

SUBJECT:	TRANSFER OF LAND AT JASMIN GREEN TO BIRCHWOOD COMMUNITY LAND TRUST
DIRECTORATE:	HOUSING INVESTEMENT
REPORT AUTHOR:	ANDREW MCNEIL, ASSISTANT DIRECTOR

1. Purpose of Report

- 1.1 To update the Executive on the progress of Birchwood Area Community Land Trust (BACLT) in their objectives of redeveloping land at Jasmin Green, Birchwood for residential and open space.
- 1.2 To confirm the Executives continued support for BACLT in developing the areas as detailed in the background section of this report for residential and play areas subject to a detailed business case being produced.

2. Background

- 2.1 Birchwood Big Local was allocated £1million funding in 2012, through the National Lottery's Big Local programme, to make a lasting difference to their community.
- 2.2 Birchwood Big Local identified Jasmin Green as a key area for enhanced open space and in 2015 it set up Birchwood Area Community Land Trust Limited (BACLT) which is a body that can own and lease land and buildings on behalf of Birchwood Big Local and the Birchwood Community. Their proposal is to develop new housing on a portion of Jasmin Green which would create a surplus revenue stream to maintain the enhanced open space, capital works for the open space would be funded from the Big Local funding.
- 2.3 BACLT has gained experience in running and maintaining projects. It now owns and operates the play area at Diamond Park, Birchwood, sold to BACLT by the local Life Church in 2017. In May of this year the transformed play area was formally reopened providing a secure enclosed space with new high quality equipment and surfaces.
- 2.4 In terms of the Jasmin Green project, and particularly the housing development element, BACLT is now receiving support from the East Midlands Community Led Limited Housing organisation. Whilst the BACLTs initial proposals set out in the Executive report of 2017 centred on open space, the current proposals sees a change in emphasis where the BACLT see the scheme as the means for it to become a housing provider as a primary aim. As set out below the BACLT is working towards submitting a bid to Homes England for capital funds to support new build homes. Whilst BACLT can bid for funds it cannot receive them until it becomes a Registered Provider (RP) in its own right. BACLT are currently exploring the requirements of becoming an RP. An alternative is to have a partner RP to manage the properties on behalf of BACLT but at present there is no

agreement for such a partner.

- 2.5 At its July 2017 meeting the Executive approved in principle the sale of the majority of the land at Jasmin Green, and the lease of the rest, to BACLT in order that it could progress its proposals for recreational and housing developments, subject to review on progress after 2 years. BACLT would like the council to extend the in principle approval until the end of 2021.

3. Progress

- 3.1 Outline planning permission for 62 bungalows and apartments was established in November 2017. However in order to progress the scheme to achieve a viability BACLT revised their objectives to a 50 bungalow scheme. In July 2018 the Government published the prospectus for the Community Housing Fund and in the autumn of 2018 BACLT developed its initial bid to Homes England for revenue resources to work up a project to detailed planning stage.
- 3.2 In May 2019 the group received notification that their application for £267 had been successful. Birchwood Big Local have undertaken to fund 10% costs in addition to the grant funds (a requirement of the grant funding).
- 3.3 BACLT have now engaged architects to design a revised scheme and are exploring alternatives. This may alter the access to the site and the exact boundary of the residential area, as previously proposed in 2017. At this point there is no definitive layout for the council to consider, however pre-planning discussions with the council and highways have taken place.
- 3.4 The progress of BACLTs proposal will be dependent upon a viable business case being presented to Homes England as part of the bidding process for capital grant support. The business case will need to demonstrate financial viability, demand and ability to deliver not only the building development but also its ongoing management. The target for a capital bid is March 2020, with any confirmation of a successful bid in Spring 2020.
- 3.5 This business case will also be a requirement of the Council in determining an extension to the principle of the disposal of the land to BACLT. The business case would need to detail demand for the housing type, management arrangements and financial capacity, in terms of grant and private finance. Currently any extension for the disposal would be subject to a business case and therefore a decision at present would need to be reviewed in March 2020.
- 3.6 Following a successful capital bid by BACLT there will be an interim period to allow for full planning, contractor selection and pre start investigations. It would be this period that the council would grant to approve the disposal.
- 3.7 It is therefore proposed that given the progress to date has not resulted in the transfer of land, as previously agreed in 2014 and re-confirmed in 2015 and 2017, there should be more certainty on delivery before agreeing to extend a period where a disposal takes place.
- 3.8 Given that the progression of the scheme is subject to further planning considerations (including a potential revised entrance and layout) and a viable bid

to Homes England the decision to extend the time allowed for land transfer to 2021 could be deferred to the point of a confirmed scheme and bid, March 2020 at the earliest.

