

OPEN

Finance Sub Committee

09/01/2024

Disposal of Residential Land at Leighton Green, Crewe

Report of: Peter Skates, Director of Growth and Enterprise

Report Reference No: FSC/03/25-26

Ward(s) Affected: Crewe St Barnabas and Leighton Ward

For Decision or Scrutiny: Decision

Purpose of Report

- 1 The purpose of this report is to duly and properly consider the offers received following the completion of marketing operations in relation to the Leighton Green, Crewe ('the Site') residential development opportunity, as shown outlined in red in Appendix I.
- 2 This report seeks a decision to proceed with the freehold disposal of the Site to Persimmon Homes Limited.

Executive Summary

- 3 The Site comprises a circa 16.64 hectare (41.14 acre) residential development site with the benefit of outline planning permission for development of up to 400 dwellings. The Site forms part of Local Plan Site 4 - 'Leighton West' (LPS4) and part of a Masterplan promoted jointly by Bloor Homes, Vistry Homes and the Council's Economic Development Team (previously Engine of the North).
- 4 In April 2024, the Site was advertised by the Council's retained agents Sanderson Weatherall as available for 'For Sale' as a single parcel, inviting offers on conditional and unconditional bases. The Council received the twelve offers detailed in Appendix IV. Eleven offers were submitted on a 'subject to planning' basis (securing full planning permission for bidders' proposed masterplans) and all offers were subject to technical due diligence in the form of confirmatory surveys, cost deductions for off-site services and a pre-application meeting with the Local Planning Authority.
- 5 Volume housebuilders adopt a commercial approach to assess the value of development land and, therefore, the amount they offer landowners for sites. This assessment involves producing a layout plan/masterplan for the proposed development and then calculating the gross development value of that

development, then deducting estimated development costs (eg base build costs for the houses, abnormal costs, professional fees) and developer's profit. The residual sum represents the 'Net' offer they can afford to pay for the site.

- 6 To reflect to risks associated with the development of large residential development sites, most volume housebuilders only purchase sites following the grant of full planning permission, after having obtained all due diligence surveys and costed all site abnormal costs. The few that contemplate unconditional purchases factor significant risk into their offers but still typically require ground investigation surveys prior to purchase.
- 7 Although the offers submitted by the twelve bidders were on a 'Net' basis, they were all subject to being re-priced based upon the confirmatory surveys results and the pre-application meeting. The re-pricing would reflect any changes in each bidder's advised abnormal cost deductions (e.g. onsite surface water strategy, compliance with Cheshire East Design Code, foundation solutions) and their layout/masterplan.
- 8 An analysis of the offers revealed that some bidders had significantly underestimated abnormal cost deductions (used to assess the land value offered), artificially increasing the level of their 'Net' offer whereas other bidders had been more realistic. This is a common situation for this type of disposal where some bidders either fail to undertake sufficient initial due diligence, or deliberately under-estimate the cost deductions at bidding stage to secure preferred bidder status, and then re-negotiate the price following the subsequent due diligence phase. To provide a 'like for like' comparison of bids, the Council's advisors re-modelled each bidder's price submissions to reflect more realistic abnormal costs deductions.
- 9 Following this process, the Council sought 'Best and Final Offers' from the four highest bidders (based upon the re-modelled price submissions) and the unconditional bidder, whilst also engaging with the Planning Department to establish whether there were any substantive issues with the layouts/masterplans presented. The Second Stage Offers resulted in the bids detailed in Appendix IV. Again, the Council's advisors analysed the Second Stage Offers to account for the abnormal cost variance referenced above, to provide the 'like for like' comparison.
- 10 The Second Stage Offers included terms of payment for the amounts offered for the Site. The party that offered on an unconditional basis advised they would pay the full amount on completion of the land purchase whereas the other parties offered payments terms of between three and eight years from completion, based upon an initial lump sum payment with balance paid over the subsequent years. This is the commercial approach taken by the market in relation to the sale/purchase of substantial residential development sites, as the phased payments allows the housebuilders to offer a higher price to the landowner. To provide the 'like for like' comparison, the Council's advisors undertook a further analysis of the Second Stage Offers, reflecting both the Net Present Value of the adjusted offers and the cost of the deferred payments to the Council.

