

Item No. 14.	Classification Open	Date: 17 April 2012	Decision Taker: Cabinet
Report title:		Selection of Preferred Developer for Land Transfer Aylesbury Site 7 (1-50 Wolverton)	
Ward or groups affected:		Faraday Ward	
Cabinet Member:		Councilor Fiona Colley, Regeneration & Corporate Strategy	

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

I am delighted to present this report to cabinet. Since the Aylesbury Area Action Plan (AAP) was adopted in January 2010 the council has been working hard to bring forward the implementation of this plan and the delivery of new homes in this area despite the disappointment of the government’s removal of the Private Finance Initiative (PFI).

It was agreed in November 2010 that Site 7 Aylesbury, aka 1-50 Wolverton, should be offered on the open market with a view to securing a developer who would build out this site and so progress the regeneration. The site was widely advertised and I am pleased that there was significant interest in this opportunity

A robust tendering process, which has involved the submission of detailed redevelopment schemes and financial offers by the interested parties, has resulted in three strong proposals coming forward for consideration by cabinet. This report recommends that cabinet approves the transfer of this land to the preferred bidder on the basis that it will be developed to provide new mixed tenure homes over 50% will be affordable of which three quarters will be available at social rents, which is a major achievement in the face of government changes to housing policy.

The agreements relating to this land transfer will ensure that the development complies with the key policies set out in the AAP including meeting high standards on room sizes and for 70% of homes to have two or more bedrooms. The development will be highly sustainable with all homes meeting at least Level 4 of the Code for Sustainable homes and with the ability to connect to a combined heat and power system that will serve the wider area long term. Design quality will be ensured through the planning system and the scheme will include an excellent range of quality private and open space.

Subject to the council obtaining vacant possession of the site and the grant of planning permission it is hoped that demolition and then construction work will start early 2013 with the development completing early 2015. I am proud this represents a huge step forward for the regeneration of Aylesbury Estate.

RECOMMENDATIONS

That cabinet agrees:

1. To the disposal of Site 7 within the Aylesbury Estate on the principal terms set out in the closed version of this report.
2. That delegated authority is given to the director of regeneration to agree any variations to these terms that may be necessary to achieve the disposal in the light of further negotiations and securing full planning consent.
3. That in the event that this proposed disposal does not proceed to exchange, that delegated authority is given to the director of regeneration to agree the terms of a sale with any one of the under bidders set out in this report provided that these terms conform with the council's legal obligation to achieve the best consideration reasonably obtainable

BACKGROUND INFORMATION

4. On 2 November 2010, cabinet agreed that Aylesbury sites 7 and 10 should be offered on the open market with a view to securing one or more developers to progress their regeneration in accordance with the Aylesbury Area Action Plan.
5. It was agreed that officers should report back to cabinet following marketing and subsequent bid appraisals with recommendations on the regeneration partner and the principal contractual structure for the transfer of the sites.
6. The development brief for Site 7 was agreed by an individual member decision (IDM) on 2 September 2011 This report noted that analysis of the feasibility and desirability of proceeding with the development of Site 10 through a land transfer at the same time had been carried out. However, this was not recommended for the following reasons.
 - It would not be possible to deliver the right solution for health and community facilities by bringing forward Site 10 at this time. Progressing a development on Site 10 without these facilities would undermine a key part of the council and community's shared aspiration for the regeneration.
 - There would be a risk of constraining long-term development if Site 10 were to be delivered separately to the remainder of the surrounding area and without due consideration to the development of the whole of the estate.

