

CABINET



Report subject	Creekmoor Community Land Trust Affordable Housing Development
Meeting date	7 February 2024
Status	Public Report
Executive summary	To present and seek approval of support for the council to support Creekmoor Community Land Trust to progress a suitable site to deliver 14 new affordable houses in Creekmoor.
Recommendations	It is RECOMMENDED that Cabinet: (a) Approves the Heads of Terms in appendix 5 and delegates to the Director of Investment and Development in consultation with the Portfolio Holder for Dynamic Places, the Director Finance and the Director Law and Governance to finalise the required documents. (b) Resolves that the council appropriates the land edged red within the plan (appendix 1) for planning purposes pursuant to section 122 of the Local Government Act 1972 and section 203 of the Housing and Planning Act 2016. (c) Note the retention of community housing grant allocation monies totalling £305,760, to compensate the council for the land value.
Reason for recommendations	To enable Creekmoor CLT in partnership with Sovereign Network Group to deliver a community led affordable housing scheme.
Portfolio Holder(s):	Portfolio Holder for Dynamic Places
Corporate Director	Paul Feehily – Interim Director of Place

Report Authors	Kerry Ruff - Housing Enabling Manager
Wards	Creekmoor
Classification	For Recommendation

1. Background

- 1.1 Government allocated money to all local authorities to be used for “community led affordable housing”. The amount of the allocation was calculated on local affordability levels and the amount of second homes. Collectively Bournemouth, Christchurch and Poole were allocated £1,927,106 grant funding ring fenced specifically for community led affordable housing.
- 1.2 Borough of Poole had a site identified for potential housing delivery on Northmead Drive, Creekmoor and looked to see if there was interest amongst residents to form a community land trust (CLT) that would be able to deliver some affordable homes. There was interest from the local community, and Creekmoor CLT was set up the in July 2018.
- 1.3 Heads of Terms have now been agreed between BCP and Creekmoor CLT. The CLT have selected and appointed their preferred registered housing (Housing Association) provider to work with which is Sovereign Network Group.
- 1.4 A local lettings plan has been agreed with all parties and BCP will have full nomination rights.
- 1.5 There is a restrictive covenant limiting part of the site to footpath use which if enforceable will prevent the development and require appropriation to take place. The process for this will be set out further under the legal implications section. There is also a right of way described on the land registry entries.
- 1.6 Creekmoor CLT have already received a positive pre-app regarding the scheme. They are now looking to finalise the scheme with Sovereign Network Group and will be submitting a planning application once the legal agreements are finalised.
- 1.7 The application once submitted will be scrutinised through the normal planning process to ensure that it is policy compliant.
- 1.8 Assuming that planning consent is achieved through the usual timeframes it is anticipated that a start on site could be achieved by Autumn 2024.

2. Summary of financial implications

- 2.1 The Council is retaining the value of the land from the “community housing grant allocation fund” to deliver the 14-community led affordable homes. The value has been assessed by an independent valuation.

2.2 The CLT will apply for planning permission once the agreement for lease has been entered into and, when planning permission is granted, the lease will be granted to Sovereign.

2.3 Sovereign will develop the housing scheme and the CLT will take the freehold from the council upon completion.

2.4 Appropriation for planning purposes converts private rights (which would otherwise subsist) into claims for compensation.

3. Summary of legal implications

3.1 The council has a power (under section 122 of Local Government Act 1972) to appropriate surplus land for another purpose.

This is expressed to be subject to the rights of third parties, but section 204 of the Housing and Planning Act 2016 provides that appropriation for planning purposes converts such rights into a claim for compensation (under section 10, Compulsory Purchase Act 1965). As a result, building work may be carried out (by the Council or someone else), despite interference with such rights, provided it is in accordance with planning consent and the purposes for which the land was appropriated. Use of the land is similarly authorised (section 203 of the 2016 Act).

Appropriation for planning purposes must comply with at least one of two statutory tests (set out in section 226 of the Town and Country Planning Act 1990).

The first test is that the Council thinks:

- (1) the appropriation will facilitate the carrying out of development, re-development or improvement on or in relation to the land, AND
- (2) the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects-
 - (a) the promotion or improvement of the economic well-being of its area.
 - (b) the promotion or improvement of the social well-being of its area.
 - (c) the promotion or improvement of the environmental well-being of its area.

The second test is that the appropriation is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

The site was acquired by this Council's predecessor subject to a covenant restricting part of the site to use as a footpath. There may also be private rights of way affecting the land.

It is possible (although not certain) that there are beneficiaries of these rights who could stop interference with such rights by seeking an injunction, which would prevent the development. Appropriation for planning purposes eliminates this risk.

Accordingly, limb (1) of the first test set out above is met. The sale of the site would generate a capital receipt, which could be used to promote and improve the economic, social and environmental well-being of this Council's area.

Residential development of the site is consistent with planning policy and the local plan, and it is considered that appropriation for planning purposes satisfies the second test.

It has been established that appropriation for planning purposes is compatible with the Human Rights Act 1998, since compensation is payable for the interference with any rights protected by the 1998 Act, and the interference is therefore proportionate.

The land subject to the covenant and right of way mentioned in paragraph 1.6 should be appropriated for planning purposes to enable the development to proceed and override any private rights that might subsist.

The development of the land for affordable housing supports the right to family life under Article 8 of the European Convention on Human Rights (as incorporated by Schedule 1 to the Human Rights Act 1998).

4. Summary of human resources implications

4.1 There are no human resource implications relating to this item.

5. Summary of environmental impact

5.1 The CLT have carried out several surveys on the site to inform the proposed housing development plans. These will all go through a thorough scrutiny as part of the full planning application process.

5.2 Decision Impact Assessment has been carried out covering all relevant sections and the RAG status of the project is assessed to be in green with low impact all round.

6. Summary of equality implications

6.1 There is an EIA in the appendices.

7. Summary of risk assessment

7.1 There is a completed risk assessment in the appendices.

Appendices

Appendix 1 - Site Plan

Appendix 2 - Government criteria for the use of community housing funding allocations

Appendix 3 - EIA

Appendix 4 - Risk Assessment

Appendix 5 – Heads of Terms