

REPORT AUDIT TRAIL**CONSULTATION**

*This is important as it shows that consultation has been undertaken in the preparation of the report and provides a quick reference point for specific comments, whilst the report will not be publishable if these areas have not been completed by the named persons below. **You must liaise with and receive sign off from the relevant Cabinet Member(s).***

Name/Position	Portfolio/Ward/ Directorate	Date Sent	Date Received	Comments in para:
Councillor Denise Lelliott	Cabinet Member for Jobs and the Local Economy	14/12/23	18/12/23	
Paul Woodcock	Strategic Director for Regeneration and Environment	Click here to enter a date.	Click here to enter a date.	
Jayne Close, Finance	Finance and Customer Services	12/12/23	12/12/23	6.2
Lesley Tattersall, Legal Services	Legal Services	11/12/23	11/12/23	7.1
Amy Leech/ Human Resources	Assistant Chief Executive's Office	12/12/23	12/12/23	No direct HR implications within the report
Karen Middlebrook, Procurement	Finance and Customer Services	12/12/23	12/12/23	6.1
Steve Eling, Equalities	Assistant Chief Executive's Office	12/12/23	13/12/23	No direct Equalities implications within the report
Jonathan Marriott, Assets	Finance and Customer Services	12/12/23	13/12/23	No direct Assets implications within the report

REPORT APPROVAL TRACKING			
Equalities Your report will not be authorised for submission to Cabinet by your Strategic Director if you have not undertaken and included an initial equalities screening. All equalities analysis documents should be included as appendices	Initial Screening completed and included with report	YES	12/12/2023
	Full Assessment completed and included with report	N/A	N/A
Carbon Impact Assessments Carbon Impact Assessments are to be appended to the associated cabinet reports. Carbon Impact Assessments should be sent to climate@rotherham.gov.uk for feedback prior to your report being sent to your Strategic Director for approval.	Carbon Impact Assessment completed and included with report.	YES	12/12/2023
Background information MANDATORY: Insert headings for a few main public documents you have used or referenced to write this report. This is a legal requirement. For Cabinet reports, insert hyperlinks . Do not list private documents.	Cabinet reports Swinton Town Centre Redevelopment: Preferred Proposal and Developer Appointment Swinton Town Centre Redevelopment - Development Brief Appointment of Developer and Disposal.pdf (rotherham.gov.uk)		
Appendices If appendices are essential to the understanding of the report, list titles here. Equality Analysis documents should be listed as Appendix 1 for all reports. Ensure that appendices have proper titles.	Appendix 1 Land at Station Street Swinton Town Centre: Appendix 2 Carbon impact assessment Appendix 3 Part A Initial Equality screening		
Cabinet Member Approval You should retain an email confirming the Cabinet Member approval for your records. Strategic Directors should not authorise reports unless Cabinet Members have given sign off	YES/NO (delete as appropriate)	Click here to enter a date.	
Report Authorised by Strategic Director	YES/NO (delete as appropriate)	Click here to enter a date.	
Report Authorised for publication by Chief Executive	YES/NO (delete as appropriate)	Click here to enter a date.	

Committee Name and Date of Committee Meeting

Delegated Officer Decision – 18 December 2023

Report Title

Swinton Phase 1 Land Disposal - variation of terms

Is this a Key Decision and has it been included on the Forward Plan?

No, but it has been included on the Forward Plan

Assistant Director Approving Submission of the Report

Simon Moss, Assistant Director: Planning, Regeneration & Transport

Report Author(s)

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Ward(s) Affected

Swinton Rockingham

Report Summary

Following Cabinet approval in January 2020, and an Officer Delegated Decision in October 2020 the Council entered into a development agreement with the preferred bidder, Conroy Brook. This agreement provided for (among other things) the transfer of the Phase 1 land at Station Street, Swinton (as shown in the plan attached as Appendix 1) (“Phase 1”) with the consideration being the carrying out of capital works by the developer to the Council’s retained land.

In order to facilitate a sale of all the houses on Phase 1 to the social housing provider, an amendment to the land transfer is required to remove a buy back clause affecting Phase 1.

Recommendations

That Officers be authorised to vary the terms of the Phase 1 transfer to remove the buy-back clause and ancillary provisions.

