

Date of issue: Tuesday, 25 October 2022

MEETING	CABINET (SPECIAL)
	Councillor Swindlehurst Leader of the Council and Cabinet Member for Council Recovery, Forward Strategy & Economic Development
	Councillor Mann Deputy Leader and Cabinet Member for Housing & Planning
	Councillor Ajaib Customer Services, Procurement & Performance
	Councillor Akram Leisure, Culture & Community Empowerment
	Councillor Anderson Financial Oversight & Council Assets
	Councillor Bains Public Protection, Regulation & Enforcement
	Councillor Hulme Children's Services, Lifelong Learning & Skills
	Councillor Nazir Transport & The Local Environment
	Councillor Pantelic Social Care & Public Health
DATE AND TIME:	WEDNESDAY, 2ND NOVEMBER, 2022 AT 6.30 PM
VENUE:	COUNCIL CHAMBER - OBSERVATORY HOUSE, 25 WINDSOR ROAD, SL1 2EL
DEMOCRATIC SERVICES OFFICER:	NICHOLAS PONTONE
(for all enquiries)	07749 709 868

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



GAVIN JONES
Chief Executive

Agenda

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
1.	Declarations of Interest <i>All Members who believe they have a Disclosable Pecuniary or other Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 9 and Appendix B of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.</i>	-	-
2.	Montem Site Appropriation	1 – 10	All
3.	Disposal of Council Asset - Former Akzo Nobel site	11 - 26	All
4.	Exclusion of Press and Public <i>It is recommended that the Press and Public be excluded from the meeting during consideration of the item in Part 2 of the Agenda, as it involves the likely disclosure of exempt information relating to the financial and business affairs of any particular person (including the Authority holding the information) as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (amended).</i>		
PART II			
5.	Disposal of Council Asset - Former Akzo Nobel site - Appendices 4-6	27 - 62	All

Press and Public

Attendance and accessibility: You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before any items in the Part II agenda are considered. For those hard of hearing an Induction Loop System is available in the Council Chamber.

Webcasting and recording: The public part of the meeting will be filmed by the Council for live and/or subsequent broadcast on the Council's website. The footage will remain on our website for 12 months. A copy of the recording will also be retained in accordance with the Council's data retention policy. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

In addition, the law allows members of the public to take photographs, film, audio-record or tweet the proceedings at public meetings. Anyone proposing to do so is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.

Emergency procedures: The fire alarm is a continuous siren. If the alarm sounds Immediately vacate the premises by the nearest available exit at either the front or rear of the Chamber and proceed to the assembly point: The pavement of the service road outside of Westminster House, 31 Windsor Road.

Note:-

Bold = Key decision

Non-Bold = Non-key decision

**AGENDA
ITEM**

REPORT TITLE

PAGE

WARD

Slough Borough Council

REPORT Special Cabinet

DATE: 02 November 2022

SUBJECT: Montem Site Appropriation

PORTFOLIO: Councillor Robert Anderson, Lead Member for Financial Oversight and Council Assets

CHIEF OFFICER: Patrick Hayes - Executive Director Housing and Property

CONTACT OFFICER: Patrick Hayes - Executive Director Housing and Property

WARD(S): All

KEY DECISION: Yes

EXEMPT: No

DECISION SUBJECT TO CALL IN: No

APPENDICES

A. Report to Council on 22 September 2022 - Recommendation of the Cabinet from the Meeting Held 18th July 2022 – Montem Lane Appropriation

B. Montem Appropriation Plan

1 Summary and Recommendations

- 1.1 On 18 July 2022 Cabinet resolved to recommend to full Council that officers be authorised to take all necessary steps to appropriate the Montem site (shown edged red on the plan in Appendix 5) for planning purposes to facilitate the carrying out of development, redevelopment or improvement on or in relation to that land.
- 1.2 On 22 September Council resolved to appropriate the Montem site to planning (shown edged red in the plan at Appendix 1) under section 226 of the Town and Country Planning Act 1990 on the grounds that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, and the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or any part, of their area.
- 1.3 The plan of the land to be appropriated for development attached to both the Cabinet and the Council reports (and attached at Appendix B of this report) mistakenly referred to the land shown edged red on the plan, whereas in fact the proper extent of the land

to be appropriated is the land shown edged orange on the plan. The land shown edged red is the footprint of the larger Montem site, and includes land that is not being appropriated.

Recommendations:

Cabinet is therefore recommended to:

- 1.1 Note that the plan of the land to be appropriated for development attached to both the Cabinet and the Council reports (and attached at Appendix C of this report) mistakenly referred to the land shown edged red on the plan, whereas in fact the proper extent of the land to be appropriated is the land shown edged orange on the plan. The land shown edged red is the footprint of the larger Montem site, and includes land that is not being appropriated.
- 1.2 Agree to appropriate the Montem site to planning (shown edged orange on the plan attached at Appendix B of this report) under section 226 of the Town and Country Planning Act 1990 on the grounds that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, and the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or any part, of their area
- 1.3 Agree that officers be authorised to take all necessary steps to appropriate the site (shown edged orange on the plan attached at Appendix B of this report) for planning purposes to facilitate the carrying out of development, redevelopment or improvement on or in relation to that land.
- 1.4 Recommend to full Council to revoke its resolution of 22 September 2022.

Commissioner Review

There are no costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and land value. The commissioners are therefore content with the report.

