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To Scrutiny Co-ordination Committee

2<sup>nd</sup> March 2011

**Subject** To Consider the Call-in of the Cabinet Decision on 8<sup>th</sup> February in respect of the freehold disposal of Cannon Park Shopping Centre plus additional land and land in Torrington Avenue

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**1 Purpose of the Note**

- 1.1 To Consider the Call in of the Cabinet Decision on 8<sup>th</sup> February in respect of the freehold disposal of Cannon Park Shopping Centre plus additional land and land in Torrington Avenue.

**2 Recommendations**

- 2.1 Consider the content of this note in determining the call in of the Cabinet decision.

**3 Information/Background**

- 3.1 The call in challenges the decision made by Cabinet on the 8<sup>th</sup> February 2011, on the basis that the information given in Para 2.3 is insufficient. Further detail is needed to better understand the brief given to the external consultants referred to in para 2.3 and to be appraised of all other potential avenues that were identified and/or pursued as regards these disposals to ensure that they represented the best value that could be attained.

- 3.2 Section 2.3 of the public and private reports on the terms reported are identical. It says that the terms provisionally agreed for these disposals have been negotiated by the Councils specialist consultants. In both cases they have confirmed that the terms represent the best that can be obtained in the current market thus satisfying the Council's obligation under section 123 of the Local Government Act 1972 to obtain the best price reasonably obtainable.

3.3 Cannon Park District Centre

3.3.1 Instructions given to external consultants

The instructions given to the external consultant was a) to prepare a report on the value of the Councils freehold interest and the value of the additional sites required for the development, and, b) to act on behalf of the Council in negotiations with the lessee.

- 3.3.2 The other avenues identified pursued to ensure that they represented the best value that could be attained.

A negotiated settlement only was pursued with the purchaser because it was in the Council's best interest to do so. The lessee is a 'special purchaser' and the value agreed and reported includes 'marriage value' from combining two tenure interests in one of the parties, and from the development value created by the planning permission for an enlarged shopping centre. The development value is only available to the lessee because they control the majority of the site under their existing long leasehold interest. A higher value is therefore obtained from the existing lessee than from a disposal to a third party since the 'marriage value' is not available to a third party purchaser. A disposal to a third party would have resulted in a lower value to the Council if this avenue had been pursued.

The terms agreed and approved were well above the minimum level established in the valuation, and the consultant has confirmed that in his opinion the agreed figure is 'in excess of the current market value of the three interests to be disposed'.

### 3.4 Torrington Avenue

#### 3.4.1 Instructions given to external consultants

The instructions given to the external consultant was a) to prepare a report on the value of the Council's freehold interest and the value of the additional sites required for the development, and, b) to act on behalf of the Council in negotiations with the lessee.

#### 3.5 The other avenues identified pursued to ensure that they represented the best value that could be attained.

A negotiated settlement only was pursued with the purchaser because it was in the Council's best interest to do so. The lessee is a 'special purchaser' and the value agreed and reported includes 'marriage value' from combining two tenure interests in one of the parties. A higher value is therefore obtained than a disposal to a third party since the 'marriage value' and the development value are not available to a third party purchaser. A disposal to a third party would have resulted in a lower value to the Council if this avenue had been pursued.

The terms agreed and approved were well above the open market value of the Council's interest as an investment.

**Nigel Clews, City Services and Development, Ext 2708**

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A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it refers to the identity, financial and business affairs of organisations and the price they are to pay the Council under particular contracts for the disposal of interests in land and property.

Cabinet

8<sup>th</sup> February 2010

**Name of Cabinet Member:**

Cabinet Member (City Development) – Councillor Bigham

**Director Approving Submission of the report:**

Director of City Services and Development

**Ward(s) affected:**

Wainbody and Woodlands

**Title:**

**Freehold Disposal of Cannon Park Shopping Centre Plus Additional Land and Land in Torrington Avenue**

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**Is this a key decision?**

Yes

The decision will result in an income of more than £500k to the Council.

