



North Devon Council

Report Date: 2 October 2023

Topic: Biceselcombe Nursery Site – Project Viability

Report by: Helen Bond, Property Manager and Jaimie Jeyes, Service Lead, Affordbale Housing

1. INTRODUCTION

- 1.1. North Devon Council have owned the Nursery site for a number of years, it has now been unoccupied since 2005 and efforts to dispose of the site on the open market since 2007 have not been successful. It has now been stagnant for 16 years.
- 1.2. In September 2021, the Property Manager made a funding application to One Public Estate (OPE) for their Brownfield Land Release Fund (BLRF) for monies to potentially develop the site for Self and Custom Build Housing. This bid was successful and NDC were awarded £500,000 for infrastructure works to open the site up and dispose of individual sites for the purpose of self and custom build.
- 1.3. The fledging Ilfracombe Community Land Trust (CLT) registered an interest in the site at this time.
- 1.4. At Strategy and Resources Committee in November 2022, Members approved RESOLVED that:
 - (a) The Bicclescombe Nursery Site be passed by disposal of freehold to the Ilfracombe Community Land Trust and the Community Land Trust in partnership with the chosen Registered Housing Provider for the development of Custom Build Social Housing in association with Middlemarch as facilitator;
 - (b) The Community Land Trust actively lead the project to enable community development; and
 - (c) The negotiation of capital receipt be carried out in conjunction with the Chief Executive.
- 1.5 This report detailed that the sale will generate a capital receipt based on the Housing Providers exception site plot rates of up to £12,000 per plot, potentially up to £204,000, where a pair of flats could count as one plot. The price would only be lower than this if advised by formal valuation once the infrastructure works are complete.
- 1.6 Minute states “The Director of Resources and Deputy Chief Executive advised that any future capital receipt from this scheme could be ring fenced to replenish the Community Housing Fund initiative budget but would need to come forward as a separate report for a Member decision and that decision could not be taken today.”
- 1.7 Since this report, extensive work by Aster, NDC Officers and the Consultant Team, has been put into developing a detailed planning proposal for the proposed scheme, that now being 16 social rented housing units (100% affordable). Alongside this, Aster have undertaken a financial feasibility

assessment of the site. This red book valuation is in the process of completion but in draft form establishes a negative return.

- 1.8 In summary, the scheme is unviable for Aster and the CLT, it does not meet their essential criteria in terms of the Cost to Value Ratio.
- 1.9 In order to make the scheme viable, they require the site to be released at nil land value.
- 1.10 In order to reach an acceptable Cost to Value Ratio for Board Approval, as well as a nil land value transfer, Aster also require NDC to commission and undertake key works to remove these costs from their development costs to reach the required Cost to Value Ratio. These funds which are in the region of £200,000-£250,000 would be resourced from the BLRF monies held by NDC. Any remaining BLRF monies would be drawn down by Aster on commencement of the development.

2. RECOMMENDATIONS

- 2.1. Resource is made available to NDC to enable procurement of the enabling works and NDC enter into the contracts for delivery. This needs to be both financial and in the form of a project manager resource to manage this process. This can be capitalised costs drawn down from the BLRF Grant.
- 2.2. The original identified contingency of £250,000.00 secured by Housing which included the £204,000 anticipated capital receipt would not be employed on the Bicclescombe Project, leaving a £46,000 contingency balance for Ilfracombe schemes and £90,985 remaining to support the capital funding requirements of other CLT schemes in the district.
- 2.3. To note that:
 - 2.3.1. once Planning has been granted and a build contract is in place, Aster will be contractually bound to deliver the built out scheme.
 - 2.3.2. As part of this process, Aster, as a registered provider, will be required to specify and go out to tender on the scheme in compliance with public procurement rules during the planning process.
- 2.4. The site is transferred at Nil Value, but it is noted that this is in exceptional circumstances and will not set a precedent for NDC on other sites.

3. REASONS FOR RECOMMENDATIONS

- 3.1. The purpose of this report is to enable members to make a decision on the way forward with the project and this site, whilst given an understanding of the risks in delivery, both financial, resource based and reputational.
- 3.2. The resolution at Strategy and Resources Committee in November 2022 provided the following provision: 'The negotiation of capital receipt be carried out in conjunction with the Chief Executive'. The current proposal from Aster would involve no capital receipt.
- 3.3. This is a difficult site, its marketing history demonstrates this, but accepting a nil contribution for land value, could set a precedent for other NDC land holdings, where we could be expected to provide land at nil value to support

other projects. The principals set out in the Commercialisation Strategy need to be taken into account in this regard, but this does reference a social return not just financial.

