

CABINET held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 5.00 pm on 23 SEPTEMBR 2013

Present: Councillor J Ketteridge – Leader (Chairman).
Councillor J Cheetham – Deputy Leader
Councillor R Chambers – Portfolio Holder for Finance
Councillor J Redfern – Portfolio Holder for Housing
Councillor H Rolfe – Portfolio Holder for Community, Partnerships and Engagement
Councillor A Walters – Portfolio Holder for Community Safety

Also present: Councillors E Godwin, S Howell, M Lemon, E Parr, J Rich and J Salmon.

Officers in attendance: J Mitchell (Chief Executive), R Harborough (Director of Public Services), S Joyce (Assistant Chief Executive-Finance), M Perry (Assistant Chief Executive-Legal), R Dobson (Principal Democratic Services Officer) and A Taylor (Assistant Director Planning and Building Control).

CA33 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors S Barker and V Ranger.

CA34 MINUTES OF THE MEETING HELD ON 12 SEPTEMBER 2013

The Minutes of the meeting held on 12 September 2013 were received, confirmed and signed by the Chairman as a correct record.

CA35 MATTERS ARISING

(i) Minute CA24 – Assets of Community Value

The Assistant Director Planning and Building Control said the Minister's visit would take place on 26 September at 10.30am. There would be a presentation at the Council offices on community rights in the context of assets of community value, and the Minister would be taken to visit three sites at Great Chesterford, the Friend's School and Audley End Station.

CA36 EXCLUSION OF THE PUBLIC

AGREED under Section 100I of the Local Government Act 1972 the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

WAITROSE AND FAIRCROFT REDEVELOPMENT

Councillor Chambers presented the first report on the development at Waitrose and Faircroft. The report set out decisions which the Council would need to take to enable such redevelopment to take place. He asked officers to give a summary of the contents of the report. The second report before the Cabinet would deal with decisions which the Council as Trustee of the Pig Market Trust would need to take to enable the development to take place.

The Assistant Director Planning and Building Control referred Members to the report of the independent consultants and to plans showing land which it was proposed would be the subject of a land swap between the Council and the Pig Market Trust. Following the land swap, the proposal was for the Council then to sell that portion of land to Waitrose for the redevelopment of its store. The consent of the Charity Commission was required for the land swap transaction, and it was the intention of the Council that by entering into these proposals there would be a neutral effect on the Trust in terms of both the amount of its landholding and its car parking income.

The Assistant Director Planning and Building Control said £100,000 for the Council's land had been offered, and drew attention to the comments of the consultants on the factors to be weighed up by the Cabinet in considering this value. He highlighted a change to the recommendations relating to the underwriting of Faircroft car park income during the period of the build, in that any uplift in the income derived from the Rose and Crown car park would be excluded from the calculation.

The Assistant Chief Executive-Finance drew Members' attention to the reference in the report to the fact that VAT implications for this type of significant transaction could be complex. He said the Council's retained VAT expert had given interim advice which indicated there were no adverse implications for the Council, but a more detailed VAT report was being prepared.

The Assistant Chief Executive-Finance explained that the outcome of these recommendations would achieve the renovation of the Faircroft car park which otherwise would be the responsibility of the Council either to undertake significant maintenance or its entire replacement. The outcome of the recommendations if accepted would result in an unbudgeted capital receipt of £100,000 and an accounting profit on the Council's balance sheet. Members needed to assess whether to accept the proposals in light of this accounting value, rather than a theoretical higher market value. There was a benefit to Saffron Walden Town Centre in doing so for the reasons set out in the report.

The Chairman asked the Assistant Chief Executive-Finance to explain how the Council would benefit in terms of business rates from the support these proposals would provide to the vitality of the Town Centre. The Assistant Chief Executive-Finance said he would expect the outcome to lead to a potential increase in collection of business rates from the commercial area benefitting from the redevelopment.

Councillor Rolfe asked questions about the calculation of car parking income to be underwritten by Waitrose; whether the land to be swapped had potential alternative uses and whether £100,000 was an acceptable value for the land proposed to be sold.

The Assistant Director Planning and Building Control said benchmarking of car parking income for the six months from January to June 2013 would inform calculations for the purposes of underwriting car parking income. The area of land to be exchanged with the Pig Market Trust did not have planning potential because it was already in use as a car park. The way in which valuation of the land to be transferred to Waitrose was estimated depended on whether or not the Council and the Trust could realise a higher value if the land were to be offered on the open market. This decision was a balance for the Council to weigh up. Closing the car park could not be countenanced so the value of the land was very limited. This was not frontage land so its uses and theoretical purchasers were also very limited. Therefore whilst there was a technical difference between the accounting value and the estimated market value, the advice of the consultant was that in reality the current offer taking all aspects of the deal into account was the best one available, as the agreement had to stack up for Waitrose. The initial offer the Council had received for the land was nil.

