

**Report to:** Cabinet

**Date of Meeting:** 4 March 2019

**Report Title:** Site at West Marina

**Report By:** Peter Grace  
Assistant Director Financial Services & Revenues  
(Chief Finance Officer)

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### **Purpose of Report**

To report on objections received regarding the proposed long lease of land forming open space at West Marina and thereafter agree, if appropriate, the Heads of Terms for the long lease of the site.

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### **Recommendation(s)**

- 1. Having carried out the necessary procedures under Section 123 of the Local Government Act 1972 and having taken account of the objections received Cabinet is recommended to enter into a long lease with County Gate/Sunley on the Heads of Terms contained in the Part 2 report.**
- 2. That the Chief Finance Officer, in consultation with the leader of the Council and Chief Legal Officer, be authorised to negotiate and agree the final terms of the lease disposal.**

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### **Reasons for Recommendations**

The Council must fully and properly consider any objections in accordance with statutory provision in coming to a decision.

The agreement of the Heads of Terms enables the Council and the developer to draw up the necessary legal agreement in order to progress a development proposal. Any such proposal will need planning permission.

Such objections relate to the loss of open space rather than any specific development proposals which may subsequently be forthcoming.

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## Background

1. Section 123 of the Local Government Act 1972 (the Act) provides that if the Council wishes to dispose (long lease counts as a disposal) of any land which falls within the definition of open space (as contained in the Town & Country Planning Act 1990) then it must first advertise to this effect in the local paper for two consecutive weeks and then consider any objections received.
2. In order to comply with the Act a Notice was placed in the Hastings & St Leonards Observer on 8 and 15 February and a copy of this is attached at Appendix 1.
3. At the Cabinet meeting on 3 September 2018 it was determined that County Gate/Sunley are the preferred bidder and to instruct our agents, Carter Jonas, to negotiate further to agree Heads of Terms in order to make a recommendation to Cabinet.
4. This report firstly considers the representations received, and if Councillors agree that the merits of a long lease outweigh the objections received then the terms of the lease are to be considered.

## The Site

5. The West Marina site is in ownership of Hastings Borough Council and has been largely vacant for over 30 years, following the closure of the former lido. As a result the Council is looking to see the site developed in order to provide a mixed use development (residential and commercial) in line with the Local Development Plan (the strategic planning document already agreed for the borough). It worth emphasising that this redevelopment has been a long term aspiration and the site has been identified for development in successive Local Plans.
6. The site has the benefit of having a seafront location and is in close proximity to West St Leonards train station. It is however disadvantaged by having both sea and fluvial flooding issues and lying on the outer reaches of the Hastings sea front. The flooding issues and the infrastructure already in place restrict where development can occur on the site.
7. As the Development Plan identifies, Seaside Road is one of the few remaining significant re-development sites on the Hastings/St Leonards seafront. It presents an opportunity to create a high quality development which can help regenerate the area and act as a destination in its own right, as an addition to Hastings and the Old Town. The site will be expected to support a varied housing mix including affordable housing, and given its size is capable of providing a significant number of new homes making a valuable contribution to the town's housing requirement as set out in the Local Plan.
8. The Council will expect to see a high quality innovative design with particular regard to sustainability. The Grosvenor Gardens Conservation Area sits immediately to the east of this site. Any new development on this site must sustain and enhance the setting of the conservation area.

9. The plan makes particular mention of the “location, scale and massing of housing units should have regard to the outlook of adjacent properties in Seaside Road and Grosvenor Gardens. Opportunities should be taken where possible to exploit the sea views that the site offers. Developers will be expected to create a broad promenade for pedestrians and cyclists behind the seawall running east to west across the site. This should also act as a way of protecting views along the seafront. Improvements to the seawall will be required and the potential for vegetative shingle creation will need to be explored”.
10. The site is considered to be suitable for leisure and recreational uses, particularly those associated with the water. The site could also accommodate small scale kiosk style retail uses normally found at the seaside, a cafeteria and a public house/restaurant.
11. If the Council agrees to the disposal of the site the developer would follow the normal planning procedures now in place for an important development which would include a planning forum and public consultation.

