

## BABERGH DISTRICT COUNCIL

<b>TO:</b> CABINET	<b>REPORT NUMBER:</b> BCa/20/44
<b>FROM:</b> Councillor Michael Holt, Cabinet Member for Economic Growth & Councillor David Busby, Cabinet Member for Assets and Investments	<b>DATE OF MEETING:</b> 11 March 2021
<b>OFFICER:</b> Fiona Duhamel, Assistant Director Economic Growth and Regeneration	<b>KEY DECISION REF NO.</b> CAB246

### REGENERATION OF BELLE VUE SITE IN SUDBURY

#### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to enable the Cabinet to consider the future of the Belle Vue site in Sudbury, which forms part of the Sudbury Vision and town centre regeneration programme.
- 1.2 The Cabinet is asked to reconfirm the decision to dispose of the site which is shown on the plan attached as Appendix A, after consideration of objections received in response to the notice given under Section 123(2A) of the Local Government Act 1972. The notice relates to the disposal of land which includes open space.
- 1.3 Subsequently the Cabinet is asked to review the tender bids contained in the confidential Appendix D and to approve the recommendation for a preferred bidder which supports the economic growth and regeneration aspirations in the Sudbury Vision programme. Furthermore, Cabinet approval is sought for the proposal to divert funds from the proceeds of sale of the Belle Vue site towards the creation of a new park entrance, café and toilet facilities.

#### 2. OPTIONS CONSIDERED

- 2.1 (a) DO NOTHING (Not Recommended) – the site continues to be retained and maintained by the Council. The land remains under-utilised and a cost burden to the Council, with a lack of a clear consensus on its future. Vision and Strategic Priorities remain undelivered at this key gateway to Sudbury.  
  
(b) RETAIN THE SITE (Not Recommended) – Retain existing site in Council ownership and repurpose for other council uses. The Council approved the disposal of the site in 2013 as it was no longer deemed necessary to hold as an asset. There is a need to ensure the site is brought back into some form of use and is enhanced as a gateway to the town, but given previous uses the cost is likely to be high and therefore a third-party development is more likely to ensure wider outcomes for the town are delivered.  
  
(c) UNDERTAKE A NEW MARKETING PROCESS (Recommended) – to consider objections to the disposal and any market/community/charity informal tender bids for the site. This option has been progressed and in-line with previous Council

resolutions, and in a way to support delivery of a new park entrance/café/toilet for the community. The Council is neither obligated to dispose of the site nor accept any bid resulting from this process.

### **3. RECOMMENDATIONS**

#### **PART 1**

- 3.1 That having fully considered the objections to the disposal notice given pursuant to Section 123(2A) of the Local Government Act 1972, the disposal of the site (shown in Appendix A) for best consideration reasonably achievable be approved.

#### **PART 2 (Subject to the approval of recommendation 3.1)**

- 3.2 That the preferred recommended proposal including the financial bid outlined in confidential Appendix D attached to this report be approved.
- 3.3 That up to 100% from the sale of the site be diverted to ensure the creation of a new Belle Vue park entrance, café and toilet facilities.
- 3.4 That delegated authority be given to the Assistant Director for Economy, Business & Regeneration in consultation with the Cabinet Member for Economy and Cabinet Member for Assets and Investments to conclude the legal agreements in respect of the recommended proposal.
- 3.5 That should the preferred bidder withdraw or otherwise not proceed on the terms proposed that, prior to any binding agreement, the Assistant Director for Economy and Regeneration be given delegated authority to proceed to negotiate with an alternative bidder or to agree amended terms for the disposal provided that best value is achieved.

#### **REASONS FOR DECISION**

1. The Council is obliged to publish a notice under S123 of the Local Government Act 1972 prior to any disposal of land which contains areas of open space. The Council is required to consider objections and make a formal decision on whether to proceed with the sale in the light of these objections and balanced with the needs of the site and the future economic growth aspirations of Sudbury.
2. The site has been unused for several years and forms a gateway to the town centre so bringing it back into economic use is a key part of the regeneration plans for the Sudbury Vision.
3. Proceeds from the capital receipt from the sale can be diverted to create a new park entrance, café and new toilets for local communities and visitors. An improved park entrance was a key 'ask' from public and stakeholder engagement including the exhibition event held in January 2020.
4. If the preferred bidder drops out or otherwise does not progress on terms proposed, the Council will be able to move forward with an alternative proposal or terms provided it meets best value requirements.

