
**DISPOSAL OF LAND AT DUMBALLS ROAD
PRE-DECISION SCRUTINY**

Appendices 2, 3, 4, 5, 6 & 8 of the Cabinet Report are not for publication as they contain exempt information of the description contained in paragraph 14 of Part 4 and paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972. It is viewed that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Purpose of the Report

1. To give Members background information to aid the scrutiny of the draft report to Cabinet regarding the disposal of Council owned land at Dumballs Road to Vastint and the relocation of a business, which is due to be considered by Cabinet at their meeting on 17 September 2020.
2. Members should note that **Appendices 2, 3, 4, 5, 6 & 8** of the Cabinet report are exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct and the Cardiff Undertaking for Councillors.

Scope of Scrutiny

3. At their meeting on 17 September 2020, the Cabinet will consider a report that updates Cabinet on the Dumballs Road regeneration scheme and seeks cabinet approval to dispose of 8.5 acres of Council owned land and to relocate a local business from Dumballs Road onto other Council owned land.
4. During this scrutiny, Members have the opportunity to explore:
 - i) The proposed Heads of Term for the disposal of the 8.5 acres of council owned land;

- ii) The proposed Unilateral Undertaking between the Council and Vastint, which includes details re affordable housing contributions;
- iii) Proposals to relocate a local business from Dumballs Road to other Council owned land;
- iv) The Financial Implications of the above for the Council, including VAT implications;
- v) The proposed use for the capital receipt received following disposal;
- vi) Legal Implications;
- vii) Whether there are any risks to the Council;
- viii) The timeline and next steps for delivering the regeneration scheme;
- ix) The recommendations to Cabinet.

Structure of the meeting

- 5. The Chair will move that this item be considered in two parts: an open session, where Members will be able to ask questions on the issues and papers that are in the public domain, which are the report to Cabinet, Appendix 1 and Appendix 7; and a closed session, where members of the public will be excluded, where Members can ask questions that pertain to **Appendices 2, 3, 4, 5, 6 & 8**.
- 6. Members will hear from Councillor Russell Goodway (Cabinet Member – Investment and Development) and Neil Hanratty (Director of Economic Development), Chris Barnett (Operational Manager) and Eirian Jones (Principal Surveyor). There will be a presentation taking Members through the proposals and recommendations to Cabinet, followed by Members questions.
- 7. Members will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

Background

- 8. The Dumballs Road site is a circa 40 acres brownfield site, south of Central Train Station and Callaghan Square, allocated in the Local Development Plan for housing-led mixed-use developments. On 1 December 2016, Cabinet received a

report¹ setting out proposals from Vastint² to regenerate the area, delivering up to 2,000 new homes, including affordable housing, commercial use and community use and providing jobs during the construction phase and beyond.

9. The 1 December 2016 Cabinet report highlights the primary issues facing regeneration of Dumballs Road, which are complicated land ownership arrangements and site abnormalities. To assist with this, the report sought permission for the Council to purchase 12.6 acres of the site and work in partnership with Vastint to develop a master plan, with Heads of Terms and a Memorandum of Understanding underpinning this. The report to Cabinet also sought permission to dispose of a council building at Bessemer Close to provide a suitable relocation site for a business from the Dumballs Road area.
10. Following consideration of the report, including confidential information and a presentation by Vastint, Cabinet approved the recommendations, including that:

3) The receipt from the disposal of the former Depot Building at Bessemer Close be ring fenced 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) 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.'

11. Since then, the Council has worked with Vastint in developing a comprehensive approach to the regeneration of the area, leading to new proposals that build on some of the key development principles already established through the planning process, including:

- i) Integration of sustainable travel opportunities
- ii) Maximising the potential of the river frontage
- iii) Providing high quality urban public spaces
- iv) Providing high quality standards of design.

¹ Available at: <http://cardiff.moderngov.co.uk/mgAi.aspx?ID=7214&LLL=0>

² Vastint is the property arm of the IKEA group

12. In May 2019, Cabinet approved recommendations to note the new delivery timeline for Dumballs Road and to give delegated authority³ to agree Heads of Terms for the disposal of Council owned land to Vastint, with a further report to Cabinet required to seek authority to proceed.
13. The report to Cabinet in May 2019 stated that the capital receipt resulting from the disposal of land identified in the report is to be used as part of an affordability envelope for the Indoor Arena, approved as part of the 2019/20 budget process. The report also identifies that *'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. This will need to be a consideration in agreeing any final Heads of Terms, with specialist advice to be sought where necessary.'*⁴
14. In terms of the financial contribution of the Council, Cabinet agreed at their meeting on 1 December 2016 to purchase land at Dumballs Road to assist in progressing the scheme, using funds allocated in the Council's Capital Programme for the Cardiff Enterprise Zone. In addition, the financial implications section of the report to Cabinet 1 December 2016 stated that the Council would become responsible for 'vacant site holding costs', which would crystallise incrementally as landowners transfer their operations to alternative premises elsewhere in the city. These costs would be met from the Cardiff Enterprise Zone Corporate Revenue Budget.

