

## **Cabinet – 17 December 2014**

### **Acquisition of Lex site: Waterfront**

<b>Portfolio:</b>	Councillor M Nazir
<b>Related portfolios:</b>	Councillor S Coughlan
<b>Service:</b>	Development and Delivery
<b>Wards:</b>	St Matthews
<b>Key decision:</b>	<b>Yes</b>
<b>Forward plan:</b>	<b>No</b>

**Members should read this report in conjunction with the private session report of the same title.**

#### **1. Summary**

- 1.1 Cabinet at its meeting in April 2014 agreed the acquisition of the strategically important Lex site at Wolverhampton Road, Waterfront. Following the receipt of further material information in advance of the completion of the acquisition, this report seeks confirmation of Cabinet approval to the Council's acquisition of the site. The site is owned by the Homes and Communities Agency (HCA), and forms a key part of the wider Waterfront redevelopment project which is aimed at creating a new leisure destination in the town centre.

#### **2. Recommendations**

##### **Decision to be made in private session following consideration of confidential information**

- 2.1 That Cabinet confirms its approval for the acquisition of the freehold interest in the Lex site, indicated on plan no. EPMS 4009/1, and extending to 2.2 acres or thereabouts, from the Homes and Communities Agency, with detailed terms to be delegated to the Executive Director Regeneration in consultation with the Portfolio Holder, subject to the receipt of a satisfactory external formal valuation report.
- 2.2 That Cabinet gives delegated authority to the Executive Director Regeneration to authorise the signing and sealing of all contracts, deeds or any other documentation relating to the acquisition of the freehold interest in the Lex site.

### 3. Report detail

- 3.1 The Lex site, indicated on the attached plan no. EPMS 4009/1, fronts Wolverhampton Road at Waterfront and is separated from the Kier cinema and restaurants development by the Holiday Hypermarket. The site is owned by the Homes and Communities Agency (HCA) who have been marketing the opportunity since mid-2012.
- 3.2 Previously, the HCA had confirmed that it was required to complete the disposal of the site by April 2015 as part of a national pressure to relieve the Agency of the considerable asset base inherited from the former Regional Development Agencies.
- 3.3 At the end of the marketing process, there was interest in the site from the Council and one other interested party. Given the enquiry that the HCA had received from that other party, the prospect of such a key site being sold for purposes which appear not to reflect current planning policy which promotes the site for leisure use, with the ensuing reduction in control of its future use, could be prejudicial to the Council's objectives for Waterfront. As a result, in April 2014 Cabinet resolved that the Council should acquire the site, and endorsed a bid which had been previously lodged with the HCA.
- 3.4 The purchase price was agreed following a review by valuers of previous valuation advice originally provided to the Council. Furthermore, the offer submitted to the HCA took into account a broad remediation cost known at that time, which explains the consideration. Subsequently, a further site investigation has been undertaken by the Council into the Lex site, the suggested costs further support the basis of the offer the Council has made to, and accepted by, the HCA. **Members should refer to the private version of the report for greater detail.**
- 3.5 Whilst detailed terms have been discussed and agreed with the HCA and completion of the transfer is otherwise ready to proceed, further advice has been received by the Council as part of the deliverability/viability assessment work being undertaken to inform the Town Centre Area Action Plan (AAP) process. The advice received is considered to be material to the acquisition of the Lex site, and therefore this report is being presented to Cabinet ahead of completion of the acquisition. Furthermore, the recommendation that the Council continues to proceed with the acquisition is proposed subject to the receipt of an external formal valuation to reassure the Council that the consideration reflects market value. This valuation has been commissioned and is expected to be available within a short timeframe that will not prejudice early completion of the acquisition should cabinet wish to proceed.
- 3.6 The site currently has a single left-in left out access from Wolverhampton Road. During the course of undertaking due diligence on the site, advice was obtained from Highways colleagues who confirmed that the site could be developed for leisure and / or retail uses using the existing access arrangements, however proposals for residential development could not be considered with a left-in left-out access. The consequence of this is that, a residential development of the site would only be feasible if either the neighbouring holiday hypermarket site is acquired, or if an access could be agreed across that site.

#### **4. Council priorities**

- 4.1 As expressed in the emerging Corporate Plan 2015-19, one of the Council's priorities is "Creating jobs and helping people get new skills". If Cabinet approves this step towards the delivery of the Lex site, it will help to deliver this emerging Council priority.
- 4.2 Furthermore, the development of the Lex site would be in line with some of the objectives as set out in the Marmot Review. In creating job opportunities and further investment in the town centre, the development will help to "create fair employment and good work for all" and "ensure a healthy standard of living for all".

