

**774 Minutes of the Meeting of Development Control Committee held on Wednesday, 4th January, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**775 Minutes of the Meeting of Cabinet Committee held on Thursday, 5th January, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**776 Minutes of the Meeting of The Cabinet held on Tuesday, 10th January, 2012**

Resolved:

That the minutes of this meeting be received and adopted, including the recommendations set out under Minutes 639 and 649.

**777 Minutes of the Meeting of Licensing Sub-Committee A held on Wednesday, 11th January, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**778 Minutes of the Meeting of Audit Committee held on Thursday, 12th January, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**779 Minutes of the Meeting of Licensing Sub-Committee B held on Monday, 16th January, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**780 Minutes of the Meeting of The Cabinet held on Thursday, 26th January, 2012**

Resolved:

That the minutes of this meeting be received and adopted including the recommendations set out under Minutes 674, 675, 676, 677 and the recommendations 3 to 5 in Minute 681 as set out below:

**'3. Roots Hall Site – CPO**

That the parcels of land within the Roots Hall Site shown hatched black on the plan at Appendix 4 to the submitted report be compulsorily purchased pursuant to Section 226 Town and Country Planning Act 1990 on the basis of the justification set out in paragraph 5.1.5 of the said report, subject to Roots Hall Limited and Sainsbury's indemnifying the Council in full in respect of all the costs and compensation involved.

4. Fossetts Farm Site - CPO

That the land within the Fossetts Farm Site shown hatched black on the plan at Appendix 5 to the submitted report be compulsorily purchased pursuant to Section 226 Town and Country Planning Act 1990 on the basis of the justification set out in paragraph 5.2.3 of the said report subject to Roots Hall Limited and Sainsbury's indemnifying the Council in respect of all the costs and compensation involved.

5. That the Corporate Director of Support Services in consultation with the Deputy Leader (subject to the Deputy Leader also consulting with the Group Leaders of the other political groups on the Council) be authorised to finalise the details of either CPO referred to in 3 and 4 above.'

**781 Minutes of the Meeting of Children & Lifelong Learning Scrutiny Committee held on Monday, 30th January, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**782 Minutes of the Meeting of Development Control Committee held on Tuesday, 31st January, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**783 Minutes of the Meeting of Community Services & Culture Scrutiny Committee held on Tuesday, 31st January, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**784 Minutes of the Meeting of Economic & Environmental Scrutiny Committee held on Thursday, 2nd February, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**785 Minutes of the Meeting of Development Control Committee held on Wednesday, 8th February, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

**786 Minutes of the Meeting of Children & Lifelong Learning Scrutiny Committee held on Monday, 6th February, 2012**

Resolved:

That the minutes of this meeting be received and adopted.

3. That the Director of Adult & Community Services, in consultation with the portfolio holder for Adult Social Care, Health and Housing, be authorised to determine which sites will be used to deliver the four units.

4. That the final identified sites be transferred to Hastoe Housing Association Limited for £1 each, in return Southend Borough Council will have Nomination Rights in perpetuity to the affordable housing thereon.

#### **Reasons for Decisions**

To ensure the Council and their Registered Provider Partner is able to complete the scheme as agreed with the HCA within the identified timetable.

#### **Other Options**

To bring forward 35 affordable housing units on the understanding that capacity to deliver four affordable housing units is lost and that the registered provider will be forced to return c£152,000 in grant to the HCA.

Note:- This is an Executive Function.

Referred to Community Services and Culture Scrutiny Committee.

Executive Councillor: Councillor Salter.

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#### **Southend United Football Club - Variations to the agreed land transaction terms at Roots Hall and Fossetts Farm and revised Compulsory Purchase Order Authorities**

The Cabinet received a report by the Corporate Director Support Services concerning requests made by Ron Martin, Chairman of Southend United Football Club and Roots Hall Limited in connection with the Club's relocation proposals.

Members noted indications that discussions had resumed on a major property element relating to the need for a CPO and encouraged the continuation of those negotiations.

Members also noted in particular the requirement for the new replacement flats at St Mary's Court to be no smaller in size than the existing flats.

Resolved:-

##### **1. Roots Hall Site – Land disposals**

That the disposal to Roots Hall Limited or Sainsbury's of the Council's freehold interests in St Mary's Court and 299-301 Victoria Avenue, (together with granting access rights over 291-297 Victoria Avenue) pursuant to the commercial Heads of Terms set out in the Confidential Appendix (1), to facilitate the delivery of a Sainsbury Superstore and the replacement of St Mary's Court, be approved subject to:

(a) The District Valuer certifying that the terms represent best consideration for the purposes of S.123 Local Government Act 1972;

(b) Obtaining confirmation that the consent obtained from the Secretary of State to the Council's sale of housing land at St Mary's Court on 30th November 2009 is still valid or seeking a further consent if required; and

(c) Appropriation of the replacement St Mary's Court to housing land.

## 2. Fossetts Farm Site – Land disposals

That the disposal to Roots Hall Limited of the Council's freehold interest in the training ground forming part of the Fossetts Farm Site pursuant to the commercial Heads of Terms set out in the submitted Confidential Appendix (2), to facilitate the delivery of the New Stadium for Southend United Football Club and associated retail and other development be approved, subject to the District Valuer certifying that the terms represent best consideration for the purposes of s.123 Local Government Act 1972.