- 3.4. That said Members strongly support social housing provisions for Ilfracombe. The decision with this project is whether Bicclescombe, with all its delivery issues is the right site for this, and whether the delivery risks are outweighed by the potential benefits.
- 3.5. The further risk at this stage is to the OPE BLRF grant. Whilst the timescales for delivery are further extended, OPE still require delivery of the outputs within a defined timeline. OPE have verbally agreed to extend the current timescale for exchange of Conditional Contracts to the end of October, but have recommended that Aster proceed to Board Approval subject to NDC sign off in October, to prevent further delays post this Committee.
- 3.6. In order to proceed unconditionally, Aster require Full Detailed Planning and a procured contractor as a delivery partner. It is estimated that this will take a further six months minimum to achieve this certainty.
- 3.7. It is important to understand all of the options you have and if it is not deemed appropriate to proceed with the CLT/Aster Scheme what alternatives there are. The first option would be to revert to the original plan to open up the site with the BLRF grant and dispose of self-build sites on the open market.
- 3.8. The issues here are twofold, firstly, with the design work undertaken to date, the BLRF monies may be insufficient to fully open the site, provide the drainage and highway works to facilitate the scheme and undertake the structural ground works are support the topography. However, it is possible that less sites may be released to mitigate costs and make a scheme breakeven. Secondly, this puts further resource pressure on NDC to deliver the scheme.
- 3.9. Another option would be to use this site for Biodiversity Net Gain (BNG) Objectives, or dispose of a smaller element of the site for development and leave the remainder for BNG. This has not been considered in detail at this stage.
- 3.10. Both of these options would mean there would be a review of the BLRF funding and some (or possibly all) may need to be returned.
- 3.11. In view of the lack of definitive options for the future of this site and the current focus on Ilfracombe, in particular, the need for appropriate social housing, we have made the recommendations above.

4. REPORT

- 4.1. The challenges for developing this site are not insubstantial. The topography, ecology, drainage all present significant issues which add to the abnormal costs in delivering the scheme. Hence, it failing in the open market.

- 4.2. The BLRF monies were obtained to overcome some of the abnormal costs, with the intention of NDC using this funding to open up the site for self and custom build sites to be sold at a discount on the open market.
- 4.3. This scheme was superseded by the interest from the CLT and Aster to develop the site as a self and custom build social housing development.
- 4.4. OPE agreed to a variation in the initial delivery program for the BLRF monies. On the basis that conditional contracts exchanged in September 2023 with NDC, Aster and the CLT.
- 4.5. The complexities in the design and costings resulted in the viability assessment only being shared with the Team on the 9th September. This would need board approval by Aster on the 21st September. This being subject to transparent approval of the conditions by Formal Committee.
- 4.6. This gives NDC Officers sufficient time to share the current status with Members in a formal manner.
- 4.7. OPE have agreed to extend the program timeframe by 1 month to enable proper Member Consultation, hence this report to S&R.
- 4.8. The original resolution from Members in 2022 in summary was to utilise the BLRF monies to support the CLT scheme as developed by Aster and obtain a capital receipt for the site, which would be used as a contingency pot for a challenging site that on the edge of viability even alongside OPE, RP and Homes England funding. . If members accept Aster's proposal for a nil site value, these funds would not be available for other schemes.
- 4.9. Aster would also require NDC to procure and project manage the Enabling Works. This requires NDC to use circa £200,000 to £250,000 (EXCL. VAT) of the OPE grant to undertake the following;
 - Demolition works of the existing building;
 - Surface water sewer requisition via SWW who would commission the works @ a cost of £100,000 with potential CPO / Easements,
 - Off-site drainage / sewage works;
 - TPO works and
 - Site clearance.
- 4.10 At this point we only have budget costs for these works and insufficient in house resources to manage and procure them.
- 4.11 A detailed analysis of the scheme viability is contained in the minutes of the meeting held between the parties on the 9th September 2023.
- 4.12 There are number of Key Risks which need to be understood by Members in making a resolution on how to proceed with this project.
- 4.13 The Enabling Works could not be undertaken without Full Planning Permission being obtained for the site

