



Vale of White Horse

District Council

**Local Government Act 2000 and the Local Authorities
(Executive Arrangements) (Access to Information) (England)
Regulations 2000**

RECORD OF DECISION OF CABINET MEMBER OR KEY DECISION OF OFFICER			
1	Name of decision maker	Councillor Elaine Ware	
2	Type of decision (Please <input type="checkbox"/> as appropriate)	Key Yes	Other
3	Date of decision (This should be the same as the date form signed)	3 August 2011	
4	The decision	<p>1. To authorise the strategic director with responsibility for property, in consultation with the portfolio holder, to declare as surplus and approve the proposed sale of part of the council-owned Westway Shopping Centre (WSC) in Botley in conjunction with other adjoining landowners and with the aim of delivering a new development of a major food store and car parking together with the relocation of the existing community hall and Baptist Church</p> <p>2. To authorise the head of legal and democratic services, as an exception to the council's contract procedure rules, to appoint Pinsent Mason as the council's legal advisor on this project.</p>	
5	Reasons for decision	<p>This matter was considered by the executive at its meeting on 5 November 2010. The report set out the background, including details of the original purchase of the WSC, the current rental income and highlighted its rather tired and dated appearance. The report also contained details of the proposed partnership arrangements between the Vale of White Horse District Council, other landowners and a developer (Stockdale Land Limited) to jointly market a site for a major food store development. The Vale Council's contribution to the overall site would comprise the shoppers car park off Chapel Way (adjoining the Co-op), the Seacourt Hall site (leased to North Hinksey Parish Council at £1 a year expiring in 2024) and part of the Co-op store itself. The head of economy, leisure and property, in consultation with the strategic director and portfolio holder, was authorised to agree and complete a joint venture sale agreement and this document, termed a marketing co-operation agreement (MCA), was completed in February 2011. The thrust of the agreement was</p>	

that the parties would jointly market the overall site with a view to achieving certain common objectives, these being a sale on the best terms, including a price that meets the Vale Council's statutory obligations, and delivering a comprehensive development within five years that complements the existing WSC. The MCA provided that in the event of a sale then the capital receipt (following deduction of certain costs) would be split in accordance with stated percentages. The Vale Council would receive 30.96 per cent of net proceeds up to £16.5 million, 0 (zero) per cent between £16.5 million and £20 million, and 25 per cent over £20 million. It was not anticipated that the sale proceeds would exceed £16.5 million. The agreement is not binding inasmuch as any of the parties has the right to withdraw, but there is an obligation on all to act in good faith. When previously reported, it was anticipated that the Vale Council would receive a figure in the region of £3.7 million for its land as part of the scheme.

The site was subsequently marketed by the Vale Council's strategic property advisers, Cushman & Wakefield, and this produced 13 firm offers ranging from £6 million to £16 million from a mixture of developers and food retailers. Six bids were shortlisted and these were analysed further, including input obtained from planning officers, and each of the parties were interviewed jointly by the agents and landowners. Having regard to the level of the bid and the suitability of the schemes, two parties emerged as frontrunners and these were Asda/Bride Hall (a partnership between the food retailer and an established developer) and Doric Properties, a developer with no end user identified.

Further negotiations developed with the intention of clarifying and, where possible, improving the terms on offer. The consensus of the parties was ultimately that the Asda/Bride Hall bid offered the best combination of price (currently agreed at £16.55 million), certainty (the end user was known, as opposed to Doric's proposal to competitively market the site once it had a planning consent), and suitability (the scheme was for a more modest 40,000 sq ft sales area compared to Doric's sales area of 50,000 sq ft). The Asda/Bride Hall proposal includes 60 residential units and a total of 453 parking spaces (393 for shoppers, 60 for residents). The extent of the residential space in the scheme will be a matter for discussion with the planners and it is proposed that if the number of flats falls below 60 then the overall price will be adjusted downwards by £9,166 per unit lost, but subject to a minimum price of £16 million.

If the matter proceeds then this would initially be by way of an agreement for sale of the land, with completion of the sale dependent on meeting certain conditions. These conditions would be the grant of planning consent for the scheme identified by the developer, vacant possession of the entire site, satisfactory ground conditions and a maximum allowance of £1 million for any planning and highways contributions.

Asda/Bride Hall have indicated that they do not require the Co op

store in order to develop out the scheme in their preferred format but this may change as the detailed design work and discussions with planners develop. In the event that the Co op was not required, this may mean the Vale Council's share of the capital receipt declines, although of course it will retain the building and the income from it. No serious discussions have been held over this but officers will be looking for the overall balance of the deal to be broadly similar.


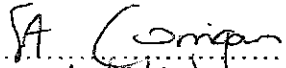
There are some other important issues to be resolved, predominantly around the need to obtain vacant possession and relocation of existing uses, namely Seacourt Hall, the library and the Baptist Church. In the matter of the church, the provisions of the MCA places responsibility on Stockdale Land to relocate the church premises, with the costs deducted off the sale proceeds. The possibility of locating the library and community hall together with the church in a single building was raised but this is understood to be unsatisfactory. Before the Vale Council can enter into an agreement for sale of the food store site, a scheme for relocation of the community hall will have to be worked up and agreed with the parish council. Meetings have been held with the parish council to discuss what is required and the next step will be for possible options to be sketched out for further consideration. Stockdale Land is presently assisting with this.

