

Agenda Item No: 8 **Report No:** 134/15
Report Title: Response to Petition: Meeching Down
Report To: Council **Date:** 14th October 2015
Cabinet Member: Cllr Andy Smith
Ward(s) Affected: Newhaven Valley
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Purpose of Report:

To respond to the petition submitted to Council on 16th July regarding the proposed development of Meeching Down in Newhaven in relation to the New Homes project.

Officers Recommendation(s):

- 1 To note that the site known as Meeching Down in Newhaven has been identified to provide 100% affordable, council owned housing as part of the New Homes Project (also known as the 49 Sites).
- 2 To approve the recommendation that the Council undertakes further studies as identified within the ecology report to fully understand the potential for the site to support a range of wildlife and how any impact by development could be mitigated.
3. To approve the recommendation that the Council seeks to devolve the remainder of the site once built, to Newhaven Town Council, charging the site with a restrictive covenant and/or overage clause, to ensure the rest of the site is preserved as open space indefinitely.

Reasons for Recommendations

- 1 At the meeting on 16th July 2015, Council received a petition from Councillors Saunders and Carr containing a total of 1562 signatures. The petition stated:

“Meeching Down, known locally as The Union, is a woodland area widely used by local people of all ages for recreation, walking and relaxation. It is one of only a handful of green spaces in the area, is abundant with wildlife and provides an area of natural tranquillity in an otherwise urbanised area.

Whilst we recognise that there is a need for new and affordable homes in the town, we feel strongly that Meeching Down is not an appropriate site for development.”

Also submitted with the petition were two pages of typed comments from people who signed the petition, many of the comments related to concerns about the loss of a natural habitat and green space, and others related to the number of brownfield sites available in Newhaven for development, together with concerns about the extra infrastructure needed to support the additional housing.

Information

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- 2.1 Purchasing or renting a home has become unaffordable for a significantly larger number of residents over the years. The average sale price for a home is £297,000 which is 65% higher than the national average. At the same time, rents have been rising and the average rent is now £1,080 per month, whereas the Local Housing Allowance (LHA) for a 2-bedroomed property is set at £769.92. A lack of homes for sale or rent is exacerbating the problem.
- 2.2 Residents within Lewes District have vastly different experiences of finding decent, affordable and secure homes. The Council is committed to increasing affordable housing and must look at the current asset base to deliver efficiencies.
- 2.3 There are approximately 1,700 people on the Housing Register and this number is forecast to grow by 549 per year, when only 244 homes become available in that time. The Council’s current mix of housing stock does not meet the demand for one and two bedroomed homes and the lack of availability means that the Council cannot offer housing within the short term to anyone but those in the most difficult circumstances.
- 2.4 In response to the local and national pressures, the Council recognised that there was an opportunity to close the gap between the current level of housing provision and the anticipated need, through more efficient stewardship of its assets. The Council also recognised that there was a lack of expertise and capacity within the authority to deliver innovative housing solutions and set about developing a project, known colloquially as the 49 sites, based on the principles of asset challenge to determine whether there were efficiencies from:

- (a)** continued maintenance (maintain status quo, as property is appropriate for current and future service needs);
- (b)** better utilisation (the opportunities for better property utilisation would be realised through a project);
- (c)** major investment (the future of the property has already been determined and major works such as refurbishment and extension etc are required.);
- (d)** long term development (retain property pending future sale for development); and
- (e)** surplus (dispose of property).

2.5 In May 2012 Cabinet approved a report seeking authority to enter into a partnership arrangement with a private sector development partner to bring forward a range of Council owned surplus sites for development. The objectives of the partnership arrangement would be to:

- (a)** Increase the value of Council owned properties prior to financially beneficial disposal;
- (b)** Make best use of Council assets to stimulate regeneration and deliver community benefits;
- (c)** To dispose of the maintenance liability of underperforming assets.

2.6 The Council advertised for a development partner in accordance with the European Procurement Directive. The bids were assessed against the following key objectives:

- (a)** Community benefit;
- (b)** Regeneration;
- (c)** Risk mitigation;
- (d)** Financial return.

