

WAVERLEY BOROUGH COUNCIL

EXECUTIVE (ACTING AS TRUSTEES OF THE JOSEPH EWART BEQUEST)

1 MARCH 2016

Title:

DELIVERY OF NEW AFFORDABLE HOMES AT GREENFIELD ROAD, FARNHAM

**[Portfolio Holder: Councillor Carole King]
[Wards Affected: Farnham Shortheath and Boundstone]**

Summary and purpose:

The purpose of this report is to seek approval from the Joseph Ewart Bequest for the use of funds to support the delivery of up to three affordable bungalows for older people on land at Greenfield Road, Farnham.

Financial Implications

At the end of the 2014-15 financial year the Bequest held unrestricted funds of £1.1m. Sufficient funds should always be held in reserve to cover capital expenditure, the costs of any required major repairs or major items of unforeseen expenditure.

Legal Implications

Trust funds must be spent within the boundary of the Trust and for the benefit of the Trust's tenants. The Trust shall seek the Charity Commission's approval for expenditure of the funds where necessary. The Trustees should also seek independent legal advice that the proposed expenditure is within the boundary of the Trust.

1. Introduction

1.1 Waverley Borough Council is the sole trustee of the Joseph Ewart Bequest, a registered charity with the objective of providing small bungalow cottages suitable as homes for the elderly people with limited financial resources who have lived in the former Farnham Urban District area for at least five years. The charity owns 19 properties for elderly people in Farnham, including 16 bungalows at College Gardens and three bungalows at Arthur Road, Farnham

1.2 The unrestricted funds which are available to the trustees for the general purposes of the charity as set out in its governing document, with approval from the Charities Commission, are currently in excess of £1m.

2. Proposal for new bungalows at Greenfield Road

2.1 The Council owns a site at Greenfield Road, Farnham, with potential for residential development, of up to three small dwellings, subject to planning permission.

2.2 There is an opportunity for the Joseph Ewart Trust to purchase the land from the Council's General Fund and fund the development of three affordable bungalows for older people in Farnham. The site has been valued by the Council's Estates and Valuation Team at £45,000 for affordable housing.

- 2.3 Prior to a decision being made by the Trust to purchase the land, independent legal advice should be sought from an external legal advisor who is acting solely for the Trustee. It is suggested that the Trust approve a budget of £10,000 to cover these costs. Prior to entering into an agreement to purchase the land, an independent valuation of the site would be required to be undertaken by a qualified surveyor who is acting solely for the Trustees.
- 2.4 Following acquisition of the site by the Trust, it is proposed that the Council builds three new chalet style bungalows on the site on behalf of the Trust, subject to gaining approval from the Charity Commission, obtaining the appropriate planning permissions and in accordance with the terms of the Trust.
- 2.5 The use of the Greenfield Road site for the delivery of cottage style bungalows would meet a local housing need, particularly that of under-occupiers who would be able to free up family-sized houses in Farnham. There are currently 317 applicants on the Housing Register living in Farnham of which 32 are aged 65 or over.
- 2.6 Architects were commissioned to prepare concept plans and elevations for up to three bungalows on the site, as shown in Annexe 1. The proposed scheme includes three 2 bedroom chalet bungalows with private rear gardens, six parking spaces and a wildlife area to the rear of the gardens.
- 2.7 Pre-planning advice stated that these development proposals were acceptable in principle, subject to securing a SANG (Suitable Alternative Natural Greenspace) contribution and a suitable means of access being provided.
- 2.8 The estimated project costs are:

Budget	2016/17	2017/18	Total
Land price	t.b.a.		t.b.a.
Pre-development costs (15%)	72,000		72,000
Costs of development agent (WBC acting on behalf of the Trust)	6,525	6,525	13,050
SANG contribution	7,410		7,410
Build costs	180,000	300,000	480,000
Contingency (10%)		48,000	48,000
Total	265,935	354,525	£620,460

3. Charity Commission Requirements and Time-table

- 3.1 Waverley Borough Council is the sole Trustee of the Joseph Ewart Bequest which is a registered charity: 237580. Decisions relating to the Bequest have to be taken separately from the Council's other business, which means that a separate meeting of the Council must be convened. In October 2011, the Trust agreed to delegate all powers to the Executive (acting as Trustee) with the exception of approving its annual report and financial statements and any disposal of properties. The Executive is therefore able to give approval to the acquisition of the land and to fund the construction of the new bungalows.

- 3.2 The Charity Commission's approval will also be needed to ensure that:
- a) the purchase is at the best price that can be negotiated; and
 - b) there is no conflict of interest as Waverley Borough Council is closely connected with the Trust.

There are further Guidance Notes "Acquiring Land" (April 2001) CC33 published by the Charity Commission.

- 3.3 In general, the Trustees should ensure they are acting in accordance with the terms of the Trust and have a general duty to act reasonably and take appropriate independent legal advice. The Trust must ensure that the terms offered are reasonable for the charity's intended use, are not too onerous and that a proper and affordable price is being paid.
- 3.4 Charities are generally exempt from stamp duty land tax (SDLT) when acquiring property (subject to certain conditions) however the Trustee would be expected to seek independent legal advice regarding any tax issues and consider if there are any VAT implications to the transaction.

4 Proposal to amend the Joseph Ewart Bequest Governing Document

- 4.1 It is proposed that the Trust consider obtaining the Charity Commission's approval for consent to amend the Joseph Ewart Bequest governing document, dated 28 June 1957, to widen the type of dwelling house permitted under the Trust. Currently, the Trust is restricted to erecting "small bungalow cottages suitable as homes for elderly people with limited financial means." The proposed amendment to the governing document would be to "2 storey dwelling houses suitable as homes for elderly people with limited financial means."
- 4.2 The proposed amendment would assist with achieving "best value" for the Trust whilst helping to meet the local housing need within the Farnham area. The beneficiaries of the Trust would remain the same. It should be noted that there is no guarantee that the Charity Commission will approve any amendment.

5. Conclusion

- 5.1 The development proposals provide an opportunity to deliver an additional three bungalows for elderly people in Farnham to meet housing need and contribute to the offer to under-occupiers currently living in family-sized homes in the local area.

Recommendation

It is recommended that the Executive acting as Trustees of the Joseph Ewart Bequest agree:

1. a budget of £10,000 to enable legal and surveyor's advice to be sought on the purchase of the land at Greenfield Road, Farnham and the development of three bungalows for elderly people by the Council, acting on behalf of the Trust;
2. to purchase the land at Greenfield Road, subject to legal and valuation advice, for the sum to be agreed by the Trustees in consultation with their independent advisors;

3. to allocate the sum of £630,000 for the construction of the three bungalows;
4. to delegate authority to officers to seek planning permission for the development when required;
5. that the governing document of the Joseph Ewart Trust be amended from erecting “small bungalow cottages” to “two storey dwelling houses suitable as homes for elderly people with limited financial means,” subject to obtaining approval from the Charity Commission; and
6. to delegate authority to officers to seek approval from the Charity Commission to a proposed amendment to the governing document of the Joseph Ewart Trust.

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Site Block Plan - Existing



Photograph of the site from the top looking towards Greenfield Road



Site Feasibility Block Plan