Recommended:-

## 3. Roots Hall Site – CPO

That the parcels of land within the Roots Hall Site shown hatched black on the plan at Appendix 4 to the submitted report be compulsorily purchased pursuant to Section 226 Town and Country Planning Act 1990 on the basis of the justification set out in paragraph 5.1.5 of the said report, subject to Roots Hall Limited and Sainsbury's indemnifying the Council in full in respect of all the costs and compensation involved.

## 4. Fossetts Farm Site -CPO

That the land within the Fossetts Farm Site shown hatched black on the plan at Appendix 5 to the submitted report be compulsorily purchased pursuant to Section 226 Town and Country Planning Act 1990 on the basis of the justification set out in paragraph 5.2.3 of the said report subject to Roots Hall Limited and Sainsbury's indemnifying the Council in respect of all the costs and compensation involved.

5. That the Corporate Director of Support Services in consultation with the Deputy Leader (subject to the Deputy Leader also consulting with the Group Leaders of the other political groups on the Council) be authorised to:

(a) Deal with any minor amendments required to any of the commercial Heads of Terms referred to in 1 and 2 above; and

(b) Finalise the details of either CPO referred to in 3 and 4 above.

## Reasons for Decision

To enable the development of a new football stadium and associated retail development on the Fossetts Farm Site and the development of a new Sainsbury Superstore on the Roots Hall Site, together with the new housing accommodation as a replacement for St Mary's Court.

To support the Council's regeneration agenda for the Borough

To create employment and housing and stimulate investment into Southend.

To raise the profile of Southend on Sea.

## Other Options

The proposed variations to the terms of the land transactions and the revised CPO authorities sought could be refused. However this would mean that neither the development of the Roots Hall Site nor the Fossetts Farm Site would be likely to proceed because the previously agreed terms are no longer viable and the land assembly risks would present serious difficulties for Roots Hall Limited and Sainsbury's.

Note:- The decisions in 1-4 above constitute an Executive Function. The recommendations in 3-5 above constitute a Council Function. Referred to Economic and Environmental Scrutiny Committee.  
Executive Councillor:- Lamb and Moring.

**CHAIRMAN:** \_\_\_\_\_



# Southend-on-Sea Borough Council

Report of Corporate Director of Support Services  
to  
**CABINET**

on  
26<sup>th</sup> January 2012

Report prepared by:  
Alan Richards – Group Manager Asset Management  
John Williams – Head of Legal and Democratic Services

Agenda  
Item No.

10

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**Southend United Football Club  
Variations to the agreed land transaction terms at Roots Hall  
and Fossetts Farm and revised Compulsory Purchase Order Authorities**

**Economic and Environmental Scrutiny Committee  
Executive Councillor: Councillors J. Lamb and A. Moring**

***A Part 1 Public Agenda Item (Save for Part 2 Appendices 1-3)***

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## 1. Purpose of Report

To report on requests by Ron Martin, Chairman of Southend United Football Club and Roots Hall Limited, in connection with the Club's relocation proposals. These requests are for the Council to:

- Agree the disposal of Council land forming part of the development site at Roots Hall ("the Roots Hall Site") pursuant to the revised commercial Heads of Terms attached to this report. These Heads of Terms reflect the direct involvement of Sainsbury Superstore Limited ("Sainsbury's") and resultant changes to the proposed development and funding arrangements;
- Agree the disposal of Council land forming part of the development site at Fossetts Farm ("the Fossetts Farm Site") pursuant to the revised commercial Heads of Terms attached to this report, to reflect changes in the proposed development and funding arrangements. Again these Heads of Terms reflect the direct involvement of Sainsbury's and resultant changes to the proposed development and funding arrangements;
- Pass new resolutions to use compulsory powers under Section 226 of the Town and Country Planning Act 1990 to:
  - (a) Acquire all land forming part of the Roots Hall Site not in the ownership of the Council, Roots Hall Limited or Sainsbury's necessary to facilitate the development of the area; and

- (b) Acquire all land at Fossetts Farm not in the ownership of the Council or Roots Hall Limited necessary to facilitate the development of the area.

## 2. Recommendations

### 2.1 Roots Hall Site – Land disposals

To agree the disposal to Roots Hall Limited or Sainsbury's of the Council's freehold interests in St Mary's Court and 299-301 Victoria Avenue, (together with granting access rights over 291-297 Victoria Avenue) pursuant to the commercial Heads of Terms set out in **Confidential Appendix 1**, to facilitate the delivery of a Sainsbury Superstore and the replacement of St Mary's Court, subject to:

- (a) The District Valuer certifying that the terms represent best consideration for the purposes of S.123 Local Government Act 1972;
- (b) Obtaining confirmation that the consent obtained from the Secretary of State to the Council's sale of housing land at St Mary's Court on 30<sup>th</sup> November 2009 is still valid or seeking a further consent if required; and
- (c) Appropriation of the replacement St Mary's Court to housing land.

### 2.2 Fossetts Farm Site – Land disposals

To agree the disposal to Roots Hall Limited of the Council's freehold interest in the training ground forming part of the Fossetts Farm Site pursuant to the commercial Heads of Terms set out in **Confidential Appendix 2**, to facilitate the delivery of the New Stadium for Southend United Football Club and associated retail and other development, subject to the District Valuer certifying that the terms represent best consideration for the purposes of s.123 Local Government Act 1972.

