

SALE OF A PORTFOLIO OF PROPERTIES TO THIS LAND (formerly Cambridgeshire Housing and Investment Company)

To: Commercial & Investment Committee

Meeting Date: 23 March 2018

From: Deputy Section 151 Officer / Resources Directorate

Electoral division(s) All

Forward Plan ref: 2018/006 **Key Decision:** Yes

Purpose: To declare the properties identified in the schedule below surplus and agree the disposal sale of the properties to This Land.

To extend the associated financing arrangements.

Recommendation: It is recommended that:-

- (1) The Committee approve the disposal of the properties identified in the schedule (Appendix A numbered 14-29) to This Land at 'best consideration'
- (2) The final terms of the disposal be delegated to the Deputy Section 151 officer in consultation with the Chairman of the Committee
- (3) The Committee receive feedback on the effectiveness of the process at a future meeting
- (4) Loan financing, associated with the portfolio sale, and made available to This Land is increased to £41.446m - activating further within the overall sum agreed in principle in December
- (5) The level of equity the Council is permitted to invest in This Land is increased to £2.073m alongside the foregoing loan finance arrangements

<i>Officer contact:</i>		<i>Member contact:</i>	
Name:	John Macmillan/Tom Kelly	Names:	Cllr Schumann
Post:	Group Asset Manager / Head of Finance	Post:	Committee Chairman
Email:	John.macmillan@cambridgeshire.gov.uk / tom.kelly@cambridgeshire.gov.uk	Email:	Joshua.schumann@hotmail.com
Tel:	076808861360 / 01223 703599	Tel:	01223 706398

1. BACKGROUND

- 1.1 The Council has established a wholly owned housing company in order to derive a financial return. The underlying objective of creating a commercial vehicle of this nature is to provide new revenue sources to support the delivery of front line services to Cambridgeshire residents. In this report, the company is referred to as 'This Land'. The company was originally known as Cambridgeshire Housing & Investment Company but has now rebranded and changed its name at Companies House. 'This Land' now comprises a number of subsidiary entities in addition to the parent (the subsidiaries are This Land Development Limited, This Land Investment Limited, This Land Asset Management Limited and This Land Finance Limited). Cambridgeshire County Council is the sole and ultimate owner of all parts of the This Land group.
 - 1.1.1 The financial model that the Committee have previously agreed will be adopted is that the Council will make loans to This Land, at commercial rates in order to provide the funding to allow This Land to purchase land from the Council and to finance the costs of construction and development. As the Council can borrow at less than commercial rates it will derive a financial margin on the loans. This margin has already been included as a revenue benefit within the Council's budget. The Council will receive capital receipts in the short term and eventually also dividends from the Company but this will not arise for a number of years given the debt ratios of the Company in the early years of trading and the lead times for delivery of residential housing on sites currently used for other purposes.
- 1.2 The Council's Constitution provides that the authority for all property disposals rests with the Commercial and Investments Committee (C&I), with an agreed delegation to the Director of Finance to exercise that authority for transactions where the capital value is less than £500,000, or the revenue value is less than £150,000.
- 1.3 Previously at a meeting on the 30 June 2017 the Commercial & Investment Committee when considering the principle of selling sites to This Land agreed "to declare surplus land and property on a case by case basis to achieve best consideration".
- 1.4 Following initial plans to stagger sales to This Land, at a meeting of Commercial & Investments Committee on the 15 December 2017 it was agreed to bring forward the sale of all of the sites in the development pipeline in a single sale process, a portfolio approach. In February 2018 the Committee then agreed to dispose, at best consideration, of 13 sites as the first tranche of that portfolio. This report covers the second tranche (sites 14-29) completing the portfolio.
- 1.5 The Committee has previously resolved in principle to grant a loan facility of up to £120m to This Land, at a commercial rate, for land acquisition, construction and associated costs. £11.1m of that loan, associated with the first 13 sites, was permitted by the Committee at the last meeting. The further sites under consideration at this meeting take the loan requirement up to £41.45m. Further loan financing will be required by This Land in due course to finance overage payments, construction and other development costs. Alongside loan financing, it is necessary for the Council to consider equity investment in This Land. So far £0.6m has been approved, this report requests to increase this to £2.073m equity.
- 1.6 This Land acts as an arm's length company and officers responsible for property deal with it on that basis.

