

To: City Executive Board

Date: 10December 2014

Report of: Executive Director of City Regeneration and Housing

Title of Report: Disposal of the Temple Cowley Pool Site, Temple Road, Cowley

Summary and Recommendations

Purpose of report:

1. To report on the commercial bids received to purchase the Temple Cowley Pools site.
2. To identify the commercial bid which best meets the Council's policy objectives and offers the best value for money.
3. To report on the proposal received from the Save Temple Cowley Pool Community Interest Group(CIC), and to compare and contrast the key aspects of that proposal with the best commercial bid so that members can make an informed decision whether to dispose of the site or work with the CIC to develop their proposal.

Key decision Yes

Executive lead member: Councillor Ed Turner, Finance, Asset Management and Public Health

Policy Framework

1. Corporate Plan Priorities
 - Meeting Housing Need
 - Strong & Active Communities
 - An efficient and effective Council
2. The Medium Term Financial Strategy
3. The adopted sites Housing Plan

Recommendations: That the City Executive Board considers and determines the following matters sequentially

1. To note and accept the recommendation of the Regeneration and Major Projects Service Manager that in regard to the “commercial” bids received for the Temple Cowley pool site (“the Site”) for use of the site for housing purposes, the preferred bidder would be Catalyst Housing.
2. That full consideration be given to the terms of the “community” proposal received from the Save the Temple Cowley Pools CIC (“the CIC”), taking full note of its proposed retention of a pool/leisure facility at the Site.
3. To decide whether it prefers to accept the “community” proposal set out in Recommendation 2 over the “commercial” bid set out in Recommendation 1.
4. In the event that the CEB prefers the “commercial” bid to delegate authority to the Executive Director, City Regeneration to enter into an appropriate contract with Catalyst Housing for the disposal of the Site in accordance with the terms of its bid, or any reasonable variation thereof approved by the Executive Director, City Regeneration; but if the CEB prefers the “community” proposal to instruct officers to pursue negotiations with the CIC, to seek to work up an effective proposed disposal of the site to the CIC, on the basis that if such negotiations continue for more than 9 months without having achieved an agreed disposal (subject to issues of consent to disposal) the Council may seek an alternative form of disposal.

Appendices

Appendix 1- Site plan

Appendix 2- Risk Register

Appendix 3- Not for Publication confidential appendix open market Selection Matrix

Appendix 4- Community Interest Company submission

Appendix 5- Community Interest Company evaluation sheet – against commercial criteria

Appendix 6- Equalities impact assessment

Appendix 7- Details of bid from Catalyst Housing

Background

1. This report seeks direction in respect of the future of the Site shown outlined in red in Appendix 1.

The Site is surplus to requirements following the implementation of previous City Executive Board decisions which have led to the construction of the new pool adjacent to the existing Blackbird Leys leisure centre and the decommissioning and closure arrangements of the Site as a leisure facility. This reflects judgments that the new pool provides the best value solution for the provision of swimming facilities in the South of the City and that

this, combined with other leisure opportunities in and around the Cowley area, makes the Site redundant as a publically funded leisure site.

2. The new pool is nearing completion and it is due to be fully open in January 2015. As the Site is redundant as a publically funded leisure facility it is to be disposed of to part-fund the new pool development and to deliver much needed housing in a key location in Oxford in accordance with policies in the adopted Sites and Housing Plan 2013.
3. On the 7th April 2014 the Site was listed as an Asset of Community Value following an application from a Community Interest Group (later becoming a Community Interest Company). A moratorium on the disposal of the Site was therefore imposed, to provide time for the Community Interest Group (the Save the Temple Cowley pool CIC) to seek to put together a bid and funding to purchase the Site to maintain this community facility.
4. On the 7th November 2014 a proposal was received from the Save Temple Cowley Pool Community Interest Company ("the CIC") to retain the Site as a publically accessible leisure facility operated by the CIC.
5. This report deals with this matter in two stages. The first stage examines the commercial bids received in response to the Council's procurement - which is in line with the Council's resolved policy and budget position. The second stage provides information on the CIC's proposal and reviews this in terms of the Council's policy aims, unfettered by the previous decisions.
6. Information is then summarised in respect of community engagement, equalities impact, and finance of the two possible courses of action in order that members can make an informed decision.

