

SLOUGH BOROUGH COUNCIL

REPORT TO: Overview & Scrutiny Committee **DATE:** 7th February 2008
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PART I **FOR CONSIDERATION & COMMENT**

FORMER ARBOUR VALE SCHOOL SITE: FUTURE USE AND DISPOSAL

1. Purpose of report

This report outlines the options available for selling the site in the open market. It also advises of a proposal received on behalf of Slough Town Football Club (“STFC”) and considers the possible implications for the West Wing arts centre and theatre (“West Wing”)

2. Recommendations

There are two broad options to consider – whether to progress with STFC’s proposals or to sell the site in the open market and the recommendations are therefore “either/or”.

In the event that Cabinet wishes to give STFC an opportunity to pursue its proposal further Cabinet is requested to resolve that

- a) The contents of this report and the presentation from Slough Town Football Club be noted.
- b) The terms proposed for the transaction contained in appendix C be approved and that the Assistant Director, Property Services be authorised to complete a formal agreement on these terms, subject to any alterations or amendments required to make commercial sense or to protect the Council’s interests.
- c) STFC’s proposals must provide options for (i) the West Wing arts centre and theatre to be retained as existing and (ii) for the West Wing’s re-provision as part of the new stadium. A decision on these options will be taken a future Cabinet at the same time as STFC’s formal offer and extent (if any) of any under value is considered.

OR

In the event that Cabinet wishes the site to be sold in the open market Cabinet is requested to resolve that

- d) Officers be requested to obtain planning permission for optimum development value prior to marketing the site.

- e) That the sale excludes the West Wing theatre and arts centre at this stage but that proposals be developed to ensure their current site can be redeveloped in the event of the theatre being relocated.

3. Key Priorities – taking pride in Slough and making a difference to communities and our environment.

Priority 2 Improving lives for those in need and creating thriving communities

Priority 3 Improving life chances for children and young people

4. Other implications

(a) Financial

The business case for the education PFI assumed that any capital receipt from the Arbour Vale site would be invested and the income would be used to support the revenue costs of PFI. The capital receipt assumed was £3.5m. The current capital programme assumes this figure will be received in 2010/11.

STFC's initial, conditional offer is £3.5m.

The council's consultant valuers have advised that the value of the whole site for residential development is of the order of £4.0-£4.4m. If the West Wing is retained in its current location the value of the remainder of the site is of the order of £3.0-£3.3m. STFC's initial, conditional offer is therefore between £0.5m-£0.9m below market value but meets the figure estimated for the capital programme. (NB The Council's valuation excludes any value attributable to the adjoining playing fields which STFC has now clarified it requires as part of these proposals).

STFC's offer also assumes that the land for the hotel and the stadium would transfer at nil value. Both these transactions would therefore be at less than market value.

(b) Human Rights Act and other legal implications

There are no Human Rights Act implications.

The council will need to meet its obligations in relations to the disposal of assets under Local Government Act 1972 and the *General Disposal Consent (England) 2003 disposal of land for less than the best consideration that can reasonably obtained* ("the Consent").

Under the Consent a local authority has to discretion to sell at an "undervalue" of up to £2,000,000. Undervalue is defined as "*the difference between the unrestricted value of the interest to be disposed of and the consideration accepted*"¹

¹ Paragraph 1 of Disposals Consent

Where an undervalue of less than £2,000,000 exists an authority can dispose at less than market value in pursuance of its “well-being” powers. The full definition from the Consent is:

“(a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;

i) the promotion or improvement of economic well-being;

ii) the promotion or improvement of social well-being;

iii) the promotion or improvement of environmental well-being; and

(b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds”).²

These are often referred to as the council’s “well-being powers” and this phrase is used as short hand for these legal provisions throughout the report.

At this stage, Cabinet is being asked to agree the principle of the proposal and not the price. A further report will be brought to Cabinet once the STFC’s offer is made and, at that stage, Members will need to formally consider whether a sale at less than market value can be justified under both well being powers and general fiduciary duty.

Supporting information

- 4.1. Cabinet has previously agreed that the Arbour Vale School would be re-provided at the Beechwood site as part of the Education PFI. The new school opened in September 2007 and the former school building is now vacant, with the exception of the West Wing.
- 4.2. In September 2005 the council officially opened the West Wing which was regenerated from a redundant school building. Capital funds of £1.25 million were secured from the DCMS (Department for Culture, Media and Sport), Space for Sports and Arts Programme, with a commitment to continue the project for a twenty one year period.
- 4.3. A plan showing the site is attached as Appendix A.
- 4.4. In the summer of 2007, representatives of STFC met with a cross-party group of councillors³ to see whether a solution could be found STFC’s search for a permanent home. A number of sites were reviewed and discussed and it was agreed that the only possible suitable site that could be investigated further was the former Arbour Vale school site
- 4.5. There have been a number of other unsolicited approaches from parties interested

² Paragraph 2, Annex to Disposals Consent

³ Councillors Cryer, Dhaliwal, Haines, Howard, Small, Smith & Stokes,

in the site. These have not been pursued due to Members' wish to investigate STFC's proposal.

