

Meeting of the Cabinet – 10th September 2008

Report of the Director of Law & Property

Proposed Dudley Mosque and Community Training and Enterprise Centre

Purpose of the Report

1. To consider the response of the Council to the proposed development of land at Hall Street, Dudley, for a Mosque and Community Training and Enterprise Centre.

Background

2. In 2001 the Council was approached by the Dudley Muslim Association with regard to a proposal for a new Mosque to replace the existing Mosque at Castle Hill / Birmingham Street, together with a new Community Training and Enterprise Centre which would be available to all communities within the Borough. At the time the estimated cost for the project was in the region of £15m.
3. The preferred site for the development was land at Hall Street, Dudley, which was owned by the Council. The Dudley Muslim Association suggested that this site should be transferred to them in return for a site in their ownership at Trindle Road adjacent to Cavendish House. After negotiation and consultation with the Central Dudley Area Committee it was agreed that this land swap should proceed on the basis that the Council would grant a ninety-nine year lease of the Hall Street site to the Dudley Muslim Association in return for the freehold of the site at Trindle Road.
4. The lease of the Hall Street site included the following provisions:-
 1. An option for the Dudley Muslim Association to purchase the freehold.
 2. A requirement that the Community Training and Enterprise Centre (and associated works) be completed within five years of the date of the lease i.e. before the 16th May 2008.
 3. A statement that the lease would become null and void if the Community Training and Enterprise Centre was not completed or substantially completed before the 16th May 2008.
5. The lease was completed in May 2003 and in October 2004 an extension of time for completing the development was approved. The revised completion date was, therefore, the 31st December 2008.
6. The Dudley Muslim Association exercised their option to purchase the freehold of the Hall Street site and this was completed on the 17th May 2005 but with a similar covenant to complete or substantially complete the Community Training and Enterprise Centre by the 31st December 2008 failing which the Dudley Muslim Association must vacate the site and transfer it to the Council for £110,000-00 plus index-linked inflation.

7. The development of the Hall Street site, of course, required planning permission. The first application submitted was eventually withdrawn by the Dudley Muslim Association in April 2005. A second application was submitted in January 2007 but the application was refused by the Development Control Committee on the 27th February 2007. An appeal against this decision was heard at a public inquiry earlier this year and in a decision letter dated the 17th July 2008 the appeal was allowed and outline planning permission was granted.
8. In order to develop the Hall Street site the Dudley Muslim Association also requires ownership of two additional areas of land at the Blackacre Road of the site. These areas of land are shown on the attached plan of the site and they are owned by the Council. The Dudley Muslim Association applied to acquire these areas of land in 2004 and, following a site visit by the Central Dudley Area Committee, a decision on the application was deferred pending the outcome of the planning process.
9. The Hall Street site is specifically designated as a Local Employment Area in the Unitary Development Plan. This refers to types of uses that would be acceptable employment uses on this site i.e. research and development and light industry, general industry, warehousing, storage and distribution and those commercial uses which are not pure retail. It was on this basis that the application was refused by the Development Control Committee. The view of the Planning Inspector, however, was that the proposed development for a Mosque and Community Training and Enterprise Centre would not harmfully impact on the economic vitality of the Borough through the loss of this site which was allocated as a Local Employment Area within the UDP. The Inspector felt that the proposed development could result in considerable benefits in terms of general economic, social and community well-being and cohesion as a result of the facilities, employment and training it would be likely to bring.
10. Members have made it clear that they do not support the appeal decision and that the Hall Street site is still regarded as a significant Local Employment Area within the UDP policy. As a result, and following receipt of advice from Counsel, the Council has made application to the High Court to challenge the lawfulness of the Planning Inspector's decision.
11. Against the above background it is clear that this development will not be substantially completed by the 31st December 2008 and the Council must also decide whether or not to enforce the covenant and require the Dudley Muslim Association to transfer ownership back to the Council. Counsel's advice is that while further evidence will need to be obtained and there are potential defences open to the Dudley Muslim Association, the Council does have a strong claim for re-transfer of the land back to it, come 1st January 2009.
12. However, before making a decision, it is suggested that there should be a period of consultation with the Dudley Muslim Association which would:-
 - explore whether they have the necessary funding for the development
 - the likely completion date for the development if it proceeds
 - the feasibility of transferring the two areas of land at the Blackacre Road end of the site

- alternative developments for the Hall Street site in accordance with its status as a Local Employment Area
- investment in the existing Mosque site at Castle Hill / Birmingham Street or identifying another suitable alternative site for the development

13. During the period of consultation officers would also undertake an Equality Impact Assessment in accordance with the duty of the Council to work towards the elimination of unlawful discrimination and promote equality of opportunity and good relations between persons of different racial groups.

14. The outcome of the consultations and the Equality Impact Assessment would then be reported to the Cabinet before any decision is made on whether or not to exercise the right of buy-back of this site.

Finance

15. There are no specific financial implications arising from the recommendations in this report, but depending on the final outcome of this issue, there would be implications for the Council's capital programme, the details of which would be included in any follow-up reports.

Law

16. Section 120 of the Local Government Act 1972 enables the Council to acquire land for any of its functions or for the benefit, improvement or development of its area.

17. Under the Race Relations (Amendment) Act 2000 the Council has a general duty to work towards the elimination of unlawful discrimination and promote equality of opportunity and good relations between persons of different racial groups.

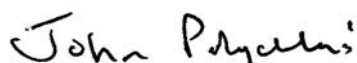
18. Part 2 of the Equality Act, 2006, prohibits discrimination on the basis of religion or belief, inter alia, in the disposal of property.

Equality Impact

19. Equality implications will be addressed as part of the Equality Impact Assessment

Recommendation

20. It is recommended that the Cabinet defer a decision on whether or not to enforce the right to buy-back the site at Hall Street, Dudley pending further consultation and the completion of an Equality Impact Assessment.



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List of Background Papers

1. Lease of Hall Street site dated 16th May 2003
2. Transfer of freehold of Hall Street site dated the 17th May 2005
3. Decision of Planning Inspector dated the 17th July 2008