Stage 1 Evaluation of Commercial Bids

7. The Council appointed specialist external consultants to advise on the disposal of the Site and to undertake a national open market campaign. The marketing of the Site was undertaken in the early part of 2014 on the following basis:
8. The selected disposal route for the Site was agreed as an open market informal tender process, where the preferred bidder would enter into a conditional 'subject to planning' contract, based on the following principles:
 - A '**Base Land Value**' as a guaranteed minimum land payment and also expressed as % gross development value. This is referred to as the **Base Land Value %**
 - **Implementable Land Value** will be calculated following a satisfactory/implementable planning consent, a re-valuation of the Site will be carried out to determine the uplift above the **Base Land Value**. The uplift will be calculated using the **Base Land Value %** of the improvement in the gross development value

- Conditions to form part of the conditional contract will be to deliver a planning consent, undertake community engagement, and deliver a high quality (through the OCC Design Panel) scheme
 - Overage on each revenue sale (on completion of sale)
 - 5% deposit (non-returnable) on exchange of contracts
 - Demolition and site security. Return of developer demolition costs (as above) on subsequent disposal of the Site by the Council if the contract does not go unconditional
 - In the event that the contract does not become unconditional all drawings and surveys will become the property of the Council.
9. The Site was promoted on the open market. A number of bid criteria were set for potential purchasers in order that the Council would be in a position to select a preferred developer that would be able to deliver a “best consideration” receipt and a high quality development. These included not only a financial submission but details of design, materials, community engagement and funding/Board approval. The submissions were considered against a 30% quality and 70% price criteria. The external consultants received inquiries from over 50 interested parties which resulted in 9 bids being received from a range of developers, including house builders and care home specialists. The marketing process undertaken created a competitive bidding environment and was able to create exposure in both national and local developer markets.
10. The bids received were then reviewed by the Council’s officers and the external consultant. The bids underwent an initial scoring and subsequent ranking. In order to be able to fully appraise all submissions each bidder was offered the opportunity to provide clarification of both a general and specific nature. Once these clarifications were received from the bidders the compliant bids were scored again and the rankings were recalculated. In addition the top 6 bids were evaluated by the Council’s development control officers in order to assess their compliance with planning policy and development control criteria. The top three scoring bidders were then asked to attend an interview. Each interviewee was given the opportunity to present their scheme and was asked a series of questions to help facilitate the selection of the preferred purchaser.
11. As a consequence of the interview process and the comments from the Local Planning Authority, the top three bidders were scored for a final time and the overall consolidated scores were given a final ranking. Again, this process was undertaken by Council officers and its external consultants. As a result of this open market selection process the top scoring bidder is Catalyst Housing. The Catalyst Housing submission offers an excellent financial receipt and has satisfactorily addressed all the requirements set in the open market bidding process. Their scheme proposes the provision of 47 residential units consisting of 15 x 1 bed dwellings, 19 x 2 bed dwellings, 12 x 3 bed dwellings, and 1 x 4 bed dwelling, of which 50 % will be affordable, within a high quality well designed environment, which will enhance the existing streetscape.

12. The bidder assessment matrix has been attached for members' information in appendix 3. The full details of the Catalyst Housing bid are set out in Appendix 7. However, for members' convenience, the key features of the bid can be summarised as follows:

- It would create a high quality development that will augment the existing community in terms of urban and unit design - working closely with the Oxford Design Panel
- It would maintain parking and connectivity to the Library, School and the Silver band practice Hall
- It would ensure that parents are able to access the school through the development to collect their children
- The bidder would work closely with the community in a comprehensive programme of Community engagement
- It would deliver 47 new dwellings of various unit sizes to help in addressing local housing need
- It would deliver 24 new affordable dwellings for the benefit of the Oxford population
- It would provide a receipt to the Council of £3.6m
- It would create a platform for the Council to receive additional receipts based on the improving housing market
- It would provide a high level of certainty of delivery
- It would deliver the objectives of adopted Oxford City Planning policy.

