

See plans



CABINET REPORT

Report Title	Disposal of Northampton Borough Council land at the former Greyfriars – Selection of the preferred developer
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AGENDA STATUS:

PUBLIC

Expected Date of Decision:	7th September 2016
Key Decision	Yes
Within Policy:	Yes
Policy Document:	No
Directorate:	Regeneration, Enterprise & Planning
Portfolio Holder For:	Cllr Tim Hadland, Cabinet Member for Regeneration, Enterprise & Planning
Ward(s)	Castle

1. Purpose

- 1.1.1 To present an update to Cabinet on the progress made with the 2 bidders up to and including their final offers submitted on the 28th and 29th July 2016 respectively.
- 1.1.2 To provide an update on the public information sessions between 18th and 20th July 2016.
- 1.1.3 To present the results of the final scoring of both schemes by NBC Officers and specialist advisors on 5th August 2016.
- 1.1.4 To present, following various discussions with, and clarifications from, the 2 bidders, the key aspects of the two financial offers.
- 1.1.5 To make a recommendation to Cabinet for the preferred developer of the Greyfriars site and, subsequently, to conclude negotiations on the Heads of Terms/Agreement for Lease, as appropriate.

2. Recommendations

- 2.1.1 That Cabinet:
- 2.1.2 Notes the progress that has been made to date and the further negotiations to be undertaken with the preferred Bidder following a Cabinet approval.
- 2.1.3 Approves a recommendation for the preferred developer of the Greyfriars site; Developer A.
- 2.1.4 Delegates authority to the Director of Regeneration, Enterprise & Planning, and the Chief Finance Officer to conclude negotiations on Head of Terms/Agreement to lease with the preferred bidder in consultation with the Cabinet Member for Regeneration, Enterprise & Planning
- 2.1.5 Delegates to the Borough Secretary the approval and conclusion of relevant and appropriate legal documentation.
- 2.1.6 Approves the continuation of the Cabinet Advisory Group to work alongside the selected developer throughout the development process.
- 2.1.7 Notes that the Director of Regeneration, Enterprise & Planning will submit a report to Cabinet to approve the proposed Heads of Terms/Agreement to Lease, whichever document/s are appropriate.

3. Issues and Choices

3.1 Selection Background

- 3.1.2 The Council owns the freehold of the land edged red shown at **Appendix 1**. Following the demolition of the former Greyfriars site and the remediation of the land, this is a readily developable 4 acre town centre brownfield site.
- 3.1.3. Cabinet will be aware that following the demolition of the former Greyfriars bus station, Council Officers have been involved in a site disposal process that will ultimately pave the way for development on the site. The disposal process, as set out to Cabinet on 11th November 2015 (**Appendix 6**), included the following milestones:
- Advertisement;
 - Submission: Expression of Interest;
 - Evaluation of returns/panel select shortlist;
 - Shortlist – Invitation to tender;
 - Submission: Tender return;
 - Evaluation of returns/panel selection;
 - Notice to appoint;
 - Cabinet decision.
- 3.1.4 Following the deadline for the expressions of interest stage on 6th November 2015, the bidders Invitation Document was issued to three selected bidders on the 15th January 2016. The deadline for final submissions was noon 31st March 2016.

- 3.1.5 One bidder notified the Council on the 18th March 2016 that they did not wish to continue with the process and wished to withdraw. Two conforming bids were subsequently received by the due date.
- 3.1.6 In the period following the submissions deadline, NBC Officers sought various clarifications with both developers regarding the merits of their schemes and final financial offers. A summary of both financial offers and the submitted masterplans for both schemes can be found within the **Appendices 2, 3 and 4 respectively**.
- 3.1.7 NBC also commissioned expert independent legal, commercial and leisure advice to support the proposed disposal, including the assessment of both bids. Advice from a leading cinema consultancy concluded that there would be a market for an additional family and student orientated cinema within Northampton. Conversely, the advice also suggested that the possible addition of a luxury boutique cinema may have an adverse impact on existing provision.
- 3.1.8 The detailed scoring of both schemes can be summarised as being against the following criteria:

THE SCHEME (50% weighting)

- Proposed uses;
- Design;
- Delivery strategy;
- Long term management of common areas.

