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| DECISION MAKER: | Cabinet Member for Contracts and Assets |
| DECISION DATE: | Thursday 7 January 2016 |
| SCRUTINY COMMITTEE FINAL CALL-IN DATE: | Monday 12 January 2016 |
| DATE DECISION MAY BE IMPLEMENTED: | Tuesday 13 January 2016 |
| TITLE OF REPORT: | Disposals policy for council owned land on the Hereford enterprise zone (EZ) |
| REPORT BY: | Property Development Manager |

Classification

Open

Key Decision

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards Affected

Dinedor Hill

Purpose

To seek cabinet member approval of the policy for the disposal of council owned land on the Hereford Enterprise Zone.

Recommendation(s)

THAT: (all recommendations to be in bold)

- (a)** the policy attached at appendix A of this report is approved; and.
- (b)** authority is delegated to the director of resources to confirm individual disposals (to a maximum value of £1m per disposal) in accordance with that policy.

Alternative Options

- 1 Not to have a disposals policy for council land on the Hereford EZ.

This would require each disposal to be considered on its own merits and would lengthen considerably the negotiation and decision making process of each sale. This would put the EZ at a considerable disadvantage when trying to secure new occupiers and investment. Furthermore it may result in an inconsistent decision making process and a lack of transparency to businesses and the public as to why businesses are/are not able to purchase land and benefit from the incentives available when located on the EZ

- 2 Sell long leasehold interest instead of freehold.

Advantages

Some additional control and influence over the land's use going forward.

Greater control and ability to impose estate management of the common parts of the estate and recovery of costs from occupiers/owners.

Disadvantages

Sales would be slower and at lower value as demand from potential purchasers is strongest for freehold property. The EZ has handled 5 sales to date with 9 more in the offing. All purchasers have required freehold as a pre-condition of sale – in most cases as a requirement to access the financial backing to proceed. In the 4 years of the Zone lifetime there has been a very strong preference for freehold sales and it is questionable if any of the transactions would have proceeded if the land were only offered on a long leasehold basis.

- 3 Sell Freehold interests

Advantages

Maximises capital receipt for each sale and accelerates overall receipts income as a result of increased demand.

Disadvantages

Control of land use is governed by planning rather than through lease terms.

Ability to impose a comprehensive estate management plan and recover the costs from freeholders is not as effective and may require court action to recover costs.

- 4 Sell land as is, without investment in services

Advantages

No prior capital investment required from the Council.

Disadvantages

Sales are very likely to cease or be extensively delayed.

Utilities investment is best carried forward on a strategic basis in terms of capacity/demand, analysis and provision. Planning this takes time, effort and resources and is more difficult on a piecemeal basis.

Installation costs can be inhibitory for individual plot purchasers as opposed to landowners; in any event or they would expect costs to be netted off land sale value.

5 Retain land

Advantages

Market value may increase.

No capital expenditure required.

Disadvantages

Would be directly contrary to the ethos of the Enterprise Zone, which was applied for and secured on the basis of accelerating the delivery of business development (and by implication land sales) at Rotherwas.

Anticipated sales and capital receipt would be lost.

Reasons for Recommendations

- 6 This proposal clarifies the policy for the disposal of the councils development land on the Hereford EZ.
- 7 The EZ board will continue to consider and recommend sales to the council having regard to the EZ objectives in terms of business sectors it is targeting, investment and job creation that will be generated as a result of the land sale. The EZ board also makes recommendations in respect of other third party land on the EZ (Goodwin land) but for clarification the council has no financial interest or control over the sale of third party land.
- 8 The approach provides certainty and clarity to investors that there is an approved disposal policy and following EZ Board endorsement purchasers can proceed with some confidence in progress their purchase and mobilising construction and occupation.
- 9 Each disposal will require a report approving the disposal terms in accordance with the councils financial procedure rules
- 10 Speed of land sale and occupation is essential for the success of the EZ as this boosts the rates relief pot for the Local Enterprise Partnership (and hence the Council).

