

Officer Non Key Executive Decision

Relevant Chief Officer (Decision Maker):	Antony Lockley, Director of Strategy and Deputy Chief Executive
Relevant Cabinet Member (for consultation purposes):	Councillor Ivan Taylor, Deputy Leader
Report Author (Officer name and title):	Vikki Piper, Head of Housing
Implementation Date of Decision:	24 August 2021

FOXHALL VILLAGE DEVELOPMENT - EXTENSION OF EXCLUSIVITY AGREEMENT TO WORK WITH GREAT PLACES HOUSING ASSOCIATION

1.0 Purpose of the report:

- 1.1 To consider proposed actions in relation to land at Rigby Road, known as the Foxhall Village development, namely to extend the exclusivity arrangement with Great Places Housing Association to enable the investigation of development options to support the re-commencement of the stalled phase 3 of the development.

2.0 Recommendation(s):

- 2.1 To authorise extension of the existing exclusivity arrangement with Great Places Housing Association for a further period of 12 months in respect of the stalled phase 3, the detail of all of which is to be delegated to the Head of Legal Services as set out at paragraph 5.19.

3.0 Reasons for recommendation(s):

- 3.1 To support the local community, ensure public safety and the continued regeneration of the area through the completion of the housing development.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

Do nothing – development has stopped, leaving a part constructed phase of houses, incomplete infrastructure and decaying site boundaries. The administrator has concluded that there is no viable market interest to take on the site. Left without attention, the site will continue to decay and existing residents will be left in a precarious position as infrastructure will remain unadopted and incomplete. This would not align with Council objectives for this area.

Sell the site – there are no immediate viable opportunities to sell the site ensuring that development continues and infrastructure is completed. There are complex challenges to overcome in order to achieve these aims. Securing control of the site, investigating and preparing options for delivery is the best option in order to meet the development and community objectives.

4.0 Council Priority:

4.1 The relevant Council Priority is: “Communities: Creating stronger communities and increasing resilience”.

5.0 Background Information

5.1 Foxhall Village development

Introduction

This report considers the issues and proposed actions in relation to the completion of the development at Foxhall Village, which has stalled following the collapse into administration of Hollinwood Homes Limited (HHL). The Council has promoted and supported the regeneration of the Rigby Road and Tyldesley Road area for a number of years, also with support from Homes England. Great Places Housing Association (GPHA) already own 79 homes on the site and are committed to a further 40 homes in the stalled phase 3 site. Positive action by the Council to take control of the site will provide a focus to help determine the best way to continue development. This will also enable the completion of other supporting elements of occupied parts of the development including the highway and drainage systems, which remain unadopted, in support of the local community.

5.2 Background

The phased delivery of the Foxhall Village development commenced with the procurement of a development partner during 2012 alongside the Council assembling and remediating the 7.69 hectare development site, split across 2 parcels of land.

- 5.3 The subsequent selection of Hollinwood Homes Limited (HHL) and the planning approval for the phased delivery of a mixed tenure scheme of 410 homes were major milestones for the scheme, which commenced construction in 2014. Initial construction commenced across two phases of development split between the east and west sites and by the point of construction work stopping in September 2019 had resulted in 193 homes being completed. This included 95 homes for sale, 19 shared ownership homes and 79 homes for affordable rent owned by Great Places Housing Association (GPHA).
- 5.4 Delivery was subject to an overarching development agreement between Blackpool Council, of Hollinwood Homes Limited and Marcus Worthington and Company Limited. Blackpool Council retains the freehold to the land, with Phase I, II and III being demised by way of head leases to the developer for the purposes of development and then on the disposal of individual units to end users by the grant of underleases and receipt of a premium for the land, subject to payment by the end users of a yearly ground rent. The land for the future fourth phase remains within the control of the Council.
- 5.5 Administration
- Price Waterhouse Cooper LLP (PWC) was appointed as administrator to of Hollinwood Homes Limited and other companies in the wider group and remain responsible for the areas within the demised land including completed parts of the development and land currently under construction.
- 5.6 The Council has engaged with the administrator from the point of their appointment with a view to understanding the likelihood of construction recommencing and enabling the completion of existing outstanding works to the occupied parts of Foxhall Village. There were a number of options open to the administrator with regards to the site including selling the development opportunity as a going concern, completing works itself on behalf of the creditors or negotiating the surrender of the leases and reversion of control over the land to the superior landlord, Blackpool Council. The main consideration for the administrator being to determine if there is opportunity to recover funds in order to reimburse creditors. The complexities have meant that the administrator has exhausted the options to dispose and has agreed to surrender the leases, thereby returning control back to the Council. Negotiations have been protracted, and the Council finally received the surrender on 13 August 2021
- 5.7 At the point that works ceased, there were a number of key matters being dealt with by the developer, alongside some elements of surface water systems and land decontamination being delivered by the Council, but which can be summarised as follows;

Phase 1 – 5 units under construction including elements of highway and drainage;
Phase 1 and 2 – surface water and foul drainage systems, still to be adopted, street lighting still to be accrued to the street lighting PFI and highway to be completed and adopted;

