



NORTHAMPTON
BOROUGH COUNCIL

Name of Committee:	Cabinet
Directorate:	Governance and Resources
Corporate Director:	Isabell Procter
Portfolio Holder	Malcolm Mildren
Date:	30 July 2007

Report Title	Dallington Grange
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Key Decision	YES
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1. Purpose

- 1.1 To outline to Cabinet the development options around Dallington Grange including the potential for a Compulsory Purchase Order should the Council decide not to proceed with a voluntary disposal.
- 1.2 To consider the opportunities and risks in relation to the use of this land or the capital receipt resulting from the sale.

2. Recommendations

- 2.1 That Officers keep open negotiations with the Althorp Estate which could lead to developing a "Collaboration Agreement" with the Trustees of the Althorp Estate in order to achieve the highest prices possible for the respective landholdings, whilst seeking to minimise the Council's risks and maximising the Council's opportunities, particularly in light of the environment study at 2.3 below.
- 2.2 That, subject to the necessary indemnities being given to the Council, and at solely the cost and risk of the developers concerned, environmental investigations of the Council's land should be carried out.
- 2.3 That following further evaluation of the risks and opportunities of the potential

development a further report is to Cabinet.

2.4 That Cabinet consider implementing the decision of 5 February, namely:

- That Cabinet agree the formal advertisement for disposal of an area of public open space that is contained within the wider Dallington Grange land area, that is being considered for disposal, in accordance with the requirements of the Local Government Act 1972 (as amended).
- That Cabinet approve the seeking of the consent of the Secretary of State to the disposal of an area of disused allotment land, that is similarly contained within the wider Dallington Grange land area, in accordance with the requirements of the Allotments Act 1935 (as amended).

2.5 That Cabinet authorise the continued appointment of the existing external property and legal advisors to deal with the negotiations if necessary.

2.6 That Cabinet note that:

- a planning application has been submitted to West Northamptonshire Development Corporation (WNDC) by two Developers in respect of a comprehensive scheme to develop the Council's land in conjunction with a larger adjacent area owned by the Althorp Estate.
- should the Council not co-operate with the proposed joint scheme, planning permission is unlikely to be granted for any 'stand alone' scheme solely relating to the Council's land.
- should the Council not co-operate with the proposed joint scheme, West Northampton Development Corporation may choose to seek compulsory powers to facilitate assembly of all land required for the comprehensive scheme.

3. Summary

3.1 The council owns 134.15 acres of land adjoining the 412.66 acres owned by the Althorp Estate in Dallington Heath. This area of land has been allocated for development within the adopted Northampton Local Plan and forms part of the South Midland expansion area.

3.2 The Council has a number of options or opportunities in relation to the use or disposal of this land, although some carry significantly more risk than others.

3.3 The key risk to the Council, should it not agree to a voluntarily dispose of the land, in partnership with the Althorp Estate, is that the land will be acquired through a Compulsory Purchase Order. This has the potential:

- to reduce the influence that the Council would have in ensuring that their priorities for the area are met;
- may not get the maximum benefit for the people of Northampton;
- may result in costs to the Council should they seek to challenge any potential Compulsory Purchase Order and;
- may significantly reduce any capital receipt for the land.

3.4 The key benefits to the Council of agreeing to the voluntary disposal of the land are essentially the opposite of above:

- it allows the Council to influence the overall shape of the scheme;
- it helps bring forward a major scheme that will enable the expansion and growth of the town to be undertaken in a structured way;
- as part of the negotiation process, it allows the Council to exert influence to ensure that their priorities are recognised and will allow the Council to deliver affordable house in a shorter time span;
- it ensures that all costs are picked up by the developer; and
- and ensures the delivery of a significant capital receipt which could be used to further the regeneration of the town and / or be invested to help deliver Council services and priorities.

3.5 The Cabinet should note that whatever decision is made regarding the Council's land holding, a major development in the area will still go ahead, even if it is only on Althorp land should a compulsory purchase order not be obtained.

3.6 An intrusive environmental investigation has still to be undertaken on the land. The outcome of this will influence the final price and terms of any disposal agreement.

