

CABINET (HOUSING) COMMITTEE

11 OCTOBER 2016

DISPOSAL OF LAND AT COLES MEDE, OTTERBOURNE

REPORT OF THE HEAD OF NEW HOMES DELIVERY

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RECENT REFERENCES:

CAB2813(HSG) – Disposal of Land at Coles Mede, Otterbourne – 29 June 2016

EXECUTIVE SUMMARY:

This report recommends the disposal of five Council-owned garages and a proportion of open space land (approximately 600 square metres) at Coles Mede, Otterbourne to Footstep Living Limited for the development of seven low cost home ownership houses.

This report is an updated version of CAB2813(HSG) which was deferred at the previous Committee meeting on 29 June 2016.

RECOMMENDATIONS:

- 1 That the disposal of the land at Coles Mede, Otterbourne, as shown outlined on the plan attached as Appendix 1 to the Report, to Footstep Living Limited or another company within the same group, be approved, subject to:
 - (i) suitable terms and conditions, including final valuation of the land, to be agreed by the Assistant Director (Estates and Regeneration), having regard to the proposed Heads of Terms set out in paragraph 3 of the report;
 - (ii) the obtaining of any necessary special consent from the Secretary of State under S25 of the Local Government Act 1988, S32 of the Housing Act 1985 and S123 of the Local Government Act 1972.

- 2 That the Assistant Director (Chief Housing Officer) be authorised to take the appropriate action to terminate any tenancies of garages affected by the scheme.
- 3 That the Assistant Director (Estates and Regeneration) be authorised to negotiate and agree terms for easements, wayleaves and related agreements with utility suppliers, telecom/media providers and neighbours in order to facilitate the development.

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DETAIL:

1 Introduction

- 1.1 In May 2014 the Council was approached by Footstep Living Limited, a local company which seeks to provide affordable home ownership that differs from the traditional shared ownership model promoted by Registered Social Landlords (RSL's). In summary Footstep Living Limited's model involves building low cost homes for first time buyers by restricting the purchase price of these homes to 65% of the open market value in perpetuity. The costs of these homes are kept lower than average by using very efficient design principles; including building smaller properties thereby reducing construction costs.
- 1.2 As part of the Council's New Build programme, a significant number of small sites have been identified, not all of which are practical for the Council to develop. Using this information, Footstep Living Limited were able to identify a site that had potential for their product and which has significant local demand. The preferred site identified is at Coles Mede, Otterbourne, and consists of a small garage block and a proportion of a larger open green space (see plan attached as Appendix 1 to this report). A garage usage survey has been conducted that shows that all of the garages are let but only 2 of the 5 garages are being used to keep cars in.
- 1.3 The Council is supporting and assisting Footstep Living Limited in their plans as part of its housing enabling powers by widening the 'affordable housing' 'offer' to residents of the District.

2 Detail

- 2.1 Footsteps Living Limited submitted a development appraisal for the proposed scheme and Vail's were appointed to assess this appraisal and arrive at the residual value of the site. On this basis Vail's arrived at a market value of £70,500 on the assumption that the completed units would be offered for sale at sixty-five per cent of the open market value in perpetuity and subject to the special assumption that the units would be constructed to a standard equivalent to 'passive house standard'. Basically, the site has been valued as an exception site providing 100% affordable housing. If the special assumption that the units will be built equivalent to 'passive home' standard is removed, the Market Value would be £155,000. However, these values may change,

as the development appraisal submitted by Footsteps Living Ltd is subject to any CIL charges and detailed topographical and geotechnical surveys. Therefore, Footsteps Living Limited will be required to submit another development appraisal when their surveys are completed to be independently assessed by Vails..

- 2.2 Footstep Living Limited will construct 7 low cost homes, which will then be prioritised for sale to applicants on the Housing Waiting List (or Help to Buy South) in Otterbourne, followed by those residents in the Ward of Badger Farm and Olivers Battery. The typical cost of a 2 bed Footstep Living Limited home will be in the region of £180,000, which represents a discount of approximately 35% compared to an open market dwelling. The on-going affordability of the home will be controlled via a covenant that requires the owner to sell the property at 65% of its open market value. This is the significant difference in the Footstep Living Limited model as opposed to traditional low cost housing such as shared ownership where owners buy shares and sell their homes at full market value, which can quickly become unaffordable for future purchasers.
- 2.3 Footstep Living Limited have presented their proposals to Otterbourne Parish Council and received general support. Local District Councillors have also been consulted. A public consultation event was carried out where concerns were raised about the design and the potential loss of open space. These concerns were addressed by Footstep Living Limited by reducing the overall number of homes, amending the design to reflect a more traditional style and minimising the loss of open space by pulling the development back from the main area of open space.
- 2.4 Pre-application planning advice has been sought throughout the design process and the Head of Development Management is generally content with the scheme. However, an application has yet to be submitted. The land is currently within the policy boundary for Otterbourne and the open space is not protected by existing policies, although there are proposals within Local Plan Part 2 that areas of open space such as this may be protected. If this were to be the case, the development may have to be considered under the Council's exception policy.
- 2.5 Following the public consultation event in June 2015, an application to register the land as a Town or Village Green under Section 15 of the Commons Act 2006 (more commonly known as a Village Green Application) was made by a local resident, supported by statements from other claimants. Despite the fact that only a very small proportion of the green is affected by the proposed development, the administrative body (Hampshire County Council) will be required to determine the application. A Village Green Application (VGA) does not prevent a planning application being made (or determined), but a scheme is unlikely to commence until the outcome of the application is known.

