



Author/Lead Officer of Report:
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Report of: Laraine Manley, Executive Director, Place
Report to: Leader of the Council
Date of Decision: 18 January 2017
Subject: Sale of Council Land at Upper Hanover Street Sheffield

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to?	Finance and Resources	
Which Scrutiny and Policy Development Committee does this relate to?	Economic and Environmental Wellbeing Scrutiny and Policy Development Committee	
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, what EIA reference number has it been given? <i>(Insert reference number)</i>		
Does the report contain confidential or exempt information?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-	Appendix A of the report is not for publication because it contains exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended)."	

Purpose of Report:

To advise the Leader of progress on the disposal of land at Upper Hanover Street since a decision was made by Cabinet in October 2006 and to seek rescission of that decision in order to progress the sale.

Recommendations:

The Leader is recommended to:

- (a) Rescind the Cabinet decision of October 2006 that “authority be given to progress Phase 1 as a disposal at market value, under the authority delegated to the Head of Corporate Property and the City Property Manager, with the development having regard to the Masterplan vision, and the receipt earmarked for filling-in the underpass beneath Hanover Way as now reported”
- (b) Authorise the disposal of the land initially to BM Development Services Limited, and secondly to Mr Merricks if BM Development Services fail to exchange by 31st January or complete by conditional dates set out in the contract.
- (c) If neither party has exchanged contracts by the end of January or alternatively if contracts have been exchanged but the disposal has not completed by the conditional date contained in the contract, the Chief Property Officer is authorised to dispose of the site on the open market.

Background Papers:

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Paul Schofield
		Legal: David Sellars/Andrea Simpson
		Equalities: N/A
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	EMT member who approved submission:	Lorraine Manley
3	Cabinet Member consulted:	Olivia Blake
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Tammy Whitaker	Job Title: Head of Property Services
	Date: 8th January 2018	

1. PROPOSAL

1.1 *Background*

In October 2006 Cabinet considered a report regarding the implementation of the Broomhall masterplan. The Cabinet decision endorsed the masterplan vision for Broomhall Local Centre, as a basis for guiding its future regeneration and gave authority “to progress Phase 1 as a disposal at market value, under the authority delegated to the Head of Corporate Property and the City Property Manager, with the development having regard to the Masterplan vision, and the receipt earmarked for filling-in the underpass beneath Hanover Way as now reported”.

- 1.2 The report described the proposals for implementation of Phase 1 with reference to the adjacent landowners Jonathan Merricks, whose land is shown edged green on the plan attached to this report, and City Estates, whose land comprises the site shown on the plan with buildings marked “171 to 175” and “177” and said that the City Council may consider collaborating with the adjacent landowners on the scheme, to the benefit of all three parties, rather than trying to pursue three separate, smaller schemes.
- 1.3 City Estates have since developed their own piece of land and no longer have an interest in these proposals. Sheffield Council agreed to sell the subject land in its ownership, shown edged red on the attached plan, to Jonathan Merricks on 21st Dec 2015, by way of a delegated approval authorised by the Director of Capital and Major Projects acting as the Chief Property Officer. The sale of the council land to Mr Merricks was conditional on him getting planning permission for a scheme of housing on the combined sites. A draft contract was issued to his solicitors.
- 1.4 The sale to Mr Merricks become protracted due to local residents, through Hanover TARA, utilising the Council land for a vegetable garden and the replacement of this vegetable garden becoming part of the conditionality of the sale to Mr Merricks.
- 1.5 In September 2017 Hanover TARA gave notice on the land and the Council gained vacant possession. This being the case the deal with Jonathan Merricks reverted to the original deal conditional on planning and from September 2017 Mr Merricks has been pressed to exchange contracts. Mr Merricks has provided details of his proposed scheme of apartments.
- 1.6 During 2017 the Council’s Property Services team was approached on several occasions, unsolicited, by Sami Murad who expressed a wish to acquire the Council land, and on each occasion he was advised that the land was not available as a deal had been agreed with another party. In September 2017 Mr Murad advised that he was an owner of property adjacent to the subject site (shown edged blue on the attached plan) and that he was an investor seeking land on which to develop apartments / housing. The registered proprietor of that property is B.M. Development Services Limited, a company of which Mr Murad is a Director.

