

MIDDLESBROUGH COUNCIL

EXECUTIVE REPORT

Barker and Stonehouse land at Cannon Street, Cannon Park

Executive Member for Resources- Nicky Walker and Executive Member for Regeneration and Economic Development - Charles Rooney

Kevin Parkes – Director of Regeneration

12th July 2010

PURPOSE OF THE REPORT

1. The purpose of this report is to consider the request for the extension of a Development Agreement for land at Cannon Street, Cannon Park.

SUMMARY OF RECOMMENDATIONS

2. It is recommended that, subject to the payment of the Council’s costs, the Development Agreement with Barker and Stonehouse for land at Cannon Street be extended for a further three years until 31st August 2013, subject to the development being started within this 3-year extension period.

IF THIS IS A KEY DECISION WHICH KEY DECISION TEST APPLIES?

3. It is over the financial threshold (£75,000)
 It has a significant impact on 2 or more wards
 Non Key

DECISION IMPLEMENTATION DEADLINE

4. For the purposes of the scrutiny call in procedure this report is

Non-urgent
 Urgent report

If urgent please give full reasons

BACKGROUND AND EXTERNAL CONSULTATION

5. Plan one shows the site boundary for an area of land of approximately 0.85 hectares for which Barker and Stonehouse entered into a Development Agreement with the Council in March 1998. The company paid the Council the sum of £140,000, this being the value of the site at the time. There is provision within the Agreement that should the Council need to repossess the site for any reason the amount of £125,000 will be repaid to Barker and Stonehouse.
6. The original Development Agreement was for a period of one year during which time a non-food retail warehouse and car park were to be constructed. In 1999, Barker and Stonehouse sought an extension to the Agreement to allow for ongoing discussions with the Council concerning the plans for a major extension of their existing operations at Cannon Park.
7. Members approved a 21-month extension to this Agreement, which expired on 31st August 2001. Discussions were on going in 2001 in relation to proposals for a retail development at Cannon Park, focused on a Tesco superstore on the former fruit and vegetable market. In light of this, a further two-year extension was approved by Members until 31st August 2003.
8. On 26th September 2003, the Mayor agreed an additional extension period until 31st August 2005, on the basis of the construction of a new high quality Barker and Stonehouse store as part of a wider development scheme at Cannon Park, which included a Tesco superstore. This extension was approved, on the basis that it should be the final extension to the Development Agreement. However, the Tesco planning application was refused in August 2004 by the Secretary of State, following a public inquiry.
9. Since the decision to refuse planning permission by the Secretary of State, a re-evaluation of potential development at Cannon Park was undertaken by all parties involved, led by the Council's Regeneration Department. The Middlesbrough Retail Study (MRS) was produced to inform the Local Development Framework (LDF) preparation and identify future retail needs as well as to help develop a strategy for accommodating any requirements within the town. The study identified both a quantitative and a qualitative need for additional retail development in the town. A further finding of the MRS was that the current town centre boundary is too constrained and should be expanded to allow for the identified growth.
10. On 2nd August 2005, the Executive Member for Resources approved a further extension to the Development Agreement until 31st August 2008, on the basis of the preparation of a comprehensive masterplan for Cannon Park and the development of a new high quality designed store appropriate for a gateway location into Middlesbrough. Again, this was considered to be the final extension of the Development Agreement. The Council subsequently led the preparation of the masterplan.
11. In March 2006, the Executive Member for Regeneration gave approval, to commission the consultant, Gillespies, to prepare an indicative masterplan and planning framework for the Cannon Park area. This was subsequently adopted by the Council as Interim Planning Guidance (IPG) in August 2008. The delays in preparing the masterplan were due to procedural and technical aspects and outside

the control of Barker and Stonehouse. This included the need to progress the LDF Core Strategy and Regeneration DPD, and to resolve a joint position with Stockton Council on agreeing an assessment of future retail within the two boroughs.

12. In February 2008, the Executive Member for Resources granted a further extension until 31st August 2010, on the basis that the delays in developing the site were outside the control of Barker and Stonehouse, who have always acted in good faith and on the advice of the Council. Namely these delays were predominantly due to the adopting the requisite Local Development Framework, Regeneration Development Plan Document (DPD) and appropriate planning guidance in the form of an adopted masterplan.
13. Since the last extension, a robust planning policy framework has been put into place through the LDF. The Core Strategy, which identified Cannon Park as the most suitable area for town centre expansion was adopted in February 2008. The Regeneration DPD was adopted in February 2009 identifies the triangle of land purchased by B+S under the terms of the Development Agreement as being suitable for bulky goods retailing.
14. A fundamental premise of the IPG is that the redevelopment at Cannon Park should be undertaken in a manner that creates a new, high quality retail quarter as an extension of the town centre. The IPG recognises that redevelopment of Cannon Park provides a rare opportunity for large-scale investment and creation of a new retail destination in a major town centre. It also identifies that the quality of the scheme needs to be commensurate with the gateway location and complementary to the range of existing investments occurring elsewhere in and around the town centre. It seeks redevelopment that is comprehensive, rather than piecemeal, so as to achieve the desired transformational change.
15. Alongside the production of the masterplan, ongoing discussions have continued to take place with a number of potential development companies, including Barker and Stonehouse. Council officers have been party to these discussions with a view to ensuring that any development should be set in the context of a masterplan for the Cannon Park area overall. Barker and Stonehouse has been advised of the Council's aspirations to have a comprehensive form of development. The company has acknowledged that this will be in the best interests of the town overall and therefore has deferred the submission of its scheme (and its implementation) on this basis. However, the delays in adopting the requisite Local Development Framework, Regeneration Development Plan Document and masterplan have been outside its control.
16. Additionally, Barker and Stonehouse has been working collaboratively with other development partners to secure the major redevelopment scheme in the area. The land under the control of Barker and Stonehouse can be seen on plan one. All of Barker and Stonehouse's other sites have been secured under long-term leaseholds, with the Council retaining the freehold. Securing control over land assets not held by the prospective development partners will be essential to unlocking the site's development potential.
17. Despite previous indications that no further extensions would be granted to the Development Agreement, the delays have been outside Barker and Stonehouse's control. Critically, at the time of the production and adoption of the IPG, the retail market was buoyant, however, since this point there has been an unprecedented

