

DISPOSAL OF COUNCIL ASSETS AT HANOVER STREET CAR PARK AND GEORGE HOUSE

Relevant Portfolio Holder	Cllr Rita Dent
Portfolio Holder Consulted	Yes
Relevant Head of Service	Kevin Dicks
Wards Affected	Sanders Park
Ward Councillor Consulted	Yes

1. SUMMARY OF PROPOSALS

- 1.1 Members will recall that following a selection process a decision was taken on 03 June 2015 for the Council to dispose of this site to the preferred developers Hinton Properties. This report will update Members in relation to the contract negotiations since June 2015 and give details of the revised delivery programme which has been proposed by the developer. Members are asked to consider the current proposals and give authority for the sale to proceed taking into account the matters set out in this report.
- 1.2 This report sets out the information which can be made available publically. Financial details and information that is commercially sensitive to the Council / developer cannot be reported on publically and that information will be available to Members separately in an exempt report.

2. RECOMMENDATIONS

- 2.1 That Members note the contents of this report.
- 2.2 That Members confirm the approval of the freehold disposal of the Site to Hinton Properties as the preferred developer.
- 2.3 That subject to Council approving the inclusion of the phased capital receipt and consequential impact on the Medium Term Financial Plan, members approve the revised delivery programme proposed by Hinton Properties consisting of a two phased approach for the capital sum to be paid and for the land to be drawn down as set out in this report
- 2.4 That Members note that the revised delivery programme provides for the car park to be operated by the Council.

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- 2.5 That Members agree to the Council taking on the operation of the car park and give approval to the Council entering into a lease back arrangement for the car park with the preferred developer (or any successor body to which the preferred developer disposes their interest in the land)
- 2.6 That Cabinet recommend to Council that the capital receipt be approved for inclusion in the Medium Term Financial Plan on the phased basis as outlined in paragraph 3.1
- 2.7 That delegated authority be granted to the Executive Director for Finance and Resources to agree the final terms for the disposal of the Site, the lease back of the car park with the preferred developer and any resulting changes in fees and charges for car parking on this site
- 2.8 That delegated authority be granted to Head of Legal Equalities and Democratic Services to enter into the legal documents required for the purposes of implementing the recommendations 2.2 to 2.7

3. KEY ISSUES

Financial Implications

- 3.2 As the current financial plan includes £650k as per the capital receipt proposed under the previous development there will be no material financial impact on the medium term financial plan as a result of the phasing.
- 3.3 Members will recall that previously it had been intended that the developer would build out and manage the car parking provision on the site and that the Council would as a consequence need to make a provision within its medium term financial plan for the loss of income.
- 3.4 The Hanover Street car park with 121 spaces, has an estimated budget of £119k (actual receipts amount to £107K)
- 3.5 Members are advised that during the contract negotiations it has become clear that the title issues that exist on the site are interfering with the developer's ability to proceed within the agreed timescales.
- 3.6 It would be possible to mitigate the risks associated with this issue by entering into a lease back arrangement with the developer where by on completion of Phase One the Council leases the car park back on and then undertakes the management and maintenance of the same. It

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would of course be necessary for the Council to retain the income of this car park in order to offset the maintenance, running and enforcement costs and it would be obliged to pay the developer an annual rental for the same together with the income associated with the tenant reimbursement.

