

EXECUTIVE SUB COMMITTEE FOR PROPERTY**RECORD OF DECISION**

A meeting of the Executive Sub-Committee for Property was held on 12 July 2010 at 2.30pm.

PRESENT:

Councillor NJ Walker (Chair) Councillors B Hubbard, M Carr, B Coppinger, C Hobson, J Hobson, J McPartland, C Rooney, and P Thompson

****OFFICIALS:**

Chris Hawking, Susie Joscelyne, Graham Tyerman and Tim Wake

****APOLOGIES FOR ABSENCE:**

None

****DECLARATION OF INTEREST**

There were no declarations of interest made at this point of the meeting.

****MINUTES**

The minutes of the meeting held on 18 February 2010 were submitted and approved as a correct record.

Councillor M Carr clarified that he was not in attendance at the meeting and it was noted that there was a typing error within the minutes referring to the proposed purchase of 1 Princes Road, Middlesbrough.

BARKER AND STONEHOUSE LAND AT CANNON STREET, CANNON PARK

The Director of Regeneration submitted a report to consider the request for the extension of a Development Agreement for land at Cannon Street, Cannon Park.

The report outlined that Plan one showed 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 was 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.

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. 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.

The report outlined that extensions granted since 2003 including the last extension In February 2008, granted by the Executive Member for Resources for 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.

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.

A fundamental premise of the IPG was 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 recognised that redevelopment of Cannon Park provided a rare opportunity for large-scale investment and creation of a new retail destination in a major town centre. It also identified 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. 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 have 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 have 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.

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. 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.

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.

ORDERED

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.

REASON

The decision was supported by the following reasons:

1. The extension of this Agreement will allow for the implementation of a comprehensive masterplan for Cannon Park; and,
2. There will be significant regeneration benefits associated with the development of a new high quality Barker and Stonehouse store at Cannon Park.

SITE 44 (LONGRIDGE), TURNBERRY WAY, COULBY NEWHAM, MIDDLESBROUGH

The Director of Regeneration and Resources submitted a report on the offers received following the marketing for sale by tender of the residential development site known as Site 44 (Longridge) at Coulby Newham. This Council owned site (as shown on plan P2A09 see appendix A) extends to approximately 3.1 hectares and is the last significant allocated housing site in Coulby Newham.

The report stated that Site 44 was allocated as a housing site in the statutorily adopted Local Development Framework. It had previously been allocated for housing in preceding plans for the area. A development brief for the site was approved in December 2005. It was offered for sale on the open market by tender for residential development in November 2006. A preferred bidder was identified as a result of the tendering procedure.

In January 2007, an application was made by local residents to designate the site as a village green and the sale of the site was therefore delayed. A public inquiry into the village green application was held in December 2007. The Inspector's report, received in March 2008, recommended that the Council's Licensing Committee reject the application.

During the time taken to determine the village green application, residential land values had fallen substantially due to the economic recession. The preferred developer stated that they were therefore unable to maintain the level of their original bid. To allow for the uncertainty in the residential housing market, their revised offer envisaged two alternative methods by which the Council would receive a payment every time a house was sold by the developers. One of these options had a longstop date of five years, whilst the other was open-ended.

Following the ruling in the case of "Auroux v Roanne" (a judgement of the European Court of Justice), the Council's Head of Legal Services advised that it was necessary to follow the European Procurement rules in carrying out the tender procedure. It was considered that this procedure was appropriate for dealing with complex offers such as the ones likely to be received for Site 44, would reduce the risk to the Council, and would not impose a significant additional amount of work compared to the normal tendering procedure. In the light of this and the revised offer it was considered necessary to reject both revised offers from the preferred developer and remarket the site.

The report gave details regarding the procurement methodology, outlining that a further tender procedure had now been undertaken, utilising European Procurement rules. The first stage in the procurement procedure was the pre qualification questionnaire (PQQ). The site was advertised for sale in August 2009, and expressions of interest invited from suitably qualified and experienced firms. The PQQ return date was 30th September 2009. Seven expressions of interest were received as a result of the PQQ. Of these, six of the companies were considered suitable to go forward to the tender stage. Tender documentation was sent to the six selected parties on 25th March 2010, with the closing date for receipt of tenders being Friday, 7th May 2010. As a result, five bids were received, with the sixth party stating that they would not be pursuing the matter further. Of these five bids, one had to be rejected because they had not complied with the requirements of the bid procedure.

The report also gave information relating to the assessment of bids and schemes, further details of which were detailed in the report.

The report outlined that there were two options available:

Option 1 – dispose of the site based on the highest scores whilst also ensuring best consideration in sale, commensurate with delivering the Council's two objectives from the sale: an active house building programme and generating a capital receipt.

Option 2 – do not sell but this decision would have to be justified in the context of non delivery of the councils regeneration aims in relation to Housing and should only be considered if the bid does not give best consideration in terms of value and planning quality.

It is considered that the mandatory offer made by Bidder D meets the Council's requirements from the sale of the site. Option 1 should be followed in respect of the mandatory bid from Bidder D.

Given that the money is received on completion of the sale, it is considered that there is a very low risk connected with accepting the mandatory offer of Bidder D with a view to completing the sale.

ORDERED

- 1. Site 44 be sold to Bidder D, on the terms that they have offered as part of their mandatory (upfront payment) option;**
- 2. If awarded, the scheme be tracked to see if there is any subsequent overage receipts.**

REASON

The decisions were supported by the following reason:

In order to secure a capital receipt from the sale of the surplus land which will be reinvested back into the Council's capital programme.

**** EXCLUSION OF PRESS AND PUBLIC****

That the press and public be excluded from the meeting during consideration of item 7 of business on the grounds that, if, present, there would be a disclosure to it of exempt information falling within paragraphs 3 of Schedule 12a of the Local Government Act 1972

SITE 44 (LONGRIDGE), TURNBERRY WAY, COULBY NEWHAM, MIDDLESBROUGH

The Director of Regeneration and Resources submitted a report regarding the bids in respect of Site 44.

ORDERED

- 1. That the report be noted.**

The decision will come into force after five working days following the day the decision was taken unless the decision becomes subject to the call-in procedure.