- 2.6 Footstep Living Limited have been involved in negotiations with the VGA group and have minimised the amount of green required for the development, although there is no mechanism to withdraw a VGA once submitted without agreement from all claimants (which has not been received). The land affected was originally acquired for housing development and laid out and provided for public use as open space. The Council contents that the use is therefore “by right” not “as of right”, and recent case law (Barkas –v- North Yorkshire County Council, [2014] UKSC 31) has confirmed that if such use is ‘by right’ , a VGA should not succeed.
- 2.7 If Members agree to the disposal of the land to Footstep Living Limited, they will submit a planning application which will hopefully trigger the (swifter) determination of the VGA. The cost of the planning submission will be met by Footstep Living Limited whether the VGA is successful or not. Negotiations are continuing with the VGA Group to reach an agreement whereby the land required for the build is minimised and the remaining land is protected by the Council voluntarily designating it as a village green. The original signatories of the VGA have all been contacted by their Group co-ordinator and asked for their comments on this proposal.
- 2.8 Open space
- 2.8.1 A public notice advertising the potential disposal of the open space and inviting comment was published in June and July 2016, 6 letters of objection were received setting out, principally, the following reasons:-
- a) A Village Green Application is in progress
 - b) The land is well established recreational provision and provides an attractive outlook
 - c) Garages are fully occupied
 - d) Local school is over-subscribed
 - e) There are other affordable housing developments in the area
 - f) Design of new homes is out of character
 - g) Increased traffic, lack of local infrastructure capacity
 - h) Land should be sold not given away
 - i) Other public land is available to build on in Otterbourne
 - j) the new homes won't be truly affordable

2.8.2 The majority of the objections relate to the acceptability of the proposed development, rather than the loss of the public open space that results from it. The loss of public open space is limited and does

not diminish the use of the remainder of the public open space. It is considered that this loss weighed against the benefit of providing much needed additional housing which is affordable is reasonable.

3 Principal Heads of Terms

- 3.1 The development (subject to planning) will consist of one x 3 bed house, two x 2 bed houses and four x 1 bed flats. The development costs and values made available by Footstep Living Limited and independently assessed by Vails will form the value of the land as indicated in 2.1 above and hence the sale price to Footsteps Living Limited.
- 3.2 It is proposed that:
- a) The Council transfer the freehold of the land and when constructed the units will be sold on a freehold basis or 999 year leases, with covenants to maintain the 35% discount to open market value in perpetuity.
 - b) Payment for the land will be paid on completion of the Transfer which will not occur until planning permission is granted but before works start on site, with an option for WCC to buy back if the works do not complete for any reason within 3 years of the Transfer of the land (subject to any overriding step in rights by the bank providing the development loan).
 - c) Purchasers will qualify on the basis of a maximum household income in accordance with the eligibility criteria for Help to Buy South.
 - d) For the initial sale the units will be available on a cascade basis with first preference being given to households registered on the Housing Waiting List (or Help to Buy South) with a connection to Otterbourne, then to households in the wider Ward area of Olivers Battery and Badger Farm and finally the whole Winchester District. Resales will follow the same principle as set out above.
 - e) When an owner wants to sell, subject to the Council's approval, Footstep Living Limited will provide the purchaser with the open market value to which the scheme discount is to be applied. The Council's reasonable costs being paid by the Seller and any dispute being referred to a Chartered Surveyor acting as Expert.

OTHER CONSIDERATIONS:

4 COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

- 4.1 Developing new homes is a key priority for the Council as it seeks to promote active communities: 'to support local people in accessing high

quality and affordable housing which meet their needs'. It also facilitates the District's economic prosperity.

5 RESOURCE IMPLICATIONS:

- 5.1 The Housing Revenue Account will benefit financially from the sale of the land, albeit that it may prove to be lower than £70,500 (or even £1) once all the costs of the scheme are known. However, essentially the Council will have facilitated via Footstep Living Limited 7 units of housing at an affordable price to the local community at limited cost to the Council other than officer time and the loss of the garage income.

