

---

**Meeting:** Executive  
**Date:** 22 April 2014  
**Subject:** Arlesey  
**Report of:** Cllr Maurice Jones, Executive Member for Corporate Resources  
**Summary:** This report seeks approval to secure a partner to promote a planning application for the land east of High Street Arlesey and subsequent disposal of the Council's assets in the open market.

---

**Advising Officer:** Deb Clarke, Director of Improvement and Corporate Services  
**Contact Officer:** Andrew Gordon, Head of Estates  
**Public/Exempt:** Public  
**Wards Affected:** Arlesey  
**Function of:** Executive  
**Key Decision** Yes  
**Reason for urgency/  
exemption from call-in  
(if appropriate)** N/A

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

- Enhancing Central Bedfordshire – the project will support the regeneration of Arlesey as well as supporting the delivery of the strategic housing requirements as set out in the adopted Core Strategy for the north of CBC, by bringing Council assets forward for development on a major allocated site.
- Promote Health and Wellbeing and protect the vulnerable – the project would bring forward land for development, potentially resulting in new medical centres, as well as affordable housing and a number of sites that could be used for extra care accommodation.
- Improved infrastructure – the promotion of large scale development will contribute towards the delivery of new infrastructure.
- Value for money - the project will identify the best method of optimising value from the Council's assets and achieve best consideration in the disposal of these.

### **Financial:**

1. It is anticipated that the proposed method of delivery will deliver a substantial net capital receipt, a proportion of which is anticipated to be received within the Medium Term Financial Plan (MTFP) period. A proportion of the land value (normally 10 – 15% of net capital receipts) will be used to remunerate the promoter-partner. However, use of an expert promoter-partner will off-set costs involved through an up-lift in value of the land.
2. This sale will be subject to the draft disaggregation agreement with Bedford Borough Council (BBC), whereby 37.5% of the net sale value will be payable to BBC. Under the draft agreement the cost to prepare for market are deducted prior to the calculation of what is due to BBC.

**Legal:**

3. The legal implications of this proposal relate to securing possession from a farm tenant. There is an existing lease agreement that will need to be terminated as part of any agreement with a partner. The legal team will provide advice and guidance to ensure the Council's procedures are followed.

**Risk Management:**

4. The following key risks have been identified:
  - a. The anticipated level of capital receipts will not be achieved. The levels of receipts will be dependent on market conditions and cost of infrastructure, levels of Section 106 etc. There is a further risk that the capital receipts will not be achieved within the MTFP period – the proposed method of delivery will optimise the potential level and timing of capital receipts.
  - b. Anticipated non-financial outputs and outcomes are not realised – the brief to the Partner must unequivocally describe desired outputs and outcomes.
  - c. Failure to obtain planning permission – with the preferred approach the cost of pursuing a planning application would be met by the Partner. The site is included within the draft development strategy.
  - d. Failure to secure a partner – initial soft market testing and market intelligence suggests the site and proposed method of delivery will be attractive to the market.
  - e. Legal challenge – legal and procurement advice will be sought to mitigate the potential of a legal challenge.
  - f. Slippage of timescales – following appointment of a partner, milestones will be included within the agreement which will help mitigate against slippage.
  - g. Procedures not operated in a manner that demonstrates transparency, probity, and accountability – a full audit trail will be maintained throughout the process.
  - h. Failure to comply with relevant legislation – the Council's legal team will be engaged throughout the process.
  - i. Reputational risk – the chosen Partner will be expected to engage stakeholders throughout the process to mitigate this potential risk. The Council will undertake full checks on a potential Partner prior to entering into any agreement.
  - j. Poor value for money – the proposed method of delivery will optimise the level of capital receipts, whilst minimising expenditure and mitigating risk.
  - k. Under performance of chosen Partner – clauses for penalties and termination will be included within any agreement.
  - l. Failure to deliver the Council's priorities – the Council will relinquish some control of the development.
  - m. Potential perceived conflict of interests as Council is the landowner.
5. The planning and execution of this project will be developed recognising these risks.