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**Executive Summary:**

This report seeks approval to the sale of the Council's freehold interests in two commercial properties. The sales are separate, unlinked and to different purchasers.

The first is the site of Cannon Park Shopping Centre which is subject to a ground lease to Tesco Stores Limited plus adjoining land required for the redevelopment of the site to implement a scheme that obtained planning permission in February 2010. This is a windfall opportunity arising from Tesco's decision to redevelop its property at this location.

The second is the site of the Land Registry (a department of central government) part occupier of a site let under a ground lease. The remainder of the site, not affected by this proposal is occupied by the Job Centre. This property was identified for freehold disposal following the review of commercial property assets approved in 2006. The review identified properties that represented poor financial investments with no strategic reason for retention.

The generation of receipts from these disposals will help support the Council's capital position.

**Recommendations:**

Cabinet is recommended to approve the disposal of the Council's freehold interest in the following properties on the terms stated in the report in the private part of your agenda:

1. Cannon Park Shopping Centre together with additional land to Tesco Stores Limited;  
and
2. Site of the Land Registry offices at Torrington Avenue to the Land Registry.

**List of Appendices included:**

Site plans for the two properties referred to in this report.

**Other useful background papers:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No. In accordance with the Council's Constitution, Cabinet is asked to approve the recommendation urgently at this meeting. Any delay in the decision will result in the capital receipts not being received before 31 March 2010.

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**Report title:**

**Freehold Disposal of Cannon Park Shopping Centre Plus Additional Land and Land in Torrington Avenue**

**1. Context (or background)**

**1.1 Land at Cannon Park Shopping Centre**

Tesco Stores Limited holds a long leasehold interest in the Cannon Park Shopping Centre from the Council. The site extends to approximately 14.47 acres (5.85 hectares). The lease was granted in 1993. The Council received a premium for the grant of the lease and there is no rental income receivable for its duration.

Tesco was granted planning permission for the redevelopment of the shopping centre in February 2010. The permission is for demolition, replacement and enlargement of the existing foodstore, construction of additional retail service units, erection of residential units comprising 1 and 2 bedroom flats including an element of affordable dwellings, relocation of the existing petrol filling station and associated works including realignment and partial stopping up of DeMontfort Way, revised access arrangements from Lynchgate Road, a public transport hub, a public plaza, parking and landscaping.

Tesco has also entered into a Section 106 Agreement requiring it to pay £625,000 on commencement of the development towards local community facilities, education, highway improvements, landscaping works and play provision.

Tesco requires two additional areas of land in the Council's ownership not included within the area under the current lease. The site edged blue on plan 'A' attached to this report is a copse extending to approximately 1.6 acres (0.65 hectares), which is surrounded by Tesco's existing car park on three sides. The area shaded yellow on the plan is presently the subsoil of the De Montfort Way public highway extending to approximately 0.29 acre (0.12 hectare). Tesco's redevelopment requires part of De Montfort Way to be closed and it will, therefore, need to apply to the Secretary of State for a Stopping Up Order. The Council will, therefore, initially dispose of its freehold interest in the subsoil to Tesco and then if the Order is confirmed the surface will revert to Tesco. This will be at Tesco's risk and the proposed sale is not conditional on the Stopping Up Order being obtained.

Subject to Cabinet approval, terms have been provisionally agreed for sale of the Council's freehold interest in the total area of 16.36 acres (6.79 hectares) on the terms stated in the report included in the private part of your agenda.

**1.2 Land at Torrington Avenue**

The Land Registry (a department of central government) occupies the major part of a site let under a ground lease in 1945. The site is shown on plan 'B' attached to this report. The remainder of the site which is not affected by this proposal is occupied by the Job Centre.

The whole site was identified for freehold disposal following the review of the Council's commercial property assets approved by Cabinet in 2006 on the basis that it represented a poor financial investment with no strategic reason for retention.

