

<b>Decision maker:</b>	<b>Director for economy, communities and corporate</b>
<b>Decision date:</b>	<b>1 September 2016</b>
<b>Title of report:</b>	<b>Disposal of land, plots N18, 21 and 22 off Vincent Carey Road, Hereford Enterprise Zone</b>
<b>Report by:</b>	<b>Development manager</b>

## **Classification**

Open

## **Key decision**

This is not a key decision.

## **Wards affected**

Dinedor Hill

## **Purpose**

To seek approval for the disposal of development land at Plot N18, 21 & 22 off Vincent Carey Road on the Hereford Enterprise Zone in accordance with the District Valuer valuations and Hereford Enterprise Zone (EZ) land disposal policy.

## **Recommendation(s)**

**THAT:**

- a) **plots N18, 21 and 22 being approximately 4 acres at Vincent Carey Road be sold to Priority Space Ltd for a minimum price of £800,000 conditional on Priority Space (Hereford) Ltd or its nominee satisfying due diligence prior to completion of works and full payment being made within 3 years of completion of the legal agreement; and**
- b) **pending satisfaction of the conditions specified in recommendation a) above Priority Space (Hereford) Ltd be granted a 125 year lease to include early termination provisions should the lease terms be breached. The freehold transfer of the land to Priority Space (Hereford) Ltd will take place on the practical completion of certain agreed works to be carried out by Priority Space (Hereford) Ltd during the lease (longstop dates are 21 months after entering the lease for phase 1, 33 months after entering the lease for phase 2).**

## Alternative options

- 1 Not proceeding with the sale on the terms outlined above, and waiting for another offer to emerge for the plots in question.

### Advantages

None

### Disadvantages

Would not comply with the approved disposals policy and would adversely impact the council's ability to achieve the outcomes expected of the Enterprise Zone (the zone).

- 2 Council/EZ develops out a similar project directly

### Advantages

The zone team has procured and project managed two construction projects on the EZ successfully to date.

### Disadvantages

This option would necessitate the borrowing of an additional £6m on top of the £16m current capital allocation for the zone. This would incur cost of capital over whichever period it is borrowed, which would also need to be factored in and then balanced off as sales occur.

The EZ has another significant direct development project in preparation – the Incubation centre based at the Shell Store. Subject to successful funding bids, the EZ/council will be looking to take this development forward directly, and the implementation of this will overlap with the suggested development here, thereby imposing a considerable resource input on the EZ team.

The EZ/council process necessitates going out to procurement for project development, design and construction. This should be slower than the preferred option, where the purchaser already has the contractor and professional services on board so should be ready to start on site more quickly.

- 3 Include the site within the council's development partnership project

### Advantages

Could work well as a route to facilitate development on the zone.

### Disadvantages

However, this option would cause a significant delay in the provision of new workspace on the zone currently, as the procurement process still has a way to go. A partner is being selected currently, being tested on a couple of example projects with arrangements, possibly being in place by the summer of 2017. Business cases for new potential investments will then need to be developed and submitted for consideration by that mechanism. So this would impose a delay of at least one year compared to the preferred option. Once that mechanism is fully established the EZ/council will consider this as another means of developing out more opportunities elsewhere on the Zone.

## Reasons for recommendations

- 4 Compliance with approved council policy.
- 5 Provision of 55,000 sq ft of speculative office and industrial space to purchase or rent by businesses on the zone, adding to the portfolio of the zone.
- 6 There are a growing number of small local companies who have approached the zone, been recognised as suitable investors but have not progressed their interest. A number have been deterred by the prospect of taking forward a construction project themselves, and in particular find the costs of the project relative to the value of the resulting asset non-viable.
- 7 Utilising this approach from a specialist developer, with their existing procured set of professional services, including a contractor, should mean the implementation of the development will be quicker and cheaper than either individual businesses trying to do this themselves or the council doing it itself.
- 8 Connecting existing known client interests to the developer in a preparatory phase should ensure that these interests get reflected in the planned design, with the prospect of triggering building construction and occupancy within a short time period generating benefit to the zone.
- 9 The financial exposure and principal risk is taken by the developer, rather than the council in this model.

## Key considerations

- 10 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 zone. Zone status has resulted in the council, and occupiers within the zone, 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 zone.
- 11 All the council's land interests on the zone are being actively marketed, and is being sold in accordance with the Hereford Enterprise Zone land disposal policy approved by the cabinet member contracts and assets on 7 January 2016, and having regard to valuations provided by the district valuer.
- 12 The zone has supported development to date through two main mechanisms. The first is by selling fully serviced land to businesses to build their own new factories/offices; the second by directly developing space to rent. Skylon Court and Skylon Place have been constructed in that way. Given the size and scope of the zone, both of these options remain available, and indeed a number of direct sales are in the pipeline and further direct investment is envisaged through the construction of an Innovation Centre in the next two years. This current proposal provides a third way – a private developer building speculative space on site to provide more business space i.e. although there is market interest, no known end occupiers are signed up. This proposal will allow us to test out this approach to see if it delivers businesses on site more quickly and simply than the current alternatives. If so consideration may be given to releasing more land to such arrangements.

