

CABINET

12 JULY 2011

REPORT OF THE CABINET MEMBER FOR FINANCE REVENUES AND BENEFITS

Title: Land adjacent. 50 Shortcrofts Road, Dagenham	For Decision
<p>Summary: 50 Shortcrofts Road was sold some years ago under the Right to Buy scheme.</p> <p>The current owner of 50 Shortcrofts Road has applied to purchase the Council's adjoining amenity plot shown hatched black on the plan at Appendix 1, as he wishes to develop his and the Council's land to build an additional 2 bedroom house and two 2 bedroom flats in a terrace to the side of his property. Full planning permission for the proposed development was granted by the Development Control Board at their meeting on 19 October 2010 under reference 10/00248/FUL. This paper does not deal with the nature of the proposed development, as this is handled fully through due planning process. Members are therefore not being asked for a decision on the nature of the proposed development, but only on the disposal of the amenity plot itself.</p> <p>Housing colleagues have confirmed that the amenity green is a fenced grassed area and they have no objection to the Council disposing of this land.</p> <p>The amenity plot was recently valued on the basis of it forming part of this proposed development at approximately £15,000 - £20,000. Members will appreciate that the land's alternative use value as an amenity plot is nominal only and that in Financial terms, the maintenance of the plot represents a cost to the Council. Members are therefore recommended to authorise disposal of the land at best possible price and to authorise the Corporate Director of Finance and Resources to agree the final terms of the transaction in due course.</p> <p>This amenity green is one of a number of similar Council-owned amenity greens across the Borough, which could be disposed of for similar use. Officers will carry out a review of all amenity greens with a view to providing Members with a further report on the possible disposal of other suitable sites for similar use, thereby reducing the Council's ongoing maintenance cost, and achieving capital receipts.</p> <p>Wards Affected: Alibon</p>	
<p>Recommendations The Cabinet is recommended to agree to:-</p> <ul style="list-style-type: none">(i) Authorise the Corporate Director of Finance and Resources to negotiate and agree terms for disposal of the amenity land at the maximum price that can reasonably be negotiated(ii) Instruct the Council's Legal Practice to complete the transaction in due course.(iii) Instruct officers to provide a further report to Cabinet in due course on the possible disposal of other similar amenity greens for housing use.	

<p>Reason(s)</p> <p>All land sale proposals are required to be agreed by the Cabinet and Assembly</p> <p>The proposal meets the Council's stated housing priorities by providing three new privately owned/rented homes in the Borough.</p> <p>The proposal will produce a capital receipt for the Council</p> <p>The proposal will mean that costs are not incurred on the maintenance of this small plot of land.</p>		
<p>Comments of the Chief Financial Officer</p> <p>The sale of the land will benefit the Council in a number of ways:</p> <ol style="list-style-type: none"> 1) It will result in a capital receipt of between £15k and £20k which can be used to either fund new capital projects or support the existing capital programme 2) It will reduce ongoing costs to the Council of £83.95 p.a. for maintenance of the amenity green 3) It will, once the dwellings are built, result in additional Council Tax being paid to the Council 		
<p>Legal Comments</p> <p>The Local Government Act 1972 sets a guiding principle requiring that the Council should not dispose of land at a consideration less than the best that can reasonably be obtained. This is supplemented by prescribed processes and procedures in the Council Constitution for the disposal of land. This report recommends sale at the market rate which is in keeping with these requirements</p>		
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1. Background

- 1.1 50 Shortcrofts Road was sold some years ago under the Right to Buy and Members will note from the plan at Appendix 1 that the overall plot size (shown in bold on the plan) is quite large for an ex LCC "Right to Buy" house.
- 1.2 The current owners have recently applied to the Council to purchase the Council's amenity green shown hatched on the plan at Appendix 1 to this report to enable them to build a two bedroom house and two, 2 bedroom flats in a terrace adjacent

to their property. Photographs of the amenity green are shown for Members information at Appendix 2 to this report.

- 1.3 The owners of 50 Shortcrofts Road were granted full planning permission for their proposal by the Development Control Board at their meeting on 19 October 2010 under reference 10/00248/FUL.
- 1.4 The local Area Housing Officers have checked the amenity green and come to the conclusion that it is simply a grassed over area that adds little to the local area. They are therefore content for it to be sold as per this enquiry.
- 1.5 The land has been valued by the Council's external surveyors (Lambert Smith Hampton) at approximately £15,000 - £20,000.

2. Proposal

- 2.1 As the land appears to provide little amenity value to the local environment, it is proposed that Members approve the disposal of this plot of land to the owners of 50 Shortcrofts Road, Dagenham.

3. Financial Issues

- 3.1 The proposal should result in a capital receipt to the Council of approximately £15,000 - £20,000.

4. Legal Issues

- 4.1 The proposal to dispose of the property at market value is in accordance with the statutory and Council Constitutional regulatory framework.
- 4.2 Because of the plot's limited size and location a disposal at market value by private treaty would be an economic and appropriate means of disposal maximising the value of an asset which bears ongoing maintenance costs at a time of limited funding.
- 4.3 Concerns were raised when this report was being considered over possible use of the new properties as homes in multiple occupation and whether the Council can impose any restrictions on the sale to prevent this possibility. Unfortunately, there are no restrictive covenants or other actions that the Council (**in its capacity as a landowner**) can take that would prevent the properties being used in this way. However, it should be noted that the properties will all be small two bedroom homes (two flats and one house) and therefore they will not lend themselves to such use. The possibility of the new homes being used as multiple occupation properties therefore appears to be very low. The reasons that the Council cannot impose restrictions on the land to prevent the new homes from being put into multiple occupation are:-
 - 4.3.1 The Council is the minor landowner in this instance and the new homes will all be built on the land already owned by the owner of 50 Shortcrofts Road. The only covenants that the Council could impose would be on the amenity green itself and to have any effect at all would restrict the future use of the land to a drive way, parking and front gardens for the new homes that will be

built. However, imposing such restrictions could significantly reduce the capital premium that the Council might gain from the disposal and would have no effect on possible multiple occupation.

4.3.2 Recent Case Law (particularly the Court of Appeal decision in R. v. Braintree District Council (2000)) prevents Council's imposing such restrictive covenants over properties that have been sold under the Right to Buy (RTB). In the past, certain Council's (including London Borough of Barking & Dagenham) sought to prevent subsequent development of RTB homes (with the aim of recovering increases in value due to subsequent changes in planning permission.) However, it was held that such covenants were against the spirit of the RTB Legislation and they have therefore effectively been "ruled out" by the Courts. As a landowner, the Council cannot therefore impose restrictions on the way in which the new homes will be occupied in the future.

5. Other Implications

5.1 **Property / Asset Issues** If approved by Members, the proposal will result in the disposal of this fenced grassed amenity area that provides little visual amenity to the local area in return for a capital receipt of approximately £15,000 - £20,000.

6. Options appraisal

6.1 If Members are not in favour of the proposal, the Council can retain the amenity space instead. In this case the Council would not have the benefit of the proposed capital receipt, and would retain the maintenance liability for the amenity green. The owner of 50 Shortcrofts Road may still be able to build on his land without the Council's amenity green, but due to planning constraints this is likely to result in fewer new homes being built.

7. Background Papers Used in the Preparation of the Report:

Planning application reference no.:10/00248/FUL

8. List of appendices:

Appendix 1: Site Plan.

Appendix 2: Site photographs.

Appendix 1: Land adj. 50 Shortcrofts Road, Dagenham



50 Shortcrofts Road



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Appendix 2: Land adj. 50 Shortcrofts Road, Dagenham

