

Haringey Council

16

[No.]

Agenda item:

Cabinet

16th December 2008

Report Title: **Hornsey Depot**

Report of: **Director of Corporate Resources**

.....*J. Pawber* 4.12.08.....

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Wards(s) affected: Hornsey

Report for: Key decision

1. Purpose of the Report

- 1.1 Following rejection of the substantially reduced offer from the previously selected preferred purchaser this report outlines the options for the Council.
- 1.2 To obtain a key decision on preparing a site development framework for the whole site in accordance with Option 4 outlined in this report, and to give conditional special purchaser status to Sainsbury, to develop phase 1.
- 1.3 To obtain approval to enter into a collaboration agreement with Sainsbury.
- 1.4 To note that a further report will be submitted to Cabinet for approval of an outline scheme for the whole site and development agreement for Phase 1 in partnership Sainsbury, and to secure a comprehensive regeneration of the whole site.

2. Introduction by Cabinet Member

- 2.1 Given the difficult economic climate and the affect this is having on the Council's regeneration strategy and development projects, a comprehensive site development framework and collaboration agreement with Sainsbury provides an opportunity for the Council to ensure that the momentum towards the regeneration of this key strategic site within the Borough is continued.

3. Links with Council Plans Priorities and actions/or other Strategies:

The proposals in this report are in accordance with the Council's Plan, Regeneration Strategy and Asset Management Plan.

4. Recommendations

- 4.1 Agree to proceed with **Option 4**, i.e. "Secure planning consent for whole site, then develop in phases" in collaboration with Sainsbury.
- 4.2 Agree to give **Sainsbury special purchaser status, on phase 1**, conditional upon meeting specified performance targets resulting in an agreed scheme being submitted for planning consent for the whole site.
- 4.3 Agree to **enter into a collaboration agreement** on the terms attached in Appendix A (exempt) to this report to delegate to the Director of Corporate Resources to finalise this agreement in consultation with the Head of Legal Services.

5. Reasons for recommendation

5.1 Report Background

- 5.2 The site of the former Hornsey Central Depot has been surplus to Council requirements for over 10 years and has been designated as a key site for development to promote economic, social and physical regeneration.
- 5.3 Together with the adjoining site owned by Sainsbury this scheme is part of the Council's Regeneration programme with the following key objectives:
 - A comprehensive development of both sites to provide of a sustainable, high quality, mixed-use development including a food store and housing in accordance with the Council's Planning Policy and Housing Strategy.
 - Regeneration of the High Street.
 - Capital receipts to support investment in the borough through the Council's Capital Programme.
- 5.4 There has been a long history in the development of this scheme and following an assessment of the options in November 2006 the Council decided to market the combined site jointly with Sainsbury. Following an assessment of the bids, pursuant the above Council's objective, a preferred purchaser was recommended to Cabinet in July 2007 to develop the site (Please see Appendix 1 for details of the site).
- 5.5 The terms of the appointment approved by the Cabinet of 26 July 2007 was a conditional sale to Inner Circle for the combined site, subject to contract and planning.
- 5.6 Since their appointment Inner Circle worked with the landowners to develop the scheme in consultation with Planning and other agencies and also carried out public consultation.
- 5.7 Unfortunately due to the unprecedented change in the economic conditions resulting in the sudden and steep decline in property values, Inner Circle revised the financial offer

in October 2008.

5.8 Having considered the revised offer and following discussions with Sainsbury's, the revised offer from Inner Circle was rejected on 6 November 2008 as the offer did not demonstrate best consideration to the Council, nor value for money for Sainsbury

5.9 Options

5.10 To take the project forward, 4 options that are open to the Council have been considered and are outlined in the appendices to this report. Officers are recommending that option 4, outlined below, gives the Council the best outcome:

5.11 Option 4 – Secure planning consent for whole site, then develop in phases:

5.12 This option will ensure a comprehensive approach to the development with all land treated as part of a single integrated master plan creating certainty, albeit phased development. This will avoid a piecemeal development thereby eliminating the risk of creating back land sites.

