

COUNCIL

13 OCTOBER 2016

TEMPLE WATERFRONT

Portfolio Holder: Councillor Alan Jarrett, Leader
Councillor Adrian Gulvin, Resources

Report from: Perry Holmes, Chief Legal Officer

Author: Noel Filmer, Head of Valuation and Asset Management

Summary

This report provides details of a proposed land and property transaction over £500,000 in respect of the Cabinet's decision on 9 August 2016 relating to the regeneration of Temple Waterfront.

This report is submitted for Members' information.

1. Budget and Policy Framework

- 1.1 As the value of the Council's development land is in excess of £100,000, the required approvals were a matter for Cabinet.
- 1.2 This report complies with the constitutional requirement that Cabinet decisions in respect of land and property transactions over £500,000 are to be reported to the next Council meeting for information.

2. Background

- 2.1 In 2006, Medway Council adopted the Temple Waterfront Development Brief as supplementary planning guidance. The brief included the development of approximately 600 housing units and 15,000 sq.m of commercial floorspace. It also included the enhancement of part of the Council's land so it can be used as open space.
- 2.2 Following its adoption and in accordance with the brief, a resolution to grant outline planning consent was made on 7 December 2011. This was for up to 620 residential units (use Class C3); up to 10,300 sq.m of employment

floorspace (Use Class B1a/b/c, B2 and B8); up to 1,800 sq.m of retail floorspace (Use Classes A1 to A5); up to 200 sq.m of community facilities (Use classes D1/D2); strategic landscaping, improvements to open space, parking and related infrastructure including works in relation to site preparation, flood defences and land raising. On 1 June 2016 the Council's Planning Committee resolved to approve the Reserved Matters Application for Phase 1 subject to the satisfactory resolution of the land deal. The application will be referred back to Committee if the land deal is not resolved.

- 2.3 As the council is a significant landowner within the scheme, the report to Cabinet on 9 August 2016 proposed that the Council would facilitate its regeneration in partnership with the two other landowners. The Council owned land is shown edged black and cross hatched black on the plan attached at Appendix A and is currently underused open space, which is in poor condition. The Council's land extends to 15.6 hectares (38.5 acres) and it is proposed that approximately 25% of this is developed. It is proposed that the remainder of the Council's land will be retained as open space, having been significantly enhanced as part of the proposed redevelopment scheme.
- 2.4 A major house builder has now acquired the parcel of the land to the south of the site which will form phase 1A and negotiations have commenced with it and the other land owner (Morgan Timber). The aim is to agree the value of the whole site for development allowing for all development costs and for the major house builder to pay the Council and Morgan Timber one third of this value each for their development land at the site. The Council will retain the balance of its land as open space.
- 2.5 Under the proposed development, Morgan Timber, a local employer will remain, but on a smaller site and in re-configured premises.
- 2.6 In respect of value of the Council's land, officers, in consultation with the Leader, will ensure as part of the negotiations, that the Council's interests are fully protected. Negotiations will only be concluded, if acceptable terms are agreed in the best interests of the Council.
- 2.7 Assuming that terms are agreed and the landowner's agreement is completed, it is likely the scheme will be developed in phases starting at the southern end of the site. It is likely that development will start this year.
- 2.8 The Council has the benefit of some covenants over the Morgan Timber land and these will need to be released or varied before the development goes ahead.
- 2.9 Further public consultation regarding the development will take place when the developer's proposals for the latter phases are prepared and submitted to obtain consent for reserved matters.

2.10 On 14 January 2010, Full Council agreed to declare surplus to the Council's requirements the development land (as shown cross-hatched on the attached plan at appendix A) and it delegated authority to the Assistant Director, Housing and Corporate Services, in consultation with the Portfolio Holder for Finance to:

- Advertise the loss of existing open space in accordance with the s123 (2a) of the Local Government Act 1972, to consider any objections and to determine whether or not to dispose of the land.
- If a decision is taken to dispose of the land, to dispose of it at the best consideration reasonably obtainable.
- Enter into any necessary agreements with landowners to facilitate the development.
- Enter into any necessary development agreements (including the grant of necessary access or other consents) to facilitate the development.