13. The recommended selection of Catalyst Housing from the "commercial" bidders offers 'best consideration' as required by section 123 of the Local Government Act 1972. This recommendation will deliver the Corporate Plan priorities of creating a vibrant sustainable community, meeting housing need, creating a strong active community, building a cleaner greener Oxford and an efficient effective Council in line with the Core Strategy and Sites and Housing Development Plan.

14. Planning Implications

The bid submitted by Catalyst Housing will deliver a development solution working in cooperation with the Council, to create a high quality development that will deliver the policies set within the adopted Core Strategy 2011 and the Sites and Housing Plan 2013. The proposed 47 dwellings will provide much need market and affordable housing to the Oxford market. 50% of the proposed development will be for affordable purposes.

Risk Implications

15. A risk assessment/register has been undertaken and is attached for your information as Appendix 2.

STAGE 2 - The Community Proposal

16. On 3rd March 2014 the Save the Temple Cowley Pool community group applied to have the Temple Cowley pool included within the register of assets

of community value. On the basis that the existing use was of community benefit and a community group was confident of its ability to continue that use, the Site was registered as an asset of community value on 7th April 2014. The open market disposal process referred to above had already commenced by the date of this application, but in accordance with the provisions under the Localism Act 2011 relating to the proposed disposal of an Asset of Community Value, a moratorium on the unconditional disposal of the Site was implemented to allow a Community Interest Group or company to prepare a bid to acquire the Site.

17. On the 7th of November a proposal in regard to the Site was received from the CIC. This submission provided outline proposals for the retention and continued use of the Site as a pool and leisure facility along with the provision of 17 dwellings (8 of which to be affordable units). The CIC do state these plans are “conservative” and there is scope for further housing which they say are capable of being further explored.
18. The CIC submission is referred to here as a “proposal” as it does not form a firm bid to purchase the Site in a form on which the Council could properly rely. It is also how the CIC style their submission. The proposal received is an invitation to the Council to work with the CIC to work up their proposition, work with them through due diligence and business planning and funding scenarios to see whether the proposition is deliverable and desirable. It therefore currently has a high degree of uncertainty and risk around its cost, sustainability and deliverability, although it is right to point out that the CIC regard their proposal as “zero risk” to the Council.
19. The CIC’s proposal outlines its plan to retain the existing pool and to augment the facilities to deliver a wider leisure offering to the community along with the construction of 17 flats, 8 of which are proposed to be affordable housing. The submission documents are attached for members’ information in Appendix 4 along with Appendix 5 the Community Interest Company evaluation against the original criteria. What follows is only a summary, and members are asked carefully to consider the submission documents themselves.
20. The key aspect of the proposal is to maintain the Site as a publically accessible leisure facility run by the CIC. According to the proposal the centre (following the completion of necessary works) would offer the following :-
 - The 25m swimming pool in the retained pool hall
 - The diving pool brought back into use
 - Two flumes
 - A Jacuzzi
 - Redeveloped/positioned sauna and steam room suite
 - Café
 - Community floor incorporating catering facilities and a crèche
 - Therapy rooms for a variety of uses, but principally enabling an integrated link with NHS provision.
 - Community gardens

