

Agenda item:

Decision maker: PRED – 28th JANUARY 2013

Subject: NORTHERN QUARTER – DEVELOPMENT AGREEMENT

Report by: STRATEGIC DIRECTOR

Wards affected: ALL WARDS

Key decision (over £250k): YES

1. Purpose of report:

- 1.1 To seek authority to exchange the legal documentation to give effect to variations to the Development Agreement (DA) 2004 between Centros Portsmouth Limited Partnership (CPLP) and Portsmouth City Council.

2. Recommendations:

- 2.1 The Member for Planning, Regeneration and Economic Development (PRED) approve the content of this report.
- 2.2 The City Solicitor be authorised to complete all necessary documentation to effect the contractual documents summarised in schedule 1, and execute such documentation (subject to the completion of any additional due diligence in consultation with the Council's appointed external legal advisors).

3. Background:

- 3.1 Members are aware of the various resolutions that have been made pertaining to the Northern Quarter Development over the past several years. Negotiations have finally concluded and the documentation referred to and necessary to implement those decisions is now ready to be exchanged.
- 3.3 As this is a key decision and due to recent changes in legislation it is necessary that the decisions of officers and consultation between the Strategic Director and Portfolio Holder for PRED be documented and reported to Members, including the approval of the S151 officer in connection with approval of the new guarantor.
- 3.4 Given the passage of time that has elapsed during the process of reaching agreement, the various approvals obtained are somewhat fragmented in nature and officers wish to use this opportunity to update Members as to the progress

made and result of negotiations. To this end, a summary of the documentation to be exchanged is attached at Schedule 1.

- 3.5 The documents summarised in Schedule 1 are intended to capture the required variations to take account of;
- i. Contractual length, rights of termination
 - ii. Cost cap provisions
 - iii. Guarantor provisions (additional guarantor)
 - iv. Payment of Council costs
 - v. City Council decision to deliver the City Centre Road
- 3.6 Officers are currently seeking confirmation from Counsel that the content of the final documents accords with Counsel's previous advice as to State Aid and possible procurement challenge.

4. Equality impact assessment (EIA)

- 4.1 The Project Manager considers that an EIA is not required.

5. Legal comments

- 5.1 The report raises no legal implications beyond those described. Any additional due diligence checks considered necessary by the City Solicitor shall be completed prior to the execution of any documentation.
- 5.2 The City Solicitor as proper officer for access to information matters resolves that schedule 1 should be treated as a confidential item.

6. Head of Finance's comments

- 6.1 The recommendations contained within the report will provide further confidence of delivery of the Northern Quarter Development to both CPLP and potential investors.
- 6.2 As part of this agreement, the S151 Officer has agreed the suitability of the proposed guarantor for the development. As part of that agreement, the guarantor is required to demonstrate continuing suitability (in terms of financial strength) to guarantee a development of this size. Accordingly, the guarantor will be required to certify and report quarterly to the S151 Officer its key financial ratios which include demonstration that the guarantor has net assets in excess of 3 times the value of the guarantee at all times. Furthermore, these financial ratios will be subject to external audit annually.

- 6.3 As part of the overall development, the City Council is expected to receive a rental income once complete, accordingly any delay to the completion of the scheme will defer the Council's rental income. The level of geared income is subject to the overall viability of the final scheme and is therefore still to be negotiated. The income that is derived however is currently planned to cover the cost of repaying the borrowing required to fund the new Road Scheme that will service the development.

- 6.4 The exchange of documents summarised in Schedule One that are necessary to proceed with the Northern Quarter Development are not expected to lead to any subsequent adverse financial consequences

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Signed by: STRATEGIC DIRECTOR FOR REGENERATION

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by the Cabinet Member for Planning, Regeneration and Economic Development on 28 January 2013.

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Signed by: Councillor Mike Hancock CBE MP
Cabinet Member for Planning, Regeneration and Economic Development