- 3.7 A proposal along these lines for the Council to operate the car park under a lease back arrangement has been put forward by the developer. Evaluation of the financial implications has been carried out by the Council and the Council's independent consultants. Further, although the report quotes occupancy rates of between 80% and 100% for the purposes of giving advice to members the section 151 officer has based her view on more cautious occupancy rates of 60 to 65 %.
- 3.8 As detailed in 3.4 the car park income budget is £119k. To calculate the net profit that would need to be generated from the site the associated costs have been taken into account and offset against the shortfall of £119k.
- 3.9 Members are therefore being asked to consider a lease back arrangement of the car park on completion of the first phase on the terms proposed within the main body of this report. Members will note that at 2.6 a delegation is sought to allow officers to finalise the terms of the car parking agreement, subject to the proviso that the Council's position will not be adversely affected by the leaseback arrangements.
- 3.10 The Council is under an obligation to dispose of its assets at best value (under section 123 of the Local Government Act 1972). In broad terms this means for the best consideration as reasonably obtainable.
- 3.12 In considering best value for this site the Council carried out a detailed selection process of the bids received as set out in the main body of the report.
- 3.14 Moving to the proposed phasing arrangement officers have sought an independent financial appraisal of the proposals in order to ascertain whether the phasing would adversely affect the Councils ability to ensure that it meets its obligations under the 1972 Act.
- 3.15 Members will note from the advice received in this regard that in the current market conditions affecting Bromsgrove the phased approach does not adversely affect the value of the site although this has to be seen in the context of the fact that the site is and will continue to remain as valuable as the development that can be achieved on it.
- 3.16 In addition the report would suggest that under the phased proposal the Council continues to satisfy its wider 'Well Being' duties in the

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context of the Town Centre redevelopment and the need to ensure that the site satisfies the planning uses identified in the Town Centre Area Action Plan.

Legal Implications

- 3.17 Bromsgrove District Council owns the freehold interest in the Site.
- 3.18 Bromsgrove District Council's freehold interest in the Site will be transferred to the preferred developer in two tranches
- 3.19 The disposal of the Site will be subject to planning permission being granted for the proposed development.
- 3.20 At completion of Phase One the Council will enter into a lease back arrangement for the provision and maintenance of the car park.
- 3.22 It remains necessary that a strip of land owned by the Council adjacent to the highway along Hanover Street from the existing exit from the car park to the junction with Worcester Road may be needed to be dedicated as highway land to facilitate improvements and increase the capacity of the road network that will service the new development.
- 3.23 The Site continues to be subject to rights of way across the Site to provide access to the rear of Worcester Road properties.

Service / Operational Implications

- 3.26 The Site is situated on the junction of Hanover Street and Birmingham Road and covers approximately 1.78 acres.
- 3.27 The Site currently includes a pay and display car park and a vacant building known as George House.
- 3.28 The District Plan has identified this Site for retail led mixed use development.
- 3.29 In December 2014, Cabinet agreed to re-market the Site. Re-marketing was undertaken by commercial property consultant, John Dillon of GJS Dillon Property Consultants.
- 3.30 As a result of the marketing exercise, 16 expressions of interest were received.

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- 3.31 The 7 developers offering the highest price were shortlisted and invited to attend on 4 and 5 February to present their offer for the Site and proposed development plans for the Site to an assessment panel.
- 3.33 With the assistance of the professional advice received pursuant to 3.32, each proposal was scored by the assessment panel using the scoring matrix shown at Appendix 3.
- 3.34 The assessment panel consisted of:
- Cllr Margaret Sherrey, Leader of the Council
 - Cllr Rita Dent, Portfolio Holder
 - Cllr Kit Taylor
 - John Dillon, GJS Dillon Property Consultants
 - Mike Dunphy, Strategic Planning Manager
- 3.35 The two highest scoring proposals were both invited to answer further questions in respect of their proposals and to give their best and final offer for the Site. This round of questions was led by the Council's professional advisers, consisting of John Dillon of GJS Dillon Commercial Property Consultants, the District Valuer and James Walsh, Associate Director of Turner and Townsend Cost Management Limited. The two developers were also asked to submit written answers to specific questions raised to assess the planning merits of their proposals (the 'Planning Assessment').
- 3.36 The assessment panel reconvened on 5 March, and in light of expert advice and information in the Planning Assessment the two highest scoring developers were scored again using the scoring matrix shown as Appendix 3.
- 3.37 The highest scoring proposal was submitted by the preferred developer with a proposal for a retail led development. The preferred developer has named potential tenants as part of their bid and there was evidence of interest from major high street retailers, but the final tenant mix will be a matter for the preferred developer.
- 3.39 The Bromsgrove District Plan is currently undergoing formal examination in the public stage and whilst it is not yet an adopted document, the policies which guide the redevelopment of the town centre have gone largely unchallenged. It is against the National Planning Policy Framework and these emerging policies that proposals for the Site will be judged when planning permission is considered for this Site. The proposed development by Hinton Properties accords

