

REPORT



REPORT OF	MEETING	DATE	ITEM NO
DEMOCRATIC SERVICES & MEMBER SUPPORT	COUNCIL	28 JULY 2008	16

EXCLUSION OF THE PUBLIC CALL-IN OF CABINET DECISION

Public Item

This item is for consideration in the public part of the meeting.

Recommendation

1. Members are invited to consider passing a resolution concerning the exclusion of the public from the meeting in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972 on the grounds that the business to be discussed is exempt information as defined in paragraph 3 of Schedule 12A of the Act.

REPORT



REPORT OF	MEETING	DATE	ITEM NO
EXECUTIVE MANAGER – DEMOCRATIC & MEMBER SERVICES	COUNCIL	28 TH JULY 2008	17

CALL-IN OF CABINET DECISION

Exempt Item

This item contains exempt information under paragraph 3 of schedule 12A to the Local Government Act 1972 and is likely to be considered in a part of the meeting not open to the public.

Summary

The report refers a call-in request to the Council, which was agreed by the Policy and Service Review Scrutiny Committee, in relation to a decision by the Cabinet to dispose of a surplus land asset at Heeley Road, St Annes.

Recommendation

1. That the Council considers the call-in request and determines the appropriate course of action in accordance with the Constitution.

Cabinet Portfolio

The item falls within the following portfolio: Finance and Efficiency - Cllr P Rigby

Report

Scrutiny Decision

1. The Cabinet, at its meeting on 26th June, resolved (inter alia) as follows -

That the Cabinet agrees to the disposal of 0.177 hectares of land at Heeley Road St Annes on the terms outlined in the report at full market consideration.

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A copy of the full report is attached at Appendix A.

2. That decision was the subject of recovery and call-in which was considered by the Policy and Service Review Scrutiny Committee on 22nd July.
3. That Committee resolved
 - That the decision should be called in,
 - That it should be referred to full council for consideration,
 - That the council should give consideration to referring the matter back to cabinet with a recommendation that the asset disposal should be subject to competitive tendering.
4. At the meeting of the Scrutiny Committee the Portfolio Holder undertook to have the matter reconsidered by the Cabinet with particular reference to the site valuations. The Portfolio Holder for Community and Social Wellbeing also advised the meeting that Muir Group Housing Association were contributing significant funds from their own resources to the scheme.
5. The Executive Manager (Consumer Wellbeing and Protection) commented that the external capital funding for the scheme may be at risk if the site were to be disposed of by competitive tender.

Considerations

6. The Council has a broad range of functions and duties to perform on behalf of its communities and has the difficult job of balancing the competing demands of these different roles.
7. In this particular case there are two competing demands in play –
 - On the one hand the council is under a duty (as are all public bodies) to secure the 'best consideration' when it disposes of any surplus assets. This would normally be demonstrated either by adopting a competitive tendering approach or by securing a certified opinion from a professional valuer that the proposed disposal was taking place at the best consideration having regard to the specific circumstances of an individual scheme.
 - On the other hand the Council is a statutory Housing Authority with a duty to make provision for the needs of homeless families in the community and has a general power to promote or improve the social well-being of its area. The government has given a General Consent to allow councils to dispose of land at less than the best consideration reasonably available, where they believe that doing so will lead to the promotion of the economic, social or environmental well-being of its area or a part of it.
8. Earlier in its decision-making processes the Cabinet resolved (Cabinet Minutes July 2007) "*to dispose of the former CVMU site (Heeley Road) for*

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affordable housing purposes, utilizing well-being powers in order to meet the Council's Housing Strategy objectives"

9. An extract from the Cabinet Report of July 2007 reads -

In delivering this project the council can also potentially achieve another of its corporate priorities, that of affordable housing. Within the council's Housing Strategy there is an objective based on the provision of temporary accommodation for homeless people. Following discussions between officers and RSL partners the site of the former CVMU on St David's Road would seem to be suitable for this type of development. Accordingly it is recommended that this site is not tendered as part of the overall asset disposal exercise, and instead its use be the subject of discussions / negotiations between the council and the RSL Partnership.

10. The following extract from the Constitution is of relevance in the consideration of call-in requests by council -

If the matter is referred to full council and the council does not object to a decision which has been made, then no further action is necessary and the decision will be effective from the date of the council meeting.

However, if the Council does object, it has no locus to make decisions in respect of an Executive Decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making body, together with the Council's views on the decision. That decision-making body shall choose whether to amend the decision or not before reaching a final decision and implementing it.