Phase 1 and 2 – site compound areas left in an untidy and poor state. These areas have future capacity for 16 units on the west site adjoining the phase 3 land and 22 on the east. The phasing plan intended that these areas would be built out as development of the remaining areas neared completion;

Phase 3 – commenced on site with approximately 50 of the 75 units piled and 20 at various stages of superstructure construction. The site has deteriorated and is now in a very poor state with boundary and other issues;

Phase 4 land – not demised as part of the arrangement with of Hollinwood Homes Limited at the point of administration. This land technically remains within the control of the Council but is linked to the land leased to of Hollinwood Homes Limited as a part of Phase 2;

Foxhall Village Management Company – remain active, providing a variety of functions for the residents of the occupied properties, including landscape maintenance, insurance and communal cleaning and safety arrangements of the apartments on site.

5.8 Phase 3

A lease for the delivery of phase 3 was granted to of Hollinwood Homes Limited on 27 August 2019. HHL went into administration on 14 October 2019 and administrators Price Waterhouse Cooper were appointed to deal with the process. Planning permission 19/0103, approved in June 2019, permits the construction of 74 homes on the phase 3 site. An agreement for the sale of 40 of these units from of Hollinwood Homes Limited to Great Places Housing Association was entered into, with the remaining units to be for market sale. Great Places Housing Association was granted an underlease which provides them with a secured leasehold interest in the land.

5.9 At the point that Hollinwood Homes Limited entered administration, construction was progressing. Piling works to approximately three quarters of the 74 units had been completed. Superstructure works to approximately 25 units was at various stages including forming ground beams, slab and brickwork to ground floor on several units.

5.10 In the intervening period, the Council has stepped in to secure the site in the interests of public safety following storm damage to the perimeter in February 2020 and subsequently in August 2020. Some tidying and repairs to blocked drains has also been undertaken on adjoining parts of the site. The property has been insured and the site is regularly monitored by Council staff. Works to improve the site boundary have been identified as a priority, and are proposed to be undertaken at the point at

which the site should revert to Council control.

5.11 Way forward

There is an imperative to take formal control of the site to improve site security and safety in the short term, to concentrate on completing the adoption process for the drainage and highways and to seek opportunity to re-commence works to the phase 3 site.

Therefore, two strands have been followed;

1. Secure possession of the land demised by the leases - negotiate the surrender of the site from of Hollinwood Homes Limited (in administration) to the Council; and
2. Agree to work with Great Places Housing Group for a fixed period to understand the potential of re-commencing development of the phase 3 site.

5.12 Secure possession of the leased land

The priority throughout the period of administration has been to secure the best opportunity to progress the development towards completion. This requires the return of the site with a clear title free of the financial constraint associated with the collapse of the developer and the production of technical information associated with the design and delivery of the development being secured. Therefore, the timing of acceptance of the surrender and the terms by which it is accepted are critical.

5.13 Possession of the leased land was formally secured on 13 August 2021.

5.14 Phase 3 - Work with Great Places Housing Association on an exclusive basis

Great Places Housing Association has an interest in the land in relation to the 40 units. These units are dispersed across the site, rather than being contained in a discrete block of units. The permitted scheme has commenced and then stopped. The administration has left an information vacuum meaning it has not been possible to secure technical information in relation to the work undertaken or the warranties that would have been provided if the works had progressed and suppliers had been paid. Whilst, efforts to obtain the necessary information across the whole development will continue, as outlined above, this is particularly important when trying to understand the extent and quality of works already undertaken is of sufficient and proven quality for work to recommence. The worst case scenario, where information cannot be obtained, is that intrusive tests will be required which may lead to previous work being condemned or require further undertakings to provide the necessary satisfaction to support the progression of the scheme. In such circumstances, the likelihood of delivering the scheme in the near future is reduced.

- 5.15 Therefore, it is proposed to continue to work with Great Places Housing Association to determine a route towards delivery of the scheme. During this period, all avenues will be pursued to prove the quality of the existing works, better understand the information required to proceed, consider the design and layout, costs, tenure and delivery options including potential transactions. A decision in August 2020 allowed the Council to enter into an exclusivity agreement for a period of up to 9 months to enable the parties to work together on a potential route map to complete the phase 3 scheme and agree heads of terms in connection with a proposed transaction between the parties. Due to the late surrender of the site this has not been feasible in the time available and so an extension of a further 12 month period is required.
- 5.16 Both parties have an interest in this, having already committed to the success of Foxhall Village. A stalled development, will not contribute to the long term goals for the area and long-term stagnation will place additional burden on the Council to secure and maintain the site. A period of exclusive negotiation will place no additional financial burden on the Council and may actually result in a reduced cost.
- 5.17 Works to boost safety were undertaken during the summer of 2020 along with medium term site monitoring (security). Great Places Housing Association contributed 50% of these identified costs during the first exclusivity period. Initially, those costs associated with securing the phase 3 site amounted to £63,613 and included works to secure the perimeter with new site fencing, reinforcing the edge of the site from potential undermining and ongoing security patrols.

