

# CHESHIRE EAST COUNCIL

## Cabinet

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<b>Date of Meeting:</b>	4 <sup>th</sup> March 2014
<b>Report of:</b>	Director of Economic Growth & Prosperity
<b>Subject/Title:</b>	Disposal of Land off Earl Road, Handforth (Forward Plan Ref. CE 13/14-79)
<b>Portfolio Holder:</b>	Cllr Peter Raynes, Finance/Cllr Don Stockton, Housing, Planning, Economic Development and Regeneration

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### 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 edged red on the attached plan and comprises approximately 14 acres.
- 1.2 Subject to appropriate planning consents being in place this has the potential to be an extremely valuable site. Engine of the North (EOTN), the Council's new development company, is ideally positioned to support the Council in maximising the capital receipt that can be generated through this asset as well as delivering investment and employment opportunities.
- 1.3 The site enjoys a very favourable location as it has excellent visibility from the A34 and is a gateway site for the Borough. This means it will be of national interest to a significant number of occupiers, developers, and investors for a wide variety of land uses other than simply employment.
- 1.4 East Cheshire Engine of the North has been instructed to bring this site forward on behalf of the Council as a strategic priority to maximise jobs growth and capital receipts. EotN recently commissioned Deloitte, a leading development consultant, to analyse expressions of interest, to explore any new requirements, and to set out a clear delivery strategy.
- 1.5 In simple terms, EotN's brief from the Council is to accelerate the disposal of this site in line with the Council's corporate objectives and existing and emerging planning policy whilst maximising capital receipts. In order to deliver these objectives in a reasonable timeframe a wider range of land uses should now be considered.

## **2.0 Recommendations**

1. To authorise the Chief Executive or his identified nominee, in consultation with the Cabinet Member for Finance, to take all necessary action to dispose of the Council's landholding at Earl Road, Handforth to maximise capital receipts and deliver jobs on an accelerated timescale.
2. To approve disposal for all potential land uses including employment, retail, leisure and sui generis use such as car showrooms.
3. To take all action necessary, funded from within existing identified budgets, to bring the site forward for development including potentially creating site infrastructure such as spine roads and appropriate utility servicing.

## **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.
- 3.2 Next PLC recently obtained a planning approval, without any agreement with the Council in place, for a major retail development covering approximately 3 acres of the site. This permission has now established the principle of mixed use development in this location.
- 3.3 The Deloitte report concludes that delivering an exclusively employment led scheme will be a significant challenge and potentially not viable given the competition from other more preferable/established sites in the area such as Cheadle Royal or ones with future potential for critical mass such as Airport City. The suggested delivery strategy is to promote the site as a high-quality mixed use development with retail and other uses in order to facilitate significant new employment opportunities and generate substantial capital receipts on a redundant site at a key gateway location to the Borough.

## **4.0 Wards Affected**

- 4.1 Handforth

## **5.0 Local Ward Members**

- 5.1 Cllr Burkhill, Cllr Mahon

## **6.0 Policy Implications**

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

## **7.0 Financial Implications**

- 7.1 The costs of marketing and disposal of the site will be met from the capital receipts generated from the sale.
- 7.2 Any development of the site prior to marketing will be financed from the approved capital budget.

## **8.0 Legal Implications**

- 8.1 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 serviced 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.
- 8.2 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.
- 8.3 If the Council were minded to rely on this general disposal consent or the Secretary of State specifically consented to a disposal at an undervalue the Council has still to fulfil its fiduciary duty to tax payers. Furthermore, foregoing any value could constitute unlawful State Aid under EU law.
- 8.4 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.
- 8.5 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.

- 8.6 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.
- 8.7 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 By disposing of this asset for a mixed use scheme, it will generate a significantly higher value than for pure employment.
- 9.2 The business case for this disposal/development route is strong as it enables the Council to deliver jobs across a range of uses and a capital receipt more quickly.
- 9.3 Work is underway within EotN to clarify understanding of the planning requirements, development obligations and the site constraints (including ground conditions).

## **10.0 Background and Options**

- 10.1 This asset, which is part of the former 61MU site, is located close to the A34 which a key route between north east Cheshire and Manchester.
- 10.2 It was leased until 2010 to Airparks UK Ltd and was subject to a temporary planning permission. The land has since been unoccupied and there have been ongoing issues with unauthorised access to part of the site.
- 10.3 The site is approximately 14 acres and is considered to be very commercially attractive, for a wide range of uses including retail, leisure and car showroom use given its proximity and ease of access to both Cheshire as well as the Greater Manchester region.
- 10.4 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 is allocated in the saved Macclesfield Local Plan for employment uses.

- 10.5 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 which proposed a range of development schemes, uses and occupiers
- 10.6 EotN, the Council's development company, has been instructed to bring this site forward on behalf of the Council as a strategic priority to maximise jobs growth and capital receipts. EotN recently commissioned Deloitte, a leading development consultant, to analyse expressions of interest, to explore any new requirements, and to set out a clear delivery strategy.
- 10.7 EotN's brief from the Council is to accelerate the disposal of this site in line with the Council's corporate objectives and any new emerging planning policy whilst maximising capital receipts. It is expected that to balance these objectives in a reasonable timeframe a wide range of land uses should be considered.
- 10.8 EotN will on behalf of the Council manage the marketing and disposal process working with leading specialist agents to ensure maximum benefits are achieved for the Council. Dependent on the final preferred land uses, EotN may need to promote the site through the planning process for example through future site allocations work as part of the Local Plan including planning applications. Dependent on the agreed delivery strategy, EotN may take responsibility for preparing the site ready for development, for example by creating core site infrastructure (from within previously approved budgets).

## **11.0 Access to Information**

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

Name: Caroline Simpson  
Designation: Director of Economic Growth & Prosperity  
Tel No: 01270 686640  
Email: [caroline.simpson@cheshireeast.gov.uk](mailto:caroline.simpson@cheshireeast.gov.uk)