2 Report

- 2.1 Full planning permission for the proposed residential development of the Montem Lane site to include 212 new homes has been approved (planning reference: P/07383/010). Planning committee approval was granted in January 2021 and the S106 Agreement was executed in April 2022
- 2.2 The target date for exchange of contracts on the sale of the Montem site is 11 Nov 2022 and to achieve that date engrossments will need to be in place for 4 Nov 2022 to enable the final purchaser Board approval. Therefore, the revisions to the Appropriation resolution needs to be in place by 4 November to enable the exchange to take place on 11 November.

3. Financial implications

- 3.1 There are no financial costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and value.

4. Legal implications

- 4.1 The Council has a general power to appropriate land under section 122 of the Local Government Act 1972 (LGA 1972).
- 4.2 Section 226 of the Town and Country Planning Act 1990 (TCPA 1990) authorises the Council to acquire compulsorily any land in their area for planning purposes.
- 4.3 Under para 12 of Part 3.5 (Responsibility for Executive Functions) of the council's Constitution the acquisition and/or appropriation of property for rationalisation of the Council property portfolio or for the facilitation of development initiatives outside of agreed disposal and acquisition policies is a Cabinet function.
- 4.4 The Responsibility for Council Functions rules states that certain appropriation decisions are reserved to full Council; however this is intended to cover those decisions that can only be taken by full council and relate to allotments and open space. The original decision incorrectly included land that was designated at open space; however the statutory processes had not been followed prior to the decision and therefore even if the Council had intended for this land to be appropriated, it had not followed a lawful statutory process. The Council does not intend for development to take place on the open space land and it is important that the status of the open space remains in place.
- 4.5 A decision of the Council relating to the appropriation of land or its subsequent disposal can be challenged if the Council has acted beyond its powers or has not carried out the correct legal procedures in making the order. Therefore the Council must make a new decision to appropriate the correct area of land and take a separate report to full Council to revoke its resolution of 22 September 2022.

5. Risk management implications

5.1 Risks

There are no financial costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and land value.

However, there is a risk of the council acting unlawfully if the plan attached to the recommendation to appropriate to the Montem site does not properly delineate the land to be appropriated by the council.

6. Environmental implications

6.1 No environmental implications have been identified as a direct result of this report.

7. Equality implications

7.1 No equality implications have been identified as a direct result of this report.

8. Procurement implications

8.1 No procurement implications have been identified as a direct result of this report.

9. Workforce implications

9.1 There are no workforce implications relating to this report.

10. Property implications

10.1 The appropriation of the Montem site can proceed

11. Background Papers

None

Slough Borough Council

Report To:	Council
Date:	22 September 2022
Subject:	Recommendation of the Cabinet from the Meeting Held 18 th July 2022 – Montem Lane Appropriation
Lead Member:	Councillor Anderson, Lead Member for Financial Oversight and Council Assets
Chief Officer:	Richard West, Executive Director Place and Community Steven Mair, Executive Director Finance and Commercial (s151)
Contact Officer:	Dean Tyler, Associate Director Place Strategy and Infrastructure Carmel Booth, Financial Advisor
Ward(s):	All
Key Decision:	YES
Exempt:	No
Decision Subject To Call In:	YES
Appendices:	Appendix 1 – Montem Appropriation Plan

1. Summary and Recommendations

1.1 This purpose of this report is to consider the recommendation of the Cabinet from its meeting held on 18th July 2022 to appropriate the Montem site to planning.

Recommendations:

1.2 The Council is requested to resolve to appropriate the Montem site to planning (shown edged red in the plan at Appendix 1) under section 226 of the Town and Country Planning Act 1990 on the grounds that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, and the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or any part, of their area.

Reason

1.3 Appropriation of the land to planning purposes will aid with the disposal of this key site for residential development.

Commissioner Review

- 1.4 There are no costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and land value. The commissioners are therefore content with the report.

2. Report

- 2.1 Full planning permission for the proposed residential development of the Montem Lane site to include 212 new homes has been approved (planning reference: P/07383/010). Planning committee approval was granted in January '21 and the S106 Agreement was executed in April '22.
- 2.2 There are no costs or risks associated with the appropriation of the Montem site to planning (shown edged red the plan at Appendix 1) and the process de-risks future redevelopment of the land adding to deliverability and land value.

3. Implications of the Recommendation

3.1 Financial implications

- 3.1.1 There are no financial costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and land value.

3.2 Legal Implications

- 3.2.1 At the Cabinet meeting on 19 July Cabinet considered a report titled 'Slough Urban Renewal - disposals update'. Recommendation 11 (e) of the agreed decisions:

"Noted that those parts of the Montem site which belong to the Council are no longer required for the purposes for which they are presently held, and recommend to full Council that officers be authorised to take all necessary steps to appropriate the site (shown edged red on the plan in Appendix 5) for planning purposes to facilitate the carrying out of development, redevelopment or improvement on or in relation to that land"

- 3.2.2 The Council has a general power to appropriate land under section 122 of the Local Government Act 1972 (LGA 1972).

Section 226 of the Town and Country Planning Act 1990 (TCPA 1990) authorises the Council to acquire compulsorily any land in their area for planning purposes.

This acquisition can take place:

- If the Council thinks:
 - the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land (*section 226(1)(a), TCPA 1990*);
 - and

- the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or any part, of their area (*section 226(1)(a) and (1A), TCPA 1990*).

A decision to appropriate land for planning purposes under section 226(1) of the TCPA 1990 must indicate that this is the purpose of the appropriation.