Key Considerations

- 11 Following the award of Enterprise Zone status in August 2011 approximately 50 hectares (120 acres) of Council owned land was included, along with other privately owned land, in the designated EZ. The EZ status has resulted in the council and occupiers within the EZ benefiting from a number of government incentives such as business rates relief and retention, improved access to broadband, simplified planning as well as significantly increased awareness and profile of the location and opportunity. These factors have resulted in an increase in interest from local, national and international businesses in active and advanced negotiations with the council to acquire land within the EZ.
- 12 All the council's land interests on the EZ are being actively marketed, nationally and internationally through government routes and the EZ's own range of promotional activity.

- 13 The land has been subject to valuation by the district valuer and land sales have and will continue to be agreed at values as advised by the district valuer to be market value, with the exception to projects that are considered by the EZ board and /or the council to deliver exceptional benefits in which case sales at up to a 7.5% discount to the district valuers values will be recommended for approval
- 14 The EZ board has established a full placement strategy to ensure suitable investments are screened and encouraged.
- 15 The EZ is investing in further infrastructure to ensure all sites are fully serviced. Direct experience has shown that without such investment no sales proceed. This cost is budgeted for in the EZ's financial allocation.
- 16 The decision as to dispose of either freehold or long leasehold will be largely dictated by the demand and requirements of purchasers. The council has disposed of land and buildings at Rotherwas on both basis. The ability to control and implement good estate management will be a consideration and where it is considered that additional levels of control are required then long leasehold disposals will be an option although the purchasers requirements will be the primary consideration.
- 17 The estate management of the EZ is managed by the EZ management team, supported by the councils property services and corporate asset management teams and were required external consultants. No decision is required at this stage to change the current arrangements. Funding of the estate management is from the already approved EZ capital and revenue budget. The need and ability to recover estate management costs from occupiers on the EZ will be a consideration of the disposal terms unless these costs are being funded through other routes.

Community Impact

- 18 There is no adverse impact on the community in approving the policy for disposal of this land on the terms outlined. The purchasers will be obtaining planning permission for the proposed buildings they intend to erect on the sites. They are likely to be approved under the Local Development Order which has been subject to public consultation.
- 19 Failure to proceed with disposals in accordance with this will mean the loss of new job opportunities and may put at risk the existing jobs should the company relocate outside of the City/County.

Equality and Human Rights

- 20 Section 149 of the Equality Act 2010 imposed a duty on the Local authority to have due regard to the need to;
 - a. Eliminate discrimination,
 - b. Advance equality of opportunity
 - c. Foster good relations
- 21 The development of the EZ will support the council's commitment to equality by advancing equality of opportunity, with the potential of increased job opportunities.

Financial Implications

- 22 The capital receipts generated from the sale of council land on the EZ will replenish council resources used for capital investment incurred at the site, and therefore these form part of the council's capital receipts targets in the Medium Term Financial Strategy. The council receives no capital receipt from the sale of land owned by third parties.
- 23 There will be legal costs and other administration costs in relation to the preparation and completion of the sale and these will be netted from the specific capital receipt received, up to a maximum 4% of the capital receipt value.

Legal Implications

- 24 A principal council cannot dispose of its land for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State (section 123(1), Local Government Act 1972 (LGA 1972)) unless certain criteria are satisfied in accordance with the General Consent Order 2003.
- 25 The council needs to be able to evidence that the best price has been obtained for the site and it will only be able to demonstrate that it achieved the best consideration possible by:
- marketing the property or
 - obtaining an appropriate independent valuation; or both
- 26 The council's legal team will deal with the preparation and completion of the sale documentation either freehold disposal documentation or lease with instruction from EZ and property services officers.

Risk Management

- 27 There are no significant risks associated with making sales on this basis. However, given the principal purpose of EZ status is to accelerate the development out of industrial land, not approving this policy will have a negative impact on both the EZ and the Council in progressing business investment..

Consultees

- 28 EZ Stakeholder Group brought together by the EZ management on which the Ward Member sit.

Appendices

Appendix A – disposals policy

Appendix B – Plan of council land interests on the Hereford Enterprise Zone

Background Papers

- None identified.