

## **LEADER OF THE COUNCIL – 21 DECEMBER 2018**

### **TANK FARM, CHIPPING NORTON – DEVELOPMENT SITE**

#### **Report by Strategic Director Communities**

#### **RECOMMENDATION**

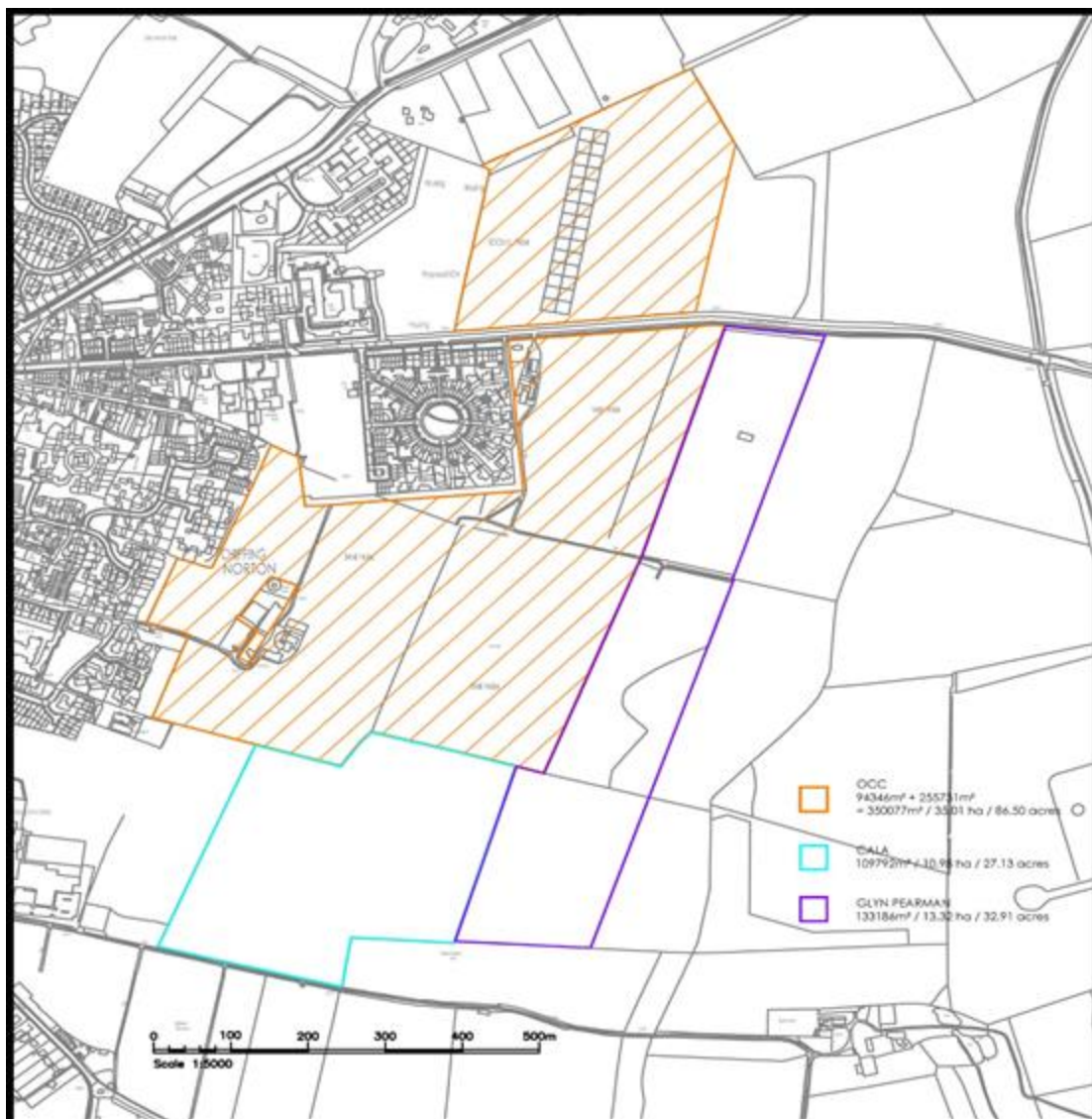
1. **The Leader of the Council, with the agreement of the Director of Finance as the Section 151 Officer is RECOMMENDED to:**
  - (a) authorise the Strategic Director of Communities to negotiate, up to the maximum value specified in Annex A, the purchase of Pearman's land, being 13.32 ha (32.91 acres) adjoining Tank Farm.
  - (b) agree that any agreed purchase price and Heads of Terms be subject to contract.
  - (c) delegate to the Director of Law & Governance in conjunction with the Director of Capital Investment & Delivery and Director of Finance to undertake appropriate due diligence and prepare the necessary legal agreement up to the maximum value referred to in Annex A.
  - (d) note that consideration of the formal approval of the purchase will be undertaken by Cabinet on the 22 January 2019.