- 4.6. STFC is being supported and advised by Jayne Bradbury. Ms Bradbury is funding the initial feasibility work. The proposals submitted have been made by Ms Bradbury in conjunction with STFC. Technically, the proposals are hers but for the purpose of this report the term "STFC" should be read as being STFC, Ms Bradbury her advisers and proposed development partners.
- 4.7. Following the initial discussions with Members, STFC and its representatives have been working to establish the feasibility of some or all of this site being made available to STFC for a new stadium.
- 4.8. There are three broad issues to be considered – the possible open market sale of the site, the future of the West Wing and the STFC's proposal. Each is considered in turn below.

Possible sale of Arbour Vale site in the open market

- 4.9. The capital programme assumes that the site will be sold in the open market. In line with the council's general practice, it would typically obtain outline planning permission for the most valuable use (in this case residential) prior to disposing of the site.
- 4.10. The entire site is within the Green Belt. Whilst there is a general presumption against development in the Green Belt it is possible to gain permission for development where there are existing buildings. There are however a far higher risks than usual of an application being "called in" by the Government Office. Due to these uncertainties it is expected that a receipt could not be achieved until 2009/10 (at the earliest) and the capital programme assumes a receipt in 2010/11.
- 4.11. Subject to the planning caveats, the estimated value of the site with the West Wing remaining is £3.0m-£3.3m and for the whole site, without the West Wing, is £4.0m-£4.4m.

West Wing Theatre and Arts Centre ("West Wing")

- 4.12. The West Wing was created with capital funding from the Department of Culture Media and Sport (DCMS). The theatre operates as a receiving and producing house offering approximately 260 arts events per year. The facility provides Slough with a mid-scale 250 seat theatre, studio theatre, dance studio, gallery, café bar, artists studios and meeting and training rooms. The West Wing now in its second year of operation has over three thousand people on its mailing list. Programme funding for the next two years has been secured from Arts Council England to champion culturally diverse theatre, music and dance in the region.
- 4.13. No sale of the Arbour Vale site can occur without the future location of the West Wing being confirmed. As detailed above, it would be possible to sell the site with the West Wing in situ but it would have financial and operational issues.
- 4.14. If the site were sold in the open market, one option would be to "ring fence" the difference in value between the site with and without the West Wing (between

£0.7m-£1.4m) and use this to find or fit out an alternative location. However, this sum would not be sufficient to provide a new facility.

- 4.15. A feasibility study has been commissioned to review options for the future location of the West Wing. The following is a brief summary of the report and officers' initial conclusions.

Option	Description	Cost implications (capital)	Comments
1	Closure	£1.25m	The council would need to repay the £1.25m grant it received from DCMS.
2	Retain West Wing in situ	£1.0m	If site were sold in open market the approximate difference in value with and without the West Wing remaining is c. £1m. Impact on capital receipt from STFC's proposals if West Wing retained needs to be established.
3	Relocate to new site in town centre	£4.5m	Capital cost of new building £4.5m (excluding land).
4a	The Centre (adaptation)	£2.2m	Adaptation of part of The Centre for theatre space. Would have an adverse affect on The Centre's revenue as it would impinge on weddings lettings.
4b	The Centre (new build)	£1.9m	Proposes theatre "box" built on car park with ancillary space within the Centre. Would have a revenue impact on the Centre.
5	Reprovided as part of STFC proposal	Unknown	To be investigated.

- 4.16. At present there is no provision in the capital programme to support any of the options outlined above.
- 4.17. Cultural Services' view is that any facility needs to be more centrally located and also needs to be more than just a theatre to make it more viable. For example it should include conference facilities and secondary activity space for dance, rehearsals and meetings. It would also be an advantage to be co-located or located near broadly complementary uses.
- 4.18. None of the site-specific options is centrally located and the options also do not provide ideal amounts of ancillary space.
- 4.19. The initial conclusion is that there is a long-term requirement for an arts venue and it should be planned for in the long-term. This would suggest the best option would be to leave the West Wing in situ whilst a medium to long term strategy for re-provision is identified.

4.20. A re-provision as part of STFC's proposals will be costly and these costs will need to be borne directly by the council. It would also not address the issue of the venue's location.

4.21. It is therefore proposed that STFC be asked to re-work their proposals with the West Wing remaining in situ. In parallel, officers would explore the scope of a new facility within the stadium. The outcome of this work would be brought back to Cabinet at the same time as STFC's proposed offer for the site.

