



Cabinet

On 25th January 2011

Report Title. **Land at Bull Lane and Pasteur Gardens N18**

Report of **Director of Corporate Resources**

Signed :

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Wards(s) affected: Out of borough sites
(White Hart Lane)

Report for: **Key Decision**

1. Purpose of the report

- 1.1. To update the Cabinet since its conditional approval in March 2010 to dispose of Bull Lane and Pasteur Gardens N18 to Community Action Sport in order to develop and manage the site for sporting, recreation and community use.
- 1.2. To seek Cabinet's advice on the future direction of the proposed disposal.

2. Introduction by Cabinet Member

- 2.1. The Council has a long term aim of unlocking the potential from these sites whilst improving sport and recreation facilities for the local community. Unfortunately Community Action Sport has not found itself able to conclude agreement on the disposal on the basis previously agreed by Cabinet and it is now important that the Council returns to looking at wider options if it is to continue to make progress on achieving its aim. The Council remains committed to working with the community on this scheme and this will not preclude the future involvement of community organisations in development of proposals or future management of these sites.

3. State link(s) with Council Plan Priorities and actions and /or other Strategies:

In addressing these two out borough sites, the Council can contribute to the social and physical regeneration of the Bull Lane area as well as releasing capital resources to support the capital programme.

4. Recommendations

- 4.1 To note that Community Action Sport has not been able to conclude agreement on its proposed acquisition of Bull Lane and Pasteur Gardens on the basis of the terms and conditions agreed by Cabinet on 23rd March 2010.
- 4.2 To agree that the disposal to Community Action Sport as authorised on 23rd March should not proceed and to re-affirm the Council's commitment to the regeneration and improvement of these two sites, including the continued provision of recreational facilities, and the value which it places on partnership with the community sector in securing their future.
- 4.3 To agree to market the Bull Lane and Pasteur Gardens sites, inviting the full range of potential purchasers (and their potential partners) to submit bids outlining how these will meet the Council's long standing objectives of investing in the retention of open green spaces, improving sports and leisure facilities, contributing to social and economic regeneration and generating capital receipts.

5. Reason for recommendation(s)

It has not been possible to make progress on the previously agreed option for disposal of these sites. In order to avoid further delay in achieving the Council's objectives of regenerating these sites through their disposal, Cabinet is asked to agree that work now proceeds on pursuing other options as set out in the report.

6. Other options considered

To allow CAS further time in which to deliver a revised plan whilst the Council continues to work with CAS as a 'preferred purchaser'

7. Summary

Background

- 7.1 These former school playing fields both lie outside the borough boundary within the Borough of Enfield. The Council has historically pursued disposal of the sites in one package to enable them, and Bull Lane in particular, to be improved and developed for sports, recreation, open space and housing whilst delivering a residual capital receipt

for the Council which could be reinvested in capital programme priorities. The Bull Lane site comprises 11 acres and the Pasteur Gardens site 6.75 acres. Two specific proposals have emerged in recent years as set out in paras 7.2 and 7.3 below.

7.2 Long term discussions with Enfield Council resulted in a resolution to grant planning approval for a mixed use scheme at Bull Lane which would permit residential development on part of the Bull Lane site subject to improvements being made to the remainder of the site and Pasteur Gardens. This scheme was subject to a Site Development Framework (since prepared) and a S.106 Agreement with Enfield which would include the following key points:-

- Housing development on Bull Lane not exceeding 1.62 hectares (4 acres) at a net density of 200 habitable rooms per hectare with the provision of affordable housing at 50% (nomination rights to be shared equally between Enfield and Haringey Councils).
- Delivery of improvements to Bull Lane and Pasteur Gardens to include two football pitches and changing facilities.
- Transfer of land from Haringey to Enfield of the remainder of Bull Lane and the whole of Pasteur Gardens with a sum of money payable by Haringey for the provision of improved facilities and future maintenance.
- Provision and future retention of a footpath link between Bull Lane and Weir Hall open space

7.3 The Council was also approached by Community Action Sports (CAS) which, having long campaigned against disposal of Bull Lane, put forward a proposal to acquire both Bull Lane and Pasteur Gardens and invest in them to provide and manage sports and recreational facilities which would benefit the local community including local sports organisations and schools. The acquisition by CAS and subsequent investment would be enabled by grants to CAS from sports related charities and grant-funding organisations.

7.4 In December 2008 the Cabinet agreed that it would consider CAS's proposals alongside any other emerging options and set a timescale for CAS to develop its business plan during which time the Council's discussions with Enfield would also continue. Following lengthy and detailed discussion aimed at an optimum solution to support a community led, social regeneration of the sites whilst minimising risks to the delivery of the Council's wider objectives, the CAS proposals were reported to Cabinet on 23rd March 2010 which authorised officers in consultation with the relevant Cabinet Member to:-

- Negotiate and agree the final Heads of Terms for the grant of a Lease and enter in to an Agreement for Lease (AGL).
- Grant the Lease on confirmation that CAS satisfied the conditions set out in the AGL.

