

Title of meeting: Cabinet Meeting

Date of meeting: 26th February 2019

Subject: City Centre Regeneration

Report by: Director of Regeneration

Wards affected: Charles Dickens

Key decision: Yes/~~No~~

Full Council decision: ~~Yes~~/No

1. Purpose of report

- 1.1. To provide the Cabinet with a broad update on the regeneration of Portsmouth's City Centre.
- 1.2. To seek approval for officers to undertake the necessary next steps in relation to revitalising the long under used Tricorn site (partly under a lease to the Delancey Group) together with other adjoining Council and Delancey Group owned land assets. A plan showing land owned by Portsmouth City Council and Delancey is attached at appendix A.
- 1.3. The report proposes that the Council and DV4 Limited (a Delancey Group owned vehicle) enter into a limited liability partnership ("LLP") on an equal 50/50 basis. The LLP will assemble land, design and co-develop the sites in line with the Council's aspirations for the regeneration of this area and to revitalise Commercial Road.
- 1.4. The recommendations in this report should be seen as part of the wider Cultural Regeneration of the City Centre and are therefore aligned with other key work streams such as the refreshing of the City Centre masterplan, the delivery of key infrastructure to support economic growth and the revitalisation of Commercial Road.

2. Recommendations

It is recommended that Cabinet:

- 2.1. Note the work to date on the various workstreams that are being aligned to bring about the successful culturally-led regeneration of Portsmouth City Centre.

- 2.2. Agree the Heads of Terms for the proposed joint venture LLP between Portsmouth City Council and DV4 Limited.
- 2.3. Delegate authority to the Director of Finance and Information Services, the Head of Legal and the Director of Regeneration to negotiate and enter into the joint venture LLP in line with the agreed Heads of Terms.
- 2.4. Delegate authority to the Director of Regeneration the management of spend on project related works against the capital budgets for the City Centre Regeneration. Spend will include negotiations and agreement of contracts, to consult on design options and develop a feasibility study in conjunction with residents and stakeholders and to ensure that the joint venture is fundable and delivers economic and commercial benefits for the Council as well as the wider regeneration benefits for the city as a whole.
- 2.5. Delegate authority to the Director of Regeneration to work with the developers, the community and other stakeholders to co-design and implement a worthwhile temporary use strategy for the City Centre, with a particular focus on the Tricorn site.
- 2.6. Delegate authority to the Director of Regeneration to create a consultation space within the City Centre to encourage ongoing open and transparent communication with all members of the community.
- 2.7. Note that:
 - i) The S.151 Officer, in consultation with the Leader, has delegated authority to borrow as necessary for the Joint Venture limited liability partnership which is established to deliver the City Centre re-development as approved in the report to the Council consider on 12th February 2019.
 - ii) Prior to any borrowing described above, a full business case and financial appraisal is prepared that can satisfactorily demonstrate with good certainty that cost savings / additional income or value uplift of the development that will accrue directly to the Council will at least cover the cost of that borrowing on a sustained basis over the lifetime of the borrowing undertaken.

3. Background

Wider Context

- 3.1. Portsmouth is a bustling island city on the south coast, with a population of approximately 215,000 living within an area of 15.5 square miles (40.15 sq. km). The city boomed in the 19th and 20th centuries although its importance as a port and strong associations with the Royal Navy predate this. Indeed, the presence of the Royal Navy and the dockyard has long shaped the city's economy and image, acting as a catalyst to create a network of defence

and related industries, as well as a naval heritage based tourist industry. Portsmouth is one of the world's great port cities.

- 3.2. Today, Portsmouth is multi-faceted, with huge strengths, assets and opportunities, and big ambitions.

Portsmouth City Council's Priorities

- 3.3. Recently the council has set out new priorities so stakeholders can see our aims and aspirations for the city and understand the areas we will be focusing on in the coming months (see a copy in appendix D).

Current Workstreams

- 3.4. The regeneration of Portsmouth's City Centre is essential for the city's success and to this end the Council has a number of comprehensive work streams ongoing, the list includes (but is not limited to) the following:-

- The redevelopment of the old Tricorn site, as is the main focus of this report.
- The provision of much needed road infrastructure to support economic growth in the City.
- The planning of the area through the refreshing of the City Centre Masterplan.
- Working with partners to bring renewed retail and leisure offers to Commercial Road and the Cascades shopping centre.
- Investing in high quality public realm around Portsmouth & Southsea train station.
- Expanding the range and quality of stalls at the City Centre Market.
- Introducing new street food options to the area.