The property and planning policy

7. Site 7 is held freehold by the council and extends to approximately 0.75 hectares. It is located on the corner of East Street and Thurlow Street and is shown edged red on the plan attached at Appendix 1. The site is currently occupied by 2 blocks which comprise Nos 1-27 and 28-59 Wolverton.
8. It should be noted that Nos 51-59 are situated on land that falls outside of the red line but will need to be demolished as an essential part of the redevelopment.
9. The site falls within the area of Aylesbury Area Action Plan which was adopted in January 2012. This sets the planning policy and the framework for the regeneration of the Estate. The location of the property within the Estate is shown on the plan attached at Appendix 2 and the area marked red includes the site plus the full extent of the proposed demolition and landscaping works.
10. The Aylesbury AAP sets out a number of key policies that apply throughout the regeneration area:

- Social housing to be provided to Parker Morris + 10%
- 70% of homes to have two or more bedrooms
- Design excellence and high quality
- Delivery of an excellent range of quality private and open space
- All developments to connect to a combined heat and power system
- All homes to meet at least Level 4 of the Code for Sustainable homes
- The cost of key infrastructure will be met by way of a tariff
- Across the regeneration area 0.4 car spaces per dwelling

11. The specific proposal for Site 7 was to provide 165 homes to replace the 59 properties currently on the site. A breakdown of the proposed provision is shown in Appendix 3.

Current occupiers and obtaining vacant possession

12. The 59 flats and maisonettes on the site are located in two blocks. 18 of these properties have been sold on long leases and the remainder have been occupied as council rented properties.
13. Of the 18 leasehold properties, four have been bought back by the council, four are owned by leaseholder investors and the other ten are owner occupied.
14. There are only two secure tenants remaining in the blocks and housing officers are supporting these tenants in securing new homes through Homesearch.
15. 21 properties are currently occupied by temporary accommodation tenants and notice has been given to these tenants to vacate at the end of March 2012.
16. The remainder of the properties are empty and have been secured.

Negotiation with leaseholders

17. All Aylesbury homeowners are being offered rehousing assistance which means that they can be offered a suitable council property (in terms of size, price and any medical requirement) to purchase on full or shared ownership terms. Those homeowners unable to afford a purchase at the minimum 25% are offered council tenancy. Both sets of homeowners must undergo a financial assessment to ascertain the most appropriate rehousing route and choose the property they will buy or rent from the council's choice-based lettings system, Homesearch.
18. An offer has also been made to Site 7 homeowners of shared equity properties within the first phase 1a of the Aylesbury regeneration by London and Quadrant. This offer would enable leaseholder to buy a share in a new property without incurring any additional costs in terms of rent throughout their lifetime
19. It is hoped that successful resolutions to each homeowner's rehousing issues can be found, either via the council's rehousing assistance policy or another source before the target vacant possession date of 1 January 2013. However, in order to protect the council's position the use of the compulsory purchase order (CPO) powers referred to in paragraphs 22 to 25 is also being progressed.

Approach to Compulsory Purchase

20. On 9 February 2010, the then executive resolved to use its CPO powers under section 226 (1) of the Town & Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 to acquire land and new rights within the identified phase 1 of the Aylesbury regeneration project. Authority was given to the Head of Property to determine and implement the optimum number of orders to deliver the overall regeneration aspiration.
21. In order to protect the council's position and ensure that vacant possession can be provided and the regeneration of Site 7 is not delayed, the compulsory purchase process in respect of Site 7 commenced on 9 February with the service of requisition notices and letters requesting information about those parties who have an interest in the site.
22. The compulsory purchase order was made on 27 March 2012 (awaiting final comments from DCLG) and the period for objections ends on 30 April 2012. The inspector acting on behalf of the Secretary of State for Communities and Local Government will then decide whether to consider the objections either by written representations or by public enquiry before confirming the order.
23. The type and relevance of any objections submitted to the Secretary of State will influence the decision on whether a public enquiry is required and the timescales for the confirmation of the order.