21. This work is intended to be funded, at least in part, by the development on the site of residential accommodation. CIC do not propose to make any capital payment to the Council for the Site. Rather, they envisage the Council granting a lease for a 30 year term at an annual rent of £100 with an option to purchase the freehold at a later date. It is not clear from the proposal how a 30 year lease could be sufficient given the proposal to build and dispose of housing on part of the Site. However, as a result of further clarification, they have indicated that they might take a lease of 125 years for the Site. , Even this may not in itself resolve all potential difficulties concerning the on-going structural integrity and management of the dwellings.
22. The assertions in the proposal that these aspects of the scheme are deliverable and that the centre could operate at a surplus have not been tested. However the continued provision of leisure facilities at this location will be of value to potential users. The scale of these benefits would be reduced by the availability of a new swimming and leisure complex within 1.5 miles of the Temple Cowley site, although a benefit would remain.
23. The current role of Temple Cowley pool as the competition pool for Oxford would be replaced by the new pool at Blackbird Leys, as the swimming club would move most of their sessions to the new pool. However, under the CIC's proposals, the Site could fulfil a community pool role serving the casual swimming needs of the population living or working nearby.
24. These community benefits, which would be attainable only with a substantial public subsidy, need to be weighed against the Council's leisure facility strategy which considered the nature and extent of leisure provision in the city. The key finding of the work leading up to the strategy's adoption was that there was an unsustainable over-provision of swimming pools in the City that was contributing to their decline and to significant deficit funding by the City Council of leisure services from its general revenue fund.
25. The number of pools and the consequential maintenance and staffing costs resulted in competition for customers and relatively low usage and income levels. That led to a lack of investment, and a reduction in the appeal of the pools to new customers. This analytical framework led to the development of the leisure strategy, which involved fewer, modern, better maintained premises with a focus on reducing costs and the subsidy requirement through site consolidation, particularly through bringing together wet and dry side facilities.
26. The adoption of this strategy has resulted in Ferry, Barton, Oxford Ice Rink and Hinksey outdoor pool being substantially improved. Usage has grown and so has income generation. This has, in turn, supported further investment. The final strand in the strategy is opening a competition standard pool, a teaching pool and a splash pool adjoined to Blackbird Leys Leisure Centre. The new pool replaces Temple Cowley and Blackbird Leys pools. The new pool will be a modern city wide facility, meeting current requirements for a

competition pool and also providing facilities for enhanced swim schools, casual swimming and toddler play. The analysis carried out by the Council leading up to the decisions to commission the new facility confirmed that this approach would provide the best value for money route to meet the swimming needs of the South of the City and for a replacement competition pool. The Council was supported in this work by one of the consultancy firm recommended by Sport England to establish an evidence base of needs and appropriate provision in line with established best practise.

27. The CIC proposal also suggests that other leisure activities such as a gym would be maintained. This should be weighed against the fact that the Council has budgeted for investment in new gym provision in the area.
28. Further improvements in the area such as improving the sports pavilion and installing an outdoor gym in Cowley Marsh Park have also been made. This along with the new pool facility close by provides a range of sustainable, high quality leisure provision for the City's residents in the local area and the south of the City.
29. The above suggests that there would be some limited leisure utility in the proposal from the CIC, which might be worth pursuing if it were available at no, or a low, cost. The CIC proposal claims that their centre could be run on a break even basis. To achieve this, the CIC would need to achieve a substantial increase in income or a substantial reduction in running costs. What is clear is that the tax payers of Oxford would have to forgo a significant capital receipt for the Site if the CIC proposal was accepted.
30. Members will also wish to balance the leisure utility of the CIC proposal against the other priority objectives of the Council that would be met through the development of the Site for housing as planned, but substantially lost if the CIC proposal was accepted.

Planning Policy

31. The Site is listed in the Sites and Housing Plan document under policy SP54 which envisages the Site being fully redeveloped for housing. The CIC proposal is not fully compliant with this policy and does not meet the aspiration in terms of contribution to housing numbers in the City. The question as to whether the new pool at Blackbird Leys meets the requirements of Policy SR2 in respect of it being a suitable replacement facility for the pool at the Site has been considered by the Head of City Development who advises that it is likely to be considered that it does. This will be tested as and when a planning application is submitted for the Site for a non- leisure use.

