

COUNCIL	AGENDA ITEM 3
21 December 2009	PUBLIC REPORT

Supporting the Delivery of South Bank Opportunity Area, Peterborough, through Acquisition of Land in and around Peterborough United Football Ground.

R E C O M M E N D A T I O N S
FROM : Councillor Cereste – Leader of the Council
<p>Council authorises the Chief Executive, in consultation with the Head of Shared Transactional Services (as Corporate Property Officer), Executive Director of Strategic Resources and Leader of Council to acquire the freehold interest in land in and around Peterborough United Football Ground, a strategic site in the South Bank Opportunity Area (SBOA) subject to those officers:</p> <p>(1) first concluding the terms of the contract and transfer as set out in this report (2) simultaneously with the acquisition, granting a new lease to the Peterborough United Football Club (PUFC) of land adjacent to the football ground</p>

1. ORIGIN OF REPORT

1.1 This decision is brought before Council by the Leader of the Council who has consulted with fellow Members of the Cabinet, Chief Executive and Senior Council Officers regarding the opportunity to acquire a strategic land interest at Southbank.

2. PURPOSE OF THE REPORT

2.1 The report seeks the approval of the Council to authorise the Chief Executive to conclude terms and acquire the Freehold interest in land in and around Peterborough United Football Ground. (see attached ownership plan – Appendix 1) and to lease the remainder of the land within the freehold site to the Football Club

2.2 The site is owned by Peterborough United Holdings Limited which leases part of the ground to Peterborough United Football Club.

2.3 The purpose of this report is to invite the Council to consider and recommend that the Council approve the acquisition of this strategic land interest at South Bank and, in support of that acquisition, agree to the grant of a lease for the remainder of the land to the Football Club.

3 BACKGROUND

3.1 Site Context

3.1.1 The Southbank, as an overall development site, has a number of physical constraints. These include the River Nene to the North, established residential use along Glebe Road to the South, the Fletton Parkway to the East and London Road to the West.

- 3.1.2 The site is also dissected by the main East Coast railway line which creates both a physical barrier and a challenge to bringing forward development of the land to the north and south of the railway line in a comprehensive way.
- 3.1.3 Peterborough City Council (PCC) and its public sector partners East of England Development Agency (EEDA), Homes and Community Association (HCA) and Opportunity Peterborough (OP) have been working predominantly towards bringing forward, in two principle phases, the regeneration of the wider Southbank development. Phase 1 would involve land south of the railway line and Phase 2, land north of the railway line more recently known as Fletton Quays. The public sector owns and controls a substantial part of the overall Southbank area but not the whole.
- 3.1.4 The Cabinet Decision taken in December 2005, titled Southbank Development, set out a number of objectives. Against the primary objective of promoting regeneration, option based review work, indicative master planning and some financial modelling has been undertaken supported by collaboration between the Partners and strategic purchases. Given the complexities of this scheme and more recently the changing financial markets, none one of these initiatives have delivered development in this area.
- 3.1.5 However, more recent activities such as those listed below have meant additional key landholdings in this area are now in public sector ownership and control and a detailed and (more importantly) comprehensive approach to development is being promoted. Examples include:-
- The relocation of Elliot's from land in HCA control and the HCA's decision to work in collaboration with PCC and EEDA by including their landholdings into the Southbank regeneration area, the single approach concept.
 - PCC's supporting of the relocation of Matalan and B&Q from their premises at Cripple Sidings Lane and subsequently acquiring the freehold interest in this land.
 - PCC acquiring, through the use of Growth Area Funding (GAF), 7-23 London Road which fronts Horsefair Car Park.
 - Improving access to Cripple Sidings Lane and East Station Road, the two primary access roads serving the Southbank Opportunity Area, as part of the Town Bridge works.
 - Decision to amalgamate public sector controlled assets south of the railway line into the Department for Communities and Local Government (DCLG) sponsored Carbon Challenge Scheme.
 - Identifying and utilising - where possible - a range of grant funding opportunities and specialist technical advice from landowning partners; for example from the HCA in the form of grant funding for the Carbon Challenge initiative and substantial technical support with the complex brief preparation and procurement of the Development Partner for Carbon Challenge.

3.2 Land Assembly - Key Component of Successful Regeneration

- 3.2.1 The public sector partners have to control/own the different land holdings within the SBOA to enable/facilitate the delivery of a comprehensive development solution to the site.
- 3.2.2 The planning process can impose conditions but this is limited to broader principles and has to take in to account the wishes of individual land owners. The public sector owns and controls approximately two thirds of the land to the south of the railway line with the balance (football ground and adjoining car parking) owned by Peterborough United Holdings Limited (PUHL)).

