

## Cabinet – 11 September 2013

### St Matthew's Quarter – Disposal of Land in Digbeth and Lower Hall Lane

**Portfolio:** Councillor Adrian Andrew, Deputy Leader and Regeneration and Transportation

**Related portfolios:** Councillor Chris Towe, Finance and Personnel

**Service:** Regeneration: Development and Delivery

**Wards:** St Matthew's

**Key decision:** Yes

**Forward plan:** Yes

#### 1. Summary

- 1.1 This report relates to a development in Digbeth and Lower Hall Lane, which is expected to deliver over 8,000 sq metres of new retail floorspace in the town centre. At its meeting on 18<sup>th</sup> April 2012, Cabinet resolved to dispose of the Council's freehold interest in 28 Digbeth (the Cool Trader unit) and surrender its leasehold interest in the Lower Hall Lane car park to developer Norton & Proffitt. **Cabinet Members should refer to the private session report for confidential details of the previously agreed disposal.** Due to Norton & Proffitt's ownership of all surrounding land, the Council is able to deal directly with the developer in these circumstances. To complement redevelopment proposals for the Old Square shopping centre, Norton & Proffitt is keen to proceed with its own scheme and requires completion of the land transfer to provide certainty to potential occupiers.
- 1.2 The Cabinet decision to dispose of the Council's interests was subject to the following:
- a satisfactory formula for a profit-share mechanism being agreed between the Council and Norton & Proffitt
  - the endorsement by the District Valuer of the developer's financial appraisal for the scheme as a justification for the disposal of the Council's interests
  - satisfactory arrangements for the relocation of market storage facilities being incorporated
  - other detailed terms to be delegated to the Executive Director Regeneration to be agreed in consultation with the Regeneration Portfolio Holder
- 1.3 The purpose of this report is to update Members on progress with the points noted above and to seek the view of Cabinet on whether it wishes to confirm its decision to dispose of the Council's land. **Cabinet Members should refer to the private session report for confidential details of the recommended disposal.**

## 2. Recommendations

Cabinet will need to consider the confidential information in the private session report before making a decision. Following consideration of the confidential information, the cabinet will make a decision whether to confirm its willingness to dispose of the council's freehold interest in 28 Digbeth, and surrender its leasehold interest in the former car park in Lower Hall Lane, subject to planning permission.

The decision (or a summary of the decision if it contains confidential information ) will be published on 12 September.

## 3. Report detail

- 3.1 The main purpose of this report is to seek Cabinet approval for the disposal of the Council's freehold interest in 28 Digbeth and its leasehold interest in the Lower Hall Lane car park to Norton & Proffitt. **Cabinet Members are asked to refer to the private session report for confidential information on the proposed land transfer.** To inform this decision, the report also advises Cabinet of what progress has been made against the conditions outlined in the Cabinet resolution of 18<sup>th</sup> April 2012. Confirming the disposal of the Council's interests will greatly assist Norton & Proffitt in its attempt to secure binding agreements with potential tenants. This development is consistent with existing planning policy and the emerging Walsall Town Centre Area Action Plan, and will complement proposals for the redevelopment of the Old Square shopping centre. The delivery of the project will also lead to an additional 50 jobs in the retail sector, as estimated in the planning application, numerous construction jobs and a considerable increase in business rate income for the Council.
- 3.2 It should be noted that Norton & Proffitt secured planning consent in May 2013 for 11 retail units totalling over 8,000 sq metres of floor space. However, this has been challenged in the High Court. As a result Norton & Proffitt has submitted an application to the council for a Screening Opinion as to whether the necessary resubmitted planning application should be accompanied by an Environmental Statement. Insofar, therefore, that there is no guarantee that planning consent will be secured in the future it is prudent to ensure that the disposal of the Council's land is subject to planning consent being granted.
- 3.3 The following conditions were also specified in the April 2012 Cabinet report, and it is now possible to advise Cabinet of progress on these terms:
- a satisfactory formula for a profit-share mechanism being agreed between the Council and Norton & Proffitt
  - the endorsement by the District Valuer of the developer's financial appraisal for the scheme as a justification for the disposal of the Council's interests
  - satisfactory arrangements for the relocation of market storage facilities being incorporated
  - other detailed terms to be delegated to the Executive Director Regeneration to be agreed in consultation with the Regeneration Portfolio Holder