5.13 The advantages and drawback of each of the options are further considered in Appendix 1.

5.14 Given the current economic situation and property market, Option 4 is considered the best way forward. Phase 1 could be Store with some residential above together with improvements to the High Street and phase 2 could be affordable housing with private housing being delivered as and when the market improves. The proposal at present is to treat Sainsbury as a special purchaser for Phase 1, and to competitively market Phase 2, once planning consent has been obtained, and enabling works (site clearance, asbestos removal, demolition, etc) and some infrastructure works are carried out by Sainsbury. This would give the Council a site ready for development, which would be more attractive in the current adverse property market conditions.

6.0 Lessons learnt and managing future risks

6.1 Property development by its nature has high risks. The economic and property market risk can impact on a scheme, in addition to the constraints on development which may emerge once details surveys have been carried out and whilst works are progressing on site. The Council will be transferring the impact of these risks to the Developer, under the terms of a development agreement.

6.2 The long history of this project and the recent abortive negotiations and sharp down caused by the failure of the market brings into sharp focus the need for the Council to take a strong risk management approach and learn lessons in taking the project forward.

6.3 The risk, of a sharp downturn in the global and local economy is something which could not be been completely negated, and has affected many property transactions and developments through the UK. In this case it meant that the previous offer by the previous Developer was not sustainable due to the rapidly deteriorating market

conditions. This would have been the case even if a development agreement had been entered into with the Council and this risk would have remained due to the conditionality (e.g. the need to obtain planning consent and build a scheme that was commercially viable at the level of the previous offer).

- 6.4 A fundamental difference between the previous approach of selecting a purchaser to commit to a fixed price and develop the scheme up to planning consent and the proposed option 4 is in respect of key inherent risks in such projects; especially planning and market risks.
- 6.5 The risk of an unsustainable offer or an unviable scheme is much reduced by treating the existing Landowner, Sainsbury, as a conditional special purchaser for Phase 1 and obtaining independent external valuation advice on this. This advice will be obtained before the Council enter into a conditional Development Agreement at an early stage of the project process.
- 6.6 With the previous approach the selected purchaser was responsible for obtaining planning consent and agreed to be bound to a purchase contract at the bid price. Whilst the Council worked with the selected purchaser on the scheme development to take away the planning risk, the market risk was to remain with the Council until the contract was exchanged and became unconditional.
- 6.7 With the proposed regeneration led approach in Option 4, the Council is in effect taking a more proactive approach to de-risking the site disposal process and procurement of a developer for phase 1.
- 6.8 By asking the Developer to enter into a conditional development agreement and Planning Performance Agreement at an early stage, the risk of impact of the planning condition is much reduced to the Council, and the Council maintains control over the timing of the property transactions to achieve an optimum financial outcome.
- 6.9 Planning risk – this remains with the Council until planning consent is granted. If the scope of planning does not meet both the Partner's aspirations, then in a worse case scenario the project will not proceed.
- 6.10 Key risks with Option 4 relate to programme management, resources, skills and collaboration. Working with a partner and in this case working with Sainsbury it has to be recognised that a key risk is that of not reaching agreement on the scheme, land deal or priority as well as potential conflicts of objectives.

7. Other options considered:

Option 1 –Defer the disposal and development:

This will defer the regeneration and capital receipts. In addition, this option is not favoured by Sainsbury who would like to proceed with the Store.

Option 2 – Re-market the whole site:

Based on the work done to date, an updated marketing brief can be prepared to secure a new developer through a competitive process. In view of the dramatic changes in the market it is likely that there will be a low response and as the current market remains uncertain there will be a general reluctance for bidders to submit bids on a fixed price conditional only upon planning and contract. With this option there will be a need to assess the best time for remarketing.

Option 3 – Phased Disposal/Development:

This option is to develop the site in phases to reflect the optimum timing for each component in the current and changing market. The drawback is that each piecemeal development risks creating back land sites if each plot is not developed in accordance with an overall Site Development Framework.