Under section 233(1) of the TCPA 1990, the Council can dispose of land appropriated for planning purposes to such person, in such manner and subject to such conditions as appear to the Council to be expedient to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by the Council or by any other person) (*section 233(1)(a), TCPA 1990*).

A disposal of land under section 233 of the TCPA 1990 includes a sale of the freehold interest, granting a lease, assigning any unexpired term of a lease or the granting of easements.

- 3.2.3 Under section 123 of the Local Government Act 1972 , the Council has a statutory duty to sell land at the best price reasonably obtainable.
- 3.2.4 A decision of the Council relating to the appropriation of land or its subsequent disposal can only be challenged if the Council has acted beyond its powers or has not carried out the correct legal procedures in making the order. Legal advice should be sought on the legal procedures for making the appropriation order, and the subsequent disposal.

3.3 Risk Management

- 3.3.1 There are no financial costs or risks associated with the appropriation process.

3.4 Environmental Implications

- 3.4.1 No environmental implications have been identified as a direct result of this report.

3.5 Equality implications

- 3.5.1 No equality implications have been identified as result of this report.

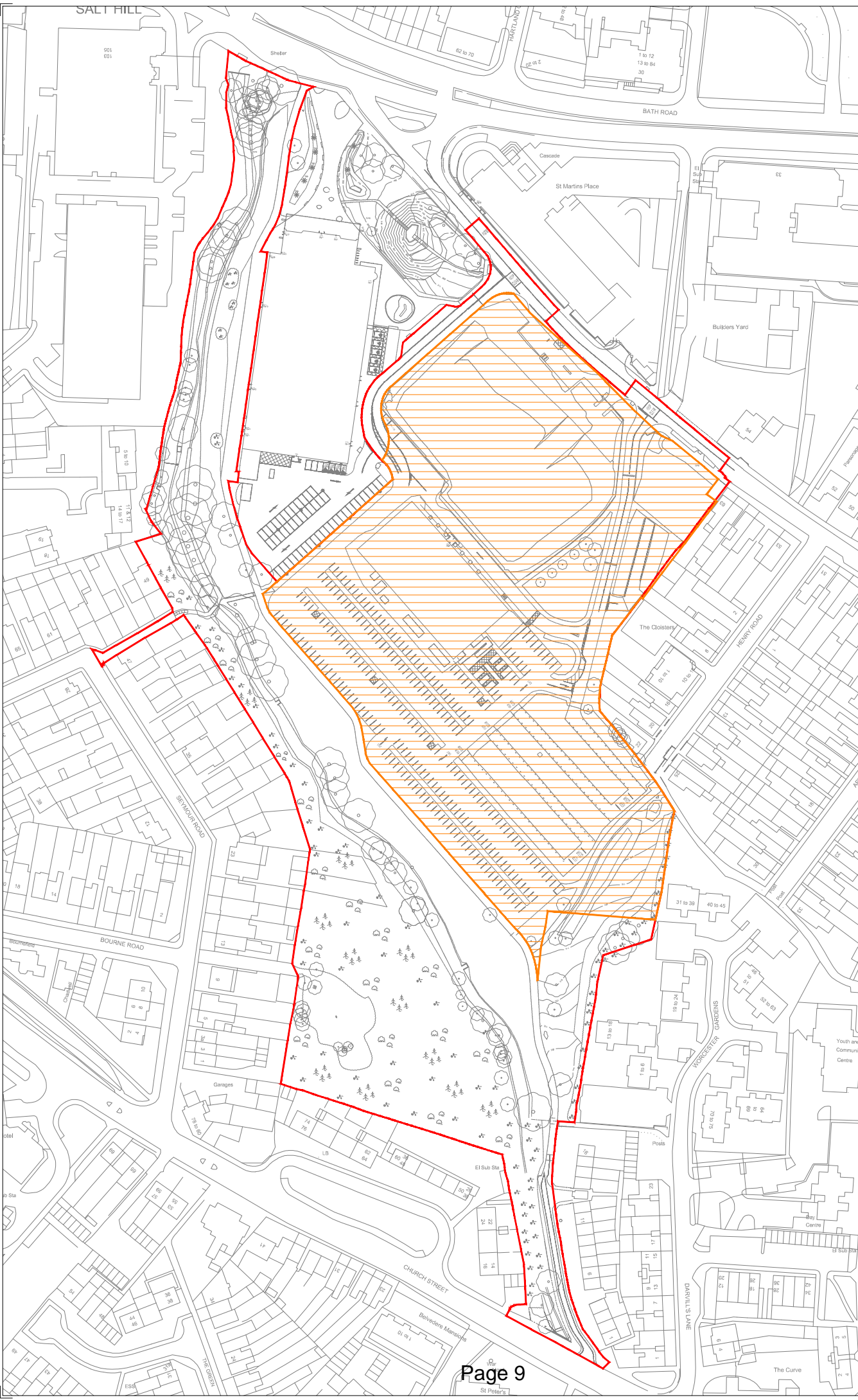
3.6 Procurement implications

- 3.6.1 No issues have been identified for the Council.

4. Background Papers

- 4.1 Montem Lane Summary for Members

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The Designer is responsible for ensuring all necessary addresses and references are displayed on the site plan. The Designer shall ensure that the site plan is accurate and up-to-date. The Designer shall ensure that the site plan is accurate and up-to-date. The Designer shall ensure that the site plan is accurate and up-to-date.

