

CHESHIRE EAST COUNCIL

CABINET

Date of Meeting: 7 January 2013
Report of: Head of Development
Subject/Title: Disposal of land off Earl Road, Handforth
Portfolio Holder: Cllr Jamie Macrae

1.0 Report Summary

- 1.1 The Council owned land off Earl Road Handforth has been held as a strategic employment site for a number of years. The site is shown (Appendix 1) edged red on the attached plan.
- 1.2 It was leased until 2010 to Airparks UK Ltd and was subject to a temporary planning permission. The site has since been unoccupied, although it has being marketed extensively for short term uses.
- 1.3 In March 2012, a soft market testing exercise was conducted to establish likely demand for this site from the development market. The Council received more than 20 expressions of interest and approval is now sought to progress the project in line with the Council's corporate objectives and Local Plan policies.

2.0 Decision Requested

- 2.1 To authorise the Interim Chief Executive or his identified nominee, in consultation with the Cabinet Member for Prosperity & Economic Regeneration, and subject to consideration by the Monitoring Officer and the Chief Financial Officer, to:
 - Take all necessary action to bring forward, through phased direct development, the Council's landholding at Earl Road, Handforth for employment led uses in line with current planning policy.
 - Invest up to £130,000 towards the cost of financial appraisal, site investigation and masterplanning work.
 - Commence marketing of serviced plots in order to ensure timely delivery on site.

3.0 Reasons for Recommendations

- 3.1 The site has been held for a number of years as a future strategic employment opportunity and is allocated in the saved Macclesfield Local Plan for employment uses. A recent soft market testing exercise to explore commercial interest suggests there is potential to bring this site forward as a high-quality employment led regeneration opportunity.
- 3.2 This would be an approach that is entirely consistent with the planning policy and the Council's wider objectives of promoting economic development and growth.

4.0 Wards Affected

- 4.1 Handforth

5.0 Local Ward Members

- 5.1 Cllr Burkhill, Cllr Mahon

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 Sustainable development will be a key feature of the marketing and vision for the site disposal/development strategy.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 The cost of the financial appraisal and site investigation work can be met from existing provision in the capital programme for conducting feasibility studies.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 If the recommended option for development is adopted then, dependant on the value of the works and/ or services required, the Council may have to procure contractors, consultants or other suppliers by EU compliant competitive processes in addition to complying with its own internal protocols. It is possible that that some work can be commissioned under existing framework or corporate arrangements thus reducing time scales.
- 8.2 Section 123 of the Local Government Act 1972 allows a local authority to dispose of an interest in land on such terms as it considers appropriate subject to obtaining the best consideration reasonable obtainable for the land interest. The Council would need Secretary of State consent to dispose of the site or any part of it (including a

served plot) at less than the best consideration reasonably obtainable. If the Council does market the site on the basis that only certain uses will be permitted or prohibiting certain uses it could restrict the value of the interest being disposed of meaning that less than best consideration is reasonably obtainable.

- 8.3 However, the Secretary of State has given certain consents of general application to sales at less than best consideration. The Local Government Act 1972 general disposal consent (England) 2003 enables the Council to accept less than best consideration if it considers that the purpose for which the land is to be disposed of is likely to contribute to the achievement of the promotion or improvement of economic, social and/ or environmental wellbeing of the whole or any part of its area or all or any persons resident or present in its area.
- 8.4 If the Council were minded to rely on this general disposal consent then regardless of whether the general disposal consent applies or the Secretary of State specifically consents the Council has to fulfil its fiduciary duty to tax payers. Furthermore, foregoing any value could constitute unlawful State Aid under EU law.
- 8.5 Market testing by open competition is the safest way of establishing best consideration. If a disposal without a market process were to be considered the Council should seek independent valuation advice as to whether or not the consideration offered constitutes best consideration and the Council would need to have sound justification for proceeding outside a market process.
- 8.6 Under the Treaty of Rome there has to be fairness and transparency and an even playing field. Early discussions with potential buyers/ tenants could bring into question whether they are eligible to be considered as bidders in a later market process.
- 8.7 If the Council were to intend for there to be any agreement with any buyer / tenant with regard to its development of the site or the part of the site it will purchase/ lease or, potentially, with regard to its future operations then given the likely outturn value of the site to be acquired/ leased to/by the buyer/ tenant the transaction would probably amount to a public contract or concession. In such case, there would have to be an EU compliant competition. Engagement of a development partner in joint venture does not obviate any need to formally procure.
- 8.8 If there is a pure land deal, the EU regulations do not apply but the Council is extremely limited in the protections it can have in the transfer or lease. Effectively, it can have covenants restricting use but little more. Controls arising outside of the land transfer or lease (other than genuine s106 or planning condition controls) are likely to bring the deal within the ambit of the EU regulations.

9.0 Risk Management

- 9.1 This asset would have a substantially higher value if it were developable for retail or residential uses than for employment. If a developer were, even without the Council's support, to gain planning approval for a retail scheme, it will create issues around accepting what would essentially then be an undervalue for an employment scheme.
- 9.2 The business case for this disposal/development route is not fully demonstrated at this stage. A better understanding of the planning requirements, development obligations and the site constraints is needed.
- 9.3 A planning application for a substantial retail development on part of the site has very recently been received by the Planning Authority. The implications of this will need to be considered in all future decision making.