### 2.3 Roots Hall Site – CPO

That the Cabinet recommends to the Council that the parcels of land within the Roots Hall Site shown hatched black on the plan at **Appendix 4** be compulsorily purchased pursuant to Section 226 Town and Country Planning Act 1990 on the basis of the justification set out in paragraph 5.1.5 of this report, subject to Roots Hall Limited and Sainsbury's indemnifying the Council in full in respect of all the costs and compensation involved.



## 2.4 Fossetts Farm Site -CPO

That the Cabinet recommends to the Council that the land within the Fossetts Farm Site shown hatched black on the plan at **Appendix 5** be compulsorily purchased pursuant to Section 226 Town and Country Planning Act 1990 on the basis of the justification set out in paragraph 5.2.3 of this report subject to Roots Hall Limited and Sainsbury's indemnifying the Council in respect of all the costs and compensation involved.

2.5 That the Corporate Director of Support Services in consultation with the Deputy Leader (subject to the Deputy Leader also consulting with the Group Leaders of the other political groups on the Council) be given delegated authority to:

- (a) Deal with any minor amendments required to any of the commercial Heads of Terms referred to in 2.1 and 2.2 above; and
- (b) Finalise the details of either CPO referred to in 2.3 and 2.4 above.

## 3. **Background**

3.1 On the 20 April 2009, the Cabinet agreed the following transactions in respect of the Roots Hall Site as shown on the plan at **Appendix 4**, subject to detailed Heads of Terms (minute 1213 refers):

- A Deed of Exchange with Roots Hall Limited whereby the Council transfers its freehold interest in St Mary's Court to the company in exchange for a freehold interest in a replacement housing block to be constructed on the Roots Hall Site;
- The sale of 291-301 Victoria Avenue to Roots Hall Limited; and
- The making of a compulsory purchase order (CPO) to acquire all land forming part of the Roots Hall Site not in the ownership of Roots Hall Limited, save for the Prospects Site fronting Fairfax Drive.

The Cabinet's decisions were referred to Economic and Environmental Scrutiny Committee also on the 20<sup>th</sup> April 2009 and the Committee noted the Cabinet's decisions (minute 1220 refers). The minutes of Cabinet and Scrutiny Committee were ratified by Council on the same date (minutes 1240 and 1241 refer).

On the 4<sup>th</sup> November 2010 the Council agreed a more specific CPO resolution relating to 341-357 and 363-365 Victoria Avenue (Minute 601 refers).

On the 30<sup>th</sup> November 2009 the Secretary of State granted consent for the disposal of housing land comprising St Mary's Court.

3.2 Also on the 20 April 2009, the Cabinet agreed the following transaction in respect of the Fossetts Farm Site as shown on the plan at **Appendix 5**, subject to detailed Heads of Terms (minute 1214 refers):

- The sale of the Council's freehold interest in the training ground to Roots Hall Limited.

The Cabinet's decision was referred to Economic and Environmental Scrutiny Committee also on the 20<sup>th</sup> April 2009 and the Committee noted the Cabinet's decision (minute 1221 refers). The minutes of Cabinet and Scrutiny Committee were ratified by Council on the same date (minutes 1240 and 1241 refer).

3.3 On the 24<sup>th</sup> June 2011 the Council granted outline planning permission for the redevelopment of the Roots Hall Site for a superstore, associated filling station and residential development (SOS/07/01111/OUT). A S.106 Agreement was completed immediately prior to the issue of the planning permission and requires, amongst other things, that the demolition of the existing stadium be linked to the prior completion of the north, south and west stands and the provision of a minimum of 13,663 and a maximum of 14,221 seats at the new stadium at Fossetts Farm.

An application for approval of reserved matters was submitted on 9<sup>th</sup> November 2011 (SOS/01540/RESM), but remains to be determined. A separate full application to replace St Mary's Court has also been submitted and remains to be determined (SOS/11/01548/FUL).

3.4 On 30<sup>th</sup> June 2008, the Secretary of State issued a decision granting full planning permission (following a call-in Inquiry) for the redevelopment of the Fossetts Farm Site for a new stadium and retail development (SOS/06/01300/FUL). An associated S.106 Agreement was completed on 25<sup>th</sup> October 2007 which requires, amongst other things, the payment of various financial contributions and provisions to ensure that construction of the retail units proceed in tandem with the new stadium and that the stadium should be completed before the retail units are occupied.

An application to extend for the life of the permission remains to be determined (SOS/11/00538/EXTM).

An application for a revised form of stadium with 3 sides and a more extensive retail element remains to be determined (SOS/11/00965/FULM). However as its meeting on 25<sup>th</sup> May 2011 the Development Control Committee did agree the variation of the 2007 S.106 Agreement so that key milestones (including the opening of the retail units) be linked to the prior completion of the north, south and east stands and the provision of a minimum of 13,663 and a maximum of 14,221 seats in the new stadium. This variation has not yet been formalised.

It is understood that further amendments to the proposed development are in the pipeline and these will be the subject of a fresh planning application.