Key

- Application Boundary
- Disposal Area

01 10/2023 10/2023 Revise
 02 11/2023 11/2023 Revise
 03 12/2023 12/2023 Revise
 04 01/2024 01/2024 Revise

MONTEM LANE, SLOUGH
SITE CONVEYANCE PLAN

AA5991C-12001 **REV 02**
FOR COMMENT

01/24/2024 01/24/2024 Date 1/24/2024 Scale 1:1000

PRP PRP
020 9663 1000

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Slough Borough Council

REPORT TO:	Cabinet
DATE:	2 nd November 2022
SUBJECT:	Disposal of Council Asset – Former Akzo Nobel site
PORTFOLIO:	Councillor Rob Anderson Lead Member for Financial Oversight and Council Assets
CHIEF OFFICER:	Pat Hayes, Executive Director Housing and Property Steven Mair, Executive Director Finance and Commercial (s151)
CONTACT OFFICER:	Fin Garvey, Group Manager – Place Delivery Peter Worth, Finance Lead Technical Advisor
WARD(S):	All
KEY DECISION:	YES
EXEMPT:	Public with exempt appendices under paragraph 3 of Schedule 12A Local Government Act 1972 – Information relating to the financial or business affairs of the Council
DECISION SUBJECT TO CALL IN:	YES
APPENDICES:	1 – Avison Young Disposal Report (13 October, 2022) outlining Marketing and Bidding. 2 – Planning Advice 3 – Independent valuation report for Akzo Nobel site Confidential Appendices: 4 – Avison Young – Asset Disposal Recommendation, 13 October, 2022 5 – Heads of Terms for the sale of the former Akzo Nobel site 6 – Detailed Financial Implications

1. Summary and Recommendations

- 1.1. This report seeks approval for the disposal of the former Akzo Nobel site.
- 1.2. The proposed asset sale has been subject to a due diligence process and reflects the best consideration reasonably obtainable for the disposal of the asset in

accordance with section 123 of the Local Government Act 1972. The asset sale will generate a capital receipt which will be applied to reduce borrowing and the Council's Minimum Revenue Provision (MRP).

Recommendations:

1.3. Cabinet is recommended to:

- a) Agree to the disposal of the former Akzo Nobel site and to delegate authority to the Executive Director of Property and Housing, in consultation with the Lead Member for Financial Oversight and Council Assets and the Executive Director of Finance and Commercial, to negotiate the terms of and enter into the contract and other legal documentation in connection with the disposal in accordance with the Heads of Terms appended at Appendix 5.

Reason:

- 1.4. The early disposal of this significant asset is a key element of the Council's new Corporate Plan, which includes a strategic priority to be "a Council that lives within its means, balances the budget and delivers best value for taxpayers and service users." Agreement to the recommendations in this report will contribute to the reduction in the Council's future financial commitments, generate disposal receipts at the earliest opportunity and reduce the Council's borrowing and MRP. The proposed asset sale has been subject to a due diligence process and reflects best consideration reasonably obtainable from the disposal of the asset in accordance with section 123 of the Local Government Act 1972.
- 1.5. The disposal of this asset will enable the Council to simplify the property portfolio and enable the Council to focus on its core activities and services.

Commissioners Review

The recommendations are supported. Disposal of this site is essential as part of the journey back to financial stability.

2. Report

Introduction and Context

- 2.1. The Council acquired the site in 2020/21 as part of the Council's then plans to re-develop the site of the former Akzo Nobel works for a mixture of commercial and residential development.
- 2.2. The January 2021 Cabinet report which approved the purchase of the former Akzo Nobel site envisaged up 1,000 residential units to be delivered with at least 25% affordable housing. The report set out that the project would yield the following economic benefits:

- increased population and labour force – 1,220 additional economically active people;
- enhanced local spending power – total income of circa £29.0 million per annum, one-off expenditure in excess of £5.5 million upon first occupation of new homes;
- residents' annual combined retail and leisure expenditure will equate to £22.9 million, supporting 210 jobs;
- Local Authority Revenue – £1.7 million in Council Tax £5.4 million in New Homes Bonus payments;

and potential wider economic benefits of:

- 25% affordable housing: £12.9 million in wider economic benefits, or
- 50% affordable housing: £25.2 million in wider economic benefits

2.3. However, the financial implications of the project were not reported in the public Cabinet report in January 2021. Instead, the public report stated that the financial implications were considered in the Confidential Appendix C.

2.4. Furthermore, the project was not properly costed in the Confidential Appendix C report. The only costs reported were the cost of acquiring the site (£38m) and remediating the site to address contamination issues (£1.3m) with a vague estimate of over £200m to develop the site. The Confidential Appendix C report provided:

- no detailed assessment of the total project cost. The development costs were reported in Confidential Appendix D to the January 2021 report at £217m. When added to the purchase price of the land took the total project cost to the Council to over £250m;
- no assessment of the cost risks associated with the project – for example, the report did not explain that the purchase price of £38m was predicated on securing Homes England funding, which if not available would increase the purchase price by £2.4m in respect of Stamp Duty Land Tax;
- no detailed assessment of how the project was to be funded. In particular, it was unclear whether this was to be a General Fund project or within the HRA, whether Right to Buy capital receipts were to be used, what external funding had been obtained or was being obtained such as Homes England grant, what level of external borrowing would be required and what the impact would be on council tax and/or housing rents.

2.5. Confidential Appendix C stated:

The acquisition and project costs will be funded through a combination of existing HRA capital budget and funding agreed for Strategic Acquisition (General Fund). This would be reflected in the 'Treasury Management Strategy 2021/22' and 'Capital Strategy 2021 to 2025' reports to Cabinet in February 2021.