5.18 Required actions

The acceptance by the Council of the formal surrender of the Hollinwood Homes leases requires certain actions and triggers others as outlined below. The proposed arrangements would be subject to the agreement of Homes England, which will be sought at the appropriate point.

5.19 It is therefore proposed that;

1. The Council extends the existing agreement with Great Places Housing Association in which;
 - the Council agrees not to dispose of the Phase 3 site to any third party for a further period of 12 months (or longer if subsequently agreed by both parties);
 - both parties agree to work with each other to investigate options and develop potential solutions for the continued delivery of new homes on the phase 3 site;
 - the Council, as landowner, will facilitate any discussions with the statutory authorities with respect to an emerging scheme for the site;

- the Council takes action to secure and maintain security of the site, for which;
 - Great Places Housing Association contribute 50% of one-off improvements and ongoing security monitoring (with a mechanism allowing for additional contributions by agreement);
2. Great Places Housing Association will terminate its development agreement with Hollinwood Homes Limited and surrender its current underlease for the site (in the event of a deal being agreed);
 3. The Council having accepted the surrender of the head leases with Hollinwood Homes Limited, grants Great Places Housing Association a new building lease for the construction of the 40 new homes on the site (in line with its previous interest). This has the effect of cleansing the title to the Phase 3 site and making Great Places Housing Association the immediate tenant of the Council, to enable the development to progress.

5.20 The exclusivity agreement is not a contract to enter into any transaction during or after the exclusivity period. Either party is free to walk away at the end of the period, leaving the existing lease in place.

5.21 Does the information submitted include any exempt information? No

5.22 **List of Appendices:**

None.

6.0 Legal considerations:

6.1 As outlined in the body of the report.

7.0 Human Resources considerations:

7.1 None.

8.0 Equalities considerations:

8.1 None.

9.0 Financial considerations:

9.1 The Council has promoted the development of Foxhall Village for a number of years as a capital project. A grant funding agreement exists between Blackpool Council and Homes England to support the delivery of new homes. Homes England are aware of the administration and the efforts to recover the site and are in dialogue with the Council with respect to this site and other initiatives. Whilst conditions exist with

respect to the repayment of the initial grant in the event of failure to deliver homes, any associated risk is currently considered to be low. The priority at this moment in time is to secure the recovery of the site with further discussions to follow.

- 9.2 Income from plot sales associated with the HHL scheme have ceased at the point at which the developer passed into administration. The opportunity to realise income from the development would form part of the considerations under the exclusivity agreement for phase 3 and with respect to future phase 4 development. 5 part constructed units also are included in the surrender land and further investigation is required to understand how these could be brought through to completion.
- 9.3 The surrender of the leases will then mean that the individual end users, who have been granted underleases (51 of the units occupied within phases 1 and 2) would become immediate tenants of the Council, and as their immediate Landlord receive the appropriate ground rent payments of £200 per annum or £10,200 annually.
- 9.4 This proposal would commit expenditure to secure and tidy the phase 3 site and carry out some general repairs to the remaining parts of the site. The cost of initial security works including replacing the security fence and works to stabilise the site boundary are £63,613, to which Great Places Housing Association would contribute half.
- 9.5 Ongoing obligations with respect to security of the site fall to the Council regardless of any exclusivity agreement. Therefore, the potential to secure a contribution to the costs reduces the long-term burden to the Council.
- 9.6 The project is already funding works to support the adoption of the drainage system. Existing highways completion is supported by insurance, subject to elements of drainage and street lighting, amongst others, having been resolved. Any transactions which may emerge as proposals will be subject to scrutiny and assessment prior to any recommendation to proceed being made.

10.0 Risk management considerations:

- 10.1 The main risk to the Council exists in relation to doing nothing with the site, that it will stand empty and partially constructed for an undetermined period of time. Failure to complete the adoption of the existing infrastructure will add to longer term obligations to maintain systems and react to emergencies. The imperative therefore is to secure the site in order to support the local community. If the negotiations between the Council and Great Places Housing Association are not settled the situation would be that the Council retains the site, following the surrender of the leases, and becomes the immediate landlord to the individual residential householders and Great Places Housing Association in connection with their underlease, if this was not surrendered

Risk of undermining the regeneration efforts in the area.

Risk or danger to public safety associated with the condition of the site and its perimeter. Failure to intervene could lead to a further deterioration of infrastructure in the area.

11.0 Ethical considerations:

11.1 None.

12.0 Internal/ External Consultation undertaken:

12.1 Legal services – support in advising on the approach taken and negotiation of the terms of the exclusivity agreement.

13.0 Decision of Chief Officer

13.1 To authorise extension of the existing exclusivity arrangement with Great Places Housing Association for a further period of 12 months in respect of the stalled phase 3, the detail of all of which is to be delegated to the Head of Legal Services as set out at paragraph 5.19.

14.0 Reasons for the Decision of the Chief Officer

14.1 To support the local community, ensure public safety and the continued regeneration of the area through the completion of the housing development.