

CABINET  
2<sup>nd</sup> JUNE 2015

SOLICITOR TO THE COUNCIL  
EXEMPT REPORT NO. LEG1510

## ACQUISITION OF SANG PROVISION

### PURPOSE

**This Report seeks authority to purchase the freehold interest in land at Ball Hill, Cody Technology Park, Farnborough to be used for SANG provision funded by a loan from the LEP to facilitate the purchase and subsequent provision of the SANG**

### BACKGROUND

The Thames Basin Heaths Special Protection Area (SPA) has European protection due to its mixture of heathland, scrub and woodland habitat that support important breeding populations of: – Dartford Warbler, Nightjar and Woodlark. It is made up of 13 Sites of Special Scientific Interest that lie within the boundaries of 11 local planning authorities.

Natural England identified that net additional housing development (residential institutions and dwellings) up to 5km from the designated sites are likely to have a significant effect (alone or in combination with other plans or projects) on the integrity of the SPA. The whole of the borough lies within 5 km of the SPA. Thus saved policy NRM6 of the South East Plan focuses upon avoidance and mitigation of the effects of residential development.

The authorities affected, in partnership, developed the Thames Basin Heaths Special Protection Area Delivery Framework which states that *“All net new residential development – when considered either alone or in combination with other plans and projects – is likely to have a significant effect on the SPA and should therefore provide or contribute to the avoidance measures”*.

Two forms of mitigation are identified. These are a combination of providing suitable areas for recreational use (Suitable Alternative Natural Greenspace (SANG)) by residents to buffer the SPA, and actions on the SPA to manage access and encourage the use of alternative sites (Strategic Access Management and Monitoring measures (SAMM)). Mitigation must be operational prior to the occupation of new residential developments to ensure that the interests of the SPA are not damaged.

Thus all new housing within Rushmoor Borough is required to provide these avoidance and mitigation measures.

## **CURRENT POSITION ON SANGS PROVISION**

The current capacity of SANG in the Borough is severely limited and some potential residential developments are being put on hold until additional SANG capacity is available. This is particularly relevant for delivering town centre regeneration schemes but affects future housing delivery across the Borough.

## **NEW PROVISION OF SANGS**

A potential site as a SANG at Ball Hill, Farnborough has come forward which will enable the delivery of about 500 new homes.

The site lies to the west of the Borough and is shown outlined in red on the map forming the appendix to this report. A small part of the site lies just outside the Borough boundary and within Hart District.

The provision of SANG in this location would allow the delivery of housing throughout the Borough on sites of up to 9 dwellings. It would allow for developments on sites of 10 or more dwellings within 5km. Natural England has visited the site and considers that it is suitable as a SANG.

The implementation of Ball Hill as a SANG will enable the delivery of around 500 new homes against the background of the joint Strategic Housing Market Assessment for Hart, Rushmoor and Surrey Heath identifying a significant need for new homes, including affordable homes in Rushmoor over the period up to 2032. The delivery of around 500 new homes will provide about 530 jobs and have a total employment of about £21.9 million over a five year period.

Planning permission will be required for the change of use of the land to SANGS from both this council and Hart given that the site is within the administrative area of both council's.

It is envisaged that following acquisition and set up the Blackwater Valley Countryside Service would, subject to compliance with contract standing orders, deliver further improvement works and ongoing management of the SANG on behalf of the Council. They already do this for the other SANG sites that serve the Borough.

A scheme would also need to be developed to enable developers to receive their SANGs mitigation from this SANG which would be delivered through the council.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

There is no alternative but for the Council to seek additional SANGS provision as residential development cannot be permitted without SANGs mitigation land as it would cause adverse effects to the European protected SPA. The council needs to be able to meet as much of its own housing need as the borough can accommodate within its constrained boundaries.

## **PROPERTY IMPLICATIONS**

The agreed price of £1.3M is recommended as the open market value of the land for SANGs provision given the rarity of such land within the borough. There are few comparables as the market for such land is relatively new. The purchase price has been recommended by the Council's professional valuer and therefore is considered to be best value.

