

Report of : Head of Property Services

Report to : Chief Asset Management and Regeneration Officer

Date: 16 June 2014

Subject: Land at Thornes Farm Way, off Pontefract Lane, Leeds 9

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Temple Newsam	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	10.4(3)	
Appendix number:	1	

Summary of main issues

1. Leeds City Council is the freeholder of an area of land totalling 5.5ha (13.25 acres) shown on the attached plan which is held by way of two long leases to the party detailed in the attached confidential appendix to this report. The overall leased areas comprise those areas indicated A, B, C, D and E which are held by Scottish Motor Auctions Ltd (SMA) as the head leaseholder.
2. Scottish Motor Auctions Ltd operate a car auction from the majority of the site however the northern end of the site shown D and E remains as vacant development land and is presently unused. This area extends to about 0.683 ha (1.69 acres)
3. Part of the site comprises a strip of land (marked B) which is subject to access and service rights retained for historical reasons to provide vehicular access from Thornes Farm Way to privately owned land to the east marked F which has the benefit of both a right of way and a right to lay service media over it.
4. SMA now wishes to extinguish the rights over strip B in order to regularise their ownership and simultaneously wishes to surrender their interest in the undeveloped northern section of the site D and E.
5. The area indicated D and E is subject to a conditional agreement for an under lease between SMA and a third party who wishes to develop the site for a light

industrial/warehousing use. Details of this additional party and the main provisions of that agreement are contained in the confidential appendix.

6. A condition precedent within that agreement provides for the construction of a substitute road running over area D to the land to the east F to replace that proposed over the existing route indicated B should this be required.
7. A proposal has now come forward from SMA and the owners of the land to the east F:
 - i) to extinguish the existing rights over the land B and
 - ii) to restructure the existing two long leases covering A,B,C,D and E to surrender the undeveloped site shown D and E back to the Council but subject to the existing agreement for under lease.
8. Provisional terms have been advanced by the parties concerned and it is proposed that these are now approved.
9. The overall site lies within the Aire Valley Leeds Enterprise Zone which provides opportunities for business relocation and expansion, and is situated at the heart of the Leeds City Region. Covering 142 hectares of prime development land, it is one of three new enterprise zones in Yorkshire, set up with government backing to drive investment, growth and job creation. Fully developed, the Leeds enterprise zone is poised to deliver up to 7,000 new jobs and stimulate development of the wider Aire Valley Leeds, one of the biggest regeneration areas in the North of England.

Recommendations

10. It is recommended that the terms detailed in paragraph 1.9 in the confidential appendix be approved permitting the leasehold variations proposed and detailed.

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to a number of variations to the long leasehold terms affecting Council freehold ownership at Thornes Farm Way, off Pontefract Lane.

2 Background information

- 2.1 The subject site A,B,C,D and E comprises 5.5 ha (13.25 acres) of Council land long leased to the party identified in the attached confidential appendix, a substantial part of which is occupied by a motor auction business. The overall site is held by two long leases from the City Council granted on the basis of a premium and a fixed peppercorn rental.
- 2.2 SMA wishes to surrender the undeveloped portion of the leased area which is indicated D and E on plan and simultaneously seek extinguishment of access rights and service rights over the line of a proposed access road shown B and D on plan to allow unfettered use of the land.
- 2.3 The requirement for a road no longer exists over areas B and D and the owners of the land to the east F have indicated that they are prepared to relinquish their related rights over it.

- 2.4 The ownerships of area A,B,C,D,E and F are affected by proposals forming part of the Wykeback Valley flood alleviation scheme which provides for a major open flood water channel to run along the length of the eastern boundary of the leased land A,B,C,D, and E providing a physical boundary separating it from the land F to the west. Expensive bridging costs have added a further reason for the owner to relinquish rights allowing access of their land over area B and D.
- 2.5 In these circumstances the proposed access road rights over land B and D are no longer required by the owner of the land indicated F.
- 2.6 SMA have entered into a contractual arrangement with a third party with regards to an agreement to an under lease which, when conditions precedent are fulfilled would permit commercial development of the site E. The basis of this agreement is contained in the confidential appendix.

