

To: Cabinet
Date: 9 August 2023
Report of: Executive Director (Development)
Title of Report: Bertie Place Affordable Housing Scheme - project approvals and land appropriation - ADDENDUM

Summary and recommendations	
Purpose of report:	This report is an addendum to agenda item 8 (the main report) and clarifies the recommendations in that report.
Key decision:	Yes
Cabinet Member:	Councillor Linda Smith, Cabinet Member for Housing Councillor Ed Turner, Cabinet Member for Finance and Asset Management
Corporate Priority:	More Affordable Housing and Meeting Housing Needs
Policy Framework:	Housing and Homelessness Strategy 2023 to 2028

Recommendations: That Cabinet resolves to:

1. **adopt** the proposed revisions to the recommendations in the Main Report as detailed below.

Introduction and background

1. Agenda item 8 is a report setting out proposals in relation to the Bertie Place Affordable Housing Scheme (the Scheme) to:
 - a. grant project approval for the Scheme;
 - b. delegate authority to officers to enter into relevant agreements to develop and purchase affordable homes on the land at Bertie Place as proposed by the Scheme; and
 - c. commence the statutory procedure for the appropriation of land at Bertie Place for a planning purpose.
2. The development of the Scheme is contingent on the proper completion of the statutory process and formal consideration and approval of the appropriation of the land at Bertie Place as set out in the Main Report – unless the land is appropriated for the purpose of the Scheme the Scheme cannot proceed and there is no ground

on which the Cabinet can grant project approval and authorise officers to enter into the relevant agreements.

3. Cabinet has the authority to authorise the commencement of the statutory procedure for appropriation of the land following which it will be asked to consider a subsequent report proposing a decision to appropriate the land.

Proposed revised recommendations

4. In order to clarify that recommendations 1 and 2 in the Main Report are conditional on the successful appropriation of the land, it is proposed to amend all 3 recommendations to read:
 1. **Agree** to commence the appropriation process of Site A at Bertie Place as set out in the report, noting the intent to take a further report to October Cabinet; and
 2. Subject to the completion of the statutory procedure to appropriate the land at Site A and the subsequent decision of the Cabinet to appropriate the land, to;
 - a. **Grant** project approval for the build and acquisition of affordable homes developed by OCHL for which budgetary provision has been made in the Council's Housing Revenue Account in respect of Bertie Place; and
 - b. **Delegate** authority to the Head of Housing in consultation with the Head of Law and Governance and the Head of Financial Services/Section 151 Officer to enter into a Development Agreement with OCHL to facilitate the development, secure the purchase of the completed affordable homes, to be held in the HRA, and to enter into any related agreements and contracts to facilitate the development within this project approval and budget for Bertie Place. Acquisition costs are specified in the confidential appendix.
5. There are no alternatives to the proposed amendments set out at paragraph 3 which will ensure further legal certainty around the Cabinet's decision in relation to the Main Report.

Financial implications

6. There are no financial implications in the proposed amendments set out at paragraph 3.

Legal issues

7. The rules on the appropriation of land to a planning purpose are set out in section 122 of the Local Government Act 1972. An advertising procedure is required (as set out in the Main Report) and before a decision to appropriate is made the council must consider any objections to the proposed appropriation.
8. The Cabinet is under a legal obligation to consider all relevant factors including those raised in objections in the decision to appropriate the land. As a result it is possible that the Cabinet will decide not to appropriate the land at Site A.
9. It would be premature for the Cabinet to grant project approval and delegate authority to enter into the necessary agreements unless the proposal to appropriate the land is approved.

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Background Papers: None

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