- 3.2.3 Members will be aware that PUHL secured at appeal, against officers recommendations, consent for up to 135 flats and a new stand as replacement for the current Moyes End Stand.
- 3.2.4 This consented scheme was and still is considered to be, by the three adjacent public sector landowners, at odds with what the Council is trying to achieve in terms of comprehensive regeneration of the southern quadrant of the SBOA.
- 3.2.5 The range of concerns include access, parking movement and connectivity, design continuity, height and massing and public realm to the more broader community and social benefits which emerge from comprehensive development including the improvement of health and well being, community cohesion, the creation of quality places to live and work and building pride in Peterborough.
- 3.2.6 There are only two areas of land located to the North and South ends of the SBOA which are not in public ownership; namely the London Road stadium site and the Mill complex (numbers 4 and 5 on the attached plan of land ownerships). The Mill complex is subject to a longer term acquisition/joint development strategy linked to a later phase of Southbank regeneration.
- 3.2.7 The Council, in acquiring the site, will take control of the Southern Quadrant thus enabling comprehensive development as this part of the SBOA will then be in the overall control of the Public Sector. An acquisition by the Council will also address two points of contention with the current owners. The first relates to the provision of a joint access solution for the Carbon Challenge site on Glebe Road. PUHL could seek to secure a negotiating position against the public sector partner's access proposals. The second relates to access rights claimed by PUHL over land beyond Cripple Sidings Lane. Unless resolved this could mean development of land in and around Horsefair Car Park by the public sector partners could be compromised with financial and delivery ramifications for the partners.
- 3.2.8 Discussions with PUHL have indicated that it has no long term desire to hold the site for its current purpose and when the Club's lease expires in 2014 it will be seeking vacant possession and development with a high value alternative use. PUHL is confident that financial markets will be more buoyant by then and they will be able to deliver a range of uses (as yet undetermined). PUHL have confirmed they would strongly oppose any attempt by any of the public sector partners to use their Compulsory Purchase powers in order to acquire the site.
- 3.2.9 Following initial discussions on the terms which PUHL would release its site, indications were that its asking price would preclude any further meaningful discussion on a strategic purchase by PCC. However, more recently PUHL has reconsidered its position and confirmed it is willing to dispose of its freehold interest to the Council at a lower price but with the sale to be concluded by the end of December 2009.
- 3.2.10 PUHL has agreed an off market sale to PCC of its freehold interest for **£8 million (eight million pounds)** which represents a significant discount on its original asking price.
- 3.2.11 Adding an allowance to cover stamp duty on the purchase, professional fees and the option to purchase an additional dwelling on Glebe Road in the event that access improvements were required, Council is requested to endorse a budget allocation of **£8.65 million (eight million six hundred and fifty thousand pounds)**. The land will be bought subject to leases being in place with Peterborough United Football Club.
- 3.2.12 Whilst the Council could wait until the end of the current Football Club lease (June 2014) before purchasing, there is no guarantee that PUHL would sell the asset and the opportunity would be lost to effectively achieve comprehensive control of the SBOA. This alternative approach could result in the construction of a community stadium complex elsewhere in the city.
- 3.2.13 Purchasing this asset now also prevents the significant danger of the final site in the southern quadrant being developed in isolation to the SBOA's aims (as defined in the Draft Southbank

Masterplan) and avoids the potential for an incoherent scheme being brought forward. The aim for the public sector partners is to facilitate coherent development.

- 3.2.14 For example, if there were to be a new community stadium built on the existing London Road site it could include a comprehensive range of community facilities which come with funding. Knowing what is possible will inform the planning for community facilities across the wider Southbank area and beyond and the finances required to underpin this. Undoubtedly one of the reasons why Southbank has not yet been brought forward for development is because of uncertainties as to what sites are under control.
- 3.2.15 Whilst it is well known that Peterborough United have aspirations for the Football Club to grow its fan base and in turn improve/modernise the facilities of the Club for the benefit of the wider Community, it is important to state that this recommendation is brought before Council out of a need to secure a key land holding in the Southern quadrant of the Southbank development.
- 3.2.16 Officers are aware from both PUFC and independent sources that the Club will be required to submit its proposals to the Football Association (FA) for upgrading the stadium to an all seater stadium within 3 seasons and that this falls close to the lease expiry date. Consequently officers have been working with the club regarding alternative off site options given PUHL's confirmation that it requires vacant possession at the end of the lease term (2014).
- 3.2.17 Whilst no decision has yet been made that the ground should remain in the longer term at London Road we have some understanding (through work underway) of how a redeveloped stadium with complimentary community and commercial uses could add significantly to the community and social regeneration benefits of the wider Southbank area as a vibrant mixed use development scheme.
- 3.2.18 An acquisition therefore assists in developing and testing the Community Stadium concept and future financing arrangements without the necessity/urgency to deliver an alternative ground solution.
- 3.2.19 An acquisition at this point in the Southbank master-planning process helps not only to deliver a comprehensive approach, it gives certainty in relation to the exact development area to be progressed, the manner in which it is brought forward for development and how this impacts or otherwise on PUFC.

