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| Report to: | EXECUTIVE CABINET |
| Date: | 26 June 2019 |
| Executive Member/ Reporting Officer: | Councillor Cooney Executive Member (Housing, Planning and Employment) Jayne Traverse – Director of Growth |
| Subject: | PLOTS A & B HATTERSLEY INDUSTRIAL ESTATE, STOCKPORT ROAD, HATTERSLEY |
| Report Summary: | To approve terms agreed to sell the freehold interest in the land. |
| Recommendations: | That the Head of Legal Services be authorised to complete the sale of the land to RSK Group for the sum of £400,000. |
| Policy Implications: | None. Land is classed as Employment Land and the purchasers proposals create new and protect existing employment. |
| Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer) | A capital receipt of £400,000 will enable the Council to progress with its approved capital programme. Any costs incurred by the council as a result of the sale will be charged against the capital receipt as long as it doesn't exceed 4%. If costs exceed 4% these will be charged against the Estate Service budget. As a result of the sale it is anticipated that this will result in the development of industrial units which will bring in additional Business rates to the Council. |
| Legal Implications: (Authorised by the Borough Solicitor) | A Key Decision is required because in the absence of an approved Council Estates and Land Disposal Policy authority is needed for any sale of parcel of land - although it should be noted there is an approved Disposal Policy for the disposal of any approved sale which complies with the Local Government Act 1972. The Council's duty under s 123 (s 123) of the Local Government Act 1972 is to achieve best consideration, reasonably obtainable. This is confined to transaction elements which are of commercial or monetary value, so irrelevant factors should not be taken into account, such as job creation, when assessing whether it is obtaining the best consideration reasonably available. Section 123 is essentially a statutory embodiment of the fiduciary duty affecting local authorities and other public bodies to deal prudently with public assets in the manner of a trustee. Terms were agreed to sell the land which is the subject of this report for the sum of £400,000 in March 2017 subject to the grant of planning after marketing with Manchester Agents WT Gunson and on the basis that this was not just the only offer received to purchase the land, but also a very good offer. The land had been placed on the open market for sale in January 2016. Accordingly the Council has complied with its duty under s 123 in achieving best consideration. Whilst the intention of the developer is to develop the land as employment land creation of jobs perse was not a consideration when deciding to dispose of land under s 123, and so should not be taken into account when making this |

decision.

However, in this case, the land has been designated as employment land in the UDP and so it was perfectly proper to market the land on this basis.

Also in line with s 123 regarding open space, the intention of the Council to sell the site was advertised in the Tameside Reporter for two consecutive weeks on 24 and 31 January 2019 with a deadline for objections to be received by no later than 22 February 2019 (non received).

The case of R (Faraday Developments Ltd) v West Berkshire Council 2016 helpfully sets out some principles on the application of s 123.

Where a Council is challenged on its decision, the court may not substitute its own 'facts and merits' view for that of the local authority. They may only interfere if there was no material upon which the authority's decision could have been reached, or, if in reaching that decision, the authority disregarded matters it ought to have taken into consideration, or took into account matters which were irrelevant, or if its decision was irrational.

The court is likely to find a breach of section 123(2) only if the local authority: (a) failed to take proper advice, or (b) failed to follow proper advice for reasons which cannot be justified, or (c) although following advice, this was so plainly erroneous that in accepting it the authority must or ought to have known that it was acting unreasonably.

Section 123(2) does not mandate the authority to have regard to any particular factors, nor is there any absolute requirement to market the land being disposed of or to obtain an independent valuation. The Council must however also follow its own Disposal Policy, which takes into account the s 123 duty, which it has done.

Risk Management:

Set out in report.

Access to Information:

APPENDIX 1 – location plan.

The background papers relating to this report can be inspected by contacting Ian Coulson, Senior Estates Manager, Estates Team:



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1. INTRODUCTION

- 1.1 This site comprises 2 separate plots of land extending to 1.14 and 1.95 acres respectively and can be seen on the location plan set out at **Appendix 1**. It was originally acquired from Manchester City Council forming part of Hattersley Industrial Estate on 29 March 1978 for the sum of £111,500.
- 1.2 It was subsequently sold on 6 October 1980 to Greater Manchester Economic Development Corporation (GMEDC) for £125,000 and immediately leased back to the Council under the terms of a lease for a term of 125 years' subject to payment of an annual rent of £28,690. The Council subsequently purchased the freehold from GMEDC for £287,000 on 25 March 1983. The land was acquired by the Council using powers conferred upon it by The Local Government Act 1972 for the purposes of Industrial development.
- 1.3 Terms were agreed to sell the land for the sum of £400,000 in March 2017 subject to the grant of planning after marketing with Manchester Agents WT Gunson and on the basis that this was a very good albeit the only offer received to purchase the land. The land was placed on the open market for sale in January 2016.
- 1.4 As the land could be classified as open space the intention of the Council to sell the site was advertised in the Tameside Reporter for two consecutive weeks on 24 and 31 January 2019 with a deadline for objections to be received by no later than 22 February 2019. No objections have been received to the disposal.
- 1.5 A planning application for the erection of B1, B2 and B8 units including geosciences laboratory with a total floor area 4,703sqm is currently being progressed through planning with a decision due on 29 May 2019 this year.
- 1.6 The purchasers are relocating from their premises at Sand Pitts Industrial Estate and the intention is to bring another RSK company to this location. The investment is estimated to be £10 million and should safeguard 80 jobs and create 220 new jobs over 5 years.
- 1.7 The purchaser is the RSK Group whose Head Office is based in Chester and which is the largest privately owned integrated environmental engineering and technical business for consulting, testing and inspection of land. The company were set up in 1989 and employ 2,300 staff across UK/Europe/Africa & Middle East.

2. FINANCIAL IMPLICATIONS

- 2.1 Each party will pay its own costs, which for the Council will be legal and surveyors fees estimated to be £1,500.
- 2.2 All other costs to be paid by purchaser.
- 2.3 Completed development will bring in additional Business Rates income when development completed.

3. PROPOSAL

- 3.1 To proceed to complete a sale of the site unconditionally.

4. OTHER OPTIONS CONSIDERED

4.1 Remarket the site which is not a sensible option as the Council are highly unlikely to receive a higher offer.

5. RISK

5.1 That the purchaser does not proceed with the development of the land which is considered highly unlikely given the investment already made with regard to the payment of fees in carrying out site investigation test and preparation and submission of planning application.

6. CONCLUSION

6.1 To proceed with an unconditional sale of the land, subject to Planning, to the RSK Group.

6.2 The Council had regard to both its duty to achieve best consideration reasonably obtainable under s 123 of the Local Government Act 1972, and its own Disposal Policy, which takes into account s 123.

7. RECOMMENDATIONS

7.1 As set out at the front of the report.