



# EXECUTIVE BOARD DECISION

**REPORT OF:** Executive Member for Regeneration  
Executive Member for Resources

**LEAD OFFICERS:** Director of Growth and Development

**DATE:** 11th April 2019

**PORTFOLIO/S AFFECTED:** Regeneration Resources

**WARD/S AFFECTED:** Blackburn Central

**KEY DECISION:** YES  NO

**SUBJECT: Disposal of the Former Blackburn Markets Site**

## 1. EXECUTIVE SUMMARY

1.1 This report outlines the outcome of the Informal tender for the site of the former Blackburn market and seeks approval to dispose of the site via an initial exclusivity agreement to the recommended preferred bidder.

## 2. RECOMMENDATIONS

That the Executive Board:

2.1 Approves the appointment of Bidder A as Preferred Developer Partner.

2.2 Grants an exclusivity period for 12 months to the Preferred Developer Partner to progress with developing scheme proposals.

2.3 Approves the provisionally agreed terms relating to the disposal of the land as detailed in this report.

2.4 Grants permission for Council officers to negotiate the Heads of Terms to finalise the terms of the disposal.

2.5 Delegates authority to conclude negotiations, including terms for the land sale and contracts to the Growth Programme Director and Deputy Chief Executive in consultation with the Executive Members for Resources and Regeneration.

2.6 Authorises the Director of HR, Legal and Governance to complete the necessary legal formalities.

### 3. BACKGROUND

3.1 The plot of land (shown edged red on the attached Annex A plan) is part of the site of the former Blackburn Market Hall, demolished in 2013. The land was marketed for sale by informal tender from 04<sup>th</sup> October 2018 on the Council's website, with a final closing date for offers on 28<sup>th</sup> January 2019. The tender required bidders to submit sealed bids with no external identification to the Town Hall. The tender exercise was reported on by publications including the Lancashire Telegraph and Place North West.

3.2 Two competing tender offers were received by the final closing date.

3.3 The informal tender form required interested parties to:

- make an offer (conditional on planning and ground conditions)
- detail proposed uses including layout drawings / plans
- provide evidence of their experience of completing similar schemes
- provide evidence of their financial ability to fund the scheme
- indicate timeframe for development

3.4 The tenders have been evaluated in accordance with the criteria referred to in paragraph 3.3 above.

### 4. KEY ISSUES & RISKS

4.1 Two informal tenders were received by the deadline of 12:00 Monday 28<sup>th</sup> January 2019. The tenders were opened on 28<sup>th</sup> January 2019 at 14:00.

4.2 The tenders are summarised as follows:

Bidder ID Number	Proposed Use	Comments
A	Retail led development of 3 units, associated car parking and public realm. Potential for future phasing	Conditional on planning and pre lets. Successful negotiations with the agreed end users will be a key factor in the Council's decision.
B	Development of cultural quarter with proposed Asian wedding theme	Conditional on planning and speciality retail pre lets. Non – compliant bid – tender forms not completed. Bid received via. email. No evidence of similar experience provided.

4.3 Bidder A have not only offered the highest price and produced a more attractive comprehensive redevelopment proposal but also already have a successful proven track record with the Council.

4.4 For these reasons it is proposed to accept the tender from Bidder A and in accordance with the tender documentation the provisionally agreed heads of terms are as follows:

#### **Purchaser (Preferred Developer)**

Bidder A

#### **Description**

Land off Penny St / Brown St, extending to approximately 3.76 acres (attached Annex A edged red)

### **Exclusivity Agreement**

The Council and the Purchaser shall enter into an Exclusivity Agreement for a period of 12 months in order to secure end user/retailer pre lets for the scheme.

The exclusivity period may be extended subject to agreement between the parties.

During the exclusivity period, the Purchaser shall:

- undertake negotiations with retail occupiers to agree heads of terms for the new retail space proposed
- progress necessary design work and build cost assessments to allow viability studies to be developed
- undertake further technical due diligence, including on site surveys

If the Purchaser cannot secure pre lets during the exclusivity period each party shall have the right to withdraw from the agreement.

If the Purchaser secures pre lets then the Council reserves the right to assess the quality of the pre lets to ensure the scheme fulfills the town centre vision and aspirations to attract higher quality retail end users with good covenant strength.

If the Purchaser secures quality pre lets and the Council withdraws from the agreement, the Council shall refund the Purchaser's reasonable costs which will be assessed at the time of application.

### **Method of Disposal**

The land will be disposed of by way of a 250 year lease. The Purchaser will enter into building licences to suit the phasing of the development. On completion of each phase of development the leasehold interest will be transferred to the Purchaser.