4. Report Background

- 4.1 Cabinet on 16 October 2006 agreed the principle of appointing external property and legal advisors to explore strategic options for working with Althorp Estate and those Developers with existing purchase options in relation to their land. The external surveyors employed (Gerald Eve) have previously supplied advice to the Council in relation to the proposed disposal of the land going back to 2000.
- 4.2 Discussions have subsequently been progressed by the external property and legal advisors (Gerald Eve and Nabarro Nathanson respectively) acting on behalf of the Council with the above parties. As a result of these discussions provisional heads of terms in relation to the conditional sale of the land have been developed. The report emphasises that greater value for the Council can be achieved by co-operating with the Developers and the Trustees of the Althorp Estate than is possible by seeking to sell/develop the land in isolation.
- 4.3 If agreed, the heads of terms would lead to the Council entering into a conditional contract to sell the land to the two Developers who already hold contractual options in relation to the Althorp Estate land.
- 4.4 The granting of planning permission for a minimum specified level of development of the Site (being the Council's land in combination with that of the Althorp Estate) and the generation of at least a consequential minimum specified total capital sum for the Borough, would satisfy one of two conditions regarding the unconditional completion of the sale of land. The other condition relates to the Council providing vacant possession of its land, parts of which are presently subject to two separate occupations.
- 4.5 The specific price payable to the Borough would be calculated upon a market value basis after grant of the actual planning permission and in the full knowledge of the terms of associated planning agreements. In this way the precise development scheme will be known and the price can be determined in light of this, ensuring that best value is obtained.
- 4.6 Final price would also be influenced by the results of environmental investigations. These investigations would be carried out solely at the developer's risk and cost, with the results jointly reported to the Developers and the Council. This will enable the Council to properly understand the present condition of the land and any consequential indemnity issues that may legitimately impact upon its value.
- 4.7 In the event of dispute as to the correct figure there would be a mechanism for the determination of the price by a third party expert. The Council would not be obliged to sell the land if the price so determined was less than the minimum 'floor' figure.
- 4.8 The price payable would be paid to the Borough in four tranches, the first being paid upon completion of the sale of the land and the balance being paid over the following three years.

4.9 There would also be an overage provision giving the Council a majority share in any additional value of the Council's land that might arise from any further and additional planning permissions affecting the combined Site.

4.10 Cabinet on 5 February 2007 approved

- the formal advertisement for disposal of an area of public open space contained within the larger area under consideration and
- the seeking of statutory consent to the disposal of an area of disused allotment land similarly within the larger area under consideration for disposal.

4.11 Within the areas of land that are under consideration for disposal, there is an additional small area of public open space and another additional much larger area that is presently legally held by the Council for the purposes of allotments (albeit that the land in question has in fact been let to an agricultural tenant for many years). The necessary processes required to dispose of these areas of land must be undertaken i.e.

- In pursuance of Section 123 of the Local Government Act 1972 (as amended by the Local Government, Planning and Land Act 1980), the Council is required to advertise its intention to dispose of any public open space and to consider any objections received.
- In pursuance of the requirements of the Allotments Act 1935 (as amended), the Council is required to obtain the consent of the Secretary of State to the disposal of any land formally designated as allotment land.

5. Options and Evaluation of Options

5.1 The principal options in relation to this strategic area of land that has been previously allocated for development within the adopted Northampton Local Plan are as follows:

5.2 *Option 1: Retain the land for existing use.*

Should the Council not choose to deal at this time, there is a risk that compulsory powers will be sought to incorporate the Council's land into a wider scheme. The basis of compensation should this be successful would be contentious and likely to be less favourable than the terms currently being proposed.

5.3 *Option 2: Retain the land in the hope of higher value being realised at some later date.*

External advice is that value is likely to be maximised through agreeing terms now that relate to a larger comprehensive development. As in Option 1 the key risk is that compulsory powers would be used to secure the Council's land at the same level of compensation outlined above.

5.4 *Option 3: Attempt to sell the land in isolation to other parties unconnected with the Althorp Estate land.*

External advice is that this would not be likely to yield better value for the Council, since West Northampton Development Corporation are not willing to entertain any planning scheme that does not form part of an overall master plan for the locality. Consequently, any third party purchaser would have to cooperate with the existing Developers who have contractual relations already with the Althorp land, in a similar way to that proposed now.