- 13 The investor proposes to purchase an area of land (see appendix A attached) covering 4 acres and centrally located within the zone. This area has been identified for general employment use as opposed to the sector specific uses which are accommodated elsewhere within the zone.
- 14 In recognition of the speculative nature of the development and hence the risk that they are taking, the investor has asked that payment for the land is deferred and made from the proceeds of sales when the building is complete.
- 15 This sale represents the twelfth land sale to complete on the Enterprise Zone and the ninth of land owned by the council.

## **Community impact**

- 16 There is no adverse impact on the community in approving the disposal of this land on the terms outlined. The purchaser will be obtaining planning permission for the proposed buildings they intend to erect on the site. They are likely to be approved under the Local Development Order which has been subject to public consultation.
- 17 Failure to proceed with this sale in good order will mean the loss of new job opportunities and may put at risk the existing jobs should the companies seeking to locate on the zone relocate outside of the city/county.

## **Equality duty**

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

## **Financial implications**

- 20 The total chargeable plot area to be sold is 4 acres. The sale price is £800,000, a price equivalent to £200,000 per developable acre.
- 21 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 annual capital receipts target in the medium term financial strategy.
- 22 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 of 4% of the capital receipt value.
- 23 The receipt for the land will be deferred until the development occurs and sales of buildings are achieved (likely to be 18-24 months) but in any event payment in full for the land will be made on transfer of the freehold interest not later than 3 years from completion of the legal agreement. At this point the council gets full land value plus accrued interest. There are however prospects of receiving back more than simply

the value of the land – if the sales values of the completed buildings are greater than the agreed costs of the project implementation, the council will receive an appropriate proportion of the extra value, in addition to the land value itself.

## 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
  - The council is fulfilling both of the above requirements. The value assigned to the sale is £200,000 per acre which meets the district valuer's valuation.

The EZ plots are being actively and comprehensively marketed and are subject to District Valuer valuations so the council can demonstrate that best consideration is being achieved for both freehold and leasehold disposals.

- 26 The council's legal team will deal with all legal matters relating to the transaction.
- 27 Given the nature of the agreement it is proposed that the council will grant a 125 year building lease, with freehold transfer on practical completion. A charge will be maintained on the property, to be released on individual units as they are sold in order to enable those sales to proceed.
- 28 The building works will be carried forward on an agreed development scheme, with an agreed estates policy and marketing strategy to manage the development and disposals. Long stop dates are in place to commence and complete the works to protect the council's desire to see development activity on the land.
- 29 The council gets as a minimum its land value back first from the sales proceeds (net of direct sale costs, such as legal and agency fees) , including appropriate interest accruing on the current value to take account of the delay in payment. After that, Priority Space would recoup its costs in relation to the project. If there are remaining proceeds after this, the balance will be split according to a particular formula.
- 30 If any unit has not been sold more than 3 years after entering into the sale agreement, Priority Space would be obliged to pay the Council the current land value plus agreed interest.
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- 32 Consideration will be given to the reservation of rights in the transfer documentation for running of services etc. for the benefit of remaining lots. The transferee should also indemnify the council against future breach of any existing covenants affecting the plot, as contained in the relevant registered title with the imposition of site specific further obligations and covenants as appropriate.

## **Risk management**

- 33 The developer will be subject to due diligence to ensure they have the resources to carry forward the deal. There is a risk associated with the land being allocated to the developer but no development occurs. This will be mitigated in the terms of the agreement by setting milestones for a start date and completion date for each phase. Failure to start construction by the said deadlines will mean the building lease terminates and the land reverts to the council.
- 34 The financial exposure to the council is zero in this option as the EZ/council will receive first receipts up to the full sale value (plus calculated accrued interest at 0.5% above base rate) from the building sales made and there is a backstop date for that full payment in any event. There are timescales built in to the lease to ensure development occurs. If the developer defaults without building the buildings, the land will be returned to the EZ/Council to resell. If the developer defaults leaving us with part built buildings (extremely unlikely given the nature of the investment route being chosen – the investor will want their return from this project), there will be no obligations on the Council at that point. However there will be 3 choices:
- i) sell as is
  - ii) fund completion of building and resell
  - iii) clear site and resell the land
- 35 The EZ/Council will best make the judgment at the time the issue occurs, and this will be influenced by the state of readiness of the building and hence the cost and value implications of each, as well as the state of the market.

## **Consultees**

- 36 The Enterprise Zone executive board has been consulted and is supportive of the approach, as is the ward councillor through the stakeholder group.

## **Appendices**

Appendix A - plan of the area.

## **Background papers**

None identified.