2.7 Following a thorough and recognised negotiated tender process, in September 2014, Cabinet approved the appointment of a consortium bid between Karis Developments, Southern Housing Group and Conran Architects.

2.8 Meeting the projected housing need will be difficult given the restrictions on suitable and sustainable housing land capacity within district, which is in part due to the South Downs National Park designation (SDNP). The landscapes and communities as they exist are highly valued by residents and housing need must be addressed in a sensitive manner.

- 2.9** The Joint Core Strategy is the long-term plan for the district that outlines how many, where and how new houses might be built. Local authorities can use their planning powers to ensure that housing needs are met.
- 2.10** The initial examination into the Joint Core Strategy has been completed and the Planning Inspector was of the view that the Council and National Park Authority should “leave no stone unturned” in their attempts to plan for the delivery of our affordable and market housing need.

Meeching Down Ecology

- 2.11** Meeching Down (The Union) is a large (17 acre) site to the west of Newhaven. See Appendix A for an aerial view and plan of the site boundary.
- 2.12** The majority of the site is subject to non-statutory nature conservation designation and it is classified as a Site of Nature Conservation Importance (SNCI). This is a designation made by the District Council. There are 635 SNCIs in total across East and West Sussex.
- 2.13** Sussex Wildlife Trust (SWT) define SNCI to be:
- “...a non-statutory designation...recognised within the planning system. While there are no legal obligations attached to them, their special characteristics mean they are sites of high priority within the county and their maintenance is important.”*
- 2.14** SWT recommend that where a development is likely to affect an SNCI, a biodiversity survey and report will be necessary to establish any likely impacts upon the site and work has already started on this recommendation.
- 2.15** The Council conducted a preliminary ecological appraisal of the site to identify the ecology and wildlife at the site, provide information to enable a Site Investigation (SI) to be carried out by the Civil Engineering consultants and identify where further studies might need to be conducted.
- 2.16** The executive summary of the preliminary ecological report is included as Appendix B to this report. The report states that on-site woodland qualifies as a habitat of principle importance, however, the report also states that it is a ‘poor example’ of its type. The report identifies that the site has high potential to support breeding birds and badgers, moderate potential to support bats and low potential to support great crested newt, widespread reptiles and hazel dormouse. It is recommended that the Council undertakes further studies as identified within the report to fully understand the potential for the site to support a range of wildlife and how any impact by development could be mitigated.

- 2.17** At the time of writing this report, the Council is currently undertaking a SI at Meeching Down to determine the underlying structure of the site. The SI has been informed by the ecological survey, and an ecologist has been on site during the investigation to ensure any impact is minimal and areas of particular ecological value are avoided.

Proposals for the Site

- 2.18** The Council understands the sensitive nature of the site, both in terms of the ecology, but also the special relationship that residents and visitors have with the site. After the first round of consultation, it was clear that residents feel very strongly that the site required more thought and that many people were opposed to any kind of development.

The architects, Conran, working in collaboration with LDC and Karis have proposed an alternative plan, which if realised, offers the opportunity to build an exemplary development of approximately 65 Council-owned homes. The development will set a standard nationally for the quality of design for affordable homes, for the interaction of the development with the local ecology and for enhancement of the adjoining amenity open space. The proposals would see a conservation-led development being built at Meeching Down.

- 2.19** The Council is aware that there is a greater need for one and two bedroom affordable homes and the need for larger three or more family affordable homes has decreased. This requirement is offset against the current stock which is ageing and comprises mostly of larger properties. It is therefore proposed that the majority of the homes at Meeching Down will be one and two bedroom homes.
- 2.20** Mitigating the impact of the development on the ecology of the site and the wider environment of Newhaven will be key to the scheme's success. Information from Council records indicate that only approximately one-third of households on the housing register have a car, and it is proposed that much more is done to encourage use of the excellent transport links close to the site, which includes the regular 'Coaster' bus service that runs along the A259. This in turn presents the Council with an opportunity to propose a new type of development for the District where quality of the design and the quality of life for residents is prioritised above a potentially limited need for private vehicular parking.
- 2.21** The Council is also preparing to release a report on the air quality issues in Newhaven which are linked to the use of cars for personal transport. This project, which encompasses the development at Robinson Road (which will also be a limited parking scheme) and relocating the Council's waste and recycling depot facility outside the centre of the town, has the potential to reduce the adverse impact on air quality and the health of residents and people working in Newhaven.