Subject to Cabinet approval, the sale of the Council's freehold interest has been provisionally agreed on the terms stated in the report in the private part of your agenda. The Land Registry is funded separately from the Job Centre within central government and

there is no interest from the latter in purchasing the freehold interest in the portion of the site it occupies.

## **2. Options considered and recommended proposal**

- 2.1 The sale of the Council's freehold interest in land to Tesco Stores Ltd. represents a windfall opportunity to generate a capital receipt arising from its commercial decision to extend and modernise the Cannon Park store. It cannot be assumed that this opportunity will occur again if Tesco's investment priorities change in the future. Not to dispose of its freehold interest is an option for the Council. However, this is not recommended as it would result in the loss of a substantial capital receipt and prevent the improvement of local shopping facilities with the consequent loss of section 106 monies to be invested in local services and amenities.
- 2.2 The sale of the Council's freehold interest in land to the Land Registry fulfils an approved policy to dispose of a poor financial investment where there is no strategic reason for retention of any interest in the asset. Not to dispose of its freehold interest is an option for the Council, however, this is not recommended as it cannot be assumed that the opportunity to generate a substantial capital receipt for the Council's remote, reversionary interest in the property will be available in the future. The buildings on the site are already outdated and could be a liability to the Council when the current lease ends.
- 2.3 The terms provisionally agreed for these disposals have been negotiated by the Council's specialist consultants. In both cases they have confirmed that the terms represent the best that can be obtained in the open market thus satisfying the Council's obligation under section 123 of the Local Government Act 1972 to obtain the best price reasonably obtainable.

## **3. Results of consultation undertaken**

- 3.1 None has been undertaken as public consultation is not appropriate in these cases.

## **4. Timetable for implementing this decision**

- 4.1 Subject to Cabinet approval, the freehold disposal will be completed and the capital receipts received as soon as possible. The objective is to receive the capital payments before the end of March 2011.

## **5. Comments from Director of Finance and Legal Services**

- 5.1 Financial implications  
The combined capital receipts will contribute towards the corporate capital receipt target for either 2010/2011 or 2011/12 depending on the date of completion of the sales. There are no revenue implications arising from the sale of the land at Cannon Park and only minimal implications in respect of the sale of the land at Torrington Avenue as a result of apportionment of the annual ground rent for the whole site to reflect the proportion of the site that will continue to be occupied by the Job Centre for the remainder of the lease term.

As stated in paragraph 2.3 of this report, the Council's consultant surveyors have, in both cases, confirmed that the terms represent the best that can be obtained in the current market.

## 5.2 Legal implications

The Director of Finance and Legal Services will prepare and complete legal documentation associated with the conveyance of the freehold interests in the two sites which are separate, unlinked and to be sold to different purchasers. The freehold disposal price in each case will satisfy the Council's obligation to obtain best consideration under section 123 of the Local Government Act 1972 as confirmed by external valuation surveyors.

## 6 Other implications

### 6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

The capital receipts will contribute towards corporate resources.

### 6.2 How is risk being managed?

Your officers will ensure that all documentation required for the transactions will be in place to enable exchange of contracts and completion of the disposals at the earliest opportunity.

### 6.3 What is the impact on the organisation?

The impact on the organisation will be minimal however it will generate additional work for City Services & Development (Commercial Property Management) and Finance & Legal Services in processing the provisionally agreed terms for sale to completion.

### 6.4 Equalities / EIA

As the proposal concerns the disposal of the Council's freehold interests in land already subject to leases there is no requirement for an Equality Impact Assessment.