### **Representations received**

12. At the time of writing this report 17 objections have been received in direct response to the Notice and redacted copies of these are attached at Appendix 2. In addition a number of objections have been received prior to the notice and these are also attached for completeness.
13. In addition a petition, signed by 211 people, has been received which states, " We the undersigned petition the council to request: (A) that the Council does not proceed with proposals to erect 152 dwellings on its land at Seaside Road; and (B) that the Council actively and fully engages with the local community and other existing and potential recreational users of the site to develop an agreed plan for its future use."

### **Justification:**

- The land is currently well used for recreational activities, including on a recently refurbished play area, by local residents and visitors to the area;
- It is the only stretch of open recreational land on the Borough seafront which is not divided from the sea by roads or carparks and has the potential for greater recreational use;
- An economic residential development of the site will be prevented by the ground conditions, including the remains of the former Lido, the age and position of underground services, the presence of SWA overspill tanks, and the constraints and costs of flood risk prevention;
- A large scale residential development would be over-bearing for the residents of Seaside Road and would result in unacceptable environmental damage from vehicular access along inadequate roads;
- Council finances and manpower should not be wasted on progressing the existing unrealistic proposals;

- Local residents should not have to put up with continuing uncertainty about the future of the site;
- Engagement with local residents and site users has been at best perfunctory and it appears that in any case no account has so far been taken of any representations that have been made.

## Consideration of Representations

14. In accordance with the Act the Council must formally consider the representations received against any decision to dispose of the open space and weigh up their respective merits against the merits of a disposal.
15. A separate update of objections received up until 1 March will be provided to members of Cabinet in the run up to the meeting on the evening of the 4 March.

The points raised in the objections are considered in turn below.

### (i) Lack of public consultation over the sale

We have placed a public notice in the Hastings & St Leonards Observer as required under the Act.

If the cabinet agrees to appoint Countygate/Sunley as the developer, they will carry out consultation on the detail of the plans, with a pre-application planning forum and other sessions. The principle of developing the site for commercial (including leisure) and housing use won't be consulted on though, as there was a two-year consultation on this during the development of the Local Plan. That involved workshops, drop-in sessions, online responses, advertisements in the local paper, eventually culminating in an examination in public by a government planning inspector in which everyone who had lodged a complaint or suggestion was allowed to bring this to the attention of the inspector at an examination in public. That led to the Local Plan, incorporating proposals for the Bathing Pool site, in the final plan adopted by the council.

### (ii) Loss of daylight

It's unlikely there would be any undue reduction in daylight, the buildings on the site wouldn't be close enough to nearby properties to reduce light, but that would be taken into account in design. There are planning rules about making sure natural light to existing properties isn't unduly reduced by new developments.

### (iii) Loss of view

It is indeed likely that there will be some loss of views from some properties. The design stages will take this into account, and as stated above there are planning rules about making sure natural light to existing properties isn't unduly reduced by new developments.

#### **(iv) Loss of open/green/recreational space/ cycle route**

There are a number of other open spaces in the area – the Combe Valley Countryside park is about 600m away, which has flat, grassed areas as well as extensive public open space stretching all the way to Crowhurst. There is also West Marina Gardens and the seafront. Recreational uses are expected to form an important part of the redevelopment.

The cycle route along the seafront would not be expected to significantly alter, save temporarily whilst construction/improvement work is undertaken.

#### **(v) Development out of scale**

There is no development scheme at this time and any scheme would have to accord with the policy FB3 in the Local Plan which says the site is for mixed use (residential and commercial).

#### **(vi) Site not suitable for development**

The developers will be undertaking the necessary due diligence at their cost.

#### **(vii) Detrimental Environmental Impact**

This will need to be addressed in any planning application,

#### **(viii) Amount of traffic generated/lack of parking**

This will need to be addressed in any planning application.

#### **(ix) Impact on Hastings Half Marathon (as site used for parking)**

Alternative options for parking will need to be explored

#### **(x) Site should be concreted and used for park & ride**

This would be contrary to the Local Plan.

#### **(xi) Noise/disruption when site developed**

Noise would be controlled by a condition of any planning consent.

#### **(xii) Why can't you develop better alternative sites**

The sites mentioned are either not capable of development (let to existing businesses) or not within the Council's control. The Council will be looking to develop land identified within the Local Plan.

#### **(xiii) Should be developed for leisure purposes only**

This would be contrary to the Local Plan.