#### 4. Revised Heads of Terms for the Roots Hall and Fossetts Farm Sites

- 4.1 The land transactions referred to in 3 above have not been finalised due to difficulties with the remaining land assemblies and very difficult economic conditions.

Negotiations have been ongoing between Roots Hall Limited and Sainsbury's in respect of both sites, since Sainsbury's are not only building the superstore on the Roots Hall Site, but also acting as joint employer for the building contract for constructing the New Stadium on the Fossetts Farm Site. Sainsbury's is also very heavily involved in the funding of the developments on both the Roots Hall and Fossetts Farm Sites.

Also, the commercial arrangements in respect of the proposed development at Fossetts Farm have progressed.

Revised terms for the Roots Hall and Fossetts Farm Sites have now been negotiated and these are set out in Confidential Appendices 1 and 2 respectively.

A summary of all the changes are set out in Confidential Appendix 3.

The Heads of Terms are designed to have flexibility to accommodate some amendments to the development proposals on both the Roots Hall and Fossetts Farm Sites, without the need to renegotiate terms.

- 4.2 The changes do not affect the monetary considerations for either the Roots Hall or Fossetts Farm Sites, although there are some small but important changes to the transactions which are clearly set out at Confidential Appendix 3. Clearly the comprehensive development proposals on both Sites need to be fundable and the changes reflect this requirement.

- 4.3 The revised Heads of Terms include conditions which are considered to be of critical importance so as to ensure that:

- The New Stadium is built before the existing stadium is touched; and
- There is no retail development on either the Roots Hall or Fossetts Farm Sites without a completed stadium.

These safeguards are in addition to the strong controls in the S.106 Agreements referred to in 3.3 and 3.4 above.

Relevant provisions in the S.106 Agreements will be replicated in the sale contracts and the Heads of Terms provide for this.

Most importantly, before any Council land is transferred, Roots Hall Limited and Sainsbury's must have entered into a building contract for the new stadium and also covenanted with the Council to ensure the delivery of that building contract.

4.4 It is therefore recommended that the revised Heads of Terms for the Roots Hall Site (Confidential Appendix 1) and the Fossett's Farm Site (Confidential Appendix 2) are agreed.

## 5. Revised Compulsory Purchase Orders

### 5.1 Roots Hall

5.1.1 As explained in 3.1 above, the Council has already resolved to use its compulsory purchase powers to facilitate the development of the Roots Hall Site. However, this authority did not extend to the Prospects Site fronting Fairfax Drive which was at that time the subject of an Option to Purchase Agreement between Roots Hall Limited and Prospects. The CPO has not yet been made, although preliminary steps have been taken.

5.1.2 Ron Martin has confirmed to the Council that:

- The Option to Purchase Agreement has since expired and was terminated. At the present time Roots Hall Limited / Sainsbury's have been unable to secure a further option from Prospects;
- Sainsbury's are not in a position to purchase the Prospects Site immediately, as the purchase needs to proceed in tandem with the rest of the scheme and so they require a fresh option;
- This impasse represents a significant risk to the delivery of the development of the Roots Hall Site and also the development of the Fossetts Farm Site, since the two schemes are inextricably linked.

5.1.3 Accordingly Ron Martin has requested that the Council resolve to make a fresh CPO extending to all land forming part of the Roots Hall Site not in the ownership of the Council, Roots Hall Limited or Sainsbury's (as shown hatched black on the plan at Appendix 4) necessary to facilitate the development of the area, subject to Roots Hall Limited and Sainsbury's indemnifying the Council in full in respect of all the costs and compensation involved. They have supplied advice from a leading QC to confirm that this is a reasonable approach in the circumstances and that the CPO should therefore be successful.

5.1.4 Such a CPO would be made pursuant to Section 226 Town and Country Planning Act 1990. This legislation enables the Council (subject to confirmation by the Secretary of State) to acquire land compulsorily where it believes that the acquisition will facilitate the carrying out of development that will promote the economic, environmental or social well being of the area.

5.1.5 Justification for CPO

- (a) That for the purposes of section 226(1)(a) of the Town and Country Planning Act 1990 the acquisition of the land at the Roots Hall Site showed hatched black on the plan at Appendix 4 would facilitate the carrying out of the proposed development for retail, residential and related purposes on or in relation to the land to be acquired.

- (b) That the proposed development is likely to contribute to achieving the promotion and improvement of the economic, social and environmental well-being of its area.
- (c) That the proposed development would accord with planning permission granted on 24<sup>th</sup> June 2011 on application SOS/07/011111/OUTM: Furthermore it would be consistent with Core Strategy Policy CP3 which considers that there is an indicative quantitative need for convenience foods in the range of 3,000 to 3,500 sq m for the period 2006 to 2016 based on the Council's Retail Study used as the evidence base for the Core Strategy DPD. It is considered to comply with Policy CP2 as there is a need for additional retail development within the Borough, the sequential approach and test was followed in selection of the site and, as this development would allow the existing Town Centre store site for redevelopment, there are likely to be regeneration benefits to the Town Centre, there would be no detrimental impact on other town centre as a result of the proposals.

