

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER OR OFFICER

This form can be used for any decision but **MUST** be used to record:

- any decision taken by the Elected Mayor or an individual Councillor
- a key decision taken by a Council Officer

In these circumstances the form must be completed and passed to the Service Manager (Members' Services) no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Service Manager (Members' Services) has confirmed the decision has not been called in.

1. Description of decision

- (a) That the residential development of land to the rear of the Bedford Museum building and to the west of the Bedford Gallery, shown on the Plan attached at Appendix A, be approved for intermediate tenure affordable housing in order to supplement the level of provision achieved in the Castle Lane development scheme;
- (b) That the allocation of any Overage arising from the land transaction with the Castle Lane Area developer, Complex Development Projects Limited, be approved in order to provide affordable housing in the Borough to the extent that the financial viability of the Castle Lane development scheme or the proposals in (a) above do not enable a 20% affordable housing requirement to be achieved;
- (c) That the allocation of the land proceeds arising from (a) above to the emerging Bedford Museum/Art Gallery Refurbishment project be approved (if required).

2. Date of decision

30 November 2006

3. Reasons for decision

To consider the progress being made and the next steps in order to take forward Castle Lane area projects, including the basis for land disposal in the area.

4. Alternatives considered and rejected

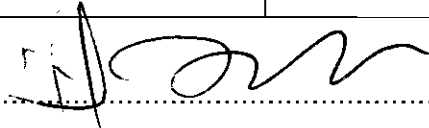
Not Applicable

5. How decision is to be funded

Not Applicable; the proceeds from the sale of the land to the rear of the Bedford Museum building and to the west of the Bedford Gallery is estimated at £200,000.

6. Conflicts of interest

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (if yes give details and date of dispensation)
None		

Signed 

Date 30 November 2006

Name of Decision Taker MAYOR
 [this must be signed by the decision maker or, if the decision was made by the Mayor or Councillor then the relevant Head of Service may sign it].

This is a public document. A copy of it must be given to the Service Manager (Members' Services) as soon as it is completed.

Date decision published: 30.11.06

Date decision can be implemented if not called in: 12.12.06

Bedford Borough Council – The Elected Mayor

30 November 2006

Report by the Head of Economic Development & Regeneration

**Subject: TOWN CENTRE DEVELOPMENT: CASTLE LANE AREA –
DISPOSAL OF LAND**

1. Executive Summary

To consider the basis for the disposal of Council land to the rear of Bedford Museum in the Castle Lane area.

2. Recommendations

The Mayor is invited to consider the report and, if satisfied, to:

- (a) Support the residential development of land to the rear of the Bedford Museum building and to the west of the Bedford Gallery, shown on the Plan attached at Appendix A, for intermediate tenure affordable housing to supplement the level of provision achieved in the Castle Lane development scheme;**
- (b) Approve the allocation of any Overage arising from the land transaction with the Castle Lane Area developer, Complex Development Projects Limited, to be used to provide affordable housing in the Borough to the extent that the financial viability of the Castle Lane development scheme or the proposals in (a) above do not enable a 20% affordable housing requirement to be achieved;**
- (c) Support the allocation of the land proceeds arising from (a) above to the emerging Bedford Museum/Art Gallery Refurbishment project (if required).**

3. Reason for Recommendations

To consider the progress being made and the next steps in order to take forward Castle Lane area projects, including the basis for land disposal.

4. Key Issues

4.1 Policy/Legal Considerations

The regeneration of the town centre is a key priority, reflecting the importance of a strong and vibrant town centre in achieving the growth objectives set out in national policy as well as regional and sub-regional spatial strategies. The regeneration of the Castle Lane area enables the provision of a distinctive cultural quarter with space for living, showcasing local heritage and providing an appropriate setting for key elements of the Council's cultural offer.