The option being recommended is:

Option 4 – Secure planning consent for whole site, then develop in phases:

This option will ensure a comprehensive approach to the development with all land treated as part of a single integrated master plan creating certainty, albeit phased development. This will avoid a piecemeal development thereby eliminating the risk of creating back land sites.

The advantages and drawback of each of the options are further considered in Appendix 1.

Given the current economic situation and property market, Option 4 is considered the best way forward. **Phase 1** could be Store with some residential above together with improvements to the High Street and **phase 2** could be affordable housing with private housing being delivered as and when the market improves. The proposal at present is to treat Sainsbury as a special purchaser for **Phase 1**, and to competitively market **Phase 2**, once planning consent has been obtained, and enabling works (site clearance, asbestos removal, demolition, etc) and some infrastructure works are carried out by Sainsbury. This would give the Council a site ready for development, which would be more attractive in the current market conditions.

8. Summary

- 8.1 It is proposed to take this project forward as a regeneration activity led by the Council under Option 4 and working with Sainsbury. Phase 1 could be the Store with the residential above together with the improvements to the High Street and phase 2 could be affordable housing with private housing as and when the market improves.
- 8.2 The design of the scheme will be carried out in collaboration, under a pre-development agreement, with Sainsbury who own part of the site and who the Council are recognising as a special purchaser for phase 1.
- 8.3 Sainsbury have confirmed a strong commitment to take an active role in the project going forward including taking responsibility for funding and assembling the resources to take forward the land development.

9. Chief Financial Officer Comments

9.1 As the revised offer from Inner Circle no longer demonstrates best consideration, the options for the site now needs to be re-considered. Although the Council's capital programme currently assumes a receipt in 2010/11 from the sale of the Hornsey Depot site, (with additional sums in the following years), these forecasts are currently all being reviewed as part of the 2009/10 budget setting process which are likely to lead to reductions in forecasts on all disposals. A receipt should not be the only consideration.

9.2 Members should note the following:

- With the current economic conditions there can be no certainty over the level of receipt achievable if the site is re-marketed and the council would incur additional costs.
- To land bank the site will further delay regeneration of the area and will forfeit any receipt for the foreseeable future

9.3 Overall it would appear that, given the apparent interest from Sainsbury's in continuing with the development of their store pursuing Option 4 looks most advantageous as both will address the regeneration objective whilst realising some capital receipt in the short-medium term.

9.4 The assistant director of Planning, Policy & Development favours Option 4. Although this will require 6-12 months to develop a site specific statutory planning brief, it will provide greater control and certainty over the development of the site which most closely matches the regeneration objective. It will also provide additional time to identify an alternative site for Hornsey re-use & recycling centre.

10. Head of Legal Services Comments

10.1 The Council holds the land for planning purposes and has power to dispose under the planning legislation. The statutory requirements on the Council is to dispose the land in such a manner in order to:

- (a) secure the best use of that or other land and any building or works which have been or are to be erected constructed or carried out on it, or
- (b) secure the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of their area: and
- (c) obtained the best consideration that can be reasonably obtained.

The price is just one element in the Council statutory obligation and both of these obligations must be complied with. The Council must judge the consideration by reference to the purposes of the disposal. So if there is a potential purchaser or developer offering more money but for a different purpose or for no purpose other than to thwart the proper planning of the area or in securing the best use of the area, then it would be appropriate for the Council to reject that higher offer. This would not be a breach of the Council's statutory obligations.

10.2 The Council has formally rejected the previous offer from Inner Circle as it was deemed not to meet the Council's statutory obligation of achieving best consideration and the draft contract has now been withdrawn from Inner Circle.

11 Assistant Director (Planning, Policy and Development) Comments

11.1 The Hornsey Depot Site is identified in the Unitary Development Plan and Heartlands Development Framework as being an important regeneration site for a mixed use development for retail and housing.