- 2.22** In response to feedback received at the first consultation event, the number of homes proposed at the site has reduced and the majority of the of the wildflower and open field space to the north-west corner of the site will be retained. Approximately 75% of the exiting site will remain if housing is developed, and the majority of the site that will be used for housing is part of the dense woodland and not the open grassland that is the most used area of the site.
- 2.23** Through the design and planning process, the aim will be to improve the quality of the remaining open space with better access for all included as part of the planning application. Furthermore, it is recommended that the Council seeks to devolve the remainder of the site to Newhaven Town Council, charging the site with a restrictive covenant and/or overage clause, to ensure the rest of the site is preserved as open space indefinitely.
- 2.24** The Council is undertaking comprehensive preliminary and follow-up ecological and wildlife surveys at the site, and will be working with the rangers and seeking to work with local wildlife organisations to explore how the housing at the site can support ecological and wildlife biodiversity. The Council will also be looking wider to the neighbouring sites such as Castle Hill and Bollens Bush to retain and enhance an important green corridor from the sea to the Downs.
- 2.25** The proposal for the Meeching Down site is a 100% affordable council homes with significant contributions to both ecological and amenity impact mitigation. The exceptional nature of these proposals means that the site will not set a repeatable precedent for the District that would be viable or attractive to private developers.

The New Homes Project

- 2.26** The New Homes Project is structured to allow the Council to obtain maximum value on the sale of a number of sites to release funds that will be reinvested to build high-quality, affordable housing within the district.
- 2.27** The sites are split into three phases.
- (a)** Phase 1a sites will be designed collaboratively by the Council, the Consortium and in consultation with the public to ensure high quality homes. If planning permission is granted, these sites will be sold to Southern Housing Group who will then develop the sites.
- (b)** Phase 1b sites are allocated as affordable council owned homes. They will for rent and an element potentially made available shared ownership. Meeching Down is included in the list of sites within Phase 1b.

- (c) Phase 2 sites are a collection of smaller sites. It is anticipated that the sites will be sold with planning permission for development by a third party.
- 2.28** Planning applications for all of the different phases are grouped into waves. Treating the sites in this manner allows the partners to demonstrate the target of 40% affordable housing as an aggregate (and therefore higher number) across a range of mixed-size sites.
- 2.29** Wave 1 sites are those which fall within the Lewes District Council planning boundary and planning applications are expected by the end of 2015.
- 2.30** Wave 2 sites are those sites which fall within the South Downs National Park Planning Authority (SDNPA). It is anticipated that the planning applications for Wave 2 will be submitted in summer 2016.

Financial Appraisal

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- 3.1** The proposed development of this site is part of an extensive project which will make best use of Council assets to stimulate regeneration, increase the supply of affordable homes and dispose of the maintenance liability of under-performing assets. As a whole, the project will generate both revenue and capital resources for the Council as follows:

 - (a) Revenue – under current Government grant arrangements, the Council will receive, for 6 years, New Homes Bonus funding for each additional housing unit which is constructed. The Council's share of this funding is currently £1,450 annually for each new affordable home. The Council's medium term financial strategy assumes that New Homes Bonus funding is used to support one-off projects which support the delivery of Council priorities.
 - (b) Capital – the expectation is that the project will deliver a capital receipt of several million pounds for the Council, which would be reinvested into the provision of more affordable homes such as those which are planned at Meeching Down.
- 3.2** In the case of the proposed development at Meeching Down, the new homes constructed would be owned by the Council and managed within the Housing Revenue Account (HRA). An initial financial model has been prepared, and will be kept under review as more information becomes available, to ensure that the development is both affordable (HRA capital expenditure is constrained by a Government cap on borrowing) and cost effective, providing a positive return to the HRA over time.

