

CABINET

19 December 2012

Title: Disposal of Land at Collier Row Road, Romford	
Report of the Cabinet Members for Regeneration and Finance	
Open Report	For Decision
Wards Affected: Chadwell Heath	Key Decision: Yes
Report Author: Daniel Pope, Group Manager Development Planning	Contact Details: Tel: 020 8227 3929 E-mail: daniel.pope@lbbd.gov.uk
Accountable Divisional Director: Jeremy Grint, Divisional Director of Regeneration	
Accountable Director: Graham Farrant, Chief Executive	
Summary	
<p>At its meeting on 30 April 2012, the Development Control Board approved an application from EcoGrove Ltd in respect of land to the east of the Northgate Industrial Park up to and including the Wellgate Community Farm on Collier Row Road, for 88 five-bedroom detached houses subject to a S106 agreement to secure a four bedroom house to the Council, enlargement and enhancement of the community farm including erection of new farm buildings and transfer of 0.59 hectares of land to the Council and an education contribution of £200,000. The applicant has valued the farm improvements, including the house, at £1.15m.</p>	
<p>The development requires two accesses, one of which is partly over Council land. This is a long, narrow strip of land at the southern boundary of Wellgate Community Farm of 0.0623 hectares (0.154 acres) shown edged red in the plan at Appendix 1). The Council has a duty to receive best consideration for this land under the Local Government Act unless the disposal will promote social, economic and environmental well-being of the area.</p>	
<p>The land has been valued by the Council's valuers at £247,000. Within EcoGrove Ltd's development appraisal no provision has been made for this. The key benefits of the development are as follows:</p>	
<ul style="list-style-type: none">• substantially improves a semi derelict unsightly site;• widens the choice of housing in the borough ;• new housing built to the highest environmental standards (Code 6 Sustainable Homes);• the Wellgate City Farm substantially improved and with a four-bedroom house, a doubling in the size of the land holding and erection of new farm buildings worth c£1.15m;• a £200,000 contribution towards education provision	
<p>Due to the substantial benefits of this development to the Council both directly in the form of enhancement to its assets and additional land, and indirectly by allowing the farm to</p>	

maintain and widen its services to the community this report recommends that the Council dispose of the land to the developer for £47,000. This would allow the S106 agreement to be signed on the basis the Development Control Board agreed and enable the development to proceed which is clearly in the interests of the regeneration of Marks Gate and the communities who benefit from the Wellgate Community Farm's services.

Appendix 1 provides a map showing the development, the land to be transferred to the Council and the land which this report recommends should be sold to EcoGrove Ltd.

Recommendation(s)

The Cabinet is recommended to:

- (i) Approve the sale of the area of land shown edged red in the plan at Appendix 1 to EcoGrove Ltd for £47,000; and
- (ii) Authorise the Chief Executive, in consultation with the Head of Legal and Democratic Services, to complete all necessary legal agreements to conclude the sale of the land.

Reason(s)

To assist the Council to achieve its Policy House objectives "Better Together", "Better Home", "Better Health and Wellbeing" and "Better Future".

1. Introduction and Background

- 1.1 At its meeting on 30 April 2012, the Development Control Board approved an application in respect of land to the east of the Northgate Industrial Park up to and including the Wellgate Community Farm on Collier Row Road for 88 five-bedroom detached houses, subject to a S106 agreement to secure a four-bedroom house to be transferred to the Council, enlargement and enhancement of the community farm including erection of new farm buildings and transfer of 0.59 hectares of land to the Council and an education contribution of £200,000. The applicant has valued the farm improvements including the house at £1.15m.
- 1.2 There is one outstanding land disposal issue which requires Cabinet approval before the S106 agreement can be signed and the development can proceed.
- 1.3 It is important that members understand the benefits of this development in reaching a decision on the land disposal. Therefore this report will briefly explain why the Development Control Board agreed this development and the benefits it will bring to Marks Gate and the rest of the borough.
- 1.4 With the exception of the agricultural parts of the development this development would normally be inappropriate in the Green Belt. However Development Control Board agreed there were a combination of benefits which constituted very special circumstances which would justify an exception to Green Belt policy. These included:

- improvements to the Wellgate Community Farm buildings and facilities worth £1.15 million including a house to be transferred to the Council. This investment would be made to buildings within the Council's ownership.
- transfer of additional land to the Council intended for the Farm. The Wellgate Community Farm currently leases 0.55 hectares of land from the Council. The applicant has agreed to transfer an additional 0.59 hectares of land at no cost to the Council. This is intended for the farm. The improvements to additional buildings and facilities and the extra land would increase the capacity of the Farm to serve the community and put the charity on a sustainable financial footing. The land the farm currently occupies is leased from the Council and the intention is to do the same with the additional land the Council is due to receive.
- clearing the site of existing unsightly development and uses incompatible with the Green Belt location
- providing 88 zero carbon homes – a standard which has rarely been achieved to date, and which may act as an exemplar development, and one which would be unique within the Borough and the wider south-east of England. Marks Gate area has a high concentration of social rented housing and is within the 20% most deprived areas in London. This development will help create a better mix of tenures in the area.