### **4. KEY INFORMATION**

## **HISTORY OF THE SITE**

- 4.1 The Belle Vue site in Sudbury has a long and complex history, including most recently the collapse in 2020 of a prospective agreement with a hotel operator and restaurant chain for a development on part of the site.
- 4.2 The house has had a variety of uses and functions over its history. Whilst it is locally listed, the June 2016 Historic England full assessment concluded that Belle Vue House is “standard for its date and although there is some historic interest through the architects and garden designers, it does not merit being added to the List”.
- 4.3 The Council has resolved in November 2013 (Report N81) to dispose of the house and old swimming pool site. Both have been disused for a number of years. There is a vandalism and anti-social behaviour issue at various locations of the site which are exacerbated by the vacant house and pool area.
- 4.4 The Council has since taking ownership of the site in 1974 re-provided and improved public swimming facilities via the Kingfisher Centre, Sudbury - first opened in 1987, with a further significant £2.4m extension and upgrade completed in 2020. The Council also in 2019 provided within the park site a new skate and multi-use gaming area facility through a £150,000 investment.
- 4.5 An overview of the site history and uses is attached as Appendix B.

## **CURRENT USE AND SITUATION OF DISPOSAL AREA**

- 4.6 The approximate 0.43 hectare brownfield portion of the site, recently marketed up until 12 February 2021, does not include the park. It comprises of the house site including car park area and part of the old outdoor pool site area (see Appendix A plan). The Council has marketed this particular boundary area so that it may retain part of the old pool site to facilitate a new accessible and connected park entrance together with a new café and toilet facility. This responds to community feedback gained over a number of years including through the January 2020 vision programme and town centre masterplan engagement.
- 4.7 Sudbury Vision's ambitions include:
  - developing Sudbury's brand and profile
  - developing Sudbury as a place to invest
  - enhancing the town as a great place to live, work and visit
  - creating a connected and sustainable town centre; and
  - supporting the town's cultural heritage and visitor attractions
- 4.8 Babergh District Council is actively seeking to enhance key assets to regenerate and improve connectivity and use of key parts of the town centre. This includes, through the Sudbury Vision programme, the Hamilton Road Quarter, Market Hill, Borehamgate, on-street bus and junction improvements, wayfinding and active travel, and enhancing the leisure and visitor economy offer. The Council has invested heavily in Sudbury town centre (approximately £3.5m over the past four years) in direct capital asset projects as well as pipeline feasibility work to support external funding and new investment.

- 4.9 There have been significant and long-standing challenges in creating a viable use/uses for the Belle Vue site given its situation, constraints and setting. The adjacent park is a popular and well-used asset for Sudbury residents and visitors, of all ages, and that is not under threat from this disposal which seeks to unlock additional investment for improvement in the park and benefit the wider town.
- 4.10 As a local leader of place and owner of the site, the Council can ill-afford to allow this prime site at a key gateway into central Sudbury to remain under-utilised and a significant cost burden. Without a capital receipt, investment in enhancing the park through a new park entrance and facilities may not be deliverable.
- 4.11 Asset of Community Value (ACV) listing of the house/pool site ran from March 2015 until removed from listing due to expiry on 31 March 2020. The protected period, where there can be no restrictions on disposal of the asset, ends on 06 May 2021.
- 4.12 The latest 2020/21 marketing period went back to the market, to gauge the level and type of interest and opportunity for the site since the hotel and restaurant operator withdrew. Officers are now reporting back to Cabinet on the resulting disposal objections and bids received on informal tender basis.

#### **LOCAL GOVERNMENT ACT 1972 - SECTION 123(2A)**

- 4.13 As the sale area (see Appendix A) includes open space / areas which have been used for public recreation, the statutory notice under Section 123(2A) of the Local Government Act 1972 has been given. For the purposes of S123 of the Local Government Act 1972 'open space' has the meaning assigned to it by S336(1) of the Town and Country Planning Act 1990, namely "*any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground*". This process facilitates objections to the disposal. Authorities carry out these procedures before making any final decisions about disposal as the public response to the notices may influence whether, on balance, the disposal of open space is justified.
- 4.14 Press notices were published including for two consecutive weeks during December 2020. The period for receipt of objections closed on 08 January 2021. Thirty-two separate objections were received, including from groups/organisations.
- 4.15 The objections refer to a number of issues, including those broadly categorised as:
- a) general opposition to the sale and development of the land, and its potential future uses or design;
  - b) specific opposition to the loss of open and green space;
  - c) opposition to the loss of the house, and suggesting potential alternatives for its future use;
  - d) non-compliance with planning and other policies, strategies and guidance;
  - e) adverse impact on traffic and environment locally;
  - f) negative impacts on community/wellbeing/biodiversity; and
  - g) objections or concerns at the process of marketing and disposal.
- 4.16 The objections are attached in full as Appendix C. Where objectors have provided documents or referred to a central or local policy, guidance or evidence reference, links to these have been included in Appendix C and should be considered together with the relevant objection notice and grounds.