- 3.4 Progress with the Council's land disposal is dependent upon the District Valuer endorsing the developer's financial appraisal for the scheme. Integral to this process is the requirement that a satisfactory formula for a profit-share mechanism should be agreed between the Council and Norton & Proffitt, and the District Valuer also considered that matter in its instruction. The District Valuer concluded that the developer's appraisal was reasonable, though challenged the proposed level of developer profit and suggested that this might be the subject of further negotiation. However, the District Valuer acknowledged that this was essentially a local decision. The District Valuer also concluded that the proposed profit share mechanism seemed reasonable. Furthermore, it recommended that the Council seek an open book approach with the developer to verify that the costs outlined in the development appraisal at this stage become actual development costs. The conclusions of the District Valuer were reported to Capital Strategy Board at its meeting on 24 July at which it was agreed that a report would be submitted to cabinet at its September meeting. **Cabinet Members are asked to refer to the private session report for confidential information provided by the District Valuer on the financial appraisal and the detail of the profit share mechanism.**
- 3.5 The Council's land disposal is also dependent upon satisfactory arrangements for the relocation of market storage facilities being incorporated into future proposals. In recent months, a number of options have been considered for the storage facilities, and the feasibility work around the permanent location for the market (which is currently out to tender) will be asked to advise on the scope and location of the storage facilities. However, should the developer wish to move forward with the development and it become necessary to accelerate this process, then two potential locations in Council ownership in Lower Hall Lane have been identified as interim solutions.
- 3.6 When considering other detailed terms of the land disposal, officers have been negotiating with the developer to protect the Council's interests in this disposal. For example, it has been agreed that the disposal will be conditional upon the developer awarding a letter of intent to a contractor. However, other detailed terms of the disposal will have to be agreed by officers, and Cabinet is recommended that these terms will be delegated for approval to the Executive Director Regeneration, in consultation the Portfolio Holder Regeneration and Transportation.

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

- 4.1 As expressed in the Corporate Plan 2011/12 – 2014/15, part of the Council's shared vision for the Borough is that Walsall will be a great place to live, work and invest, where "there are more and better jobs for local people" and where "there are a wide range of facilities for people to use and enjoy". Furthermore, one of the three priorities for the Council is the economy, and if Cabinet approves this step towards the delivery of this project, it will help to deliver the shared vision for the Borough and underpin the Council's economic priority.

- 4.2 Furthermore, the development of the project 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 It is acknowledged that the project contains considerable elements of risk, not least that the delivery of the overall project is dependent upon the commitment of private sector partners in a time of economic constraint. It is intended that delivery will be made much more likely by the Council disposing of its land interests. However, the risk remains, in a depressed retail market, that the profit share mechanism proposed may not deliver the anticipated receipt to the Council. Nonetheless, if the project does not proceed within 4 years, the Council has the opportunity to take back its interests. **Cabinet Members are asked to refer to the private session report for confidential information on the proposed land sale.**
- 5.2 Progress with the scheme is dependent upon the developer obtaining planning consent and securing binding agreements to lease. The principle of retail use in this location is consistent with planning policy, and the Black Country Core Strategy aspiration for delivering 85,000 sq metres of additional comparison retail floor space in Walsall town centre by 2026. The developer has also commenced the marketing of the scheme and will commence construction when a certain proportion of binding agreements to lease have been secured. However, its recently received planning consent has been challenged in the High Court, and there is of course no guarantee that consent will be secured in the future. Therefore, it is prudent to ensure that the disposal of the Council’s land is subject to planning consent being secured.

## 6. Financial implications

There will be financial implications for the Council in disposing of its land to the developer. **Members are asked to refer to the private session agenda for confidential information on this item.** The potential tenants for the scheme will be required to pay business rates, and since there will be a net increase in floor space provided, it is anticipated that there will be a substantial increase in overall business rates received.

## 7. Legal implications

- 7.1 The Council is under a legal obligation (s123 Local Government Act 1972) to obtain the Best Consideration reasonably obtainable for the disposal of land. **Members are asked to refer to the private session agenda for confidential information on the land deal.**

- 7.2 The Council will enter into a legal agreement to ensure that the draft terms discussed above and in the private session Cabinet report are delivered in exchange for the disposal of the Council's interests. As such, there will be an ongoing requirement for Legal Services to be included in various elements of this project.

## **8. Property implications**

If this report is approved, the Council would dispose of the land to the developer, subject to planning consent being secured. **Members are asked to refer to the private session for confidential information on the proposed land transfer.** There will be ongoing property considerations which will require the input of Property Services and Legal Services for the drafting of the documentation for the disposal of the site.

## **9. Health and Wellbeing implications**

The Council and its partners want to improve the health and well-being of Walsall citizens. To contribute towards the health and well-being of residents (both physical and mental), it is important that there is a good range of facilities in the town centre which provide a range of job opportunities for local residents. The delivery of this project should help to address that aspiration.

## **10. Staffing implications**

Staff in Development and Delivery, Property Services and Financial Services have been involved in this project thus far, and further input will be required from these Council service areas, as well as Legal Services.

## **11. Equality implications**

- 11.1 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 an under-utilised site and delivering another development in the core of the town centre.
- 11.2 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.
- 11.3 An Equality Impact Assessment has been previously carried out on the implications of this project to accompany the April 2012 Cabinet report. This assessment concluded that there will not be any negative implications for the characteristics protected by the Equality Act 2010.

## 12. Consultation

Neighbours and the wider community have been, and will continue to be, involved through the statutory planning process and other aspects of this project.

### Background papers

Report to Cabinet, 18<sup>th</sup> April 2012.