- 3.5. All these workstreams are contributing towards a vibrant, economically successful and business led high street which is aligned with the Portsmouth's Corporate Plan.

- 3.6. To be successful the regeneration of the City Centre needs to:

- Improve the image of the city and promote the opportunities and potential it offers.
- Support business and long-term economic growth in the city centre by encouraging key sector growth that supports the resurgence of the existing City Centre & Commercial Road.
- Support the development of the visitor economy
- Strengthen the retail opportunities available for residents and visitors by embracing changes to the traditional high street model to create an environment that is fit for future purposes.
- Build more high quality private and affordable homes, bringing forward much needed homes for the city, including a range of affordable housing products to support growth in the City; striving to exceed the planning requirement for the provision of affordable housing.
- To create new jobs both during the construction period but also dedicating some space in the designs to employment zones. The Council is looking to improve educational attainment and skills whilst raising aspirations.

- Provide a city centre that is focussed on sustainable transport and active travel to promote improved health and reduce the reliance on cars. This includes a new City Centre Road and working towards the provision of much needed sustainable travel infrastructure such as bus stops, cycle parking and cycle share schemes.
 - Address the concerns around air quality and ensure that any changes to the highway network and wider development are geared towards improving air quality.
- 3.7. There is a unique opportunity now to supercharge the culturally-led regeneration of Portsmouth. If successfully implemented, this strategy will help deliver a thriving city of sub-regional significance however this requires residents and other stakeholders to engage with the Council in the process.

4. Next Steps

- 4.1. The Tricorn site and others in the City Centre have not progressed for some time due to market factors. There is confidence that by consulting with residents and stakeholders to co-create and develop new plans for the area, once they are developed the increased activity will bring people back to Commercial Road and surrounding areas.
- 4.2. To ensure the future of the city centre, a development of significant scale is required to act as catalyst. Agreeing the Heads of Terms allows the Council and developer to start this process of engagement.
- 4.3. Any proposal must deliver outcomes in line with community engagement, the Local Plan and the council's aspirations for culturally-led regeneration. The Council also aspires to deliver a high level of affordable housing (above the levels required under current Portsmouth planning policies), whilst retaining a viable commercial project.
- 4.4. On this basis the Council is looking to progress the two projects, the first is the regeneration of the Tricorn site and lands around it, and secondly to bring forward active worthwhile uses in the short term. Delegated authority is being sort to enable officers to develop plans to a feasibility level based on the consultation with the residents, stakeholders and the market knowledge of the development partner. Once feasibility options are completed these will be returned to Cabinet for their consideration and determination.

5. Communications and Engagement

- 5.1. Meaningful communication and engagement with the stakeholders of the city and further afield is essential for work to be successful. The Council is therefore developing an ongoing programme of engagement with residents, businesses and the local community to shape the plans for reinvigorating the city centre.
- 5.2. This will involve asking for views on a range of subjects including:
- Immediate worthwhile (temporary) uses for the Tricorn and wider site

- Support the development of the city centre markets
- New attractions for existing shopping areas
- Improving the physical environment of existing shopping areas, e.g. benches, paving etc.
- What to include in any future city centre developments
- Publically accessible space
- Transport links

5.3 The Council is aware not everyone will be able to attend consultation events and thus it plans to create a new High Street presence (shop front) on Commercial Road that will allow interested parties to drop in, to view and discuss plans when it suits them. Further details will be announced once the venue is agreed.

5.4 Working with Delancey, a full communication and engagement strategy will be developed. Initial plans include:

- Key Stakeholders are contacted and the sourcing of local knowledge is prioritised from the outset, to ensure firm foundations are set for the consultation and for the plans from the start
- A dedicated information and consultation website is created, with dedicated email address for those looking to get more information
- Bespoke meetings for community stakeholders, businesses and political groups
- Regular updates for key stakeholders, including councillors
- Informative and accessible public information exhibitions and workshops, held at relevant locations at key points throughout the consultation process, and a joined up approach taken when other developers are consulting in the interest of any wider masterplans
- Regular and correctly timed media briefings about development plans as well as the engagement activity
- Comprehensive and regularly updated FAQs documents with key information
- Ensuring that Charles Dickens ward councillors are involved at the earliest possible juncture and ensure that the public consultation is designed in partnership with them. Link up with existing structures such as community groups, residents associations and neighbourhood forums
- Establishing a cross party approach with all elected members
- Consider establishing other working panels that can advise the team
- Partner and collaborate with business and cultural communities across Portsmouth ensuring the project meets local ambitions in the short and long term in an innovative, relevant and value adding way; setting up the partnerships and relationships beyond the 'red line' of the site that can then grow and thrive

