

Division(s):

CABINET – 26 FEBRUARY 2019

TANK FARM, CHIPPING NORTON – DEVELOPMENT SITE

Report by Strategic Director Communities

RECOMMENDATION

1. **The Cabinet is RECOMMENDED to**
 - (a) authorise the Strategic Director of Communities in consultation with the Portfolio member to complete the purchase, for the value specified in Annex B, of Pearman's land, being 12.51 ha (30.91 acres) adjoining Tank Farm.
 - (b) authorise 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 on the terms referred to in Annex B.

Executive Summary

2. An opportunity arose, in late 2018, for the County Council to acquire land which adjoins Tank Farm, a Council owned former smallholding. Both parcels of land form part of the East Chipping Norton Strategic Development Allocation. The benefits of acquiring the land are two-fold:
 - i. It will enable the Council to take control of the timing of the planning application in relation to the Strategic Development Allocation thereby reducing the risk to delivery of the programmed capital receipt for Tank Farm;
 - ii. It will protect the value of the Council's existing land ownership at Tank Farm of 35.01 ha (86.5 acres).
3. Due to the fast-moving nature of the opportunity, approval was given by The Leader of the Council and Chief Finance Officer, on 21 December 2018, to negotiate the freehold purchase of the land within an agreed maximum threshold.
4. The rationale for this decision and full supporting information is given in the December 2018 Report, see Annex A - 'Report for Leader of the Council and Chief Finance Officer – 18/12/18'
5. Negotiations have now been concluded and provisional terms agreed within the maximum price, details of which are in the Exempt Annex B.

Introduction

6. Now that negotiations have been concluded and provisional terms agreed within the maximum price, this brief report seeks authority from Cabinet to conclude the land purchase.
7. Given that all of the supporting information remains consistent with the December 2018 Report (Annex A), except where specifically stated below, efforts have been made to minimise duplication of information across the two reports.

Exempt Information

8. Annex B 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

9. All key issues remain the same as those presented in the December 2018 Report (Annex A), with the following exception.
10. Located to the eastern boundary of the northern part of Pearman's land is an access road leading to a property known as "The Woodlands" which comprises a house and garden of 0.81 ha (2 acres). During the course of negotiations, Pearman decided to exclude this property from the sale, as it is occupied by family. Therefore, the land to be acquired has reduced to 12.51 ha (30.91 acres), although the access road leading to the property will form part of the transaction, with the appropriate rights of access being granted as necessary. Excluding this property from the land forming part of the wider development is inconsequential given that there has been an appropriate reduction in the price to account for the reduced area. The Council will therefore seek to purchase land comprising 12.51 ha (30.91 acres).

Proposed Acquisition

11. Please see Annex B for Proposed Acquisition Terms, 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 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 the Council'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. With Pearman's land circa 1000 dwellings will be achievable in the overall masterplan, however, if Pearman's land was excluded from the overall masterplan (due to his inability to proceed) then the number of dwellings would reduce by at least 200.
14. A reduction in dwellings will not significantly reduce the infrastructure costs. Therefore, without Pearman's land this would result in higher average infrastructure costs per dwelling, the effect of which would be to reduce the amount that a future developer would pay to the Council for its existing land holding.
15. The acquisition price for Pearman's land is based on comparable transactions for land allocated within the Local Plan but without planning permission. Once planning permission has been granted for the East Chipping Norton SDA the value of the site being acquired will increase.

Financial Implications

16. The Capital & Investment Strategy approved by Council in February sets out that in relation to commercial activity the Council may acquire land, where the intention of the purchase is to increase land value rather than contribute towards service delivery objectives. In relation to these activities the strategy states that due diligence processes will be carried out and decisions made in accordance with the stated governance processes.
17. Tank Farm is within the disposal programme and the capital programme funding assumes a capital receipt from the sale of land in the Council's ownership of £16m. The delivery of the receipts is likely to be phased from 2024 onwards.

18. The necessary funds to acquire the Pearman land would need to be made available on completion of the transaction, anticipated in April 2019. Funding is available through the cashflow 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 timespan of the capital programme.
19. The acquisition of Pearman's land will attract Stamp Duty Land Tax, which has been factored into the estimated costs as set out in Annex B.
20. The Council have now obtained competitive quotations, following the Council's procurement rules, for the associated costs of the planning application and the Council's share assuming an 80% liability, remains in line with the original estimate of £600k (which was for a 60% liability).

Equalities Implications

21. None / Not Applicable.

Risk Management

22. 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.
23. If a third party was to acquire the interest in Pearman's land holding it would further delay the Council'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 the Council's external legal advisors, this could jeopardise the entire scheme.
24. 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 the Council could defer selling until land values increased.

Legal Implications

25. 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 any function of the Council, or (ii) that the purchase is 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

26. It is expected that the land purchase would be completed in April 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.

BEV HINDLE
Strategic Director for Communities

Background papers:
Annex A - *'Report for Leader of the Council and Chief Finance Officer – 18/12/18'*
Exempt Annex B

Contact Officers:

Karen Lister, Head of Estates & Strategy, Tel: 07875 441940

Andrew Fairweather, Asset & Investment Team Manager, Tel: 07825 790242

February 2019