dispose of the land to one or more subsequent owners.

On 6 July 2009 a letter was received from the Offeror which included the following responses to points 1. to 4. above.

1. *Until such time as permission is granted to alter the same, the present user of the land must obviously remain. Neither I, nor anyone else, can pre-empt the decision of the planning committee upon any application that may come before it so that decisions upon my intended use of the land and any works to be carried out thereon are completely premature and do not advance the issues involved. As was made clear to me prior to the Cabinet Meeting of last week, that meeting, and the matter to be resolved by the appointed triumvirate was solely and exclusively to consider the transfer of the land, not its possible development. I was not aware this situation had changed.*

**Comment:** The Public Inquiry held in 2000 into the draft Dacorum Borough Local Plan considered the proposal to remove the Metropolitan Green Belt designation from part of the site to the rear of Ninian Road and Argyll Road and identify it for affordable housing development.

The Local Plan Inspector recommended that the site be allocated for 11 units of affordable housing and that development take place in the Part II phase of the plan in the period from 2006 onwards. As a result, none of the site is now in the Green Belt and it is a designated site for affordable housing development.

The site is being progressed in accordance with the Council's adopted Supplementary Planning Document on the release of Part II housing sites. The Offeror's response fails to provide certainty as to the future use of the land. It is vital that progress is maintained on these Part II housing sites to achieve a sustained supply of land over the Plan period to meet housing needs.

2. *Insofar as any projected change of user must be attendant upon the grant of planning permission, whether the restricted user can be extended, access to the land from both roads ensured, the possible extension of the road, it is not possible at this time to give any indication when, or if, any development would be likely to take place. The Council has had years to deal with these matters, I hardly feel it reasonable to press me upon such matters at this stage. My offer for the land was, and remains, unconditional so that all possibilities would remain. If the Council is minded to impose conditions upon the transfer, please advise as to what those conditions are, or will be, and confirm that they apply to all interested parties and not solely to myself. I was not aware that the proposed transfer to Hightown was conditional, but maybe I was ill-informed.*

**Comment:** A covenant restricting the use of the land for purposes under the Physical Training and Recreation Act was placed on part of the site when it was transferred by the Commission for New Towns in 1974. The Homes and Community Agency (statutory successor body to the Commission for the New Towns) has given approval to vary the covenant on the site on the basis that

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the land is transferred to HPCHA at nil value. The Homes and Communities Agency would instruct solicitors to vary the covenant once the land has been transferred to HPCHA and planning permission has been granted, with a revised restrictive covenant being put in place to limit its use to the provision of affordable housing.

The Offeror's response does not assist the Council in the decision making process as it remains unclear what his intentions are for the land.

- 3. My intentions as to the retention or possible future disposal of the land must of necessity depend upon all the matters above mentioned. You should be aware that my major concern throughout has been the unacceptable proposal to link the two roads to provide a through route from and to Argyll Road and Ninian Road. I can undertake that any intention that I may, or may not, have as regards the land will certainly exclude that proposal.*

**Comment:** Given the concerns raised by residents regarding the proposal to link Argyll Road and Ninian Road, HPCHA have prepared proposals for an alternative scheme with two extended cul-de-sacs.

A full copy of the letter received from the Offeror is attached at Appendix Three.

### **Transfer to Hightown Praetorian and Churches Housing Association ("HPCHA")**

Other than doing nothing, the alternative of transferring the land to HPCHA at nil cost to enable the provision of 11 new affordable homes for social rent, subject to planning consent being granted, flows from the Council's adopted policy and regulatory frameworks, which recognise the priority need to establish affordable housing in the Borough, given that demand well outstrips supply and that a transfer of land to an affordable housing provider would utilise the General Consent granted to the Council in relation to disposals of this nature, as highlighted under the Value for Money section of the report.

### **Key Factors**

In determining which option to take, the following are considered to be key factors:-

- (1) The valuation of £16,787 is based on an open market sale and on the assumption that the freehold site would receive full conditional planning permission to construct 11 affordable homes.

The Offeror's proposal does not provide confirmation that the offer is made on the same terms as the alternative option referred to above, that is to say, taking into account the construction of 11 affordable housing units and, therefore, an unfettered value might be higher. Were the Portfolio Holders to be minded to pursue a disposal for the best consideration that could be reasonably obtained, it is considered the Council would need to advertise the land for sale/put it up for sale at auction and that is not recommended as the way forward for the reasons set out in the report as a whole.

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- (2) The Council has clear policy objectives in terms of increasing the availability of affordable housing in the Borough and this is achieved through the use by the Council of its own land and resources and the mechanism of nomination rights, as well as through the regulatory process.

As explained in the above-mentioned report to Cabinet:-

The site has been allocated as a proposal site in the Local Plan and was specifically recommended for inclusion by the Local Plan Inquiry Inspector, who looked at all the evidence presented to him and considered all the issues;

The principle of affordable housing development has therefore been properly established and there has been no change of circumstances since such as to warrant a change in position;

Given the high growth pressures in the Borough, and in Hemel Hempstead especially, one of the priorities is to minimise additional Green Belt losses through the use of other, appropriate, locations, the above site being such a location as it was removed from the Green Belt and designated as land for affordable housing development after extensive consultation and a Public Inquiry.

- (3) There is a demonstrable need for more affordable housing in the Borough given that demand for it far exceeds supply and a similar situation applies in many other Local Authorities' areas in the south east.

The identification of sites for housing which might otherwise have constituted alternatives to the above site, is being progressed through the statutory processes associated with the new Local Development Framework and will therefore not be achieved until at least 2012.

With regard to Ninian Road and Argyll Road, the Council is in a position to enable 11 more affordable homes to be provided. Such homes serve to meet pressing needs, including the needs of people who are homeless or living in overcrowded conditions.

### **Conclusion**

Weighing the above considerations in the balance, therefore, it is recommended that the proposal to transfer to HPCHA represents the appropriate solution, making a key difference in terms of progressing Council priorities, as opposed to acceptance of the Offeror's offer/sale on the open market, which, on the basis of the valuation/offer, has been identified as an option which would provide instead what may be seen as a modest capital receipt.