4.17 A summary to support Cabinet's consideration of objections is also attached at Appendix C.

### **MARKETING PERIOD – DECEMBER 2020 TO FEBRUARY 2021**

- 4.18 A fresh marketing campaign commenced in December 2020 and its aim was to ensure extensive market testing resulting in competitive interest on a 'subject to planning' basis. It was agreed that a sale on this basis was likely to result in the highest value being achieved, due to the varied development potential the site offers including residential, commercial, hotel, restaurant, medical centre and care home facility.
- 4.19 The informal tender period for the receipt of offers closed at 12 noon on 12 February 2021, having been extended from the original proposed date of 22 January 2021.
- 4.20 The open marketing period has not sought to limit opportunities for the site from coming forward from the market or local community. All enquirers have been encouraged to make direct early contact with the Local Planning Authority in formulating their proposals and understanding local policy requirements.
- 4.21 A targeted list of sixty agents and developers were directly alerted in addition to the press, web site and social media brochure advertisement (which attracted over 1250 views). Three viewing days were offered over the course of marketing. A number of parties had previously viewed the property when it was marketed in 2015 and 2018/9 and therefore did not require a further viewing. Detail on the marketing activity and resulting interest is highlighted in the table attached in confidential Appendix D to this report.
- 4.22 An overview of the offers was submitted to the Council to assist with the evaluation process on 12 February 2021 which involved officers from Economy, Business & Regeneration, Assets and Investments, Commissioning and Procurement and the Cabinet Member for Economy (Babergh). The quality element having the following requirements:
- (a) Comprehensive development plan for the whole site that will succeed on its own merits, is self-sustaining on an on-going basis, and is not dependent on subsidies or grants.
  - (b) Development will enable regeneration of the area to enhance the economic offer in Sudbury to maximise tourist and visitor economy and deliver community benefits.
  - (c) Evidence that the bidder has both the financial capacity and track record to deliver the development.
  - (d) Evidence of the timescales required to deliver the development.
- 4.23 The detailed summary plus recommendation on a preferred bid, to support Cabinet's consideration, is attached at confidential Appendix D.

### **OUTLINE OF BID PROPOSALS RECEIVED**

4.24 An outline of the proposals received is shown below. Further detail is contained within confidential Appendix D. None of the bids received propose to remove the house.

<b>BIDDER</b>	<b>Type</b>	<b>Summary of Proposal</b>
<b>A</b>	Carehome	New build carehome on pool site with communal/ancillary conversion of house
<b>B</b>	Retirement	New build retirement living development pool site, house conversion to two residential dwellings
<b>C</b>	Residential	Bid for house only to convert to two residential dwellings
<b>D</b>	Residential	New build residential development on pool site and house conversion to residential
<b>E</b>	Community	Conversion of house for range of community and ancillary uses
<b>F</b>	Community	Creation of new park entrance with refurbishment/conversion of house for community use/private short-term lets

## **5. LINKS TO CORPORATE PLAN**

- 5.1 The Corporate Plan (2019-27) is designed to address the challenges and seize the opportunities facing the districts, and their organisations, for the foreseeable future. In relationship to the matters contained within this report, the Council's strong local leadership role to build great communities for living, working, visiting and investing in is particularly relevant.
- 5.2 The future of Sudbury and within it Belle Vue are high priority for the Council. There are a range of policies, strategy and guidance referenced within this report and appendices which the Cabinet will need to consider and balance carefully when carrying out its decision-making function.
- 5.3 Strategic priorities linked for this matter include:
- (a) Rejuvenate our vibrant market towns
  - (b) Thriving, attractive, sustainable and connected Communities
  - (c) A robust financial strategy
  - (d) Recognising the need to provide appropriate housing for an ageing population

## **6. FINANCIAL IMPLICATIONS**

- 6.1 The Council's Medium Term Financial Strategy (MTFS) 2021-2025 requires the Council to take a medium-term view of the budget through a robust financial strategy that is focused on delivering the six corporate strategic priorities. The Council's main strategic financial aim remains to become self-financing and not reliant on Government funding. The Council's parallel aim is to generate more funds than are required purely for core services, in order to enable additional investment into the district. This requires careful balancing of cost management, income generation and service levels.
- 6.2 It is estimated that since 2017/18 the district council has incurred costs of around £134,000 in respect of the Belle Vue site, not including business rates liability currently standing at £16,886 per annum. For reference, remedial works necessitated by two recent instances of vandalism at the toilet block and old pool area have cost the Council approximately £8,500.

- 6.3 Should Cabinet decide not to divert any capital receipt from a sale to Belle Vue Park entrance match funding, to leverage in external funding, these funds would be difficult to identify from existing budgets. The masterplanning work and architect design work on a new accessible park entrance, including addressing the significant site levelling and retaining issues, indicates an order of costs towards £775,000. The Council is actively seeking external funding opportunities to support this including Land Release Funds.

