

CABINET

Land at Aalborg Square, Lancaster 23rd June 2009

Report of Corporate Director (Regeneration)

PURPOSE OF REPORT			
To consider the potential disposal of land at Aalborg Square, Lancaster, to facilitate an extension of the courts building.			
Key Decision	<input checked="" type="checkbox"/>	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	June 2009		
This report is public			

RECOMMENDATIONS OF COUNCILLOR THOMAS

- (1) That the Council approves the principle of the disposal of land at Aalborg Square, Lancaster, subject to a further report on value as indicated in the report.
- (2) That the District Valuer be appointed to determine the valuation of the site in accordance with the Council's Disposal Strategy, and the General Disposal Consent.

1.0 Introduction

- 1.1 The Council are the owners of Aalborg Square, Lancaster, created as a result of the development of the magistrates courts building. The land owned by the Council amounts to 0.28 acres (0.11 hectares) and is shown edged black on the attached plan.
- 1.2 The Council has been approached by agents acting on behalf of Her Majesty's Courts Service who wish to acquire Aalborg Square for the purpose of extending the existing court building to facilitate housing the Crown Court that is currently housed in part of Lancaster Castle and the County Court that is currently based in leased accommodation in Mitre House.

2.0 Proposal Details

- 2.1 It is proposed that the Council dispose of the area of land shown edged black on the plan for the building construction and associated external works.
- 2.2 Initial discussions have been held with the Head of Planning & Building Control Service who has indicated that development of Aalborg Square would be a departure from normal policy and that development would not normally be accepted there. However, if the existing Court building is to be extended, Aalborg Square would be the preferred location for an extension of the building (as opposed to the rear of the building). Design would be particularly important in view of the proximity of Listed Buildings. This is a matter that would be dealt with by the Council as Planning Authority.
- 2.3 In view of the planning designation, it is considered that it is unlikely that any alternative form of development could take place. The Courts Service has indicated that because of this, together with their ability to vacate accommodation at Lancaster Castle to make the space available for tourism (see below), then they should have “special purchaser” status.
- 2.4 The space occupied by the courts at the Castle forms part of a current visitor attraction, also incorporating the Shire Hall and dungeons, and managed by Lancashire County Council Museums service. This attracts around 35,000 visitors a year, of whom high proportions are from overseas. However, the presence of the courts presents a significant practical constraint of the operation of the Castle “museum” as it can only be operated as a guided tour, and these tours cannot be conducted when the courts are in session. Tours also often have to be suspended at short notice. This significantly restricts the number of tourists that can visit the Castle. Removal of the courts could allow the Shire Hall and Court areas of the Castle to be developed to form a permanent museum and heritage attraction capable of accommodating significantly increased numbers of visitors. Lancashire County Council has recently commissioned a study to look at the feasibility and cost of this. The potential impact on visitor numbers has not been quantified at this stage, but it has the potential to become a highly significant visitor attraction that could raise Lancaster’s profile as major heritage destination.
- 2.5 The Lancaster and Morecambe Regeneration Vision identifies Lancaster’s heritage, in particular Lancaster Castle, as a transformational project and acknowledges that agreeing for the Courts to locate would be a great boost enabling the Castle to improve visitor facilities and to promote Lancaster much more effectively.
- 2.6 The Council, should it wish to proceed with the disposal, could proceed in accordance with the recently approved Disposal Strategy by utilising the powers available under the ODPM Circular 06/03, Local Government Act 1972: General Disposal Consent (England) 2003 (The Consent). It is considered that the relevant provision of that Consent would be related to the economic wellbeing of the area based on the tourism benefits from bringing the Castle back into greater use.
- 2.7 This process would require the amount of the “undervalue” to be identified by an independent valuer and it is suggested the District Valuer could be appointed to undertake this assessment on behalf of the Council.
- 2.8 The Council’s recently approved Disposal Strategy also sets out the ways in which a request to be a special purchaser should be dealt with. Because no marketing has taken place for the land it suggests that “to demonstrate that the agreed terms

represent best consideration, and therefore protect the Council from challenge, it is good audit practice for the District Valuer to be asked, where practicable, to supply a “franking” report for transactions of a significant/strategic nature”.

