

Decision maker: Cabinet, 26th June 2014

Subject: The Camber - East Street and Broad Street, Old Portsmouth

Report by: Alan Cufley, Head of Corporate Assets, Business & Standards

Wards affected: St Thomas

Key decision (over £250k): Yes

1. Purpose of report:

- 1.1 The report is to advise the Cabinet of the opportunity to enter into a new lease on the Camber site (East Street) with Ben Ainslie Racing Ltd (BAR), allowing development of the site as a team base from which to launch a bid to contest the America's Cup; and to request authority to enter into the necessary legal and financial agreements with the proposed tenant, BAR.

2. Recommendations:

- 2.1 It is recommended that the Cabinet resolves to:
- (a) enter into a lease agreement with BAR for the Camber site, on the terms set out in paragraph 3.3, together with any necessary associated agreements
- (b) authorise the City Solicitor and Head of Corporate Assets, Business & Standards be authorised to complete all legal documentation in order to give effect to the above recommendation.

3. Background:

- 3.1 The City Council (PCC) is the freehold owner of the Camber site. As reported to the Corporate Projects Board on 30th April, early in 2014 Ben Ainslie Racing Ltd (BAR) approached PCC with a view to locating a team base on the site in order to develop and build a boat for the next Americas Cup challenge in 2017; and if successful to host the subsequent race in the UK based in Portsmouth. The team have been clear that the Camber is the preferred location for the BAR project and investment; their business plan indicates positive economic development benefits, including approximately 100 permanent jobs in the city, including in the maritime and technology sector, many more fixed-term jobs, together with supply chain benefit, and a significant boost to the regional economy through visitor spend. The project promotes sub-regional economic development objectives as set out by the Solent Local Enterprise Partnership (SLEP), and is specifically referenced in the Maritime Supplement

commissioned by Government and produced for the SLEP by Rear Admiral Rob Stevens CB (retired). However, to achieve the challenging timescales for the project, building on site must commence June 2014. BAR have submitted an application to the Department of Business, Innovation and Skills (BIS) for exceptional Regional Growth Funding (eRGF) to support the scheme, and submitted a planning application to the city council as the Planning Authority.

- 3.2 To facilitate the scheme as the landowner, and in recognition of the significant property and non-property benefits of the scheme to PCC, PCC have taken the necessary steps, including incurring some expenditure at risk, to ensure that vacant possession of the site immediately following granting of planning consent was a possibility. These items were reported to the Planning, Regeneration and Economic Development portfolio on 13th June 2014.
- 3.3 Planning consent was granted on 18th June, and therefore Cabinet approval is now requested to enter into a new lease with BAR, with terms including:
- a term of 25 years for use as a boat building facility
 - a rent free period whilst the property is used for the purpose of contesting the America's Cup
 - in the event that the America's Cup ambition ceases then the rent free period will stop and open market rent will become payable with immediate effect, and subject to 5 yearly reviews
 - Alternative use will be discussed should the America's Cup ambition cease
 - BAR will build a new purpose built building and use all reasonable endeavours to nominate Portsmouth as the host city for any event for which it is entitled to choose the location as a result of sponsors or victors rights provided such is commercially, practically and economically viable.
 - The built out headquarters/research unit, to revert to PCC at no cost on the termination of the lease.
- 3.4 The potential social, economic and environmental benefits to the city are considerable, and impact both directly and indirectly on the property benefits to PCC as landlord. Additional business rates will be generated from the site. Furthermore, the development will support jobs and skills development in the Camber area which are in keeping with the nature of the site, and it is anticipated that further jobs would be created in the local supply chain, and possibly through companies establishing themselves in the area to support the team. The 32nd America's Cup held in Valencia resulted in all the teams relocating to the City for 4 years attracting a number of suppliers and technical companies who relocated bringing significant investment and revenue to the region. Whilst it is difficult to accurately estimate the impact from increased supply chain demand resulting from BAR, Team New Zealand economic impact study estimates the team's presence sustained employment equivalent to approximately 1,230 workers for one year. Hosting two AC World series events and hosting the America's Cup could lead to creation of 10yr average of 900 jobs. Reports from San Francisco America's Cup Organizing Committee, show the equivalent of 1,715 one-year jobs created in San Francisco. When broader economic impacts are included, new employment totalled 2,863.

