

FINANCE AND EFFICIENCY PORTFOLIO DECISION RECORD

21 September 2007

The meeting commenced at 10.00 a.m. in the Civic Centre, Hartlepool

Present:

Councillor Robbie Payne (Finance and Efficiency Portfolio Holder)

Officers: Peter Devlin, Legal Services Manager
Emma Dixon, Estates Manager
Joanne Burnley, Senior Environmental Health Officer
David Cosgrove, Principal Democratic Services Manager

27. Regulation of Investigatory Powers *(Chief Solicitor)*

Type of decision

Non-key.

Purpose of report

To inform the Portfolio Holder of the outcome of an inspection on the 30th May, 2007 through the Office of Surveillance Commissioners (OSC), to review the Council's management of covert activities.

Issue(s) for consideration by Portfolio Holder

The Regulation of Investigatory Powers Act, 2000 provides a statutory procedure for public authorities in connection with certain of their functions to employ covert surveillance techniques in the collection of evidence. On the 30th May 2007, an Inspector, Mr Graham Wright, visited the Council as part of the review of the Council's management of such covert activities. The inspection took the form of discussions with relevant Officers, including the Council's Chief Executive, Chief Solicitor and Legal Services Manager and staff responsible for authorising applications in relation to covert operations. It should be highlighted that the Borough Council is not "a prolific user" of the statutory powers available under the Regulation of Investigatory Powers Act, 2000. Whilst the Council has authorised on occasions, covert activities relating to "directed surveillance" it has taken a policy decision that it would not use personnel known as "covert human intelligence sources" (CHISs) to acquire evidence.

The recommendations of the Inspector are summarised below:-

- the Council's policy and procedure document be amended to reflect the comments made by the Inspector (set out at Appendix 1 to the report)

- that the Central Record be amended in accordance with the Home Office Code of Practice issued pursuant to Section 71 of the Regulation of Investigatory Powers Act, 2000.
- that the content of applications and authorisations comply with the statutory framework.

Whilst the Inspector noted that the “core processes employed are sound” he also indicated the need for “more robust management in quality assurance at a corporate level”. However, it should be noted, that such comments are somewhat at variance with the previous inspection findings through the Office of Surveillance Commissioners following an inspection on the 10th May, 2005. It is recognised by the Office of Surveillance Commissioners that the Council accepts the recommendations contained in the Commissioner’s report and will see that the same are implemented.

Decision

That the Authority formally confirms acceptance of the recommendations as made by through the Office of Surveillance Commissions and that they be implemented.

28. Diversity in Procurement (*Head of Procurement and Property Services*)

Type of decision

Non-key.

Purpose of report

To provide an update on the inclusion of the Local Government Equality Standard in the Council’s procurement processes.

Issue(s) for consideration by Portfolio Holder

Improving the way in which the Council buys goods and services is a key factor in modernising local government but a specific requirement of the Government National Procurement Strategy and Gershon Efficiency Agenda. The report set out the progress made in reaching the Council’s target of level 3 of the Equality Standard by March 2008.

Decision

That the report be noted.

29. Strategic Housing Improvement Programme (SHIP) (*Head of Procurement and Property Services*)

Type of decision

Non-key.

Purpose of report

To advise the Portfolio Holder on the outcome of a recent tendering process to

secure a suitable partner to improve and bring empty houses back into use in Hartlepool, and to obtain a decision on the proposed transfer of Council property to the appointed partner (a Registered Social Landlord).

Issue(s) for consideration by Portfolio Holder

In line with government guidance, Hartlepool joined with the other Tees Valley authorities to bid for SHIP funding from the Regional Housing Board for the 2006-8 period. The bid included several different projects, one of which was the Tees Valley Empty Homes Scheme, which is aimed at bringing long-term empty houses back into use.

The Scheme involves each authority providing the same financial contribution or providing assets in lieu of the finance, or a mix of the two. A reduced Hartlepool financial contribution of £180,000 was allocated in the 2006/8 Housing Capital Programme for the Scheme on the basis that properties previously purchased by the Council for housing market renewal might be identified as suitable for transfer and considered as an asset contribution. Under the Scheme, further privately owned houses will be identified for purchase and refurbishment.