The granting of authority to enter into Heads of Terms for the grant of a lease and AGL was also subject to further work on CAS's proposed way of operating and a report back to Cabinet on this.

7.5 The conditions set out were primarily aimed at safeguarding future sport and recreational facilities on Bull Lane, given that a long lease was proposed. It was also

agreed that the sale price should be independently assessed by the District Valuer to confirm that best consideration for this particular disposal would be achieved.

- 7.6 In deciding to dispose of the land with restrictions to sports and recreation use, Cabinet also agreed to treat with CAS to the exclusion of other potential bidders. Although this option would not yield the maximum possible capital receipt it was preferred as it involved greater social regeneration and Cabinet recognised the value of a community led and supported development. However, to ensure that the Council's objectives and investment were safeguarded, Cabinet agreed to build in certain safeguards and conditions.
- 7.7 To enable CAS to demonstrate viability and affordability of their plans to develop and manage these sites for community led sports and leisure uses, the land deal approved by Cabinet was structured in two parts. The first part is an "Agreement for Lease" (AGL) which is in effect an exchange of contracts and would give CAS a legally binding interest in the land to enable them to secure funding for the preparation of development plans and subsequent investment. Completion of the contract and grant of the lease would be subject to certain conditions being met as part of due diligence, to ensure that the objectives agreed by the Council for the land (good quality sports and recreation facilities for the community for the long term) remained deliverable. A long-stop date of two years was also agreed with CAS as a realistic timescale to develop robust plans and secure funding offers. (If the conditions as stated in the AGL had not been met then the AGL would fall away and the Lease would not be entered in to).
- 7.8 The conditions to be included within the AGL that CAS need to comply with before the grant of the Lease are as follows:
- i) The setting up and participation in a Joint Project Group, which will include Council representatives. The group's function is to include the engagement of the local community and local stakeholders in the shaping of the final scheme, which will include layout of the games area in accordance with Sport England's requirement and the construction of a pavilion on each of the sites.
 - ii) A refreshed capital development plan and viable operational business plan to reflect the following;
 - a) Revised estimates of capital costs together with any proposed phasing of the scheme.
 - b) Realistic expectations of securing funding for scheme proposals
 - c) Evidence based income streams for demand from sporting and recreation facilities and any assumptions relating to ancillary income streams including revenue grants and non-sport funding.
 - d) Robust estimates of revenue expenditure from the operations.
 - e) Risk and contingency plans.
 - iii) A satisfactory independent review of the proposed governance and risk management arrangements including adequate succession plans to reflect growth in operations of the charity.
 - iv) Obtaining planning permission for the scheme.

v) Obtaining a secure offer for funding for the whole scheme

7.9 The proposed lease also included a reverter clause enabling the Council to buy back the sites if CAS was unable to implement the scheme within five years from signing the AGL. CAS was additionally required to give an undertaking that it would not be reliant on the Council for capital or revenue funding.

7.10 Cabinet also agreed that disposal to CAS should be subject to further information being provided in a report back to Cabinet on CAS's proposed method of operating (to address some questions raised by Members).

Current position

7.11 Since March 2010 there have been on-going discussions with Community Action Sport which has not found itself in a position to conclude the Agreement for Lease on the basis of the terms and conditions previously agreed by Cabinet. Officers have met CAS along with two of their potential funding organisations.

7.12 CAS has since sought the Council's agreement to submit a revised, smaller scale proposal in conjunction with removing some of the conditions stipulated, proceeding with the grant of a lease in advance of all conditions being met and without the preliminary Agreement for Lease (AGL). CAS considers that a smaller scheme would carry less risk, enabling some of the pre-conditions to be dispensed with and a full lease granted directly. CAS also sees the granting of an early lease as important to securing grant and other funding for its proposed scheme.

7.13 The recent discussions have covered a number of issues on which more detailed information and commentary has been provided in exempt paras 7.14 to 7.30.

7.14– (**Exempt** information relating to lease terms and conditions and discussions with CAS).

Options

7.31 The current options are:-

- i) To allow CAS further time (12 weeks has been proposed) in which to deliver a revised plan whilst the Council continues to work with CAS as a 'preferred purchaser'
- ii) To market the Bull Lane and Pasteur Gardens sites, inviting the full range of potential purchasers (and their potential partners) to submit bids outlining how these will meet the Council's long standing objectives of investing in the retention of open green spaces, improving sports and leisure facilities, contributing to social and economic regeneration and generating capital receipts.