KEY ISSUES FOR CONSIDERATION

Basis of disposal

24. The property is held in the housing revenue account and the disposal of this site needs to achieve the best consideration in accordance with section 32 of the Housing Act 1985.
25. Best consideration can include not only the financial offer but also an assessment of the deliverability of that offer.
26. Although it is proposed to dispose of this building for redevelopment by others, the borough will nevertheless want to ensure the completed development reflects the vision set out in the Aylesbury area action plan and the core strategy.
27. The proposed property structure is that the council would enter into an agreement for lease with a long lease of the site being granted to the developer once a number of conditions have been met. These include the council providing vacant possession of 1-59 Wolverton which involves the re-housing of the current secure tenants and the buy back of the leasehold interests in these blocks. The disposal will also be dependant on the grant of a satisfactory planning consent and the stopping up of Sedan Way. The lease will not be granted until there is agreement between the parties that the redevelopment of the site is viable so that development can proceed shortly after the grant of the lease.

Marketing and Expressions of Interest

28. The freehold interest in the property was formally placed on the market in September 2011. Advertisements were placed in the national property press and the marketing pack was sent out to over 50 developers and housing associations.
29. The site was marketed on the basis of a two stage process, with expressions of interest being invited in the first instance. There was a good response to the advertising and 8 expressions of interest were received on 27 October 2011.
30. These expressions of interest did not include a financial offer but applicants were assessed against their track record, their approach to the redevelopment of Site 7, the skills and experience of their team and their commercial submission which included financial capacity and the ability to deliver this redevelopment within the proposed timeframe of two and a half years.

Tender process and selection criteria

31. Four parties were short listed with a view to the submission of informal tenders on 9 March 2012. They were
 - London and Quadrant (L&Q)
 - Hyde Housing
 - Countryside Properties and Peabody
 - Bouygues and Notting Hill
32. The tender process has required the shortlisted parties to submit substantial amounts of information to support their proposals to ensure the council can fully assess the deliverability of each bid in terms of land transfer and the redevelopment of the site.
33. Proposals were assessed on the basis of 60% of the marks for delivery confidence and 40% for consideration.
34. The delivery confidence assessment of the proposals includes the following criteria and the shortlisted parties were invited to submit proposals in respect of the following areas
 - Design
 - Development mix (tenures and unit sizes)
 - S106 and the overall socio-economic element of the bid
 - Programme for the redevelopment
 - Community and resident involvement strategy
 - The provision of intermediate housing in terms of re-housing options for leaseholders on the Estate
 - Any substantial changes proposed to the lease or agreement
 - The commercial robustness of the bid – whether realistic sales values and costs have been assumed
35. The further period of engagement has included the issue of draft legal documentation. Short-listed parties were required to amend these documents so that there would be only very limited negotiations after the selection of the proposed developer.

36. Short-listed parties were given the opportunity to submit the designs of their proposed schemes for comments by planners and formal written pre-application planning advice.
37. The financial element of the proposals or the consideration was assessed through the completion of a financial model for the redevelopment of the site. This assessed the offer in terms of any land value together with the value of the subsidy for the affordable housing within the scheme.
38. Applicants were also asked to consider including overage provisions in the lease so that the council will benefit if the developer achieves more than the sale values currently envisaged. This element has also been assessed as part of the financial proposal.

Assessment of informal tenders

39. Tenders were received from three of the four short-listed parties on 9 March 2012.
40. The detailed assessment of these proposals in accordance with paragraphs 35 to 41 above is set out in the closed version of this report.
41. In order that proposals could be assessed against the requirement to achieve best consideration, a valuation report was obtained from Savills.
42. The submission of schemes for pre-application advice from the planning authority has enabled officers to effectively assess the deliverability of each proposed scheme. This is especially important where tenders are conditional on planning as the sale will not complete until planning consent is obtained. Obtaining details of their proposals at this stage enables the council to clearly define in the contract documentation what is required in terms of a planning consent to allow the grant of the lease to complete.
43. The recommended developer and the principal terms are set out in the closed version of this report.