The Local Plan (Policy H31) requires 30% affordable housing to be provided on schemes of more than 25 units. This scheme falls into this category (with 104 residential units) and the planning consent granted only requires the delivery of a total of 20% intermediate housing affordable to local households as a result of the marginal viability of the scheme. The statement on affordable housing that accompanied the planning application recognised that, for reasons of viability associated with the exceptional costs arising principally with the archaeological investigations and interpretation works, the achievement of 30% affordable homes could not be achieved. There remains a risk that, due to viability, the provision of less than the required 20% affordable housing will be possible and, as such, the heads of terms in relation to the planning consent provide for an early review of the planning obligations based upon detailed financial estimates. Any formal decision on this rests with the Planning Committee.

The opportunity exists to allocate adjacent land to the rear of the Bedford Museum building and to the west of the Bedford Gallery, shown on the Plan attached at appendix A, for further intermediate tenure affordable housing to supplement the level of provision to be achieved in the Castle Lane development scheme. The Council has a statutory duty under Section 123 of the 1972 Local Government Act to obtain best consideration from property disposals and, in respect of this land, the Head of Planning and Housing Services has advised that the provision of affordable housing "off-site" to supplement the lesser requirement of 20% on the Castle Lane scheme itself would accord more fully with adopted planning policy, the Council's Housing Strategy and, additionally, would meet Corporate Plan objectives. The disposal of the site to deliver a number of affordable homes (to create balanced and mixed communities) would, therefore, contribute to the achievement of any one or more of the three well-being objectives in respect of the whole or any part of the Borough, or of all or any persons resident or present in the Borough as set out in section 2 of the Local Government Act 2000, namely the promotion or improvement of (i) economic, (ii) social or (iii) environmental well-being.

A further opportunity exists to allocate any Overage arising from the land transaction with the Castle Lane Area developer, Complex Development Projects (CDP) Limited, for affordable housing provision in the Borough to the extent that the financial viability of the Castle Lane development proposals, and the number of residential units achieved on the land to the rear of the Bedford Museum building and to the west of the Bedford Gallery, does not enable a 20% affordable housing requirement in the scheme. These various proposals are in addition to the four live/work affordable units that are inherent within the approved scheme.

These two proposals would enable the Council to further clearly demonstrate its own commitment to the adopted policy of requiring affordable housing from new residential development sites and its preparedness, where possible, to make alternative provision when the financial viability of emerging schemes is in question.

4.3 Summary of Risks

The site has a number of constraints that will affect the development. The whole site is, in particular, known to be an area of archaeological interest. The area is close to the centre of the medieval town and has a long history of urban occupation. Detailed archaeological investigation will be required but it is unlikely that the full extent of this could be assessed until the development has been commenced. It is unknown, therefore, whether there will be any remains that will require preserving. The protection and enhancement of the architectural and historic features are regarded as critical in order to retain the important and valuable heritage.

The exceptional costs imposed on the redevelopment by site constraints are expected to have a significant impact on the overall viability of the scheme even after allowing for assistance being provided by a £2.8m grant from the Government's growth area funding programme.

The exceptional development costs relating to this proposal could yet adversely impact on its delivery. This current well designed and considered proposal presents a long awaited opportunity to "kick start" the regeneration of Bedford town centre, raise the regional profile of Bedford and generate investor confidence in the town for the future.

4.4 Resource Implications

The Council, in its capacity as landowner, has resolved to accept the following consideration from the disposal of its land in Castle Lane:

- (i) CDP Limited will hand over to the Council accommodation on the ground floor of the Northern part of the site comprising 8 retail units completed in the form of a bare shell with a bespoke shop front, serviced to each area/unit, suitable for internal fitting. This would be on the basis of a 125-year sublease at a peppercorn rent. It is estimated that these eight units will derive a total rental income to the Council of £88,000 per annum;
- (ii) Four of the 8 retail units to be handed over to the Council (outlined in (i) above) will include an area of residential space above the ground floor in order to enable affordable live/work units to be provided as part of the new Castle Lane Cultural Quarter;
- (iii) Overage (i.e. the additional value generated by the project over and above the 20% profit on total agreed development costs required by the developer) will be apportioned between the Council and the Company on a 2/3rd (Council) 1/3rd (CDP Limited) share basis;
- (iv) Community benefits from the scheme (following extensive excavation and restoration works) comprising the provision of an archaeology park, lime kiln vault and heritage interpretation aspects;

- (v) Annual Ground Rents from the parts of the Scheme occupied for residential purposes (with an estimated value of £11,200 per annum net of 12½% collection costs).