### Author

Richard Chadwick  
Team Leader

☎ 654747

[chadwickr@walsall.gov.uk](mailto:chadwickr@walsall.gov.uk)



Simon Neilson  
Executive Director  
Regeneration

11 September 2013

Simon Tranter  
Head of Regeneration: Development  
and Delivery

☎ 654723

[tranters@walsall.gov.uk](mailto:tranters@walsall.gov.uk)



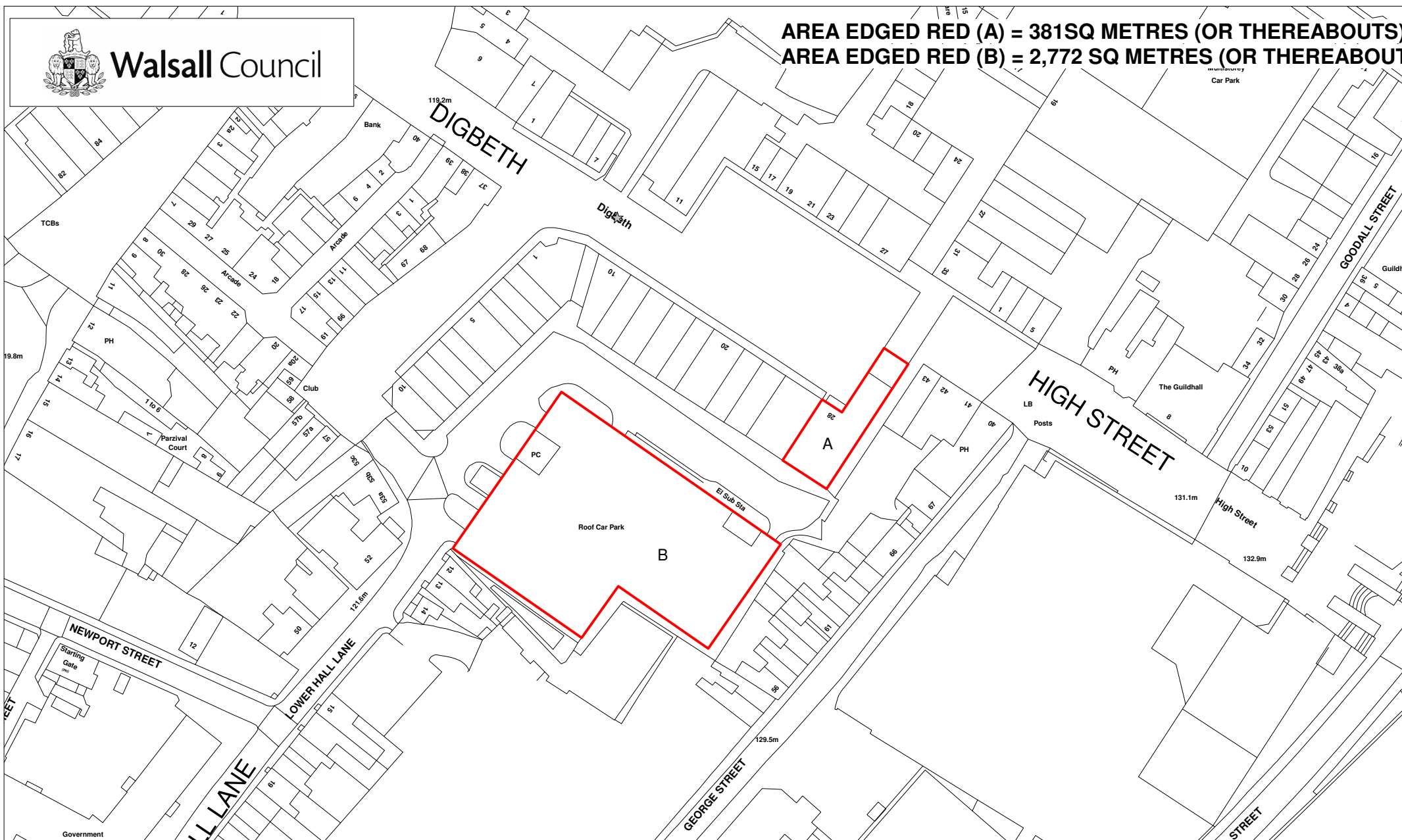
Councillor Adrian Andrew  
Deputy Leader  
Portfolio Holder - Regeneration and  
Transportation

11 September 2013



Walsall Council

AREA EDGED RED (A) = 381SQ METRES (OR THEREABOUTS)  
AREA EDGED RED (B) = 2,772 SQ METRES (OR THEREABOUTS)



ASSET MANAGEMENT  
Civic Centre  
Walsall  
WS1 1TP  
Tele: 01922 652094  
Fax: 01922 636150

APPENDIX A  
COOL TRADER UNIT AT 28 DIGBETH AND FORMER MARKET  
STORES AND CAR PARK IN LOWER HALL LANE  
DRAWING NO: EPMS 3627  
DATE : 03/04/2012  
DRAWN BY : SSP



SCALE 1:1250

**NO FURTHER COPIES MAY BE MADE**  
© Crown copyright and database rights 2012  
Ordnance Survey 100019529