Next steps

44. If the council decided to proceed and accept the recommended informal tender for Site 7 solicitors would be instructed and the target date for exchange of contracts would be the beginning of June 2012 subject to the additional conditions as outlined in the closed report being satisfied.
45. If contracts are exchanged in accordance with this timetable, a planning application could be submitted by September 2012 and if planning consent is granted, then the land transfer would complete in early 2013 subject to the council achieving vacant possession of the site. This could be subject to further delay in the event that the timetable for securing the compulsory purchase order is delayed beyond the 6-8 months currently envisaged.
46. The council may consider varying the vacant possession condition so that the preferred developer takes the site with the existing blocks and carries out the demolition of these buildings to ensure the redevelopment proceeds as quickly

as possible. The consideration would then be adjusted to reflect the cost of this work.

47. In the event that contracts are not exchanged by the end of June 2012 or there has not been significant progress with negotiations with the preferred bidder, the director of regeneration should be authorised to open discussion with the under-bidders with a view to exchanging contracts for the disposal of the property.
48. If the planning application is not submitted within 6 months of exchange of contracts then the contract can be terminated and the head of property should be authorised to open discussion with the under-bidders with a view to exchanging contracts for the disposal of the property
49. Subject to the timetable set out in paragraph 48 above it is expected that the new affordable homes would be completed by March 2015.

Policy implications

50. Taking forward the Aylesbury regeneration programme is a council commitment and the revised approach advocated here is in pursuance of that.
51. The sites currently house secure tenants, temporary accommodation tenants, owner occupier leaseholders and the tenants of the investment properties. Vacation of the occupied properties will be achieved in accordance with existing policies approved by the then executive on 26 September 2006. Every effort will be made within the statutory framework to purchase leasehold properties by agreement but in recognition that this may not be possible, the council's executive on 9 February 2010 resolved to make a compulsory purchase order to acquire any outstanding third party interests.
52. This proposal will also deliver funding for infrastructure works on the Aylesbury through the infrastructure levy. This will support further phases of the Aylesbury regeneration.
53. The disposal of Site 7 for redevelopment will ensure continuity of construction on the Aylesbury and the delivery of new homes. This proposal will contribute to the further regeneration of the Aylesbury Estate as set out in the area action plan and the core strategy.

Community impact statement

54. A full impact assessment was carried out and submitted as part of the process in the adoption of the Aylesbury area action plan
55. The effect of the compulsory purchase order will be to dispossess persons of their rights in land. This is a necessary process to ensure the redevelopment and regeneration of the site can proceed. This is considered acceptable where the proposals are in the public interest and where, as in this case, the advantages of regeneration substantially outweigh the disadvantages to those dispossessed.

Resource implications

56. The cost of in-house officer and external consultant time necessary to progress the transaction can be contained within existing budget resources

Financial Implications

57. The selected developer will therefore make a payment to the council as detailed in its financial model but subject to any adjustments at the point the lease is drawn down estimated to be early 2013.
58. Further overage payments may be made once the scheme is completed if sales receipts exceed expectations.
59. The s106 funding including the Aylesbury infrastructure tariff arising from this development will further generate funding for reinvestment in the Aylesbury Estate.
60. These receipts will contribute to funding of the housing investment programme and there will be a corresponding adjustment to the budget for the Aylesbury regeneration programme within this overall programme.

Land Assembly

61. The council has budgeted in its housing investment programme for the cost of land assembly and providing vacant possession of the site. This expenditure falls into a number of cost categories including the cost of buying back the leasehold properties, home loss and disturbance payments, securing the blocks to prevent squatting and the demolition of the existing blocks.

Key risks and how they will be managed

Risk	Impact	Mitigation
Bidders proposals for their proposed schemes do not meet planning policy requirements.	Scheme does not get planning consent	Work with preferred bidder to address issues and find solutions
Vacant possession is not obtained by the required land transfer date of April 2013	Sale may not complete	Continued close liaison with Housing to ensure the decants proceed smoothly. Progress CPO to protect council's position
Delays to programme either before or once construction is on site means that affordable units are not completed by March 2015	HCA grant funding will be lost	Ensure programme for acquiring vacant possession and construction is robust
Further deterioration in property markets and availability of funding	Preferred bidder decides not to /cannot proceed	Continue to work closely with preferred bidder to strict timetable. Contract will be determined if issue on funding is personal to preferred bidder and negotiations opened with under bidder.