**Staffing (including Trades Unions):**

6. Not applicable.

**Equalities/Human Rights:**

7. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Good planning can improve environments and opportunities for communities experiencing disadvantage. Planning which does not adequately engage with, or consider the needs of, local communities is unlikely to improve their life chances and may further entrench area-based disadvantage. Promoting equality of opportunity and social inclusion relates to the access to facilities and services, enhancing employment opportunities, the protection of open spaces as well as a broad range of policies concerned with the quality of life. Addressing the strategic land use, transport and development aspects of these needs is key to ensuring that the planning system is used to its full potential to deliver benefits to all communities.

**Community Safety:**

8. As part of the planning process the statutory standards for Community Safety will be met.

**Sustainability:**

9. As part of the planning process there will be a requirement for an Environmental Assessment as well as other policy requirements to provide sustainable development.

**Procurement:**

10. The Procurement team has been engaged and will provide advice and guidance to ensure the Council's Procurement procedures are followed or that appropriate other action is taken to secure a partner.

**Overview and Scrutiny:**

11. This matter has not been considered by Overview and Scrutiny.

**RECOMMENDATION:****The Executive is asked to:**

- delegate powers to the Director of Improvement and Corporate Services, in consultation with the Deputy Leader and Executive Member for Corporate Resources, to proceed in securing a partner to promote a planning application for the land east of High Street Arlesey, and progress a disposal of the Council's assets in the open market.**

*Reason for Recommendation:*

*The capital cost and potential capital receipts to be achieved from the selection of an alternative option (other than the option proposed), is potentially greater than £500,000 and therefore requires Executive approval.*

## Executive Summary

12. Arlesey Cross defines the land East and West of High Street (see attached plan), allocated for mixed but mainly residential development in the adopted Site Allocations document for the north of CBC, part of the Local Development Framework. The entire allocation comprises some 73.5 hectares gross, of which c.50 hectares is east of High Street (East Side) and c.23.5 hectares is west of High Street (West Side). The East Side is owned in entirety by the Council although currently subject to a farm tenancy which can be terminated. The West Side is in some 14 separate ownerships including the Council.
13. There is a Masterplan for Arlesey Cross which covers the entire allocated area. This Masterplan is endorsed as Technical Guidance for Development Management purposes. This report seeks Executive approval to the procedure for securing planning permission and delivery for development of the East Side, having regard to the options and recommendations which follow. It is probable that promotion and delivery of the West Side will be delayed for a considerable period due to the high number of land owners and complexity of delivery. Therefore the Council is pursuing development of the East Side, independent of the consortium. The Masterplan has guided the approach to this development proposal.
14. The East Side will comprise some 24.5 ha of residential land together with land for other uses including employment, local shopping, school, extra care and open space.
15. There are a number of options available to the Council to deliver its financial and regeneration objectives. In the case of the developer or the promoter option, whichever is adopted the Council needs to put in place a transparent and open procurement process.
16. Critical to the way the development is brought forward is the need to maintain a strong influence on both its evolution and detailed realisation on site. This is not simply about densities and the order in which parcels of land are brought forward but is also about the discretion around the timing of infrastructure works and the need for investment in the early stages of the development. In selecting a preferred route the ability to maintain this strong level of influence has been paramount.
17. ***The recommended option is to work with a promoter-partner to secure a planning consent and onward disposal to generate capital receipts and accelerate delivery.***
18. The agreement would commit the promoter-partner to meet all costs of securing planning permission and possession of the land in full consultation with the Council. The expectation would be submission of a planning application in Autumn 2014, and a resolution to grant in Spring/Summer 2015. The partner would be remunerated based on an agreed percentage of the value of the land on disposal. The costs of promotion will be netted off before dividing proceeds with BBC.
19. The benefits of this approach are:
  - a. With the appropriate legal structure in place a promoter-partner can enter into all planning, highway, and other agreements so that planning permission can be granted – the Council may have difficulties in entering into a S106 agreement with itself.

