

Agenda Item No:

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Report of: Head of Property Services
Report to: Director of City Development
Date: July 2015
Subject: Land at Oak Tree Drive Gipton

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Gipton and Harehills	
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	
Appendix number:		

Summary of main issues

1. The subject land is owned by the Council and is formally designated a Greenspace / Public Open Space.
2. Lidl UK GmbH have enquired to purchase the subject land in order to build a new larger format supermarket on a site incorporating the Council's land and Lidl UK GmbH's adjoining land where there is an existing smaller store.
3. Terms have been provisionally agreed with Lidl UK GmbH for the grant of an Option agreement to purchase the land subject to the Chief Parks and Countryside Officer declaring it surplus and planning permission being granted.

Recommendations

4. It is recommended that the terms provisionally agreed for the grant of an Option agreement be approved and thereafter the Chief Parks and Countryside officer be requested to declare the site surplus to Council requirement at a suitable point thereafter.

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to the provisionally agreed terms for the grant of an Option agreement.

2 Background information

- 2.1 The land extends to approximately 0.68 acres and is designated as N1 Greenspace in the Site Allocation Plan. The site forms part of a larger area of designated Green Space to the south west. It is vested in Environments and Housing and managed by the Council's Parks and Countryside service.
- 2.2 Lidl Uk GmbH (Lidl) enquired of Asset Management earlier this year to purchase the subject land in order to develop a new larger format supermarket, which would span across the Council's land and Lidl's existing site which adjoins the north-eastern boundary of the subject land. Lidl presented an unsolicited offer for the Council's freehold interest and which is detailed in the confidential appendix to this report.

3 Main issues

- 3.1 Planning Policy officers advised that given the land's designation as N1 Greenspace in the Site Allocations Plan, the loss of this area would not normally be supported in principle. Planning Officers advised that if the proposal was to be progressed then the two key policy questions to be addressed in terms of the loss of Greenspace were: can it be replaced elsewhere, and, if not, can the existing be improved.
- 3.2 The Greenspace questions have not been answered at this stage and would be formally worked through as part of a planning application. The overall greenspace has limited facilities. Parks and Countryside have advised that the area subject to Lidl's enquiry has drainage issues caused by underlying blue clay.
- 3.3 In terms of retail planning policy, Lidl would need to pass both a Sequential test and a Retail Impact Assessment as defined by the adopted Core Strategy. Any application to build a larger store would be designated as a new retail development outside of a defined local centre.
- 3.4 The proposal be considered by Planning Board in order to assess whether Lidl's enquiry could realistically be progressed. The details of the Board minutes of 27 March 2015 are included in the confidential appendix attached. The response of the Board was relayed to Lidl.
- 3.5 The Chief Parks and Countryside Officer has been consulted and is supportive of the proposal, including that the declaring of the land surplus to requirement should be delayed until the sale position becomes more certain. Parks and Countryside's Technical Manager had earlier indicated his ' in principle' support, on the basis that there would be appropriate investment by Lidl in the remaining adjoining greenspace and other greenspace in the area by way of compensation.
- 3.6 The details of the approach from Lidl and negotiations for the Option terms are included in the confidential appendix. The provisionally agreed terms are also detailed in the confidential appendix.
- 3.7 Lidl have submitted a Pre – planning application and have undertaken geological site investigations by way of a Licence and with the agreement of Parks and Countryside.

3.8 It will be necessary for the Council's Legal Services to publish a Public Open Space notice advising of the Council's intention to dispose of the land. It is intended that Legal Services will be instructed to proceed in the event that the recommendation in this report is approved.

3.9 Options

1. Do nothing and continue to manage the land a Greenspace / Public Open Space.

This is not recommended

2. That the terms provisionally agreed for the grant of an Option to purchase the subject land be approved.

It is recommended that the provisionally agreed terms be approved and thereafter the Chief Parks and Countryside Officer be requested to declare the land surplus at the appropriate time in liaison with Asset Management.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Ward members have been consulted on two separate occasions by Asset Management. All Ward members have confirmed their respective support for the sale. One of the Ward members raised a concern of nearby residents as to the proposed positioning of the new store. The Ward member was advised that the positioning would be resolved via the Planning application process.

4.1.2 One of the other Ward members responded to the consultation enquiring as to the number of jobs that might be created. The information requested was supplied and the Ward member has subsequently asked that any Planning application achieve more jobs and that a local recruitment policy would be put in place.

4.1.3 The Council's Executive Member for Regeneration, Transport and Planning has been consulted and is supportive of the proposed disposal.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are not considered to be any equality and diversity / cohesion and integration issues arising.

4.3 Council Policies and Best Council Plan

4.3.1 The proposed course of action offers an opportunity to generate a substantive capital receipt. It is also considered that it would contribute to the Best Council Plan objective of promoting sustainable and inclusive growth.

4.4 Resources and Value for Money

4.4.1 Disposal of the Council's freehold interest would generate a substantive capital receipt and associated fee income. It would also reduce the extent of the Council's responsibility to deal with known drainage issues on the greenspace and thus reducing overall maintenance costs to the Council.

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 Director of City Development has authority to take the decisions requested in this report.
- 4.5.3 The proposal constitutes an Significant Operational Decision and is therefore not subject to call in.
- 4.5.4 The Head of Land and Property confirms that the proposed method of disposal set out above is the method most likely to result in the Council achieving the best consideration that can reasonably be obtained under Section 123 of the Local Government Act 1972 (or under the Housing Act 1985).
- 4.5.5 The information contained in the Appendix attached to this report relates to the financial or business affairs of a particular person, 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 one to one negotiations for the disposal of the property/land 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 commercial interests in relation to other similar transactions in that prospective purchasers of other similar properties would have access to information about the nature and level of consideration which may prove acceptable to the Council. It is considered that whilst there may be a public interest in disclosure, much of this information will be publicly available from the Land Registry following completion of this transaction and consequently the public interest in 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 It is considered that if the recommended course of action is not pursued then the opportunity to generate a substantive capital receipt would be lost. Any decision not to approve may result in Lidl reassessing their long term strategy for this location.

5 Recommendations

- 5.1 It is recommended that the terms provisionally agreed for the grant of an Option agreement be approved and thereafter the Chief Parks and Countryside officer be requested to declare the site surplus to Council requirement at a suitable point thereafter.

6 Background documents¹

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

6.1 None.

published works.