- 4.14 There would need to be a binding contract in place with Aster before the works are commissioned which will affect the contract delivery program. NDC cannot be put in a position whereby they undertake the works with OPE funding and are left with a committed scheme going forward. The risk is that we have spent OPE monies but can no longer deliver any scheme on the site.
- 4.15 Until Aster have a delivery partner (Contractor) on board the final scheme costs cannot be established and in an environment with constant pressures on build costs the risk of an unviable scheme still exists until a contract is tendered and awarded.
- 4.16 The Biodiversity Net Gain contribution from the site has yet to be established.
- 4.17 If there is going to be no consideration for the supply of land, either monetary or non-monetary consideration, then this would be classed as a non-business supply for VAT purposes. The Council can fully recover the VAT it incurs in connection with a non-business supply.
- 4.18 NDC Members and Officers have a commitment to supporting social housing in Ilfracombe, but we need to be clear of the financial and reputational risk if the project is not delivered. What is not yet understood is what happens when the build contract is let and further abnormal costs arise. Aster have a 5% contingency and 7-9% (or more) for build and tender inflation. NDC (Housing Team) have £46,000 in their contingency fund for Ilfracombe.
- 4.19 NDC would not necessarily be contractually bound to support any additional unknown costs if the scheme through development incurs substantial cost pressures, but there would still be a reputational issue for NDC as the vendor of the site and with the Housing Project Management Delivery. Aster could need to be contractually bound to complete the scheme.
- 4.20 In order to proceed unconditionally, Aster require Full Detailed Planning and a procured contractor as a delivery partner. It is estimated that this will take a further six months minimum to achieve this certainty.1.2
- 4.21 It is important to understand all of the options you have and if it is not deemed appropriate to proceed with the CLT/Aster Scheme what alternatives there are. The first option would be to revert to the original plan to open up the site with the BLRF grant and dispose of self-build sites on the open market.
- 4.22 The issues here are twofold, firstly, with the design work undertaken to date, the BLRF monies may be insufficient to fully open the site, provide the drainage and highway works to facilitate the scheme and undertake the structural ground works to support the topography. However, it is possible that less sites may be released to mitigate costs and make a scheme

breakeven. Secondly, this puts further resource pressure on NDC to deliver the scheme.

4.23 Another option would be to use this site for Biodiversity Net Gain (BNG) Objectives, or dispose of a smaller element of the site for development and leave the remainder for BNG. This has not been considered in detail at this stage.

4.24 Both of these options would mean there would be a review of the BLRF funding and some (or possibly all) may need to be returned.

5. RESOURCE IMPLICATIONS

5.1. Implementation of BLRF monies with VAT clarifications needed

5.2. Staff resource and fees of securing the Enabling Works

5.3. Legal Resource to ensure contractual positions of the parties are clearly defined and ascertained to protect NDC's position and ensure delivery.

5.4. Negotiations with OPE to revise program delivery.

6. EQUALITIES ASSESSMENT

6.1. Please detail if there are/are not any equalities implications anticipated as a result of this report. If so, please complete the Equality Impact Assessment (EIA) Summary form available on Insite and email to the Corporate and Community Services Team at equality@northdevon.gov.uk.

7. ENVIRONMENTAL ASSESSMENT

7.1. Please undertake an Environmental Assessment and complete the checklist (EAC) form available on Insite. If there are no environmental implications arising from your proposals please state that there are none. If after completion of the assessment there are environmental implications please provide a brief summary. If you require any further information please contact the Sustainability and Climate Change Officer. Email completed EACs to donna.sibley@torridge.gov.uk

8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: ***We will use our assets, skills and infrastructure to shape and improve public services and enable economic growth in the District. Economic growth at community and individual level from housing, in particular affordable housing and creation of jobs etc***

8.1.2. Improving customer focus and/or ***Provision of social housing***

8.1.3. Regeneration or economic development ***regeneration of a stagnant site***



9. CONSTITUTIONAL CONTEXT

9.1. Part 3 Annex 1 paragraph 1

9.2. Delegated power

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: *Helen Bond*.....Property Manager