Councillor Chambers said he understood Councillor Rolfe's point, but the prospect of future costs arising for the Council for the maintenance of, or in the long term, the rebuilding of the car park meant this was an excellent deal for the Council, and, more importantly, for Saffron Walden.

Councillor Cheetham said in her view the Council was doing well in this deal as Waitrose could simply choose not to enter into any such deal. She asked whether the number of car parking spaces would remain the same. The Assistant Director Planning and Building Control confirmed this was the case.

Councillor Redfern said she agreed with Councillor Rolfe. She felt the Council's position seemed to be willingness to accept the offer without seeking more. She asked Members to consider offering assistance to businesses directly affected by the temporary closure of the car park at Faircroft.

Members commented further on the amount being offered for the land. The Director of Public Services explained that the term of the leasehold

to Waitrose had been negotiated more favourably in order to get the best deal for the Council. Initially Waitrose had suggested that the Council consider making a capital contribution to the car park reconstruction costs.

Councillor Rich asked whether all options regarding the value of the land had been fully explored. The deal would attract more business to Saffron Walden Town Centre which was to be welcomed, but even an extra £20K to £30K value that could be achieved would enhance the Council's ability to offer help to directly affected businesses.

Councillor Howell said it was necessary to accept that the value of the land was influenced by whether it had alternative uses. The benefit of ensuring Waitrose remained in Saffron Walden was key. He was reluctant to jeopardise the company's commitment to Saffron Walden for the sake of such a small sum. His concern related to the retention of the freehold.

Officers confirmed that the Council would keep the freehold of its land for the car park which would be leased to Waitrose for 50 years. All the land the subject of the store extension would be sold to Strathclyde Pension Fund, Waitrose's landlords.

Councillor Cheetham asked about the timing for implementation of the proposals and the reason for calling a meeting of the Cabinet earlier than the next scheduled meeting.

The Assistant Director Planning and Building Control said the proposals were originally intended to be discussed at a meeting of Waitrose's Board of Directors last week for sign off but Waitrose had deferred that meeting in order to give time for the Cabinet meeting to be called. Waitrose intended to start building works in January 2014. A decision to accept the recommendations at tonight's meeting would have to be endorsed by the Charities Commission. The plan was that once the works started the car park would close for six months, then Waitrose would probably close for a couple of weeks in September 2014 in order to re-fit the store.

In reply to a question from the Chairman, officers confirmed that if works overran the compensation arrangements for car park income would be extended for that period.

Councillor Walters said he agreed with Councillor Howell. Clearly Waitrose knew its store was very important to Saffron Walden, but the Council had to have regard to the car park situation. Retailers would look to the Council. Members were not experts on this kind of deal, and he therefore asked whether Chase & Partners had expressed an opinion.

The Assistant Director Planning and Building Control said the report from Chase & Partners formed the basis of the recommendations, and their advice took into account the balance of all aspects of the deal.

Councillor Rolfe said some retailers had expressed the wish for a system of “pay on exit” car parking. He understood the Council were opposed to that kind of scheme but he wished to know whether other technologies such as vehicle number plate recognition could be suggested to Waitrose for consideration. Waitrose had already indicated they would set up a service to convey people to the store from Swan Meadow car park and he wondered whether they could be asked to do so from Audley End Station. He accepted the value of the land at the amount of £100,000 but asked that negotiations have regard to these opportunities.

The Assistant Director Planning and Building Control said regarding the bus service that was not part of this agreement but was a provision contained in the planning permission.

Councillor Cheetham said she disagreed with the pay on exit suggestion as this could lead to significant problems. She was aware that the Parking Partnership was likely to be responsible for the scheme. She was concerned to ensure that if building works took longer than six months the agreement should provide for its car park income to be underwritten during that time. Officers confirmed that this was the case.

In response to various points raised regarding payment on exit parking, the Assistant Director Planning and Building Control said the responsibility for installing car parking hardware was a matter for Waitrose in discussion with NEPP.

Councillor Rolfe said he would like Waitrose to be invited to be sympathetic to the request he had put forward and reiterated that retailers wanted exit pay.

Councillor Cheetham asked about the evidence for this request.

Councillor Godwin said the Scrutiny Committee had conducted a district-wide survey of car parks which showed pay on exit was a real issue with shoppers and retailers. The report on this survey was coming to the October meeting of the Committee.

The Assistant Director Planning and Building Control said payment on exit would require the Council, not NEPP, to provide staff to be on duty for dealing with problems which might arise in pay on exit car parks. The only suitable car park in Saffron Walden was Fairycroft, and compared to its benefit the cost of staffing was prohibitive. The focus should be on pay by phone, which had already been agreed by Cabinet.

Councillor Chambers summed up. He said good points had been made and he accepted this had been a hard negotiation, but it was crucial that the Council should safeguard the viability and vitality of Saffron Walden Town Centre. It would be unwise to risk through delay further negotiation over a few thousand pounds. The agreement contained more positives than negatives. He proposed the motion to accept the recommendations in the report. Councillor Cheetham seconded the proposal.