5.5 Residents who live locally to the City Centre should by now have received a letter (see appendix F) from the Council setting out the current workstreams and the opportunities to engage in the work. Should anyone have not received this, they can register online to ensure that they are kept informed: www.portsmouth.gov.uk/city-centre-email

6. Reasons for Recommendations

Background to the Tricorn site

- 6.1 City Centres and High Streets across the UK are struggling. Traditional retail models built around property ownership are under threat and Portsmouth is no different. The Council is aware of these trends and is prepared to take action to shape the future of the City, including through direct intervention.
- 6.2 Portsmouth City Council has a long held strategic ambition (dating back to the late 1990s) to deliver a comprehensive mixed-use, regeneration of the Northern end of the City Centre.
- 6.3 In 2004 Centros Portsmouth Limited Partnership (a Delancey owned SPV) purchased the remaining 50% leasehold interest in the former Tricorn site and simultaneously entered into a Development Agreement with the City Council to deliver a retail led mixed use redevelopment of the Northern Quarter area.
- 6.4 To enable the comprehensive redevelopment the City Council promoted and secured compulsory purchase powers by the Portsmouth City Council (Northern Quarter Redevelopment, Portsmouth) Compulsory Purchase Order 2006. The order expired in December 2010.
- 6.5 The property recession in 2009, led to significant financial difficulty in the viability of re-development proposals. This coupled with the amount of money already invested, meant that the Delancey group took the decision to hold their Portsmouth assets until such time as they believed delivery of a new scheme was achievable.
- 6.6 Today Delancey hold the remainder of a 99 year leasehold interest in the former Tricorn site (47 years) with the City Council owning the freehold of the site. Assets held by both parties are identified on plan 1 in appendix A.
- 6.7 The opportunity to take control of the development is here and through partnership working, the Council can deliver its new vision for the City Centre.
- 6.8 The land to the north of the city centre consists of island sites isolated from commercial road and the surrounding residential community by the public highway. These busy roads are barriers to any large scale regeneration activities in the area. By realigning the highway and diverting the majority of traffic away from the developable areas, links between these sites to the fabric of the City will start to create a vastly improved footprint for development. The Contractor for the Road design and build was agreed at the Cabinet meeting on 5th February 2019.

Current Work to Date

- 6.9 The Council have approached Delancey to revive their interest. Delancey have confirmed that they do not wish to sell their interest, and would like to develop their sites in conjunction with the City Council. They have confirmed that they are in a position to work in partnership with the City Council to develop plans for the northern end of the City Centre.

- 6.10 By engaging with Delancey on their proposal for a JV, the Council will have significant leverage in bringing forward solutions to the key issues that are affecting the City, namely:
- Economic growth and ensuring that any development is looking to the future to embrace the changes to the 'traditional' high street and deliver an environment that is fit for purpose.
 - To bring forward much needed homes for the city, including a range of affordable housing products to support growth in the City.
 - To create new jobs both during the construction period but also dedicating some space in the designs to employment zones.
- 6.11 The Council's legal advisors have proposed that both parties engage by way of a LLP on a 50/50 basis to develop sites to the north of the Cascades centre.
- 6.12 Officers were asked to explore these discussions further and present back to Cabinet on what a partnership that benefits both parties could look like.
- 6.13 Having instructed Pinsent Masons to advise on the proposed LLP (see confidential appendix B for the legal advice note) and the ability for the Council to proceed with the transaction to ensure the Council has the powers to invest and participate in the LLP and is compliant with the Public Contract Regulations, officers have entered into a period of negotiation with the Delancey Group to establish if some common ground exists and the result of this is the proposed joint venture heads of terms, agreed subject to Cabinet approval (see confidential appendix C for a copy of the agreed heads of terms).

7. Equality Impact Assessment

- 7.1. Not required at this stage of works.

