



Report sponsor: David Fletcher, Director for City Development & Growth
Report author: Catherine Williams, Head of Service Regeneration and Major Projects and Jayne Sowerby-Warrington, Head of Estates and Property Review

ITEM 05

Osmaston: Disposal of Council Land to Keepmoat Homes Ltd

Purpose

- 1.1 To declare Council owned land surplus and approve the sale of this land to support the delivery of new homes on the former Rolls Royce Main Works site, Nightingale Road, Osmaston.

Recommendation

- 2.1 To formally declare the following Council land (shown edged blue on the attached plan) as surplus to Council requirements:
 - the vacant former OSCAR community centre 152 – 154 Addison Road, Osmaston
 - two incidental parcels of land to the rear of Marble Hall, Osmaston
- 2.2 To approve the sale of this land to Keepmoat Homes Ltd on terms described in paragraph 4.5 of this report.

Reason

- 3.1 The Osmaston Regeneration Area is a Strategic Housing Allocation within the Derby City Local Plan with a target of 600 new homes by 2028, of which 95 have so far been delivered. The re-development of the Main Works Site is a priority for the Council that will now deliver over 400 new homes and make a significant contribution to the Local Plan target.
- 3.2 The Council's land and premises are required for Keepmoat to complete the final phase of remediation and subsequent redevelopment for new housing.
- 3.2 This decision is required to comply with the Council's delegated approval rules for declaring land surplus and for disposal of Council assets.

Supporting information

- 4.1 In 2013, the Council entered a joint venture partnership with Keepmoat Homes Ltd (the Osmaston Regeneration Partnership LLP), with the objective of delivering a significant housing development on the former Rolls-Royce Main Works Site in

Osmaston. As the appointed development partner, Keepmoat invested heavily in scheme feasibility, pre-application and consultation, pre-site investigation surveys and all design work required to inform a planning application. Planning consent for the scheme was secured 11th June 2020 and since that time, partners have been working to overcome viability challenges associated with the significant remediation costs for the site.

- 4.2 In 2019, the Council supported the scheme feasibility and design using Local Growth Fund (LGF) grant allocated by D2N2 Local Enterprise Partnership to the Access Osmaston project. This grant paid for the Planning application fee of £0.059m together with a further £0.079m towards the cost of site investigations.
- 4.3 Development of the Main Works Site was envisaged as a long-term arrangement through the joint venture vehicle (JV) with Keepmoat. The terms of this JV included the potential for a 'levy' payable to the Council for each new home built. However, mounting viability issues and a failed bid for external funding were preventing the redevelopment progressing. Therefore, Keepmoat negotiated a direct land sale arrangement with Rolls Royce, negating the need for the JV vehicle and removing the obligation to fund the levy. After many years work to try and overcome scheme viability challenges, a direct transaction between Keepmoat and Rolls-Royce has been the only way of achieving viability and delivering the key objective of a significant housing regeneration scheme in Osmaston.
- 4.4 Keepmoat will shortly complete the acquisition of the adjoining Main Works Site from Rolls Royce (edged red in the attached plan) having invested significantly "at risk" in remediation of the site. Construction of new homes is expected to commence in the spring. The planning consent requires that 46 affordable homes are provided within the development, and in addition, Keepmoat are working with a housing association to work towards an additional 47 affordable homes.
- 4.5 Keepmoat require land in the ownership of the Council to complete the housing regeneration scheme on the Main Works site plus an adjacent former garage site and deliver 406 new homes for the Osmaston community. Terms have been negotiated for the sale of Council land to Keepmoat, comprising 152 – 154 Addison Road, and two small parcels of land to the rear of Marble Hall (see blue edged sites on the attached plan). The terms are as follows:

- I. The price of £0.150m to be paid in full on the earlier of: (i) the sale of the first house by Keepmoat (expected in autumn / winter 2022), or (ii) 12 months from completion of the land transaction.

To protect the Council's interest a restriction on title will be placed on the Main Works Site, to be released once payment is made by Keepmoat. The price represents the current market value of the property based on a valuation from the Council's Estates Team and the Head of Estates and Property Review considers the transaction represents Best Consideration.

- II. As a condition of the sale, the Council will complete offsite highway improvements at the Junction of Osmaston Park Road and Victory Road, comprising reconfiguration of the traffic lights and localised resurfacing. The estimated total cost is £0.212m, which includes a 40% contingency of circa £0.048m on the resurfacing costs.

These improvements are a condition of the planning permission for the development and are required to be implemented by the completion of the 150th dwelling (some years away). The works also form part of the proposed improvements identified within the Access Osmaston Programme, for which a budget exists on the approved capital programme. The works are anticipated to be undertaken by the Highways Department in the summer. Upon their completion, Keepmoat will apply for planning permission to discharge the condition; following which the Council has no further liability for infrastructure works.

Other options

- 5.1 The Council could choose not to proceed with the sale, meaning Keepmoat would be unable to fully implement the scheme, resulting in fewer homes built and additional planning costs. This may also impact the amount of S106 contributions payable when these are recalculated against viability mid-way through the development.
- 5.2 The Council could also choose not to undertake the planned Highway Improvements, leaving the matter with the developer to finance. The result of this is likely to be a halt with the development at the 150th dwelling as viability is reassessed by Keepmoat. Further impact on future potential S106 contributions is also likely as highlighted in 5.1.

