

DISPOSAL OF LAND AT DUMBALLS ROAD

**INVESTMENT & DEVELOPMENT (COUNCILLOR RUSSELL
GOODWAY)**

AGENDA ITEM:12

Appendix 2, 3, 4, 5, 6 & 8 of this report are not for publication as they contain exempt information of the description contained in paragraphs 14 of part 4 and paragraph 21 of part 5 of Schedule 12A of the Local Government Act 1972.

Reason for this Report

1. To provide Cabinet with an update on the work undertaken by Vastint to progress the land assembly at Dumballs Road.
2. To seek authority to dispose of Council owned land at Dumballs Road to Vastint as outlined in the Cabinet Report of May 2019 to enable a comprehensive housing-led mixed use regeneration scheme to commence.

Background

3. Dumballs Road is a strategic development site located immediately south of Cardiff Central Station providing one of the main arterial links between the city centre and Cardiff Bay.
4. Historically the area has accommodated low-density industrial uses and has suffered numerous unsuccessful attempts at redevelopment, largely due to complicated land ownership arrangements and the cost implications of significant site abnormalities. As a consequence the site has remained largely derelict and under-developed for over three decades.
5. The Dumballs Road area was included as a strategic brownfield site in the Cardiff Local Development Plan (LDP) approved in 2016 and is earmarked to deliver circa 2,000 of the 20,000 homes planned for brownfield land. The site is one of only two strategic brownfield sites in the LDP; the other is the Former Gas Works site at Ferry Road.
6. In 2013, planning permission was granted for a housing-led mixed use development on the Dumballs Road site providing 2,150 new homes, of

which 269 homes (12.5%) were required to be affordable. The permission, now lapsed, also included more than 400,000 ft² of commercial space, circa 30,000 ft² of retail space and other community facilities.

7. The strategic importance of the site is reflected in the political administration's policy statement Capital Ambition which establishes a priority to *"Work with developers to transform Dumballs Road through a mixed-use development, and improve cycling and walking routes between the city centre and Cardiff Bay"*. The Council's Economic Strategy approved in April 2019 noted the ambition to *bring forward developments that will better connect the city centre to the Bay including the regeneration of Dumballs Road* and noted that *"The proposed Dumballs Road development will connect the city centre to the Bay, as well as opening up the city's riverfront. The development will also complement the Central Quay proposals, providing a mixed-use footprint that will provide homes, jobs and new open spaces for Cardiff residents. Currently the site is dominated by low density activities that don't reflect the area's city centre location and potential for commercial and residential development."*
8. The Council's Corporate Plan, which outlines how Capital Ambition will be delivered also establishes a commitment to *"Commencing delivery of a new mixed-use development at Dumballs Road by 2021, including the delivery of 2,000 homes."*
9. In 2017, Cardiff Council and the development company Vastint acquired circa 30 acres of land south of Penarth Road between the River Taff and Dumballs Road: 8.5 acres acquired by the Council (see Appendix 1); with the remainder acquired by Vastint.
10. Vastint is the property arm of Interogo Holding AG, the investment business of the Inter IKEA Group. Vastint has over 30 years of experience in large scale property development across Europe, mainly in the office, hotel and residential sectors. The company is long-term in its approach, preferring to hold the developments it delivers as long-term investments.
11. Vastint has been active in the UK market for 10 years and has made good progress on the development of two other large mixed-use schemes in addition to Dumballs Road: at Sugar House Island in London; and Aire Park, 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. In 2020 the first 8,000 sq.m of workspace has been completed in addition to the first 161 homes. Aire Park in Leeds extends to circa 20 acres and was acquired in October 2015. The first detailed consents have been secured in 2020 and construction of the first phase of city park and two office buildings totalling circa 30,000 sq.m are due to start on site in early 2021.
12. Since 2017, Vastint has continued to acquire land to enable a comprehensive regeneration and the total combined area of land now

owned by the Council and Vastint totals just short of 40 acres. Due to the scale of the development site and the extent of work required to prepare the site for residential development (given its previous industrial use) a comprehensive approach to site remediation is required to make it affordable and deliverable. Vastint is now close to finalising the acquisition of all required parcels of land and has managed the relocation of businesses to new locations to enable works to commence.