Core Policy CP8 sets out the requirement with regard to Dwelling Provision. The principle of residential uses on this site is considered acceptable and in line with the Core Strategy spatial approach to focus additional housing growth on previously developed land and spatially focus growth in the Town Centre and Central Area (Policy KP1). This site also performs well with regard to the sequential approach to the location and siting of development set out in Policy KP2 'Development Principles'. Affordable housing would be provided in accordance with Policy CP8. Design is a Reserved Matter, and the site is located adjacent to a Conservation Area and at the gateway to the town. Notwithstanding this Officers are satisfied that the indicative massing of the store meets the objectives of policies KP2 and CP4 of the Core Strategy and that it will be possible to achieve good quality development through the use of imaginative and innovative design, sustainable and quality materials and landscaping and imaginative use of public art. This development will also safeguard the historic environment and heritage. In addition, the design solutions will be required to meet objectives of policy KP2 and that at least 10% of the energy needs of new development should come from on-site renewable options.

With regard to transport and accessibility, as required by Core Policy CP3, the development, which would generate large traffic movements, is located in an area well served by a range of transport modes and close to the Southend Regional Interchange Centre. The development should reduce sole reliance on the car for accessibility.

In addition, the development proposals will be contribute to the implementation of the transport improvements and the provisions of the Southend on Sea Local Transport Plan. Core Policy CP7 'Sport, Recreation and Green Space' is considered to be met in that a new stadium is required to be developed (elsewhere) to a playable standard prior to cessation of use of the existing stadium. S.106 Agreement contributions will also be made to improve local leisure facilities within the vicinity of the site.

Thus the development is considered to be acceptable and will result in regeneration of a key site on the approach to the town.

- (d) That, having regard to the identified and other planning benefits through the development of the land to be acquired, it is desirable in the public interest that the carrying out of the proposed development is carried out as early as can reasonably be secured.
  - (e) That compulsory acquisition is necessary in that the land proposed to be acquired is required for the development to be carried out, that it has not been possible to negotiate acquisition by agreement and that it is uncertain whether it will be possible to do so within a timescale consistent with the early delivery of the proposed development.
  - (f) That with the acquisition of the land proposed to be acquired the proposed development can reasonably be expected to be delivered and, on the evidence available to the Council, is capable of being funded and financially viable.
  - (g) That with the acquisition of the land proposed to be acquired there is no identified impediment to early delivery of the proposed development.
  - (h) That in all the circumstances there is a compelling case for compulsory acquisition in the public interest.
  - (i) That this would justify any consequent interference with the human rights of interested parties and, in particular, their rights under Article 1 to the First Protocol.
- 5.1.6 It is still hoped that terms will be agreed with all land owners without the need for the Council to actually make a CPO. However to demonstrate its strong support for the development proposals and particularly to assist Southend United to relocate to a new Stadium on the Fossetts Farm Site, it is recommended that the Council agrees to the request.

## 5.2 Fossetts Farm

5.2.1 Ron Martin has also requested that the Council resolve to make a CPO extending to that part of the Fossetts Farm Site not in the ownership of the Council or Roots Hall Limited (shown hatched black on the plan at **Appendix 5**) necessary to facilitate the development of the area, subject to Roots Hall Limited and Sainsbury's indemnifying the Council in full in respect of all the costs and compensation involved.

5.2.2 Such a CPO would be made pursuant to Section 226 Town and Country Planning Act 1990 as per the CPO referred to above re the Roots Hall Site.

### 5.2.3 Justification for CPO

- (a) That for the purposes of section 226(1)(a) of the Town and Country Planning Act 1990 the acquisition of the land at the Fossetts Farm Site identified on the plan at **Appendix 5** would facilitate the carrying out of the proposed development for a football stadium, residential, retail, restaurant, heath club and related purposes on or in relation to the land to be acquired.
- (b) That the proposed development is likely to contribute to achieving the promotion and improvement of the economic, social and environmental well-being of its area.
- (c) That the proposed development would accord with planning permission granted by the Secretary of State by letter dated 30<sup>th</sup> June 2008 on application no. SOS/06/01300/FUL: Furthermore it would be consistent with Policy KP1 of the Core Strategy which provides a substantial level of support for the proposals, from its general identification of Fossetts Farm as a Priority Urban Area (PUA) and from the specific reference to a football stadium. Policy CP2 of the Core Strategy applies to sites that are not part of the hierarchy or sequentially preferred and has been conceived in the knowledge of Southend United FC's Fossetts Farm proposal. The terms of the policy reflect the tests of need, impact and application of a sequential approach, evidence submitted with the planning application demonstrated that the tests of need and impact are complied with and the Secretary of State accepted, that as the relevant part of Policy CP2 has been devised to apply to sites that are not sequentially preferred, the sequential approach was also adequately complied with.

In relation to the key local consideration of not prejudicing the role of Southend town centre, the Inspector considered that there are two important features operating in favour of the proposal by serving to distinguish it from other out of centre proposals that might come forward at some later date.

The first was that the scheme is already well developed and is capable of being brought forward at an early date, thereby reducing competition with medium to long term town centre projects.

The second was that the retail development is promoted as an integral part of a wider scheme enabling a stated ambition of the Core Strategy, viz a new stadium at Fossetts Farm, to be achieved. Taking account of these distinguishing characteristics, together with the extent of identifiable retail floor space deficiency in the Southend area and an impact on town centre trade, estimated at some £16.5 million, 2.6% of current total turnover in the town centre, it is considered that, notwithstanding the scale of out of centre retail floor space proposed, the role of Southend town centre would not be prejudiced.