#### **Executive Summary**

2. The chosen format of the Collaboration Agreement between the three land owners at Tank Farm has inadvertently complicated tax and financial considerations for one of the land owners, Pearman. These issues have started to affect progress on the development. As a result of the above, an opportunity has just arisen whereby the Council can purchase the Pearman land, which adjoins its holdings. The Council has an exclusivity option with Pearman to agree to purchase the land until 31<sup>st</sup> December 2018. Purchasing the land would ensure OCC's control and influence of the site is not diminished, by sale of the land to the third landholder, CALA Homes, or another party. If another party purchases the land and does not want to enter into the current format of the Collaboration Agreement this could jeopardise the overall development. The purchase is also anticipated to produce a net return for the Council (see Annex A).

## Introduction

3. The Council owns 35.01 hectares (86.5 acres) at Tank Farm. The entire development site is currently held under three separate ownerships, the others being CALA/HG2 Limited (10.96 ha / 27.13 acres) and Pearman (13.32 ha / 32.91 acres).
4. Approval was given to enter into a Collaboration Agreement between landowners to submit a planning application with associated costs and planning fees where OCC's share was estimated to be £600k. See attached Delegated Decision by Cabinet Member for Property & Cultural Services – Monday, 22 January 2018.
5. Following representations by the landowners, the West Oxfordshire Local Plan (2011 – 2031) was subsequently adopted by WODC on 27 September 2018. This confirms the land (County Council, CALA/HG2 and Pearman) as part of the East Chipping Norton Strategic Development Allocation for circa 1000 dwellings.



## **Exempt Information**

6. Annex A contains exempt information. The information contained in the annexes is exempt in that it falls within the following prescribed category:
3. *Information relating to the financial or business affairs of any particular person (including the authority holding that information);*

and since it is considered that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, in that disclosure would undermine the process to the detriment of the Council's ability properly to discharge its fiduciary and other duties as a public authority.

## **Key Issues**

7. In light of the Local Plan allocation, it is now timely to proceed with a planning application based upon an outline consent for the entire site. In principle it had been agreed between the parties that the associated costs would be split approximately by land holding, OCC to pay 60%, CALA/HG2 20% and Pearman 20% and to proceed with land equalisation through the use of Cross Options (as recommended by OCC's external legal advisors, Pinsent Mason).
8. However, whilst CALA/HG2 are able to proceed immediately and enter into a Collaboration Agreement, for a variety of reasons and despite the best efforts of OCC, Pearman (a local farmer) has been unable to proceed. He has now confirmed that he is not able to proceed at the same pace, and subsequently has decided to sell his land by way of a freehold sale.
9. OCC have been granted an exclusive opportunity to purchase Pearman's land comprising 13.32 ha (32.91 acres). This would enable OCC to gain control of circa 80% of the overall development site and therefore allow OCC to proceed with a planning application on its preferred terms and to its preferred timescale - a planning application could be submitted by summer 2019.
10. If OCC declines the opportunity then CALA is expected to agree an option to purchase Pearman's land – they have already tabled an offer. This would reduce OCC's overall control of the development and provide CALA with a 40% share in total.