13. In May 2019 a report was presented to Cabinet providing an update on the scheme and setting out the issues faced by Vastint in regard to land assembly. The report made clear that the conclusion of land assembly would trigger the submission of a planning application. Vastint has now progressed to the point where the only outstanding item of land assembly required to enable a planning application to be submitted is the acquisition of land from Cardiff Council. The report to Cabinet in May 2019 delegated authority to the Director of Economic Development in consultation with the Cabinet Member for Investment and Development, the Section 151 Officer, Corporate Director People & Communities and the Legal Officer *to agree Heads of Terms for the disposal of the site and to return to a future meeting of Cabinet for authority to proceed.*
14. Since 2019, Vastint has also worked to develop a strategic masterplan (Confidential Appendix 2) for the regeneration of the site, including the preparation of a planning application and has begun 'pre-planning' discussions with the Local Planning Authority.

Issues

15. The Heads of Terms for the disposal of the Council's land interest at Dumballs Road to Vastint are attached at Confidential Appendix 3. The Council has recouped all of its outlay to acquire the site and this is set out in the independent valuation report attached as Confidential Appendix 4.
16. Given that the disposal of land to Vastint will be concluded in advance of planning the Council and Vastint have agreed draft terms for a Unilateral Undertaking to guarantee a minimum of 12.5% affordable housing contribution as set out in Confidential Appendix 5. This guarantees at least the same level of affordable housing contribution as the previous lapsed planning permission. The Local Planning Authority will still aim to secure the full 20% affordable housing contribution requirement for brownfield developments through the planning process. However, given the significant challenges associated with bringing the site forward for development, the Council has taken the step to mitigate the risk of the affordable housing requirement being eroded by future viability assessment through the planning process, and secured agreement from Vastint to provide at least the same level required by the last approved scheme, as a minimum contribution.
17. Since the last update to Cabinet in May 2019, the Council has acquired the former Gasworks site in Grangetown, which was identified in the LDP as the only other strategic brownfield residential site along with Dumballs

Road. The former Gasworks site has also proven difficult to bring forward for development. The Council is committed to delivering a significant number of new Council homes on the former Gasworks site as well as on the Dumballs Road site and is currently undertaking detailed commercial due diligence and site investigation to determine what can be achieved.

18. In order to ensure the greatest number of new Council homes are delivered within finite resources, the Council has agreed the principle of an Option with Vastint to purchase a further 100 units of Council homes as a package deal over and above the final affordable housing contribution. The Council will decide at a later date if it is beneficial to acquire these additional homes at Dumballs Road, or whether to invest further in the delivery of new Council homes on the former Gasworks site, or a combination of both.

Local Business Relocations

19. The land subject to disposal has been leased over the past two years as part of the Council's cost mitigation on holding vacant buildings (Confidential Appendix 6). The leases have three months notice periods and notice has been served in order to deliver vacant possession to Vastint.
20. As part of this, an existing business on Dumballs Road requires relocation to enable vacant possession and therefore the Council has offered to relocate the business to an alternative Council owned facility illustrated by the site plan attached as Appendix 7 and in line with the Heads of Terms attached as Confidential Appendix 8. The land was previously earmarked for disposal but given the condition of the site the Council now intends to enter into a lease arrangement on the basis that the new Tenant clears the site for occupation.
21. Vastint has spent a number of years acquiring freehold interests in the Dumballs Road area and the acquisition of the 8.5 acres of Council owned land will facilitate a substantially completed land assembly. However, there are a number of small pockets and parcels of land which are required to provide full and clean title. A separate report is presented at this Cabinet meeting to seek permission to give notice of the Council's intention to use Compulsory Purchase Powers to facilitate the development.

Local Member consultation

22. Local Members are aware of the proposals and will be consulted as part of the planning process.

Scrutiny Consideration

23. The Economy & Culture Scrutiny Committee is due to consider this report on 14 September 2020. Any comments received will be reported to the Cabinet meeting.

Reason for Recommendations

24. To update Cabinet on the Dumballs Road regeneration scheme and to seek authority to dispose of Council land and to relocate a local business to enable the development.