Report Author	Tel	Date	Doc ID
T Scholes	(01253) 658521	July 2008	H/Council Meetings/July08

List of Background Papers		
Name of document	Date	Where available for inspection
Attached at Appendix A	June 2008	Town Hall / www.fylde.gov.uk

Attached documents

1. Appendix A – Report to Cabinet - June 2008

IMPLICATIONS	
Finance	These are contained within the appendix to the report.
Legal	These are contained within the appendix to the report.

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Community Safety	None arising directly from the report.
Human Rights and Equalities	The proposed use of the land is consistent with the responsibilities of the Council as Statutory Housing Authority to assist vulnerable households in housing need.
Sustainability	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

REPORT



REPORT OF	MEETING	DATE	ITEM NO
STRATEGIC PLANNING & DEVELOPMENT	CABINET	26 TH JUNE 2008	

ASSET DISPOSAL

Exempt Item

This item contains exempt information under paragraph 3 of schedule 12A to the Local Government Act 1972 and is likely to be considered in a part of the meeting not open to the public.

Summary

This report relates to the proposed disposal of land at Heeley Road St Annes

Recommendation

1. That the Cabinet agrees to the disposal of 0.177 hectares of land at Heeley Road St Annes (former CVMU site) shown for identification purposes on the attached plan on the terms outlined.
2. That if recommendation 1 is agreed, the Cabinet agrees to the utilisation of £171,400 commuted sums to facilitate the development of the site by Muir Group Housing Association for the purpose of providing additional affordable homes in the form of a supported housing scheme.

Alternative options considered and rejected

What are the alternatives? That the disposal is agreed at unrestricted value. This is rejected on the basis that the undervalued disposal is likely to contribute to the 'wellbeing' of the area through facilitating provision of accommodation for homeless households, as identified in the Council's adopted housing strategy. Such a disposal would however increase the capital receipt to the Council.

Cabinet Portfolios – Councillor Paul Rigby, Finance and Efficiency

Councillor Patricia Fieldhouse, Community & Social Wellbeing

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Report

1 Previous decisions

1.1 On the 11th July 2007 Cabinet considered a report on the accommodation project. The report included reference to the proposed disposal of the former Central Vehicle Maintenance Unit (CVMU) site on Heeley Road St Annes and stated that the council could also potentially achieve another of its corporate priorities, that of affordable housing. Within the council's Housing Strategy there is an objective based on the provision of temporary accommodation for homeless people. Following discussions between officers and Registered Social Landlord (RSL) partners the site of the former CVMU on St David's Road was suggested as potentially suitable for this type of development. Cabinet resolved in principle to the disposal of the former CVMU site for affordable housing purposes.

1.2 On the 12th September 2007 the Cabinet considered a report on the outcome of a review of a number of assets carried out by the Policy and Service Review Scrutiny Committee. Cabinet agreed the recommendation of the scrutiny review and resolved to dispose of the site.

2 Negotiations

2.1 The council has appointed LCC Property Services Group to advise on the disposal. A valuation in accordance with RICS Valuation Standards 6th Edition has been carried out by a Chartered Surveyor who conforms to the qualification requirements. He is of the opinion that the site is worth:

- £285,400 for residential development (the best consideration obtainable), or
- £171,400 for affordable housing

2.2 As a result negotiations have taken place with Muir Housing Group (the RSL preferred partner on the project) which has resulted in the following terms being provisionally agreed:

Area 0.177 Hectares

Demise: as marked on the attached plan

Consideration £171,400 Net

Costs The purchaser shall pay Fylde's surveyors fees in the matter of the disposal which includes the valuation and also negotiating the terms and conditions of the disposal. The fee is based on 1.75% of the market value of the site being £285,400.

Restrictions The land can only be used for the purposes of the planning application 07/1124 (provision of supported accommodation scheme)

2.3 The land is not defined as public open space and does not need to be advertised in accordance with section 123(2A) of the Local Government Act 1972.

2.4 Muir Housing has secured planning permission for the demolition of the existing depot and erection of two storey building to provide supported interim accommodation. Planning application number 07/1124 refers.