global economic crisis. This has meant that a rethink has been required on how to ensure the scheme remains economically viable at a time of low market demand, whilst delivering on the Council's wider regeneration objectives. The Council has subsequently appointed Commercial Advisors to ensure that this is achieved. New proposals are emerging to ensure that the IPG can be brought forward and implemented. The Council has been working collaboratively with other major landowners, including Barker and Stonehouse to progress the development.

18. Barker and Stonehouse has asked for an extension to the Development Agreement well in advance of its expiry, based on recent discussions with officers on the likely timescales to deliver a more comprehensive form of redevelopment. Furthermore, not to allow a further extension of the Agreement would be a sign of bad faith to a firm that has been encouraged to develop its business interests in the Borough. Barker and Stonehouse is a local firm and a major employer in the town. Indeed, the company recently implemented a significant extension to its warehouse facilities at Riverside Park. A negative response would be likely to frustrate their development aspirations and send out very negative messages about the Council's responsiveness to local business needs.
19. It is considered appropriate to consider granting Barker and Stonehouse a three-year extension to the development agreement to 31st August 2013. This extension would be on the basis of the implementation of the indicative masterplan for Cannon Park and the development of a new high quality store appropriate for a gateway location into Middlesbrough. It is estimated that three years should be adequate to allow sufficient time to undertake the necessary land acquisitions and other technical work.
20. Although there has been a history of extensions to this agreement, these have been mainly for reasons outside Barker and Stonehouse's direct control. The company has acted in good faith, with the encouragement of officers of the Council and the former Town Centre Company, to bring forward more comprehensive development proposals. However, this has proved to be a more complex and time-consuming process, which has been further frustrated by the economic climate. However, architects have been appointed, with concept schemes being discussed in conjunction with Council officers.

OPTION APPRAISAL/RISK ASSESSMENT

21. An alternative option to that outlined above is for the Council to repossess the land on the 1 September, on the basis of a lack of progress on the Development Agreement. However, as identified in paragraph 12, above, this could adversely impact on the potential of bringing forward a wider redevelopment scheme in the area involving a significant major local employer.
22. Without this, there is a chance that the current levels of semi dereliction in Cannon Park could increase with potentially uncoordinated, low value development, with less consideration of quality of place and wider regeneration benefits. By leaving the redevelopment of Cannon Park to market forces and not to implement the planning framework, there is a danger that the environmental quality of the site could deteriorate further.

23. Not extending the Development Agreement with Barker and Stonehouse could potentially harm the implementation of comprehensive proposals for Cannon Park and the regeneration of a key gateway site into Middlesbrough.

FINANCIAL, LEGAL AND WARD IMPLICATIONS

24. The financial implication of not extending the Development Agreement, would mean the Council would repossess the site and would be required to pay Barker and Stonehouse £125,000 under the terms of the Agreement. It has been legitimately argued in the past that the site would now be worth significantly more if placed on the open market. However, this was in times of economic prosperity and this may no longer be the case. Furthermore, repossession would not reflect the fact that the delays were either outside the control of Barker and Stonehouse, or resulted from decisions made by the company in good faith and with the knowledge of Council officers.
25. The Director of Legal and Democratic Services has been consulted and not identified any undue legal implications in terms of granting an extension.
26. There will be significant regeneration benefits to the Middlehaven ward in terms of the overall development of Cannon Park.

RECOMMENDATIONS

27. It is recommended that, subject to the payment of the Council's costs, the Development Agreement with Barker and Stonehouse for land at Cannon Street be extended for a further three years until 31st August 2013, subject to the development being started within this 3-year extension period.

REASONS

28. The above recommendation is supported by the following reasons:
- a. the extension of this Agreement will allow for the implementation of a comprehensive masterplan for Cannon Park; and,
 - b. there will be significant regeneration benefits associated with the development of a new high quality Barker and Stonehouse store at Cannon Park.

BACKGROUND PAPERS

29. The following background papers were used in the preparation of this report:

Executive Report Barker and Stonehouse, land at Cannon Street, Newport Road - 26th September 2003

Executive Report Barker and Stonehouse, land at Cannon Street, Newport Road – 2nd August 2005

CMT Report Cannon Park Masterplan, 6th December 2007

Executive Report Barker and Stonehouse, land at Cannon Street, Newport Road – 8th February 2008

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