

Item No. 19.	Classification: Open	Date: 21 June 2011	Meeting Name: Cabinet
Report title:		Improved terms for the sale of sites A and B at Canada Water	
Ward(s) or groups affected:		Rotherhithe	
Cabinet Member:		Councillor Fiona Colley, Regeneration and Corporate Strategy	

FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR REGENERATION AND CORPORATE STRATEGY

I'm delighted to present the report below which bring some significant and welcome improvements to the terms of the sale of sites A & B in Canada Water, due to a new electricity supply no longer being required, and also reports on the achievement of planning overage on the sale.

RECOMMENDATIONS

That Cabinet:

1. Approves the changes to the contract for the sale of site A and most of site B at Canada Water (see the plans attached as appendixes 1 and 2) as set out in paragraph 6.
2. Notes the level of planning overage to be paid to the council as detailed in the report on the closed agenda.

BACKGROUND INFORMATION

3. In April 2005 the council entered into a development agreement with British Land Canada Quays Ltd. (BLCQ) to bring about the comprehensive regeneration of the six sites shown at appendix 3. The development was to be delivered in phases in accordance with a masterplan to be prepared by BLCQ, who was also to deliver planning consent for the scheme. BLCQ are responsible for the day-to-day conduct of the project including the marketing for sale of council land. Costs are charged to a development account and recovered from the receipts from land sales.
4. At its meeting on 18 December 2007 the Executive agreed in principle to the sale of site A and most of site B at Canada Water and delegated to the Head of Property authority to agree the final terms provided they represented best consideration.
5. Those negotiations concluded on 21 December 2007 with the signing of a contract of sale and for the purposes of this report the key terms are as follows:
 - The sale is a tri-partite agreement between the council, its strategic

development partner BLCQ and the purchaser BDW Trading Ltd (who trade as Barratt Homes).

- The sale price includes planning overage that is calculated on the amount of residential floor space over a set level that is granted planning consent less certain costs.
- Barratt shall provide a new 11KV high voltage electricity supply to the area to serve their site and other development sites in Canada Water.
- The council and BLCQ shall make a contribution towards the cost of the new supply.
- Barratt shall make a contribution towards the cost of creating a new public plaza on part of site B around the new Canada Water library.
- BLCQ shall construct the new plaza.

6. For the reasons explained below this report recommends that a deed of variation be entered into that will amend the sale contract dated 21 December 2007 as follows:

- To remove the obligation on Barratt to provide a new 11KV high voltage electricity supply and the corresponding obligation on the council to contribute towards the cost of that supply.
- That Barratt's contribution towards creating the new plaza should be increased, which shall be payable on or before 4 July 2011.

7. Cabinet is also asked to note the final agreement with Barratt on the level of planning overage. The overage shall be payable on or before 4 July 2011.

High voltage electricity supply

8. At the time of the marketing of sites A and B it was known that the local electricity network was operating at capacity. EDF had confirmed that they could increase capacity by taking an 11KV supply from the Deptford major substation. Throughout this period the Deptford option was the only solution offered by EDF.

9. An 11KV supply was significantly more capacity than required by Barratt and so as part of the sale negotiations it was agreed the council and BLCQ would make a contribution towards the cost.

10. After the sale of the land to Barratt it was discovered that EDF had allocated the Deptford supply to another customer so that a new option was needed. Barratt pursued their own solution and eventually resolved the problem by arranging for a new supply from the Neckinger substation. But the new supply had a significantly lower capacity.

Plaza contribution

11. Sites A and B were sold with the benefit of outline planning permission for the residential elements and detailed consent for the public realm. The s106 package included obligations on the timing of completion of the public realm and the quality of the scheme.

12. In order to ensure the quality of the plaza and good co-ordination with construction of the library it was decided that BLCQ should take on delivery of the plaza with Barratt making a contribution towards the cost.

Planning overage

13. Sites A and B were sold with outline planning permission for the residential elements and it was open to Barratt when making their detailed application to increase the quantum of development. The sale therefore included an allowance for planning overage, which is calculated according to a formula.
14. The details of the planning overage are set out in the report on the closed part of the agenda for this meeting.

KEY ISSUES FOR CONSIDERATION

15. There are two issues to deal with in this report: the obligation on Barratt to provide an electrical supply; and, the timing of payment of the additional plaza contribution and the planning overage.
16. The substantive issue is how to deal with Barratt's inability to deliver on their contractual obligation to provide the 11KV supply, in which regard there appear to be two basic courses of action open to the council:
 - Seek to insist that Barratt provides the supply.
 - Release them from the obligation to provide the supply.
17. For a number of reasons it is considered in the best interests of the council to release Barratt from their obligation:
 - In return for releasing them from the obligation Barratt has agreed to make an additional contribution towards the new plaza.
 - The obligation to provide the supply arose in the first place as a response to EDF only offering one option for a new supply to sites A and B. If in 2007 EDF had offered to make available a supply with a capacity that matched Barratt's need the supply would not have become an issue for the contract of sale.
 - To insist on Barratt providing the additional supply would expose the LBS / BLCQ development account to a financial contribution.
 - There is no immediate need for the additional supply and should that need arise in the future individual landowners and developers would be free to make their own arrangements with a utility company.

Policy implications

18. There are no particular policy implications arising from the recommendations in this report.

Community impact statement

19. There are no particular community impacts arising from the recommendations in this.

Resource implications

20. The resource implications are set out in the report on the closed part of the agenda for this meeting.

Consultation

21. There has been consultation with officers from legal services and finance.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

22. The original development agreement and the sale agreement arising from it were the subject of Executive decisions, with the Head of Property having delegated authority to agree the final terms of the sale agreement, provided these represent best consideration.
23. The proposed variations to the sale agreement do not affect the consideration paid for the disposal of the land, but do affect other payments to be made by the council in respect of the electrical supply and to the council in respect of overage and plaza works.
24. The net adjustment to the council's eventual receipt, taking into account the amount to be paid to the council and the release of the council from its obligation to pay out money in respect of the electricity supply, exceeds the extent of the authority delegated to the Head of Property pursuant to section 3P of the council's constitution and this is why the matter has been referred to cabinet for approval.
25. It is not considered that there are any adverse legal implications from entering into the proposed variation to the sale contract.

Finance Director

26. This report recommends the approval of changes to the contract for the sale of sites at Canada Water, and notes the level of planning overage to be paid to the council.
27. In return for releasing Barratt from their obligation to provide an 11KV high voltage electricity supply, they have agreed to make an additional contribution towards the costs of the new plaza.
28. In addition to the receipt identified above, the Council is released from its obligation to pay its share towards a new electrical supply. This has a positive consequence for the council by way of an increase to the net receipt received from the sale of land at Canada Water.
29. The arrangements for the payment of these various sums are set out in the report on the closed part of the agenda for this meeting and are considered acceptable.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Canada Water project working papers	Council offices, Tooley Street	James Oates on 020 7525 5633

APPENDICES

No.	Title
Appendix 1	Plan of site A at Canada Water
Appendix 2	Plan of site B at Canada Water
Appendix 3	Plan of six contracted sites at Canada Water

AUDIT TRAIL

Cabinet Member	Councillor Fiona Colley, Regeneration and Corporate Strategy	
Lead Officer	Eleanor Kelly, Deputy Chief Executive	
Report Author	James Oates, Canada Water Project Manager	
Version	Final	
Dated	9 June 2011	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional/Community Council/Scrutiny Team		9 June 2011