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3 Disposal at an undervalue

- 3.1 The disposal on these terms would be a disposal of the land under the Local Government Act 1972. Under section 123 of that act, the council may not, without the consent of the Secretary of State, dispose of land for a term of more than seven years for a consideration less than the best that can reasonably be obtained. Obviously, the disposal for affordable housing at £171,400 does not represent the best consideration that could be reasonably obtained. The consent of the Secretary of State is therefore needed.
- 3.2 The Secretary of State has given a general consent for the disposal of land at an undervalue by a council where:
- a) The disposal is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
 - i).the promotion or improvement of economic well-being;
 - ii) the promotion or improvement of social well-being;
 - iii) the promotion or improvement of environmental well-being; and
 - b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).
- 3.3 Members must therefore satisfy themselves that disposing of the land at less than its unrestricted value will achieve one of the objectives in a), and that the difference between the unrestricted value of the land and the disposal value as proposed is less than £2,000,000. These issues are addressed in turn in the following paragraphs.
- 3.4 Disposing of the land at an undervalue proposed will be likely to contribute to the social, economic and environmental well-being of the area by delivering a major objective in the council's Housing Strategy through the provision of a facility for the temporary accommodation for homeless people.
- 3.5 The unrestricted value of the land on for disposal has been valued at £285,400 by the council's external Surveyor. (The unrestricted value means the best price reasonably obtainable for the property on terms that are intended to maximise the consideration, calculated in accordance with technical guidance contained in the Local Government Act 1972: General Disposal Consent (England) 2003).
- 3.6 The consideration for the proposed disposal is £171,400 the difference between the unrestricted value and the consideration for the disposal is therefore £114,000 in capital terms. This comes within the parameter of £2,000,000.
- 3.7 The proposed disposal therefore comes within the terms of the Local Government Act 1972: General Disposal Consent (England) 2003 and consequently does not need specific consent from the Secretary of State.

4 European Union rules on state aid

- 4.1 The disposal also needs to comply with the European Commission's State aid rules. When disposing of land at less than best consideration authorities are providing a subsidy. Where this occurs the council must be satisfied that the nature and amount of subsidy complies with the State aid rules, particularly if, as here, there is no element of competition in the sale process. Failure to comply with the rules means

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that the aid is unlawful, and may result in the benefit being recovered with interest from the recipient.

- 4.2 Article 93 of the EU Treaty deals with state aid. It refers to “any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods”. The subsidy that would be given to the Muir Housing Group by disposing the land appears to fall outside the definition, so the rules would not appear to be infringed.

5. Commuted Sums

- 5.1 Muir Group Housing Association has requested financial support from commuted sums of £171,400 to facilitate delivery of the development. This will be used to deliver additional affordable housing in the form of the supported accommodation as described in planning application 07/1124.

- 5.2 As detailed in the minutes of the Cabinet meeting of 10 May 2006, any request for support from commuted sums is evaluated against the following criteria:

I. Fit with commuted sum policy:

- a. The policy supports the utilisation of commuted sums to deliver additional affordable housing. The development of supported housing scheme for homeless households can therefore be considered for support through commuted sums.
- b. The policy requires the scheme to have received planning permission, if needed. Planning permission has been agreed for this scheme.

II. Fit with current housing strategy:

- a. The Council's housing strategy specifically identifies the provision of temporary accommodation for homeless households as a key action. The development of such a scheme can therefore be considered for support through commuted sums.

III. Match funding levels:

- a. Muir Group Housing Association has secured £ 1.12m capital from the Housing Corporation to deliver the build and Lancashire County Council Supporting People has provisionally agreed £130,000 per annum revenue to provide the 'support' element of the development. Muir Housing Association has also borne the costs associated with planning and legal obligations.

IV. Number of units created:

- a. The development will create a total of 11 units of accommodation.

V. Commuted sum subsidy required per unit:

- a. The commuted sum subsidy requested per unit is £15,582; The average commuted sum settlement agreed by the Council to date has been £52,150 per unit; with a rule of thumb maximum commuted sum subsidy of 50%.

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- 5.3 The request for support is also dependent upon the level of non-committed commuted sums currently in the possession of the Council, currently standing at £444,150. It is important that Fylde Borough Council maximises the opportunities afforded by the accrual of these commuted sums and an updated strategy to guide further use of these monies will form a future report to Cabinet. Although further commuted sum payments are anticipated, they are dependent upon certain milestones being reached on each development, and any down turn in the housing market may slow down the receipt of these amounts in the future.

