

DISPOSAL OF THE FORMER COUNTY HALL SITE, CWMBRAN*Report Submitted by: Lynda Willis, Chief Legal Officer and Monitoring Officer**Report Written by: Victor Mbvundula, Asset and Disposal Manager***1. Area Affected**

The property is situated in Llanyrafon North Ward.

2. Purpose of Report

To update Cabinet about developments regarding disposal of the Council's freehold interest of the former Country Hall site and to recommend for Cabinet approval acceptance of an offer from a different bidder in place of the one previously accepted.

3. Key messages

- The preferred bidder approved by Cabinet on 10 February 2015 subsequently lowered its offer so significantly that it could not readily be deemed best value without seeking comparative offers.
- A new bidding process based on updated information about the site was undertaken, limited to the six parties who had submitted offers when the site was originally marketed. This included the previously approved preferred bidder.
- The offer being recommended for acceptance on this occasion is from a different bidder.
- This offer is subject to refinement when the exact affordable housing requirements (whether 20% or 30%) are confirmed and foundation designs for each plot are verified in due course.
- The material change in the information cited in the original Cabinet report in February 2015 now requires Cabinet to consider making a further decision based on the contents of this report.

4. Background

- 4.1 The former County Hall site is jointly owned by Torfaen County Borough Council and Monmouthshire County Council. On 10 February 2014 Cabinet agreed to accept on a "Subject to Contract" basis the offer for the purchase of its half share of the freehold interest in the former County Hall site to the bidder that had offered the following sums, with full payment being made on completion of sale.

| Affordable Housing Percentage | Amount Offered for Entire Site | TCBC Share (50%) |
|--------------------------------------|---------------------------------------|-------------------------|
| 20% | £4,577,000 | £2,288,500 |
| 30% | £3,410,000 | £1,705,000 |

- 4.2 Further, Cabinet also:
- a) Authorised the TCBC Legal and Asset Management Services to negotiate detailed contract terms for the disposal of the former County Hall site and manage the conveyancing process on behalf of both landowners.
 - b) Granted specific delegated authority to the Executive Member for Resources to determine any issues pertaining to the disposal of TCBC's half share of the former County Hall site that will require further executive approval.

5.0 Issues and Findings

- 5.1 After the above offer was accepted, the preferred bidder undertook site investigations which resulted in what the company deemed to be unforeseen abnormal costs. The preferred bidder buyer also undertook pre-application planning discussions which resulted in a net reduction of plot numbers from 178 to 167. The company then sought to adjust its offer downwards by nearly £1,000,000.
- 5.2 Part of the net price change was based on two significant parameters that had changed, namely the woodland buffer and the mechanism for draining away surface water. Both are explained in detail in paragraph 5.3 below. Suffice it to say that the changes made it difficult to make a direct comparison between the preferred bidder's revised offer and the other original offers because the working assumptions were no longer consistent. Therefore, as there was a material change in the information on which the original decision was based, fresh offers were requested from all bidders based on the re-defined parameters. This was limited to only the parties who had submitted offers originally, including the original preferred bidder, notwithstanding its submission of a "final" revised offer.
- 5.3 Altogether the following parameters were redefined in the revised bidding process:
- a) *Woodland buffer*: The buffer between the proposed development and existing woodland was reduced in light of new information. The original larger buffer had been based on the classification of the woodland as being Ancient Woodland but this was latterly proven not to be correct. The significance of this was that the buffer reduction effectively increased the developable area.
 - b) *Attenuation*: It had been confirmed that there was a definite requirement for surface water attenuation to enable controlled discharge into the sewerage system or nearby watercourse as the case might be. All but one of the bidders, including the preferred bidder, had assumed no surface water attenuation. This is a significant development cost, and accounted for about half of the price reduction sought by the preferred bidder. So it was necessary to test this aspect by having everyone re-submit bids based on their own cost estimates for this item.
 - c) *Foundations assumptions*: Uniform assumptions regarding the split across the site for different foundation types were introduced to ensure consistency of costing. (The bidders originally made different assumptions on this aspect.)
 - d) *Security for deferred payments*: That offers involving phased payments would only be considered if they offered as security offered for the deferred payment a legal charge as well as a parent company guarantee, bank bond or equivalent cash security.

- 5.4 Four out of the original six bidders submitted revised offers. The other two opted out because in the intervening period they had since started pursuing other opportunities elsewhere in Torfaen.
- 5.5 All the revised offers were higher than previously submitted in December 2014 except for the one from the original preferred bidder. But even the original preferred bidder offered more than its “final” offer that had preceded the decision to seek revised offers. However, it was the lowest offer out of all four.
- 5.6 Following appropriate scrutiny, the offer being recommended for acceptance is from a different bidder, and is set out in the table below, by affordable housing percentage scenario. Torfaen County Borough Council is entitled to 50% of the amount in each case.

| Affordable Housing Percentage | Amount Offered for Entire Site | TCBC Share (50%) |
|-------------------------------|--------------------------------|------------------|
| 20% | £5,148,000 | £2,574,000 |
| 30% | £4,662,000 | £2,331,000 |

- 5.7 The purchase price will be paid in full on completion. However, the offer is conditional on grant of an implementable planning permission as well the outcome of site investigations by the preferred bidder. Both conditions are considered to be low risk.
- 5.8 Under Section 123 of the Local Government Act 1972 local authorities have a duty to dispose of land for the best consideration that can reasonably be obtained at the time. The above offer is considered to readily comply with the statutory duty because it was the highest offer received under a competitive bidding process.

6. Consultation

- 6.1 The Project Board comprising of senior officers from Monmouthshire County Council and Torfaen County Borough Council that is overseeing the decommissioning of County Hall was consulted regarding the decision to seek revised bids from all six original bidders. TCBC’s Head of Procurement was consulted for advice regarding the principle and process of seeking revised bids.