Slough Town Football Club's proposal

4.22. Representatives from STFC will attend the meeting to present their proposals and take questions from Members first hand.

4.23. STFC has no third party financial backing, other than that provided by Ms Bradbury in connection with the development proposals. Its aim from these proposals is to arrive at a position where the overall development of the site could support the initial construction costs of the stadium and that ancillary development would also provide revenue to help support STFC's running costs.

4.24. A plan showing their initial proposal is attached as Appendix B. In financial terms, the basis of STFC's proposal is as follows;

- The council transfers the site in three parts. The area for the stadium to a new stadium trust, the residential land to Paradigm Housing and the area for the hotel to Jayne Bradbury (or her nominated company).
- The cost of the stadium will be recovered from the gross value of the residential land with the council receiving the balance.
- The ground rent from the hotel development will be used to part support the facility's running costs.

4.25. In effect, the council will indirectly fund the new stadium through accepting a lower capital receipt for its land than would otherwise be possible. The basic calculations (using STFC's initial figures) is as follows:

Land value of residential land	£6,500,000
Stadium construction costs	<u>£3,000,000</u>
Balance available for the council	£3,500,000

4.26. STFC have had a number of meeting with officers from property, finance and legal departments who have scrutinised their proposals. STFC has also met separately with officers from planning to discuss the planning and highways implications of the proposals.

4.27. STFC's proposed development contains:

- A new football stadium of up to 3,000 capacity
- A 90-110 bed hotel
- Up to 65 residential units, 30% of which will be affordable.
- Parking

- Football pitches

- 4.28. Whilst the provision of sports stadia is not a statutory duty for the local authority, it could fall with the council's general "well being" powers, particularly if there is strong evidence that STFC's proposals will be of a broader benefit to the community.
- 4.29. This is a major project for STFC and they have been highly dependent on their consultant team in pushing the proposal forward. On occasions, deadlines for the provision of information have been missed however in late 2007 professional construction/project management advice was procured and, to date, deadlines have been met.
- 4.30. Officers have been working with STFC and have provided extensive guidance. Based on the information provided to date there are a number of issues that would need to be resolved before any contract could be entered into.

Financial transparency

- 4.31. The council will effectively be funding the stadium through a reduced capital receipt. It is therefore important that there is transparency about the costs and values so the council can be satisfied that it has received best value.
- 4.32. When compared to the council's own valuation advice, STFC's offer appears high. Information about how this offer has been calculated has been requested but was not available at the time the report was drafted. This offer needs to be tested further to understand the planning assumptions that have been used together with other assumptions on costs, values and cashflows. Without this further work the extent of any undervalue cannot be established.
- 4.33. It would be usual in arrangements such as this for the land to be sold in the open market and the construction of the stadium to be openly tendered. This competitive process would demonstrate transparency and ensure best value for all parties.
- 4.34. An "open book" approach would also be needed in testing and reviewing the assumptions made behind the business plan for both STFC and the new stadium Trust.
- 4.35. STFC does not have a backer who will fund the initial feasibility and advice work. They have therefore had to find parties who were willing to undertake this work on an "at risk" basis. They have proposed three separate parties for each aspect of the development.
- Stadium – a new Trust which will hold the ground and lease the football elements to STFC.
 - Hotel – Jayne Bradbury who plans to enter into a contract with an operator.
 - Residential – Paradigm Housing (a Registered Social Landlord) who would develop the majority of the properties for sale.
- 4.36. Due to this arrangement STFC is unable to market the residential land or, possibly, the contract for the stadium.

- 4.37. There is a need for the proposal to be structured in a way that is financially transparent (e.g. by all transactions being undertaken on an “open book” basis, i.e. with all costs being openly available to all parties to review and challenge). This will need to be a pre-condition of any agreement with STFC.

Planning

- 4.38. The site is entirely within the Green Belt and gaining permission for any development therefore represents a challenge. STFC is confident that it can demonstrate special circumstances that allow permission to be granted. Planning is a major risk and this is reflected in the council’s proposed terms.

Programme

- 4.39. Officers’ initial view of the likely timescales (based partly on their own judgement and partly on the information provided by STFC) is as follows. It must be stressed that, at this stage, the timescales are highly indicative.