8. Legal implications

- 8.1. Section 1 of the Localism Act 2011 provides local authorities a general power of competence, *i.e.* "power to do anything that individuals generally may do". This is providing (s.4 (2), 2011 Act) the authority must do so through a company.
- 8.2. LLPs are formed under and governed by the Limited Liability Partnerships Act 2000 and so do not fall within the legal definition of a company. The point has been tested via the High Court with external legal advice concluding the Council are entitled to rely on it and form an LLP provided the dominant purpose in forming the LLP is not commercial [whilst there may be commercial elements].
- 8.3. External legal advice has been sought as to the mechanism to include within the proposed LLP heads of terms to ensure the above tests are met.

- 8.4. In terms of the proposed procurement process external legal advice concludes the exemption - a "negotiated procedure without prior publication" may be able to be relied upon. Noting the potential risks attached to said route, procurement should be engaged from the outset to ensure the relevant criteria points as noted within the legal advice are met.

9. Director of Finance's Comments

- 9.1. The obligations of the parties are set out within the Heads of Terms in the appendices but a full financial appraisal and business case for entering into this agreement cannot be completed at this time.
- 9.2. The financial appraisal and business case for the JV will remain under constant review and in the event that the development is deemed to be unviable, the Council will not undertake any borrowing in order to provide equity for the JV and all assets within the JV will be distributed back to the parties pro rata to the Members interests, the intention from the outset is that this will be on a 50/50 basis.
- 9.3. Under the Heads of Terms the Council will transfer land holdings that it currently holds into the JV and the DV4 will also transfer their land holdings. The exact value of the land holdings are not currently known and will be subject to a proper land valuation prior to transfer.
- 9.4. Under these arrangements the JV will then undertake a feasibility of the site, seek planning permission, possibly acquire additional properties and undertake development works. None of these amounts are currently known.
- 9.5. The LLP will also be responsible for identifying third party funding for the agreement and will seek "meanwhile uses" for the land. The Heads of Terms state that any income earned by the JV will be reinvested into the development, but Members will have the opportunity to determine otherwise.
- 9.6. Any required compulsory purchase orders will be paid for by the JV and the DV4 will underwrite 50% of the total cost. A historic CPO Indemnity Agreement between the parties under which DV4 owe a sum of money to the Council exists. That sum has been agreed but not the mechanism for the payment.
- 9.7. The payment of this outstanding amount needs to be dealt with as part of this transaction although it may not be relevant to the joint venture finance arrangements. This will be considered as part of the overall JV arrangement.
- 9.8. The City Centre Road project part of which will serve the site has been developed at the expense of the Council. There will be costs for the joint venture to pay as proposed in this agreement but this is specifically in relation to the delivery of infrastructure where it relates to any redline of the planning application. It is proposed that this will be captured as part of a s.278 agreement.

- 9.9. Only once the JV documents, which will include operational and procurement policies, have been formulated will a Business Plan and Budget be prepared.
- 9.10. The Council and its partner DV4 will provide 50% each of the funding required to acquire the Initial properties which may be a mixture of both land and Cash; this is to ensure that both parties have contributed 50% each. There is a potential risk that an inequality will arise overtime given the fluctuating nature of the value of land. Consideration will need to be given to this.
- 9.11. Both parties will jointly fund the working capital required for the formulation of a business plan on 50/50 basis, the cost of this business plan is currently unknown.
- 9.12. The Heads of Terms also set out that where there is an equity investment by one partner that is greater than the other then a greater share of any profits will be made to that party, although the underlying principle of the agreement is that this should not occur.
- 9.13. Profits will be distributed based on the share of interest within the partnership. No distribution of profits will be made without the repayment of third party debt. The repayment of which will be decided upon after taking account of the agreed waterfall. The details of which are not included within the Heads of Terms and will need to be agreed between the parties.
- 9.14. The investment by the Council will be in the form of land holdings; equity and debt funding, the amounts and proportions are not currently known and will need to be subject to a full financial appraisal which will need to be carried out when the business plan is formulated.

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Signed by:

Appendices:

- Appendix A - Landownership Drawing
- Appendix B - **Confidential** - Pinsent Masons Legal advice
- Appendix C - **Confidential** - Agreed Heads of Terms
- Appendix D - Councils Plan
- Appendix E - Timeline
- Appendix F - Letter to Local Community

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: