



DERBY CITY COUNCIL

COUNCIL CABINET
15 JUNE 2004

Report of the Director of Corporate Services

Land at London Road/Clifton Street Derby Southern Derbyshire Acute Hospitals NHS Trust

RECOMMENDATION

1. To authorise the Director of Corporate Services to extend the development covenant to 23 December 2008 and the re-purchasing covenant for a period of two years from 23 December 2008.

REASON FOR RECOMMENDATION

- 2.1 The site shown edged black on drawing number 3452/22A was sold to the Southern Derbyshire Acute NHS Trust ('the Trust') by the Council on 1 December 1987, and is being used as a temporary car park. It was a condition of the original sale that, if the site were not developed for a specified use within a specified time period, the Council would have the option of re-purchasing the land at its open market value at that date. The use specified has changed a number of times, currently being for a Palliative Care Hospice.
- 2.2 Over the past few years, the Trust's development covenant and the Council's subsequent re-purchasing covenant have been extended by agreement on a number of occasions. The current position is that the Trust's development covenant is due to expire on 30 June 2004, and the Council can exercise the option to re-purchase from 1 July 2004 to 30 June 2006.

SUPPORTING INFORMATION

- 3.1 The Trust has now requested a further extension of the development period. Three options were put forward by the Trust...
 - a) 23 December 2008.
 - b) February 2009.
 - c) Opening of the new Accident and Emergency facility at the City Hospital.

The Council would subsequently have two years in which to exercise the re-purchasing covenant. The anticipated completion date for the City Hospital is 23 December 2008.

- 3.2 The Trust consider that the continued use of the London Road/Clifton Street site is necessary, and at the end of that period the land will be vacated, together with a considerable area of other land. Previous extensions of the development clause have noted that no further extensions should be permitted. However, with the Trust committed to the City Hospital development and a completion date established, it is considered that a further extension would remove the necessity for a yearly extension, and would save both legal expenses and time.
- 3.3 There are a number of implications, which need to be borne in mind when considering the request from the Trust. Responses from relevant Departments indicate...

- **Planning Implications**

The site is identified in the Revised Deposit Local Plan as H2d. The policy identifies brownfield sites allocated for housing purposes, and in this case a high-density housing scheme is anticipated on the site, complementing the adjoining affordable housing development.

At its meeting on 4 September 2001, the Shadow Policy Executive agreed that the development covenant on the site should be extended up to 30 June 2004 with the Council's right to re-purchase being operative for the following two years. It was also made clear that the Council's intention would be to re-purchase the site by December 2004 to meet its housing targets. However, the Trust has now committed to a development scheme for the DRI site with an established completion date. This scheme is required to enable some of the facilities currently provided at the DRI to be transferred to the City Hospital site by 2007. To achieve this development, activity at the DRI site would have to be maximised over the next three years. It is important for this scheme to be implemented by the end of 2008 in order to maintain the Council's commitment to bring brownfield sites on stream within the Plan period.

In summary, there is no objection to extending the development period until 23 December 2008, subject to an understanding that no further extension would be agreed, and that the Council's intention remains to re-purchase on or before that date in order to meet its housing targets.

- **Highway Implications**

There are no direct highway objections to the extension of the covenant. However, the continued use of the land as a car park, and possible changes to the access and egress arrangements could have minor highway consequences.

A residential development complying with government density guidelines will almost certainly require improvements to the local highway network, especially the Barlow Street/Osborne Street/London Road junction.

London Road is part of the proposed Strategic Cycle Network, and the provision of suitable bus and cycle facilities may be required at some future date.

- **Housing Implications**

This site offers the opportunity to provide affordable accommodation in the heart of the city, with good access to the railway and public transport. The Derby Housing Needs and Market Study 2001 (HNMS) identifies an annualised need for Affordable Housing within the Central Area of Derby as 213.

The Council is also experiencing increased demand for affordable housing due to a number of social and economic factors such as low void rates, increase in house prices, increase of Right to Buy (RTB), family breakdown, inward migration of asylum seekers/refugees and low income. The Council's Housing Register, Homefinder, the choice based lettings system, identifies 11,000 households waiting for suitable properties.

In principle, the Housing Strategy and Development Unit has no objection to extending the development period until 23 December 2008, on the understanding that no further extension would be agreed, and that the Council's intention is to implement the re-purchase option to enable the land to be brought forward for Housing.

- 3.4 The option to re-purchase can be exercised within two years from the expiration of the development period. As the Council has to serve notice to exercise the option to re-purchase, there is an initial period of three months within which agreement on the open market value of the land has to be reached. After the three-month period, if agreement has not been reached, the matter is referred to an arbitrator. It is therefore likely that there will be a period of at least six months, following service of the notice to re-purchase, before the land could be back in Council ownership.

OTHER OPTIONS CONSIDERED

4.1 Extend the development covenant to February 2009.

I assume that this date was suggested to accommodate any delays that may occur in the development of the City Hospital site. I now consider it appropriate to have the development covenant to coincide with the proposed completion date of the City Hospital development

4.2 Extend the development covenant to coincide with the opening of the Accident and Emergency facility.

This would not be the preferred option, as it does not give a definitive date for the end of the development covenant. The opening of the facility could be subject to unforeseen delays.

4.3 Not to extend the development covenant.

The re-purchase covenant would come into effect on 1 July 2004 and be enforceable for the next two years. It is anticipated that the Trust would strongly object to the Council exercising the option. The Council is aware that the site will be required by the Trust up to December 2008 to accommodate the car parking needs of the DRI whilst the transfer of services takes place.

The Council would have to make a capital provision for the re-purchase of the site and find a suitable developer to offset the capital costs. There are other requirements to be fulfilled, including planning and highway requirements.

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Background papers: Shadow Policy Executive Report 4 September 2001
List of appendices: Appendix 1 – Implications
Appendix 2 – Plan

IMPLICATIONS

Financial

- 1.1 There is currently no capital provision for the re-purchase of the site. Capital resources are scarce and specific funding would have to be identified to enable re-purchase of the site.
- 1.2 Any potential sale to a Housing Association could be used to pay for, or offset the cost of purchase, and in addition any shortfall could be met from the currently unallocated Section 106 commuted payments received by the Council through planning gain for the purpose of affordable housing.

Legal

- 2.1 The land was formerly held under Part IX of the Housing Act 1985, and the land shown stippled, which remains in Council ownership, is still held for this purpose.
- 2.2 The land shown stippled is currently subject to a tenancy between the Council and the Trust, which is co-terminus with the development and re-purchase covenant.
- 2.3 It is unlikely that the Trust will comply with the development covenant to commence development for a Palliative Care Hospice by 30 June 2004. The Council will have the option to re-purchase the land at the open market value at the date of exercising the option. The option is exercisable any time from 1 July 2004 to 30 June 2006.
- 2.4 A Deed of Variation to extend the development and re-purchasing covenants can be granted. Similarly a Deed of Variation to allow the continued short-term use of the site for car parking can also be granted. Until a new Deed of Variation is completed, the Council will be in a position, after 1 July 2004, to exercise the option to re-purchase the site.

Personnel

3. None.

Equalities impact

4. None.

Corporate Objectives and Priorities for Change

- 5.1 The proposal comes under the Council's Objectives of **job opportunities, strong and positive neighbourhoods, protecting and supporting people, a healthy environment.**
- 5.2 The proposal furthers the priorities of **increasing value for money, developing the management of the city and district centres to improve their attractiveness and viability, enhancing our community leadership role through partnership working and listening to, and communicating with, the public.**