Event	Date	Comment
Cabinet approval	Feb-08	
Detailed Heads of Terms agreed	Mar-08	
Legal agreement completed	May-08	
Applicant develops "viable" scheme (3 months)	Aug-08	Deadline is absolute, SBC can terminate contract if breached
Applicant make SBC an offer	Aug-08	
SBC considers offers and accepts	Nov-08	SBC may accept or reject offer
Detailed planning application submitted (3 months)	Feb-09	deadline is absolute, SBC can terminate contract if breached
Detailed planning permission granted	May-09	If it takes more than six months for planning to be issued SBC may terminate contract or if application refused or called in.
Expiry of judicial review period	Aug-09	
Start on site	Aug-09	
Construct stadium & car parking (MC estimated 200 days)	Feb-10	
Commission sports stadium	Mar-10	
Open new stadium	Mar-10	

Club’s financial standing

- 4.40. STFC has prepared indicative cash flow projections for both STFC and the Trust that will hold the stadium. Officers’ initial view is that the cashflows are optimistic and further information is required about the assumptions that have been made. If the proposal proceeds to the next stage, STFC will be required to provide additional information to demonstrate that the cashflows are realistic and robust.

Community benefits

- 4.41. STFC has prepared a Football Development Plan for the future enhancement of access to football within the Borough. They are also proposing the stadium being used by other sporting organisations and groups. Further details of this aspect will be provided by STFC in their presentation. A copy of the Football Development

Plan and other supporting documents provided by STFC will also be available in the Members' Room.

- 4.42. Officers initial view about the Football Development Plan it that it is ambitious and optimistic but with inadequate information about how it will be funded and how any potential conflicts with existing provision will be dealt with. If the proposal proceeds to the next stage, STFC will be required to provide additional information to demonstrate that the Plan can be funded and delivered and will complement existing provision.

Proposed legal structure

- 4.43. The council's proposed legal structure needs to ensure a successful project can be delivered but also needs to protect the council's interest. In broad terms STFC will be given an initial period of exclusivity when the council could not speak to third parties. This would enable STFC to develop its proposals to a stage where they believe they could be submitted for planning. At this stage they would confirm their offer. If the offer is accepted STFC would then apply for planning and, if successful, obligations would require them to pay the council the capital receipt and develop the stadium. The formal proposal put to STFC is set out in appendix C.
- 4.44. Each of the issues raised above (and any others that may arise) will be tested as objectively as possible and the suggested tests are set out below

Issue	Test
Financial transparency	The proposed structure must be sufficiently transparent and meet the reasonable requirements of the council's finance, property and legal officers. (Prior to completion of agreement)
Planning	The planning assumptions are to be reviewed by the council's planning consultants (Drivers Jonas) and confirmed as reasonable. (Within first three months of agreement)
Consultant team	Officers from Finance, Property and Legal will undertake "due diligence" in respect of the consultant team and must be satisfied that they have sufficient standing and experience for a project of this scale and nature. (Prior to agreement)
Project structure	Officers must be satisfied that the project structure is appropriate for a project of this nature. (Prior to agreement)
Programme	The programme will be reviewed by officers and must be sufficiently detailed, realistic and robust. (Both prior to agreement and within first three months of agreement)
Club's financial standing	STFC will need to satisfy the Council's Finance Officers that their business plan is realistic and sustainable. (Prior to completion of agreement)
Financial offer	To be made on an open book basis and confirmed as reasonable by the council's professional advisers. (Within first three months of agreement and prior to offer being submitted to Cabinet)

Community benefits	The community benefits must be clear and measurable with mechanisms agreed by officers to ensure they can be delivered and monitored. (Prior to agreement and within first three months of contract)
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Risks

- 4.45. There are risks to the council in this proposal. Under STFC's proposals, the council effectively funds the new stadium via the capital receipt. In the event that costs increase or land values decrease the capital receipt will reduce with the consequent impact on the capital programme. The council therefore carries risk without being in control of construction phase.
- 4.46. STFC's proposals assume that the existing St Joseph's playing fields can be used to provide additional pitches. The land is owned by the council but the issue of shared use and the level of playing field provision has yet to be discussed with either the school or the council as the local education authority.
- 4.47. The contract will be tightly drafted to ensure that the council can terminate the agreement at key points. Without these safeguards the site could be tied up via this agreement for up to four years which would also put pressure on the capital programme.

Conclusion

- 4.48. In taking a decision about whether to support STFC's proposal Members need to weigh up and the costs and risks against the possible long term benefits for the people of Slough. Judging the proposals against the well-being powers is considered a useful initial test.
- 4.49. If Members were minded to allow STFC to pursue this proposal further, officers would not recommend entering into any contractual arrangements until and unless
- STFC had satisfied the council on the issues raised above and any other issues that may affect the deliverability and risks of the proposal.
 - The council would need certainty that STFC had the expertise and capacity to manage this project effectively.
- 4.50. Subject to these caveats and safeguards Members are free to support this proposal if they are satisfied that it falls within the council's well-being powers. **No financial commitment is made by this decision as a future Cabinet meeting will decide upon the financial implications once STFC's offer is known.**

5. Appendices

- 'A' Current site layout and usage.
- 'B' Plan of STFC's current proposals.
- 'C' Proposed terms for transaction

6. Background papers – None.