## 7. LEGAL IMPLICATIONS

- 7.1 Section 123(2A) of the Local Government Act 1972 provides that a principal council may not dispose of any land consisting or form part of an open space unless before disposing of the land they cause notice of their intention to do so and consider any objections to the proposed disposal which may be made to them. This allows for the Council to consider objections holistically as part of its due process.
- 7.2 The statutory notice has been advertised with the period for objections ending on 08 January 2021 and Cabinet are to consider the objections received as part of this report. The Council will ensure that the decision it arrives at is fair and reasoned with the process transparent and evidenced in writing.
- 7.3 Where disposals rely on the General Disposal Consent (England) 2003 they must consider subsidy control within the decision-making process. The Council will also have due regard to Localism Act 2011 provisions in relation to the site.
- 7.4 The Council has marketed the land on an open and 'subject to planning' basis, inviting bids via informal tender, as the Council must be seeking to achieve the best consideration reasonably obtainable for the site. Through informal tender, the property remains open to offers, to be submitted via unopened bids, for the agreed marketing period. After the deadline for offers has closed, all the tenders are opened and the Council can then evaluate on a best consideration basis.
- 7.5 Once a disposal and preferred bid are agreed, wide-ranging legal support will be required commencing with a formal review of Heads of Terms, finalising the terms and conditions of any sale/lease agreement and related matters. Any required funding for this support will be recovered from the proceeds of sale.

## 8. RISK MANAGEMENT

- 8.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No.8 (Decline of Sudbury impacting on economic prosperity of the districts) and Risk No.11 (Income and Capital projections and economic outcomes may not be delivered – meaning land remains underutilised). Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to consider objections prior to disposal or disposing of the asset for a consideration less	2 – Unlikely	3 – Bad	Comply with S123 obligations. Cabinet determination as per recommendations and taking into account evaluation

than can reasonably be obtained			criteria/appropriate advice
No bids to fulfil the Council's criteria for disposing of the site	2 – Unlikely	3 – Bad	Open marketing period on subject to planning basis and and via informal tender process
Inability to progress with capital receipt recycling to support new park entrance and improved facilities	3 – Probable	3 – Bad	Commitment to divert a sum from site sale proceeds, to also support external match funding opportunities
Failure to provide strong local leadership on controllable elements of the Sudbury Vision / Masterplan will stifle wider investment in the town	3 – Probable	3 – Bad	Balance the issues carefully with the objective of delivering the best achievable outcome for the future of the Belle Vue site

## 9. CONSULTATIONS

- 9.1 Formal consultation will be facilitated under the planning regime in due course.
- 9.2 Various engagement activities relating to Belle Vue have been undertaken by the Council, both publicly and with identified stakeholders, in the years since the Council resolved to dispose of the site.
- 9.3 This has included Sudbury Town Council, Sudbury Steering Group (later reformed as Sudbury Vision Steering Group), Suffolk County Council, user groups, Portfolio Cabinet Members, attendees to public exhibition/park events and prospective bidders and enquirers including from community/charities as well as private sector.
- 9.4 The statutory disposal notice process is open to any party to issue an objection, and for them to have such objection considered on its individual merits.

## 10. EQUALITY ANALYSIS

- 10.1 Equality Impact Assessment (EIA) Initial Screening has been undertaken and identified no impact on one or more of the nine protected characteristics as defined by the Equality Act 2010. No full assessment is required arising from the matters contained within this report. This is an asset disposal and commercial principles apply to it.
- 10.2 A more accessible park entrance will benefit the local community and visitors. The park will remain within Council ownership and control and freely accessible to all.

## 11. ENVIRONMENTAL IMPLICATIONS



11.1 Development of the site would have associated environment impacts. Sale of the site is 'subject to planning' and therefore environmental implications and mitigations would be considered through planning process and consultation. Objections to the disposal have also commented on environmental impacts including biodiversity and air quality. Cabinet will be fully considering objection grounds to the disposal as part of this report.

## 12. APPENDICES

Title	Location
<b>A:</b> Plan of disposal area	Attached
<b>B:</b> Timeline overview of Belle Vue Site	Attached
<b>C:</b> Objections to S123(2A) Notice including summary and links	Attached and with links
<b>D:</b> Marketing summary and evaluation table including officer preferred recommended proposal	Restricted Access (Confidential)

## **BACKGROUND PAPERS**

1. CONFIDENTIAL REPORT N81 REDACTED (STRATEGY COMMITTEE 21.11.13)  
<https://www.babergh.gov.uk/assets/economic-development/vfp-sudbury/babergh-strategy-report-n81-21.11.13-redacted.pdf>
2. CONFIDENTIAL MINUTE NO.59 REDACTED (STRATEGY COMMITTEE 21.11.13)  
<https://www.babergh.gov.uk/assets/economic-development/vfp-sudbury/babergh-strategy-committee-decision-plan-21-november-2013.pdf>