## **Proposed Acquisition**

11. Please see Annex for Proposed Acquisition Strategy, the details of which are confidential and must remain exempt.
12. Securing a planning permission following on from the adoption of the Local Plan will not be without risk. It should be noted that compatibility with the development described in the adopted Local Plan policy does not mean that permission will necessarily be forthcoming although it would be difficult for the

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Local Planning Authority to refuse planning permission unless the development was felt to be unacceptable for other reasons (e.g. landscape impact, lack of off-site traffic mitigation, ecological impacts etc). The risk is therefore anticipated to be low.

13. Acquiring Pearman's land will also protect the value of OCC's existing land holding of 35.01 hectares (86.5 acres). The cost of the development infrastructure, to include upgrading sewage provisions, a link road and a primary school, are shared equally amongst the total number of dwellings. These infrastructure costs will not significantly reduce even if the total number of dwellings were to fall from 1000 (estimated number achievable when including Pearman's land in the overall masterplan) by at least 200 dwellings (the estimated number in the event that Pearman's land must be excluded from the overall masterplan).
14. Consequently, the average per dwelling cost of all infrastructure will be significantly higher for a scheme of less than 1000 dwellings, thereby significantly reducing the amount that a future developer will pay to OCC for its existing land holding.

### **Budgetary Implications**

15. Tank Farm is within the disposal programme and the capital programme funding assumes a capital receipt from the sale of land in OCC's ownership of £16m. The delivery of the receipts is likely to be phased from 2024 onwards.
16. The necessary funds to acquire the Pearman land would need to be made available on completion of the transaction, anticipated in early 2019. Capital Finance have advised that funding can be made available through the cash flow of the capital programme. i.e. capital is payable upfront, with the return of capital plus an additional uplift upstream, all within the 10 year window of the capital programme.
17. The acquisition of Pearman's land will attract Stamp Duty Land Tax.
18. OCC have now obtained competitive quotations, following the Council's procurement rules, for the associated costs of the planning application and OCC's share assuming an 80% liability, remains in line with the original estimate of £600k (which was for a 60% liability).

### **Staff & Equalities Implications**

19. None / Not Applicable.

### **Risk Management**

20. Pearman's land is vital for landscaping and open space for the East Chipping Norton SDA, its mere presence cannot be relied upon. It is therefore crucial to

ensure it falls under the control of the planning applicant, as the ongoing protection of these areas will be tied up in a legal agreement as part of the planning process.

21. If a third party was to acquire the interest in Pearman's land holding it would further delay OCC's ability to proceed with a planning application on its existing land holding and delay delivery of the capital receipt. If the party was not willing to enter into a Collaboration Agreement, based upon the terms as recommended by OCC's external legal advisors, this could jeopardise the entire scheme.
22. There is a risk that, given the number of allocated sites in West Oxfordshire, there may be an oversupply of residential sites with planning permission in the future, thereby reducing demand and consequently result in a fall in land value. If this occurred then OCC could defer selling until land values increased.

### **Legal Implications**

23. The Council can acquire property under s.120 of the Local Government Act 1972, provided the acquisition is supported by a rationale which is either (i) in line with the function of the Council, or (ii) that the purchases are for the benefit, improvement and development of the County. It is felt that acquiring Pearman's land to speed up delivery of housing, a new primary school and a link road would fall within the second category.

### **Timescales**

24. Pearman has indicated that the exclusive opportunity for OCC to purchase will only be held open for a limited time, until the end of December 2018.
25. It is expected that the land purchase would be completed in early 2019 enabling a planning application to be submitted by summer 2019. Capital receipts from phased land sales would be received in due course after grant of planning permission.

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Background papers: Exempt Annex

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