5.5 *Option 4: Proceed to agree a disposal upon the basis of the proposed heads of terms recommended in this report.*

External advice is that this is an optimum time to deal and that the basis provisionally agreed will yield the Council the maximum possible value from the disposal its land with the ability to influence and shape the development in line with the Council's priorities.

6. Resource Implications (including Financial Implications)

6.1 The sale of the Council's interest in this land would yield a significant capital sum that could be re-invested to meet the Council's corporate capital objectives, or be invested to deliver revenue income to underpin the Council's budget. The receipt would be phased over four years.

6.2 It should be noted that the Council presently owns the Park Square Local Centre within the adjacent Kings Heath Estate and derives a net income of from the letting of these retail units. The development of a new local/district centre within the new development of Dallington Grange may have an adverse impact on the viability of the existing traders at Park Square. In the event that these premises are not able to be re-let when existing lease agreements expire, there will be a future adverse impact on the revenue (rental) income to the Council and a consequential reduction in capital value of the retail units concerned. However, until alternative local shopping facilities are constructed and available to use as part of the new development it is difficult to predict the precise impact on viability of the existing facilities at Kings Heath.

6.3 The external professional legal and surveyors costs incurred by the Council from 1 November 2006 in connection with the negotiation of these terms and in documenting any agreements will be reimbursed by the Developers upon completion of a contractually binding agreement for a conditional sale.

6.4 Notwithstanding 5.3 above, the on account sums paid in relation to that period

of negotiation would represent only a small proportion of the total fee payable to Gerald Eve.

6.5 In the event that Cabinet does not decide to approve this disposal all of the fees paid to date to external advisors would have to remain as revenue liabilities.

7. Risk and Opportunity Issues

Risks

7.1 Should the Council not agree to a voluntarily dispose of the land in partnership with the Althorp Estate, is that the land will be acquired through a Compulsory Purchase Order. This has the potential:

- to reduce the influence that the Council would have in ensuring that their priorities for the area are met;
- may not get the maximum benefit for the people of Northampton;
- may result in costs to the Council should they seek to challenge any potential Compulsory Purchase Order and;
- to significantly reduce any capital receipt for the land;.

7.2 Should the Council seek to dispose of the land separately at some time in the future, the risk is, according to external advice, that less satisfactory terms for a land disposal (whether by private treaty or under actual or threatened compulsory powers) are likely to be on offer in the future.

7.3 Should the sale proceed, the land will be transferred to the Developers prior to receipt of all the price payable. There is a commercial risk that the Developers may both become insolvent or be dissolved during the period when monies are still due to the Council. To mitigate this risk the two parties will be jointly and severally liable to pay the price agreed and the Council will put in place any such legal measures to protect its position as are appropriate and proper in accordance with external legal advice.

Benefits

7.4 The key benefits to the Council of agreeing to the voluntary disposal of the land in combination with that of the Althorp Estate are essentially the opposite of above,

- it allows the Council to influence the overall shape of the scheme;
- it helps bring forward a major scheme that will enable the expansion and growth of the town to be undertaken in a structured way;

- as part of the negotiation process, it allows the Council to exert influence to ensure that their priorities are recognised e.g. affordable housing, appropriate infrastructure etc.;
- it ensures that all costs are picked up by the developer; and
- it delivers a significant capital receipts from this proposed disposal, in a structured way, will allow an opportunity for the Council to plan effectively its capital programme over a period of years and to help fund corporate capital priority programmes and / or be invested to help deliver Council services and priorities.

8. Consultees (Internal and External)

Internal	Regeneration, Legal, Parks,
External	Northampton Allotment Network, Neighbourhood Steering Group

9. Compliance Issues

A: How Proposals Deliver Priority Outcomes

Recovery Plan
N/A
Corporate Plan
<p>3. Invest in the regeneration of the town, providing economic regeneration and growth.</p> <p>5. Manage the Council's finances effectively.</p>


B: Other Implications

Other Strategies
None

Legal Comments

10. Background Papers

Title	Description	Source

Name	Signature	Date	Ext.
Author	Isabell Procter		
Corporate Manager	N/A		
Director	Isabell Procter		
Monitoring Officer or Deputy (Key decision only)		27/07/07	7334
Section 151 Officer or Deputy (Key decision only)			