



## Report of the Cabinet Member for Corporate Services and Performance

Cabinet – 21 March 2024

### Possible sale of LDP Housing Land at Strategic Development Area (SD) H, Waunarlwydd and Fforestfach

<b>Purpose:</b>	Permission is sought to negotiate a future sale for a sum likely to be in excess of delegated authority limits.
<b>Policy Framework:</b>	Asset Management Plan 2021-2025.
<b>Consultation:</b>	Access to Services, Finance, Legal.
<b>Recommendation(s):</b>	It is recommended that Cabinet:  1) Grants permission to proceed with negotiations and possible option agreements with the interested parties and, ultimately to enter a contract or contracts of sale at “Market Value” Such sum(s), likely to be in excess of delegated authority limits.  2) Delegates authority to the Head of Property Services in conjunction with the Cabinet Member for Corporate Services and Performance, the Chief Legal Officer and Director of Finance to conduct and conclude any negotiations for the disposal/s and to enter into any relevant documentation to protect the Council’s interests.
<b>Report Author:</b>	Richard John
<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer:</b>	Debbie Smith
<b>Access to Services Officer:</b>	Rhian Millar

#### 1. Introduction

- 1.1 The Council of the City and County of Swansea owns the freehold of two parcels of land, totalling approximately 33.3 hectares, (82.8 acres), which form part of LDP Strategic Development site (SD), H, identified as lying

just north of Waunarlwydd and Fforestfach. Multiple other landowners have ownerships within this LDP site. The land and the ownerships are illustrated on the plan found in **Appendix A**.

- 1.2 Both parcels of land are attracting interest from national housebuilders and there is a possibility of securing a deal to sell one, or other, or both parcels for housing development. It is likely that the future sale price will exceed delegated authority limits, (currently £1,000,000). Cabinet authority is therefore needed to progress negotiations into contract, or contracts of sale.
- 1.3 The land has many constraints, predominantly potential flooding issues, which constrain value. There is also a planning requirement, (partly dependent on the number of housing units to be built), to provide both a new school and a community hub, (or significant sums towards them).

## **2. General information**

- 2.1 The LDP SD allocation, "H" of which these sites form a small part. The land is allocated in the LDP for "a comprehensive mixed-use development of circa 716 homes during the Plan period, incorporating public realm, a Primary School, commercial units, community buildings and a Regional Employment Site with 26 hectares of potential development areas that could accommodate appropriate B1, B2 and B8 uses." The LDP also notes that "This strategic site can deliver circa 1,320 dwellings, however only circa 720 units are considered likely to be delivered during the Plan period."
- 2.2 Two national housebuilders are expressing interest in the Council's land. Both are interested only in housing provision. One housebuilder is interested only in the more southerly parcel of land, (approximately 21.5 hectares). The other is interested in both parcels, but would proceed with the northern parcel only, (approximately 11.8 hectares), if a deal is struck with the other party for the southern parcel.
- 2.3 Both developers would like to proceed by way of option agreements, which are quite common in the circumstances, and have already been negotiated and/or agreed with some adjoining landowners.
- 2.4 Option agreements provide contractual certainty to developers, who are reluctant to invest heavily in site investigations, planning costs, and professional fees without knowing that they will be able to secure the land, after their time, effort and money have been invested. Such arrangements are more likely to be requested in complex, multiple land ownership scenarios, such as this.
- 2.5 It is proposed that negotiations take place with interested parties, with the objective of granting a single option to purchase over each site for "market value", at a future date. Market value will be determined once planning is approved, site investigations are completed, along with final flood

mapping, SUDS approval etc. enabling accurate cost and value assessments to be made.

- 2.6 Any agreements entered, between this council and a potential buyer, will specify that market value will be independently verified and will be based upon the prevailing market conditions at the time as well as upon information disclosed by the buyer resulting from their site investigations and the planning process. This will establish many of the development costs and will therefore result in a more accurate valuation. Achieving “Market value”, along with other policy requirements, as specified through the planning process, will ensure that “Best Consideration” under the Local Government Act, is achieved.

### **3. General Issues**

- 3.1 The terms of disposal must be in accordance with the principles of best consideration. Under S.123 of the Local Government Act 1972, the Council has a duty to obtain the best consideration reasonably obtainable on a disposal. This guiding principle is behind Corporate Property’s intentions and this proposal.
- 3.2 Strategic site H, (of which this Council’s land forms a part), is complicated by many environmental factors, it’s size and the multiple land owners with whom a potential developer will need to reach agreement. Both the interested developers are national companies, with the resources to bring a site of this size forward for development. Both wish to proceed on the basis of options agreements. This is because of the costs associated with appraising a development site of this size, conceiving a viable development, obtaining planning consent and associated consents for SUDS etc. The use of an option agreement provides assurance to a developer, investing heavily in viability analysis, scheme design and planning consent both, that they will ultimately be able to purchase the subject land, and that the purchase price will be informed by the true costs associated with development. Such an approach is therefore considered reasonable in these circumstances.
- 3.3 Both interested parties have already obtained option agreements and/or are in advanced talks with adjoining land owners for the same. This results in there being little or no merit in this Council attempting to market and sell its land holdings, (which are part of the wider strategic site), on the open market, to any other purchaser(s).
- 3.4 Development costs dramatically affect profit and viability and are fundamental to determining the price a developer can pay for development land. Development costs will be assessed during an option period, which will serve to inform the future market value and subsequent sale price.
- 3.5 The HRA has confirmed that they do not wish to acquire this site.