1.5 The development cannot proceed until a S106 agreement is signed incorporating an education contribution of £200,000, completion of the farm improvements and land transfer of the additional farm land to the Council.

1.6 The Wellgate Community Farm is a charitable company limited by guarantee. It has been in existence for 28 years and is well respected for its work serving the community. The farm is open to visiting members of the public, and it also provides educational visits for school children both at the site, and with its 'mobile farm' taking smaller animals into schools.

1.7 The trustees believe that the development would ensure the future of the farm and make it economically sustainable and have submitted a business plan to demonstrate this. In addition to securing the future of the farm the redevelopment would improve its services to the community.

2. Proposal and Issues

2.1 This section of the report focuses on the outstanding land disposal issue.

2.2 There are two accesses to the housing development. One of these accesses is across Council land. 13 of the proposed private 88 houses can only be accessed by this road. This is a long narrow strip of land at the southern boundary of Wellgate Community Farm of 0.0623 hectares (0.154 acres). The Council has a duty to seek best consideration for its land. With reference to the Stokes vs Cambridge Corporation 1961 case, the Council is entitled to receive a third of the uplift in land value due to the access. On this basis the value of this land has been estimated to be £265,000 by the Council's valuers Lambert Smith Hampton. This is a third of the difference between the existing land value and the value of the land with the benefit of the planning permission. The applicant has argued that from this

must be deducted the value of the additional land the Council will receive. This land has been valued at £18,000. This means the Council is due £247,000.

- 2.3 The developer submitted a development appraisal with their planning application. They did not include this payment as a development cost as they expected to receive the land for a nominal fee. They maintain that the development cannot proceed in its current form if they are expected to pay market value for the land. If the development does not proceed, the benefits from the development are not achieved, the future of the Farm is jeopardised and the Council does not receive an enhanced sum for its land.
- 2.4 Without the improvements there will be significant one-off costs to improve and repair existing farm facilities of at least £60,000 and it is these costs which are threatening the viability of the Farm in its current form.
- 2.5 Due to the substantial benefits of this development to the Council both directly in the form of enhancement to its assets and additional land, and indirectly by allowing the farm to maintain and widen its community work this report recommends that the Council sells this land to EcoGrove Ltd for £47,000.
- 2.6 This would allow the S106 agreement to be signed on the basis the Development Control Board agreed and enable the development to proceed which is clearly in the interests of the regeneration of Marks Gate and the communities who benefit from the Wellgate Community Farms services.

3. Options Appraisal

- 3.1 There are two options available to the Council:
 - Sell the land for less than best consideration due positive impact the development will have on promoting the social, economic and environmental well-being of the area. This is the recommended option for the reasons detailed in the report.
 - Sell the land to EcoGrove Ltd for £247,000, this is the best consideration. Therefore EcoGrove Ltd would make a contribution of £200,000 for school places via the S106 agreement and be offered the Council Land for £247,000. The applicant has made no provision for the purchase of the land in their development costs and therefore the development would not proceed on this basis with the result that the Council receives nothing for its land, the improvements to the Farm are not made and therefore its future is threatened, and 88 zero carbon homes are not built in one of the borough's most deprived areas. EcoGrove Ltd could value engineer their development to find £247,000. They could for example build the homes to a lower Code for Sustainable Homes level. However the high environmental performance of the proposed homes where one of the special circumstances for allowing this development in the Green Belt and planning permission would unlikely be given if this change was made. This would also introduce further delay to the scheme.

4. Consultation

- 4.1 The Planning Application has been approved by Development Control Board and has the support of the local ward Councillors.

5. Financial Implications

Implications completed by: Philip Horner, Principal Accountant

- 5.1 The net sale value of the land in question has been estimated at £247,000 but it is proposed to dispose of the land to the developer for a reduced sum of £47,000. It is, however, not in the community's best interests for the Council to insist on maximising the capital receipt for the land as this would jeopardise the whole proposal. This is an opportunity to develop and enhance one of the borough's most deprived areas and help secure the future of the Community Farm.
- 5.2 The land to be sold is the only possible route of access to part of the proposed site. It has a limited possible alternative use and, until planning consent was granted for the development of the houses, its value would have been based on agricultural use only.
- 5.3 The amount of additional Council tax that would be generated from 88 units would obviously depend on the Council tax bands that the proposed properties would fall in. However, for information, if all 88 units fell into band F, then the annual additional council tax generated would be around £130,000.
- 5.4 There will be various revenue implications in terms of direct services to these properties, such as refuse collection and street lighting as well as impacts and demands on local infrastructure such as schools. The additional Council tax generated will go some way towards offsetting these additional revenue costs.
- 5.5 The Council will be awarded a New Home Bonus of £7,500 for each net (of new dwellings less disposals) addition to the housing stock. The New Homes Bonus is a Government scheme whereby additional funding or a 'bonus' for new homes is provided by match funding the additional council tax raised for new homes, with an additional amount for affordable homes, for the following six years. On the basis that the proposed development would be for 88 units the Council would receive a total new homes bonus of £660,000 if these units resulted in a net increase in housing stock. The £7,500 sum is based on an average Council tax rate over a period of six years.
- 5.6 A Section 106 agreement will be made with the developer so that an appropriate contribution to the development of the local infrastructure will be received. A sum of £200,000 will be forthcoming as an education contribution if this report is agreed and the development goes ahead
- 5.7 The business plan submitted by the Wellgate Community Farm assumes that the current Council grant of £25,000 will be maintained. However, as the Authority receives this funding from London Councils, this is not a guaranteed source of income.