On the basis of evidence presented at the public inquiry and with distinguishing features of this scheme, it is concluded that all the tests in Policy CP2 have been sufficiently complied with, whilst there are fine judgements involved in that assessment; in particular in assessing impact, it is considered that the significance attaching to the development that would be enabled by the proposed 16,400m<sup>2</sup> retail park, is a key factor in differentiating this out of centre proposal from other proposals on this site and from proposals on other potential out of centre sites. There are very significant potential benefits arising from development, including those associated with Southend United FC and its role within the Southend community and improved prospects for the future of the football club. There is also a significant potential down side, if Southend United FC are unable to relocate from the aged and very basic Roots Hall stadium. The position taken by the Local Planning Authority was that in this case the attractions of the development taken as a whole were such as to warrant a decision in favour of granting planning permission. The Secretary of State agreed with this perspective.

In relation to accessibility and sustainability, the stadium and retail park would be readily accessible from the catchment areas from which they will draw and, the multi-faceted response secured in the Section 106 Agreement, including Travel Plans and a Transport Management Strategy, footpath provision and local junction improvements, would help to achieve a development that would be accessible and sustainable, in accordance with PPG13 and Core Strategy Policy CP3.

The new stadium will provide the site with a high quality development which will create a local identity, and on match days at least, a vibrant atmosphere. The mix of uses, including retail, housing and the hotel will by providing activity on non-match days contribute to a sense of place. The design of the development is considered to comply with the provisions of Core strategy policy CP4.



The provision of housing as a component of the development is in line with policies favouring mixed development and will make a particular contribution to levels of local activity on non-match days. Affordable Housing provision will be provided either within the site, or in an alternative location (this is secured within the S.106 Agreement). The proposed housing is considered to comply with Core Strategy Policy CP8

The proposals would preserve the setting of the adjacent Scheduled Ancient Monument and a sum for maintenance will be available through the S.106 Agreement, the Scheduled Ancient Monument itself would be enhanced, at least visually. This is considered to be in accordance with PPS5 and Core Strategy Policy CP4.

The application site is in an area with a low risk of flooding and there is no major point at issue with regard to flood risk. Conditions are proposed to deal with storage and discharge of surface water. The application is therefore considered to comply with the provisions of PPG25 and Core Strategy Policy KP1.

The proposed development would allow the town's football club to relocate to the new, improved stadium; this is considered to be beneficial to the Borough.

- (d) That, having regard to the identified and other planning benefits through the development of the land to be acquired, it is desirable in the public interest that the carrying out of the proposed development is carried out as early as can reasonably be secured.
- (e) That compulsory acquisition is necessary in that the land proposed to be acquired is required for the development to be carried out, that it has not been possible to negotiate acquisition by agreement and that it is uncertain whether it will be possible to do so within a timescale consistent with the early delivery of the proposed development.
- (f) That with the acquisition of the land proposed to be acquired the proposed development can reasonably be expected to be delivered and, on the evidence available to the Council, is capable of being funded and financially viable.
- (g) That with the acquisition of the land proposed to be acquired there is no identified impediment to early delivery of the proposed development.
- (h) That in all the circumstances there is a compelling case for compulsory acquisition in the public interest.
- (i) That this would justify any consequent interference with the human rights of interested parties and, in particular, their rights under Article 1 to the First Protocol.

5.2.4 Again it is still hoped that terms will be agreed with all land owners without the need for the Council to actually make a CPO. However to demonstrate its strong support for the development proposals and particularly to assist Southend United to relocate to a new Stadium, it is recommended that the Council agrees to the request.

## 6. Other Options

The proposed variations to the terms of the land transactions and the revised CPO authorities sought could be refused. However this would mean that neither the development of the Roots Hall Site nor the Fossetts Farm Site would be likely to proceed because the previously agreed terms are no longer viable and the land assembly risks would present serious difficulties for Roots Hall Limited and Sainsbury's.

## 7. Reasons for Recommendations

To enable the development of a new football stadium and associated retail development on the Fossetts Farm Site and the development of a new Sainsbury Superstore on the Roots Hall Site, together with the new housing accommodation as a replacement for St Mary's Court.

To support the Council's regeneration agenda for the Borough

To create employment and housing and stimulate investment into Southend.

To raise the profile of Southend on Sea.

## 8. Corporate Implications

### 8.1 Contribution to Council's Vision & Corporate Priorities

Prosperous Southend

### 8.2 Financial Implications

The Council is obtaining best consideration and is to be indemnified by Roots Hall Limited and Sainsbury's in respect of the CPO procedures. In addition Roots Hall Limited must meet all the Council's internal and external legal and surveyor's costs.

