



## SHEFFIELD CITY COUNCIL Cabinet Report

---

**Report of:** Executive Director, Place

---

**Date:** 1 August, 2012

---

**Subject:** Redevelopment of Fox Hill site

---

**Author of Report:** Christine Rose 2734373

---

---

### Reasons for Recommendations:

SCC wants to ensure that a new developer is secured who can deliver the high quality housing set out in the lease for Fox Hill.

We are working with KPMG (the administrators), who have been testing the market to identify developer interest.

This report requests that officers are authorised to continue with the negotiations and agree a variation of the lease to allow a new scheme of development which will still maintain the high quality standards as originally envisaged.

### Recommendations:

1 That the Director of Property Facilities and Management and the Director of Housing, Enterprise and Regeneration be authorised to negotiate any new terms of the lease as are considered necessary for the provision good quality housing at Fox Hill.

2 That the Cabinet members for Homes and Neighbourhoods and Business, Skills and Development are delegated the authority to consider the developers final proposals and whether they meet SCC's requirements and make a decision as to whether or not to proceed with those proposals.

3 That, subject to the decision being made to proceed with the proposals the Director of Property and Facilities Management be authorised to instruct the Director of Legal Services to complete the necessary legal documentation.

---

**Background Papers:**

---

**Category of Report:**      OPEN part 1 CLOSED part 2\*

**If Closed add – ‘Not for publication because it contains exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).’**

---

\* Delete as appropriate

## Statutory and Council Policy Checklist

<b>Financial Implications</b>
YES/Cleared by Paul Schofield:
<b>Legal Implications</b>
YES    Cleared by: David Sellars
<b>Equality of Opportunity Implications</b>
NO    Cleared by:
<b>Tackling Health Inequalities Implications</b>
NO
<b>Human rights Implications</b>
NO:
<b>Environmental and Sustainability implications</b>
YES
<b>Economic impact</b>
NO
<b>Community safety implications</b>
NO
<b>Human resources implications</b>
NO
<b>Property implications</b>
YES
<b>Area(s) affected</b>
Fox Hill
<b>Relevant Cabinet Portfolio Leader</b>
Harry Harpham
<b>Relevant Scrutiny Committee if decision called in</b>
Safer homes and communities
<b>Is the item a matter which is reserved for approval by the City Council?</b>
NO
<b>Press release</b>
YES

## **Redevelopment of Fox Hill site**

### **1.0 SUMMARY**

- 1.1 On 21.09.2005 Cabinet noted that Artisan H Ltd was selected as the successful developer following a competition process for the Fox Hill redevelopment site. The Council entered into a lease with Artisan H Ltd dated 28 April 2008. However, in December 2011 Artisan H Ltd went into administration and KPMG were appointed as administrators by the Bank of Ireland who hold a charge over the lease. SCC is still the freeholder of the land which is the subject of the lease and as such has a major role in how the redevelopment of the site is taken forwards. This report recommends that officers are given the authority to negotiate a way forwards and vary the lease as required in order to ensure the delivery of high quality housing at Fox Hill.

### **2.0 WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE**

- 2.1 The delivery of new housing at Fox Hill effectively stopped in late 2011 as the developer, Artisan H Ltd had been placed into administration. 6 apartments have been completed and sold and 23 units were under construction.
- 2.2 SCC is the freeholder for this site. This report authorises officers to negotiate a way forwards with KPMG, the administrators, to ensure that approximately 160 units of good quality housing is developed on the site.

### **3.0 OUTCOME AND SUSTAINABILITY**

- 3.1 The anticipated outcome of the negotiations would be that a new developer who has been identified by KPMG will be able to deliver the quality of housing specified in the original lease. As matters stand any developer who acquires the lease takes on the obligations to provide good quality housing. They are obliged to use the existing planning application, but any subsequent application must first be agreed by SCC as landlord and will be expected to deliver the following:
- 3.2 Design Standards - the contract with Artisan H Ltd provided that the grant of the lease would be conditional on the grant of planning permission which was based on a planning application approved by SCC as landowner.
- i) Eco Homes Standards (rating of "Very Good" and a SAP rating of at least 95 and where possible no materials /specifications rated as C within the Green Guide to Housing Specification)
  - ii) CABC - Gold Standard

iii)Secured by Design accreditation

iv)Mobility Homes and Lifetime Homes - 25% of dwellings to meet "Mobility Homes" standards. Maximum number of dwellings to meet Lifetime Homes standard.

In addition there will be a planning requirement for affordable housing. There is currently an agreement with great places housing association that they will acquire 21 units, comprising of 10 x 1bed dwellings and 11 x 2 bed dwellings.

## **4.0 BACKGROUND**

4.1 The Fox Hill site formed part of the North Area Development Framework and was a key opportunity for SCC's Housing Market Renewal programme to significantly regenerate and support the housing market through improved housing quality and choice.

4.2 Fox Hill is a visible site along a ridge line overlooking the city and is located in the north west corner of Southey Owlerton area of North Sheffield, adjacent to surrounding farm land, countryside and the popular areas of Old Fox Hill and Birley Carr. The site consists of 3 separate plots of land as referred to on the plans to the lease

In 2005 an open market competition was held to identify a developer who could deliver to the requirements set out in a market brief.