#### **(xiv) Impact by sea erosion**

That applies to any development near the sea, which includes much of Hastings, but developments beside the sea aren't unusual – there are some in Hastings, and many other examples in other towns, so it shouldn't be difficult to take that into account.

### **Petition - Response to Justification Issues Raised**

(i) The land is currently well used for recreational activities, including on a recently refurbished play area, by local residents and visitors to the area;

*In approving any forthcoming proposals for the site, the Council will be looking for far more additional recreational facilities to be incorporated in a future redevelopment - which would include a play area.*

(ii) It is the only stretch of open recreational land on the Borough seafront which is not divided from the sea by roads or car parks and has the potential for greater recreational use;

*There are a number of open spaces within a short distance, not least the Combe Valley Countryside Park, West Marina Gardens, and the seafront itself.*

*The redevelopment of the site has been a long term aspiration and has been identified for development in successive Local Plans. It is the Council's intention and that of the Development Plan to significantly enhance the area through mixed development and additional recreational facilities making it a destination in its own right.*

(iii) An economic residential development of the site will be prevented by the ground conditions, including the remains of the former Lido, the age and position of underground services, the presence of SWA overspill tanks, and the constraints and costs of flood risk prevention;

*It is indeed correct that this is not a straightforward redevelopment site and there are numerous constraints as a result. There have been a number of detailed studies undertaken on the site which identify the issues. Countygate/Sunley will need to undertake further detailed studies, at their own cost, but on the basis of information available consider these constraints can be overcome.*

(iv) A large scale residential development would be over-bearing for the residents of Seaside Road and would result in unacceptable environmental damage from vehicular access along inadequate roads;

There is no development scheme at this time and any scheme would have to accord with the policy FB3 in the Local Plan which says the site is for mixed use (residential and commercial) . The Development Plan wording makes specific reference to "location, scale and massing of housing units should have regard to the outlook of adjacent properties in Seaside Road and Grosvenor Gardens"

*Any forthcoming planning application would need to be acceptable in terms of addressing the Transport aspects.*

(v) Council finances and manpower should not be wasted on progressing the existing unrealistic proposals;

*It is considered that the redevelopment of the site is capable of delivering many benefits to the locality and to the borough as well as being a viable proposition, given the increased attractiveness and interest in Hastings as a place to live work and visit. Unlike previous occasions there has been considerably more interest by larger competent developers in the site.*

(vi) Local residents should not have to put up with continuing uncertainty about the future of the site;

*It is accepted that the site has been included in successive local plans for redevelopment over many years but on each occasion to date no attractive or viable proposal has been forthcoming. The disposal by long lease will look to include a timeframe within which the developer will need to operate in undertaking the necessary ground surveys, consultation, and submission of any subsequent planning application.*

(vii) Engagement with local residents and site users has been at best perfunctory and it appears that in any case no account has so far been taken of any representations that have been made.

*Until such time as there is a properly worked up proposal to consider from a developer it is inevitable that meaningful engagement will be limited. The proposal to dispose of the land by long lease will enable the developer to proceed to the next stage and undertake necessary surveys, undertake planning forums, consult and submit detailed plans. The Cabinet meeting on the 4 March is to consider the objections, particularly of local residents, to the disposal of open space and whether they outweigh the benefits that would be forthcoming from redevelopment in line with the Development Plan.*

## **Merits of Disposing by long Lease**

16. The merits of disposing of the land by long lease are outlined below.

### **A Destination**

- a. The purpose of the development is to create a leisure development that will benefit all Hastings residents, as well as providing much needed housing, and create an attraction that will bring tourists to the eastern end of the promenade. As the principal of developing the site for these purposes has been already been established through a lengthy process of consultation, the future consultation would be on the detail of the development, and how it can practically be achieved. At the previous open meeting, people raised all sorts of ideas, amongst which were artists' studios and a slipway, which is why those ideas will be incorporated.

## Supply of Housing – Including Affordable Housing

- b. The Hastings Planning Strategy (adopted February 2014) identifies a need for a minimum of 3,400 additional housing units in Hastings by 2028. A long lease of the land would facilitate development of the site which could accommodate some 152 housing units (subject to planning permission) which would help with the need.
- c. As Planning Authority the Council must ensure that it maintains a sufficient supply of land to meet housing targets as set out in its adopted Local Plan. That means identifying sites which are suitable, available and capable of being delivered within the lifetime of the Plan. The Local Plan process has confirmed that this site is suitable for a mixed use development including housing.
- d. In bringing the site forward for development, the Council as landowner is making a valuable contribution to meeting identified housing requirements, including the provision of affordable housing which will be required as part of the housing mix. Applying this requirement would yield in the order of 38 affordable units.

