



CABINET REPORT

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| Report Title | Future of Archway Cottages, Abington Park |
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AGENDA STATUS: PUBLIC

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| Cabinet Meeting Date: | 16 December 2009 |
| Key Decision: | NO |
| Listed on Forward Plan: | YES |
| Within Policy: | YES |
| Policy Document: | NO |
| Directorate: | Finance & Support |
| Accountable Cabinet Member: | Councillor David Perkins |
| Ward(s) | Weston |

1. Purpose

- 1.1 To consider objections received to the proposed disposal of public open space and to decide whether or not to affirm the 'in principle' decision made by Cabinet on 7 April 2008 to dispose of the property (four listed cottages on the edge of Abington Park) by way of a long lease.

2. Recommendations

- 2.1 That Cabinet considers the objections made to the proposed disposal of Archway Cottages including associated garden land, shown for the purposes of identification edged red upon the attached plan ('the Property').
- 2.2 That Cabinet confirms its 'in principle' decision made on 7 April 2008 to dispose of the Property by the grant of a 125 years lease, on terms that lead to the restoration of the properties in accordance with listed building requirements.

- 2.3 That Cabinet acknowledges the risk that the grant of such a long lease could lead ultimately to individual occupiers of the cottages exercising statutory rights to acquire the freehold of their homes.

3. Issues and Choices

3.1 Report Background

- 3.1.1 Cabinet considered options for the future of the vacant, listed Archway Cottages at a Cabinet meeting on 7th April 2008. Cabinet supported their disposal by way of a long lease, as the most cost effective means of ensuring their restoration and occupation as homes. This decision was taken subject to the statutory obligation to advertise the proposed disposal of public open space and consider any objections received. The cottages form part of Abington Park.
- 3.1.2 The proposed disposal of the four vacant Cottages was advertised and 12 separate objections to disposal were received from local interest groups and individual members of the public. The various grounds for objection are set out at 3.2.1 below.
- 3.1.3 During this period, further and additional legal advice was sought on the risks arising under the different options put forward in the original Cabinet report. The risks arising from two of the main options are set out below at 3.2.3 and 3.2.4
- 3.1.4 Further consultations and discussions with local interest groups, including Abington Conservation Society and Friends of Abington Park, have been carried out since the previous report to Cabinet. These groups have re-stated their preference for the cottages to be retained by the Council and restored for residential use or converted to some form of community use. However, no external potential funding streams have been identified to support this outcome.

3.2 Issues

- 3.2.1 Objectors to the disposal of the listed cottages have cited the following principal reasons:
- Objection in principle to the sale of any parkland
 - A disposal would represent a breach of the terms of the conveyance by which the land came into the ownership of the Council.
 - The cottages have a high heritage value and are part of the Town's history and should be retained in Council ownership for this reason.
 - The Council should retain ownership and prioritise funding to restore them or seek external funding to do so.
 - The cottages should be used for community or educational purposes
 - There is a risk of demolition of the cottages or the properties being substantially altered if they are disposed of to a private owner
 - Substantial works to buildings could disturb archaeological artefacts in the immediate vicinity

3.2.2 In response to some of the stated grounds of objection, the following points can be made:

- There is, in the opinion of the Council's Legal Services department, a restrictive covenant affecting the title but it is considered that in practical terms probably no-one can be identified to enforce it. However, it would be considered prudent (if a disposal were approved) for the Council to purchase restrictive covenant indemnity insurance against any attempts to enforce such a covenant or in the event of any claims against the Council.
- The buildings are listed and demolition or significant changes would not be permitted by planning and conservation legislation.
- The Council is unable to prioritise the necessary capital expenditure (estimated at £290,000) required to restore them to houses for letting and if it did so, they would in most circumstances be subject to 'right to buy' legislation.
- The Council is not in a position to support additional revenue expenditure for the running costs of the premises for alternative uses, even if external capital was available to undertake conversion works (within the acceptable boundaries of listed status).

3.2.3 If the Council were to renovate the properties and let them, it would be obliged to grant secure tenancies. Subject to meeting the minimum qualifying criteria, after a period of time the Council's tenants could exercise the 'right to buy' the properties. They would thus be lost from the ownership of the Council. This risk existed when the properties were formerly tenanted, but no-one chose to exercise their rights. The only exception to the above would be if the properties were restored and let by the Council as sheltered accommodation for persons of pensionable age. The costs of adaption for this use would be higher than for general needs housing.