The Executive has resolved, in respect of the commercial units to be handed over to the Council in this area, its preparedness to offer incentives to prospective tenants, including the use of turnover based rents, in order to encourage full occupation of the commercial units, attract a high footfall to the area and/or achieve the appropriate tenant mix in the designated cultural quarter.

The estimated sale proceeds from the parcel of land to the rear of the Bedford Museum building and to the west of the Bedford Gallery is in the region of £200,000.

5. Details

Background

- 5.1 The Castle Lane area has been identified as a key development site in the Local Plan and as part of emerging proposals for the re-development and revitalisation of Bedford Town Centre and this has received positive support at the Town Centre exhibitions.
- 5.2 The Council pursued an architectural design competition based upon a proposal submitted by the Royal Institute of British Architects (RIBA). This enabled ideas to be gained from designers and architects on the best use for the Castle Lane area and generated considerable interest. The competition was supported by English Partnerships.
- 5.3 The Executive, at its meeting on 12 January 2005, resolved to invite CDP Limited, at their own risk, to submit a detailed development proposal that reflects sufficiently the successful architectural competition concept (acknowledging that the detailed development submission will be informed by pre-planning application advice and commercial factors).
- 5.4 The Executive, at its meeting on 29 March 2006, received a detailed presentation from CDP and the lead architects, Burrell Foley Fischer, in respect of the emerging proposals for the development of the Castle Lane area and resolved as follows:
 - (a) That it be confirmed that the detailed development submission made by CDP in respect of the development of the Castle Lane area reflects sufficiently the successful architectural competition concept;
 - (b) That the appointment of CDP as the Council's preferred development partner be approved to progress the scheme of development at Castle Lane (subject to prompt completion and exchange of the formal Development Agreement between the parties).

- 5.5 CDP held a public exhibition to highlight the emerging proposals in the Harpur Suite in April 2006 and the response has helped shape the proposals. A detailed planning application was submitted for the proposed development and planning consent was granted on 16 October 2006. The consent is based upon the provision of 20% affordable housing but with provision to review this having regard to scheme viability considerations.
- 5.6 The Castle Lane project has the potential to play a significant role in the regeneration of the town and in developing the Growth Area and, in this regard, the Department of Communities & Local Government (DCLG), formerly the Office of the Deputy Prime Minister (ODPM), has announced (as part of the Growth Areas Fund (GAF2) initiative) the allocation of £2.8 million grant for site preparation works in respect of the proposed residential led mixed use redevelopment, including the provision of an archaeological park.

Financial and Scheme Viability

- 5.7 Nationally important archaeological remains are known to exist on site and further remains are likely to be discovered. The whole area is archaeologically constrained and this impacts on the economics of redevelopment in three ways. It has the effect of reducing the area of the site capable of development; it dictates design solutions and the use of specific more expensive construction techniques; and it will extend the construction period as detailed archaeological investigation is a comparatively slow process and there is always the risk that some major "find" will bring building activity on the site to a temporary halt.
- 5.8 Even before the present proposal was designed, the Government was persuaded that a significant grant would be required to help bridge the gap between the likely costs incurred and value created by redevelopment. The grant of £2.8m only is payable against the cost of eligible works undertaken before the end of March 2008. This requirement of Government imposes a very tight programme of redevelopment since any delay will inevitably place some of this grant in jeopardy.
- 5.9 The funding arrangements involve detailed and comprehensive archaeological work across the site before any 'profitable' work can take place. Planning Circular 05/2005 advises that it may not be feasible for the proposed development to meet all the requirements set out in local, regional and national policies and still be economically viable. In such cases, and where the development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers and by the public sector infrastructure providers in its area. In such cases, decisions on the level of contributions should be based on negotiation with developers over the level of contribution that can be demonstrated as reasonable to be made whilst still allowing development to take place.

