

CABINET MEETING: 1 DECEMBER 2016

DUMBALLS ROAD REGENERATION

REPORT OF DIRECTOR OF ECONOMIC DEVELOPMENT

AGENDA ITEM: 1

PORTFOLIO: LEADER (ECONOMIC DEVELOPMENT AND PARTNERSHIPS)

Appendices 2, 3, 4, 6 and 8 of this report are exempt from publication because they contain information of the kind described in paragraphs 14 and 21 of parts 4 and 5 of Schedule 12A to the Local Government Act 1972.

Reason for this Report

1. To recommend that the Council acquires land to attract significant private sector investment to enable the regeneration of the Dumballs Road area through a residential-led mixed use development delivering up to 2000 new homes, including affordable homes, other commercial and community uses, and creating a significant number of jobs during the construction phase, and additional long-term jobs for the area.

Background

2. The Dumballs Road site at circa 40 acres accounts for almost one third of the Cardiff Central Enterprise Zone. It is a strategic brownfield site adjacent to the city-centre that has an extant planning permission for residential-led mixed use development. The site is of strategic importance in the Cardiff Local Development Plan having been identified as one of only two strategic brownfield sites in the plan; the other is the Former Gas Works site at Ferry Road.
3. The Dumballs Road area has suffered numerous unsuccessful attempts at redevelopment over the last three decades. The site suffers from complicated land ownership arrangements and site abnormalities and as a consequence has remained largely derelict and under-developed for many years. The successive attempts to regenerate the area has created significant uncertainty for the numerous businesses located on the site and has led to temporary uses that are not suitable to be located so close to the city centre.
4. The regeneration of Dumballs Road will provide certainty to landowners and business and will facilitate existing businesses to be relocated to other parts of the city securing jobs and providing a better basis for long term planning and investment.

5. Over the last 4 years the land at Dumballs Road has been steadily assembled through a series of Option Agreements paving the way for a comprehensive regeneration scheme. Many of these Option Agreements expire at the end of December 2016 which is regarded by many land-owners as a final drop-dead date following a series of unsuccessful schemes.

Issues

6. The City Council has been working to attract investment into the area over a number of years. Approximately 12 months ago the City Council was approached by international real estate company Vastint.
7. Vastint is the property arm of Interogo Holding AG, the investment business of the Inter IKEA Group. Vastint has over 25 years of experience in large scale property development across Europe, mainly in the commercial and residential sectors. The company is long-term in its approach preferring to hold the development it delivers to create long-term income streams and value.
8. Vastint has recently moved into the UK market and has acquired two large development sites: at Stratford, east London; and the former Tetley Brewery site in Leeds. The Stratford project extends to circa 25 acres of land where planning consent has been secured to build 200,000 sq m including 60,000 sq m of commercial space, 1200 residential units and a 350 bed hotel. Construction is due to start in November 2016 and the project is expected to be completed in early 2023. The former Tetley Brewery site in Leeds extends to circa 20 acres and was acquired in October 2015. A masterplan has been prepared in advance of submitting an outline planning application in early 2017 with construction expected to begin in 2018.

Land Acquisition

9. Vastint has been pursuing negotiations for the purchase of land at Dumballs Road over the last 6 months. It is their intention to take advantage of existing options which have been put into place to create a comprehensive site for regeneration. This includes over 40 options to purchase which are due to expire at the end of this calendar year.
10. The scale of the Dumballs Road site at almost 40 acres is significantly larger than Vastint's preferred development model which is normally at around 20-25 acres. The Local Planning Authority has consistently required a comprehensive approach to the regeneration of the area given its strategic location and therefore Vastint will only proceed with the development if the City Council acquires the residual land over and above their requirement, to establish a comprehensive approach.
11. Further to this, Vastint has requested that the City Council as landowner works in partnership to develop a masterplan for the site as the basis for a new co-ordinated planning application. To that end, Vastint and the City Council have negotiated Heads of Terms presented at Appendix 4 which will form the basis of a Memorandum of Understanding and purchase contracts.
12. The proposal is for Vastint to acquire just over 24 acres of land at the southern end of the site and for the City Council to acquire just over 8 acres of land to the north, as illustrated in confidential Appendix 2. The acquisition will be managed

as a single comprehensive purchase. Details of the proposed land transactions are also outlined in confidential Appendix 2. Confidential Appendix 3 confirms that the acquisitions are fair and reasonable and represent value for money in terms of purchase by agreement with the benefit of Vastint's substantial contribution to the cost of assembling the overall regeneration site. This is by comparison with the delay and uncertainty of the Council seeking to mount a compulsory purchase order coupled with the cost to the public purse of the Council having to fund that process and the overall compensation package without the current windfall contribution from Vastint.