- 3.3** The cost of further studies to understand fully the ecology of the site and how the impact of development could be mitigated, can be met from the overall budget that the Council has agreed to facilitate the New Homes Project.
- 3.4** Devolution to Newhaven Town Council of the open space at the site, following development of the housing, would relieve the Council of low value maintenance costs. However, this would not be significant in relation to the Council's overall budget position.

Legal Implications

The Legal Services Department has made the following comments:

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- 4.1** The District Council has signed a Conditional Sale Agreement with Karis Developments Limited and Southern Housing Group Limited. That Agreement relates to a portfolio of properties across Lewes District, one of which is the site at Meeching Down.
- 4.2** The Agreement proposes that the parties submit a joint planning application for affordable housing development at Meeching Down.
- 4.3** There are provisions in the Agreement which acknowledge that the parties need to carry out certain work prior to the submission of any planning application – for example, ground condition surveys, due diligence checks on title, formal agreement of the current use values of individual sites.
- 4.4** Planning applications are to be submitted in “Waves”. The first Wave comprises of a bundle of sites which are intended to be sold to third parties for private market housing, together with two sites (Robinson Road, Newhaven and Meeching Down, Newhaven) which are to be retained in the council's ownership and used to provide affordable housing. The sites have been “bundled” together in this “wave” so as to provide a collection of sites which , taken together, will provide the 40% affordable housing required by our planning policies.
- 4.5** The Agreement provides that if a site within the wave fails for one or more contemplated reasons eg ground condition survey reveals ground problems, or title check shows insurmountable problem, or all of these are sound but the site subsequently fails to secure a planning permission then the project can proceed without that site providing that a different site is substituted, or build densities are reduced on the private market housing sites, to ensure that we can still met the 40%affordable housing target.

- 4.6** The contract documentation caters for a number of possible contingencies. It sets out what will happen if a site fails for any one of a range of reasons set out in the agreement. In addition to the reasons already set out above (eg poor ground conditions, failure to obtain planning permission, inability of SHG to achieve satisfactory return on costs), the reasons include the inability of council to afford the build out of the affordable housing. All of the possible contingencies are identified in the contract documentation with clear procedures as to how they are to be interpreted and operate, and with provisos that matters be referred to independent experts in the event of dispute. The Agreement does not permit the council to simply change its mind, for none of the above reasons, and decide now to take out any site which has been included in the commercial deal.
- 4.7** If, in response to the petition, the Council decides to take Meeching Down out of the scheme for no reason which has been set out in the Agreement then it will be in breach of the commercial agreement it has signed. The consequences of doing this are set out in Appendix D.
- 4.8** Lawyers have considered whether a covenant made at the time Meeching Down was sold to Newhaven Urban District Council in 1924, which created restrictions on how the land could be used, was still enforceable against Lewes District Council as current owners of the land. On a related point, lawyers also considered whether the covenant imposed a charitable trust as this has been a raised with the Council as a potential barrier.
- 4.9** For added assurance, these issues were put to a barrister. He advised firstly that the restrictive covenant, which included a promise not to erect any house or building on the land (with minor exceptions), and to use it solely as a public pleasure ground, was most unlikely to be enforceable now; and secondly, that there is no basis for considering that the land is held by the Council in trust. In the absence of a trust, there can be no question of there being a charitable trust.

Risk Management Implications

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- 5.1** The major risks, including risks pertaining to financial, legal, ecological and the ability to deliver affordable housing are contained within the body of the report, together with mitigations where appropriate.

Equality Screening

- 6** See Appendix C

Background Papers

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Appendices

- 8** Appendix A: Aerial View and Boundary Plan
- Appendix B: Ecological Report – Executive Summary
- Appendix C: Equalities Impact Assessment
- Appendix D: Legal Advice (Exempt)