3 Main issues

- 3.1 The proposal is to regularise the existing lease arrangements whereby agreement between Leeds City Council, the owner of the land F, and SMA to:
- i) extinguish all rights over the area B and D relating to access and service laying rights.
 - ii) surrender the land D and E from existing leasing arrangements back to the City Council, but subject to the existing agreement to under lease arrangements with the third party identified in the confidential appendix, it is intended land D and E will eventually be lease to this third party and will be the subject of a separate report to the Chief Asset Management and Regeneration Officer.
 - iii) regularise the existing two long leases relating to the area A,B,C,D and E as they affect the remaining land on the basis detailed in the confidential appendix.
- 3.2 The overall site lies within the Aire Valley Enterprise Zone and regularisation of the ownerships will streamline ownership supporting optimal use of the land indicated A,B and C by its lessee. The proposal will also allow discussions by the Council to be furthered separately and directly with the under lessee of areas D and E with regard to a release of obligations over area D, at a financial consideration, enhancing the development potential of the site in support of broader Enterprise Zone objectives.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 As the proposal relates to a variation and regularisation of existing property rights it is not considered necessary to undertake a consultation exercise.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The proposals have no specific implications in regard to equality and diversity and cohesion and integration indicators however broad support for existing occupiers support the general aims of the Enterprise Zone which aims at promoting business and employment generation in the locality.

4.3 Council Policies and City Priorities

- 4.3.1 The site lies within the Aire Valley Enterprise Zone which provides opportunities for business relocation and expansion, and is situated at the heart of the Leeds City Region. Covering 142 hectares of prime development land, it is one of three new enterprise zones in Yorkshire, set up with government backing to drive investment, growth and job creation. Fully developed, the Leeds Enterprise Zone is poised to deliver up to 7,000 new jobs and stimulate development of the wider Aire Valley Leeds, one of the biggest regeneration areas in the North of England.
- 4.3.2 The release of the areas indicated D and E will allow discussions to progress with the third party underlessee for a release of obligations under the agreement for under lease. This will allow the whole site to come forward for development with supporting economic development and regeneration objectives of the Council.
- 4.3.3 The extinguishment of rights over area B and D will permit more optimum use of the site by its occupier or in the event of any future redevelopment proposals will support economic development objectives of the Council.

4.4 Resources and Value for Money

- 4.4.1 The proposal relates to regularising long leasehold interests held by a third party over Council owned freehold land. The Council obtained full value from the land by way of premium payments for the original leases with only a long term reversionary interest remaining in the site. In these circumstances no significant value remains to be exploited from the Council's landholding.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Under Part 3 Section 3E Paragraph 2(a) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of Executive Board in relation to the management of land (including valuation, acquisition, appropriation, disposal and any other dealings with land or any interest in land) and Asset Management.
- 4.5.2 The Chief Asset Management and Regeneration Officer has authority to take the decisions requested in this report under Executive functions 1 and 10 (specific to the Director of City Development) of the Director of City Development's sub delegation scheme.
- 4.5.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.
- 4.5.4 The information contained in the appendix and the schedule attached to this report relates to the financial or business affairs of a particular person or company, and of the Council. This information is not publicly available from the statutory registers of information kept in respect of certain companies and charities. It is considered that since this information was obtained through commercially sensitive negotiations then it is not in the public interest to disclose this information at this point in time. Also it is considered that the release of such information would or would be likely to prejudice the Council's interests in relation to other similar transactions in that parties to other prospectively similar transactions would have access to information about the nature and level of offers which may prove acceptable to the Council. It is considered that whilst there may be a public interest in disclosure maintaining the exemption outweighs the public interest in disclosing this information at this point in

time. It is therefore considered that this element of the report should be treated as exempt under Rule 10.4.3 of the Access to Information Procedure Rules.

4.6 Risk Management

- 4.6.1 No specific risks are associated with the proposal however the proposed transaction is reliant upon all three parties contracting simultaneously.

5 Conclusions

- 5.1 It is concluded that the transaction will facilitate optimisation of the use of the land for development purposes.

6 Recommendations

- 6.1 It is recommended that the terms detailed in paragraph 1.9 in the confidential appendix be approved permitting the leasehold variations proposed and detailed.

7 Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.