
REPORT OF STRATEGIC DIRECTOR PLACE

TO THE CITY MAYOR'S PROPERTY AND REGENERATION BRIEFING

ON

14TH OCTOBER 2019 FOR DECISION

TITLE: LAND AT HILL TOP ROAD, WALKDEN/WALKDEN CRICKET CLUB

RECOMMENDATIONS:

It is recommended that the City Mayor:

1. Approves the revised appraisal (submitted in accordance with the terms of the Agreement for Lease)
 2. Confirms the revised premium for the disposal of the residential development site in accordance with the terms of the Agreement for lease but making an allowance for a reduction on the premium due to the Council under the terms of the Agreement for Lease on the basis of an increased (20%) affordable housing provision
 3. Approves the disposal of the freehold interest in the residential development site and approves the alternative mechanisms proposed for that freehold disposal
 4. Approves the amendment to the residential development site boundary to include the additional land being the site of the balancing pond.
 5. Notes the assignment of the Agreement for Lease a Special Purpose Vehicle set up for the development and the grant of the lease to the same SPV with the parent company as guarantor
 6. Authorises the Shared Legal Service to complete the legal documentation
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EXECUTIVE SUMMARY:

Terms for the disposal of land at Hill Top Road, Walkden by way of a 250 year lease was approved by the then Deputy City Mayor on 10th October 2013, associated with improvement works to the adjacent Walkden Cricket Club, which involve an investment into the cricket club facilities, proposals supported by Lancashire County Cricket Club.

There have been a number of issues to address and an Agreement for Lease was exchanged on 21st December 2018, conditional upon (amongst other conditions) approval to a revised appraisals (at different stages) and the granting of planning consent.

There have been changes in the scheme design following site investigations etc. The first revised appraisal submitted by the developer in accordance with the Agreement for Lease has been reviewed. In that appraisal the premium payment for the land remains unchanged, based on 10% affordable housing provision.

In line with other recent developments and proposed changes to the Council's affordable housing policies, the developer has provided an appraisal including 20% affordable housing. Increasing the affordable provision to 20% reduces the land value. The Agreement for Lease provides that following a revised appraisal of the development the premium shall be the revised premium or the initial premium whichever is the higher. The Council can insist on the premium being that original premium, in that case the developer can terminate the agreement for lease.

There is provision in the Agreement for Lease for a further updated appraisal to be submitted post satisfaction of all conditions (including a planning condition) this appraisal will take into account the planning position and should be based on the last appraisal being updated to reflect the actual planning requirements including affordable housing provision.

The revised scheme requires, as part of the drainage strategy, the construction of a balancing pond. It is proposed this area is included within the boundary of the residential development site.

In order to protect the Council's land value against the increased costs, it has been agreed that, should the actual costs incurred on the Cricket Club works and abnormal costs be below the amounts within the appraisal, the "saving" will be payable to the Council as additional capital receipt. The process for a transparent and open book analysis of costs incurred will be agreed with the developer. Opportunities for funding to support the cricket club improvements through the proposed Cricket Strategy for Greater Manchester will be explored.

The current agreement is to dispose of the residential development site by way of a 250 year lease, however, given the current issues around the sale of leasehold houses and the government's stance, the developer has requested that the sale be of the freehold.

Since the exchange of the Agreement for Lease the developer requested an assignment to a Special Purpose Vehicle set up for this development, with the parent company as guarantor, and this was approved through the Council's Scheme of Delegation on 27th June 2019.

BACKGROUND DOCUMENTS:

The relevant documents contain exempt or confidential information and are not available for public inspection

KEY DECISION: No

1.0 BACKGROUND:

1.1 The City Council (via the then Deputy City Mayor) approved, on 10th October 2013, the disposal of land at Hill Top Road, Walkden by way of a 250 year lease.

1.2 The development is linked to proposals to redevelop the adjacent Walkden Cricket Club, which is owned by the City Council and subject to a lease to the Trustees of Walkden Cricket Club for a term of 50 years from 24th June 2015 (the lease was reviewed on that date to give the Cricket Club an unexpired term to allow them to apply for various funding streams). It should be noted here that there are no positive enforceable obligation on the developer to develop the housing land or to undertake the works to the cricket club

1.3 Discussions have been ongoing with the developer on a number of issues, now resolved, including:

- the identification of an area of Peel ownership fronting Hill Top Road,
- an incident of illegal tipping,
- ongoing site investigations.