3.3 Southbank Opportunity Area (SBOA) and Community Stadium Concept

- 3.3.1 There can be no doubt whatsoever that the Southbank constitutes the city's most outstanding development opportunity. The potential clearly exists to create a new city quarter with outstanding river frontage. There is scope on this substantial site to create a stunning mixed use development potentially including education, community and leisure uses in addition to commercial and residential development.
- 3.3.2 The creation of a new community stadium for Peterborough could be the key project in terms of the regeneration of this area and could help to kick start the delivery of associated developments such as hotels and leisure space which would in turn accelerate the delivery of the site in difficult times.
- 3.3.3 There is much evidence to support the contention that the development of high quality, mixed use stadiums can accelerate regeneration. This is particularly true of clubs in the lower football divisions and Reading FC, Coventry FC, Colchester FC and Preston North End FC are good examples of what can be achieved using the stadium as a catalyst for further development/regeneration.
- 3.3.4 The traditional model of a football stadium i.e. a facility where football is played every second week during the season with little or no use beyond this, is now almost a thing of the past. Many progressive clubs have been moving towards a multi use approach for their stadium facilities and

more recently clubs like Preston North End have adopted a radically different model for stadium development.

- 3.3.5 If the Council's purchase is to proceed, it is extremely important to work with PUFC to further develop the community uses on this site and with a redevelopment bring forward a broader range of community uses which will benefit the entire city. A redeveloped stadium will also have the advantage of giving the football and other sports clubs a splendid new facility to play in and for the public to watch. This will assist the Council to meet national indicators under the Local Area Agreement 2008-2001 in particular to increase participation in sport and contribute towards building pride in Peterborough.
- 3.3.6 A new stadium has the potential to become one of the best community stadiums in the country and it can also kick off the broader and more integrated development of Southbank. This accords with the Council's objectives under the Community Strategy 2008-2021 to deliver substantial and truly sustainable development and to create strong and supportive communities (Priority 2 & Priority 4). The changes to the way the Council and its Partners manages growth projects in the future, in particular the creation of the Peterborough Delivery Partnership (PDP), which by the time Council meets should be endorsed by Cabinet, will also provide greater certainty of achieving a well planned and comprehensive development at Southbank
- 3.3.7 Any potential redevelopment of the existing ground is likely to be phased over a number of years with a variety of funding partners. Current thinking is that it is likely to be for 3 stands; the existing South Stand is modern by comparison to the rest of the stadium and in relatively good condition.
- 3.3.8 Construction of a typical 4500 seater stand (the existing more modern South Stand) could cost in the order of £5m (five million pounds). Combining this with a typical cost for the provision of a playing surface, utility connections and floodlighting in the order of £1.7m (one million seven hundred thousand pounds), there could be substantial benefits for the Council and its funding partners in delivering the Community Stadium at Southbank.
- 3.3.9 Whilst there are fewer investors in the market at present there is still interest in long term schemes that are well structured. Indeed, schemes that have anchor users - such as a community stadium - are far more likely to attract investment in this market.
- 3.3.10 Community stadium facilities can be both supporting and enabling. Supporting development has the potential to enhance the community offer, whilst enabling development is able to enhance the viability of the development. The viability of PCC's investment will also be dictated by the commercial success of the stadium facilities. An appropriate mix of facilities can attract capital funding and create operational sustainability via rental income in the medium to long term.
- 3.3.11 The Sports Strategy for Peterborough points to a requirement for improved and extended sporting and community facility provision based on the expected increase in population. A community stadium has the potential to contribute to these priorities for Peterborough.
- 3.3.12 The development of a community stadium can only be achieved by PCC and PUFC working together. This option would need to be designed to take advantage of the progress made on the carbon challenge project adjacent to the London Road stadium. Examples include sustainably sourced energy, joint and improved access and community facilities. PUFC has confirmed it is happy to continue at London Road and indeed it is their current preferred option.
- 3.3.13 In the event that a decision is taken to relocate the football ground and seek to achieve the regeneration benefits of a community based stadium on another site, then the main reason behind the acquisition, namely having control of a strategic site within the Southbank area, remains. The acquisition is about having the ability to marshal development, the manner and timing of and, providing the funding markets and a developer with certainty of being able to adopt a comprehensive approach

3.3.14 The acquisition of the stadium site will therefore be a landmark event in terms of triggering the broader development of the whole area.

