

Executive Committee

Abbey Ward

20 May 2009

EASEMORE ROAD - SALE OF LAND AND CONSORTIUM UPDATE

(Report of Head of Legal, Democratic & Property Services)

1. Summary of Proposals

To advise Members of the current position regarding the sale of land at Easemore Road and to seek approval to a revised consortium.

2. Recommendations

The Committee is asked to **RESOLVE** that

the Council leads the consortium and progresses a sale of the combined site, for open market or affordable housing on the best terms possible, in agreement with the other members of the consortium.

3. Financial, Legal, Policy, Risk and Sustainability Implications

Financial

- 3.1 A sale of the land was agreed in 2005 to MPF Homes Limited. MPF Homes did not complete the documentation and withdrew their offer due to the current market conditions. It is unlikely that the Council will achieve a similar offer within the next 2 – 3 years. Details are contained in confidential appendix 1.
- 3.2 A local agent, Nigel Poole, had been acting for all the members of the consortium but with the collapse of this sale it has been agreed by the members of the consortium that the Council will take the lead role. No abortive sale fee or agency fee will be paid as the agent did not secure a sale. This will mean that the Council will not have to pay agency fees and will be able to control the sale.
- 3.3 Property Services do not propose to charge the consortium an “agents fee” for facilitating the disposal. However, all marketing, legal and surveyors costs together with any reasonable expenses will be recovered from the eventual sale proceeds. It is envisaged that costs will be apportioned pro rata based upon the percentage of each Members land holding. The exact details are yet to be discussed and agreed by the Consortium.

Legal

- 3.4 The Council is required to dispose of any interest in land at the best price possible in accordance with Section 123 of the Local Government Act 1972.
- 3.5 This report is not considered to be exempt in accordance with S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006. However, the provisional terms of land disposal under negotiation are exempt and are contained in the confidential appendix to the report. For the Council to reveal provisional "without prejudice" terms at this stage may affect the Council's bargaining position with individual owners and third parties. It is therefore felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 3.6 It is anticipated that the terms and percentage of sale proceeds for the consortium will be the subject of a binding contract to be prepared in due course. In the meantime it is proposed to prepare a concordat or similar document to ensure transparency and to clearly state the Council's role in relation to the consortium

Policy

- 3.7 The Council's agreed Strategy for the Asset Management Plan is to ensure that asset holdings reflect organisational requirements to meet current service delivery needs.

Risk

- 3.8 If the land is not developed it will continue to attract vandals and encourage further anti-social behaviour and possible arson attacks. A developer is unlikely to find the site attractive unless there is a lead contact speaking on behalf of the Consortium. Any Member of the Consortium will be able to withdraw from the sale until contracts are completed.

Report

4. Background

- 4.1 The Council was approached about 6 years ago by Nigel Poole who was trying to put together a sale of back land which could be used for housing development. The Council owned about a third of the site and the rest was owned by a number of private owners occupying properties 144 to 162 Easemore Road.
[A plan will be attached as appendix 2]

- 4.2 The land was originally transferred to the Council under the Community Related Assets package by Redditch Development Corporation but is not subject to clawback provision.
- 4.3 Unfortunately, owing to problems relating to a complex title and the need to remarket the site the sale has taken a lot longer than originally envisaged to proceed. It has now fallen victim to the downturn in the property market

5. Key Issues

- 5.1 Property Services Officers have had a meeting with the members of the proposed consortium who have decided that they no longer wish Nigel Poole to act for them. There is unanimous support amongst the proposed consortium members for the Council's Property Services Team to lead the project. The consortium has also agreed that the Council could negotiate with a Housing Association even though this would almost certainly result in a lower values capital receipt for all members of the consortium. Without the land input of the Consortium Members the Council would only be able to develop a much smaller site and would not achieve economies of scale. It would also make the site less attractive to a developer as another planning application would have to be submitted.
- 5.2 A concordat or similar document will need to be prepared and signed by all consortium members to allow the matter to progress. Property Services will also consider putting binding documents in place to minimise the risk of Members withdrawing and thereby making the site more attractive to a developer.
- 5.3 In the current economic climate the majority of development taking place is with Housing Associations for affordable schemes.
- 5.4 A sale to a Housing Association would result in a lower capital receipt but would provide housing units of the preferred type to meet local demand and the Council could secure nomination rights subject to negotiation. It is likely that a disposal for affordable housing would be concluded this financial year.
- 5.5 In order to facilitate a sale to the private sector which would result in higher receipts the Council may have to look at alternative ways of helping to promote the development. It is possible that the Council could consider not receiving its share of the capital sum until the properties are completed when it could receive a share when each property is sold. In effect the Council would be making an interest free loan to the developer in return for an agreed equity share. There are other alternatives that the Council could explore and

informal discussions are taking place with the Homes and Communities Agency concerning possible options.

- 5.6 Alternatively the Council could consider selling the land to a Housing Association. This would undoubtedly result in a lower receipt but would possibly be achieved in a comparatively quicker timescale. The current planning permission allows for the construction of 24 houses but it is possible that the Housing Association would submit a new planning application for a greater density.
- 5.7 The sale of the land would provide a substantial capital sum to support the General Fund.

6. **Other Implications**

- Community Safety - The development of this site will help reduce vandalism in the area and is supported by the police.
- Human Resources - None other than additional Property Services Officer time to lead the consortium.
- Social Exclusion - None identified.
- Sustainability - Issues around sustainability are addressed via the planning process.
- Asset Management - The proposed sale is in accordance with the current Asset Management Plan and was appraised using good asset management practice guidelines.

7. **Lessons Learnt**

The Council would benefit from the sale of this area of land from a capital receipt and a contribution towards its housing targets.

8. **Background Papers**

Relevant papers held within the Property Services Team

9. **Consultation**

There has been no consultation other than with relevant Borough Council and County Council Officers.

10. **Author of Report**

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11. **Appendices**

- Appendix 1 - Confidential appendix containing provisional terms of land disposal under negotiation
- Appendix 2 - Plan