

TELFORD & WREKIN COUNCIL

CABINET - 16 OCTOBER 2014

STATION ROAD, NEWPORT – UPDATE AND ALTERNATIVE DEVELOPMENT

REPORT OF DIRECTOR: DEVELOPMENT, BUSINESS AND CUSTOMER SERVICES AND ASSISTANT DIRECTOR: LAW, DEMOCRACY & PEOPLE SERVICES

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

To seek authority to enter into agreements for the termination of the existing agreements between the Council, Sainsbury's and St Modwen Developments Ltd in relation to the sale and development of the Station Road, Newport site ("the Site") and to seek approval to enter into an agreement that will deliver a residential led development on the site.

2. RECOMMENDATIONS

- 2.1. That Members note the position in respect of the original plans for the site and endorse the new plans as contained within the report.**
- 2.2 That Members approve the entering into of the settlement agreement and development agreement as detailed in exempt Appendix 2 and give delegated authority to the Assistant Director: Law, Democracy & People Services to sign the settlement agreement and the Director; Development, Business and Customer Services to sign the development agreement both on substantially the same terms as detailed in Appendix 2 as they consider are in the best interests of the Council.**

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	Regenerate those neighbourhoods in need and work to ensure that local people have access to suitable housing
	Will the proposals impact on specific groups of people?	
	Yes	Local Residents
TARGET COMPLETION/ DELIVERY DATE	October 2014 for the agreements to be entered into with a planning application being anticipated before the end of 2014.	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	The other parties to the original agreements require the Council to maintain confidentiality in respect of the settlement to protect their commercial interests. However, full financial details are included in exempt Appendix 2 as it is essential that all salient facts are considered by Members when reaching a decision. It is important to note that a significant capital receipt will still be generated, if the development plans for the site are approved, which will help to protect front line

		services provided by the Council. Net costs totalling £465k will now have to be funded from revenue as a result of this decision.
LEGAL ISSUES	Yes	<p>The Council has contractual obligations with SMD and Sainsbury's relating to this site and for the reasons detailed in this report there is now mutual agreement regarding the arrangements that bring these agreements to an end. Subject to Cabinet approval, the proposed terms of the Settlement Agreement and Development Agreement are detailed in exempt appendix 2.</p> <p>The Cabinet has the power to enter into the development agreement detailed in the report pursuant to section 233 Town and Country Planning Act 1990. The Cabinet also has the power to enter into the settlement agreement detailed in the report pursuant to section 111 Local Government Act 1972.</p> <p>Due to the need for urgent implementation of this decision it has been confirmed by the Chair of Housing, Economy and Infrastructure Scrutiny Committee as being exempt from call-in.</p>
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	<p>Detailed in full within the report and appendices but there are a number of key risks which Members should be specifically aware of:</p> <p>Decision to progress to call-in The risk is one of timing in that even if planning permission is granted it may not be possible to secure the development as a result of terms of the contract.</p> <p>Decision to enter into the agreements detailed in this report Risk of not obtaining planning permission – this is an obvious risk in any development but to mitigate the risk advice will be taken and public consultation is planned.</p> <p>If Planning consent is secured there is a risk of the application being called-in by the Secretary of State which would result in additional costs and delay. However, Members ought to be aware that despite requests for the outline application for development on the surrounding land to be called in the Secretary of State did not call the application in.</p> <p>Risk that the property market will change and a lower value for the site will be offered.</p>
IMPACT ON SPECIFIC WARDS	Yes	Newport South

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

Planning

- 4.1 On 8 February 2011 St Modwen Developments Ltd (“SMD”) were appointed as the Council’s Development Partner to market the Station Road site (as shown in red at Appendix 1 “the Site”) on a freehold basis for food retail development. Bids for the Site were received and on 22 September 2011 Cabinet approved the conditional sale of the Site to Sainsbury’s. In addition, to deliver the development, Cabinet approved the joint venture development agreement which was entered into with SMD. Both agreements were completed on 16 December 2011.
- 4.2 In accordance with these agreements a planning application for a supermarket was made by SMD and on 25 April 2012 Plans Board resolved to approve the planning application. On 15 June 2012 the Department for Communities and Local Government called-in the application and a public inquiry was held during January and February 2013. This inquiry lasted 12 days and was programmed to finish after a further two inquiry days. Sadly the Planning Inspector reporting to the Secretary of State died before the Inquiry could conclude. This meant that the Inquiry process had to start again and a further inquiry has been scheduled for 16 days starting on 20 January 2015.
- 4.3 Members will also be aware that an application for a superstore at Audley Avenue, Newport was submitted and, despite challenge by the council on a number of grounds, including protecting the principle of significant developer contributions to related offsite costs, the planning permission has been granted.
- 4.4 A planning application has also been made and approved for a supermarket on the site which is generally known as “the Focus Site” as it was previously occupied by Focus Do It All. Subject to finalising the terms of the s106 agreement, construction could commence very shortly on an Aldi store on that site.

Contracts

- 4.5 The approval of the Audley Avenue site for a supermarket and the separate approval for an Aldi on the “Focus site” changes the retail development scene in Newport significantly and accordingly affects the factors supporting the proposed development at Station Road. In these circumstances the parties have together reconsidered their position, and in the light of the changed circumstances, have agreed, in principle, to withdraw the planning application that is currently subject to call-in. A summary of the terms of the proposed agreement, **which the other parties require the Council to keep confidential in order to protect their commercial interests**, are included in exempt Appendix 2.

Future Plans

- 4.6 The proposed development would have provided the Council with a significant capital receipt for the land which would help mitigate some of the effects on front-line services arising from the biggest Government cuts ever faced by the Council. It would also have provided 300 new jobs, delivered additional

business rates income to further help support front line services as well as being a major investment in Newport and providing extra facilities to support housing growth in the town. As the Council now considers it is unable to secure the land value which was previously anticipated, it must now consider how to comply with its statutory duty to achieve best consideration for the land as it does with all assets owned by the Council. A significant amount of work has been carried out by council officers and supported by independent external experts where appropriate to consider how best to comply with this obligation and detailed advice is summarised and explained in Appendix 2.

- 4.7 It is proposed that the land is developed for use as a residential led development. To enable this to take place the existing contracts between the Council, Sainsbury's and SMD must be terminated and new agreements entered into.
- 4.8 To enable a planning application to be made for residential led development a significant amount of pre-planning work, including public consultation, is now required. For the reasons described in exempt Appendix 2 the Council is proposing to continue to work with SMD to make use of the large amount of the work that they have already undertaken to support the retail application that can be re-used and updated; thus saving significant costs on the new application. It is expected that, if the recommendations are agreed, SMD will make an application for residential led development before the end of 2014.

Decision considerations

- 4.9 To ensure openness and transparency, although this decision could have been delegated to officers, it has been brought to Cabinet for the decision to be made where as much information as possible has been made publicly-available.
- 4.10 Members must be aware of all options available to them when reaching any decision. In relation to this report there are two options available – the first is to enter into the agreements detailed in this report; alternatively, if the Council were to choose to not enter into these agreements the call-in inquiry would proceed and the Council, both as landowner and local planning authority, would be in a position where significant costs would be incurred and the result is still not certain. In addition, it is considered that there is a greater risk that we would be unlikely to be able to fulfil our obligations under the contract. Further details as to why this is not considered to be the most appropriate option to pursue are detailed in Appendix 2.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

- 5.1 The legal and financial considerations have already been detailed in this report and the exempt appendices.

6. PREVIOUS MINUTES

22 September 2011 Cabinet – minute CB44
6 December 2012 Cabinet – minute CB76

7. BACKGROUND PAPERS

None

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