

# Taunton Deane Borough Council

## Full Council – 26 July 2017

### Land at Creedwell Orchard Housing Estate, Milverton

This matter is the responsibility of Councillor John Williams, Leader of the Council

Report Author : Tim Child, Asset Manager

#### 1 Executive Summary / Purpose of the Report

- 1.1 The Option Agreement with S Notaro Limited (SNL) for the purchase of land at Creedwell Orchard Housing Estate must be triggered by 19 July 2017 or the option falls away. This trigger date has already been extended on a number of occasions at the request of SNL. The option is not expected to be triggered and therefore by the date of this Corporate Scrutiny meeting is expected will no longer exist.
- 1.2 SNL indicated to the Council in late May 2017 that current planning issues with delivering the extant scheme as intended meant that SNL did not wish to exercise the existing option agreement. Under the circumstances this is not an unreasonable decision. An alternative proposal was made to the Council by SNL to acquire the land outright to enable SNL to start developing a smaller number of units under the extant scheme. This proposal was fundamentally different to the option – the Council would receive a smaller sum up-front but with overage built in providing that if all 72 dwellings under the extant permission were constructed the Council would ultimately receive the same as intended under the previous option. Likewise, the same principles applied should SNL build out a new scheme.
- 1.3 The land is currently worth circa £75,000 if we were to ignore that the land provides access to a development site. Whilst disappointing that the option which would have provided circa £1,200,000 is not expected to be exercised, the revised proposal still represents a sound commercial transaction.
- 1.4 Actions have been taken by the Council to mitigate the risk of the option falling away and the Council achieving no capital receipt. A conditional contract is intended to be entered into between the Council and SNL for the outright sale of the Council land needed to access SNL's land. The contract is conditional only on Council supporting this transaction and the receipt if supported will be payable by 31 July 2017.
- 1.5 The capital receipt from the sale and any subsequent overage will be ring fenced for affordable housing as per the previous resolution.

**2. Recommendation**

2.1 It is **recommended** that the Council sells the freehold interest of its land edged red, cross hatched black to SNL for the sale price together with overage and other provisions as set out in the confidential appendix to this report.

**3. Risk Assessment (if appropriate)**

**Risk Matrix**

Description	Likelihood	Impact	Overall
If the sale to SNL does not proceed then the Council will have failed under its obligation to achieve best consideration for its land and property assets by missing out on this proposal presented by a 'special purchaser' able to pay an enhanced land value. The Council would lose a potential capital receipt and it may be possible that ultimately SNL will be able to develop its land using an alternative access.	5	4	20
<i>The mitigations for this are to sell the land to SNL on the terms agreed.</i>	1	1	1

**Risk Scoring Matrix**

<b>Likelihood</b>	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
<b>Impact</b>							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or	50 – 75%

	occurs occasionally	
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

#### 4. Background and Full details of the Report

- 4.1 An Option Agreement was entered in to with SNL on 27 February 2014 for a period of 10 years following Executive approval given at its meeting on 13 July 2013 in respect of Council owned land at Creedwell Orchard, Milverton. The extent of this land is shown edged in red and cross hatched on the indicative plan, attached at Appendix 1. The land was to be used to provide access to that land shown edged in blue on the attached indicative plan which is owned by SNL and has the benefit of an extant planning permission for 72 dwellings, comprising a mix of houses and bungalows.
- 4.2 The Option Agreement with SNL for the purchase of land at Creedwell Orchard must be triggered by 19 July 2017 or the option falls away. This trigger date has already been extended on a number of occasions at the request of SNL. At the date of writing this report it is anticipated that the option will have not been exercised and will therefore no longer exist.
- 4.3 SNL indicated to the Council in late May 2017 that current planning issues with delivering the extant scheme as intended meant that SNL were not in a position to exercise the existing option agreement. An alternative proposal was made by SNL to acquire the land outright to enable SNL to start developing a smaller number of units under the extant scheme. This proposal was fundamentally different – the Council would receive a smaller sum up-front but with overage built in providing that if all 72 dwellings under the extant permission were constructed the Council would ultimately receive the same as intended under the option. Should less than 72 dwellings under the extant consent be built then the Council would ultimately receive less than it would have under the option.
- 4.4 The land is currently worth circa £75,000 if we were to ignore that the land provides access to a development site. Whilst disappointing that the option is not expected to be exercised it still represents a sound commercial transaction as the sale price, ignoring any overage is significantly greater than the alternative value.
- 4.5 Commercial discussions with SNL took place during June and detailed terms agreed subject to Council approval. On the basis the offer makes sound commercial sense it has been brought to Members for consideration.
- 4.6 It is anticipated that by the date of the Corporate Scrutiny Committee Meeting a conditional contract will have been agreed with SNL for the outright sale of the Council land needed to access SNL's land. The contract will be conditional only on Council supporting this transaction and the sale price will be payable by 31 July 2017. There are no other conditions.
- 4.7 Other than this now being a straightforward sale and at a lesser up front sum but with an overage incorporated, this new transaction does reflect the principal terms set out in the previous option. The principal terms of this proposed sale are set out in the confidential appendix 2.
- 4.8 This matter is to be presented to Corporate Scrutiny Committee on 20 July 2017 and a

verbal update on this will be provided at Special Full Council.

**5. Links to Corporate Aims / Priorities**

- 5.1 The eventual capital receipt obtained from the sale of the land, together with any subsequent overage, which is to be reinvested in to affordable housing will greatly assist the Council in fulfilling its Corporate Aim of Quality sustainable growth and development

**6. Finance / Resource Implications**

- 6.1 This will lead to a significant capital receipt and the potential for further sums in the future.

**7. Legal Implications**

- 7.1 This matter has been dealt with by Davitt Jones Bould Solicitors who had advised on the previous option.

**8. Environmental Impact Implications (if any)**

- 8.1 None associated with this report.

**9. Safeguarding and/or Community Safety Implications (if any)**

- 9.1 None associated with this report.

**10. Equality and Diversity Implications**

- 10.1 None associated with this report.

**11. Social Value Implications**

- 11.1 None associated with this report.

**12 Partnership Implications**

- 12.1 None associated with this report.

**13. Health and Wellbeing Implications**

- 13.1 None associated with this report.

**14 Asset Management Implications**

- 14.1 This is an Asset Management generated report.

**15. Consultation Implications**

- 15.1 None associated with this report.

**16. Scrutiny Comments** (if any)

16.1 To be updated verbally as per paragraph 4.8.

**Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees – Yes**
- **Executive – No**
- **Full Council – Yes – Special Full Council**

**Reporting Frequency :**  **Once only**    **Ad-hoc**    **Quarterly**  
 **Twice-yearly**    **Annually**

**Contact Officers**

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# Appendix 1