- 2.9 In view of the link regarding valuations between the General Disposal Consent arrangements and the Special Purchaser arrangements in the Disposal Strategy, should the Council approve the disposal of the land, then the District Valuer should identify the valuation of the site and indicate the level of undervalue if appropriate.
- 2.10 On offer has been made by the Courts Service (see the exempt appendix) and the potential exists for the District Valuer to set a valuation at the same level as offered by the Courts Service. Alternatively, the figure could be higher therefore triggering the General Disposal Consent. If Cabinet approves the principle of disposal of the land, then depending on the level of value, final approval would be as set out in the Financial Regulations and Constitution. Such a report will need to make it clear that, in order to proceed at less than best consideration, the decision maker must be satisfied that the sale will improve or promote social, economic or environmental well-being, and will need to be able to demonstrate that there is evidence for forming this view.

3.0 Details of Consultation

- 3.1 Discussions have been held with the Courts Service as part of the negotiations.
- 3.2 Initial discussions have also been held with the Council’s planning officers as indicated above.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 Option 1 is to approve the principle of disposal of the land at Aalborg Square to the Courts Service for the extension of the courts building that would facilitate the vacation of that part of Lancaster Castle currently occupied by the court. This would allow the potential to expand the tourism opportunities afforded by the Castle. In this option the powers granted under the General Disposal Consent could be utilised which may not result in the full value of the site being received by the Council but the economic benefits of the Courts Service vacating the Castle are considered to balance this lost. The opportunity exists for the District Valuer to undertake a valuation that would accord with the requirements of the General Disposal Consent and the requirements of the special purchaser provisions in the Council’s Disposal Strategy. In disposing of the land there would be a loss of an open space in the Lancaster along with a minimal reduction of maintenance responsibilities.
- 4.2 Option 2 is to consider the disposal of land at Aalborg Square but only at market value. This carries the risk that the Courts Service would take the view that it would not proceed with the development – a point that has been made during negotiations. In such circumstances, the opportunity to obtain the benefits of possession of Lancaster Castle for tourism may be lost. In disposing of the land there would be a loss of an open space in the Lancaster along with a minimal reduction of maintenance responsibilities.
- 4.3 Option 3 is not to consider the disposal of the land at Aalborg Square. This would result in the Council retaining the land which is an open space. However, the

opportunity to obtain the benefits of possession of Lancaster Castle for tourism would be lost.

5.0 Officer Preferred Option (and comments)

- 5.1 The preferred option is option 1 because this allows the retention of the Courts facilities in Lancaster along with releasing the tourism potential of that part of the Castle currently occupied by the Courts.

RELATIONSHIP TO POLICY FRAMEWORK

Objective 1 of the Council's Corporate Plan identifies a need to work in partnership to ensure a strategic approach to economic development and regeneration. The disposal of the land at Aalborg square for an extension of the Courts would help to meet this objective. Lancaster and Morecambe Regeneration Vision-transformational projects-Lancaster Castle identifies the relocation of the courts as a priority.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

There is no initial impact arising from this report, but should development ultimately take place, there would be a reduction in green space within the city. Any development that does take place would need to be in accordance with current regulations regarding sustainability issues.

FINANCIAL IMPLICATIONS

The Council's capital receipts schedule does not include for the disposal of the land at Aalborg Square – the sale would be an opportunity disposal and the capital receipt would be an addition to the Council's budget. The appointment of the District Valuer would enable a determination of the amount of undervalue to be known in accordance with the General Disposal Consent and in accordance with the Council's approved Disposal Strategy, with a further report made for final approval once the valuation is confirmed. Any minor implications for the revenue budget regarding maintenance would also be confirmed then, as appropriate.

In terms of the use of any additional capital receipt arising, it should be noted that under the Council's Capital Investment Strategy, such monies cannot be used to support new spending or take on new commitments. This is to help manage the capital risks that the Council currently faces (Luneside, Icelandic Investments, achieving planned land sales, etc). During the next budget and planning round there will be the opportunity to revisit the Strategy, however, to take account of unexpected developments such as this and their potential impact on investment priorities – as well as any changes in the Council's financial outlook.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no further comments to add.

LEGAL IMPLICATIONS

The Consent referred to in the body of the report means that specific consent is not required for the disposal of any interest in land at less than best consideration which the Council considers will help it to secure the promotion or improvement of the economic, social or environmental well being of its area. Specific consent is only required if the undervalue exceeds £2,000,000 (two millions pounds).

In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether or not any specific proposal to take such action falls within the terms of the Consent, the Council should ensure that it complies with normal and prudent commercial practices, including the obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue.

The preferred option complies with such requirements if the Council is satisfied that the "well being" criteria have been satisfied.

There are no legal implications in respect of the other 2 options.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Exempt.

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