Housing policy

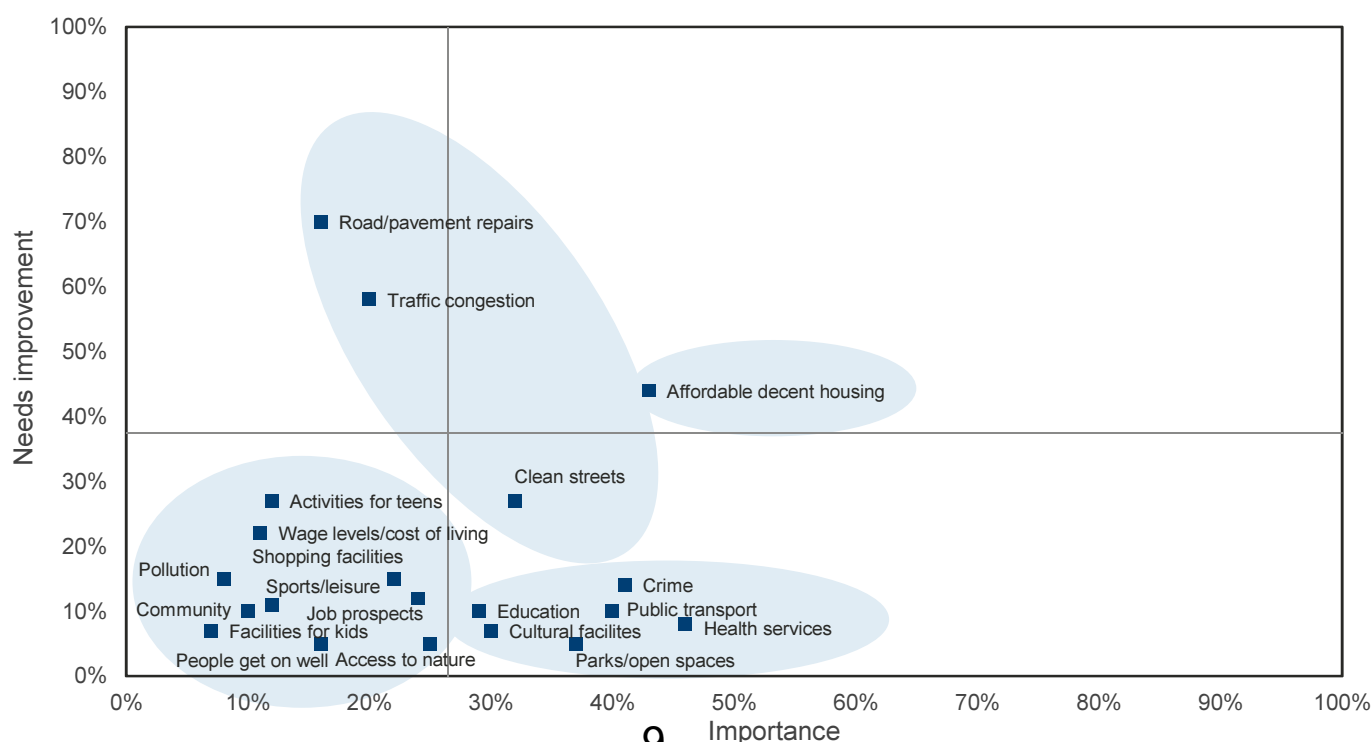
32. Meeting housing need is a high priority for the Council. As at the end of September 2014 there were 3,300 households in the City on the waiting list and 118 homeless households living in temporary accommodation. The

commercial bid provides 47 units of housing of which 50% would be affordable whilst the CIC proposal talks of 17 units of which 8 would be affordable. Therefore the commercial bid provides 30 more housing units of which some 16 more would be affordable. To put this in context, the target for affordable homes to be completed in 2014/15 is 180. The Oxfordshire Strategic Housing Market Assessment shows 2,800 city households currently in unsuitable housing, rising at nearly 1,400 per annum, which requires an affordable housing supply, above the current supply, of over 1,000 per annum, for the next twenty years.

33. As Catalyst Housing is a member of the Oxford Register for Affordable Housing Partnership, the Council would obtain 100% nomination rights in perpetuity to the affordable housing provided. This would be reinforced in any sale agreement. Each unit of affordable housing to which the Council has nomination rights has a value which has been estimated, based on current market activity elsewhere, as being of the order of £120K per unit. When balancing the merits of the possible options, members should factor in this value, in addition to the loss of the capital receipt, should the CIC proposal be taken forward.