1.4 An Agreement for Lease was exchanged on 21st December 2018, with the lease conditional amongst other conditions upon approval of a revised appraisal and the granting of planning consent.

2.0 DETAILS:

2.1 Due to passage of time and changes in the scheme design following site investigations etc, the appraisal has been reviewed and the premium payment for the land remains unchanged.

2.2 There has been movement on various cost items and revenue projections have been updated, with the key elements being as follows:

- Cost of works to the Walkden Cricket Club have increased following more detailed design.
- Increased abnormal costs including requirement for water attenuation and balancing pond and need for piled and ring beam foundations on 35% of plots and vibro compaction on the remainder.

- Increase in sales and marketing costs to include show house set up, presentations and advertising, PR and exhibition, sales incentives etc – the initial assessment was extremely conservative.
 - Roads and sewers
- 2.3 The scheme has been revised to account for the presence of an underground electricity cable which is to remain in situ due to the cost of diversion and will deliver 79 units, 10% of which are to be affordable (tenure to be determined). However, in line with other recent developments and proposed changes to the Council's affordable housing policies, the developer has provided an appraisal including 20% affordable housing. Increasing the affordable provision to 20% reduces the land value.
- 2.4 In order to protect the Council's land value against the increased costs, it has been agreed that, should the actual costs incurred on the Cricket Club works and abnormal costs be below the amounts within the appraisal, the "saving" will be payable to the Council as additional capital receipt. The process for a transparent and open book analysis of costs incurred will be agreed with the developer.
- 2.5 The revised scheme also includes a balancing pond as part of the drainage strategy. It is proposed that the residential development site boundary be extended to include the balancing pond and that it be maintained by the management company that will be set up for the development, thereby not putting additional maintenance liabilities on the Council or the Cricket Club. Restrictions on use of this area will be included in the transaction. The revised boundary for the disposal is shown edged red on the attached plan, with the area of the balancing pond shown hatched.
- 2.6 The current agreement is to dispose of the residential development site by way of a 250 year lease, however, given the current issues around the sale of leasehold houses and following the Secretary of State's announcement at the Chartered Institute of Housing Conference in Manchester in June that all new houses will be sold on a freehold basis unless there are exceptional circumstances, the developer has requested that the sale be of the freehold.
- 2.7 It is therefore proposed to vary the Agreement so that, on practical completion of the first house on the site, if the new cricket facility has not been practically completed, the plot purchaser could draw down the freehold in that plot from the Council. The process would be repeated until the new cricket facility has been delivered, subject to the overriding principle that no more than 50% of the houses could be sold until the new cricket facility has been practically completed (this is in line with the delivery mechanism previously approved). Once the new cricket facility has been completed, the developer draws down all of freehold/the remainder of the freehold which remains in the Council's ownership at that point. Alternatively, the developer draws down the freehold to the whole of the property on completion, in lieu of the 250 years lease, but accepts that restrictions on title will prevent the sale of more than 50% of the houses until the new cricket facility has been delivered.