- 11 Sanderson Weatherall recommended an offer presented by Persimmon Homes Ltd on the basis that they submitted the highest offer for the Site on all assessed bases. This complies with section 123 of the Local Government Act 1972. Further details are in Appendix IV.
- 12 Persimmon's offer is subject to pre-contract technical due diligence in the form of confirmatory surveys (e.g. intrusive ground investigation surveys) and pre-application meeting with the Local Planning Authority. Sanderson Weatherall expect the offer to be reduced following the due diligence process, principally because the Planning Department have indicated that Persimmon's layout/masterplan will need to incorporate additional landscaping, open space, and sustainable urban drainage for the purposes of complying with planning policies including the Cheshire East Design Code. This was a common issue for all bidders with Persimmon's proposal judged to be one of best presented albeit requiring further work. There is also a risk that the confirmatory surveys identify additional, as yet unidentified, abnormal costs and, therefore, there is likely to be commercial negotiation with Persimmon following the due diligence process before the parties legally commit to the sale/purchase agreement.
- 13 The local power network currently has insufficient capacity for the housing developments and new hospital proposed to be constructed within the Leighton area. The District Network Operator (Scottish Power) has agreed to construct a new Primary Sub Station on land north of Flowers Lane, Leighton to provide sufficient capacity, expected Q1 2026. Completion of the sale is conditional upon the grant of full planning permission to Persimmon and connection of a power supply to the Site.

RECOMMENDATIONS

The Finance Sub Committee is recommended to:

1. Delegate authority to the Director of Growth and Enterprise to dispose of the Site on terms and conditions to be agreed in consultation with the Governance, Compliance and Monitoring Officer and the Executive Director of Resources (S151); and
2. Delegate authority to the Director of Growth and Enterprise, in consultation with the Governance, Compliance and Monitoring Officer and the Executive Director of Resources (S151); to complete all legal documentation required to complete the disposal of the Site and including (but not limited to) the completion of any licence or similar agreements and planning agreements required prior to disposal or relating to the Councils retained former landfill area.

Background

- 14 The Site is located on the edge of the settlement boundary within the Parish of Leighton, circa 2 miles to the north west of Crewe Town Centre. The immediate surrounding area has a range of uses including agricultural land (arable farming), public uses (hospital, primary school, cemetery), manufacturing (Bentley Motors campus) and residential (estate housing).
- 15 Swathes of agricultural land within the Leighton area were allocated for development under the Cheshire East Local Plan (adopted July 2017). Currently, there is land capable of accommodating approximately 1,650 new homes in the area – these sites are under the control of Bloor Homes/Vistry Homes (850 units), Torus Housing Association/Castle Green Homes (400 units) and the Council (400 units). Works commenced on the Torus/Castle Green site Summer 2023.
- 16 The Site is irregular in shape and predominantly level. It has an average elevation of around 50 metres albeit the site gradient falls by approximately 15 metres towards its southern boundary, to Leighton Brook. The south western portion of the Site has been raised significantly by the importation of the landfill waste in the 20th Century.
- 17 Access to the Site was unlocked by completion of the North West Crewe Package (NWCP) road scheme in July 2024, with the access heads constructed into the Site. A ‘turnkey’ off-site drainage solution for foul and surface water was installed under the new road and connected into existing adopted foul mains and Leighton Brook, as part of the NWCP’s construction works, thus development of the Site has been de-risked in relation to access and off-site drainage.
- 18 The NWCP divides the sites into three parcels, being:
 - (a) greenfield land forming the development area extending to approximately 22.67 acres (9.17 hectares) accessed from Tottys Hall Way;
 - (b) greenfield land forming a smaller development area extending to approximately 2.66 acres (1.07 hectares) accessed from Brian Palin Way; and
 - (c) former landfill (as shown in blue in Appendix I) providing the majority of the amenity and biodiversity net gain areas for the development extending to approximately 15.81 acres (6.40 hectares).
- 19 The former landfill presents a residual liability for the Council, as the polluter¹. The liability is principally associated with its management and the risk that pollutants contaminate receptors in the area (e.g. Leighton Brook) and or harm human health. The Council will retain this area following a disposal of the

¹ Part IIA of the Environmental Protection Act 1990 provides a framework for identifying contaminated land and allocating responsibility for remediation. This defines the person liable to remediate the contaminated land to be the person who “caused or knowingly permitted” the contamination. In this case, the Council was the person who cause or knowingly permitted the contamination through its waste management operations.

development areas because it will retain liability for its ongoing management and remediation under law. Persimmon is to be granted a Licence Agreement to undertake works required under the proposed development's planning permission.

- 20 There are two existing Public Rights of Way through the Site which connect Minshull New Road to Middlewich Road. One of the public rights of way bisects the Site, whereas the other runs along the northern edge of the Site.

Consultation and Engagement

- 21 The Council has complied with the requirements of Section 123 of the Local Government Act 1972 by advertising the intention to dispose of the land for two consecutive weeks in the local press. This was undertaken in January 2023. This allowed the local community an opportunity to comment on and make any representations in respect of the proposed disposal of Public Open Space.
- 22 The Council did not receive any objections or representations in respect of the proposed disposal of Public Open Space.