However, neither of the above reports included the Akzo Nobel purchase nor how it was to be funded. In other words, the Council agreed to purchase a site and potentially embark on a project which would have committed the Council to at least £250m without any clear idea about how this was to be paid for or from where.

- 2.6. On 2 July 2021, the s.151 officer issued a s.114 Notice in response to the Council's adverse financial position. As part of the response to the s.114 Notice, the capital programme was fully revised, and in March 2022, the Council approved a capital programme which focused on projects which attracted external funding and minimised the need for any new borrowing. Consequently, the project, as originally reported, had no financial means of being delivered and the current position is that funding could not be provided in the foreseeable future. The asset is therefore surplus to requirements and needs to be disposed of.

Context

- 2.7. On 21 June 2021, Cabinet approved the Asset Disposal Programme which outlined the principles and process for disposing of surplus General Fund land and property assets to reduce borrowing costs. The report highlighted that the Council would seek to dispose of surplus assets to support the following objectives:

- provide capital receipts to contribute to the 2022/23 budget through reducing MRP and borrowing costs; and
- provide capital receipts to meet Capitalisation Directive commitments and align with the Medium-Term Financial Strategy (MTFS) to reduce overall borrowing costs.

- 2.8. The Asset Disposal Programme approved in June 2021 set out the following sequential steps for disposing of assets:

- Identify assets for disposal
- HB Public Law to produce detailed Reports on Title for each asset identified for disposal
- Asset valuation – obtain up to date independent valuations to provide a benchmark for assessing best consideration,
- Methods of disposal - take advice on the most advantageous method of disposal
- Officer Delegation – authorise the Executive Director (Place), subject to proper legal/valuation advice to dispose of assets up to £1m in value after consultation with the S151 and Monitoring Officers.

- 2.9. In the context of the former Akzo Nobel site disposal in this report:

- Avison Young (AY) have been appointed as external property advisors to assist with the identification of assets for disposal, marketing and advice on disposal methods;
- HB Public Law have produced a detailed Report on Title for the asset;
- An up-to-date independent valuation has been provided by the RICS registered valuers Wilks, Head and Eve LLP (WHE);
- AY have advised on the most advantageous method of disposal – in this case informal treaty;
- As the value is over £1million for this site, approval is being sought from Cabinet to dispose of the asset.

- 2.10. As part of the Council's budget setting process for 2022/23, the Council approved a Treasury Management Strategy (TMS) for the period 2022/23 to 2026/27 on 10 March 2022. A key element of the TMS is the need to reduce borrowing to bring the Council back onto a more sustainable financial footing.
- 2.11. The TMS includes a target to generate capital receipts from asset disposals of £50m in 2022/23 with an aspiration to realise £100m of receipts by 31st March 2023.

Asset Review

- 2.12. Following a detailed procurement exercise, Avison Young (AY) were appointed to support the delivery of the Asset Disposal Programme in March 2022. The appointment included advising on an asset disposal strategy and marketing of assets for disposal in a way that would secure the best consideration reasonably obtainable.
- 2.13. As the site is non income producing, was not used for operational or service delivery, but could yield a high capital receipt it was agreed this should be brought to market as a priority to help alleviate Slough Borough Council's ("the Council") current financial burden.

The Site

- 2.14. The site is 11.5 acres of brownfield land with outline planning consent for up to 1,000 dwellings and flexible commercial use. The site is currently designated for industrial use reflecting its former use by Akzo Nobel.
- 2.15. The Council has sought planning advice contained in Appendix 2. The planning consent for residential is a material planning consideration but is a departure from adopted Local Plan Policy. Use of the site for business and industrial purposes, including storage distribution and data centres is planning policy compliant as set out in the planning background.
- 2.16. It is recognised that the proposed development of the site as a data centre complex will generate limited employment and that there are potential environmental impacts which will be addressed within the planning process.

Marketing

- 2.17. The site was marketed with a technical pack that included tenancy information, title information and an environmental report. The site was formally launched to market on 2 July 2022 with a half page advert in the Estates Gazette. A marketing mailshot was sent out at the same time to 3,000+ developers, investors, and agents across the South-East. A bespoke marketing brochure was produced and circulated to all parties on request. 114 expressions of interest were received.
- 2.18. Three inspection days were arranged on 14, 20 and 27 July, and a number of parties viewed the site externally.
- 2.19. The site was well received by the market with many credible parties contacting AY and requesting more information concerning the sale.
- 2.20. In response to an initial bid deadline of 12 noon 9 August, 14 bids were received from 13 parties.
- 2.21. Appendix 1 provides AY's detailed report on the marketing process for the asset.

Valuation

- 2.22. Following Cabinet approval on 18 January 2021 the asset was acquired for a total of £38,530,552 from Panattoni on 1 February 2021.
- 2.23. The asset was held in the Council's balance sheet at cost as it was a development site included within Assets under Construction. However, since the asset was declared surplus, the asset has been revalued at fair value in line with accounting standards. Fair value measures the "highest and best" value in the most advantageous market for an asset (i.e. this method of valuation includes considering alternative uses for the asset as well as its current use).
- 2.24. The asset was valued on 25 October 2022 to reflect current market conditions by WHE to provide a guide price for sale. The valuation report from WHE is at Appendix 3.
- 2.25. This site is identified within the overall strategic review of Council assets and included within the Disposal Strategy approved by Cabinet on 17 October 2022. Advice from AY that informed the Disposal Strategy recommended the current timeframe for disposal to secure the current favourable market conditions.