- 5.10 The Council clearly has a development plan objective to secure the redevelopment of this site to enhance the vitality and viability of the town centre and the attractiveness of the area generally. The opportunity to encourage the development of this site as a catalyst for broader town centre regeneration is also an important factor. The Developer has expressed concern that S106 contributions at the levels normally expected by the Council in relation to known objectives (affordable housing, education and open space) are likely to tip the balance of viability.
- 5.11 In this case the Council, as owner of the site, will be privy to all the financial details of the scheme and this will put the Council in the exceptional position of being able to understand the viability case with greater confidence. The Council's appointed property advisers, Colliers CRE, will in any event be provided with financial information to determine whether the agreed terms are undermining the delivery of the scheme and will be required to review the financial appraisal to assess whether the relaxation of S106 contributions is justified on the grounds of viability.
- 5.12 The development scheme itself is considered to meet the objectives and accord with the policies of the development plan and the emerging Local Development Framework. The Environmental Statement, submitted for planning purposes, identified a number of impacts of the development which have been assessed in detail and the development proposal is considered to have addressed those impacts through design and mitigation such that the proposal should have no significant adverse effects. The design is considered acceptable and one that would have a positive impact on the character and appearance of the conservation area whilst preserving the setting of nearby listed buildings and the scheduled ancient monuments. It offers distinct benefits in terms of streetscape, interest and vitality of this corner of the town centre and would create an attractive recreational/cultural area in a location which currently appears rather run down. In this way it would make a substantial contribution to the overall quality and attractiveness of the town centre.

Land Opportunities

- 5.13 Consideration has been given to ways of achieving the policy provision of affordable housing within the area to enable and potentially supplement the approved scheme requirement of 20%. A potential residential development opportunity exists on land to the rear of the Bedford Museum building and to the west of the Bedford Gallery. The Town Centre Working Group, at its meeting on 6 September 2005, considered the possibility of development and supported the commercial development of the land in order to improve the financial viability of emerging development proposals for the area.
- 5.14 The opportunity, therefore, exists to allocate adjacent land to the rear of the Bedford Museum building and to the west of the Bedford Gallery, shown on the Plan attached at **Appendix A**, for affordable housing and to allocate the sale proceeds (estimated at £200,000) to the emerging Bedford Museum/Art Gallery refurbishment proposals (if required).

- 5.15 A further opportunity exists to allocate any Overage arising from the land transaction with the Castle Lane Area developer, CDP Limited, for affordable housing provision in the Borough to the extent that the financial viability of the Castle Lane development proposals, and the number of residential units achieved on the land to the rear of the Bedford Museum building and to the west of the Bedford Gallery, do not enable a 20% affordable housing requirement in the scheme.
- 5.16 These various proposals seek to supplement the four live/work affordable units that are inherent within the approved scheme.

6. **Summary of Consultations and Outcome**

The following Council Units or Officers and/or other organisations have been consulted in preparing this report:

Portfolio Holder
Head of Planning and Housing Services
Corporate Operational Management Team
Relevant Unit Managers

No adverse comments have been received.