Reasons for Recommendations

- 23 The Site is a residential development site with the benefit of outline planning permission for development of up to 400 dwellings.
- 24 A sale of the Site will generate a significant capital receipt (conditional on planning).

Other Options Considered

- 25 The Council could retain the Site, and invite offers to rent the land for alternative uses. This is neither considered the highest value use for the Site nor would not provide much needed homes in the Borough, helping the Council to achieve its objectives as set out in the Local Plan.
- 26 The Council could look to bring forward a different proposal for the site such as a 100% affordable housing site, but this would result in a significantly lower capital receipt as a 'Less than Best' disposal. This approach would require consent from the Secretary of State, as the disposal would be above the £2 million undervalue threshold. Given the nature of the locality and the changes to the land immediately adjoining the site, the existing outline planning application appears to be the most appropriate use for the site.

Implications and Comments

Monitoring Officer/Legal

- 27 In accordance with section 123 of the Local Government Act 1972 the Council is under an obligation to obtain the best consideration reasonably obtainable upon the disposal of its Property. The duty to obtain best consideration does not require the highest offer to be accepted, but it needs to take into account other factors such as any terms or conditions attached to the disposal which may identify a special commercial benefit to the vendor for e.g. covenants

requiring the land to be used for a particular purpose. Each transaction should be assessed on its facts.

- 28 The General Disposal Consent (England) 2003 allows the Council to dispose of land at an undervalue provided that the disposal contributes to the achievement of:-
- The promotion or improvement of economic wellbeing
 - The promotion or improvement of social well being
 - The promotion or improvement of environmental well-being and
 - That the best price reasonably obtainable does not exceed £2m
- 29 The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous well-being powers; however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.
- 30 The Council has a fiduciary duty at all times to the taxpayers and must fulfil its duty in a way that is accountable to local people.
- 31 The Council also needs to comply with subsidy rules if the land is disposed of at less than best consideration.
- 32 The Council has received a valuation of the property which it is content represents the best consideration available and the duty under s123 has been satisfied.

Section 151 Officer/Finance

- 33 The disposal of this site brings a significant capital receipt to the Council as well as future s106 contributions.
- 34 It is recognised that there may be some further costs that potentially will be incurred prior to the completion of any agreement. Such costs would need to be funded from the ultimate receipt upon an agreed sale.

Policy

- 35 A disposal of the Site will ensure the delivery of circa of 400 residential units which is in line with Local Plan Site 4 - 'Leighton West' (LPS4) and part of a Masterplan promoted jointly by Bloor Homes, Vistry Homes and the Council's Economic Development Team (previously Engine of the North).
- 36 The disposal will ensure the Council receives a significant capital receipt.
- 37 The disposal aligns within the direction of travel for assets, assists with the Councils budget position and within the Asset Strategy refresh, PL3.

Equality, Diversity, and Inclusion

- 38 An Equality Impact Assessment has been undertaken in respect of this matter. A copy can be seen in Appendix III

Human Resources

- 39 For the recommended option, no additional human resources would be required.

Risk Management

- 40 Outline planning permission lapsing. The outline planning permission for development of up to 400 dwellings expires in January 2025 unless a Reserved Matters Application is validated beforehand. If this permission lapses, there will be additional planning related costs in relation to securing a new planning permission. In this instance, the value of the site is likely to be reduced significantly due to stricter obligations regarding affordable housing and biodiversity net gain
- 41 Power supply. There is insufficient power supply in Leighton to bring forward the developments currently proposed (approximately 1,650 new homes and new Leighton Hospital). The District Network Operator (Scottish Power) has programmed to build a new Primary Sub Station on land north of Flowers Lane in Quarter 1 2026. This is on land proposed to be developed out by Vistry Homes. The disposal to Persimmon is conditional upon construction of the new Primary Sub Station, thus any delay with delivery of the new power supply is expected to adversely impact on the disposal proposed.

Rural Communities

- 42 No direct implications to rural communities have been identified.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 43 No direct implications have been identified.

Public Health

- 44 Providing good quality housing and living accommodation will benefit residents mental and physical wellbeing which could reduce demand on health and social care services, therefore there would be a positive impact on health and wellbeing of Cheshire East residents.

Climate Change

- 45 Persimmon Homes Ltd will be responsible for complying with any climate change/energy efficiency requirements as part of the planning process.

Access to Information

Contact Officer:

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Estates

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Appendices:

Appendix I – Disposal Plan

Appendix II – Confidential Information - Part 2

Appendix III – Equality Impact Assessment

Appendix IV – Sanderson Weatherall Recommendation
Letter – Confidential information - Part 2

Background Papers:

None.