

COMMITTEE: EXECUTIVE REF NO:E/11/57
DATE: 22ND NOVEMBER 2011
SUBJECT: F1 AND F2 THORINGTON HALL,
PINEWOOD IPSWICH
PORTFOLIO HOLDER: COUNCILLOR DAVID ELLESMERE
DIRECTOR: LAURENCE COLLINS

Following the proposed purchaser's withdrawal from its purchase of the land this report requests Executive to revoke the previous decision of Executive to sell the land for housing development; determine to leave the land undeveloped and instruct officers to report on the alternative options for the management of the land.

List of Appendices included in this report:

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This report was prepared after consultation with:

Internal consultees

Councillor David Ellesmere (Portfolio Holder).

Russell Williams (Chief Executive).

Laurence Collins (Director)

Pauline McBride (Legal and Democratic Services).

Ian Blofield (Head of Finance).

The following policies form a context to this report:

(all relevant policies must also be referred to in the body of the report)

Transforming Ipswich

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(papers relied on to write the report but which are not published and do not contain exempt information)

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OTHER HELPFUL PAPERS

(papers which the report author considers might be helpful – this might include published material)

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1. Introduction

- 1.1 Executive resolved on 13 July 2010 to sell the site for the best consideration reasonably obtainable.
- 1.2 On the same date, Executive resolved to sell the site to a preferred purchaser.
- 1.3 On the 9th September the preferred purchaser formally withdrew from the purchase of the site.

2. Background

- 2.1 The factors listed below related to the proposed purchase of the land.:-:
 - 2.1.1 An application for Judicial Review of the Executive decision to sell the site;.
 - 2.1.2 Varied complexities of developing the site for example potential S106 Planning Agreement costs together with the risk of registration of the land as a village green or common land.
 - 2.1.3 Delay in processing the proposed purchaser's planning permission by the Local Planning Authority (Babergh District Council) which led to the proposed purchaser's appeal against non-determination of the planning application. .
- 2.2 The proposed purchaser has withdrawn from the purchase of the land and Executive is now asked to decide whether it wishes to revoke the former decision to sell the land for housing development; whether the land should remain undeveloped and whether it wishes officers to investigate alternative options for future management of the land.

3. Relevant Policies

- 3.1 The relevant policies in the Council's Corporate Plan Transforming Ipswich, are in particular 1. Clean and Green Ipswich and 7. Health and Wellbeing.

4. Options Considered / Under Consideration

4.1 The various options for consideration include:--.

4.1.1 Seek a new purchaser for the land.

Benefits:

- (1) Potential capital receipt on completion of purchase.
- (2) Affordable housing provision (25%) of the land.

Disadvantages:

- (1) Continued Judicial Review challenge.
- (2) The previous planning permission expired on the 30th October. Any new purchaser would have to submit a new application with full Environmental Impact Assessment. It is likely that the area that would be granted any development permission would be reduced from that previously identified by the previous purchaser.
- (3) Contract to sell would be conditional and capital receipt is not guaranteed.
- (4) Market conditions have deteriorated over the last 12 months and it is likely that the number of developers interested in bidding for this opportunity will be less than previously experienced especially in view of the fact that it does not have an extant planning permission.

4.1.2 Revoke previous decision to sell land for housing development;

Benefits

- (1) site retained in present state
- (2) withdrawal of defence to judicial review and discontinuance of legal proceedings

Disadvantages

- (1) loss of potential capital receipt;
- (2) loss of affordable housing

4.1.3 Leave land undeveloped.

Benefits:

- (1) Opportunity for future management options for land;
- (2) Discontinuance of judicial review (see above)

Disadvantages

- (1) possible costs implications of management of site
- (2) limited likelihood of gaining planning permission in the future

5. Consultations

Subject to the decision of Executive, consultation would be undertaken in relation to future proposals as appropriate.

6. Risk Management

Risk Description	Consequence of risk	Risk Controls	Probability of risk occurring taking account of controls (scale A-F) A – very likely F – almost impossible	Impact of risk, if it occurred taking account of actions (scale 1 – catastrophic; 4 – negligible)	Actions to mitigate risk
Remarket site	Judicial Review continues.	Defend Council's decision to sell the land	E	2	Timely defence of legal action.
Revoke former decision to sell the land for housing development			E	2	Consider options for management of undeveloped land.
Review opportunities	Judicial Review will continue. Future prospects uncertainty		D	2	Short review period.
Investigate options for management of undeveloped land			D	2	Liaise with Ipswich Wildlife Group
Do nothing	Judicial Review would continue.	Defend Judicial Review	D	2	Defence of legal action and management of site

7. Environmental Impact Assessment

- 7.1 Subject to the decision of Executive, an EIA would be considered in a future report.

8. Equalities and Diversity Implications

- 8.1 An equality impact screening assessment has been carried out on the proposal to dispose of this land and no adverse impact was identified. Any future report would consider Equality and Diversity implications.

9. Financial Considerations

- 9.1 It is understood that a receipt in respect of the potential sale has been included in the Capital Receipts Forecast for 2011/12.

10. Legal Considerations

The legal considerations relating to the Judicial Review are set out in an Appendix to this report, which contains **exempt information**.

11. Performance Monitoring

- 11.1 not applicable.

12. Conclusions

- 12.1 The purchaser has withdrawn from its proposed purchase of the land and officers seek the agreement of Executive to revoke the former decision to sell the land for housing development; to agree to leave the land undeveloped and to instruct officers to consider alternative options for the management of the land and to bring a report to Executive by 31st March 2012

13. Recommendations

- 13.1 That Executive agrees to revoke the previous decision of Executive on 13th July 2010 to sell the land for housing development;**

Reasons

To enable consideration of alternative use of the land

13.2 Subject to approval of recommendation 13.1 that Executive authorises the Head of Legal and Democratic Services to:

- (i) Notify the Court and the claimants solicitors that the Judicial Review is now entirely academic and should be withdrawn or dismissed so that the hearing date may be vacated;**
- (ii) Negotiate a settlement of any outstanding issues as to disposal of the case and costs.**

Reasons

To enable timely disposal of the Judicial Review Proceedings

13.3 That Executive agrees to leave the land undeveloped and instructs the Head of Planning Transport and Regeneration in consultation with the Head of Legal and Democratic Services to report to Executive by 31st March 2012 on the alternative options for the management of the land.

Reasons

To fully consider all future management options.