FINANCIAL (40% weighting)

- Financial offer;
- Certainty of delivery.

LEGAL (10% weighting)

- Variations to the tender-pack Heads of Terms;
- Minimising of Legal Risk.

- 3.1.9 In addition, both bidders were invited to present their schemes to a Cabinet Advisory Group on 15th April and 3rd August 2016. During these meetings both developers were given equal time to present the merits of their schemes and to answer questions from the Group.
- 3.1.10 Both development proposals for the site went on display to the public between 18th and 20th July 2016. Visitors were able to see the two outline masterplans and artist illustrations of both schemes and how they link to the rest of the town centre. Visitors were also given the opportunity to provide their views. The exhibition was widely promoted in the media and also on the Council's website and social media platforms.
- 3.2 Over 300 people attended over the course of the three days. There were also over 1000 visits made to the Greyfriars page on the website, including a further 700 requests for specific scheme details. Nearly 3000 Twitter impressions were made and the Facebook page was viewed by over 2000 people. Around 100 feedback pro-formas were completed and returned. Comments were also received from key stakeholders including Northamptonshire County Council, Northamptonshire

Highways, Stagecoach Midlands, Legal and General and the Town Centre Conservation Areas Advisory Committee. A sample of public and stakeholder comments are provided at **Appendix 5**. Clearly, if Cabinet resolves to appoint a preferred bidder then a number of technical issues would, inter alia, be mediated through the planning process in the normal way.

- 3.2.1 The feedback received was largely supportive of the schemes, and a number of constructive suggestions were made. This did not however form a part of the scoring process. An overview report of the consultation process can be found as Appendix 5.
- 3.2.2 The final scoring of the two schemes was undertaken on 5th August 2016 by NBC Officers taking into account the advice of various external consultants. It was agreed that both schemes had their individual merits and both had been worked up to a high standard by each developer, however a preferred developer was identified as developer A.
- 3.2.3 The scores of the individuals comprising the scoring team were combined to give overall totals for the two schemes. The summary totals for both schemes are set out in the below table:

3.24 Table 1.0

CRITERIA	DEVELOPER A (%)	DEVELOPER B (%)
The Scheme	32.71	28.34
Financial	25.50	23.50
Legal	5.00	5.00
TOTAL	63.21	56.84

3.2.5 The collation of the individual scores identified one preferred bidder; Developer A. It has to be recognised that both of the Bidders had put a lot of time and effort to develop their proposals but the areas the preferred bid scored particularly well on were:

- The viability of the overall scheme was considered to be better, particularly with regard to the cinema and restaurant offer. Independent advice highlighted a demand in the family and student market for another cinema. Such a product would also generate admissions and therefore the footfall required to support and sustain a vibrant restaurant offer.
- The positioning of the leisure and restaurant offer on the site, coupled with the improved linkages with the town centre, including the Grosvenor Centre, were assessed as being better thought through and the most likely to work well in practise. Linking the existing town centre to the site is crucial for the viability of the site and to maximise its impact on the wider town centre.
- The strategy for the improvements to the public realm, including the highways network, was regarded to be of a higher standard.
- The delivery of private rented sector housing (PRS) on the site, rather than apartments for sale as proposed by Developer B, was seen to be a less risky delivery option for the proposed residential element on the site.
- There was a greater provision for a transport hub and coach layby by Developer A, based on the plans presented.

3.2.6 The Cabinet Advisory Group has worked well throughout the process and if Cabinet approves the recommendations it is suggested that a Cabinet Advisory Group should continue to work with the preferred developer through the detailed design of the scheme and the construction phases. It is recommended that the Group should comprise of two Members of the Administration and one Member from the opposition. The Group would receive updates on a quarterly basis from the selected developer and be consulted on elements of the design of the schemes.

3.2.7 Should Cabinet approve the recommendations the target timetable will continue as follows:

- Detailed Heads of Terms/Agreement to Lease negotiations 7th September – 7th January 2017
- Pre application discussions with Planning 1st October 2016 – 1st March 2017
- Planning Application submission phase 1 1st March 2017
- Planning decision September 2017
- Start on site (assuming planning approval) January 2018
- Thereafter, it is proposed that there would be a rolling programme on a phase by phase basis for planning application submissions and approvals.