Assistant Director of Strategic & Community Housing Service

11.2 Within Option 4 details and the negotiations with Sainsbury, Officers will ensure that whole development is brought forward with a mixed use development that includes affordable housing that is not segregated from the private housing to ensure the objective of having an integrated and sustainable development of affordable and open market housing.

11.3 The planning brief will need to address this issue in a number of ways, e.g. high quality of design of the affordable housing, materials and finishes and particularly high levels of sustainability (low carbon technology) and energy efficiency. The affordable should not be externally distinguishable from the private housing and consideration should be given to the feasibility of placing the affordable in a number of locations rather than a single plot although it is appreciated that this may give rise to other problems, infrastructure, isolated blocks pending private development etc., which should be addressed in the details of the scheme.

11.4 The assumption that affordable housing will be able to come forward at an early stage due to the availability of grant will also be subject to the tenures agreed and market conditions at the time. RSLs are currently very reluctant to commit to schemes with substantial numbers of shared ownership units exposing them to sales risk in the current market. If the site were to be brought forward at present the evidence from other developments is that RSLs would be looking for a high percentage of affordable rent and intermediate rent rather than shared ownership. However, the Council's preference for this site would be for any intermediate tenure to be in the form of shared ownership or, if market conditions dictate, deferred purchase shared ownership (rent to homebuy) rather than a substantial proportion of the affordable housing being let permanently as non secure intermediate rent

12 Equalities & Community Cohesion Comments:

12.1 There are no specific equality or community implications at this stage of the project. An equality impact assessment of the regeneration proposals will be carried out, in collaboration with the Developer when detailed scheme proposals have been prepared. The Developer will be required to comply with all statutory equalities legislation in developing the scheme.

Consultation

12.2 The Hornsey Depot Site has been consulted upon as part of the process statutory planning process of identification and development within the Unitary Development Plan and Heartlands Development Framework as being an important regeneration site for a mixed use development for retail and housing. Further extensive community and stakeholder consultation will be carried out as a part of the site development framework and pre-planning application process.

13 Service Financial Comments

The financial implications from the options detailed in the report are:

- Option 1 will result in no projected capital receipts in the short to medium term until the market shows some improvement.
- Option 2, 3 & 4 will result in some capital receipts in the short/medium term but the quantum and timing will be dependant upon the changing state of the property market.

The Developer will be asked to enter into a Planning Performance Agreement, and will be responsible for payment of the Planning Services' fees under that agreement.

Option 4 is being recommended, this will mean that the cost to develop the scheme will be borne by Sainsbury. However, the Council will require a budget provision for its own legal and surveyors fees. The Council will also need to procurement external valuers, acting as experts, to provide independent valuation advice to the Council on the valuation of the Council and Sainsbury's land interests, taking into account the Special Purchaser status, and for Cabinet to consider their advice together with the terms of disposal before the decision on any disposal is made