13. The City Council would also like to acquire a further 4 acres of land that currently sits outside of the red line boundary to consolidate the land it will acquire with Vastint and to improve road frontage and access as illustrated in confidential Appendix 2. The proposed purchase of the additional 4 acres of land will be a separate and unrelated transaction. This acquisition will be subject to affordability based on current allocated Council budgets and will need to be supported by a further independent valuation that will be commissioned in due course. That acquisition does not impact on the valuation advice provided for the purpose of this report.
14. In January 2014 Cabinet provided authority for the disposal of surplus Council property at Bessemer Close to assist with the relocation of businesses from Dumballs Road. Vastint is willing to acquire the former Council Depot at Bessemer Close to assist with the relocation of a business and also to provide the Council with additional resources to enable the acquisition the additional 4 acres of land outlined in paragraph 13 above. A site plan of the proposed disposal is provided in Appendix 5 and independent valuation to support the disposal is provided at Appendix 6.
15. Vastint's participation in this land transaction requires final Board approval in early December and is subject to a commitment from the Council to formally enter into a purchase contract and the Memorandum of Understanding to contemporaneously acquire the land. Once the land is secured Vastint has committed to working in close partnership with the City Council as landowner to prepare a revised masterplan as the basis for a new planning application for a comprehensive residential-led mixed use scheme that also contributes towards the city's affordable housing needs.

Development Proposal

16. The land at Dumballs Road has an extant planning permission that provides for over 2000 new homes, 12.5% of which is affordable housing, more than 400,000 sq ft of commercial space, circa 30,000 sq ft of retail space and other community facilities. It is Vastint's intention to work in partnership with the Council to develop a brand new master-plan for the site leading to a new planning application that better reflects their specific development requirements and aspirations and to ensure the highest quality of scheme. The master-plan will build upon some of the key development principles that have already been established through the planning process, including integration of sustainable travel opportunities, maximising the potential of the river frontage, providing high quality urban public spaces and standards of design.

17. Vastint is keen to explore a greater level and mix of employment uses given the proximity of the site to the city centre and in particular will explore the potential to provide commercial business space for smaller end users to compliment the large office developments being brought forward on adjacent sites at Central Square, Central Quay, Callaghan Square and Capital Quarter.
18. Vastint will also explore delivery of a broad range of residential tenures including units for rent and sale and will work with the Council to maximise the amount of affordable housing that can be delivered on site. Vastint is also committed to delivering community benefits through their developments and will again work with the Council to maximise apprenticeship and training opportunities, particularly for young people.

Scrutiny

19. This report has been the subject of pre-decision scrutiny by the Economy and Culture Scrutiny Committee. The Chair of the Committee has written to the Leader of the Council outlining the Committee's support and the letter is attached as Appendix 9.

Reasons for Recommendation

20. The recommendation is to approve the City Council's acquisition of a proportion of the Dumballs Road site to unlock a significant private sector investment for the remainder of the site to regenerate one of Cardiff's most important strategic brownfield development sites in the heart of the Cardiff Central Enterprise Zone.

Financial Implications

21. The attached report seeks delegated authority to acquire just over 8 acres of land at Dumballs Road to support significant private sector investment in the adjoining site. An acquisition of this size represents both a significant financial cost and an ongoing financial commitment, in terms of the future development of the land. As matters contained in a number of Appendices attached to this report are confidential, an additional set of Confidential Financial Implications have been set-out at Appendix 8, which should be read in conjunction with the advice set out below.
22. The Council's 5 year capital programme includes an allocation of £15 million in respect of the Cardiff Enterprise Zone. Council approved this allocation to fund "a range of economic development schemes to bring growth and new jobs to the city and region as well as other benefits to citizens, businesses and visitors". Furthermore, Council acknowledged that "timing of spend was subject to appropriate schemes being brought forward for consideration and approval". For this reason the allocation was split £7.5 million in each of the financial years 2017/18 and 2018/19. Therefore, Recommendation 4 of this report seeks approval from Cabinet to bring forward the required level of budget to the current financial year to fund the purchase and associated acquisition costs e.g. Stamp Duty Land Tax, Legal Fees etc. The sums required are set-out in Appendix 8.