List of Appendices Included

Appendix 1 Land at Station Street Swinton Town Centre:

Appendix 2 Carbon impact assessment

Appendix 3 Part A Initial Equality screening

Background Papers

Swinton Town Centre Redevelopment: Preferred Proposal and Developer Appointment – Cabinet Report

Swinton Town Centre Redevelopment – Development Brief, Appointment of Developer and Disposal – Cabinet Report

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Disposal of Land at Swinton – Buy-back clause removal

Swinton Phase 1 Land Disposal - variation of terms

1. Background

- 1.1 Following Cabinet approval in January 2020, and an Officer Delegated Decision in October 2020 the Council entered into a development agreement with the preferred bidder, Conroy Brook. This agreement provided for the transfer of Phase 1 with the consideration being the carrying out of capital works by the developer to the Council's retained land.
- 1.2 To facilitate the completion of the sale of 29 affordable housing units between Ben Bailey/Conroy Brook and an identified social housing provider the transfer agreement is amended to remove buy back conditions against Phase 1. This variation is needed as the buyback clause is not acceptable to the social housing provider and would prevent the proposed sale from taking place.

2. Key Issues

- 2.1 The Phase 1 land at Swinton transferred to Ben Bailey/Conroy Brooks on 18 May 2023 with a buy-back provision which allows the Council to buy-back the land if the development has not been completed within 10 years of the date of the transfer. As building works have already commenced and a verbal agreement is in place with the social housing provider, for the sale of all properties (29 units) on Phase 1, the need for the protection of the buy-back clause is significantly diminished.
- 2.2 The social housing provider have confirmed that they are unable to proceed with a purchase with the buy-back provision in place.
- 2.3 On the occasion that the social housing provider deal is not completed, the recommendation would be for the buy-back clause to be removed in any event as explained in 7.1 as the buy-back clause can be barrier to development in the current market.

3. Options considered and recommended proposal

- 3.1 Conroy Brooks/Ben Bailey have worked with the social housing provider to reach an agreement that provides a greater number of affordable rented properties than was originally envisaged. The removal of the buy-back clause in the event of non-development has been carried out on a number of schemes the Council has worked on and is the recommended approach in order to facilitate the desired outcome.
- 3.2 If the buy-back clause is not removed, the social housing provider would not purchase the 29 units, this would result in fewer affordable homes and would

jeopardise the wider delivery of the scheme.

4. Consultation on proposal

4.1 Public consultation took place in January 2019 and formed the basis of the development brief which went to market. Further public consultation was carried out in October 2022 to update the public on the approved plans.

4.2 The relevant internal stakeholders have been consulted and have been made aware of the importance of the land to the wider regeneration and redevelopment of the civic buildings in the town centre.

5. Timetable and Accountability for Implementing this Decision

5.1 There is a requirement for the delegated decision to be approved by 18th December 2023 to enable the social housing provider to present the agreement to their Board of Directors, to enable the delivery of a wholly affordable housing scheme of 29 units on the Phase 1 land in accordance with the social housing provider requirements.

6. Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)

6.1 The original procurement to appoint Conroy Brook was done in compliance with the Public Contracts Regulations 2015 (as amended). Given the removal of the clause will make delivery more likely and the Council will receive what was within the scope of the original procurement, there are no direct procurement implications for consideration.

6.2 There are no direct financial implications arising from the report recommendation.

7. Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)

7.1 The buyback clause is a mechanism which the Council often includes in sales as a means of avoiding land-banking and non-delivery of development. It has never been enforced but acts as a useful “bargaining chip” in difficult circumstances. However, in the present funding market, it is not popular with funders and can act as a barrier to development, so it is necessary to find the balance between protecting the Council’s aim of securing development and not making development more difficult to achieve.

7.2 In this case, it is clear that the developer is progressing the development and, if it is permitted to enter the sale agreement with the social housing provider, this will make delivery of the 29 houses more likely rather than less likely. Accordingly, there is no legal barrier to its removal.

8. Human Resources Advice and Implications

8.1 There are no human resources implications arising from this report

9. Implications for Children and Young People and Vulnerable Adults

9.1 There are no specific implications for children, young people and vulnerable adults arising directly from this proposal.

10. Equalities and Human Rights Advice and Implications

10.1 An Equalities Assessment has been completed for this report and is attached as appendix 3.

11. Implications for CO2 Emissions and Climate Change

11.1 A Carbon Impact Assessment has been completed for this report and is attached at Appendix 2

12. Implications for Partners

12.1. There are no specific implications for partners arising directly from this proposal.

13. Risks and Mitigation

13.1 There is a risk that without the removal of the buy-back clause, the verbal agreement with the social housing provider will not be formalised therefore resulting in the non-sale of phase 1 housing, to facilitate the completion of affordable housing in Swinton Town Centre and the non-completion of the wider redevelopment and housing scheme.

14. Accountable Officers

Nicola Glynne-Jones, Project Manager
Lorna Vertigan, Head of Regeneration

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	Click here to enter a date.
Strategic Director of Finance & Customer Services (S.151 Officer)	Named officer	Click here to enter a date.
Head of Legal Services (Monitoring Officer)	Named officer	Click here to enter a date.

Report Author: **Error! Reference source not found.**
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