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with the emerging policies and the design will provide a street frontage visible from the town centre and the roads surrounding the Site will be designed in line with the requirements of the planning.

- 3.40 As previously reported the proposal would also provide jobs both in relation to the construction of the Site and once the development of the Site is completed and is operational.
- 3.41 Following the decision to select Hinton Properties as the preferred developer further detailed discussions took place to negotiate Heads of Terms and the current position in relation to the disposal of the site is as follows.
- 3.42 The previous decision to dispose for a mixed use scheme has not changed but given the current economic market affecting Bromsgrove as clarified in the report. It has been necessary for the developer to request that the scheme be delivered in two phases.

Analysis

- 3.46 Members will be conscious that as a Local Authority we are obliged to ensure that the Council continues to obtain best value for the site notwithstanding the introduction of phasing, and that this obligation sits alongside the Council's wider duty to promote the economic and well-being of residents and business within the town/ District and the social well-being of residents.
- 3.47 As members will appreciate the value of a site is dependent on the development that can be achieved on the site and the current value has been assessed as being achievable as a result of the developer having secured the covenant of a reputable anchor tenant, namely Waitrose
- 3.48 The Council is advised that the developer has provided written evidence that Board approval has been obtained from Waitrose and that as a consequence the development that will enable the completion of Phase One is in commercial terms a secure as can be achieved outside of a contractually binding environment.
- 3.50 Advice would suggest that without being able to develop in two phases the scheme would not be viable for any developer while providing the Council with the same land value (particularly given that many of the original bids relied on the same tenants of the delivery of the scheme).

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Furthermore we are advised that the two phased scheme insofar as it is possible in the current retail conditions affecting Bromsgrove continues to represent best value and continues to align with the Councils duties to provide economic and social well-being.

Customer / Equalities and Diversity Implications

- 3.51 The regeneration of Bromsgrove town centre has been a priority raised by the community for a number of years. This Site is a gateway to the town and as such is regarded as a catalyst for the development of surrounding sites, an increase in footfall and the general improvement of the local area.

4. RISK MANAGEMENT

- 4.1 As learnt from the previous abortive disposal of this Site, and given the current retail conditions affecting Bromsgrove as reported, there is a risk that the proposed disposal of the Site to the preferred developer may not go ahead. The proposed phasing of the scheme and the robustness of the Councils initial selection process mitigates this.
- 4.2 There is a risk when entering into an agreement for a phased development that at any point the deal may be aborted and the Council may be forced to re-evaluate its position at that time. It is for this reason that the Council has sought to obtain independent commercial advice in respect of such a scenario. Whilst there can never be any guarantees in this regard as any commercial deal is as vulnerable as the market in which it is being negotiated there are strong commercial indications that the proposals within the phasing are equally balanced in terms of the risks to the Council and to the Developer.

5. APPENDICES

Appendix 3 – Scoring Matrix

Appendix 6 – Site Plan showing location of proposed units and re-configuration of the car park

6. BACKGROUND PAPERS

December Cabinet report – 'Update Report re Disposal of Council Held Assets at Hanover Street Car Park and George House.'

June 2015 Cabinet report – "Disposal of Council assets at Hanover Street Car Park and George House"

7. KEY

AUTHOR OF REPORT

Name: Kevin Dicks/Jayne Pickering – Chief Executive /Executive
Director of Finance and Resources
E Mail: j.pickering@bromsgroveandredditch.gov.uk
Tel: 01527 881400