- 2.8 We are aware of work progressing through the Greater Manchester Combined Authority on a proposed Cricket Strategy for Greater Manchester which could give opportunities to access funding for improvements to cricket facilities across the region. This will continue to be monitored and, should funding opportunities arise to contribute to the proposed works to the cricket club, cost could potentially be clawed back as additional capital receipt.
- 2.9 The developer has confirmed that Lancashire County Cricket Club are still supporting the scheme and are looking to utilise the facility for junior teams and providing training and coaching opportunities to tap into talent from the local area and other inner city areas.
- 2.10 Since the exchange of the Agreement for Lease the developer requested an assignment of the Agreement and granting of the lease to a Special Purpose Vehicle set up for this development, with the parent company as guarantor, and this was approved through the Council's Scheme of Delegation on 27th June 2019.
- 3.0 CONCLUSION
- 3.1 The developer has been working on the scheme for over 10 years and have addressed a number of issues during that time. There have therefore been some changes to the scheme and, following detailed site investigations, they have reappraised the scheme and confirmed that, whilst costs and revenues associated with the project have changed over time, the previously agreed capital receipt can still be paid, on the assumption that the housing scheme will provide 10% affordable housing.
- 3.2 Additional clawback provisions will be included in variations to the legal agreements to the effect that, should certain costs estimated within the appraisal be reduced, the difference will be paid to the Council as additional capital receipt.
- 3.3 In line with other recent developments and proposed changes to the Council's housing policies, a revised appraisal based on 20% affordable housing provision has been provided by the developer. The consequence of this increase in affordable housing provision is a reduction in the capital receipt.
- 3.4 The scheme provides investment in the cricket club which will (i) improve the facilities for the lessee, Walkden Cricket Club, (ii) be supported by Lancashire County Cricket Club who propose to utilise the facility for junior team matches and (iii) provide additional coaching opportunities for local youngsters, again supported by Lancashire, and open the sport up to a wider audience. Potential funding opportunities through the proposed Cricket Strategy for Greater Manchester will also be explored.
- 4.0 RECOMMENDATION
- 4.1 It is recommended that the City Mayor:

1. Approves the revised appraisal (submitted in accordance with the terms of the Agreement for Lease)
 2. Confirms the revised premium for the disposal of the residential development site in accordance with the terms of the Agreement for lease but making an allowance for a reduction on the premium due to the Council under the terms of the Agreement for Lease on the basis of an increased (20%) affordable housing provision
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KEY COUNCIL POLICIES:

Great Eight Priorities:

- Health and Social Care – improvement of sports facilities and enhancement of sporting opportunities
 - Housing – provision of affordable housing
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EQUALITY IMPACT ASSESSMENT AND IMPLICATIONS:

Up to 20% of the housing development will be affordable, providing opportunities for the wider community to access new housing.

Improvements to the cricket facilities and enhancement of coaching opportunities, with the involvement of Lancashire CCC, will provide new opportunities for the wider community to access the sport.

ASSESSMENT OF RISK: Low

LEGAL IMPLICATIONS Supplied by: Michelle Brice Shared Legal Service

The Council satisfied itself as to the best value requirements and appraisal of the development and proposals prior to agreeing to the original sale price. The Agreement for lease dated 21st December 2018 requires further appraisals of the proposed development to test that sale price and enables the Council to insist on the revised sale price or the originally agreed price, whichever is the highest. The proposals in this report are for the Council to accept a lower sale price due to anticipated affordable housing provision expected on planning. It is for the Council to

satisfy itself that the appraisal is correct and that the deal remains best value at the level of sale price proposed.

There remains in the documents and the proposals, no positive contractual obligations on the developer to develop the housing land or complete the cricket club works. There will be restrictions on sales of the housing development plots (as detailed in this report) if the cricket club works do not complete.

FINANCIAL IMPLICATIONS Supplied by: Chris Mee Strategic Finance Manager Ext 0434

The disposal of this site will generate a capital receipt for the Council depending on the level of affordable housing to be provided. This receipt value may rise should the cost of associated improvement works to cricket club be less than the currently anticipated value

PROCUREMENT IMPLICATIONS Supplied by: Richard Purcell, Shared Legal Service (Revised 11/10/19)

The risk from a public procurement perspective is that the arrangements are found to constitute a public works contract within the meaning of the Public Contracts Regulations 2015. The direct award of a public works contract without advertising and an open competition for such could constitute a breach of the public procurement rules. However the Agreement for Lease and Lease will not put any legal enforceable positive obligation on the Lessee to develop the land to the extent that it could be construed to be a public works contract within the meaning of the Public Contracts Regulations 15.

HR IMPLICATIONS Supplied by:

There are no HR implications

WARD COUNCILLORS CONSULTED:

Yes – at various stages through the negotiations

OTHER DIRECTORATES CONSULTED: No

CONTACT OFFICER: Dave Norbury

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WARDS TO WHICH REPORT RELATES:

Walkden North