On 21.09.05 Cabinet noted that Artisan H Ltd was selected as the successful developer following the competition process for the Fox Hill redevelopment site.

4.3

Mark Firmin and Howard Smith were appointed Joint Administrators of Artisan H Ltd in the High Court of Justice on 12 December 2011. At the date of the Administrator's appointment 6 units at the Fox Hill development had been completed and sold and 23 units were under construction.

The bank Artisan H Ltd had obtained funding from to develop the site engaged KPMG LLP to help consider its options in November 2011. During this time creditor pressure from those creditors with a vested financial interest in the development was mounting on Artisan H Ltd.

A Notice of Intention to appoint an administrator was lodged by Artisan H Ltd on 22 November 2011 to allow it to assess its position. However, upon its expiration on 6 December 2011, a winding up petition was lodged which prevented Artisan H Ltd from appointing an administrator. Instead, the bank sought to appoint Mark Firmin and Howard Smith of

KPMG LLP as Joint Administrators on 12 December 2011.

Upon their appointment, representatives of the Joint Administrators attended the Fox Hill development site to ensure it was compliant with insurance and health and safety regulations. The entire perimeter of the site has now been secured and 24 hour on site security is in place.

#### **4.4 Legal Implications**

KPMG initially made contact with parties who have expressed an interest in acquiring the site, with the view to continuing and completing the development. The Joint Administrators continue to liaise with the key stakeholders – namely the Bank, the Homes and Communities Agency (both of whom have previously helped with funding), and SCC in seeking a resolution for the development.

In the meantime since the date of the appointment of KPMG Artisan H Ltd has breached at least one of its obligations under the lease in that it failed to complete 50 homes by 31 December 2011. Under the terms of the lease this breach triggers a process by which SCC can serve a notice on Artisan H Ltd requiring it to remedy the breach within a reasonable period of time. In order to protect the Council's position a notice was served on 5 January 2012 requiring the 50 homes to be built within 6 months. That obligation has not been complied with. If Artisan H Ltd remains in breach of the obligation ultimately SCC will be in a position to re purchase the lease for £1.00 (One pound). It is envisaged that the process would take approximately 24 months from service of the notice i.e. till January 2014.

Although a developer has been identified it is clear that they do not consider the scheme as it stands to be practicable both logistically or economically. The developer wishes to explore in more detail the possibilities for an alternative scheme that whilst viable would maintain the high building standards required by SCC. In order to do so KPMG has agreed to give the developer a period of exclusivity in order to make site investigations and have discussions with SCC's planners. SCC has agreed to take no further action under its notice for 6 months whilst the options are explored., and the administrator will provide regular updates on the progress of the developers enquiries. Should the enquiries not progress the administrator and developer should bring the exclusivity agreement to an end allowing the Council to then continue its action

If SCC are to agree to an amendment to the scheme this will require consequential amendments to the terms of the lease. It is also possible that if the scheme proposed by the developer and accepted by SCC is materially different from that first proposed and accepted then an application for Secretary of States consent may be required.

#### **Finance**

This is covered in the closed part 2

## **5.0 ALTERNATIVE OPTIONS CONSIDERED**

5.1 SCC has been cooperating with KPMG to allow them to secure a new developer. They have carried out some extensive market testing but interest in the site with the present obligations under the lease has been weak, resulting in only one positive expression of interest.

5.2

If Artisan H Ltd remains in breach of the terms of the lease SCC could require that the lease is assigned to SCC for £1 and could seek to identify another developer. However, following the market testing already carried out, this is unlikely to result in any further interest.

In the mean time SCC would be responsible for all security and health and safety costs and no funding is available for this.

## **6.0 Risk**

There is a reputational risk to SCC if this project is not taken forwards in a timely manner. Currently, SCC is cooperating with KPMG in order to get best value and high quality design for the site. The potential developer is willing to work at risk, but requires reassurance from SCC that we will not start negotiations with any other developer in the short term (6 months from June). This report allows officers to negotiate the best deal for SCC to allow the development to progress.

## **7.0 REASONS FOR RECOMMENDATIONS**

7.1 SCC wants to ensure that a new developer is secured who can deliver high quality housing for Fox Hill.

7.2

We are working with KPMG, who have been testing the market to identify developer interest.

7.3 This report requests that officers are authorised to continue with the negotiations and agree a variation of the lease to allow a new scheme of development which will still maintain the high quality standards required.

## **8:0 REASONS FOR EXEMPTION (if a Closed report)**

7.1 This report is presented as an exempt item because it contains exempt information under paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended). The reasons for its exemption are that it refers to items covered in the cabinet report of 28/4/2008 which were closed then and still remain confidential.

## **9.0 RECOMMENDATIONS**

9.1 That the Director of Property Facilities and Management and the Director of Housing, Enterprise and Regeneration be authorised to negotiate any

new terms of the lease as are considered necessary for the provision of good quality housing at Fox Hill.

- 9.2 That the Cabinet Members for Homes and Neighbourhoods and Business, Skills and Development are delegated the authority to consider the developers final proposals and whether they meet SCC's requirements and make a decision as to whether or not to proceed with those proposals.
- 9.3 That, subject to the decision being made to proceed with the proposals the Director of Property and Facilities Management be authorised to instruct the Director of Legal Services to complete the necessary legal documentation.