

Report to: Cabinet



Date of Meeting 3 November 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Cloakham Lawns Employment Land, Axminster

Report summary:

- Vistry Homes Limited will be taking the lease of the compound; (Previously known as Bovis but Bovis still use Bovis as one of their trading name , plus Linden Homes which they acquired. It is one and the same Group)
- Vistry Homes Limited will be transferring the employment land (as registered proprietor of the land concerned);

The purpose of this report is to provide an update on the opportunity for an employment site to come forward in Axminster.

In 2011, the council entered into a S.106 Agreement with Bovis Homes (now Vistry Homes Limited) for the transfer of employment land to the council at the Cloakham Lawns housing development in the town. The trigger point for the transfer of this employment land has now been reached.

Following transfer, the council will undertake a feasibility study to consider the future employment options for the site. This report is therefore requesting a budget allocation of £59,400 to cover the costs associated with the transfer and the cost of a carrying out a feasibility study and masterplan exercise which will ascertain the best employment development options for the site.

The report also requests that delegated authority is given to the Service Lead for Place, Assets & Commercialisation to complete the transfer and to approve heads of terms with Vistry Homes Limited for temporary use by them of the employment land as a compound and to subsequently complete the associated leasehold documentation.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Cabinet recommends

- (i) that delegated authority is given to the Service Lead for Place, Assets & Commercialisation in consultation with the Portfolio Holder for Economy & Assets to approve the Heads of Terms and complete the lease with Vistry Homes Limited for a short term lease be entered into with them for the temporary use of this site as a compound whilst the feasibility study is undertaken and prior to development.

That Cabinet recommends to Council

- (ii) the allocation of up to £59,400 from the Business Rates Reserve Pool for a feasibility study and masterplan on future uses and for legal costs and stamp duty land tax in the acquisition.

Reason for recommendation:

A budget of £9,400 is required so that the transfer of the employment land can complete as HMRC Stamp Duty Land Tax needs to be paid on the transfer for which EDDC are liable. A budget of up to £50,000 is required so that a feasibility study and master planning exercise can be undertaken in order to identify the development options and possible returns from the site.

Bovis (trading name for Vistry Homes Limited) wish to use the compound for the next three years and until their housing development has completed and they will require a short term lease in order to use this site for this purpose. This transaction will generate an income stream for EDDC and will significantly reduce holding costs until EDDC are ready to take over the site.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information

Link to [Statement of Intent](#)

Priorities (check which apply)

- Better Homes and Communities for all
- Greener East Devon
- A resilient Economy
- Services that matter

Report in full

1. Background

- 1.1 Outline planning permission (10/0816/MOUT) was granted to Bovis on 29th March 2011 for a mixed use, urban extension of land at Cloakham Lawns on Chard Road, Axminster.
- 1.2 The scheme includes a maximum of 400 residential dwellings, managed employment space, public open space and the retention of existing recreational facilities at Cloakham Lawn Sports Centre.
- 1.3 A Section 106 agreement entered into by EDDC and Bovis relating to this development obliges Bovis to transfer the freehold interest in the serviced employment land element of the scheme to EDDC upon reaching the prescribed trigger event for the transfer, being the occupation of more the 50% of the dwellings under construction. This event occurred on 14th August 2020 although EDDC were not notified of the trigger event occurring until 22nd Jan 2021.
- 1.4 The land to be transferred is approx. 0.75 acres and is highlighted in red on the following plan.



- 1.5 The Transfer is to take place at 'nil cost' to the Council although Vistry Homes Limited have no obligation to pay any of EDDC's professional, legal or other acquisition costs arising from the transaction. Furthermore, the employment land must be laid out as serviced land to the satisfaction of EDDC.
- 1.6 As part of the due diligence process relating to the transfer of this parcel of land, Legal Services will need to carry out several searches and incur various disbursements which are likely to be in the region of £1000. Legal must also submit an HMRC SDLT (stamp duty land tax) return confirming the open market value of the land which is then used to calculate the SDLT payable on the transaction.

2 Valuation

- 2.1 Comparable evidence of employment land values in Devon suggest this site is worth between £350 - £375k per acre, which results in a land value of approx. £280,000.