4. FINANCIAL IMPLICATIONS

- 4.1 Whilst the Cabinet Decision taken in December 2005 - titled Southbank Development - set out a number of objectives, it did not specifically include plans for the acquisition of land in and around Peterborough United Football Ground. This acquisition is not currently included in the budget and policy framework, and hence a decision is required by Full Council.
- 4.2 PCC would be acquiring the asset "off market" and in advance of a potential disposal of the site at some future date. The Council could wait but there is no certainty of release and price the Council would have to pay.
- 4.3 There is, in the original sale agreement, a buy back provision but this is dependant on the asset being brought to the market. If the public sector partners' comprehensive approach to development is to be achieved, the wait and see strategy and reliance on this provision is not recommended.
- 4.4 However, it is fully understood that the Council does have many financial pressures at present but this strategic site is being acquired with an income flow and the scope to generate a range of enhanced income opportunities through new investment and a broad range of economic benefits.
- 4.5 The Council would use prudential borrowing to fund the purchase. At the cost of £8.65m, this would equate to revenue costs of around £724k per annum. Some of this cost would be covered by rental income from the site. This income is initially estimated to be £500k for 2010-14. The further financial benefits from further developing rental income and the regeneration of the South Bank have not been included at this stage. As such the Council would face net costs of £224k in the years 2010-14.
- 4.6 The proposed acquisition costs of up to £8.65m were not included in the Council's draft Medium Term Financial Strategy (MTFS) considered by Cabinet on 14 December. To have done so would have pre-empted the Council discussion and decision on 21 December. Within the MTFS presented to Cabinet there was provision for a planned contribution to reserves to support projects in future years. It is intended to reduce this contribution by the required amount to fund the net costs of this purchase. This can be done without affecting the council tax proposals within the MTFS.

5. LEGAL IMPLICATIONS

5.1 Constitutional issues

5.1.1 Although decisions to purchase land are ordinarily an executive (Cabinet) function, under the Constitution any decisions to purchase or lease land not currently within the agreed budget are the responsibility of Council. As no provision currently exists within the budget for the purchase and lease of the Football ground and the surrounding area, this decision falls to Council. (Schedule 4 Local Authorities (Functions and Responsibilities) Regulations 2000).

5.1.3 In making any decision to purchase the Council must have regard to its policy framework (Constitution part 3 section 1.1.4). Of particular relevance to this decision are

- The priorities within the Community Strategy 2008-21 (Delivering substantial and truly sustainable growth and creating strong and supportive communities)

- The policies which support the Strategy in particular the Local Area Agreement 2008-2011
- the development framework (planning) policies,
- the Sports Strategy and
- any strategic land use plans

5.1.2 As this is a decision of the full Council on a matter concerning the budget it is not subject to call in by the Scrutiny Committee. The decision of the Council takes effect at the time it is made.

5.2 *Powers to purchase and provide sporting facilities*

5.2.1 Statutory authority for purchase of the land is given by section 120 Local Government Act 1972 which permits the Council to purchase land by agreement in support of its business and functional activities or for the benefit improvement or development of their area.

5.2.2 Under section 19 Local Government Act (Miscellaneous Provisions) Act 1976 the Council has the power to provide facilities for recreation and sporting purposes. This is a wide discretionary power to provide outdoor pitches for team games, athletics grounds and premises for use by clubs or other societies having athletic, recreational or social objectives. It also permits the Council to make facilities available for use with the grounds for car parking and the sale of food and drink.

5.3 *Other considerations: state aid*

5.3.1 The Council must be mindful of state aid issues. Where the resources of the Council give financial or other benefit to a particular individual or company the arrangement might be inferred to have an element of State aid. Acting in a manner that prioritises non-commercial advantages to favour one of the parties to a transaction, (whether or not it accords with “well-being” provisions of the Council’s strategic objectives) is likely to raise considerations of State aid.

5.3.2 There are two transactions to which state aid might apply: the purchase of the ground from Peterborough United Holdings Limited and the lease of the ground to the Football Club.

5.3.3 The Council has secured specific expert assessments which show that the proposed arrangements are sound commercial transactions which might be considered appropriate by other enterprises in the same market. This negates any inference of state aid.

5.3.4 The Council are imposing community user clauses in the leasehold arrangements with the Football Club which would open up the use of the site to more general public uses and therefore avoid any inference of State aid. The lease of the land to the Football Club is therefore necessary to ensure the Council acts lawfully and the recommendations are drafted accordingly.

5.5 *Other considerations: Compulsory purchase*

5.5.1 Whilst the Council has various powers of compulsory purchase (section 226 Town and Country Planning Act 1990 and section 121 Local Government Act 1972) it is not considered that the Council currently meets the statutory criteria for compulsory purchase under these provisions.

6. **BACKGROUND DOCUMENTS**

- A Sports Strategy for Peterborough 2009 -2014
- Peterborough Local Plan
- Community Strategy 2008-2021
- Local Area Agreement 2008-2021
- Executive Decision – South Bank Development – December 2005
- Recommendation Letter from David Taylor Partnerships (advisors to the Council) dated 9th December 2009

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