

Report to the Cabinet

Report reference: C/042/2007-08.

Date of meeting: 3 September 2007.



**Epping Forest
District Council**

Portfolio: Leader of the Council.

Subject: Development Land Sale - Langston Road Industrial Estate, Loughton.

**Officer contact for further information: Michael Shorten (01992 - 564124).
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Democratic Services Officer: Gary Woodhall (01992 - 564470).

Recommendations:

- (1) That contracts were exchanged on 27 July 2007 for the sale of the T11 Industrial Development Site, Langston Road, Loughton be noted;**
- (2) That the agreed purchaser, Exton Estates Limited assigned the agreement to Polofind Limited for the same purchase price be noted; and**
- (3) That completion of the sale took place on 24 August 2007 be noted.**

Report:

1. The Cabinet has received reports concerning the sale of the T11 Industrial Development Site at Langston Road, Loughton and resolved that it be sold to Exton Estates Limited at a purchase price of **£6,050,000**. The sale was subject to conditions restricting development of the site in accordance with the outline planning consent granted and a unilateral undertaking to complete a Section 106 Town and Country Planning Act 1990 Agreement covering highway works, estate signage and environmental contributions.

2. The report presented to Cabinet at its meeting on 16 July 2007 advised on progress with the transaction, outstanding issues to be resolved and considered the purchaser's request to assign the purchase contract to its funders, which at the time were believed to be Rock Investment Holdings Limited, although the purchaser was not specific in terms of his request. This led the Cabinet to resolve that:

That Exton Estates Limited request to include provision within the sale contract to assign the agreement to Rock Investment Holdings Limited for the same purchase price after an exchange of contracts but prior to legal completion be approved. (Minute 24 refers).

3. In negotiating the Contract for Sale the wording submitted by the purchaser's solicitors instead gave the ability to assign to a third party not a named third party. Clearly our intention had been to restrict the assignment provisions to Rock Investment Holdings Limited. Unfortunately, the significance of the subtle difference in the wording was not appreciated by the Council's property consultants Lambert Smith Hampton or relevant officers of the Council. As such, Exton Estates Limited exchanged contracts to purchase the site upon expiry of the call-in period on 27 July 2007, paid a 10% deposit and subsequently assigned the contract to Polofind Limited of Sterling House, Langston Road, Loughton.

4. Completion of the sale was scheduled for 13 August 2007, as indicated at the last Cabinet meeting. However, the purchaser's solicitors requested an additional 11 days to resolve issues concerning the Section 106 Legal Agreement involving Essex County Council Highway Services and amendments to the contract plans. This request was agreed.

5. As soon as the failure to comply with the minutes was identified officers considered whether the situation could be rectified. As the deposit had been paid and accepted and the request for an extension of time had been agreed it was not possible to correct the omissions.

Statement in Support of Recommended Action:

6. Relevant staff have been reminded of the need to ensure that actions and drafting accurately reflect the minute authority and that consultants, where appointed, are advised accordingly.

7. There is no financial loss to the Council as a result of this action but the intention of the Cabinet in this transaction was not reflected in the final documentation and as such the matter is brought to Cabinet's attention as a matter of record.

Other Options for Action:

8. No alternative options have been identified.

Consultations undertaken:

9. The Leader of the Council and Finance Performance Management and Corporate Support Services Portfolio Holder have been informed of the departure from the Cabinet's previous decision.

Resource implications:

Budget provision: Capital receipt, £6,050,000, from the sale of industrial development land.

Personnel: Head of Legal, Administration and Estates and Property Consultants, Lambert Smith Hampton.

Land: Industrial development land (2.6 acres/1.05 hectare), Langston Road, Loughton.

Community Plan/BVPP reference: FBM1 - Maximise income/capital receipts.

Relevant statutory powers: Section 123 Local Government Act 1972 - Best consideration for land and property assets and the Local Government Act 1972: General Disposal Consent (England) 2003.

Background papers: Property File EV 844 and Planning Application Reference EPF/1450/06.

Environmental/Human Rights Act/Crime and Disorder Act Implications: N/A.

Key decision reference (if required): N/A.