Public Engagement

34. A recurrent feature of any public engagement exercise is the need for improvements to affordable housing in and around the city. The Council's spring 2014 Talkback survey, carried out by Ipsos-Mori identified three key issues where the representative panel of members of the public felt that the issue was of high importance and there was a strong need for improvement. The area with the highest importance was affordable housing. The other areas which had, in the panel's view, a higher need of improvement related to roads and transport. These are primarily functions of the Highway Authority – the County Council. The finding of the spring 2014 Talkback survey are summarised by Ipsos-Mori in the diagram below.



35. The CIC has regularly referred to the large number of signatures gathered in support of the retention of the current pool facility. The history of the campaigns to raise support and convey that to the Council is set out in the CIC proposal. The Council recognises that there is a level of public support to retain TCP but this general wish to retain this facility in the Temple Cowley area has to be weighed against the wider considerations of the City Council's responsibility to the whole of the city community for the optimal use of financial resources, meeting housing needs and providing appropriate leisure facilities.

Equalities Impact Assessment

36. Under the Equality Act 2010, the Council has a duty to have due regard to the need to: (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (2) advance equality of opportunity between those with a protected characteristic and those without; and (3) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. The Act also covers marriage and civil partnership with regards to eliminating discrimination.
37. This duty is to be exercised by members when deciding whether to accept the commercial bid or to prefer the CIC proposal. To assist members, an equalities impact assessment has been carried out on the differing impacts of the commercial bid and CIC's proposal. This is attached as appendix 6 to this report.
38. The conclusion of the assessment is that both options have positive impacts. Unsurprisingly, the selection of one over the other would also necessarily have negative impacts. Therefore, whilst the CIC proposal would have a local positive impact of retaining the pool, this would be at the expense of the provision of far more units of housing (including affordable housing) that would result from Catalyst Housing's bid. And, whilst that bid does not include the retention or development of the leisure facilities at the Site, the negative effects of this would be, and are being mitigated by the suitable alternative and, in some ways superior, facilities provided at the new pool.
39. The provision of far more new housing would have substantial new positive impacts.
40. Indeed, the provision of housing and particular affordable housing is seen as a key enabler in tackling inequalities in respect of sex, race, religion and belief and disability as female single parent households, black and minority ethnic minority groups and persons with disabilities are all over-represented in the households in the city in housing need and particular acute housing need due to homelessness and overcrowding.

Risk Register

41. A risk matrix has been completed and is reproduced as Appendix 2. With the commercial bid the risks are well known, understood and the procurement process has sought to mitigate these appropriately for the Council.
42. The CIC proposal is currently seen as high risk as set out in the risk assessment where there are several high risk items where as far as we can tell appropriate mitigation has not been put in place.
43. Finally the CIC has no track record or experience in executing what is a complex building refurbishment and extension or in running a leisure centre with high risk areas such as pools and plant rooms. All of these risks could fall back onto the Council in terms of picking up the project, managing the centre or taking action to close down the project.
44. Currently there is no business plan to assess the viability of the CIC proposal or evaluate the claim that the centre could be run at a profit which runs counter to the Council's experience of running the centre over a number of years.
45. The CIC proposal states that their proposition is "zero risk" for the Council as if they fail to implement their proposals successfully; the Council would get the premises back and then could sell it on the open market. However, this approach fails to identify the risks of cost to the Council of delay and potentially losing the current preferred offer, and of the costs and officer time in abortively pursuing their proposal.