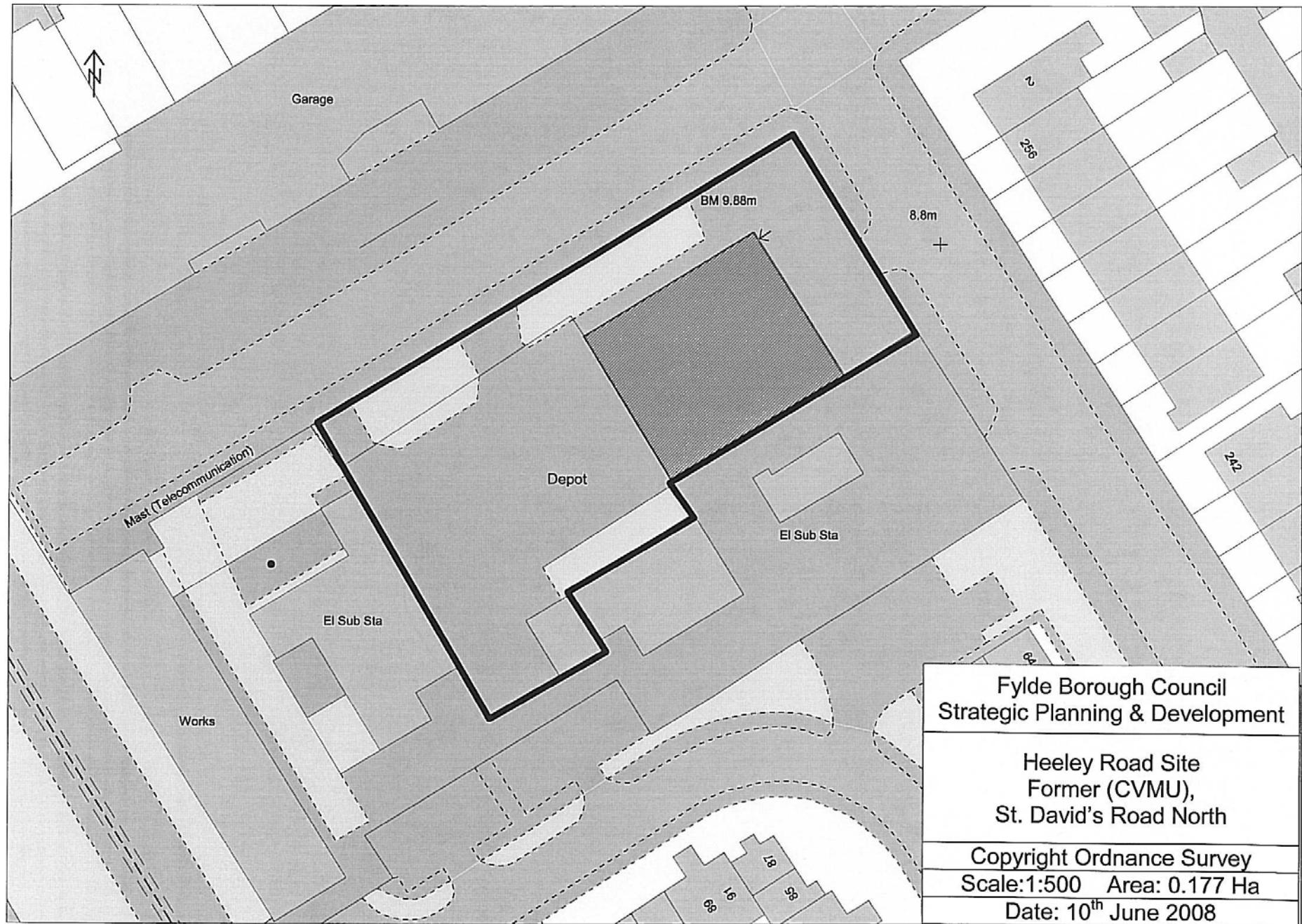
Report Author	Tel	Date	Doc ID
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List of Background Papers		
Name of document	Date	Where available for inspection
ODPM circular 6/03: Disposal of land for less than the best consideration	2003	http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_023358.hcsp
Planning application and approval for application 07/1124	January 2008	http://www2.fylde.gov.uk/planning/acolnetcgi.gov?ACTION=UNWRAP&RIPNAME=Root.PgeResultDetail&TheSystemkey=24001
Minutes Executive Committee	23/11/05	Town Hall, Lytham St Anne's
Minutes Cabinet	10/05/06	http://www.fylde.gov.uk/committeemeeting.aspx?id= SX9FD8-A781D537

Attached document - Plan of land at Heeley Road, St Annes

IMPLICATIONS	
Finance	The expenditure of £171,400 from Commuted Sums for affordable housing and the capital receipt of £171,400 to the council for its consideration of the land.
Legal	The conveyance of interest in the land
Community Safety	No direct implications
Human Rights and Equalities	No direct implications
Sustainability	No direct implications
Health & Safety and Risk Management	No direct implications

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