### 8.3 Legal Implications

- S.123 of the Local Government Act 1972 requires that the Council must obtain the best consideration reasonably obtainable when disposing of land and buildings. There is no necessity to advertise the land for sale or conduct an auction or tender process; best consideration can still be demonstrated in the case of a sale by private treaty, particularly in a case like this where there is a special purchaser, namely Roots Hall Limited and where the District Valuer has certified that the terms represent best consideration;
- The sale of St Mary's Court requires the specific or general consent of the Secretary of State as it is housing land;
- The requirement to advertise the proposed disposal of open space at Fossetts Farm in S.123 (2A) Local Government Act 1972 does not apply, since the public do not have access, whether by right or permission, to the Training Ground; and
- Any CPO would be made pursuant to Section 226 Town and Country Planning Act 1990. This legislation enables the Council (subject to confirmation by the Secretary of State) to acquire land where it believes that the acquisition will facilitate the carrying out of development that will promote the economic, environmental or social well being of the area.
- Lawyers acting for the Council have confirmed that the proposals in this report will ensure that the New Stadium is provided before the existing one is closed and that retail development at Roots Hall and Fossetts Farm can only be carried out if the new stadium is provided.

### 8.4 People Implications

None

### 8.5 Property Implications

As set out in the report, Confidential Appendices and Background Papers

### 8.6 Consultation

Internal and planning process involved consultation in the usual way and the principles of Roots Hall Limited's proposals are widely and publicly known.

### 8.7 Equalities and Diversity Implications

There are no significant equality implications – although the New Stadium development will meet appropriate access standards.

8.8 Risk Assessment

The risks are dealt with through the conditions set out in the report and Confidential Appendices.

8.9 Value for Money

Best consideration is being obtained.

8.10 Community Safety Implications

None

8.11 Environmental Impact

The proposed developments are subject to the full planning process.

9. **Background Papers**

Roots Hall and Fossett's Farm reports to Special Cabinet 20<sup>th</sup> April 2009

Roots Hall – CPO report to Council 4<sup>th</sup> November 2010

10. **Appendices**

**Confidential Appendices (PART 2)**

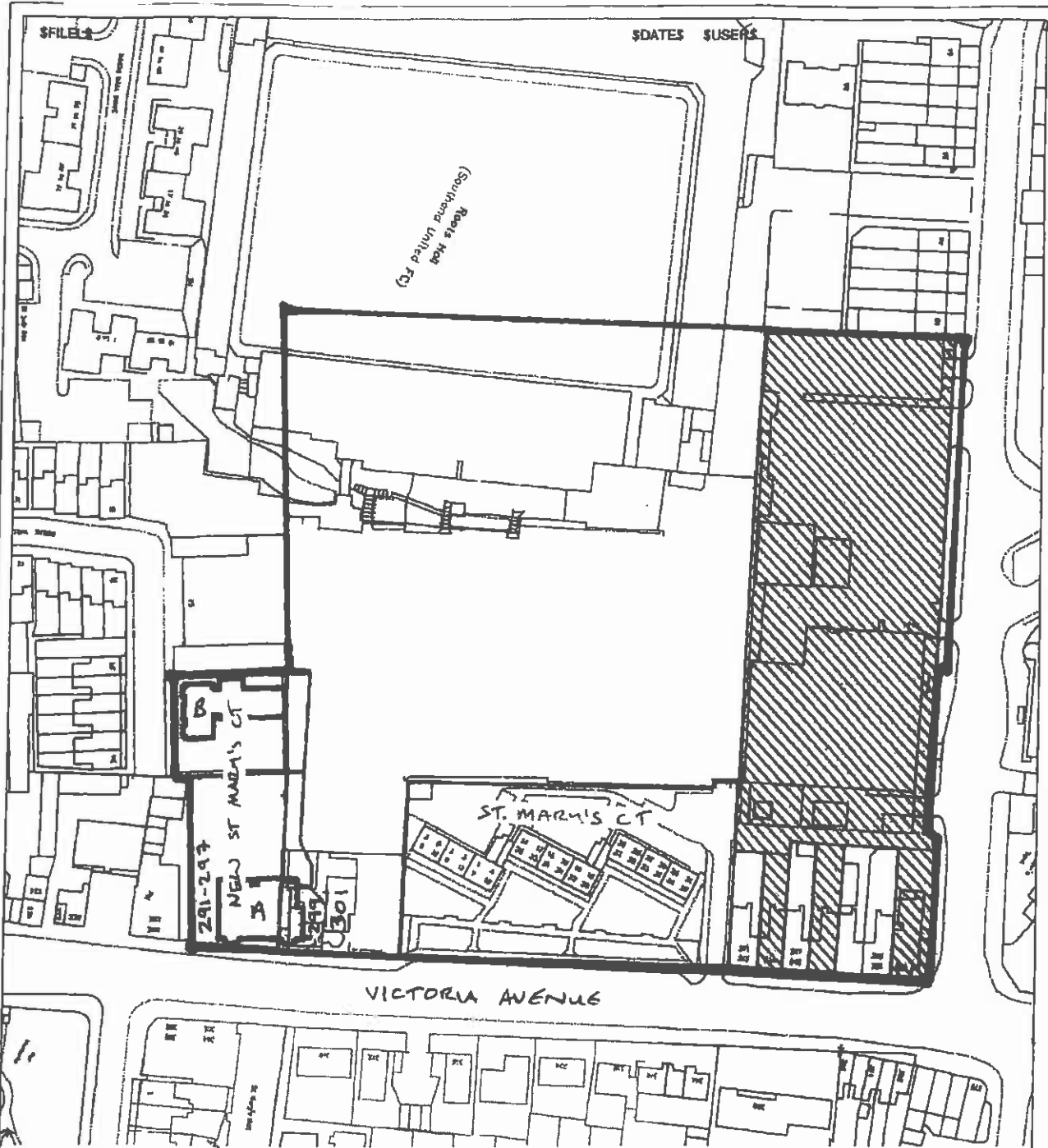
**Confidential Appendix 1** – Revised Heads of Terms for Roots Hall