23. The Council will become responsible for 'vacant site holding costs' once the purchase is completed around mid-December 2016. It is anticipated that holding costs such as site security, insurances, NNDR (where applicable) etc. will crystallise incrementally, as the existing landowners transfer their operations to alternative premises elsewhere in the city. The Council's share of holding costs will need to be met from the Cardiff Enterprise Zone Corporate Revenue Budget as these arise. Whilst there may be some costs in the current financial year, the majority of costs are likely to crystallise in future years. In addition, the Council approved this revenue budget to meet the future capital financing costs associated with the capital allocations outlined above.
24. The Heads of Terms set-out at Appendix 4 provides for the Council and Vastint to work together as adjoining landowners to develop a comprehensive masterplan for their respective land interests. In addition, the Council and Vastint will need to work together to agree a demolition and remediation strategy for the overall site, as well as how key infrastructure requirements for the site e.g. services, access roads, public realm etc. will be delivered and funded. These discussions (and any agreements reached) are likely to occur over the medium term and could represent financial commitments in future financial years. An assessment of the likely cost is set-out in Appendix 8.
25. A further report will need to be brought back to Cabinet to provide an update on these matters, along with any proposal linked to the development of the Council's area of land. Any budget implications that arise will need to be considered alongside the preparation of the revenue and capital budgets for future years. Cabinet will be aware from the Budget Strategy report approved earlier in the year that the Council continues to face a challenging financial environment and difficult decisions will need to be made in order to balance its revenue budgets over the medium term. In terms of the capital programme, there is little scope to introduce new schemes and therefore, Cabinet will need to make difficult choices over which schemes it can afford to progress in-light of competing priorities, its aspirations and the need to ensure that adequate financial resilience is maintained going forward.
26. Given the significance of the private investment required from Vastint to bring forward, fund and deliver a comprehensive regeneration scheme, the Corporate Director Resources has arranged for the necessary financial and legal due diligence checks be carried out. These checks will need to provide the necessary level of assurance, before the Council can proceed with its acquisition.
27. Cabinet should note that the disposal strategy within the Corporate Asset Management Plan 2016/17 includes a receipt from the sale of the former depot at Bessemer Close which will now be ring-fenced to assist with funding of the additional 4 acres.
28. Finally, the Council will need to make an assessment of the VAT implications arising from this significant land transaction. Such assessments are normally informed by the Council's intended end use and therefore a final decision will be informed by the masterplan work outlined in this report. Should the Council decide to exercise its 'option to tax' the site then that decision will need to be registered with HM Revenue & Customs no later than the 31 March 2017. An 'option to tax' is binding for 20 years although there is a 6 months cooling off

period to revoke the option. In addition, there are instances where an 'option to tax' can be over-ridden making the supply exempt, but this could have implications on the Council's partial exemption calculation as a result.

Legal Implications

29. The Council has power to acquire land for the benefit of improvement or development of its area pursuant to Section 120 of the Local Government Act 1972. The Council's Procedure Rules for the Acquisition of Land require the advice of a professional valuer to be taken to ensure value for money when purchasing land in accordance with the Council's fiduciary duty when acquiring public assets. In this case valuation advice is provided for the decision-maker's consideration in confidential appendices 2 and 3.
30. The Council has an obligation to obtain the best consideration reasonably obtainable from its land disposals. In this case valuation advice is provided for the decision-maker's consideration in confidential appendix 6.
31. The question of value for money in land acquisitions can raise questions of State Aid. In this case the Council's proposed acquisition is on terms which reflect those which Vastint has agreed to accept as an experienced commercial investor/developer. That fact addresses the State Aid test known as the Market Economy Operator Principle whereby there cannot be unlawful State Aid in circumstances where the terms of a public authority's investment are the same as those which a commercial investor is content with in the same circumstances.

RECOMMENDATIONS

The Cabinet is recommended to:

- 1) Approve the Heads of Terms attached as Appendix 4.
- 2) Delegate authority to the Director of Economic Development in consultation with the Leader of the Council, the Cabinet Member for Corporate Services and Performance, the Corporate Director Resources, and the Director of Governance and Legal Services to:
 - i) Conclude the acquisition of 8.5 acres of land at Dumballs Road as illustrated at Appendix 2 and in accordance with the Heads of Terms attached as Appendix 4.
 - ii) Negotiate and conclude the acquisition of a further 4.1 acres of land at Dumballs Road as illustrated at Appendix 2 with the final cost of acquisition subject to allocated budgets and approval by an independent valuer.
 - iii) Dispose of the former Depot Building at Bessemer Close to enable the relocation of a business from the Dumballs Road area as illustrated in the plan at Appendix 5 and in accordance with the independent valuation at Appendix 6.
- 3) Ring-fence the receipt from the disposal of the former Depot Building at Bessemer Close to enhance the allocated capital budget being used to acquire the land at Dumballs Road outlined in this report and illustrated in Appendix 2.

- 4) Approve that the required level of capital allocation from the Central Enterprise Zone (CEZ) budget is brought forward from future years to the current financial year, as set out in Appendix 8.

NEIL HANRATTY
Director
25 November 2016

The following appendices are attached:

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Appendix 1:	Dumballs Road Site Plan
Confidential Appendix 2:	Land Acquisition Proposal and Costs
Confidential Appendix 3:	Dumballs Road Independent Land Valuation
Confidential Appendix 4:	Heads of Terms
Appendix 5:	Bessemer Road Site Plan
Confidential Appendix 6:	Bessemer Road Independent Valuation
Appendix 7:	Vastint Financial Statement
Confidential Appendix 8:	Confidential Financial Implications
Appendix 9:	Letter from the Economy and Culture Scrutiny Committee