*Report Contact Officer(s): Trevor Roff, Head of Economic Development & Regeneration
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File Reference: GEN/T.2(e)

Previous Relevant Minutes: Executive Decision 398, 27 July 2006

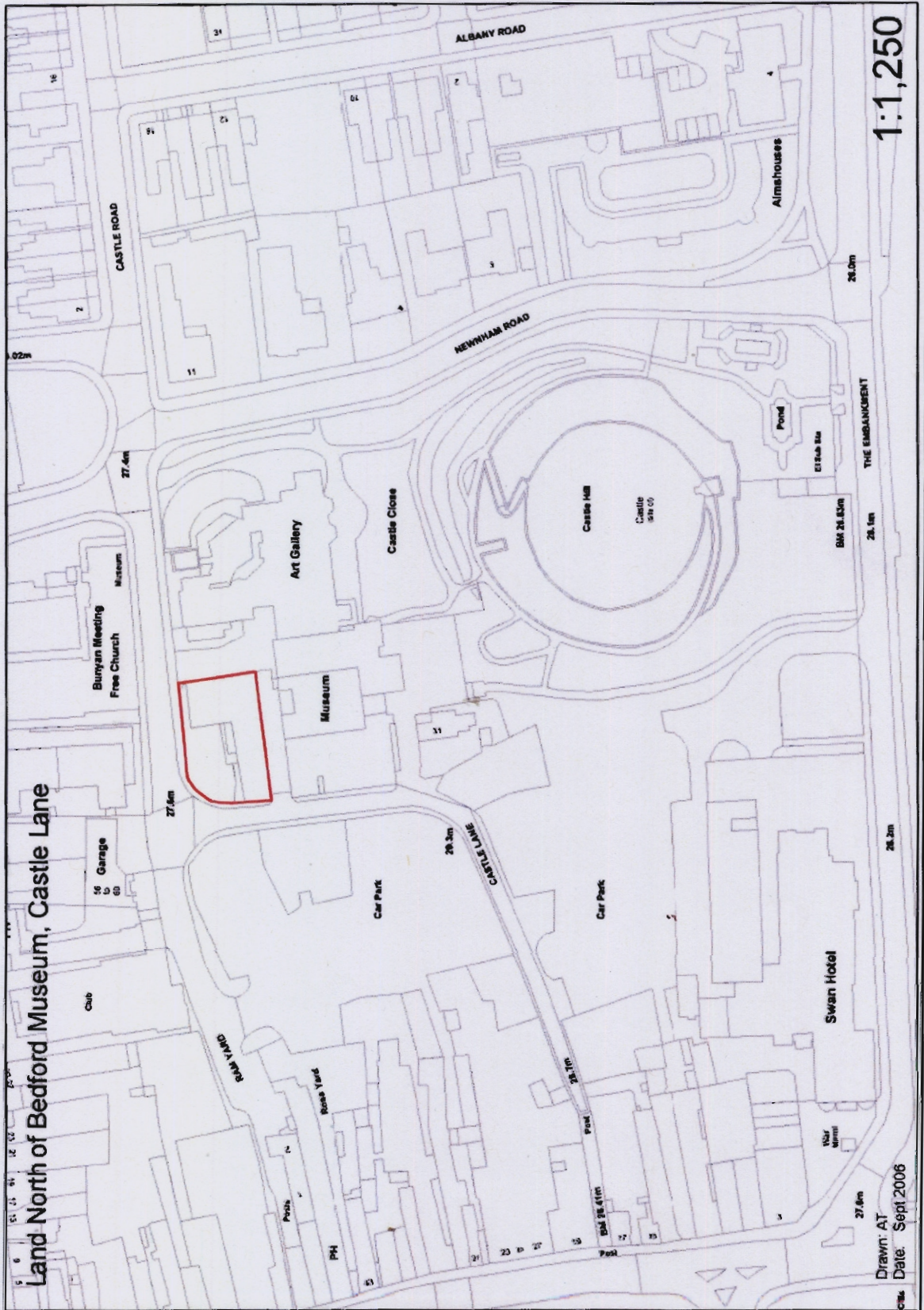
Minute 147, Executive: 29 March 2006

Minute 4, Town Centre Working Group: 8 June 2005

Minute 101, Executive: 12 January 2005

Background Papers: None

Appendices: A – Site Plan



1:1,250

Land North of Bedford Museum, Castle Lane

Drawn: AT
Date: Sept 2006