Following a rigorous selection process overseen by Stockton Borough Council as lead authority, Accent Regeneration, a Registered Social Landlord, was selected as the partner. One of the significant factors involved in selecting them was their previous experience of carrying out similar work. In addition to the Council's overall contribution, Accent will provide an average of £55,000 per property for refurbishment to the Decent Homes Standard, project-manage the works, arrange tenancies at affordable rents subject to nomination rights by the Council, and manage the properties.

The Council currently holds three empty houses acquired as part of the North Central Hartlepool Regeneration Scheme: 4 Furness Street, 25 Parton Street, and 31 Cameron Road. Since their purchase, priorities for redevelopment have been refined and the houses are in streets considered by residents to have a viable and sustainable future and are not targeted for possible demolition. Dealing with these properties in this way is seen as contributing to the sustainability of the area. However, there has been little private interest in the houses and they were currently in a state of disrepair and significant modernisation and refurbishment works would be required to bring them back into use. It is proposed that Accent will undertake these works and let the properties at an affordable rent to tenants nominated by the Council.

The financial implications of transferring these properties to Accent were set out in the appendix to the report. The appendix contained exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The Portfolio Holder questioned if 'right to buy' would still apply to these properties and what scope there was for modern apprenticeships in the

improvement programme. It was stated that 'right to buy' would be available to the tenants of the properties. Marketing the properties on their current condition had been tried but there was no interest. Accent had in the past and would continue to buy properties itself, including from private landlords. The Council had itself tried to buy additional properties through auction for this project. It was reported that Accent had a strong apprenticeship scheme.

Decision

That the transfer of the three properties listed above, subject to the terms proposed in the appendix to the report, be approved.

30. Proposed Compulsory Purchase - Land at Trincomalee Wharf *(Head of Procurement and Property Services)*

Type of decision

Non-key.

Purpose of report

To obtain Portfolio Holder approval to the proposed Compulsory Purchase of an area of land required to facilitate the complete development of the site known as 'Trincomalee Wharf'.

Issue(s) for consideration by Portfolio Holder

In 2006, a Partnership consisting of English Partnerships, Hartlepool Borough Council and the Trincomalee Trust marketed the last remaining waterfront site on Hartlepool Marina known as 'Trincomalee Wharf'. From this exercise, Jomast Developments were selected as the preferred bidder and the legal documentation relating to the proposed development is currently being drafted by the respective legal teams. Jomast Developments aim to provide a mixed use scheme at Trincomalee Wharf including a high class hotel, offices and shops and restaurants with a small amount of retail development. It is hoped that the development will be in place for the 2010 Tall Ships Race.

During the legal process it has emerged that English Partnerships do not own all of the land that they had thought that they were able to contribute to the scheme. It has emerged that this land was registered to Hartlepool Renaissance. Investigations with Hartlepool Renaissance have indicated that the land has now in fact been transferred to the Mandale Group. The land is shown on the plan attached to the report and is 95 square metres in area. It is considered that when the land was owned by the Teesside Development Corporation, this area was retained to be developed as a lay-by or a bus stop, but this development did not materialise.

Attempts have been made to acquire this land from the Mandale Group to allow it to be developed as part of the Trincomalee Wharf scheme. To date, these attempts have not been successful. It is therefore considered that the best remaining option open to the Council is for it to use its Compulsory Purchase Powers to acquire the land from Mandale.

The financial implications were set out in the appendix to the report. The appendix contained exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The Estates Manager reported that English Partnerships recognised that the error had been made by themselves and had agreed to underwrite the Council's costs. The Portfolio Holder indicated that he was disappointed that this issue had only become known at such late date and was concerned that the compulsory purchase route was having to be used. The Estates Manager indicated that the CPO would be the last resort but would need to be initiated now as the process could take some time. It was hoped that sensible negotiations could resolve the matter much more quickly.

Decision

That the proposed instigation of Compulsory Purchase Procedures to secure the land for development be approved.

31. Proposed Compulsory Purchase – 45 Lancaster Road, Hartlepool *(Head of Procurement and Property Services)*

Type of decision

Non-key.

Purpose of report

To obtain Portfolio Holder approval to the proposed Compulsory Purchase of 45 Lancaster Road by the Council.

Issue(s) for consideration by Portfolio Holder

45 Lancaster Road is located on a prominent road frontage and is an imposing three storey property. The property has caused concern for the Council for a number of years due to its poor condition, and these concerns strengthened seven years ago after a fire caused significant damage to the property, rendering it uninhabitable. In recent years, the Council's Private Sector Housing Team have maintained regular contact with the owner of the property who claimed that it was his intention to refurbish the property and bring it back into use. This had not happened and the Council had even made an offer to the owner to purchase the property but this had been rejected.