#### **5. Risk management**

- 5.1 The acquisition of the Lex site carries risk in terms of the acknowledged need for remediation and to identify future funding to undertake such works. Options for how the remediation of the site can be achieved will need to be addressed as a matter of priority in order to be able to present the opportunity to the market as soon as possible. The ability of the Council to remediate the site reduces the risk to the market by creating greater certainty in terms of the ground conditions. The approach to remediation will be presented to a future meeting of Cabinet.
- 5.2 As considered in the advice received, there remains the possibility that whilst the Council pays market value for the site, that the private sector may not be capable to deliver a viable scheme without further public sector intervention. **Members should refer to the private version of the report for greater detail.**
- 5.3 The implications of the Council not acquiring the site are that in the absence of control a non-compliant proposal in planning terms may be forthcoming which could frustrate the Council's objectives in seeking an appropriate use. It is, however, important to understand that in the absence of market demand for the currently preferred leisure use of the site the Council could in any event be faced with a non-compliant bid when offering the site to the market.
- 5.4 There is also a risk associated with being able to secure an acceptable access to the site for alternative uses in the event that the site is not developed for leisure use.

#### **6. Financial implications**

- 6.1 The offer for the site can be met from existing capital resources. The previous gross valuation figure provided in 2011 was endorsed by valuers as representing market value. However, it is recognised that this original valuation is three years old, and an up to date formal valuation will be sought to reassure the Council ahead of completion.
- 6.2 The site will require remediation before it can be redeveloped, and in advance of the site being made available to the market it will be necessary to identify the necessary funding; options for how this funding can be secured are under consideration not excluding that this cost may have to be met by the Council.

- 6.3 There may also be some future financial implications related to the creation of a satisfactory access to the site if options around acquiring the neighbouring site still need to be pursued.

## **7. Legal implications**

- 7.1 The Council can acquire such sites as it sees fit but it must make sure that it acts reasonably in doing so and that it meets its fiduciary responsibility to the tax payer to ensure best value.
- 7.2 Appropriate due diligence around the completion of the land transfer will be undertaken by in-house legal services, including warranties in favour of the Council provided by the remediation consultants.

## **8. Property implications**

- 8.1 The proposal is to acquire the Lex site, to de-risk the prospects of securing development and investment, and to re-present the opportunity to the market. There will be ongoing responsibilities for the Council as landowner until such time as the site is disposed.

## **9. Health and wellbeing implications**

- 9.1 The site is known to require remediation before redevelopment can occur, and this remediation scheme will address the removal or management of any contaminants to meet the requirements of proposed end uses.

## **10. Staffing implications**

- 10.1 The land transfer will be undertaken by officers in asset management and legal services.

## **11. Equality implications**

- 11.1 At this stage of the proposal there are no immediate equality implications and an equality impact assessment is not required. Equality analysis, legal and built environment related requirements and good practice issues will be considered throughout the project. When procuring the services, as a minimum, officers will include contract conditions which prohibit the contractor from unlawfully discriminating under the Equality Act and will require them to take all reasonable steps to ensure that staff, suppliers and subcontractors meet their obligations under the Equality Act.
- 11.2 The expectation is that once acquired and remediated, the development opportunity would be offered to the open market.
- 11.3 It is considered that the citizens of the Borough will welcome and benefit from the delivery of the project. The project will improve the environment of the town centre, bringing into use what is currently a high profile and vacant site and delivering another development in the core of the town centre.

- 11.4 The delivery of the project, particularly in the construction and retail sectors, could provide employment and business opportunities for Walsall's citizens. Where possible, the aspirations of the Think Walsall initiative will be pursued to ensure this happens. The development will evolve to ensure accessibility for all.

## **12. Consultation**

- 12.1 The invitation from the HCA to bid to acquire the site has been discussed at Asset Strategy Group involving representatives from regeneration, resources and neighbourhoods directorates. The planning process for the remediation of the site will require community consultation, and statutory bodies such as the Environment Agency will be involved in the design of the remediation strategy for the site. Thus far colleagues in Engineering and Transport have been involved in the further targeted site investigations, and their role will continue through the remediation process.

## **Background papers**

Report to Cabinet "Acquisition of Lex Site", 30 April 2014.

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Simon Neilson  
Executive Director

17 December 2014



Councillor M Nazir  
Portfolio Holder

17 December 2014



**Walsall Council**

130.1m

WOLVERHAMPTON  
ROAD

125.6m

WOLVERHAMPTON STREET

PLECK ROAD

Lock

Ward Bay

Walsall Canal

WAVE CLOSE

BOULEVARD WALK

CHARLES STREET

El Sub Sta

127.4m

WATERFRONT WAY



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**SITE ADDRESS:**  
LEX SITE

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**DATE : 15/12/2014**  
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