7. Policy Impact Assessment

- 7.1 See Policy Impact Assessment Matrix in Appendix 1.

8. Risks

- 8.1 *Planning:* The offer is subject to planning permission being granted for the developer’s proposed scheme. However, this is considered low risk since the site already allocated for residential development in the Local Development Plan. The developer submitted an indicative layout with its bid which is broadly deemed appropriate for the site. However, there will be no certainty of success in this respect until the due planning process has run its course.
- 8.2 *Change in circumstances:* There is a general risk with any disposal that the prospective buyer can withdraw from the transaction for a variety of reasons such

as changes in financial, economic or legal circumstances.

9. Action to be taken following decision

- 9.1 If the recommendation of this report is approved the following steps will be taken:
- All the bidders will be formally notified of the outcome regarding their respective offers.
 - Detailed contract negotiations with the new preferred bidder will be undertaken.
 - Solicitors will be instructed to undertake the conveyancing of the freehold interest; completion will depend on conditions to which the offer is subject being met.

10. Measure of success

- 10.1 Because the site is surplus to the Council's requirements its disposal will contribute to the Council's corporate priority of *"Using resources wisely, to include maintaining the highway infrastructure and reducing energy consumption and waste"*.

11. Conclusion/summary

- 11.1 Following a downward revision of the original preferred bid for the former County Hall site a fresh bidding process was undertaken but limited to only the six parties that had originally made offers. Some aspects of the tender guidance were amended. Four out of the six original bidders submitted revised offers based on the amended parameters; the other two declined the opportunity. The original preferred bidder's revised offer turned out to be the lowest so an offer from a different bidder is being put forward in this report for acceptance.

12. Recommendation(s)

- 12.1 That following receipt of revised bids, Cabinet accepts on a "Subject to Contract" basis the offer for the purchase of its half share of the freehold interest in the former County Hall site to the preferred bidder offering the following sums depending on the eventual affordable housing scenario, with full payment being made on completion of sale.

| Affordable Housing Percentage | Amount Offered for Entire Site | TCBC Share (50%) |
|-------------------------------|--------------------------------|------------------|
| 20% | £5,148,000 | £2,574,000 |
| 30% | £4,662,000 | £2,331,000 |

- 12.2 That Cabinet authorises the TCBC Legal and Asset Management Services to negotiate detailed contract terms for the disposal of the former County Hall site and manage the conveyancing process on behalf of both landowners.
- 12.3 That Cabinet grants specific delegated authority to the Deputy Leader, as executive portfolio holder for Resources and Governance, to determine any issues pertaining to the disposal of TCBC's half share of the former County Hall site that may require further executive approval.

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| Appendices | 1. Appendix 1 – Policy Impact Assessment Matrix |
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| Background Papers | <p>Note: Members of the public are entitled, under the Local Government Act 1972, to inspect background papers to reports. The following is a list of the background papers used in the production of this report.</p> <p>Cabinet Reports dated: 12 July 2011; 25 March 2014; 10 February 2015</p> |
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| <p>For a copy of the background papers or for further information about this report, please telephone: Victor Mbvundula, Asset and Disposal Manager Telephone 01495 742899; Email victor.mbvundula@torfaen.gov.uk</p> |
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Appendix 1 Policy Impact Assessment Screening Matrix

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|-------------------------|---|-------------------|------------------|
| Project/Activity | Disposal of the former County Hall site | | |
| Project Manager: | Victor Mbvundula | Appraiser: | Victor Mbvundula |
| | | Date: | 20 October 2015 |

| Theme | Criteria | Type of impact | Significance of impact | Notes |
|------------------------------|---|-------------------------------------|------------------------|---|
| | | Positive + Negative – None NA | High H Low L | |
| Resource Implications | Legislation | N/A | | Disposal of the site will generate a significant capital receipt for the Council. |
| | Finance | + | H | |
| | Communication | N/A | | |
| | Employees | N/A | | |
| | Partnership/Collaboration | N/A | | |
| Health | Physical Health | N/A | | |
| | Mental Health | N/A | | |
| | Healthy Lifestyles | N/A | | |
| Education | Educational Attainment | N/A | | |
| | Basic Skills | N/A | | |
| | Continuous Learning | N/A | | |
| Housing | Good Quality Housing | + | H | Disposal of the site will enable residential development, subject to planning permission. |
| | Homelessness | + | H | |
| | Affordable Housing | + | H | |
| Economy | Poverty | N/A | | |
| | Employment | N/A | | |
| | Business | N/A | | |
| | Community Enterprise | N/A | | |
| Equality | Age | N/A | | |
| | Disability | N/A | | |
| | Gender | N/A | | |
| | Marriage & Civil Partnership | N/A | | |
| | Pregnancy & Maternity | N/A | | |
| | Race | N/A | | |
| | Religion & Belief | N/A | | |
| | Sexual Orientation | N/A | | |
| | Welsh Language | N/A | | |
| | Group not achieving equality of service | N/A | | |
| Human Rights | N/A | | | |
| Safer Communities | Crime | N/A | | |
| | Anti Social Behaviour | N/A | | |
| | Safety of area or people | N/A | | |
| Transport | Public | N/A | | |
| | Private | N/A | | |
| | Walking / Cycling | N/A | | |
| Built Environment | Local Distinction & Heritage | N/A | | |
| | Waste & Recycling | N/A | | |
| | Energy / Water Efficiency | N/A | | |
| Pollution | Air / Water / Ground | N/A | | |
| Natural Environment | Climate Change | N/A | | |
| | Animal / Plant Species | N/A | | |
| | Habitat / Landscape | N/A | | |

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