

**From:** Rebecca Spore, Director of Infrastructure

**To:** Peter Oakford, Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services

**Subject:** Freehold Disposal of Land at the Long Field, Quaker Lane, Cranbrook, Kent

**Decision no:** 24/00088

**Key Decision:** Yes, it involves expenditure or savings of maximum £1m – including if over several phases

**Classification:** *Unrestricted report with exempt appendix, not for publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

**Future Pathway of report:** Cabinet Member Decision

**Electoral Division:** Cranbrook (Tunbridge Wells) - Seán Holden

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**Is the decision eligible for call-in?** Yes

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**Summary:** This report considers the proposed disposal of Land at the Long Field, Quaker Lane, Cranbrook, Kent

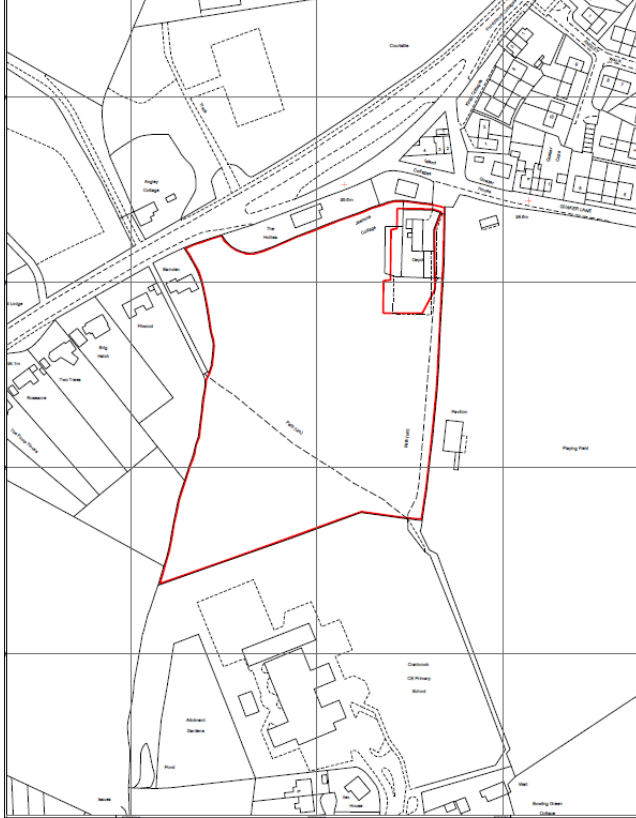
**Recommendation(s):**

The Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services is asked to consider and endorse or make recommendations on the proposed decision to agree:

1. the disposal of the property, Land at the Long Field, Quaker Lane, Cranbrook, Kent; and
  2. to grant an extension of time (if required) to the promotion agreement relating to land adjoining Cranbrook Primary School, Carriers Road, Cranbrook, dated 29th January 2020, or to enter into a new promotion agreement with the same or a new developer
  3. delegate authority to the Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, to finalise the terms of the extension of time to the promotion agreement and disposal and execution of all necessary or desirable documentation required to implement the above.
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## 1. Introduction

- 1.1 This report considers the Council's intention to sell Land at the Long Field, Quaker Lane, Cranbrook, Kent.
- 1.2 The property is located to the north of Cranbrook and south of Wisley Green within Tunbridge Wells Borough Council.
- 1.3 Site plan below shows redline boundary, appendix A.



- 1.4 An aerial photograph showing layout of the site and surrounding area.



## 2. Background

- 2.1 The property extends to approximately 2 hectares, comprising of grassland and was held for highways purposes over 10 years ago (the depot building is still in existence on the site but has been converted into a children's nursery). The site has been declared surplus as it is no longer required for operational purposes. In 2018 the site was marketed for disposal and on 29 January 2020, KCC entered a promotion and option to purchase agreement with Heyworth Properties Limited, expiring 29 January 2025.
- 2.2 The property was initially allocated within the Regulation 18 draft local plan (August 2019) for residential development (Policy AL/CR55) and was considered suitable for providing approximately 35-45 dwellings. The site was subsequently removed at the Regulation 19 stage, due to queries regarding access at that time.
- 2.3 Planning application reference 23/03246 has been submitted for a scheme comprising of 34 residential units, with a determination of the application anticipated in the last quarter of 2024 (see illustration below). In the event of granting satisfactory planning permission, Heyworth Properties Limited will either purchase the property, or it will be marketed and sold to a third party, and the purchaser will pay a proportion of net sale receipts to KCC, in accordance with the terms of the agreement.



- 2.4 If planning consent is not granted, but there is a reasonable prospect that the proposed scheme or similar scheme could result in a satisfactory planning

outcome, then Heyworth Properties Limited may seek an extension of time, whereby KCC would have to consider its position and if necessary, agree an extension of time or new promotion contract.