### 6.5 Implications for (or impact on) the environment

None

### 6.6 Implications for partner organisations?

There are no implications for partner organisations

## Report author(s):

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### Directorate:

City Services and Development

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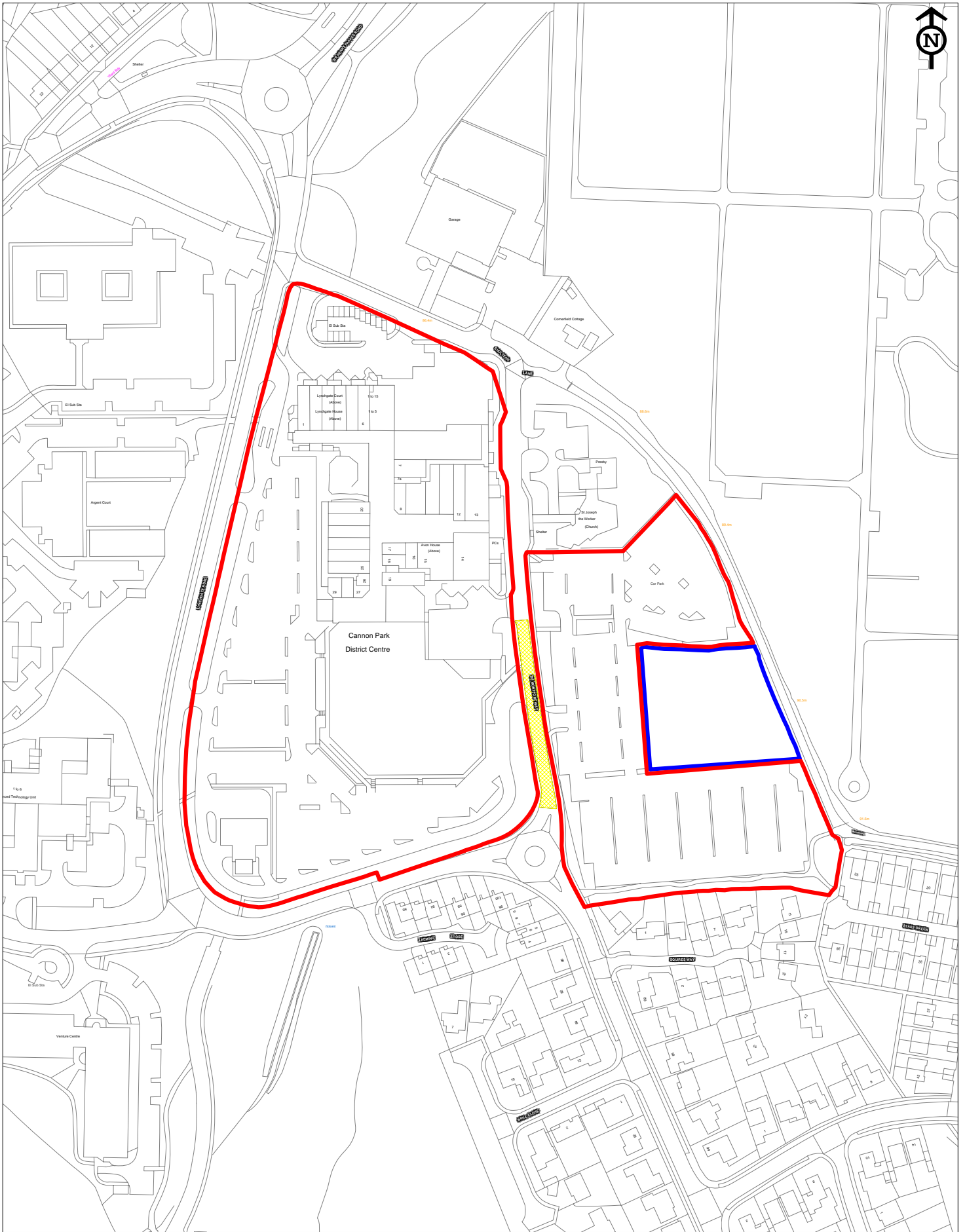
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Director: Martin Yardley	Director	City Services and Development	20/12/10	22/12/10
Property: Nigel Clews	Assistant Director	City Services and Development	14/12/10	16/12/10
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## Cannon Park Shopping Centre