BACLTs progression to the point of land transfer and the basis for an in principle consideration to dispose should be subject to it continuing to support the strategic priorities of the council. In addition key milestones being achieved prior to any consideration will include:

- Planning permission granted for a new scheme proposal
- The progress of BACLT as a Registered Provider or the selection of a partner Registered Provider.
- The agreement on an allocations policy for the new properties.
- A detailed business case which delivers financial stability for the development whilst also providing sufficient income for the delivery of the maintenance of the land to be used as open space.

4. Strategic Priorities

4.1 Let's deliver quality housing

The development being worked on by BACLT is intended to be fit for purpose for the future and will result in properties for affordable rent. It is intended that all will be wheelchair accessible and to target that at least a third will be built to full lifetime homes standards. In designing the final scheme BACLT have asked their architect to take full account of the HAPPI standards (Housing our Ageing Population: Panel for innovation)

4.2 Let's enhance our remarkable place

The proposal by BACLT is to provide modern play equipment and landscaping in Jasmine Green which they will manage. The housing proposals they are developing are intended to 'unlock' capital investment by Big Local for the leisure facilities and create a long-term sustainable revenue stream via BACLT for ongoing management and maintenance of the open space.

5. Organisational Impacts

5.1 Finance (including whole life costs where applicable)

It was estimated in the July 2017 report by the Council's then Property Manager that the transfer of land at nominal value represented an undervalue of around £1.2m - £1.4m. Whilst this value will have increased the de-minimis level for disposal under the general consent is not likely to be met. As there may be a change to the site layout and exact land required a current valuation at the point of disposal will be required as each valuation has a limited assurance period.

5.2 Legal Implications including Procurement Rules

Where the Council disposes of its assets, it is under a statutory duty pursuant to section 123 of the Local Government Act 1972 to do so at the best consideration (i.e. price) reasonably obtainable, unless a consent to a disposal

at an undervalue has been obtained from the Secretary of State.

The Secretary of State has issued a general consent, allowing local authorities to dispose of land at an undervalue, where they consider that to do so will help to secure the promotion or improvement of the economic, social or environmental wellbeing of the area, provided that the difference between the value of the land interest to be disposed of and the consideration being accepted by the Council ("the undervalue") is £2,000,000 (two million pounds) or less and that the valuation process set out in the general consent has been complied with.

5.3 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

6. Risk Implications

6.1 (i) The option of not progressing with the disposal of land at Jasmin Green to BACLT has been considered. A scheme could be progressed by the council in its own capacity. There is a risk of adverse publicity with this approach now that the CLT has been successful in attracting £267K revenue funding from Homes England to progress the project to the detailed planning stage. If the Birchwood CLT scheme does not progress this option can be revisited.

6.2 (ii) Key risks associated with the preferred approach

Capital grant funding will be required for the delivery stage for affordable housing BACLT propose. This grant is most likely to come from Homes England and will need to be applied for by BACLT as a Registered Provider (or a partner Registered Provider). The availability of such grant is always subject to current Government policy.

7. Recommendation

7.1 To defer, until Spring 2020, the decision to reaffirm the decisions at the July 2017 meeting of the Executive Committee to transfer the freehold interest of land at the Jasmin Green open space to Birchwood Area Community Land Trust Ltd (BACLT) at the nominal value of £1 for the purpose of residential development. In addition to defer the decision to reaffirm the decision at the July 2017 Executive Committee to lease land at Jasmine Green open space to BACLT for a period of 10 years, also at a nominal sum of £1.

7.2 To confirm that any decision to reaffirm the decision to transfer the freehold and lease of land will be subject to business case detailing the financial ability of BACLT to deliver a housing scheme which can demonstrate it is meeting strategic housing need. In addition the proposed scheme will need to demonstrate to the council its viability in terms of management in order to maintain the housing development for the purpose agreed in terms of governance by a suitable accountable body.

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? None

List of Background Papers: Birchwood big local green space – Executive
September 2014

Birchwood big local – Council land at Melbourne road
and Jasmin road, Birchwood – Executive 26 October
2015

Jasmin Green community-led housing/Transfer of
Council land – Executive 17 July 2017

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