

Meeting:	Cabinet	Date:	16 June 2021
Subject:	St Oswalds Redevelopment		
Report Of:	Cabinet Member for Planning and Housing Strategy		
Wards Affected:	Westgate		
Key Decision:	Yes	Budget/Policy Framework:	Yes
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Appendices:	1. Site & Plot Layout Plan		
	2. Financial Implications		
	3. Risk & Opportunity Management Implications		

EXEMPTIONS

The public are likely to be excluded from the meeting during consideration of Appendices 2 and 3 as they contain exempt information as defined in paragraph (3) of schedule 12A to the Local Government Act 1972 (as amended).

1.0 Purpose of Report

- 1.1 To secure approval from Cabinet to the disposal of the City Council's interest in a site pertaining to the comprehensive redevelopment of land at St Oswalds for up to 300 new homes in partnership with Rooftop Housing Association (RHA).

2.0 Recommendations

- 2.1 Cabinet is asked to **RESOLVE** that:

- (1) To authorise the Property Commissioning Manager, in consultation with the Leader of the Council, Cabinet Member for Planning and Strategy, Head of Policy and Resources and Head of Place:
 - a. To accept a surrender from Tesco Stores Limited of the land edged **GREEN** in Appendix 1
 - b. To agree a new lease with Tesco Stores Limited for the land edged **GREEN** on in Appendix 1 for a period of 250 years with no restriction to future development

- c. The completion of both transactions taking place only when all other legal agreements referenced in resolution (iii) of the 10th March 2021 Cabinet Report 'St Oswalds Redevelopment' complete
- (2) To authorise the Head of Place in consultation with the Leader of the Council, Cabinet Member for Planning and Housing Strategy, the Head of Policy and Resources and the Council Solicitor to take all necessary steps and undertake necessary procedures, including but not limited to entering into any legal arrangements or other documentation as may be required to facilitate resolutions (1)a and (1)b above
- (3) To authorise the recipients of the delegations set out in Resolutions (1) and (2) above to instruct the Council Solicitor to prepare such documents as considered appropriate to achieve the outcomes set out in those Resolutions.

3.0 Background and Key Issues

3.1 At its meeting on 10th March 2021, Cabinet approved a number of actions relating to the comprehensive redevelopment of the 15 acres of land shown in **BLUE, RED, YELLOW** and **PURPLE** in Appendix 1. These being:

- (i) *To authorise the Property Commissioning Manager, in consultation with the Leader of the Council, Cabinet Member for Planning and Housing Strategy, Head of Policy and Resources and Head of Place:*
 - a. *To accept a surrender from Tesco Stores Limited (at no more than market value) of the land edged **Red** on the Plan or otherwise to facilitate the transfer of that part of Tesco Stores Limited's leasehold interest in the land edged **Red** to RHA*
 - b. *To agree heads of terms with RHA for the disposal at best consideration of the freehold interest, or the grant of a long lease (for a term of at least 99 years from completion) in all or part of the areas of land shown edged **Red, Purple** and **Yellow** on the Plan ("the Property") whether by one or more transactions*
- (ii) *To authorise the Head of Policy and Resources to agree heads of terms with RHA for such financial agreements as may be desirable or necessary to protect payment of the purchase price negotiated under Resolution 1(b) until it is received*
- (iii) *To authorise the Head of Place (insofar as they are not authorised under Resolutions 1 and 2 above, or otherwise delegated to an officer under the Constitution or lie with a Proper Officer) in consultation with the Leader of the Council, Cabinet Member for Planning and Housing Strategy, the Head of Policy and Resources and the Council Solicitor to take all necessary steps and undertake necessary procedures, including but not limited to:*
 - a. *entering any legal arrangements or other documentation as may be required to facilitate the redevelopment of the site for up to 300 new homes on the Property*
 - b. *to enter into partnership working arrangements with RHA desirable to achieve the comprehensive redevelopment outcomes described in Resolution 3(a)*
- (iv) *To authorise the recipients of the delegations set out in Resolutions (i) –(iii) above to instruct the Council Solicitor to prepare such documents as considered appropriate to achieve the outcomes set out in those Resolutions.*

- 3.2 Subsequent negotiations with both Tesco Stores Limited (TSL) and Rooftop Housing Association (RHA) have identified that reaching agreement with TSL on the future status of the former Park and Ride site, shown as land edged **GREEN** in Appendix 1, is critical to achieving the intent of the resolutions referenced in 3.1 above.
- 3.3 As reported to the March 2021 Cabinet meeting, TSL hold all their land and buildings at St Oswalds on a single long lease from the City Council expiring in 2154 which contains restrictions on any disposal of part. Such restrictions also relate to the land edged **GREEN** in Appendix 1. TSL are requesting that restrictions be removed on this site and a new, longer lease of 250 years be agreed.
- 3.4 As a reminder, the current thinking is that the tenure mix across the site would be in the order of:
- 100 market for sale
 - 100 affordable rent
 - 100 shared ownership
- 3.5 RHA has made it clear that they would not be prepared to proceed with the acquisition of this site unless the City Council was committed to put its own land in to the development in a form, and at a price, that was acceptable to both parties.
- 3.6 The approach being recommended is for the Council to dispose of its 15 acre asset (land edged **YELLOW**, **RED** and **PURPLE** on Appendix 1) to RHA at a price to be agreed. However, as Officers would like to maintain influence of the emerging masterplan rather than rely purely on the Council's role as Planning Authority, a non-binding Memorandum of Understanding could be developed to define the respective roles.
- 3.7 Further assessment is required to ensure that *best consideration* is achieved and to ensure that the affordable element of the housing is not pushed to a later phase once the market homes have been completed.