Conclusion

7.32 The Council has a longstanding objective of disposing of both of these sites which lie outside the borough and has historically explored schemes which as well as securing

improved sport and leisure facilities, particularly on Bull Lane, would also generate a capital receipt for the Council. During this time the future of the sites has remained uncertain and their potential for providing better facilities has not been realised.

- 7.33 Whilst partnership with the voluntary sector in investment and future management of these sites is to be welcomed, it has not been possible to reach agreement with CAS on detailed terms for the disposal and the conditions set out in the Cabinet's resolution of 23rd March 2010 have not been fulfilled. Given the long lease involved and the need to exercise due diligence in safeguarding the long term future of these sites, the Council is not in a position to accede to CAS's request to vary the terms and conditions of the proposed lease that were previously agreed by Cabinet. As variation of the terms and conditions is also implied in the revised proposal which CAS has requested time to develop, this is likewise not recommended as a way forward.
- 7.34 Any on-going delay to disposal of these sites will in turn delay their regeneration and realisation by the Council of a planned capital receipt, whilst direct and indirect Council costs will continue to be incurred. In order to make progress on this longstanding objective, it is recommended that the disposal to CAS agreed in March 2010 should not now proceed and work should resume on pursuing other options as described in the report with detailed proposals reported to Cabinet in due course.
- 7.35 However it should be noted that neither of options ii) or iii) in para 7.31 above preclude the potential for partnership with voluntary sector groups, including CAS, in future investment in these sites or their future management and operation.

8. Chief Financial Officer Comments

- 8.1. Paragraphs 7.3 – 7.9 summarise the rationale for the decision in March 2010 to grant a lease to CAS; in essence the CAS scheme offered community involvement and social regeneration with higher levels of sporting facilities which were viewed as valuable and felt to compensate for a lower level of capital receipt. The CAS proposal also appeared to provide greater certainty over the timing of delivery of the scheme.
- 8.2. It is now being reported that since March it has not been possible to reach agreement with CAS on the structure of the proposed AGL and terms and conditions despite a number of meetings, the essence of which is set out in exempt paragraphs 7.14 – 7.30. Members will remember that the conditions attached to the CAS proposal were built in order to safeguard the Council's objectives and investment over the lifetime of the lease.
- 8.3. As a consequence of the delay, officers are now proposing three options for consideration and to obtain advice on the future direction of the disposal. Paragraph 7.31 outlines the options.
- 8.4. There is no guarantee that providing an additional 12 weeks to CAS will enable the community led option to be delivered. It will also require additional officer input into assessing the revised proposals and could lead to further delay and degeneration of the sites with no conclusive outcome.

9. Head of Legal Services Comments

9.1 The Head of Legal Services has been consulted on this report and the legal comments have been incorporated into the main body of the report.

9.2 (**Exempt** information on lease).

10. Equalities & Community Cohesion Comments

The future regeneration of the Bull Lane site, including improved recreational facilities will provide benefits to the local community in a recognised area of deprivation.

11. Consultation

11.1 A meeting was held on the 13th January 2011 with Community Action Sport, Ward Members and the Leader to inform CAS that, as they are not in a position to proceed with the AGL as approved by Cabinet, officers would be reporting to Cabinet on 25 January 2011 to secure a decision to return to a review of the options. At this meeting CAS brought along representatives from London Marathon Trust and Sport England. CAS reiterated that as a Charity they cannot take the significant financial risks of meeting the pre-conditions for the lease in view of the uncertain funding environment. CAS also confirmed that whilst still committed to the development of Pasteur Gardens they are primarily interested in saving Bull Lane and that the inclusion of Pasteur Gardens does add to the funding requirements and financial risks. CAS repeated their request to be granted 12 weeks to allow their consultant to prepare a more realistic scheme in the current funding climate. On this point one of the funders present stated that if CAS prepares a viable scheme within the next three months and submits a funding application for the development, they will commit to considering this with a view to giving a decision at an early stage. The meeting concluded with a common agreement to focus on the long awaited resolution of the future of these sites. The views expressed by CAS were noted and Officers confirmed that the outcome of this meeting will be conveyed to Cabinet when the report is considered.

11.2 Proposals for any future scheme will be subject to consultation with the local community.

12. Service Financial Comments

12.1 & 12.2 (**Exempt** information on land values).

13. Use of appendices /Tables and photographs (None).

14. Local Government (Access to Information) Act 1985

14.1 Background Documents

Cabinet reports and minutes on Bull Lane and Pasteur Gardens – 16th December 2008 and 23rd March 2010.

14.2 This report contains exempt information contained in exempt Appendix A which is **not for publication**. The exempt information is under the following category (identified in amended schedule 12A of the Local Government Act 1972)

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