

## CABINET

15 November 2016

<b>Title:</b> Urgent Action: Proposed Purchase of Land at Former Sanofi Site, Rainham Road South, Dagenham	
<b>Report of the Cabinet Member of Finance, Growth and Investment</b>	
<b>Open Report with Exempt Appendices</b> (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972)	<b>For Information</b>
<b>Wards Affected:</b> Eastbrook	<b>Key Decision:</b> Yes
<b>Report Authors:</b> David Harley, Acting Head of Planning and Regeneration (Regeneration) Alan Dawson, Democratic Services Manager	<b>Contact Details:</b> Tel: 020 8227 5316 E-mail: <a href="mailto:david.harley@lbbd.gov.uk">david.harley@lbbd.gov.uk</a> Tel: 020 8227 2348 E-mail: <a href="mailto:alan.dawson@lbbd.gov.uk">alan.dawson@lbbd.gov.uk</a>
<b>Accountable Director:</b> David Harley, Acting Head of Planning and Regeneration (Regeneration)	
<b>Accountable Strategic Director:</b> John East, Strategic Director of Growth and Homes	
<b>Summary:</b> <p>As part of the masterplan for the former Sanofi / May and Baker site at Dagenham East a supermarket was proposed on the Rainham Road South frontage and a 9.17 acre site was purchased by Sainsbury's plc. Planning permissions was granted for a stand-alone store with associated car parking and a petrol station.</p> <p>Due to changing market conditions for the 'Big Four' supermarkets, Sainsbury's decided not to progress its proposals for the site and has been actively marketing the site for sale.</p> <p>During this time the adjacent Londoneast-uk Business and Technical Park has been used extensively as a film, TV and advertisement location and, at the same time, leading industry figures have raised the need for new film studios within the M25 area. In recent weeks the Mayor of London visited the site and announced that the Greater London Authority (GLA) would match fund, with the Council, a detailed feasibility study looking at how such a complex could be delivered and the benefits it could bring locally and for the capital.</p> <p>The Sainsbury's Board was to meet on Tuesday 25 October to discuss the bids received for the site and to make a decision. Whilst it was recognised that there was a significant amount of work to be done to develop film studio proposals, it was apparent that the opportunity would be lost if the Sainsbury's land was not secured by the Council. An independent land valuation was commissioned by the Council and although the full 'red book' valuation was not available by the deadline for the submission of bids, the preliminary independent valuation advice indicated that the proposed terms of the Council's offer were appropriate.</p>	

In the circumstances and as the matter could not be delayed until the 15 November Cabinet meeting, the Chief Executive decided that it would be in the Council's best interests to deal with the matter under the Urgent Action provisions of paragraph 4, Chapter 16, Part 2 of the Constitution so that the Council's offer could be made ahead of the Sainsbury's Board meeting on 25 October 2016. The full report and relevant appendices which formed the basis of the Chief Executive's decisions are set out at Annex 1 to this report - these documents are in the exempt section of the agenda as they contain information relating to the financial and business affairs of the Council and a third party (relevant legislation: paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In line with the Urgent Action provisions, and as the matter qualified as a "key decision" and had not been publicised in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Chair of the Cabinet and the Lead Member of the Public Accounts and Audit Select Committee were consulted prior to the Chief Executive agreeing the proposals on 24 October 2016.

Members are asked to note that the Council's bid was successful. Further reports will, therefore, be presented to the Cabinet in the new year setting out proposals for the future use of the site and the revenue funding arrangements associated with the cost of borrowing.

### **Recommendation(s)**

The Cabinet is asked to note the following action taken by the Chief Executive under the urgency procedures contained within paragraph 4, Chapter 16, Part 2 of the Constitution:

- (i) Agree that the Council submit an offer to Sainsbury's Plc in accordance with the Heads of Terms set out in Appendix B to the report at Annex 1 for the 9.17 acre site at the former Sanofi site, Rainham Road South, Dagenham as shown edged red in the plan attached at Appendix A to that report;
- (ii) Authorise the Strategic Director of Growth and Homes, in consultation with the Strategic Director of Finance and Investment, the Director of Law and Governance and the Cabinet Member for Finance, Growth and Investment, to progress the purchase of the site in accordance with the Heads of Terms set out in Appendix B and to enter into all necessary agreements to complete the purchase should the Council's offer be accepted;
- (iii) Note that further reports will be presented to Cabinet setting out proposals for the future use of the site and the revenue funding arrangements associated with the cost of borrowing.

### **Reasons**

To accord with the requirements of the urgency procedures contained within paragraph 4, Chapter 16, Part 2 of the Constitution.

## 1. Legal Implications

Implications completed by: Erol Islek, Senior Property Lawyer and Suzan Yildiz, Legal Services Manager, Law and Governance

- 1.1 Section 1 of the Localism Act 2011 provides a general power of competence enabling the Council to do anything individuals generally may do, therefore allowing the Council to undertake a wide range of activities. Furthermore Section 111 of the Local Government Act 1972 enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.
- 1.2 Further, in accordance with the Local Government Act 1972, Section 120, the Council is empowered to acquire by agreement any land situated inside or outside its area for
  - (i) the purposes of any of its functions stipulated by the 1972 Act or other statutory provisions; or
  - (ii) for the benefit, improvement or development of its area, and notwithstanding that the land is not immediately required for that purpose. Until the land is required for the purpose acquired, it may be used for any purposes associated with of any of the Council's functions.
- 1.3 The Council's Constitution, Part 4, Chapter 4 sets out the Land Acquisition and Disposal Rules. In accordance with paragraph 2.1, all strategic decisions about the use, acquisition and disposal of land and property assets are usually within the remit of the Cabinet. Formulation of strategic decisions is overseen by the Property Advisory Group (PAG) and the Cabinet. Generally, the recommendations and an acquisition at the current value, which renders this decision a key decision, require the acquisition decision to be taken by Cabinet in accordance with the Council's Constitution and its Land Acquisition and Disposal Rules.
- 1.4 However, the urgency to agree the terms of the Council's offer in order to facilitate a rare opportunity to acquire the site with a view to promoting future proposals, such as film studios, which would create employment opportunities for residents of the Borough was noted and delay was deemed by reporting officers to be prejudicial to the interests of the Council. The Chief Executive is empowered to take urgent action in respect of acquisitions which otherwise constitute key decisions by virtue of his powers of urgent action under paragraph 4, Chapter 16, Part 2 of the Constitution. Therefore, the Chief Executive was authorised to approve the Heads of Terms in Appendix B subject to clearance of the report and his decision by the Monitoring Officer and the Chief Finance Officer, which occurred.
- 1.5 The reporting officer has procured an independent (arm's length) red book valuation of the Site which is anticipated early during the week commencing 24 October 2016. A preliminary valuation opinion relayed to officers by the independent valuer supports the proposed acquisition price. It is advised that the full red book valuation report be presented to the Chief Executive, Monitoring Officer and Chief Finance Officer as soon as it is available to verify the preliminary valuation opinion.

- 1.6 Subject to full consideration of the contents, options and risks detailed in this report, the decision may proceed by the Chief Executive's Urgent Action subject to a full report to Cabinet to appraise them of the decision.

**Public Background Papers Used in the Preparation of the Report:** None

**List of appendices:**

- **Annex 1** - Report and appendices re "Proposed Purchase of Land at Former Sanofi Site, Rainham Road South, Dagenham" (exempt documents)