

## CABINET MEETING – 20 APRIL 2016

### EXECUTIVE SUMMARY SHEET – PART I

**Title of Report:**

Acquisition of freehold land and grant of a lease of land at Deptford, Sunderland

**Author(s):**

Report of the Executive Director of Commercial Development.

**Purpose of Report:**

To seek approval to acquire and grant a lease of approximately 3.65 ha. (9 ac.) of land at Deptford, Sunderland shown edged in bold black on the attached plan.

**Description of Decision:**

Cabinet is recommended to:

1. Agree that the Council acquires approximately 3.65 ha. (9 ac.) of freehold land at Deptford, Sunderland on terms to be agreed by the Executive Director of Commercial Development in consultation with the Leader and Cabinet Secretary.
2. Agree that the Council grant a lease of the land at a price which is the best reasonably obtainable and otherwise on terms to be agreed by the Executive Director of Commercial Development in consultation with the Leader and Cabinet Secretary.

**Is the decision consistent with the Budget/Policy Framework?**

**\*Yes**

**If not, Council approval is required to change the Budget/Policy Framework**

**Suggested reason(s) for Decision:**

- (i) The site has been closed and unoccupied since the former waste transfer business operating from the site was put into liquidation. The acquisition of the site presents the Council with an opportunity to deal with the site in order to bring back into beneficial use a strategically important employment site in the City which will contribute towards the Council's priorities of creating employment opportunities, regenerating an under utilised site and prevent the continuation of an undesirable use.
- (ii) The grant of a lease is an appropriate commercial mechanism which will enable essential remedial works to be carried out to the site without any upfront capital cost to the Council for these works, and allow the expansion of an organisation which provides significant skilled employment opportunities.

**Alternative options to be considered and recommended to be rejected:**

The alternative option is:-

Not to acquire the site or grant the lease. In these circumstances there would be no certainty of when this site would be brought back into beneficial use and the remedial works carried out. Not granting a lease would jeopardise the opportunity for the expansion of an organisation which provides skilled employment opportunities.

This option has been considered and is not recommended.

**Impacts analysed;****Equality****Privacy****Sustainability****Crime and Disorder****Is the Decision consistent with the Council's co-operative values? Yes****Is this a "Key Decision" as defined in the Constitution?****Yes****Is it included in the 28 day Notice of Decisions?****Yes**

**ACQUISTION AND GRANT OF A LEASE OF LAND AT DEPTFORD, SUNDERLAND**

**REPORT OF THE EXECUTIVE DIRECTOR OF COMMERCIAL DEVELOPMENT**

**1.0 Purpose of the Report**

- 1.1 To seek approval to acquire and grant a lease of approximately 3.65 ha. (9 ac.) of land at Deptford, Sunderland shown edged in bold black on the attached plan.

**2.0 Description of Decision**

- 2.1 To agree that the Council acquires approximately 3.65 ha. (9 ac.) of freehold land at Deptford, Sunderland.
- 2.2 To agree that the Council grants a lease of the land at a price which is the best reasonably obtainable and otherwise on terms to be agreed by the Executive Director of Commercial Development in consultation with the Leader and Cabinet Secretary.

**3.0 Background**

- 3.1 The site is adjacent to the River Wear and comprises approximately 3.65 ha. (9 ac.) of freehold land, which is mainly open land with some buildings constructed specifically for the former use as a waste transfer operation.
- 3.2 The site was previously occupied by way of a lease by Alex Smiles Ltd. Following this company going into liquidation the site was vacated and a large amount of waste left on the site. There is now no company for either The Environment Agency to enforce its permit against or the current freehold owners to take action against for the removal of the waste. To bring the site back into beneficial use, significant remedial works (including clearance of waste on the site and discharge of relevant environmental permits) would be required.
- 3.3 The freehold of the site is owned by the Trustees of the Alex Smiles Ltd Pension Scheme which is subject to a charge from the bank. There is currently no statutory obligation for them to remove the waste or bring the site back into beneficial use. The waste has the potential to cause significant issues for nearby sites in terms of odours and pests.
- 3.4 The Site is considered to be a strategically important employment site which presents an opportunity for the Council to deal with the site enabling it to be brought back into beneficial use, allow the expansion of an organisation in the vicinity which provides significant skilled employment opportunities in the City, and a mechanism to remediate the site prior to it becoming a significant issue.
- 3.5 Cabinet will also be aware of the Council's Land Acquisition Policy which identifies the importance of making strategic opportunity acquisitions such as those detailed

within this report.