Plan A

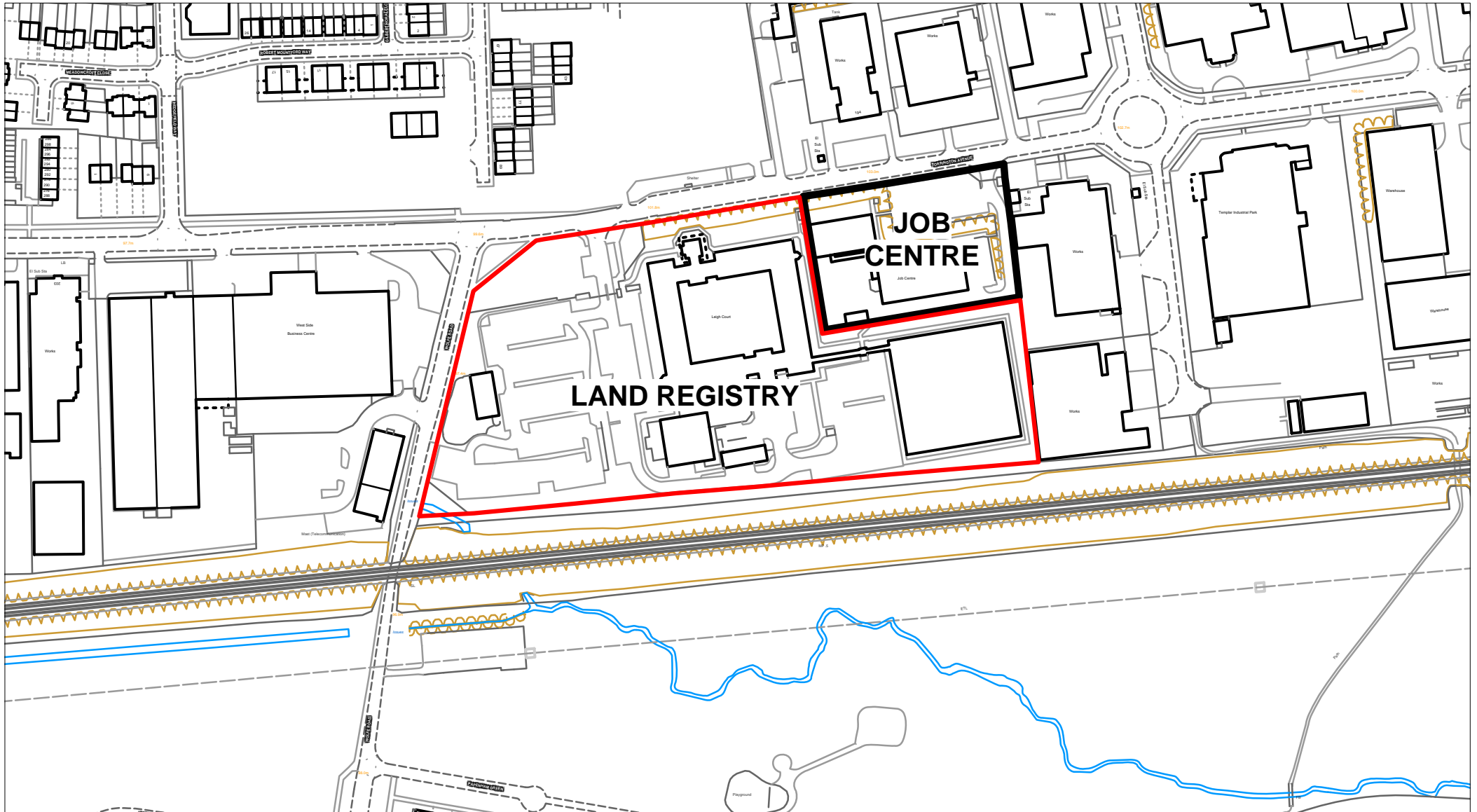
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Date  
 14/12/2010

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**PLAN B**

FOR IDENTIFICATION PURPOSES ONLY

Drawn by ACB  
 Scale: 1:2500

Date  
 14/12/10

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