Preferred bidder

- 2.26. Details of the preferred bidder are set out in the Confidential Appendix 4. The bidder was selected based on the highest financial receipt, funding in place and ability to complete before the end of November 2022. There are no material conditions to the offer.
- 2.27. Heads of Terms have been agreed with the preferred bidder and will be ready to simultaneously exchange and complete subject to approval of Cabinet and the purchaser's board approval. Details are set out in Confidential Appendix 5.

Options considered

- 2.28. Option A - To retain the asset for future development. The site is a non-income producing site originally acquired for mixed residential and commercial development. Had the project progressed as originally envisaged, then the total costs of the residential development alone would have committed the Council to a capital project of at least £250m. The Council does not have any internal resources to fund a project of this magnitude and would have to rely upon external borrowing.
Assuming no external funding (e.g. Homes England grant), this would increase the Council's debt charges by £27.5m per annum at current interest rates. This is unaffordable to the Council. Just holding the site as an undeveloped site is costing the Council £4.1m in MRP and interest at current rates. A holding strategy would put the Council at the risk of the current unstable and unpredictable investment market and presents the Council with financing costs which it cannot afford
- 2.29. Option B - To dispose of the asset based on the agreed Heads of Terms and subject to legal and valuation advice. This option produces a capital receipt which will support the Council's corporate priorities and reduces the Council's future capital financing costs.
- 2.30. **Option B is recommended** to Cabinet for approval.

3. Implications of the Recommendation

Financial implications

- 3.1. When the Council purchased the site in 2021, the purchase price paid was exempted from Stamp Duty Land Tax (SDLT) on the transaction, as the Council planned to attract public grant to part fund the cost.
- 3.2. Given that the Council intends to dispose of the site and no grant funding will be involved, the conditions for relief from SDLT are no longer met, and the Council will be liable to pay SDLT of circa £2.3m plus interest of £0.1m. HMRC have the power to impose a penalty if they determine that relief was claimed inappropriately. However, as the Council claimed the relief relying on appropriate tax advice and plans to make a voluntary disclosure by submitting an amended return to HMRC, a fine may be avoided. These costs form part of the cost of acquiring the site (albeit two years after the acquisition), and will therefore be met from the capital receipt, but take the total cost of acquiring the site to £40.9m.
- 3.3. By disposing of the site, the Council will generate a £4.1m saving from reducing the borrowing costs of holding the site as set out below.

	£000s
MRP reduction	2,047
Interest reduction	2,047
Net saving/(cost) to the Council	4,094

- 3.4. In addition, to the extent that the bid price offered exceeds the Council's cost of acquiring the site originally of £40.1m, the Council will generate further savings from reducing interest charges and MRP. Further details are contained in Confidential Appendix 6.

4. Legal implications

- 4.1. Pursuant to section 123 of the Local Government Act 1972 ("Section 123 LGA 1972"), the Council has the power to dispose of land in any manner it wishes, subject to certain provisions. The Council has a statutory duty to obtain the best price reasonably obtainable, subject to certain exemptions. Section 123(2) permits a disposal at less than the best price reasonably obtainable with the consent of the Secretary of State.
- 4.2. When considering the duty under section 123 LGA 1972, what is reasonable in any particular case depends entirely on the facts of the transaction.
- 4.3. Case law has determined that whilst there is no absolute requirement to market the land or obtain an independent valuation, if valuation evidence is obtained, it should be up to date and that there should not have been any material and significant changes in circumstances since it was obtained. In addition, obtaining proper professional advice throughout the process on how to maximise its receipts is a material consideration and the Council should limit itself to taking account of those elements of a transaction which are of commercial or monetary value and should disregard irrelevant factors such as "job creation" when assessing whether it is obtaining the best consideration reasonably obtainable. The deliverability or credibility of a bid are commercial factors which are relevant to an assessment.
- 4.4. The Council has employed Avison Young ("AY") as specialist property advisors to advise on an asset disposal strategy and to market and dispose of the asset identified for disposal.

- 4.5. Following a marketing exercise on the open market reported by AY in Appendix 1, the agreed offer price for the former Akzo Nobel site exceeds the latest valuation as at 25 October 2022 carried out WHE. AY have confirmed that the best and final offer sale price for the site received by AY following a competitive disposal process by AY exceeds both the valuation carried out on 25 October 2022 and exceeds the original acquisition cost and reflects the best consideration reasonably obtainable in accordance with Section 123 LGA 1972.

5. Risk management implications

- 5.1. The recommendation required from Cabinet, as outlined in this report, is intended to improve the Council's financial position, by realising capital receipts which can then be used to repay Council borrowing from the existing high level and reduce debt servicing charges in the form of interest and minimum revenue provision (MRP) If the recommendations are not approved this will delay the Council being able to return to a financially sustainable position. – specific risks are summarised below:

Risk	Summary	Mitigations
Financial	Delay in realising capital receipts from assets sales will delay the Council's financial recovery	Cabinet to approve officers to proceed with the sales
Governance	Failure to obtain best consideration from the disposals could expose the Council to risk of legal challenge	The Council has employed external property advisors to manage and competitively market the properties, having access to wider markets than officers locally and has obtained up to date valuations for the sites for comparison purposes.
Legal	<p>Failure to ensure legal title/deeds etc which could delay or halt sale.</p> <p>Delay to contract negotiations.</p> <p>Failure to establish that the buyer is a reputable business and that the buyer's funds are from acceptable sources</p>	<p>Legal title reports obtained for this site.</p> <p>Bi-weekly monitoring of asset disposals by commissioners and officers.</p> <p>Due diligence on buyer to assess their business and funding, including anti-money laundering checks.</p>

Governance	Failure to establish robust governance arrangements could expose the Council to risk of impropriety and legal challenge.	The Council has established sound governance arrangements for asset disposals to ensure that the Council achieves best consideration from asset disposals
Reputational	Unable to agree a way forward causing delay to asset disposals and failure to deliver capital receipts within the timescales set out in the Debt Reduction/Asset Disposal Strategy.	Governance, project management and decision-making operate effectively to deliver asset disposals on time and best consideration for the Council.