## Long Lease

- e. The council retains the freehold of the site, so the developer has to get landlord's consent to develop.

## Conclusion

- 13. In this case the Council has two functions, firstly as Local Planning Authority and secondly as land owner which are distinctly separate. The subject consultation is only in relation to the Council as land owner and the planning merits of a future development at West Marina cannot be considered at this stage.
- 14. The recommendation is that the land should be disposed of by long lease as the merits outweigh the representations received.

## Heads of Terms

- 17. Following negotiations, Heads of Terms have been agreed in principle on two options:
  - a. Option 1 – disposal of the freehold.
  - b. Option 2 – disposal on a long lease.

It is recommended that the Council proceed with Option 2 – disposal on a long lease (250 years). This offers a better return than the freehold option over the term of the lease. More importantly this option offers the Council much greater and more robust control over any proposed development and its design since any proposals would be subject to the Council's consent as Landlord (not to be unreasonably withheld).



## Timetable of Next Steps

18. To progress with a long lease the next steps would be:

Action	Key milestone	Due date (provisional)	Responsible
Exchange contracts	Finalise Heads of Terms Instruct solicitors Contracts exchanged	Contracts to be exchanged 8 weeks from draft documentation being issued	Estates Manager
Developer to undertake due diligence	Completion is subject to satisfactory soil investigations, full topographical survey and detailed surveys of all services	Surveys to be undertaken within 6 months from exchange	County Gate/Sunley
Planning	Public consultation Planning application submitted Planning consent granted	Planning application to be submitted 12 months from exchange	County Gate/Sunley
Construction	Construction  Practical completion	To commence within 12 months of obtaining satisfactory planning permission  Commercial element to be achieved within 48 months of implementing a consent & balance within 72 months (subject to normal relevant events permitting extension of time under a build contract)	County Gate/Sunley  County Gate/Sunley

## Risk Management

19. These are as set out in the 3 September 2018 report. In addition there are uncertainties surrounding Brexit and the impact on the UK Economy and the consequential impact on the property market.

## Financial Implications

20. These are as set out in the Part 2 report.

## Local People's Views

21. At such time the developers have a specific development proposal they will need to go through the usual planning consultation processes which will enable local people to put forward their views.

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## Wards Affected

West St Leonards

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## Implications

Relevant project tools applied? Yes/No

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	N
Crime and Fear of Crime (Section 17)	N
Risk Management	Y
Environmental Issues	N
Economic/Financial Implications	Y
Human Rights Act	N
Organisational Consequences	N
Local People's Views	Y
Anti-Poverty	N

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## Additional Information

Appendix 1 Copy of notice published in the Hastings & St Leonards Observer.

Appendix 2 Objections to the notice.

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## Officer to Contact

Amy Terry  
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## APPENDIX 1

Copy of notice published in the Hastings & St Leonards Observer.

### **LOCAL GOVERNMENT ACT 1972 SECTION 123(1)(2A)**

### **NOTICE OF INTENDED DISPOSAL OF OPEN SPACE LAND IN ST LEONARDS-ON-SEA, EAST SUSSEX**

Notice is hereby given that Hastings Borough Council intends to dispose of a parcel of land, which is for identification purposes described in the schedule to this Notice, which consists of Open Space land.

A plan that identifies the precise location of the land in question is available to view at the Tourist Information Centre, Muriel Matters House, Breeds Place, Hastings, TN34 3UY or can be viewed on our website: [www.hastings.gov.uk/publicnotices](http://www.hastings.gov.uk/publicnotices)

Objections to the proposed disposal must be made in writing to be received by the Chief Legal Officer, Hastings Borough Council, Muriel Matters House, Breeds Place, Hastings, TN34 3UY by no later than noon on Friday 1 March 2019, quoting the reference HM/001082

### **SCHEDULE**

Description - Land at West Marina, south of Seaside Road, St Leonards-on-sea

Approximate Area - 1.94 hectares

Christine Barkshire-Jones, Chief Legal Officer

Dated: 8 February 2019