- 5.8 As part of the negotiations, the Council will acquire a 4 bedroom house which is sited on the land to be transferred to the Authority. In due course it is intended to let this property at a commercial rate so that the revenue received will be sufficient to cover any costs incurred.

6. Legal Implications

Implications completed by: Jason Ofosu, Property Solicitor

- 6.1 Under Section 123 of the Local Government Act 1972 (“LGA” 1972), the Council has powers to dispose of land in any manner that they wish which includes the sale of a freehold interest. One constraint under the LGA 1972 is that a disposal must be for the best consideration reasonably obtainable. The “best consideration obtainable” is the market value of the property plus “special value”. This may also take into account the capital value of any voluntary conditions imposed by the vendor where appropriate. Therefore, the Council may take into account £200,000 for school places in the purchase price since it can be deemed to produce a direct or indirect benefit to the Council that can be quantified in monetary terms.
- 6.2 The Local Government Act 1972 General Disposal Consent (England) 2003 and section 2 Local Government Act 2000 (well-being powers) provides powers to a local authority to dispose of land for less than best consideration that can be reasonably obtained, where purpose for disposal will promote social, economic and environmental well-being of the area and the difference between the unrestricted value and consideration does not exceed £2 million. The value of the land in this case is less than £2 million and would be for the community’s benefit. It will therefore not be necessary to apply to Secretary of State for specific consent to dispose of the land.
- 6.3 Another constraint under the LGA 1972 relates to the sale of public open space which requires a procedure for advertisement and consideration of any objections. Under section 233 of the Town and Country Planning Act 1990 the Council can not dispose of any land comprising or forming part of an open space unless before disposing of the land, it has given notice of its intention to dispose of it, specifying the land in question. Section 233(4) of that Act states that the notice will need to be advertised for two consecutive weeks in a newspaper circulated in the local area and the Council would need to allow for a reasonable amount of time for any objections to the proposed disposal of land. If there are any objections they would need to be considered. Since the land in question is open space, the Council will need to advertise the proposed disposal before the Council can sell them the land.

7. Other Implications

- 7.1 **Risk Management** – The recommended option allows the development to proceed and helps sustain the Wellgate Community Farm’s future. The alternative option is likely to thwart the development, undermine the future of the Wellgate Community Farm and result in the Council receiving nothing for its land in the foreseeable future.
- 7.2 **Customer Impact** – A summary of the wide ranging activities the Wellgate Community Farm provide for the community are listed in paragraph 1.7. The recommended option will allow the Farm to receive £1.15 million of improvements

and to receive 0.55 hectares of land from the Council in addition to the 0.59 hectares it already leases.

- 7.3 **Safeguarding Children** – Most of the activities the Farm provides are for young people. The recommended option will allow the Farm to maintain and expand these activities.
- 7.4 **Health Issues** – The farms activities includes services for people with mental health issues. The recommended option will allow the Farm to maintain and expand these activities.
- 7.5 **Crime and Disorder Issues** - Most of the activities the Farm provides are for young people including for those children not in education, employment or training. It provides young people with life skills and a respect for the environment. The recommended option will allow the Farm to maintain and expand these activities.
- 7.6 **Property / Asset Issues** – The Wellgate Community Farm currently leases 0.55 hectares of land from the Council. The applicant has agreed to transfer an additional 0.59 hectares of land at no cost to the Council. This is intended for the farm. The land the farm currently occupies is leased from the Council and the intention is to do the same with the additional land the Council is due to receive.

The new access results in the demolition of an existing farm building however this will be more than compensated for by the £1.15 million investment in new buildings and facilities this development makes to the farm.

The issues regarding the tenancy of the house transferred to the Council and the terms on which the land transferred to the Council will be leased to the farm are not the subject of this report which is focused on the land disposal which is the one outstanding issue which needs to be resolved before the S106 can be signed. If necessary these issues will be reported separately at the appropriate juncture.

Background Papers Used in the Preparation of the Report:

- Development Control Board 30 April 2012, report 11/01015/FUL (Minute 100 refers)

List of appendices:

Appendix 1 - Map