2 PROPERTY AND VALUATION ISSUES

- 2.1 Valuations have continued according to the independent “Red Book” methodology previously agreed by the Committee as part of the best consideration approach. Valuations have been completed by external agents appointed by the Council taking into account known liabilities and the prospects for obtaining planning consent. Valuations are more straightforward, and less assumptions have to be made, if planning consents are in place.
- 2.2 Where planning consent has been obtained the full value will be paid otherwise a discount is applied to the value with planning consent to reflect the risk of getting a consent.
- 2.3 Where planning consent has not been obtained discounts of up to 90% have been applied to reflect the risk involved in obtaining the consent.
- 2.4 In order to protect the Council's interests, as much of the enhanced value as possible will be recovered using overage clauses applied when planning consent has been obtained, subject to This Land's reasonable costs being deducted.
- 2.5 Sites at Cottenham and Guilden Morden are subject to appeal and at Whittlesford the application was refused. The valuations are heavily discounted and in the case of Cottenham is only 3 times agricultural value, as the valuers conservative assumption is that planning consent will not be obtained.
- 2.6 Some sites may be subject to a later price adjustment if the developer encounters abnormal costs, for example contamination or archaeology or if the developer makes a windfall gain that could not have been anticipated at the time of planning. This would be subject to a further valuation.
- 2.7 Two sites at Whittlesford and Willingham will be sold with tenants in situ. An offer of ‘less than best consideration’ has been received on the Papworth site, from a third party, and is considered in a separate report at this Committee meeting.
- 2.8 One site at East Barnwell, Cambridge has dropped out of the portfolio. It is a mixed use site with a library, relocated Locality team, a childrens nursery and community facilities as well as residential. Initially this was to form part of a larger site through the acquisition of adjacent land from Ely Diocese but that has fallen through. Redesigned plans are being prepared and the proposal will involve a sale and lease back of the council/community facilities. The scheme is not at a stage when it can be valued to allow a sale.
- 2.9 **Timing.** There is a risk that not all sites will transfer on the 31 March 2018. Some sites are large and will be sold in phases. Others may have unforeseen complications which have to be resolved, such as access but every effort is being made to ensure that the deadline is met. LGSS Law Ltd have been appointed to handle the sales.

3.0 REPORTING AND GOVERNANCE

- 3.1 A workshop for members of C&I was held on Monday 12 March. Five Members attended and together with Managing Director of This Land and the Deputy Chief Executive of the County Council (Non-Executive Director of This Land) discussed governance and

performance reporting.

- 3.2 An example of a quarterly report was presented and circulated to all Members of the Committee. The report in quarterly and annual format would be presented to Commercial and Investment Committee members, as shareholders. Feedback has been received including around:
- Providing updates through this mechanism on progress with planning applications and third party land acquisition
 - Key targets and performance measures, relative to the initial business plan and objectives
 - Presenting trend and performance information in a more graphical format than the first draft.
- 3.3 The company has been set up as a commercial entity to generate profit rather than pursue policy objectives. It will be able to operate within the market as a commercial entity. For example this would mean being able to purchase building contractors or property management services without tendering according to public sector parameters.
- 3.4 External legal advice was previously received on company governance. This included the clear steer around the differing roles of shareholder and director within the company's governance.
- 3.5 The Council will be the sole shareholder and C&I would exercise the Council's rights as shareholder and will control the company through the appointment and removal of directors and certain other statutory rights. Appointment of further non-executive directors is pending, subject to the loan financing coming into place.
- 3.6 Local authorities commonly have control over a company through approving the business plan and the requirement that certain listed decisions, referred to as "reserved matters", be referred back to the Council as shareholder rather than being within the discretion of the board of directors. The Council has been advised that it should limit control exercised through reserved matters as this could prejudice the company's arm's length nature and the benefits that brings. The rights of the Council should focus on the control and monitoring of commercial performance in the light of the equity investment by the Council.