- 2.5 This report seeks a decision to enable a sale of the asset in Quaker Lane, to grant an extension of time to its current promotion and option to purchase agreement or agree terms for a new promotion agreement with either Heyworth Properties Limited, or another organisation following a S123 compliant process. Given that the current promotion agreement expires at the end of January 2025 and the planning application decision is imminent, a decision now will ensure that KCC's position can be considered and acted upon without a delay in a timely way.

### **3. Options considered and dismissed, and associated risk**

- 3.1 **OPTIONS FOR THE ASSET:** Following internal consideration, no operational requirement for the site was established, with the property being marketed in 2018 and to test whether using private sector expertise may result in an enhanced value position; an option agreement for the sale of the property to Heyworth Properties was agreed in January 2020, expiring in January 2025. Other options to be considered were limited to holding the property for investment return or disposal, both options were dismissed at the time since existing use value was less than what may be the case in the event of development of the land, and given the relatively low holding costs this option was worth exploring.
- 3.2 **CONTRACTUAL OPTIONS:** Whilst under contract, a decision not to perform under its terms would be possible, however this would have both legal and cost implications, which if planning consent were granted, could reach into the hundreds of thousands. The recommendation in this case therefore is to perform under the contractual agreement for the sale of the property unless the contract expires in the meantime.
- 3.3 **CONTRACT EXPIRY OPTIONS:** If the contract expires then KCC would need to re-evaluate its position regarding this asset. Options may include holding the asset, selling the asset for its existing use value or (if conditions for development looked favourable) seek to extend the existing promotion agreement, renew or reach an agreement with new terms. Given that KCC may need to act quickly to seek its optimal position, an early decision will enable time to undertake a proper assessment once facts crystalise. In addition, should a planning consent be forthcoming there may be opportunity to fast track a completion within the current budget year (although the more realistic timetable is set out in section 10 below).
- 3.4 **HOLDING OPTIONS:** KCC must continue holding the property until at least the present contract term expires or it is sold as per the contractual terms. Continuing to hold the site would leave the Council exposed to ongoing costs for securing the site against unauthorised access and potential claims for injuries arising from any trespassing, and if KCC requires to reassess its position, these factors will be weighed up along with wider considerations.

#### **4. Financial Implications**

- 4.1 The sale of the property will result in a capital receipt which will be reinvested back into the Council's Capital Programme.
- 4.2 The disposal of the property will remove holding costs associated with the site, easing pressure on revenue budgets.
- 4.3 Further financial information is set out in the exempt appendix A.

#### **5. Legal implications**

- 5.1 The Council has an overarching duty under Section 123 of the Local Government Act 1972 to secure not less than best consideration in respect of property disposals. It also has a fiduciary duty to the residents of Kent.
- 5.2 KCC is under contract to sell the site to a promoter subject to its expiration date.
- 5.3 External legal advisors will be appointed in consultation with General Counsel.

#### **6. Equalities implications**

- 6.1 An Equalities Impact Assessment (EqIA) has been undertaken and identified no direct equalities implications arising from the disposal of the site.

#### **7. Data Protection Implications**

- 7.1 As part of this approval process and in the handling of marketing/conveyancing of the site Data Protection regulations will be observed. No data or records are stored on site.
- 7.2 A Data Protection Implication Assessment (DPIA) screener has confirmed that there are no DPIA implications and that a further DPIA assessment is not required in respect of this decision.

#### **8. Other corporate implications**

- 8.1 This decision will not have any impact on other areas of the Council's work.

#### **9. Governance**

- 9.1 A Key Decision is being sought in line with the constitution and the Council's governance processes. The views of the local Member in accordance with the property management protocol will be sought and will be reported to the Cabinet Member before a Key Decision is offered.
- 9.2 As shown in the recommendation, delegated authority is to be given to the Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, to finalise the terms of the extension, new promotion agreement and disposal and execution of all necessary or desirable documentation required to implement the decision.

## 10. Next Steps and Conclusions

10.1 An indicative timetable for the planned disposal is set out below:

Stage	Timescale
Determination of planning application	Q4 2024 – Q1 2025
Marketing of site by promoter (if planning application approved)	Q2 2025
Exchange of contracts	Q3 2025
Completion of sale	Q4 2025

## 11. Conclusions

11.1 The sale of the property will result in a capital receipt which will be reinvested back into the Council's Capital Programme.

11.2 The disposal of the property will remove holding costs associated with the property easing pressure on revenue budgets.

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### Recommendation(s):

The Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services is asked to consider and endorse or make recommendations on the proposed decision to agree:

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3. delegate authority to The Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, to finalise the terms of the extension of time to the promotion agreement and disposal and execution of all necessary or desirable documentation required to implement the above.

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## 12. Appendices / Background Documents

- 12.1 Appendix A – Exempt Appendix A
- 12.2 Appendix B – Site Plan
- 12.3 Appendix C – Proposed Record of Decision
- 12.4 Appendix D – Equalities Impact Assessment

### 13. Contact details

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