- 1.7 Sami Murad made a further approach to Property Services on 10th November, explaining that he wanted to develop the land for housing and on this occasion providing a figure for the purchase of the land and stating that this offer was unconditional on planning or anything else. Mr Murad has not provided any detail of the scheme he proposes to develop
- 1.8 On 29th November 2017 Jonathan Merricks was advised that there was a strong possibility that a competing offer may be submitted for the land he was acquiring and if this compared favourably to his offer then the Council would be bound to give it due consideration. This being the case Jonathan Merricks was also urged to exchange contracts with the Council as soon as possible.
- 1.9 On 1st December Sami Murad made an offer for the Council land and confirmed this offer was unconditional and that the purchase of the land would be completed within 21 days of exchange of contract. His solicitors have since advised that the purchase will be in the name of B.M. Development Services Limited with Mr Murad acting as a Director of that company.
- 1.10 The nature of the offer from B M Development Services is such that SCC has a duty to consider it. In June 2018 the Cabinet Member for Finance and Resources approved the adoption of the Sheffield City Council Disposals Framework document as a Council policy. The Framework includes guidelines on the disposal of land and property. It provides for disposal by private treaty in certain circumstances, including to a “special purchaser” such as an adjoining landowner, but suggests that such disposals should be time limited and specifies that negotiations reaching a mutually acceptable conclusion are deemed exclusive **subject to the requirements to achieve best consideration and the incidence of any unsolicited offers for the property.** Both BM Development Services and Merricks could be considered Special purchasers as both are adjacent landowners.
- 1.11 The Cabinet decision of 2006 did not take into account all the factors that would be considered in a property disposal decision nowadays and the envisaged disposal has not taken place. This report therefore seeks the rescission of the 2006 decision to progress the disposal of Phase 1 as then reported, and authority to dispose of the land to either Mr Merricks or B.M. Development Services Limited. It is proposed that this authority be time-limited and that if neither party has exchanged contracts within that timescale, or if, after exchange of contracts, the sale does not complete then the site shown edged red on the attached plan should be disposed of on the open market.

2. HOW DOES THIS DECISION CONTRIBUTE?

In 2006 it was reported to Cabinet that “progress in implementing phase 1 will achieve the re-development of vacant and derelict land, a new apartment block (including a number of affordable housing units in accordance with planning policy)”. This is still possible although Merricks scheme is smaller than originally envisaged and includes no affordable housing and, although neither party is under a compulsion to develop, such development would contribute to the Council’s priorities, as set out in the Corporate Plan, of a Strong Economy and Thriving Neighbourhoods and Communities.

3. HAS THERE BEEN ANY CONSULTATION?

The Council is not required to consult on the proposal to dispose of its land. Development of the land will be subject to planning requirements including public consultation at that time.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

None

4.2 Finance – See Appendix A

The sale to either prospective purchaser is not guaranteed to complete (even following exchange) and in this scenario the information in Appendix A is commercially sensitive.

Rescission of the 2006 Cabinet decision about earmarking the capital receipt for a specific purpose enables its use to be considered now in light of current priorities.

4.3 Legal Implications

The Council's land is held for the purposes of Part II of the Housing Act 1985 and its power to dispose of the land is under section 32 of that Act. Secretary of State's consent is required for the disposal. The Secretary of State has issued a General Consent to a disposal of land for a consideration equal to its market value.

Until recently the land was used by the community as a vegetable garden, with public access to the site. Use of the land for public recreation, which could include these activities, falls within the definition of "open space" in section 336 of the Town and Country Planning Act 1990. If this is the case the Council is required by section 26 of the Town and Country Planning Act 1959 to advertise the proposed disposal. Any objections to the proposal must be reported to Cabinet for approval of the disposal. A notification of the disposal has been advertised and at the time of writing no objections to the disposal of the Open Space have been received.

4.4 Alternative Options Considered

The Council could proceed with the offer from Mr Merricks in accordance with the 2006 Cabinet decision but the alternative offer should be considered under the Council's approved Disposals Framework Policy.

Both offers could be declined and the site put to the market. This option has been rejected in the first instance as both offers incorporate the adjacent land / property and will generate higher values and or a more comprehensive scheme.

5 REASONS FOR RECOMMENDATIONS

The recommendations in this report will achieve best consideration for the Council under Section 123 of the Local Government Act.

PLAN 1