4. FINANCING ARRANGEMENTS AND RATIONALE

- 4.1 Fuller description of the financing arrangements and financial rationale and risk assessment have been set out in previous reports to this Committee (linked in the source documents section below). This report seeks to extend the loan financing to This Land, for land acquisition. The total loan financing associated with the portfolio sale is now £41.446m (including the 13 sites previously agreed), as set out on a site-by-site basis in the confidential **appendix**.
- 4.2 The key features of the financing arrangements include:
- Loans for land transfers are secured against the value of that land, with a legal charge placed on the assets at HM Land Registry in the event that This Land were to default
 - Overage and profit share provisions within sales agreements and commitment to best

value procurement approach by This Land protect the Council's interests where values change following the land transfer due to the stage in the development pipeline at the point of transfer

- This Land has undertaken detailed financial modelling for the sites and developments that it will acquire as a result of the portfolio sale. The initial business case has been developed significantly to reflect site valuations, cost estimates and timings and reflects quarter-by-quarter income and expenditure estimates across the next decade for each of the sites under consideration.
- Financial modelling continues to demonstrate that This Land is an appealing investment prospect for the Council over the long term, with initially significant interest payable to the Council ahead of residential sales and profit making in This Land in later years.
- An equity investment equivalent to 5% of the loan financing will be made at a similar time to the portfolio sale loan.

5. ALIGNMENT WITH CORPORATE PRIORITIES

5.1 Developing the local economy for the benefit of all

Sites developed across the county will undoubtedly contribute to the local economy creating additional jobs in the house building industry. In turn those employed in the industry will create secondary spend in the localities where they work and live.

5.2 Helping people live healthy and independent lives

There are no significant implications for this priority.

5.3 Supporting and protecting vulnerable people

There are no significant implications for this priority.

6. SIGNIFICANT IMPLICATIONS

6.1 Resource Implications

The sale of assets to This Land are included within the Council's Business Plan. Delays to the original profile of sales is causing an in year pressure and this has already been reported to GPC within the Integrated Finance Report. This reports seeks to ensure that the sale of sites takes place within a portfolio sale within the current financial year thereby mitigating further capital and revenue implications. These are highlighted in the report. Overall, the report sets out the favourable resource implications to the Council from progressing the housing development vehicle described.

6.2 Procurement/Contractual/Council Contract Procedure Rules Implications

Bevan Britain LLP and LGSS Legal Ltd have advised on procurement, best consideration, lending and security, accelerating implementation and State Aid

6.3 Statutory, Legal and Risk Implications

Specialist legal advice has been sought jointly from Bevan Brittain LLP on procurement, best consideration, lending and security, accelerating implementation and State Aid. LGSS Law have also advised.

6.4 Equality and Diversity Implications

There are no significant implications within this category.

6.5 Engagement and Communications Implications

There are no significant implications within this category.

6.6 Localism and Local Member Involvement

Local Members have been notified of the proposed sites for transfer.

6.7 Public Health Implications

No comments received to date.

Implications	Officer Clearance
Have the resource implications been cleared by Finance?	Yes Name of Financial Officer: Tom Kelly
Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?	Yes / No No implications raised.
Has the impact on statutory, legal and risk implications been cleared by LGSS Law?	Yes Reference made to the Disposal Process of Property Assets that was agreed at the Committee's meeting on 30th June LGSS Law lead on disposal is Mickaela McMurtry.
Have the equality and diversity implications been cleared by your Service Contact?	Yes Name of Officer: John Macmillan

Have any engagement and communication implications been cleared by Communications?	Name of Officer: Christine Birchall Head of Communications and Information
Have any localism and Local Member involvement issues been cleared by your Service Contact?	Yes Name of Officer: John Macmillan
Have any Public Health implications been cleared by Public Health	n/a

Source Documents	Location
Schedule of properties to be declared surplus	Appendix A
Paper to C& I Committee 30/06/17	https://tinyurl.com/y73aq6u5
Paper to C& I Committee 15/12/17	https://tinyurl.com/y7nosuat
Paper to C& I Committee 23/02/18	https://tinyurl.com/FebCIreport