Financial

46. The Council's budget assumes a capital receipt in respect of this Site of £1.5m in 2014/15. The preferred commercial bid offers a purchase price of £3.6m and thus exceeds this figure. The CIC proposal assumes the current and future value of the site to be zero and therefore offers no capital receipt to the Council. The annual rent proposed by the CIC for the Site would be a nominal £100 p.a.
47. The Budget Setting process for 2015/16 and the following three years once again will prove challenging. As the Government continues to struggle to balance the budget deficit the pressure on local government is likely to continue and revenue support grant is now predicted to reduce to zero by 2018/19, two years earlier than previously thought. This loss of grant, together with the ambitious capital programme, requires the Council to derive maximum financial benefit from the disposal of its assets if the Council is not to enter into substantial borrowing. The additional capital receipt achieved from the disposal of the Site would achieve this and ease the pressure on both the capital programme and the Council's General Fund Revenue account.

48. As set out in stage 1 (paragraphs 7 to 13) above the Council will share in any improvement in the market based on accepted terms negotiated with the preferred bidder. In addition there is the issue of the value of nomination rights accruing to the Council from the options. Using a nominal value of £120k per unit the Catalyst bid provides an additional 16 such units (£1.92m) over the CIC proposal.

Options

49. The options now open to the City Executive Board are either to accept the best bid made by a “commercial” bidder to redevelop the Site for the purpose of providing housing; or to instruct officers to halt the disposal process and engage with the CIC to establish whether their proposal is viable, sustainable and deliverable. If the CEB decides to pursue the latter option it is recommended that time limits be set, by which certain milestones should be met and the terms of a disposal agreed (subject to issues of consent to disposal) should be completed within 9 months. If the former option is preferred, the Council will continue to monitor the availability of leisure facilities in the Temple Cowley area.

Sustainability and Climate Change Implications

50. Averaged over recent years, Temple Cowley Pool has the highest carbon footprint of any of the Council owned leisure centres in the City, indeed of any building operated by the Council, and currently accounts for around 15% of the Council’s core carbon footprint. Redevelopment for housing to a modern standard will have a positive impact and will reduce the Council’s and City’s carbon footprint. The impact on carbon emissions from the CIC’s proposals are difficult to quantify for, whilst they make proposals in respect of pool covers and energy management, it is currently not clear what impact there might be from the replacement and or enhancement of major building elements or plant as there are no detailed proposals.

Legal Implications

51. The Council’s power to dispose of the Site arises from section 123 of the Local Government Act 1972. This provides that, except with the Secretary of State’s consent, it may not dispose of land for a consideration less than the best that can reasonably be obtained. “Consideration” has been interpreted by the Courts as referring to the price payable for the land, focussing only on the financial consideration (i.e. the money offered) together with other element(s) which have a commercial or monetary value which is capable of being assessed by valuation experts. It has recently been held, for example, that where local authorities have enforceable nomination rights in new social housing to be constructed on the land to be disposed of, these are capable of being valued in money terms and may be taken into account as part of the overall consideration.

52. Catalyst Housing's bid provides the best consideration reasonably obtainable, of all the commercial bids.
53. The Secretary of State has provided, in his 2003 General Consent, that there is no need for the Council to dispose of land for the best consideration reasonably obtainable (or seek a specific consent from him) if it 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: (a) the promotion or improvement of economic well-being; (b) the promotion or improvement of social well-being; or (c) the promotion or improvement of environmental well-being; and the difference between the unrestricted value of the land and the consideration to be obtained, does not exceed £2,000,000.
54. Simply on the basis that Catalyst Housing's bid for the Site is £3.6m whereas CIC's proposal is for the disposal by way of a 30 year lease at an annual rent of £100, it would appear that a specific consent of the Secretary of State may be needed. This does not take into account the additional value of the nomination rights for the social housing to be provided, some £1.92m.
55. Although members are not required to make assumptions at this stage as to whether specific consent would be granted, they should consider whether, even if Secretary of State's consent was not needed, the benefits brought by the CIC proposals would warrant the Council foregoing some £5m (in receipts and nomination rights), together with the reduction in the numbers of units of housing to be provided.
56. It should also be noted that the statutory "moratorium period" under the Localism Act 2011, which resulted from the registration of the Temple Cowley Site as an asset of community value expired on 7 October 2014. It is now open for the Council to dispose of the Site.

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Background Papers: None

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