Financial Implications

25. This report seeks delegated authority to agree Heads of Terms for the disposal of Council owned land at Dumballs Road to the developer (Vastint) as set out in Confidential Appendix 3. An independent market valuation report is also attached as Confidential Appendix 4 confirming the disposal of land is at market value.
26. Subject to a number of conditions of exchange being met and the disposal being completed, the Council would receive a capital receipt similar to the value it initially paid to acquire the land in December 2016.
27. As per the tenancy schedule within Confidential Appendix 6, some tenants remain in-situ at present and the site will therefore be disposed of as a Transfer of Going Concern (TOGC). Any loss of rental income associated with these leases, as well as any costs of relocating these businesses elsewhere, will need to be managed within existing service area budgets.
28. The proposal also involves the disposal of land deemed by Strategic estates to be surplus to Council requirements, via a lease agreement. This will generate a rental income as part of the investment property estate, as set out in the heads of terms attached to this report.
29. The developer is to provide a Unilateral Undertaking for the provision of affordable housing. The agreement for sale also includes an option for the Council to purchase up to 100 additional homes. If this option were to be taken up in future years, a budget would need to be made available for this purpose.
30. The report also notes the need for a separate report to Cabinet to seek authority to authorise the principle of making a Compulsory Purchase process in order to secure all interests in the remaining small parcels of land, and also to appropriate existing Council land prior to sale for planning purposes. The developer has agreed to indemnify the Council against all resulting costs of such a process if required.
31. The Council will need to assess the VAT implications arising from this significant land transaction, particularly any potential impact on the Council's partial exemption position. Specialist VAT has been sought and relevant actions will need to be taken prior to the disposal being completed.

Legal Implications

32. The Council has general power to dispose of land pursuant to s.123 of the

Local Government Act 1972 and is required to secure the best price reasonably obtainable. Where land held or has been appropriated by the Council is held for planning purposes, specific power of disposal is available under s.233 of the Town and Country Planning Act 1990 to secure the best use of land or buildings or to secure the erection or construction of any buildings or works for the proper planning of its area.

33. The Council's Acquisition and Disposal of Land Procedure Rule require advice to be obtained from the Council's Valuer as to the terms of the disposal and option.
34. The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language and the report deals with all these obligations. The Council has to consider the Well-being of Future Generations (Wales) Act 2015 and how this strategy may improve the social, economic, environmental and cultural well-being of Wales.
35. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
36. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The well being objectives are set out in Cardiff's Corporate Plan 2019-22: <https://www.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Pages/Corporate-Plan.aspx> When exercising its functions, the Council is required to take all reasonable steps to meet its well being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
37. The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
 - Look to the long term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them

38. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>
39. The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties) – the Public Sector Equality Duties (PSED). These duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of ‘protected characteristics’. The ‘Protected characteristics’ are: • Age • Gender reassignment • Sex • Race – including ethnic or national origin, colour or nationality • Disability • Pregnancy and maternity • Marriage and civil partnership • Sexual orientation • Religion or belief – including lack of belief.

Property Implications

40. The recommendations outlined in this report have been prepared in conjunction with the property and estates team and external professional advice has been sought where necessary in order to support the Council to prepare and implement these recommendations. The team will continue to work with the legal and finance departments as required.

HR Implications

41. There are no HR Implications for this report.

RECOMMENDATIONS

Cabinet is recommend to:

- i) Delegate authority to the Director of Economic Development, in consultation with the Cabinet Member for Investment and Development, the Monitoring Officer and the Section 151 officer to:
- 1) Conclude the sale of land marked red in the site plan attached at Appendix 1 and in line with the terms set out at Confidential Appendix 3.
 - 2) Conclude the terms of the draft Unilateral Undertaking to be provided by Vastint to the Council as set out in Confidential Appendix 5 with such minor amendments that may be required by the Corporate Director for People and Communities.
 - 3) Conclude the lease for the relocation of a business from Dumballs Road to property owned by the Council at Hadfield Close illustrated by the site plan at Appendix 7 and in line with the terms set out at Confidential Appendix 8.

- ii) Delegate authority to Corporate Director People and Communities in consultation with Head of Estates to negotiate an option agreement for the acquisition of a further 100 homes and to report back to a future meeting of Cabinet for approval.

SENIOR RESPONSIBLE OFFICER	Neil Hanratty Director of Economic Development
	11 September 2020

The following appendices are attached:

- Appendix 1 - Site Plan Dumballs Road
- Confidential Appendix 2 - Masterplan
- Confidential Appendix 3 - Heads of Terms (Dumballs Road)
- Confidential Appendix 4 - Market Valuation Report
- Confidential Appendix 5 - Unilateral Undertaking
- Confidential Appendix 6 – Tenancy Schedule
- Appendix 7 - Site plan Hadfield Road
- Confidential Appendix 8 - Heads of Terms (Hadfield Close)