6. Environmental implications

6.1. No environmental implications have been identified as a direct result of this report.

7. Equality implications

7.1. The asset is not used for operational or service delivery. There are no identified equality implications with the disposal of this site, however the opportunity to secure economic benefits in accordance with the original intended housing scheme will not be met. By reducing the level of Council borrowing, the Council will reduce its MRP, which will reduce the level of savings required from services, albeit significant savings will continue to be needed. This is likely to have a positive impact on protected groups who are more likely to utilise the services of the Council.

8. Procurement implications

8.1. The appointment of Avison Young as the Council's external property advisors was secured in compliance with:

- The Public Contracts Regulations 2015
- Council Contract Procedure Rules, and
- Expenditure Control Panel requirements.

9. Workforce implications

9.1. No workforce implications have been identified as a direct result of this report.

10. Property implications

10.1. This report will directly impact on the Council's property holdings. Full details will be provided via progress reports to Cabinet.

11. Background Papers

11.1. None

Slough Borough Council

Former Akzo Nobel Site, Wexham Road, Slough, SL2

DRAFT Asset Disposal Recommendation

14 October 2022

PUBLIC DOCUMENT

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Report title: Slough Borough Council

Status: Draft

Draft date: 14 October 2022

For and on behalf of Avison Young (UK) Limited

DRAFT

1. Introduction

- 1.1 The site comprises part of the former Akzo Nobel paint factory and research and development facility at Wexham Road in Slough. The majority of facilities has been cleared with the exception of a number of buildings recently vacated.
- 1.2 The site extends to c. 11.5 acres and currently benefits from outline planning consent for up to 1,000 new homes along with flexible commercial uses, which is supported by the emerging planning policy for Slough. Additionally, existing planning policy would support employment uses at the site, such as industrial and data centres.
- 1.3 Slough Borough Council purchased the site for £38,530,552 from Panattoni on the 1st February 2021.
- 1.4 The site is non income producing but could yield a high capital receipt and as such it as agreed this should be brought to market as a priority to help alleviate Slough Borough Council's ("the Council") current financial burden.
- 1.5 We were instructed to undertake a comprehensive marketing campaign that was co-ordinated by the Land & Development and Industrial & Distribution teams at Avison Young ("AY"). Owing to likely level of interest within the site and the need for a transparent and whole market process we recommended that the Council brought the site forward by way of an informal tender process.
- 1.6 An informal tender would also allow further bid stages to encourage competition between bidders, which should lead to the most attractive financial offers and terms received. This would also allow us to satisfy Best Consideration requirements in accordance with the Local Government Act 1972.
- 1.7 In preparation for marketing, we collated and prepared a detailed marketing pack that would allow bidders to make sensible assumptions within their financial appraisals and ensure robust offers were received.
- 1.8 We considered that this opportunity would appeal to a range of developers and a Planning Appraisal was produced to outline the development parameters for the site, which was reviewed and accepted by the Council estates team and planners.

2. Marketing Process

- 2.1 The asset was marketed with the benefit of technical pack that included existing tenancy information, title information and an environmental report. The Property was formally launched to the market on Saturday 2nd July 2022 with a half page, colour advert in the Estates Gazette (EG). The opportunity has also been published on the Estates Gazette Property Link website,
- 2.2 On Monday 4th July 2022 an electronic mailshot was sent to over 3,000 developers, investors and agents active in Berkshire, Greater London and Southeast London. To date, 1,631 unique parties viewed and interacted with the mailshot.

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- 2.3 A bespoke marketing brochure was produced and circulated to all parties upon request, as well as individuals and organisations who had previously indicated an interest in properties of a similar nature and those, we have had informal conversations with regarding the opportunity prior to launch.
- 2.4 AY recorded 114 parties expressing an initial interest in the opportunity and had requested a copy of the brochure and access to the data room.
- 2.5 AY arranged three inspection/viewing days on Thursday 14th July, Wednesday 20th July and Wednesday 27th July.
- 2.6 We understand that some parties viewed the opportunity externally.
- 2.7 The asset was received well by the market with many credible parties engaging with the AY Industrial & Distribution and Land & Development teams and requesting more information with regard to the sale.
- 2.8 Interest was predominantly received from residential and non-residential uses.