6 RISK MANAGEMENT ISSUES

- 6.1 The Council wants to develop and deliver an ambitious programme for the building of new council houses and enabling other providers to deliver affordable housing. Building homes involves significant risks and in this model the majority of the risk is transferred to Footstep Living Limited. The principle reputational risk for the Council is that the 65% of market value in perpetuity of the units could in time be challenged. However, with this scheme every effort is being made to ensure that the mechanism restricting future values is robust, which has included Footstep Living Limited seeking Counsel's opinion on the matter which they have shared with the Council. The 65% of market value in perpetuity will be protected by covenant in the transfer of the land or lease and in the S106 Planning Agreement which runs with the land.
- 6.2 If Footstep Living Limited fail to complete the development within the three year period then the Council may require Footstep Living Limited to re-convey the land back to the Council. Where a mortgagee takes possession of the site, it will be able to dispose of the dwellings without the covenant which restricts the value.

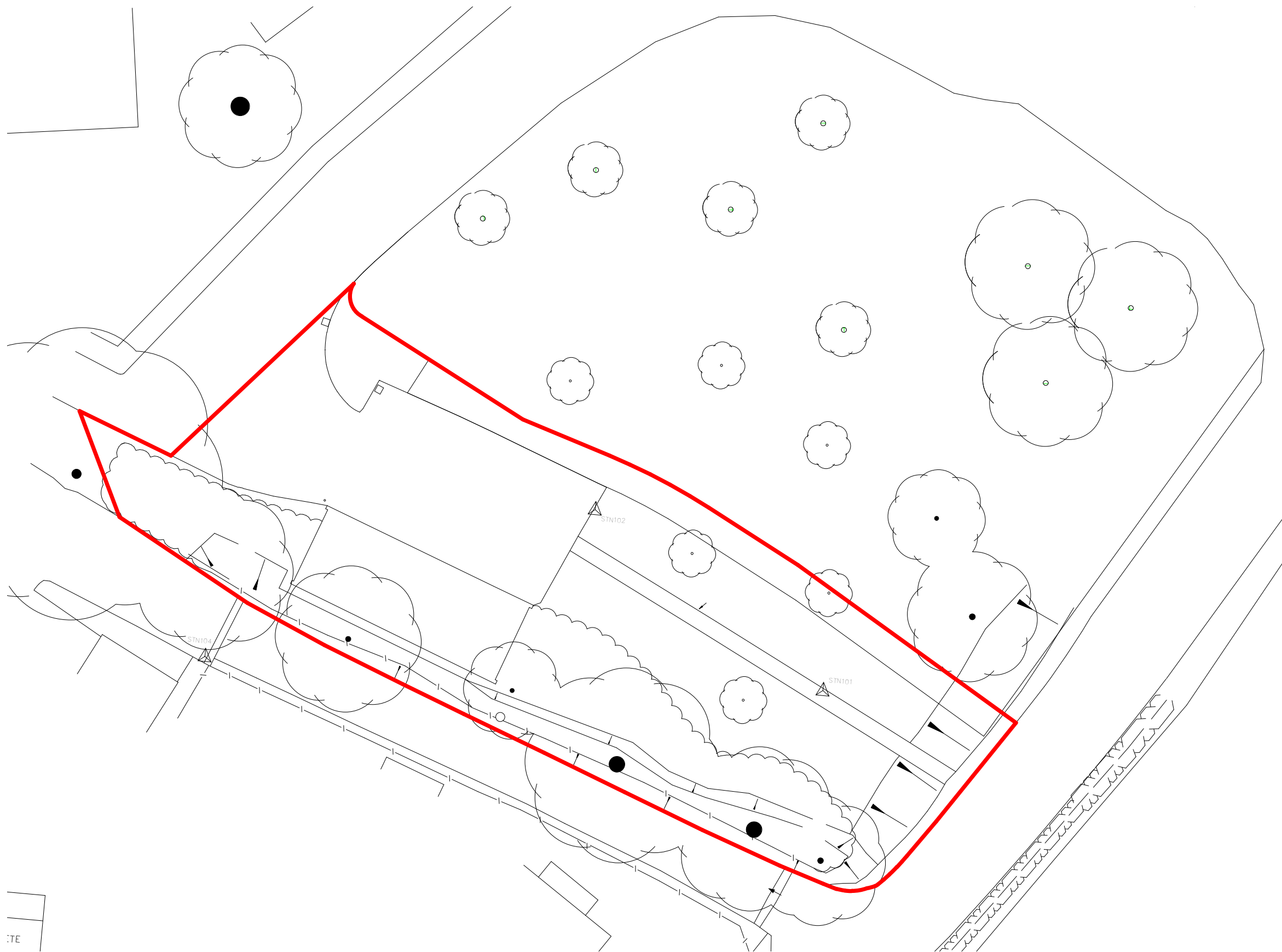
APPENDICES:

Appendix 1 – Site Map



Notes

Report any discrepancies to the author.
Do not scale from this drawing.
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Rev	Description	By	Check	Date
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Client

Footstep Living

Project

Coles Mead Otterbourne

Drawing

Proposed Development Site

Scale	Date	Author	Checked
1 : 250	May 2016	SG	TL

Project No

4615

Drawing No. / Rev

M912P1

Proposed Development Site

1 : 250