3.3 Choices (Options)

3.3.1 The Council has a number of choices in relation to the issue of the selection of a preferred developer for the Greyfriars site. These include the following:

- *Remarket the Site*

3.3.2 The Council could decide not to select a preferred bidder and to remarket the opportunity at a later date. This would give out very negative market signals and could delay progress for several years.

- *Do Nothing*

3.3.3 The Council could decide to take no action on the current proposals at this time. This would have very serious implications for both bidders as the financials of their schemes are based on a set delivery programme. This would also delay the development of the site, possibly considerably.

- *Select Developer B*

3.3.4 The Council could decide to select Developer B as their preferred developer. Having carried out a careful assessment of both schemes against criteria established at the outset of the process, this would be very difficult to justify and sustain. Such a decision may also be open to legal proceedings.

- *Select Developer A*

3.3.5 This would allow the Council to continue with the disposal and the subsequent development of the Greyfriars site by the highest scoring developer. This is the recommended option.

4. Implications (including financial implications)

4.0 Policy

4.1.1 There are no specific policy implications arising from this report, but the proposed development would generally be in conformity with the adopted West Northamptonshire Joint Core Strategy (2014) and the Central Area Action Plan (2013). It would also be generally consistent with previous decisions of Cabinet.

4.2 Resources and Risk

- 4.2.1 The current site is of strategic importance to the town. There is a small resource implication concerning the ongoing maintenance of the site, predominantly derived from officer time.
- 4.2.2 NBC committed £5.6m to the demolition and remediation of the Greyfriars site, with the expectation that a future disposal of the site would repay as much of this amount as possible. Any shortfall between the disposal receipt and the amount spent on the demolition of the site would need to be met from revenue.
- 4.2.3 Both developers' proposals included a residualised price for the site to be paid to NBC in a phased manner. The details of the structure of the payments to NBC will be worked up in greater detail during the negotiation of the Heads of Terms with the preferred bidder.
- 4.2.4 Selecting a preferred developer will not guarantee the delivery of the site. The developer, once selected, will enter a period of intense negotiations with NBC with regard to the Heads of Terms (HOT's) for the disposal of the site which needs to conclude with the settling of final legal agreements. The developer will also need to seek planning permission from the Borough Council, in its role as local planning authority and, considering the strategic location and scale of development, the application is likely to be of a complex nature; particularly with regard to improvements required to the highway network in the immediate vicinity of the site.
- 4.2.5 The developer will have to re-engage with interested occupiers for the development, such as the restaurants, cinema and hotel, and also investors and funders. These elements are critical to the scheme delivery and, to some extent, will be influenced by the wider investment market. The implementation of any scheme will be driven by the existence of a market for it.
- 4.2.6 Table 1, below, outlines the high-level risks that are associated with the selection of a preferred developer.

Table 1: High Level Risks Associated with the selection of a preferred developer.

Risk	Likely	Impact	Blended risk	Remarks/Mitigation	Residual risk
Developer unable to deliver its proposals.	Low	Significant	MED	NBC have been meticulous in gaining an understanding for the intricate workings of the proposals and believe that the preferred developer will be able to deliver	Low
Planning approval not achieved	Low	Significant	MED	Planners have without prejudice to the planning process, evaluated both schemes against existing planning policy and guidance within the scheme scoring process and this has indicated that the bids are generally compliant with policy. NCC has also been engaged by both developers and are, in principle, comfortable with the designs of the scheme.	LOW
Unable to agree final lease terms.	Low	Significant	MED	Assuming the Heads of Terms are completed the expectation would be that the lease would be agreed. Draft HOTS have already been discussed with both developers.	LOW
Terms of the Property Agreements are breached by the preferred developer.	Low	Significant	MED	There is no reason to suppose that the developer would breach the Agreements but if they did the Council would have the provision to terminate.	LOW
The developer is unable to attract a funder	Med	Significant	MED	The market remains for this development. Both developers have good financial standing and	LOW

				have well established relationships with funders.	
The developer switch cinema, hotel or restaurant operators	Med	Med	MED	NBC will not be able to control individual operators within the development. The independent advice gained throughout the process indicates that the preferred developer's proposals address market demand.	LOW