It is considered now that the best way to bring the property back into use is for the Council to acquire the property using its compulsory purchase powers with a view to selling the property to a party who gives clear evidence about their intentions to refurbish the property.

The financial implications were set out in the appendix to the report. The appendix contained exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to

Information) (Variation) Order 2006) namely, Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The Portfolio Holder asked if the property had been considered for the SHIPS scheme with Accent. The Head of Procurement and Property Services indicated that it could be included, though no discussions with Accent had taken place in relation to this property. The Portfolio Holder was concerned at using a Compulsory Purchase Order (CPO) when there was the distinct possibility the Council wouldn't recoup its costs. The Portfolio Holder asked that further discussions with the property owner be carried out to try and resolve the problem with resort to the last option of a CPO. Discussions should also be held with Accent on the potential for the property to be included in the SHIPS scheme, should the Council take ownership.

Decision

That consideration of the use of a Compulsory Purchase Order for 45 Lancaster Road be deferred at this time to allow the further discussions as directed by the Portfolio Holder.

32. Proposed Licence, Lauder Street Car park *(Head of Procurement and Property Services)*

Type of decision

Non-key.

Purpose of report

To obtain Portfolio Holder approval to the proposed licence of Lauder Street Car Park by Cleveland Police as a temporary office base to be used whilst their premises is under refurbishment.

Issue(s) for consideration by Portfolio Holder

The Council's Car Parking Manager has recently been contacted by the Facilities Officer from Cleveland Police to request that the Police be permitted to licence Lauder Street Car Park from the Council to allow them to place portacabins on site for office use whilst their building goes under extensive refurbishment.

Lauder Street Car Parked by Council staff but it is considered that these staff could be relocated elsewhere to assist the Police with this refurbishment. The proposed terms for the licence are contained within the Financial Implications Section attached as an appendix to the report. The appendix contained exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The Portfolio Holder asked if the staff using the car park at present had been contacted and were would they be relocated to. The Head of Procurement

and Property Services indicated that it was intended to utilise spaces within the multi-storey car park but staff had not been contacted at this point. It was not proposed to move any staff until the agreement had been signed with the Police.

Decision

That approval be given to proceed with the licence subject to the terms proposed.

33. Proposed Tenancy on Unit 95/96 Middleton Grange Shopping Centre *(Head of Procurement and Property Services)*

Type of decision

Non-key.

Purpose of report

To obtain confirmation of Portfolio Holder's approval to the taking of a short term tenancy on a unit in Middleton Grange Shopping Centre for use by the Council's Traffic and Transportation Section for a period of three weeks.

Issue(s) for consideration by Portfolio Holder

The New National Concessionary Travel Scheme is due to commence on April 1st 2008, and will allow those who are currently in possession of a bus pass to travel anywhere in England free of charge. Hartlepool Borough Council is therefore required to register/re-register between 10, 000 and 15,000 Hartlepool residents who are eligible for bus travel under the new scheme.

This requires all of those who are eligible to attend a venue to have their photograph taken and to fill in registration forms. Given the ongoing works to the Civic Centre, the Contact Centre is not yet available for this type of high volume visitors, therefore a vacant ground floor unit in the Middleton Grange Shopping Centre with good access for the disabled was identified as the ideal location because of its transport links and disabled access. The unit is that formerly occupied by Barratt Shoes, within the main square of the shopping centre.

The event is to be held over a three-week period starting on Monday October 9th through to Friday October 26th 2007. All Hartlepool residents who will be over the age of 60 before 31st March 2008 are to register for the new national pass and those who are currently in position of an aged persons travel pass or disabled travel pass will need to re-register. This is a coordinated event throughout the Tees Valley. Each Authority; Stockton, Hartlepool, Redcar & Cleveland and Middlesbrough, will be hosting a similar event to ensure that all those who are eligible for free travel on April 1st 2008 are able to do so.

The proposed tenancy agreement and some comment on the terms proposed were contained within the confidential appendix to the report. This item contains exempt information under Schedule 12A of the Local Government

Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The Portfolio Holder suggested that as much publicity as possible was undertaken to ensure all residents knew they needed to obtain a new bus pass and where they were to go to obtain one.