- b. This approach would ensure a straight forward relationship between Assets and Planning and avoid any potential perceived conflicts of interest.
- c. A promoter-partnership would allow for the earliest possible commencement of development. During the planning period all matters relating to the introduction of core infrastructure and the phasing of development would be resolved to allow development to commence shortly after planning permission is granted.
- d. All capital expenditure is met by the promoter-partner from the date of the agreement, thereby reducing the Council's cost exposure.
- e. First phase of housing potentially available by Summer 2016.
- f. Although a legal estate or beneficial interest in land would need to be given to the promoter-partner to allow the S106 to be completed the Council will retain significant control on the implementation and phasing of development.
- g. It is considered that the terms negotiable with a partner will be optimal in terms of value and timing of capital receipts and value for money.
- h. Furthermore, the promoter-partner would be incentivised to maximise the value of the land prior to disposal as their return is based upon a percentage of the disposal value, subject to the constraints of the brief.
- i. The promoter-partner will bring expert support and resources to ensure the successful delivery of the scheme.

20. The issues with this approach are:

- a. A proportion of the land value will be used to remunerate the promoter-partner, however most if not all of the value could be recovered because of expertise deployed by the expert promoter-partner. The Council relinquishes some control of the development, which may impact upon issues such as the levels of affordable housing, employment land, and community infrastructure.
- b. Notwithstanding the constraints of the brief, the promoter will be motivated to deliver best value from the land. It will be important therefore to ensure that non-financial outputs and outcomes expected from the development are unequivocally described in the brief.

21. In preparing the above recommendation, the following alternative options were considered and discounted:

22. ***Alternative Option A - CBC secure planning consent, prior to onward disposal***  
 When the land was allocated in 2011, the policy adopted, initially in conjunction with land owners on the West Side, but more recently to promote the East Side only, was to seek planning permission with a view to deferring a disposal to a developer consortium until consent was secured.

23. The benefits of this approach are:

- a. The Council maintains full control of the development, thereby safeguarding volumes of housing, employment land, and community infrastructure.

24. The issues with this approach are:
- a. The Council cannot commit to a Section 106 planning agreement with itself and negotiation with developer consortia would likely necessitate re-negotiation of the planning application and/or planning and highway agreements related to it. As a consequence there is a possibility of considerable delay and concerns arising with regard to the timing and quantum of the sales proceeds.
  - b. The Council would incur all costs related to the planning process.
  - c. The Council is directly exposed to reputational risk, and/or a possible Judicial review or other challenge, relating to its decision to give consent for land owned by the Council.

25. ***Alternative Option B - an immediate unconditional sale of the land***

Under this option, the Council would market the site for immediate sale.

26. The benefits of this approach are:

- a. The Council is likely to achieve an earlier capital receipt.
- b. There would only be minimal costs incurred by the Council relating to disposal.
- c. As a land sale, there are unlikely to be any procurement issues.

27. The issues with this approach are:

- a. If a developer consortium considered this approach the bid would reflect a full allowance for infrastructure, planning agreement, and other costs. These will be inflated for risk. This would result in significantly reduced capital receipts for the Council.
- b. The bid would also reflect both the risk and timeframe for securing an acceptable planning permission. For a scheme of this size a developer would normally wish to draw down land in phases from the date development commences.
- c. The Council might be challenged for agreeing to a sale which fails to maximise the value of the land with the benefit of planning permission.

**Conclusion and Next Steps**

28. If the recommendations set out in this Executive paper are approved, the Council will, in consultation with Procurement and Legal, commence work to secure a partner to achieve a planning consent and onward disposal of the land.

**Appendices:**

Appendix A – Site allocation for Arlesey Cross

# Appendix A – Site Allocation for Arlesey Cross