4.0 Social Value Considerations

- 4.1 Whilst no social value will accrue as a direct result of this transaction, the redevelopment scheme as a whole will deliver significant benefits with RHA and its development partners/contractors delivering a £30m capital scheme in accordance with the Council's Social Value Policy.

5.0 Environmental Implications

- 5.1 During the master planning and planning application stages, the development will fully explore the opportunities to minimise energy usage both in the construction methods used and the lifecycle of the properties developed.
- 5.2 Sustainable Urban Drainage Systems (SUDS) will be used across the site and the policy requirement of the draft City Plan will be fully adopted.
- 5.3 In addition, RHA will develop the site in accordance with the RHA Living Homes Standard which sets out the minimum requirements for all new homes. The Standard is a significant improvement on current building regulations as it ensures better environmental credentials for new homes by focussing on 6 categories which cover the core functions of a home and how it interacts with the wider environment for the benefit of the end user; Energy, water, carbon, comfort, space and place.

6.0 Alternative Options Considered

6.1 The only alternative option available to the Council is to not agree to the revised lease arrangements with TSL. This is not a recommended approach as TSL are likely to withdraw from the scheme and put at risk the development of much needed affordable homes in the City.

7.0 Reasons for Recommendations

7.1 The proposal removes a significant risk in the comprehensive redevelopment of the St Oswalds site.

7.2 Officers believe the proposal is a practical and expedient way forward and recommend that approval is given in accordance with the recommendations at 2.1 above.

8.0 Future Work and Conclusions

8.1 Should Cabinet support the recommendations contained within this Report, the next steps would be as follows:

- (i) RHA to undertake further due diligence during the period of the 3 month Exclusivity Agreement including site investigation works and engineers' reports
- (ii) In parallel with (i) above, City Council to conclude negotiations with Tesco for agreement to dispose of land edged **RED** in Appendix 1
- (iii) RHA Board to consider full and final offer to Tesco for the acquisition of the long lease interest in land edged **RED** in Appendix 1.
- (iv) Should Tesco accept the offer, a number of parallel actions will follow including:
 - RHA to conclude the acquisition of the long lease in land edged **RED**
 - City Council to conclude the disposal of the freehold in land edged **YELLOW, PURPLE** and **RED** to RHA
- (v) RHA and City Council continue discussions on the masterplan for the comprehensive redevelopment followed by a subsequent planning application
- (vi) RHA will procure a developer / contractor partner through the Homes England DPP3 framework with modern methods of construction to the fore

8.2 All legal agreements will be subject to planning permission and will all complete at the same time.

9.0 Financial Implications

9.1 Refer to Exempt Appendix 2.

10.0 Legal Implications

- 10.1 The City Council has a statutory duty to obtain best consideration when disposing of a freehold or long leasehold interest in property. Taken in isolation, it is unlikely that the disposal of land edged **GREEN** to TSL represents best consideration. However, the totality of all disposals outlined in 8.1 above will need to be at best consideration. In the event that the receipt(s) accruing to the Council falls below this figure, the City Council would have to have regard to the Consents issued under section 25 of the Local Government Act 1988, which may restrict the future use of the land being disposed of to RHA.
- 10.2 Whilst a freehold disposal is more clean-cut than the grant of a long lease, additional documents may be required (e.g. option agreements) to ensure that the City Council's future objectives are met.
- 10.3 The grant of a long lease may give the City Council greater control over the future of the site, but lenders may prefer taking a charge over a freehold interest.
- 10.4 If payment of the purchase moneys is to be delayed beyond the date of the transfer of the land to RHA, the sum outstanding could be secured by a legal charge over the land. However, the City Council in doing so would need to comply with the Subsidy Control regime (the replacement to state aid following the withdrawal of the UK from the EU). Detailed advice can be given if this option is to be considered. In addition, there may be risks to the City Council if the development of the site was commenced but not completed.
- 10.5 RHA's own lenders may require their charge to have priority over any charge taken by the City Council over the land. In the event of default, this could mean that the City Council may not receive the sum due to it.
- 10.6 Whether the disposal is by way of freehold or leasehold, an attempt to give the City Council detailed control of the development may have procurement implications. Detailed advice on those implications have been provided to officers as development agreements are often deemed to be public works contracts or public works concessions contract requiring adherence to the relevant procurement legislation (Public Contract Regulations 2015 or the Concessions Contracts Regulations 2016). If this option were to be considered, further legal advice would be required as to how to the development can be delivered without the requirement to conduct a procurement exercise, the associated risks and risk mitigations measures.
- 10.7 When considering the appropriate legal mechanism to achieve the outcomes desired by the City Council, regard will be had to minimising any liabilities it may occur, e.g. Stamp Duty Land Tax. Specialist advice in this regard has been sought.

11.0 Risk & Opportunity Management Implications

- 11.1 Refer to Exempt Appendix 3.

12.0 People Impact Assessment (PIA) and Safeguarding:

- 12.1 The completed development will provide up to 200 new affordable homes for the City thereby increasing the supply and quality of suitable accommodation to meet Gloucester's housing needs.

12.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impacts as a result of this recommendation. Therefore, a full PIA was not required.

13.0 Community Safety Implications

13.1 The scheme will be delivered in accordance with one of the 13 key principles of the City Plan, namely “*Deliver development that achieves high quality design and layouts that integrates new and existing communities, reduces crime and the fear of crime, builds positively on local distinctiveness and contributes to the creation of an active, connected and sustainable city.*”

14.0 Staffing and Trade Union Implications

14.1 There are no staffing and trade union implications.

Background Documents: None