Structure of Report to Cabinet

15. The draft report to Cabinet entitled '***Disposal of Land at Dumballs Road***' is attached at **Appendix A** and has **eight** appendices:
- **Appendix 1** - Site Plan Dumballs Road
 - **Appendix 2** - Confidential - Masterplan
 - **Appendix 3** - Confidential – Heads of Terms (Dumballs Road)

³ Delegated authority given to the Director of Economic Development in consultation with the Cabinet Member for Investment & Development, the Section 151 Officer, the Corporate Director People and Communities and the Legal Officer

⁴ Point 22, Financial Implications, Dumballs Road Regeneration Scheme Report to Cabinet 19 May 2019

- **Appendix 4** - Confidential – Market Valuation Report
- **Appendix 5** – Confidential – Unilateral Undertaking
- **Appendix 6** – Confidential – Tenancy Schedule
- **Appendix 7** – Site Plan Hadfield Road
- **Appendix 8** – Confidential – Heads of Terms (Hadfield Close).

Issues identified in the Cabinet Report

16. The report to Cabinet outlines that Vastint has progressed land assembly 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.

17. Vastint and the Council have negotiated Heads of Terms for the disposal, at **Confidential Appendix 3**, underpinned by a valuation report, at **Confidential Appendix 4**. The report to Cabinet states, at **Point 15**, that:

‘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.’

18. **Point 19** of the report to Cabinet states that notice has been served on those leasing land, to obtain vacant possession of the land prior to disposal.

19. The Council and Vastint have agreed draft terms for a Unilateral Undertaking, which is attached at **Confidential Appendix 5**. This guarantees a minimum 12.5% affordable housing, as per previous planning permission for this site. The report to Cabinet states, at **Point 18**, that the Council has agreed with Vastint an Option to purchase a further 100 units over and above the affordable housing contribution, as a package deal. It goes on to state:

‘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.’

20. With regard to the relocation of a local business to other Council owned land, the report to Cabinet states that this will be via a lease arrangement, on the basis that

the new tenant clears the site; the site is shown at **Appendix 7** and the Heads of Terms are at **Confidential Appendix 8**.

21. Members' attention is drawn to the Financial Implications section of the report to Cabinet, at **points 25-31**, which cover the Unilateral Undertaking and VAT implications.

Proposed Recommendations to Cabinet

22. The report to Cabinet contains the following 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 the 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.'*

Consultation Undertaken

23. The report to Cabinet states that *'Local Members are aware of the proposals and will be consulted as part of the planning process.'*

Previous Scrutiny

24. This Committee undertook policy development scrutiny of the Dumballs Road regeneration proposals at their meeting on 11 October 2018. A copy of the Chair's letter and the response received, is attached at **Appendix B**. Overall, Members were supportive of the approach taken by Vastint and the Council.
25. The Committee undertook pre-decision scrutiny of the Dumballs Road regeneration scheme at their meeting on 9 May 2019, prior to the report being considered by Cabinet at their meeting on 16 May 2019.
26. Following their scrutiny, the Chair, Councillor Nigel Howells, wrote to Neil Hanratty, Director of Economic Development, stating⁵:
- i) *'thank you for clarifying...that there are no costs to the Council with regard to site 'meanwhile uses' currently or in the future';*
 - ii) *'That there will be opportunities for ground floor (employment) usage, particularly along the riverfront and particularly for creative industries, as well as cultural, leisure and commercial office usage';*
 - iii) *Members have asked me to reiterate their strong desire for the Dumballs Road regeneration to lead the way in demonstrating the achievability of mixed-use spaces that enable residents to live and work in the same location, which will help to tackle the climate change emergency we face as discussed at our last Council meeting';*
 - iv) *'Members have asked that I stress that the points we made following our scrutiny in October 2018 still stand and we will look to see how these have been addressed when we scrutinise future proposals for this site.'*

Way Forward

27. Councillor Russell Goodway (Cabinet Member – Investment and Development) will be invited to make a statement. Neil Hanratty (Director of Economic Development) Chris Barnett (Operational Manager) and Eirian Jones (Principal

⁵ Extracts taken from the Public Letter from Councillor Howells, Chair Economy & Culture Scrutiny Committee, to Neil Hanratty, Director of Economic Development, dated 13 May 2019.

Surveyor) will attend to give a presentation and answer Members' questions on the proposals.

28. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendices 2, 3, 4, 5, 6 & 8**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

29. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

30. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations

for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i) Consider the information in this report, its appendices and the information presented at the meeting;
- ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter in time for its meeting on 17 September 2020; and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

8 September 2020