2.11 The landowners have entered into a Section106 Agreement with respect to the site so that planning permission can be granted. The Council has entered into an agreement with the other landowners indemnifying them against the Section106 Agreement obligations, insofar as they relate to the Council's land.

2.12 However, the area of Council owned land which will be disposed of for development is likely to change from that shown on the plan attached to the report to Full Council on 14 January 2010 and therefore in order to give the Council flexibility, the report to Cabinet on 9 August 2016 sought delegated authority to declare surplus and dispose of a different area.

3. Cabinet – 9 August 2016

3.1 The Cabinet agreed the following:

3.1.1 The Cabinet agreed to delegate authority to the Chief Legal Officer in consultation with the Leader and Portfolio Holder for Resources to:

- Declare surplus development land within the Council's ownership at Temple Waterfront, so that it can be disposed of on the best terms reasonable obtainable.
- Dispose of land at Temple Waterfront on the best terms reasonably obtainable.
- Advertise the loss of existing open space in accordance with s123(2A) of the Local Government Act 1972, to consider any objections and to determine whether or not to dispose of the land.

- Enter into any necessary agreements with the landowners to facilitate the development, including but not restricted to the variation or release of covenants on the land owned by Morgan Timber.
- Enter into any necessary development agreements (including the grant of necessary access or other consents) to facilitate the development.

4. Advice and analysis

- 4.1 The Cabinet's decisions on 9 August 2016 will facilitate the regeneration of a significant element of Medway's waterfront in accordance with the Council's stated ambitions and it is therefore proposed that Cabinet delegates authority to declare land at Temple Waterfront surplus and to dispose of it.

5. Risk Management

- 5.1 To date the Council's private sector partners have borne the principal risks associated with the regeneration of Temple Waterfront. The Council's investment has been primarily in officer time and Member commitment.

Risk	Description	Action to avoid or mitigate risk
Potential for exposure to preparatory costs that exceed receipts.	Without careful management and in exceptional circumstances, such as a further deterioration in property market conditions, it is possible the preparatory costs will exceed the potential receipts.	Ensure that the Council's private sector land owning partners bear the principal risks associated with the development.

- 5.2 It is intended that the Council's contribution will principally remain that of officer time and that its exposure to costs will be contained within the future capital receipts envelope.

6. Consultation

- 6.1 Public consultation was undertaken as part of the planning application process and the Council's intention to dispose of open space was advertised in 2012. Further public consultation will take place in respect of the developer obtaining reserved matters approval on the later phases and the proposed disposal of open space will be re-advertised when the extent of the area to be disposed of is clear.

7. Financial and legal implications

- 7.1 As indicated in paragraph 5, at this stage, it is envisaged that the costs incidental to the development will be met by the Council's private sector partners or from eventual sale proceeds.

- 7.2 As the land forms public open space, it will be necessary to advertise the disposal of the land in the local press in accordance with s123 (2A) of the Local Government Act 1972 and to consider any objections before proceeding with the disposal.
- 7.3 The Council is under a duty to obtain the best consideration reasonably obtainable when it disposes of interests in property unless, consent is obtained from the Secretary of State or one of the general consents applies.

8. Recommendation

- 8.1 The Council is asked to note the report.

Lead officer contact

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Appendices

Appendix A – Site Plan

Background papers

Report to Full Council 14 January 2010 – item 524 refers:

<http://democracy.medway.gov.uk/CeListDocuments.aspx?MID=1696&RD=Minutes&DF=14%2f01%2f2010&A=0&R=0>

Planning Application No. MC2009/0417 – Submission and report to Development Control Committee dated 12 August 2009 – item 196(1) refers:

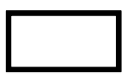
<http://democracy.medway.gov.uk/CeListDocuments.aspx?MID=843&RD=Minutes&DF=12%2f08%2f2009&A=0&R=0>

Report to planning committee 1 June 2016 concerning an application for reserved matters in respect of Phase1A of the development – item 31 refers:

<http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=360&MId=3404&Ver=4>

Report to Cabinet 9 August – Temple Waterfront – item 11 refers:

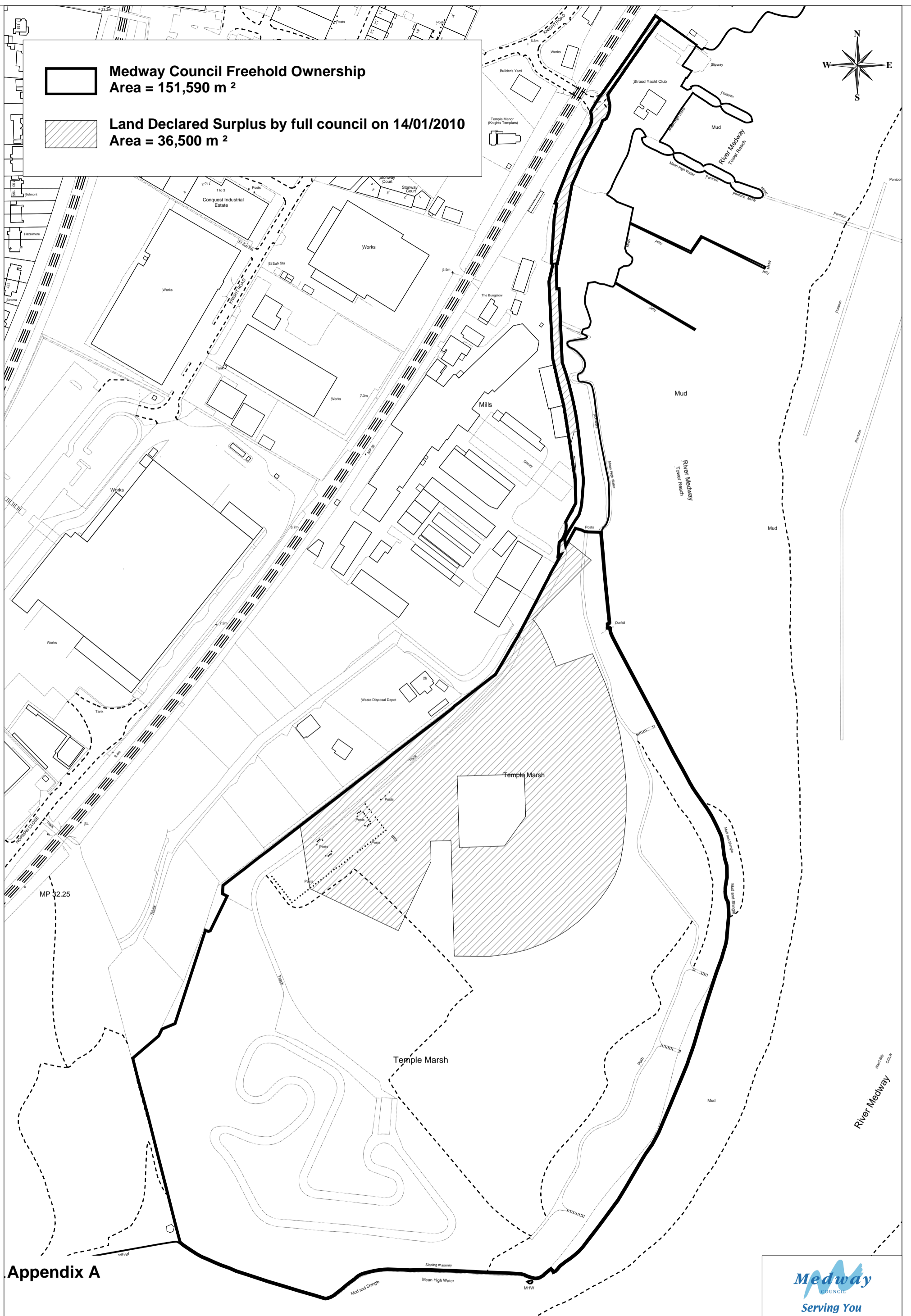
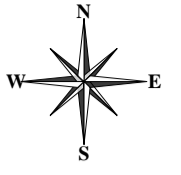
<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=3368&Ver=4>



Medway Council Freehold Ownership
Area = 151,590 m²



Land Declared Surplus by full council on 14/01/2010
Area = 36,500 m²



Appendix A

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