Decision

That approval for the Council taking the short-term tenancy agreement, subject to the terms proposed be approved.

34. Former Focus Building, Lynn Street – Variation of Covenant (*Head of Procurement and Property Services*)

Type of decision

Non-key.

Purpose of report

To obtain Portfolio Holder approval on the proposed variation of lease covenants on this property to enable the building to be brought back into use.

Issue(s) for consideration by Portfolio Holder

The Council owns the freehold of the land which is subject to two 99 year leases to Perma Limited. These leases were granted in 1979 and 1987 and therefore have considerable period left to run. Perma Limited in turn sub lease their site to MFI Properties Limited for the former Focus Do It All unit for a term of 35 years from 6th October 1980. In summer 2006, Focus vacated the site at Lynn Street and moved onto the Highpoint Retail Estate on Marina Way. At this time, the lease of the Lynn Street site was put up for sale and although the Chartered Surveyors involved did receive expressions of interest, no replacement tenants were identified.

The lease between Perma Limited and MFI Properties Limited contains a restrictive covenant limiting the use of the site to: “retail sale of paint wallpaper kitchen furniture timber insulation and ‘Do-It-Yourself’ products and bathroom fittings or as a warehouse...and not to permit or suffer anything to be set up or used or done upon any part of the demised premises which may be or become a nuisance annoyance or cause damage to the tenant or occupiers of premises adjoining or near thereto”.

In June 2007, the Council were approached by Perma Limited, who advised that they had been approached by a potential sub-tenant of for the site, who would like to provide a ‘family entertainment centre’ from the premises. This proposed sub-tenant had applied for planning permission for the proposed change of use and this planning consent was confirmed in August 2007. To enable the property to be brought into use as a family entertainment centre, the Council were asked to vary to existing covenant to incorporate use as a

family entertainment centre.

The Estates Manager indicated that there had been consideration of the potential for financial benefit from the variation to the covenant. However, it was considered that as the sub lease was only for a relatively short period – seven years – no financial benefit should be taken from the variation of the covenant at this time but that a condition be added whereby this is reconsidered should the sub lease be re-negotiated or extended. In response to the Portfolio Holders question, the Estates Manager stated that the variation to the covenant would cease, if the lease was broken.

The proposed terms were contained within the Financial Implications Section attached as an appendix to the report. The appendix contained exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Decision

That the variation of covenant be approved subject to the terms proposed.

35. Local Government (Access to Information) (Variation) Order 2006

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in the paragraph below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 36 “Variation of Covenant and Sale of Land, Shakespeare Public House, Catcote Road, Hartlepool” Para 3 – (information relating to the financial or business affairs of any particular person including the authority holding that information).

36. Variation of Covenant and Sale of Land, Shakespeare Public House, Catcote Road, Hartlepool (*Head of Procurement and Property Services*)

Type of decision

Non-key.

Purpose of report

To obtain Portfolio Holder approval to the proposed variation of a restrictive covenant on the former public house and for the sale of a small area of land within the car park grounds to facilitate a new development.

Issue(s) for consideration by Portfolio Holder

The Head of Procurement and Property Services had been contacted in August 2007 by a local developer who was acquiring the former Shakespeare Public House on Catcote Road with a view to carrying out a redevelopment of the site. There is a restrictive covenant placed by the Council when it sold the land in 1956. The covenant states: "That the land hereby conveyed or any part thereof shall not nor shall any building which may be constructed or erected thereon be used without the consent of the Corporation in writing under the hand of their Town Clerk for the time being other than for the purpose of premises licensed for the sale and consumption of alcoholic liquors and beers and any other purposes ordinarily or necessarily incidental thereto."

In addition, part of the site that is currently used as car parking for the public house is in fact within the ownership of the Council. The Purchaser of the site proposes to undertake a redevelopment of the site for retail use and is currently making investigations with the Council's Development Control Section in relation to their proposal. In order to facilitate the development, the purchaser has approached the Council to purchase the additional small area of land, which was detailed on the submitted plan.

The financial implications were set out the confidential appendix to the report. This appendix contained exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely, Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The Portfolio Holder discussed the terms of the lease and sought assurances in relation to the variation of the covenant.

Decision

1. That the variation of the covenant to allow retail use be approved, subject to the terms proposed.
2. That the sale of the land within the grounds of the public house be approved, subject to the terms proposed.

J A BROWN

CHIEF SOLICITOR

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