Consultation

62. Throughout the life of the Aylesbury regeneration programme there has been extensive consultation between the council and the programme' stakeholders in respect of the AAP and proposed transfer of this site.
63. This proposal has been presented to and discussed with the Aylesbury regeneration sub-group and Creation Trust and they are supportive.
64. The four initial designs were presented to all residents on the estate at an open afternoon and evening and comments invited. This has formed part of the design development process.
65. The application for planning consent to develop this site will be subject to the usual statutory consultation

Legal implications

66. These are set out in the concurrent of the strategic director of communities, law & governance.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

67. Section 1 of the Localism Act 2011 grants councils a general power of competence whereby a local authority has power to do anything that individuals generally may do. However, that power does not enable a local authority to do anything which it is unable to do by virtue of a pre-commencement limitation.
68. As the Property falls within the council's housing portfolio, the disposal can only proceed in accordance with section 32 of the Housing Act 1985, for which purposes the consent of the Secretary of State for the Department of Communities and Local Government is required.
69. A number of general consents have been issued in the General Housing Consents 2005.
70. General consent E3.1 provides that:

A local authority may dispose of any land held for the purposes of part II for the best consideration that can reasonably be obtained, provided that any dwelling-house included in the disposal:
 - a) *Is vacant;*
 - b) *Will not be used as housing accommodation; and*
 - c) *Will be demolished*
71. The report confirms that the site will be transferred with vacant possession and that the buildings on the site will be demolished.
72. The report confirms that the bids received have been assessed such that confirmation can be given that the consideration to be received will represent the best consideration that can reasonably be obtained. This will be confirmed again at the time of the disposal through advice from independent valuers.

73. If cabinet is satisfied that the transaction represents value for money they may approve the recommendation for sale.
74. Negotiation of the terms of the transaction is delegated to the director of regeneration subject to meeting the requirements of statute set out above.

Finance Director (AV/200312/FR)

75. The recommendations of the report are noted that the site is disposed of on the terms set out in the closed report, that delegated authority is given to the director of regeneration to agree necessary variations to these terms, including agreement of terms of sale with one of the under bidders in the event that a disposal to the preferred bidder does not proceed to exchange.
76. A clear financial evaluation methodology was developed by officers, supported by advice and input from the council's financial advisors for the scheme Grant Thornton. The methodology as detailed in paragraphs 35 to 41 enabled clear assessment of the best bid in financial terms with the contractual requirement upon the developer to provide residual land value and overage payments to the council in line with the content of its approved bid
77. The finance director acknowledges the methodology used to agree the disposal of the site and that the director of regeneration has confirmed the result generates best consideration. Officers will need to contractually agree the payment date for the final agreed residual land value of the site, and any overage payment dates in accordance with the viability mechanism set out in the report
78. The land assembly implications of the report are seen and are a key aspect of successfully bringing this site to market. Close monitoring of the programme plan should be undertaken by project managers, with appropriate input from finance colleagues to mitigate programme and financial risks which could impact on successful achievement of vacant possession.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Tender documents	Aylesbury Regeneration Team 5 th Floor, 160 Tooley Street London SE1 2QH	Jane Seymour 020 7525 4907

APPENDICES

No.	Title
Appendix 1	Plan of the Property
Appendix 2	Location of Site 7 within Aylesbury Area Action Plan
Appendix 3	Aylesbury AAP proposals for Site 7

AUDIT TRAIL

Cabinet Member	Councillor Fiona Colley, Regeneration & Corporate Strategy	
Lead Officer	Eleanor Kelly, Deputy Chief Executive	
Report Author	Jane Seymour, Development Partnership Broker, Aylesbury Team	
Version	Final	
Dated	4 April 2012	
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 Team		4 April 2012