10.0 Background and Options

- 10.1 This asset, which is part of the former 61MU site, is allocated as an employment site in the saved Macclesfield Local Plan and is located close to the A34 which a key route between north east Cheshire and Manchester.
- 10.2 The site is approximately 6 hectares and is felt to be commercially attractive, given its proximity to Greater Manchester and Manchester Airport.
- 10.3 The Council has a clear commitment to promoting growth and employment through the proactive use of its asset base. This site represents an opportunity for the Council to deliver on this commitment and the direct development of this site is completely supported by the emerging growth strategy.
- 10.4 A soft market testing exercise was undertaken in April 2012 which demonstrated strong interest in the site. During this exercise, a range of uses and development approaches were proposed by developers, agents and landowners.

11.0 Evaluation of Soft Market Testing

- 11.1 The SMT exercise elicited 26 submissions of general interest from a range of developers and end occupiers. Interested parties were encouraged to respond with details of:
- how much land they would wish to take.
 - what their requirements would be.
 - proposed number of jobs created by their proposal.
 - value generated to the Council.

- 11.2 Ten of the submissions were fully compliant with current planning designations and consistent with the Council's ambitions for this site. Expressions of interest were received from a number of local and regional developers.
- 11.3 There are several broad conclusions that can be reached from these ten submissions. The general impression created by the responses is that the whole site is likely to be capable of generating in the order of 400 - 800 new jobs and a value of circa £300k/acre could be realised to the Council. The SMT did not drill down enough to understand the market's preference for leasehold versus freehold, or whether a revenue income could be achieved through a lease agreement.
- 11.4 The site is very attractive to the market for retail use as it is adjacent to an existing successful development and is highly accessible from Stockport, Trafford and Cheshire East. Interest was forthcoming from supermarkets, and other non food uses including fashion and homeware. The value of the site is a factor of the use for which it is developed. The potential capital receipt of the site if given over entirely to high-value food or non food retail uses could be in the order of £12- £20m.
- 11.5 The market testing cannot give comfort or certainty on values as auditable development appraisals were not generally provided and there is only limited understanding of any potential development constraints and restrictive ground conditions at this stage.

12.0 Appraisal and Development of the options

- 12.1 There are a number of approaches available in order to bring this site to market all of which will impact on the quantum of the capital receipt and on the extent of the control that the Council is able to maintain over the final development.
- 12.2 Delivery routes potentially are:
- A straightforward disposal of the freehold with no obligations upon a future developer (Council rely on statutory controls i.e. planning).
 - A joint-venture with a development partner (split costs and receipts according to a pre agreed formula).
 - The Council developing the site out in serviced plots (disposed of on a leasehold basis with the infrastructure provided by the Council - similar to the approach at Crewe Business Park. Council controls outcome, timing and delivery method).
- 12.3 From a Cheshire East as landowner perspective, the preferred use for the site is for B1 type development (offices, research & development,

and light industry) with the priority being to attract a flagship or blue chip headquarters to the site. In policy terms, B2 (General Industrial) and B8 (Storage & Distribution) uses would also be considered suitable.

- 12.4 It would be prudent for the Council to set out a delivery route that provides sufficient control to ensure an outcome which promotes quality jobs and economic growth.

The best mechanism to deliver this outcome would be for the Council to provide site infrastructure (e.g. spine road and utilities) and subsequently dispose of serviced plots i.e. deliver the development by direct intervention.

An alternative option would be through a robust development agreement with a third party developer. However, this will require an EU compliant procurement process which is complex and time consuming and the Council will inevitably lose an element of control over cost and timing due to the presence of a partner organisation whose drivers may be different.

13. Options for Development

- 13.1 There are perhaps three primary options for delivering B1 employment uses on this site.

a) Dispose of the whole site via an OJEU compliant competitive process (on a leasehold or freehold basis) with requirement for B1 uses. This route would take over 12 months and consume considerable resources.

Expected receipt: Circa £3m.

Variables: Unknowns deductible costs due to abnormalities such as contaminated land remediation, utility supply, highway works.

b) Act as lead developer creating serviced plots for known and future demand.

Expected receipt: Potentially £4million (on the basis of 9 x 1 acre plots) plus uplift in value is achievable from installing services, spine roads, resolving highways issues etc.

Variables: Unknown utility costs, sub-station, costs of remediation of former munitions and car parking uses, cost of prudential borrowing, unknown newt mitigation and other nature conservation issues (bats, trees etc).

c) Joint Venture in which developer funds infrastructure (such as remediation and spine road) and CEC contributes the land asset.

Expected receipt: Depends on the basis of the joint venture agreement.

Variables: As above. Time consuming and expensive process to select a delivery partner.

14.0 Preferred Approach, Costings and Timetable for delivery

The future work programme is as follows:

December 2012:

Site investigation (habitat/newt/bat/tree survey, contaminated land survey, highways assessments, utilities review, ground conditions etc).

January 2013

Recruit Project Manager, assemble Project Team, detailed resource mapping.

Commence marketing exercise to select preferred occupiers.

April 2013:

Reaffirm preferred Delivery Strategy – Commercial appraisal of the direct development route as preferred strategy.

Development Brief & Agreements – Building on site knowledge, understanding of the planning requirements and commercial issues.

August 2014:

Commence development on site.

15.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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