3. Bidding Process

- 3.1 After an extensive marketing campaign and upon agreement with the Council, an initial bid deadline was set for 12 noon Tuesday 9th August 2022. This was clearly communicated to all parties who enquired about the Property.
- 3.2 As expected, offers were received from a range of bidding parties comprising residential and non-residential developers.
- 3.3 AY hosted a call with the estates team at the Council to discuss the bids received and set out our recommendations. Within the meeting we reviewed each bid in detail focussing on price, timescales, conditionality of offer and track record.
- 3.4 AY and the Council concluded to shortlist parties and invite them to a best bids stage. This would allow parties the opportunity to improve their financial offer, terms, conditionality and also answer clarifications noted by AY at the initial bid stage.
- 3.5 Shortlisted parties were invited to submit a best and final offer by 12 noon, Friday 19th August 2022.
- 3.6 A preferred purchaser was subsequently selected and Heads of Terms negotiated and agreed.
- 3.7 During this time, a previous bidder submitted a revised offer that was better than the preferred purchaser.
- 3.8 It was agreed that a further bid stage with these two parties should be undertaken with an offer deadline of 12 noon, Wednesday 12th October.
- 3.9 The best bids were reviewed by AY and a recommendation to select the preferred purchaser was provided, which was in accordance with the Councils objectives and the Best Consideration requirements of the Local Government Act 1972.

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Date 17/05/2022

Department: Place Regulation – Planning
Contact Name: Daniel Ray
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Akzonobel Decorative Paints, Wexham Road, Slough, SL2 5DB

This short summary sets out the current Planning status of the southern portion of the site known as 'Akzonobel' off Wexham Road, Slough.

Extant Permission

Planning permission was granted (with associated s106) pursuant to application reference P/00072/096 for the following proposal:

Outline planning application (to include matter of principal points of access), to be implemented in phases, for mixed use development comprising:

- a) Demolition of existing buildings and structures and preparatory works (including remediation) and access from Wexham Road;*
- b) up to 1,000 residential dwellings (Use Class C3); along with flexible commercial uses including all or some of the following use classes A1 (Shops), A2 (Financial and Professional Services), A3 (Food and Drink), D1 (Non-residential Institutions) and D2 (Assembly and Leisure); car parking; new public spaces, landscaping; vehicular and pedestrian access; and*
- c) the provision of commercial floorspace including all or some of the following use classes B2 (General Industry), B8 (Storage or Distribution) and sui generis data centre (including ancillary office space and associated plant and infrastructure provision); car parking, landscaping and vehicular and pedestrian access.*

(Matters of Scale, Layout, Appearance, and Landscaping to be dealt with by reserved matters).

Subsequently, the northern portion of the site which relates to criterion c) of the proposed outline consent has since benefitted from a Reserved matters application being approved for part of the northern element for a data centre and this has now been implemented.

The southern portion of the site, associated with criterion b) of the Outline consent remains extant, albeit no Reserved Matters application has been submitted.

As such, the site currently benefits from Planning Permission for up to 1,000 residential dwellings etc. as per the description of the proposal outlined above. SBC has also underdelivered against the national Housing Delivery Test.

The Government's 2021 Housing Delivery Test (HDT) published in January 2022 identified that SBC had a need for 2,320 homes over the 3-year period 2018/19-2020/21, and that 1,545 homes were delivered (67%). Therefore, the tilted balance is engaged (as well as it being engaged via absence of 5 year supply).

Planning Policy Position

Notwithstanding the above mentioned extant consent, the current Planning Policy position is such that the existing and previous land use is in Planning Policy terms the acceptable use of the site.

The Council's Local Plan is currently made up of The Slough Local Development Framework, Core Strategy 2006 – 2026, Development Plan Document, December 2008 and The Adopted Local Plan for Slough 2004 (Saved Policies) and Site Allocations DPD. In addition, relevant material considerations for the site include the following:

- The extant 2020 consent discussed above;
- National Planning Policy Framework (NPPF) (2021);
- National Planning Policy Guidance (PPG);
- SBC Developer Guides (Viability, S106, Transport and Highways, Refuse and Recycling, Flood Risk and Surface Water Drainage, and Space Standards);
- Emerging Planning Policy.

Of particular relevance is the existing Local Plan for Slough which identifies this site as a defined Business Area (Mill Street-Petersfield Avenue-ICI) as shown on the Proposals Map (2010). Core Strategy policy 5 (employment) requires there to be no loss of existing business areas to non-employment uses. Core Policy 5 also requires major warehousing and distribution developments to be located in the eastern part of the Borough and in Existing Business Areas that have good access to the strategic road and rail network. Local Plan Policy EMP12 states a range of business developments will be permitted in the existing business areas.

Of relevance therefore is that while Planning Permission has been granted by way of Outline Planning consent for the area of the site the subject of this brief, existing uses or other employment uses would be acceptable in principle in accordance with the Policies outlined above.

Also of note, should a use not pursuant to the Outline consent be proposed, there would be no conflict with Planning Policy subject to the proposal according with the principle of development policies outlined above nor would there be a loss of housing that contributes towards the Council's current land supply as the maturity of the application (in the absence of a Reserved Matters application or certainty the site would be developed for housing) as there is no guarantee that the site will be developed. This is of particular relevance given the Council is in control of this land and therefore the Council is not relying upon the site as part of its 5 year housing trajectory.

Furthermore, as part of the Outline application, the worst-case scenario in terms of impact of development on the road network was considered in detail. It was viewed that the site as a whole could not accommodate an intense form of industrial/business use and that is why a mixed use including residential was pursued on the site. Given that the intense use of the site was not forthcoming in the north of the site (which is a larger area than this part of the site) following the Data Centre use being brought forward, it is considered there is capacity for a more intense form of development on the southern portion i.e. B2/B8 as well as Sui Generis (Data Centre) usage. Any application for alternative uses would need to be accompanied by a Transport Assessment which could evidence this position.



Daniel Ray
Group Manager – Planning, (Development Management, Building Control, Highway Development and Planning Enforcement)
Place Regulation

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