Financial and value for money issues

- 6.1 The sale of the land and buildings will realise a capital receipt of £0.150m that represents the current market value of the former OSCAR building and ancillary land. The payment will be deferred until the sale of the first dwelling, anticipated towards the end of 2022; and upon legal completion a restriction will be placed on the freehold title of the Main Works Site to protect the payment. The Council's Head of Estates and Property Review has confirmed that these terms represent Best Consideration and comply with the Council's S123 obligations.
- 6.2 A direct land transaction between Keepmoat and Rolls-Royce has been the only way of overcoming scheme viability issues (verified by a District Valuer report as part of the planning application process) and ensuring the housing regeneration scheme can proceed. Given the JV route is not now viable, the potential property levy (which was always dependent on scheme viability), cannot now be realised. A total levy of £2m had been built into future income forecasts for the Regeneration Fund and was expected to pay for previous service-financed borrowing used to fund refurbishment of Osmaston Primary School and Marble Hall.
- 6.3 In lieu of this levy income, interest payments from the Infinity Park Derby (IPD) LLP will be allocated to the Regeneration Fund as they are received when plots are developed out. These payments are attached to a deferred developer contribution towards the cost of infrastructure works at Infinity Park as included in the IPD Development agreement in 2014..

- 6.4 The Regeneration Fund was closed in 2020/21 to any new commitments so that the balance could be preserved to help fund commitments for future charges from past service-financed borrowing against the Fund. After updating the Regeneration Fund balance for the removal of the forecast £2m levy receipt and addition of £0.095m IPD LLP interest confirmed/received to date, a fund deficit of £0.223m in 2025/26 and then reducing to £0.084m per year from 2026/27 to 2034/35 is forecast. This will need to be addressed through future Medium Term Financial Plans.

Legal implications

- 7.1 The Council's Legal Services team have been engaged in agreeing the terms of the Council's land sale to Keepmoat Homes, as described in paragraph 4.5.
- 7.2 The Council's decision to sell these specific assets directly to Keepmoat, without taking the assets to the wider market are justified based on a) Keepmoat agreeing to pay a market value for the land and b) the adjacency of our land to the Main Works site and the achievement of significant housing numbers and regeneration benefits from the direct sale to Keepmoat.
- 7.3 The terms of our agreement with Keepmoat include an obligation on the Council to undertaken improvements to the junction of Victory Road and Osmaston Park Road, in the shape of signalling works and resurfacing. Advice has been received from the Council's Legal Advisors for Osmaston, Freeths LLP. This advice was provided when the UK was still subject to State Aid Regulations and confirmed that generally speaking, monies spent on improving the public road infrastructure, even though it may be particularly beneficial to a housing development, would be regarded as public infrastructure and fall within the "Services in the General Economic Interest" or "SGEI" Exemption to State Aid, and therefore lawful. There are no comparable exemptions under the new Subsidy Control regime that has replaced State Aid, however, using the State Aid framework minimises the risk of any successful legal challenge to the Council's undertaking of these works.

Other significant implications

- 8.1 The following is a summary of the risks associated with the actions recommended in this report, and the mitigations in place:

RISK	MITIGATION
Keepmoat do not pay the capital receipt within the timescales agreed.	Keepmoat is a long-term development partner in Osmaston and well-established housing developer nationally. The Council has a restriction on title in place until Keepmoat pay the capital receipt, and a long stop date of 12 months from the land transaction.
Housing development does not progress, and outputs are not achieved, as required in the D2N2 Local Growth Fund agreement	Keepmoat have invested significant sums "at risk" to secure planning consent and remediate the site ready for development and will want a return

	for this investment only achievable on delivery and sale of new homes. Construction of the first homes is scheduled to start in Spring 2022 and necessary contracts are in place between Keepmoat and their suppliers. Housing delivery will be monitored over the next few years to ensure outputs are reported back to the D2N2 LEP (Local Enterprise Partnership), with negotiation on profile if required.
The Council cannot deliver the required highways improvement work on time or on budget.	<p>The works are the minimum required to satisfy the planning obligation</p> <p>The works have been reviewed and agreed by the Council's Design Review Group, who oversee all highways infrastructure schemes delivered by the Council.</p> <p>The works have been costed by experienced Engineering Design team, who have undertaken numerous comparable schemes in the city</p> <p>A contingency of 40% is included in the cost estimates.</p> <p>The total budget for Access Osmaston that sits on the capital programme exceeds the cost of this specific highways scheme, therefore in a worst-case scenario, further budget could be sought to fund any cost over-run.</p>

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Emily Feenan, Director for Legal, Procurement and Democratic Services	27 th April 2022
Finance	Simon Riley, Strategic Director of Corporate Resources Corporate Finance	27 th April 2022
Service Director(s)	David Fletcher, Director for City Development & Growth Steve Caplan, Director of Property Services	27 th April 2022
Report Sponsor	David Fletcher, Director for City Development & Growth	
Report Author	Catherine Williams, Head of Regeneration & Major Projects Jayne Sowerby-Warrington, Head of Estates and Property Review	
Background papers:	None	
List of appendices:	Site Plan edged red and blue	