3.2.4 If the Council were to dispose of the cottages by way of one long lease of all four properties, it is likely that the developer would seek to sell the individual properties on long leases. In these circumstances, the long leaseholder (lease in excess of 21 years) would after 2 years have the right to acquire the freehold (enfranchise) from the Council or seek to acquire an extension of the term. It is thus possible that the Council could lose the freehold control of the individual cottages (but receive a further future sum for the purchase of the interests).

3.2.5 Given the risks outlined in 3.2.3 and 3.2.4 above, since the last Cabinet report, further approaches have been made to Registered Social Landlords (RSLs) to re-confirm that they would not be interested in taking long leases of the cottages in return for capital receipt/ nomination rights in favour of the Council. A number of RSL's have indicated that they would not be interested citing – increased renovation costs due to listed status, resultant small size of dwellings/ difficulties in meeting design standards and higher future maintenance costs. The lack of car parking is viewed as an impediment to a shared ownership scheme.

- 3.2.6 Enquiries have been made of County Council officers about potential vehicle access routes to the properties from the public highway to create parking. They have confirmed that access would not be possible from Wellingborough Road/ Park Avenue South. An access from further south may be technically possible but would be costly and undesirable in terms of impact on the park and pedestrians.

3.3 Choices (Options)

- 3.3.1 The Council could retain ownership of the cottages and carry out improvement/restoration works with a view to re-letting them or using the accommodation/ permitting use of the properties by a third party for a different purpose. The Council do not have the financial resources to fund such work and there is no identified external funding to cover the initial refurbishment costs and future maintenance costs. The Council could also lose freehold ownership of individual cottages under Right to Buy legislation, should the cottages be let to individuals on secure tenancies. As noted at 3.2.3 above, the “Right to Buy” would not apply if the cottages were restored for use as sheltered accommodation.
- 3.3.2 The Council could dispose of the freehold interest in the properties, collectively or individually on the open market. This course of action would remove a significant repair liability from the Council and generate a capital receipt. However, the Council would no longer have any control, save through the planning system, over the future use of the cottages. Long-term ownership of individual units would probably be split, with likely permanent loss of overall control of the original historic development scheme. This is the most attractive disposal option from a developer’s perspective and would be likely to generate a higher capital receipt than option 3.3.4 below.
- 3.3.3 The Council could offer to transfer the properties on either a freehold or leasehold basis to a Registered Social Landlord. This would typically be at a significant discount from market value in return for external capital investment in the premises, future nomination rights in favour of the Council and the loss of future maintenance liabilities. However, it has been established that no RSL approached was interested in these properties, for the reasons stated at 3.2.5 above. This is not a deliverable option.
- 3.3.4 The Council could grant a long lease to a suitable private developer upon terms that would, as a pre-requisite, require the restoration and improvement of the cottages to a standard consistent with their listed status. This option would also generate a capital receipt, whilst removing a significant repair liability. This option would enable the Council to retain the freehold ownership of the cottages, at least in the short term. For the reasons stated under 3.2.4 the Council could lose longer-term control, should the developer dispose of the cottages individually on the open market by way of long under-leases and those under-lessees then exercise rights to enfranchise.

4. Implications (including financial implications)

4.1 Policy

There are none specifically.

4.2 Resources and Risk

4.2.1 Capital: Option 3.3.1 would require a large financial investment by the Council. Options 3.3.2 and 3.3.4 would generate capital receipts and reduce the General Fund overall maintenance backlog of the Council. Option 3.3.3 is unlikely to be deliverable, but if it were, it would be likely to generate a nominal/small capital receipt and reduce the maintenance backlog

4.2.2 Revenue: Option 3.3.1 would generate a limited rental income through letting out the cottages following refurbishment works. However, the length of time required to recover the costs of refurbishment would make this option unattractive and the costs of prudential borrowing would be substantially in excess of the gross rents receivable. Under the remaining Options there would be no revenue costs, save for those associated with the disposal of the property (including purchase of a restrictive covenant indemnity policy). There would be a saving of repairs and security holding costs, plus associated officer time, if the properties were disposed of.

4.2.3 The risks of losing overall control/ freehold ownership as a result of either (1) retention and renovation for re-letting and (2) associated with disposal are set out above.

4.3 Legal

4.3.1 The legal position is as set out in the report above.

4.4 Equality

There are none specifically. The premises are vacant and provide no housing at present.

4.5 Consultees (Internal and External)

Housing Strategy; Ward Councillors; Abington Conservation Society; Friends of Abington Park, Registered Social Landlords working in Northampton

4.6 How the Proposals deliver Priority Outcomes

Not applicable

4.7 Other Implications

None

5. Background Papers

5.1 Files: Asset Management
Legal Services

5.2 Cabinet Report; 7 April 2008 – Future of Archway Cottages, Abington Park

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