4.3 Legal

4.3.1 The decision to proceed with Developer A needs to be consistent with the Council's legal duties as to the disposal of land generally. The key issue in this case is that the disposal is for the best consideration that can reasonably be obtained (as required by section 123 of the Local Government Act 1972). The Council has engaged in a full marketing process for the site and the bids received can be assumed to reflect the demand within the market for a site of this type and location. Neither bid includes an absolute fixed commitment to a particular price. This is not unusual because the nature of a development of this scale and the fact that it will take place over a prolonged period during which market conditions may change makes the setting of a fixed price at the outset very difficult and, potentially undesirable to both buyer and seller. An assessment of both bids on a consistent basis, however, suggests that Developer A's bid has a marginally higher potential for return and therefore can reasonably be assumed to satisfy a 'best consideration' test.

4.3.2 The other significant area of legal risk arises in the settlement of the detail of the final agreements with the buyer. Any transaction of this magnitude and complexity carries a degree of commercial risk to both parties and the key mitigation of this is for the legal documents to anticipate this as far as possible and deal with matters with clarity. It is proposed that specialist commercial lawyers are retained to advise the Council on this stage of the process so as to minimise any risks in this area.

4.1 Equality

4.1.1 The Borough Council has identified the following equality issues and resolutions and will communicate and work with the developer to address these issues through the planning process.

4.2.2 The table provided below, outlines equalities considerations associated with the selection of a preferred developer and development on the site.

Issue	Equality Characteristics Affected by Issue	Proposed Action
Design Development meets specific needs people with 'Protected Characteristics.	<ul style="list-style-type: none"> • All 	<p>Planned, targeted consultation with specific groups during the planning phase.</p> <p>Designs to be reassessed in the light of significant findings.</p>
Access to buses and shops during the construction phase	<ul style="list-style-type: none"> • Age • Disability 	<p>Phased access / route planning with clear signage during the construction phase</p> <p>Access during construction included within the Transport Assessment required for any Planning Application.</p>
Access to toilet facilities	<ul style="list-style-type: none"> • Age • Gender reassignment • Disability 	<p>Toilet facilities as a minimum in-line with Building Regulations (Part M 2010) 'Access to and use of buildings')</p> <p>Scoping of the project could also include:</p> <p>'Changing places' toilet to be provided within the scheme</p> <p>Provision of uni-sex toilet</p>
Facilities for Breast Feeding	<ul style="list-style-type: none"> • Pregnancy and maternity 	<p>Scoping of the project could include provision of areas for breast feeding and uni-sex baby changing areas.</p>
Legibility of buildings and streets	<ul style="list-style-type: none"> • Disability – particularly partially sighted • Deafness 	<p>Centrally located information points accessible to wheelchair users.</p> <p>Consultation with relevant forums at detail design/planning stage to identify appropriate provision.</p>
Access to buildings	<ul style="list-style-type: none"> • Disability 	<p>To be considered in detail and consulted on through the planning process.</p>
Streets and public spaces	<ul style="list-style-type: none"> • All 	<p>Consideration will need to be given to the design of the public realm to ensure legibility and safety.</p>

4.2 Consultees (Internal and External)

4.3.1 Relevant internal Officers have been consulted. External consultees include Northamptonshire County Council, Northamptonshire Highways, Stagecoach Midlands, Legal and General and the Town Centre Conservation Areas Advisory Committee. Clearly

4.4 How the Proposals deliver Priority Outcomes

4.4.1 Northampton Alive sets out the Council's aspirations for the regeneration of Northampton. The Council is advised that the proposed development would generate a gross development cost of circa £100m and create up to 400 permanent jobs, with construction jobs and training positions in addition.

4.4.2 The delivery of the site would clearly enhance the vibrancy and attractiveness of the town centre as a whole.

4.5 Other Implications

4.5.1 None

5. Background Papers

- 11th November 2015 Cabinet Report: GREYFRIARS SITE DEVELOPMENT – PROGRESS REPORT AND PROPOSED WAY FORWARD.
- Greyfriars Developers information Pack
- Central Area Action Plan (2013)
- West Northamptonshire Joint Core Strategy Local Plan (Part 1) 2014

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