- 3.6 Due to the size of the overall Strategic Site, the need to reach agreements with multiple landowners, and the site investigation costs associated with such a large scale development, it is considered prudent for the Council to look to sell to one, or other, or both, of the national developers who have, or are in process of entering contractual arrangements with existing landowners at the site. This is considered to represent the most realistic chance of a large scale development being realised. There appears to be little merit in complicating matters by marketing and introducing multiple possible purchasers of the Council's land parcels, as this is would; serve only to complicate site assembly, cause delays and reduce the chance of a large scale development. The key considerations for this Council are bringing the site forwards for development, and achieving "best consideration" for its land assets.
- 3.7 Best consideration will be assured by a contractual requirement for an independent Market Valuation, to establish the purchase price. Such valuation to be informed by the site investigation information and details of an implementable planning consent. In addition, planning policy compliant affordable housing will be required, along with all requisite financial contributions, as determined through the planning process. The Head of Property Services therefore certifies that he is satisfied that the property represents a reasonable proposition for sale at a sum above the current delegated authority limit.
- 3.8 Any surplus capital receipt generated will be used to fund corporate objectives.
- 3.9 The currently adopted LDP is a relevant background paper. A link is provided at the end of this report. Further and background information specific to this site can be found therein.

#### **4. Integrated Assessment Implications**

- 4.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.
  - Deliver better outcomes for those people who experience socio-economic disadvantage
  - Consider opportunities for people to use the Welsh language
  - Treat the Welsh language no less favourably than English.
  - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

- 4.1.1 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 4.1.2 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 4.2 An IIA Screening Form has been completed with the agreed outcome that a full IIA report is not required because there are not considered to be any adverse factors significant enough to warrant a full screening. A copy of the IIA Screening form can be found in **Appendix B**.

## **5. Financial Implications**

- 5.1 The net receipt from a future disposal of the site, after the provision of funds towards a new school and Community Hub, (if any), would, in accordance with current policy, contribute towards the achievement of the Council's overall capital receipt target and would be re-invested into the Council's budget.
- 5.2 The proposed sale price will be "Market Value", at a future sale date. Any contract documents entered into will specify that market value will be independently assessed, and that valuation will be informed by the facts about the site and the established costs associated with development. This will serve to ensure "Best Consideration" is achieved.

## **6. Legal Implications**

- 6.1 Section 123 of the Local Government Act 1972 and the Council's Land Transaction Procedure Rules as set out in the constitution apply to this disposal. Under s123 LGA 1972 a local authority has the power to dispose of land held by it in any manner it wishes provided that the local authority achieves the best consideration that can reasonably be obtained except where the disposal is for a short tenancy (less than 7 years) or the local authority has the consent of the Welsh Ministers. Under the Council's constitution the responsibility of determining in what manner the land will be disposed of in order to obtain best consideration lies with the Head of Property Services.
- 6.2 Under the General Disposal Consent (Wales) Order 2003 the Welsh Ministers have issued a general consent for disposals of land under s123 for less than best consideration. This allows a local authority to dispose of land for less than best consideration if it considers that the disposal will

contribute to the promotion or improvement of the economic, social or environmental well-being of its area and the extent of the undervalue is no more than £2m.

- 6.3 There are specific powers and requirements for the disposal of land held by a local authority for planning purposes, housing, allotments, open space and school playing fields.
- 6.4 Where the land is deemed open space, the Council is required under s123 to advertise the disposal of the land in the local newspaper for two consecutive weeks and to give full and proper consideration to any objections. The key issue for the Council is to balance any adverse consequences of the loss of open space, having regard to the objections received, against the advantages of disposing of the land.
- 6.5 Following the publishing of open space notice and where no objections are received, the disposal by way of Agreement for Lease and Lease can proceed. Where objections are received, the relevant Director in consultation with Head of Property Services and Cabinet Member will determine the appropriate reporting route to fully consider any objections, with the key issue for the Council to balance any adverse consequences of the loss of open space, having regard to the objections received, against the advantages of disposing of the land.
- 6.6 Where property has not been advertised on the open market, the Council's constitution specifies that if there has been no marketing of the Land or only one person has indicated an interest to purchase there can be no such disposal of land except where it is determined by the Head of Property Services or his nominee is satisfied that the disposal would be in accordance with the applicable statutory requirements. In considering this, the Head of Property Services may have regard to the following matters (among others) (a) the robustness of the valuation evidence (b) the likely market for the Land now and in the future given its relevant physical, legal or other characteristics, (c) the potential for the Land to be transferred to and used by a community council or Third Sector/Community Group in accordance with the CAT Policy, (d) responses (if any) received by the Council following reasonable marketing of the Land and (e) whether the disposal would achieve a corporate objective or contribute to the promotion or improvement of the economic, social or environmental wellbeing of people or communities in its area (taking into account all considerations including subsidy controls).
- 6.7 The lease documentation will contain all the relevant provisions to protect the Council's interest.

**Background Papers:**

Swansea LDP [Swansea Local Development Plan 2010-2025 \(LDP\) - Swansea](#)

**Appendices:**

Appendix A – Site Plan

Appendix B – IIA Screening form