
Meeting	Cabinet Resources Committee
Date	18 October 2012
Subject	Watling Avenue Car Park and Adjacent Land and Properties
Report of	Cabinet Member for Resources & Performance
Summary	The sale of the Freehold interest in Watling Avenue Car Park, adjacent vacant land and properties at 41 Barnfield Road, 49 & 51 Watling Avenue and 85 to 91 Watling Avenue to Tesco Stores for the development of a retail scheme as described in the report.

Officer Contributors	Judith Ellis – Valuation Manager Richard Malinowski – Principal Valuer
Status (public or exempt)	Public with exempt report
Wards Affected	Burnt Oak
Key Decision	Yes
Reason for urgency / exemption from call-in	Not applicable
Function of	Executive
Enclosures	Appendix – Outline Transfer Plan
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1. RECOMMENDATIONS

- 1.1 That the Cabinet Resources Committee accepts the conditional offer from Tesco Stores Limited to acquire the freehold interest of the Watling Avenue Car Park and other adjoining lands and properties as detailed in this and the exempt report.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Policy and Implementation Committee of 29 March 2000, item 13. Approval was given to entering into a conditional contract with Lidl UK GmbH for the disposal and development of part of the Watling Car Park site.
- 2.2 Cabinet Resources Committee 24 July 2003 – noted that because of flood plain issues Lidl could not develop an economically viable scheme on the land and therefore the committee agreed to the rescission of the contract.
- 2.3 Cabinet Resources Committee 30 March 2006 – considered a proposal by St James Investments to acquire the Council's land-holdings and to redevelop a Tesco store, with other retail and housing. The Committee agreed to the appointment of consultant valuers to advise the Council upon the development costs and to value of the Council's properties.
- 2.4 Delegated Powers Report 121 (SDU/DP/14/06) 12 October 2006 – reporting the appointment of Donaldsons to advise the Council on the scheme costs and purchase price proposed by St James Investments for the acquisition of the Watling car park and adjacent lands.
- 2.5 Cabinet Resources Committee Report 31 October 2007 approved the sale of the freehold to St James Investments for a redevelopment scheme involving Tesco Stores Limited.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Under the Corporate priority 'Better Services with Less Money', the Council has committed to 'Better use Council assets'.
- 3.2 The Council's Estates Strategy 2011-2015 sets out the council's commitment to continually review the use of council assets so as to reduce the cost of accommodation year on year and to obtain best consideration for any surplus assets to maximise funds for capital investment and/or the repayment of capital debt. The recommendation supports this, by producing a capital receipt for the Council in line with this.
- 3.3 The recommendation aligns with the Council's objectives for investment in and regeneration of the Borough's Town Centres as set out in the Council's Local Development Framework.

4. RISK MANAGEMENT ISSUES

- 4.1 A large part of the land is within the Silk Stream flood plain involving extensive flood alleviation works and this has resulted in the failure of previous development proposals on viability grounds. The proposals from Tesco involve a £3.383 million flood alleviation scheme which reduces the site's potential development land value. Nevertheless Tesco believe that they can carry out the necessary infrastructure and flood alleviation works to deliver a viable scheme. It is anticipated that the flood alleviation works which will be subject to approval of the Environment Agency will require the creation of a flood storage area in Montrose Park. This will require advertising under section 123 of the Local Government Act.
- 4.2 Whilst other potential interest is identifiable, basically the other major supermarkets or developers working with them, the site has not been extensively marketed. A detailed investigation of the flood alleviation and infrastructure works would have been required from an early stage together with continuing viability appraisals and no party would risk incurring such expenditure merely on speculation. Tesco have been involved from an early stage and have already carried out extensive investigations and obtained reliable estimates for the construction works. In addition the acquisition of a number of adjoining properties is required to improve the vehicular and pedestrian access to the site and to deliver a viable scheme. Previous attempts to secure a disposal have been unsuccessful and in order to provide a realistic prospect of delivery, a negotiated disposal has been conducted. It is possible that unsolicited expressions of interest or offers could still be received from other developers or supermarkets but it is unlikely that any of these will be based upon any in-depth analysis of the site and its infrastructure difficulties. It is considered that the successful disposal and development of this site will be most likely achieved by pursuing the proposal submitted.
- 4.3 Tesco have proposed a contract conditional upon the grant of planning permission and the acquisition of other adjoining property interests. Furthermore they need to develop a cost effective solution for flood alleviation that is acceptable to the Environment Agency and the contract can be terminated and the deposit re-paid if any of these conditions are not achieved. This will result in time constraints in the agreement in order for Tesco to satisfy these conditions.
- 4.4 The Planning Process will require a number of issues to be considered in detail including impact on surrounding town centres of the quantum of new retail floor space proposed, potential to re-provide or else relocate the existing market as part of the proposed scheme, and opportunities to enhance the vitality and viability of the wider Burnt Oak Town Centre through redevelopment of the site.
- 4.5 Prior to the contract becoming unconditional or being terminated, the Council will continue to use the market and car park and receive the income generated.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Under the Equality Act 2010, the Council must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. It also covers marriage and civil partnership with regards to eliminating discrimination.
- 5.2 The proposal has been considered and will not give rise to any issues under the Council's Equalities Policy and does not compromise the Council in meeting its statutory equalities duties.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 It is anticipated that a capital receipt will be receivable by this Council although the current rent receivable for the builders yard, leasehold interest along Watling Avenue and the market will cease. Likewise the income from the car park will cease. Details of the estimated capital receipt are referred to in the exempt report and the District Valuer's valuation report.
- 6.2 There will be a loss of rent totalling £30,152 pa as follows:

41 Barnfield Road £21,000 pa
Watling Avenue Market £9,000 pa
49 Watling Avenue £20 pa
51 Watling Avenue £20 pa
85-91 Watling Avenue £112 pa

7. LEGAL ISSUES

- 7.1 Section 123 of the Local Government Act 1972 provides that a (a) Council may dispose of land held by them in any manner they wish but in doing so, the Council must obtain best consideration for the land and can only do otherwise with the consent of the Secretary of State or in cases of a short tenancy (i.e less than 7 years).
- 7.2 By Local Government Act 1972: General Disposal Consent (England) 2003, the Secretary of States provides Councils with general consent to dispose of a land otherwise than by way of a short tenancy, where, (a) the Council considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the promotion or improvement of economic wellbeing; social well-being; environmental well-being of the whole or any part of its area, or of all or any persons resident or present in its area; and (b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

- 7.3 Section 123 of the Local Government Act 1972, places a duty on the Council to advertise the disposal of land that consists of or form part of an open space for two consecutive weeks in a newspaper circulating in the area in which the land is situated, and to consider any objections to the proposed disposal which may be made by the residents of the area.
- 7.4 A valuation has been undertaken by an independent third party (The DVS Valuation Office Agency) and the report has confirmed that the agreed price and terms are the best consideration reasonably obtainable. The DVS report contains commercially confidential information, and is attached to the Exempt Report.

8. CONSTITUTIONAL POWERS

- 8.1 Constitution, Part 3, Responsibility for Functions - paragraph 3.6 states the functions of the Cabinet Resources Committee which includes all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.
- 8.2 The Council's Constitution in Part 4, Council Procedure Rules, Management of Real Estate, Property and Land, states in paragraph 19 that all recommendations for approval of the sale price and other terms of disposal must contain a statement from the Chief Valuer or, if appointed, from suitably qualified external agents that the Council will obtain the best price which can reasonably be obtained or that there is approval through the General Consent or that the consent of the office of the Deputy Prime Minister has been obtained or will be sought to enable the disposal of the property to proceed as recommended.

9. BACKGROUND INFORMATION

- 9.1 The Council have been pursuing the redevelopment of the Watling Avenue Car Park for a number of years. However the location of the site in the flood plain has resulted in the failure of previous negotiations being realised.
- 9.2 Tesco proposals comprise a mixed use development of a retail food store of approx 7,000sqm gross external area, 6 shop units totalling approx 950 sq m, 24 residential units, 281 car spaces for the store and 34 for the residential. The development of the site will involve the possible realignment of the Silk Stream flood relief measures in Montrose Park. In essence a flood water collection area. The number of residential units may change as a result of further discussions with Planning and the Environment Agency particularly as the Environment Agency have concerns over the potential loss of an ecology strip adjacent to the stream. Such a scheme will bring investment to Burnt Oak Town Centre, providing additional retail floor space and a number of residential units which will enhance the town centre's viability. In addition it would relieve other Council holdings in the vicinity from flood risks, and in particular the site of the former Child Guidance Centre in East Road located on the other side of the Silk Stream which has been marketed recently.
- 9.3 The Council's land to be acquired by Tesco is shown edged red on the attached plan. The plan may have to be amended to reflect any Environment

Agency requirements relating to the Silk Stream re-alignment. The property addresses, together with details of existing leaseholds, are set out in the schedule attached to the exempt report. Tesco have already acquired a number of properties or have negotiated purchase options and will be negotiating the acquisition of the various leasehold interests in the Council's land from the tenants.

- 9.4 Tesco have had preliminary discussions with Planners and the Environment Agency. Thus the proposal will be subject to Environment Agency approval and planning permission being achieved, which will be considered through the statutory process.
- 9.5 The site is identified within the Unitary Development Plan's Schedule of Proposals for uses including: a new large food store incorporating the retention of a market; housing; office with storage and distribution as subsidiary uses; and other appropriate town centre uses. It is also located within the defined Watling Estate Conservation Area. The Core Strategy identifies the protection of the existing market at Burnt Oak as an important part of the town centre's retail offerings.
- 9.6 Details of the proposed Flood Alleviation Scheme are available as a background paper and the proposal will be the subject of a separate report. The scheme involves the possible re-alignment of the Silk Stream and the creation of a flood water collection area within Montrose Park. The flood storage area only comes into operation when flood levels in the water course are high enough to spill into the storage area. It has been calculated that the flood storage area will be fully flooded once in every 100 years. For the remainder of the time the park will remain suitable for games and other recreational uses, and it is anticipated that the levelling of certain areas will improve the playing surface of the pitches. The attached plans show the realignment of the stream however it appears the Environmental Agency has raised concerns over the loss of ecology strip that realigning the stream may entail and so this proposal is still subject to review.
- 9.7 In order to provide an opportunity to enhance and regenerate this area of Burnt Oak it is recommended that this proposal is approved and contracts are entered into which will allow Tesco to proceed with their planning application and if successful will lead to a significant development in the area.

10. LIST OF BACKGROUND PAPERS

- 10.1 Preliminary Transfer Plan
- 10.2 Entec Technical Note November 2009 with recommendations for the Flood Alleviation Scheme including plans and sections of the Flooding Collection proposals for Montrose Park
- 10.3 Council's Estates Strategy 2011-2015

Cleared by Finance (Officer's initials)	MC/JH
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