3 SDLT liability

- 3.1 The resultant SDLT is £3500 assuming a realisation date of 1st December 2021. However, as the contracts were exchanged prior to 17th March 2016 when the SDLT regime changed, EDDC may have to pay stamp duty based on the old SDLT rules which could result in an SDLT payment of £8400. The worst case scenario has been assumed.

4 Development Options for the Employment Land

- 4.1 If EDDC is unable to complete the construction within 5 years from the date of transfer, the Council or its successors shall be free to develop the employment land for any purpose (subject to planning) provided that if consent is given for residential on all or part of the employment land, the Council or their successors in title shall pay the person who transferred the employment land to the Council 50% of the uplift in value, which is currently Vistry Homes Limited. The mechanism for arriving at the increase in value and payment dates is detailed in the S 106.
- 4.2 Evidence on employment need for Axminster and the east of district, suggests that there is likely to be a good level of demand for employment space within the town. Our Economic Development team's most recent workspace survey of 26 directors at Millwey Rise opposite this site (Sept 2018) identified a net additional B use land requirement of 3.82 ha to 2023. No new employment land has since come forward in Axminster to meet this demand and the estate remains at capacity. Furthermore, the speed with which local businesses have taken up all available space at The Carpet Factory provides more recent and robust evidence of employment demand which has persisted despite the pandemic.
- 4.3 The site has the potential for direct investment by the council and this will be explored as part of the feasibility study.

5 Feasibility Study

- 5.1 A Feasibility study and master planning exercise will therefore need to be carried out to ascertain the best employment use for the land taking into consideration all relevant factors. This is likely to cost up to £50,000 and will be led by an Officer in the Place and Prosperity Team. The findings of this study will be reported to the Asset Management Forum in the first instance.
- 5.2 The S 106 states that EDDC are to use reasonable endeavours to complete construction of the Employment Land within 5 years of the date of transfer (not the occupancy trigger date of 14th August 2020). This date will be crystallised once the Transfer takes place.

6 Proposed short term lease of the Transfer Land

- 6.1 Bovis have been using this site as a compound since 2020 and now wish to enter into a lease with EDDC for a further 3 years to take them to the end of their scheme. Terms have not yet been agreed as EDDC can only agree a lease with Vistry Homes Limited when EDDC accept a transfer of the freehold interest in the land. The rent for use of the compound is likely to be in the order of £4000 pa but a capital payment will also be requested to cover the period the compound has been used by Bovis post the trigger event, up until the date of completion of the new lease as rent cannot be collected for this period.

- 6.2 The S 106 agreement which contains the transfer obligations, requires Vistry Homes Limited to provide a serviced plot which must be signed off by EDDC prior to handover. This obligation will be reinforced in the lease agreement with Vistry Homes Limited.
- 6.3 The lease agreement with Vistry Homes Limited will also require them to be liable for all security, insurance and maintenance of the site and avoid EDDC incurring holding costs whilst the feasibility and master planning is being carried out.

7 Summary

- 7.1 EDDC must accept a transfer of the land from Vistry Homes Limited but in doing so, it will 'acquire' valuable employment land worth approx. £280,000. Although upfront costs are in the region of £9,400 in order to complete the Transfer, and £50,000 for a feasibility study with master planning, any future development of the land for employment uses will result in the creation of jobs in Axminster. The site offers the opportunity for direct investment by the council if that appetite exists.
- 7.2 The feasibility study and master planning work will determine the best development options for the site and is anticipated to cost up to £50,000.
- 7.3 In the interim, once the transfer completes and new lease terms with Vistry Homes Limited are agreed for a term of 3 years, EDDC will be able to secure an income from the letting of the compound to Vistry Homes Limited whilst the feasibility study and master planning is carried out. This also removes any obligation on EDDC to secure, insure and maintain the site during this period.

Financial implications:

Accepting a transfer of the land will gain EDDC employment land worth approx. £280,000. Associated upfront costs of circa £9,400 are required to complete the transfer and £50,000 for a feasibility study. A lease income in the order of £4,000 pa for 3 years will be agreed as part of the transfer. The background to these figures is to be found in the text of the report. The source of funds indicated in the report will need to be confirmed.

Legal implications:

What is proposed is within the power of the Council to agree to. It seems a reasonable approach in the circumstances. Legal will advise on the transfer and lease as appropriate. Otherwise there are no legal implications requiring comment.