### **Phasing**

The development will be phased with the initial and future phases identified on Annex B. The Exclusivity Agreement shall initially apply to Phase 1 with an Exclusivity Agreement granted for Phase 2 following successful completion of Phase 1. Phase 1 extends to 3.2 acres, with the remainder of the 3.76 acre site being Phase 2.

### **Profit Share**

An overage calculation is to be undertaken 12 months after the completion of each phase of development. This will identify the surplus profitability of the development once minimum land receipt, developers' profit and development costs have been deducted. This surplus amount is then to be shared with the Council.

### **Costs**

The Purchaser will be responsible for the payment of the Council's surveyor's fees and legal costs.

### **Other**

The building licence/s will ensure that the development is carried out within an agreed timeframe and in accordance with planning consent.

### **Risk**

A number of design and other issues will require further clarification with the purchaser but it is expected that these will be resolved to the satisfaction of the parties.

## **5. POLICY IMPLICATIONS**

5.1 The Council's Local Plan Part 2 sets out a retail and mixed use requirement for the site, in order to enhance the Blackburn Town centre offer. Successful town centres are those which have responded to these issues and become a destination for more than simply shopping. Our key objective in managing development in Blackburn and Darwen town centres is to maintain progress and increase their competitiveness, and to broaden their function, beyond a traditional shopping focus, while managing any negative pressures that such change may bring.

5.2 Policy 26 Town Centres – a Framework for Development - sets out a framework within which this can take place, identifying priorities and establishing key parameters while retaining flexibility for the market to bring forward solutions. Key areas are as follows:-

- Strengthening and focusing the shopping offer
- Expanding the role of the town centres
- Protecting and enhancing the leisure offer and developing an evening economy
- Establishing a vibrant town centre residential population

5.3 The Local Plan Part 2 is further supported by the Town centre SPD (August 2018). The Town Centre SPD identifies the land at the former Blackburn markets and Exchange site as a key investment area as it represents one of the main opportunities in the town centre to create new retail and commercial floorspace at scale.

## **6. FINANCIAL IMPLICATIONS**

6.1 The Council will receive a capital receipt from Phase 1 (excluding any overage).

6.2 An overage calculation is to be undertaken 12 months after the completion of each phase of development. This will identify the surplus profitability of the development once minimum land receipt, developers' profit and development costs have been deducted. This surplus amount is then to be shared with the Council.

6.3 The Council will receive a future capital receipt for Phase 2 which will be assessed based on viability. Executive Board approval to the disposal of Phase 2 will be sought at the relevant point in time.

6.4 The Council will lose the current car parking income on site.

6.5 The Council will retain operational control of the car parking with potential for future income subject to final agreement with the retail end-users.

6.6 The Council will receive future business rates income from the development which will help to reduce the impact of losing the car parking income.

6.7 The Purchaser will be responsible for the payment of the Council's surveyor's fees and legal costs.

## **7. LEGAL IMPLICATIONS**

7.1 This site was advertised for potential disposal by way of an informal tender. Despite this phrasing it can be asserted that this overall widely advertised for offers, including notifying the Council's development partners on its own development framework. It was on the Council's own website and also received local press attention as well as being published in some of the websites frequented by developers. Accordingly, the Council has quite widely advertised the presented opportunity.

7.2 The Council via, its wide advertising as described in 7.1 demonstrates that the best consideration

reasonably obtainable can be demonstrated. The Council will need to ensure that the proffered consideration is not subsequently diminished in any substantive way which might undermine this.

7.3 The Council will look to safeguard its interests in ensuring that the land is developed in line with its future revenue benefit projections by agreeing a build programme with the developer.

7.4 The Council will comply with current procurement rules, which includes ensuring that this development does not amount to a public works contracts.

## 8. RESOURCE IMPLICATIONS

8.1 The disposal will be led by the Growth team; Legal resources will be required to complete the legal formalities relating to the freehold disposal.

8.2 Additional support may be required from Capita to carry out assessments of scheme proposals, deliverability and Heads of Terms.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

10.1 The proposal has been subject to extensive consultations between Council officers and Growth Board.

10.2 Consultation on the proposed development will take place through the planning process.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable

<b>VERSION:</b>	<b>1.0</b>
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<b>CONTACT OFFICER:</b>	<b>Simon Jones, Growth Programme Director</b>
<b>DATE:</b>	01 <sup>st</sup> April 2019
<b>BACKGROUND PAPER:</b>	Executive Member Report Disposal of former Blackburn Market site 14 <sup>th</sup> September 2018