Councillor Walters said he could not dismiss his concerns but the car park at Fairycroft was too small to justify pay on exit.

Councillor Rolfe said he wished at least that dialogue be continued with Waitrose to work with business and residents of Saffron Walden in relation to car parking payment and assistance.

The Chairman said he would ask officers to take these points up with Waitrose.

RESOLVED That the redevelopment of the Waitrose store and Fairycroft car park be supported in principle, on the terms set out below, with the additional request by Cabinet members that the Council should consider measures to assist businesses directly affected by the temporary closure of the car park at Fairycroft and users of the car park.

- 1 That the Council agree to lease the land for the redeveloped Fairycroft car park to Waitrose for a period of 50 years with an underlease for 50 years less 1 day in favour of the Council and for the Council to manage all the car park under a Car Park Management Agreement.
- 2 To enter into a Car Park Management Agreement with Waitrose for 25 years which will provide for the maintenance of the car park and sharing of the net income with the Council to approve the car parking charges each year for the redeveloped Fairycroft car park to ensure they are generally in line with the other car parks in Saffron Walden and the town centre strategy.
- 3 That the portion of land owned by the Pig Market Trust and proposed to be built on by Waitrose is transferred as part of a land swap to the Council and the Council transfer to the Pig Market Trust a same sized piece of land adjacent to the Pig Market Trust ownership.
- 4 That the Council agree to sell the land the subject of the store extension to Strathclyde Pension Fund (Waitrose's landlords) for a sum of £100,000.
- 5 That Waitrose underwrite the Fairycroft car park income during the period of the build taking into account any uplift

- in income from other Saffron Walden car parks, the Rose & Crown car park to be excluded from this provision.
- 6 That the Council allows Waitrose to create a shopping distribution hub in the Swan Meadow car park for a 6-month period and pay the pro rata season ticket rate for the spaces (expected to be 5 spaces at £300 per annum - £750).
 - 7 That Cabinet delegate to the Assistant Chief Executive – Legal the authority to conclude the agreement within the parameters set out above, for the Council, in consultation with the Leader of the Council as necessary subject to there being no significant adverse implications for the Council's VAT position.
 - 8 That Waitrose cover the Council's costs (including those from their advisors, Chase and Partners).

CA38

WAITROSE AND FAIRCROFT REDEVELOPMENT PIG MARKET TRUST

The Assistant Chief Executive-Legal presented the second report setting out the situation regarding the decisions which the Council acting as Trustee of the Pig Market Trust needed to take to enable the development of the Waitrose store and Faircroft car park to take place. The Pig Market Trust had engaged the services of the consultants Chase & Partners to provide specialist advice to ensure the position of the Trust was safeguarded. The recommendations were put forward to ensure that the Council as Trustee of the Pig Market Trust continued to apply the charitable purposes of the Trust whilst the Council entered into the negotiations with Waitrose. The agreement being proposed would therefore enable the Trust to enter into land swapping arrangements with the Council for the purposes of the transaction, whilst ensuring the Trust gained replacement land suitable for its requirements and that it retained its fair share of net income from the proposed car park management agreement.

The Assistant Director Planning and Building Control said that, similarly to the recommendations relating to the previous item, there was a change to the recommendations relating to the underwriting of Faircroft car park income during the period of the build, in that any uplift in the income derived from the Rose and Crown car park would be excluded from the calculation.

RESOLVED that the redevelopment of the Waitrose store and Faircroft car park be supported in principle on the terms set out below.

- 1 That the Trust agree to lease the land for the redeveloped Faircroft car park to Waitrose for a period of 50 years with an underlease for 50 years less 1 day in favour of the Trust

and for the Council to manage all the car park under a Car Park Management Agreement.

- 2 To enter into a Car Park Management agreement with Waitrose which provides for the Trust to approve the car parking charges each year for the redeveloped Fairycroft car park to ensure they maintain an acceptable income level for the Trust.
- 3 That the Pig Market Trust transfers the land in their ownership to the Council subject to the sale to Strathclyde Pension Fund (Waitrose's landlords) on condition that the Council transfer a same size as the portion of land to the Pig Market Trust adjacent to the Pig Market Trust ownership.
- 4 That the Trust agree to the temporary relocation of the 6 spaces under the control of Self Build Limited to Trust land during the period of the rebuild.
- 5 That Waitrose underwrite the Fairycroft car park income during the period of the build taking into account any uplift in income from other Saffron Walden car parks, the Rose & Crown car park to be excluded from this provision.
- 6 That the Trust delegate to the Assistant Chief Executive – Legal the authority to seek Charity Commission approval to the transactions and to carry out any necessary steps as required by them in order to conclude the agreement within the parameters set out above in consultation with Councillor J Ketteridge as the named Trustee, as necessary.
- 7 That Waitrose cover the Trust's costs (including those from their advisors, Chase and Partners).

The meeting ended at 5.55pm.