14 Use of appendices/Tables and photographs

Appendix 1 – Ownership and Site Plan

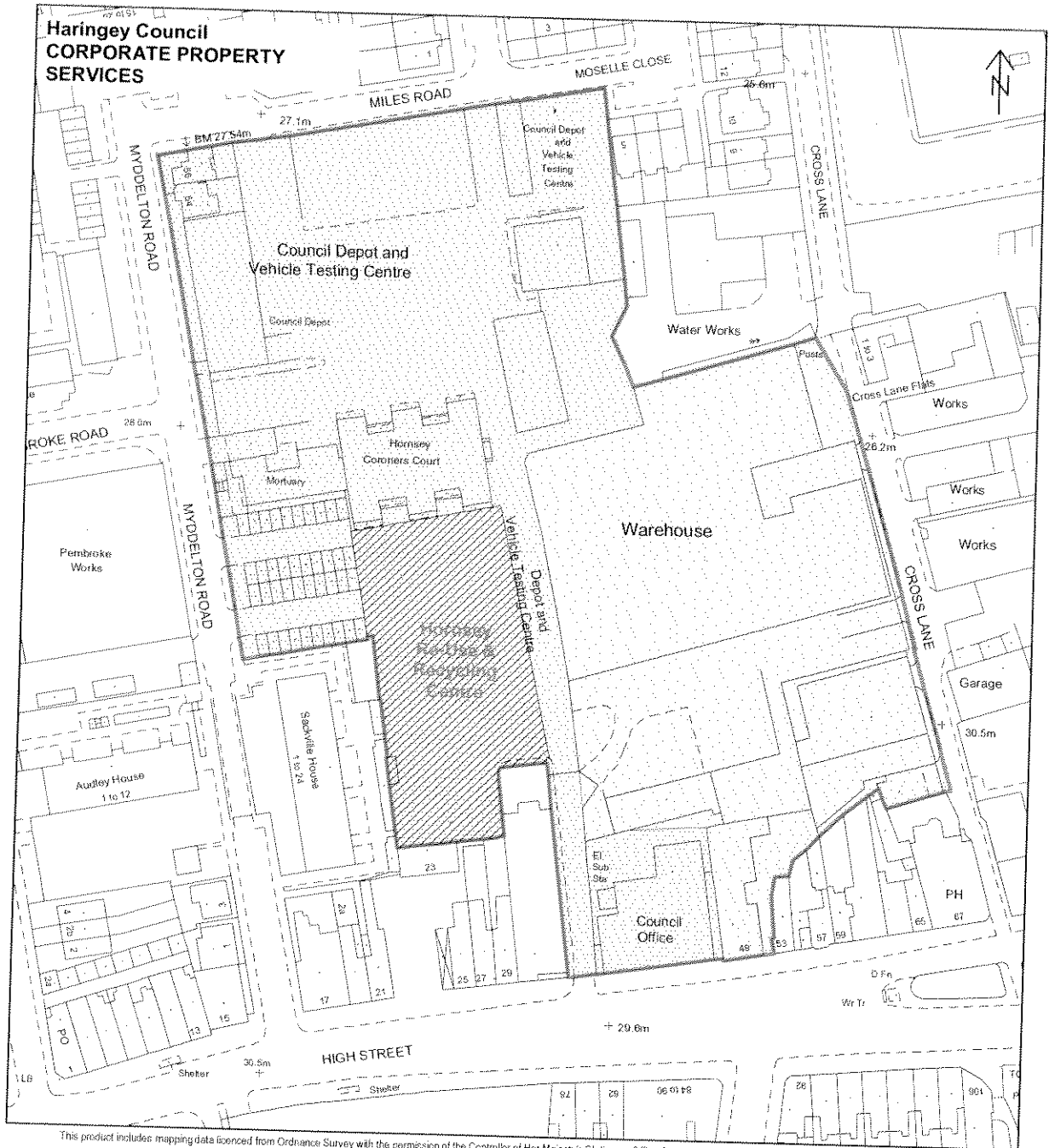
15. Local Government (Access to Information) Act 1985 Background papers

- Report to the Executive 20th July 2004.
- Report of the Executive 21 November 2006
- Cabinet Report 26 July 2007 (as amended)
- Delegated Decision Report on Hornsey Depot 4.11.08

There is exempt and non-exempt information on Hornsey Depot project. This report contains public information. A Report with exempt information has been placed on the exempt agenda and is **not for publication**. The exempt information is under the following category (identified in the amended schedule 12A of the Local Government Act 1972)

(3) Information relating to the financial or business affairs of any particular person (including the authority holding that information)

APPENDIX 1



Edged red - Combined site boundary
 Shaded blue - Haringey Council ownership

Shaded green - Sainbury ownership
 Hatched black - Area occupied by Recycling Centre

Development Site - showing area occupied by Recycling Centre (former Hornsey Depot & Sainbury's Land) High Street Hornsey LONDON N8

Deed Document No. : n/a

LR title no. :

Site Area (hectares) : n/a

Scale 1:1250

Overlay : Environment - Depots

CPM No.

Plan produced by Janice Dabinett on 11/09/2007

Drawing No. BVES A4 1493zk