**Confidential Appendix 2** – Revised Heads of Terms for Fossett's Farm

**Confidential Appendix 3** – Summary of the changes to Heads of Terms


**Appendix 4** – Plan of Roots Hall Site – and areas subject to proposed CPO

**Appendix 5** – Plan of Fossetts Farm Site – and area subject to proposed CPO

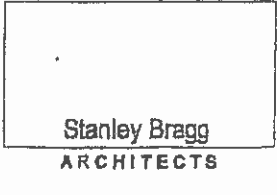


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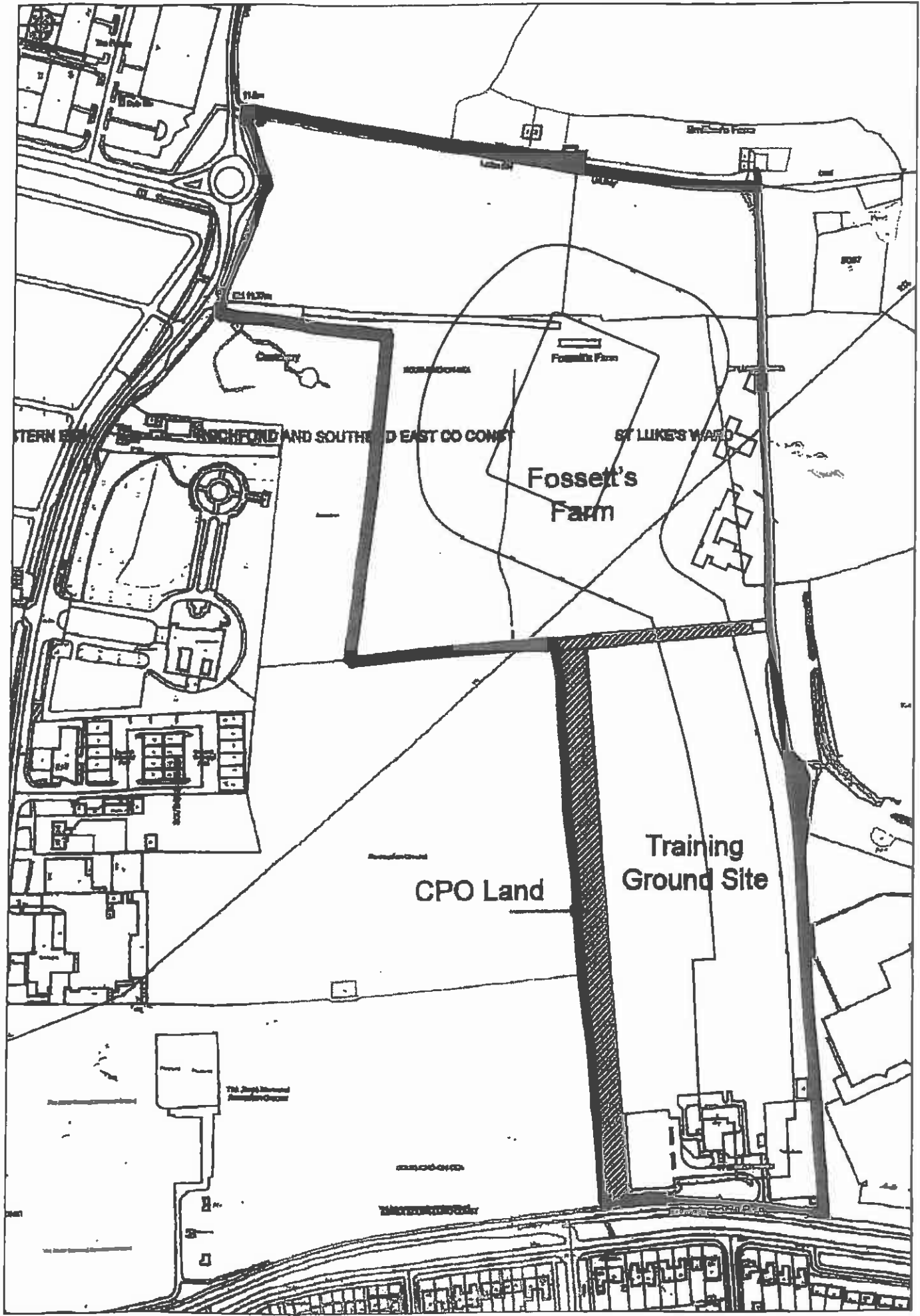
CPO Land hatched black

revision	date	amendment	initials
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St Marys Court Housing Development, Southend		6880	
Roots Hall Ltd		Drawing No.:	Scale:
		1225	1:1250@A4
Drawing Title:		Drawn:	Date:
CPO Plan		RW	12.01.2012
		Checked:	Date:
		DJ	12.01.2012

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SUFC RELOCATION NEW STADIUM PROPOSALS - FOSSETTS FARM  
SITE PLAN 16.01.12 1:2000 @ A3