## **LEGAL IMPLICATIONS**

The council has power to acquire land under section 120 of the Local Government Act 1972 either to discharge any of the council's functions or for the benefit, improvement or development of the borough. The acquisition of this land will enable the council to continue to meet its need to provide housing within the borough. The council has power to borrow money which is calculated to facilitate the discharge of any of our functions. This borrowing would enable us to discharge our housing function in continuing to make sure that a supply of housing land comes forward.

## **FINANCIAL IMPLICATIONS**

The land acquisition price is £1.3 million.

The initial set up costs to establish the land as a SANG are likely to be in the order of £400,000 with a breakdown of the estimated costs having been provided by the Black Water Countryside partnership to include a contingency. These works would need to be tendered in due course.

The costs of the acquisition and set up works potentially can be funded from a LEP loan from the Growing Enterprise fund of Enterprise M3 which is a fund with a total value of £21.7m, available to help support economic growth by addressing the infrastructure and site constraints that may be impeding development.

The principal of LEP funding being available for such use has been supported and the bid submission will be made by the 22<sup>nd</sup> of May. The council will not hear whether it has been successful in its submission until towards the end of July. If a completion date for the purchase after this date is not satisfactory to the vendor or if the funding bid cannot meet the necessary timescales then the recommendation is that the Council should use its own funding rather than lose this valuable SANGs land. The recommendation therefore provides for this eventually by providing that the council can use its own finance to acquire the SANGs without LEP funding should this be necessary.

There will be further costs in relation to works that need to be done to the SANGs such as habitat management, maintenance and any other requirements of Natural England.. No costings are available for this currently. There will also be a cost associated with future maintenance of the SANG in perpetuity which cannot be determined until the maintenance requirements have been established.

Fencing of the SANG is expected to be undertaken by the adjoining landowner at their own cost. It is possible that works may also be required to the highway entrance in connection with the planning application.

There will also be legal costs related to the set-up of the scheme to enable developers to access this SANGs provision on terms and conditions to be agreed.

The income that will be generated from making available SANGs to developers has been calculated upon an average of 2.4 occupancy per house with the SANGs supplying a 500 house scheme. The current SANG charge for other SANGs is £2,600 per occupant. The potential income is therefore  $£2,600 \times 2.4 \times 500 = £3,120,000$  which will be sufficient to cover the above mentioned costs. Once the final costs of the scheme are established the council can decide whether a charge of £2600 per occupier is appropriate or whether it should be a greater sum if the scheme is more expensive than anticipated or a lesser sum if it would help increase the level of any future CIL charge to fund other infrastructure if the Council does adopt a CIL charging schedule.

It is difficult to predict build rates, and therefore the SANG take up, but planning consents only last for one year and therefore this should provide incentive for developers to proceed promptly or face the cost of a further planning application and the risk of losing their allocated SANGs capacity.

The LEP loan will be repayable over a five year period from the date of delivery of the SANG and no interest will be charged.

## **OTHER IMPLICATIONS**

There are no implications for the staffing of the Borough Council.

Consideration will need to be given to designing out any risk of anti-social behaviour in relation to the new SANG under the Crime and Disorder Act when considering the layout and future management arrangements for the SANG.

## **RECOMMENDATION**

1. That the Solicitor to the Council be given authority to:-
  - purchase the land at Ball Hill for £1.3m
  - negotiate the terms of the loan funding agreement with the LEP up to a value of £2m to be used to acquire the land and cover set up costs.
  - procure the set up works for the SANG
  - subject to compliance with contract standing orders, enter into an agreement with the Blackwater Valley Countryside Service for the improvements works to the SANG and for the ongoing management of the SANG on behalf of the Council

- make a planning application to both this council and Hart Borough Council for change of use of the land to permit it to be used for SANGs provision
  - negotiate and enter into any related legal arrangements including the terms and charging mechanisms to enable the SANGs land to be made available to developers to assist in housing provision
2. that the Head of Planning be given authority to
    - determine the level of SANG charge per unit following determination of the costs of set up and in perpetuity maintenance and to make any necessary changes to the arrangement of the allocation of this SANG land following consultation with the Cabinet Member for Environment and Service Delivery
  3. In the event that LEP funding is not available within the required timescale then to authorise the Head of Financial Services to use council finance to fund the acquisition and delivery of the scheme subject to there being evidence that the scheme will be self-funding and deliver a reasonable rate of return on the use of council capital

**ANN GREAVES**

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