#### **4.0 Current Position**

- 4.1** Terms have been provisionally agreed with representatives jointly instructed by the freehold owners of the site and bank which holds the charge on the land for the acquisition of the site.
- 4.2** The Council is in detailed negotiations with to grant a long term lease of the site should the Council acquire the land. The terms of the lease will contractually oblige the tenant to remediate the site and be at a price which is the best reasonably obtainable. Acquisition of site will be dependent upon completing an agreement for lease which will mitigate any risk to the Council associated with the site remediation, and ensure that the remediation is completed within an appropriate timescale.
- 4.3** The proposed tenant's proposals are to expand their current operation and develop the site including the construction of new head offices for the Sunderland company.

#### **5.0 Reasons for Decision**

(i)The site has been closed and unoccupied since the former waste transfer business operating from the site was put into liquidation. The acquisition of the site presents the Council with an opportunity to deal with the site in order to bring back into beneficial use a strategically important employment site in the City which will contribute towards the Council's priorities of creating employment opportunities, regenerating an under utilised site and prevent the continuation of an undesirable use.

(ii)The grant of a lease is an appropriate commercial mechanism which will enable badly needed remedial works to be carried out to the site without any upfront capital cost to the Council for these works, and allow the expansion of an organisation which provides significant skilled employment opportunities.

#### **6.0 Alternative Options**

The alternative option is:-

Not to acquire the site or grant the lease. In these circumstances there would be no certainty of when this site would be brought back into beneficial use and the remedial works carried out. Not granting a lease would jeopardise the opportunity for the expansion of an organisation which provides skilled employment opportunities.

This option has been considered and is not recommended.

#### **7.0 Impact Analysis**

##### **7(a) Equalities - N/A**

**7(b) Privacy Impact Assessment (PIA) – N/A**

**7(c) Sustainability**

**Sustainability Impact Appraisal**

Sunderland Strategy Objectives cross check with decisions outcomes:

**• Prosperous City**

Bringing the site back into beneficial use provide investment into the city and create opportunities for additional skilled employment.

**• Healthy City / Safe City**

The remediation of the site will address current issues with odours and pests on the site.

**• Learning City**

No impact.

**• Attractive and Inclusive City**

No impact

**7(d) Reduction of Crime and Disorder – Community Cohesion / Social Inclusion – N/A**

**8 Other Relevant Considerations / Consultations**

**8(a) • Financial Implications**

The financial implications are detailed in Part 2 of this report

**8(b) • Risk Analysis**

The proposed terms for the lease transfers any risks associated with the site remediation and waste held on site to the tenant. In addition the Council will carry out a full due diligence exercise in relation to the strategy and timetable for dealing with the remediation to ensure that both contractual and environmental risks are minimised.

The acquisition of the site and potential exposure to risk associated with the waste will be mitigated by completing an agreement for lease.

If the proposed tenant defaulted on their contractual obligation under the lease to carry out the remediation within an appropriate timescale the Council could be liable to complete these works. To fully expose and mitigate this risk it is proposed to carry out extensive due diligence into the organisation in relation to their ability to perform this obligations along with the option of parent company guarantees.

**8(c)** • **Employee Implications** - N/A

**8(d)** • **Legal Implications**

The Head of Law and Governance has been consulted and her comments are contained in this report. The terms agreed for the lease will be subject to both internal and external confirmation from a suitably qualified valuer that it is the best reasonably obtainable for the disposal of the land in accordance with Section 123 of the Local Government Act 1972.

**8(e)** • **Policy Implications** - N/A

**8(f)** • **Health & Safety Considerations**

The remediation of the site will address current issues with odours and pests on the site.

**8(g)** • **Property Implications**

The terms agreed for the lease will be subject to both internal and external confirmation from a suitably qualified valuer that it is the best reasonably obtainable for the disposal of the land in accordance with Section 123 of the Local Government Act 1972.

**8(h)** • **Implications for Other Services** - N/A

**8(i)** • **The Public** - N/A

**8(j)** • **Compatibility with European Convention on Human Rights**

**8(k)** • **Project Management Methodology** - N/A

**8(l)** • **Children's Services** - N/A

**8(m)** • **Procurement** - N/A

**9** **List of Appendices**

Appendix 1: Plan showing Site boundary

**10** **Background Papers**

N/A