In a similar way, consideration is being given to relocation of the library, possibly in a facility shared with the community hall. It is anticipated that the relocation of the library would be on a commercial basis, reflecting its present leasing arrangements, whereas any replacement lease for the community hall is likely to be on a peppercorn rent basis, as at present. A new facility is expected to provide a significantly better building than the present, being more flexible and making more efficient use of the space, as well as being more economical in terms of outgoings. The parish council has a secure lease and whilst it has indicated its willingness to co operate, understandably it will want to be satisfied that the new facility puts it in a better position than at present.

It should be noted that there are some additional issues with other landowners needing to secure vacant possession of parts of their properties. In some instances this is unlikely to be problematic and may be an opportunity for the Vale Council, as this includes a dry cleaners and Natwest bank premises who could be relocated into WSC. In one other instance, the tenant is proving difficult and legal action is underway. Officers are monitoring this as it has the potential to delay or even challenge delivery of the scheme. In the worst case situation, and as a last resort, use of compulsory purchase powers might have to be considered to resolve this, although any such decision is some way off when legal action/negotiations have been exhausted.

Asda/Bride Hall are keen to make progress quickly, as are the landowners, and in order that the Vale Council is in a position to make decisions quickly, officers recommend that the decision to declare as surplus the property identified in the November 2010

		<p>executive report and enter into a sale agreement is delegated to the strategic director with responsibility for property in consultation with the portfolio holder. It should be stressed that whilst Asda/Bride Hall are currently considered to be the most likely purchasers, there is still some work to do in finalising the fine detail of the agreement and it is not impossible that if those details could not be agreed, or the currently strong interest from Asda/Bride Hall waned, that the parties may want to reopen negotiations with Doric Properties.</p> <p>It is anticipated that a capital receipt from this project will enable a refurbishment of WSC. The precise extent and cost of this have not been considered in detail, although a budget figure of £1.5 million was mentioned in the November 2010 executive report. Subject to progress on the proposed sale, officers will shortly start preparing a brief to architects for consideration of the options together with an appropriate report or briefing to the cabinet to highlight the issues.</p>
6	Alternative Options rejected	<p>The Vale Council is not bound to enter into the sale agreement and, therefore, has the option of pulling out and taking no further action with regard to a sale. However, this would run contrary to the course that has been set, including the outcome of the earlier executive report, and we would forgo the potential for a substantial capital receipt and the possibility of refurbishing the existing centre, which currently derives a significant revenue cash flow for the Vale Council.</p>
7	Resource implications	<p>None, apart from legal input into sale documentation and completion. As indicated below, it is proposed that the solicitors who acted on the MCA, Pinsent Mason, continue and the precise level of fees will be a matter for discussion. This firm has also acted on the Abingdon Abbey Centre and Charter agreements and a good working relationship has been built up.</p>
8	Legal implications	<p>Officers propose that, in order to maintain continuity, Pinsent Mason continue to act on the Vale Council's behalf and provide the required input into finalising the necessary legal documents. Therefore, officers recommend that the head of legal and democratic services, in accordance with contract procedure rule 77 (exceptions authorised by the cabinet) is authorised to appoint Pinsent Mason as the Vale Council's legal advisor on this project.</p>
9	Financial implications	<p>Under the MCA, the Vale Council's share of the proceeds is estimated at £3.7 million. However the executive report of 5 November 2010 estimated the potential loss of the income from the Co op unit at £105,000 a year. It remains to be seen whether the Co op unit will be required for the scheme (either for the main development or potentially to assist in a relocation) or indeed whether Co op would wish to stay in occupation if the development goes ahead, but these matters will need to be finalised prior to entering into a contract on a satisfactory basis.</p> <p>Officers carried out a financial appraisal of the estimated costs and revenue and this shows a positive net present value of £1,475,488. This disregards the potential increase in rents for the shop units due to the refurbishment works and impact of the</p>

		new development and if this is factored (on the basis of a ten per cent uplift) the net present value increases to £1,969,182. On this basis, the strategic director with responsibility for finance is supportive of the proposals contained in the report.
10	List of consultees (See guidance below)	Finance – approved Legal – (Margaret Reed) – approved Head of ELP (Chris Tyson) – approved Strategic Director (Matt Prosser) – approved S151 officer (Steve Bishop) – approved
11	Reports and background papers considered	Previous executive report on 5 November 2010.
12	Date of receipt of reports	N/A
13	Declarations of interests	None
14	Dispensations	None
15	Is this decision confidential and if so, under which exempt category?	Yes, under paragraph 3, part one, schedule 12a of the Local Government Act 1972.
16	“Call in” waived?	
17	Signature and date	 Decision maker
		3/6/11 Dated
18	This form must be physically handed to a member of the democratic services team	Note: The date and time at which this form is received will be recorded by the head of democratic services. The decision will then be published and is subject to “call in”.  Date... 4/8/2011 Time... 9:00am Head of democratic services Date and time form received

19	<p>Details of publication on the web and date of expiry of "Call In"</p> <p>Note: This part of the form will be completed by democratic services</p>	<p>Date of expiry of "Call In" 5 pm Thursday 11 August 11</p> <p>Date published 4/8/2011</p> <p>Date hand delivered ^{emailed} to chair of scrutiny 4/8/2011</p>
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