- 3.5 There is also the possibility of the city hosting events related to the team bid, including an America's Cup event itself, as the location of the team headquarters is only one element of the total project being undertaken by BAR. As the home city of a contender for the America's Cup and a participant in the America's Cup World Series prior to the Cup in 2017, Portsmouth could potentially host two America's Cup World Series events. In September 2011, Plymouth hosted an America's Cup World Series event in Plymouth Sound. An independent study conducted by Social, Economic and Market Research at Plymouth University said about 140,250 visitors watched the carbon fibre catamarans race around Plymouth Sound, bringing in £9.1m for Plymouth's economy. The independent report said visitors spent £4.1m, the economic impact from increased business among hotels and local suppliers was £1.6m and media coverage was worth £4.2m.
- 3.6 The stated intention is for the BAR team to compete, and win the America's Cup, and this would give Portsmouth the opportunity to become the host city for the event. This has been achieved in one four year Cup cycle by the Alinghi team. The winning team gets to host the competition from a home port. Previous home cities have reaped spectacular benefit, for example:
- The 32nd America's Cup in Valencia, 2004-2007 brought a total Euro2.8bn of economic benefit to Valencia and the surrounding regions. This created a 1% positive impact on GDP and employment figures with 73,859 jobs being created during the 4 years. The £60m America's Cup Management profit was split between the participating teams. It was estimated a total of \$76m total visitor spend during America's Cup Match, the seven-race final between the Defender and Challenger.
 - The economic impact of the 34th America's Cup in San Francisco has recently been assessed by the Bay Area Council Institute and Beacon Economics. The report found that the increase in overall economic activity in San Francisco was of the order of \$550m, with over 3800 jobs created. Venues across the bay waterfront attracted over a million visitors.
 - More benefits after winning the Cup were highlighted in reports on Economic Impact of San Francisco. The report states:
 - The 34th America's Cup (AC34) generated between \$364.4 million and \$550.8 million in economic activity in the City of San Francisco.
 - The event and related activities supported the equivalent of thousands of new jobs in San Francisco.
 - The event directly generated the equivalent of 1,715 one-year jobs in San Francisco - including the cruise terminal, 2,300 one-year jobs were added.
 - When broader economic impacts are included, new employment totalled 2,863, and 3,858 with the terminal.
- 3.7 Portsmouth already benefits from an estimated £3m economic impact from events such as the Great South Run. The impact of the America's Cup will be significantly larger and for a longer period.

4. Options

- 4.1 In order to help facilitate the BAR scheme, the PCC as landowner has negotiated the early surrender of their leases with the existing tenants to achieve a vacant site, in anticipation of a successful bid for funding for the scheme and granting of planning consent for the BAR building. However, this did not presuppose that planning consent would be granted and represented an element of landowner risk to PCC, taken with a view to the potential direct and indirect economic benefits.
- 4.2 The long-term benefits of the scheme to the city and the region, and the increased land value which the scheme will have on the Camber site are compelling. Were the lease denied, the benefits to the city would be almost wholly lost, and with BAR leaving for an alternative, less preferred, site in Southampton or even overseas.
- 4.3 The alternative option would be for the City Council to consider the future of the vacant site for an alternative use. Previous work has identified that the site is potentially challenging to bring to market as a residential or retail scheme: the established and historic use of the site is industrial and dockland. Land currently being marketed for development at the Point has not, to the knowledge of officers, secured interest at a sufficient price, underlining the challenging nature of the site.
- 4.4 It is also notable that there is outstanding litigation relating to the site, which, while not putting the BAR scheme at risk, has reduced the marketability of the site.
- 4.5 The City Council's Registered Valuer has undertaken a valuation for the purposes of section 128(1) of the Local Government Act 1972 and General Disposal Consent 2003, in accordance with the RICS Appraisal and Valuation Standards 7th Edition (the Red Book) guidance note UKGN 5 Local Authority disposal of land for less than best consideration. It is the opinion of the Council's Registered Valuer that the proposed transaction meets the objectives as set out in the General Consent Order for:
- (i) the promotion or improvement of economic well being
 - (ii) the promotion or improvement of social well being
 - (iii) the promotion or improvement of environmental well being
- 4.6 Where an undervalue exists on the analysis set out within the technical guidance to the General Consent Order, it does not exceed the prescribed amount in the General Consent Order.
- 4.7 Given the property and non-property benefits to the Council as landlord of the site, co-located sites, the transaction, for the Council, results in a net benefit.

5. Reasons for recommendations

- 5.1 The scheme improves the value of PCC's land, and will provide at the end of the term, a technology/industrial unit, together with a range of non-property benefits which promote the social, economic, and environmental wellbeing of the PCC area, and an increase in business rate receipts.
- 5.2 There are great growth benefits for Portsmouth providing the home to the BAR team. The scheme will bring the city 100 direct jobs, as well as indirect employment in construction, events management, the visitor economy and the supply chain. It will directly support jobs & development in the Camber area, retaining its use as a commercial dock focusing on marine and maritime industries. The scheme is in direct support of sub-regional economic development objectives and has the potential to enhance the reputation of the city on a global stage.

6. Equality impact assessment (EIA)

- 6.1 The decision has been screened for impact on groups with protected characteristics, as that term is defined under the Equalities Act 2010, and no adverse impact requiring mitigation measures has been indicated.
- 6.2 The Equalities Act 2010 imposes a duty on the Council to have due regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
 - The protected characteristics include: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 6.3 In order to have due regard, the decision-maker should consider in making this decision whether the proposals disadvantage people with particular protected characteristics or discourages their participation in activities, and to consider how their needs may be met. Where a decision may result in disadvantages, it is important to consider how that disadvantage may be mitigated. However, in this instance, as the purpose of the loan is to promote circumstances in which the a publically accessible means of sporting engagement and entertainment can be secured, and noting the duty upon the Club to itself comply with duties around accessibility and open access to those with protected characteristics, it is considered that the decision will result in a fostering of good relations, and an

advancement of equality of opportunity between groups sharing protected characteristics.

7. City Solicitor comments

7.1 Under s123 of the Local Government Act 1972 the Council may dispose of any land in any manner they wish provided that it must be for the best consideration that can reasonably be obtained. If the disposal is not for the best consideration then the consent of the Secretary of State will be required.

7.2 However, under a general consent order issued by the Secretary of State, consent to the disposal is not required where the Local Authority considered that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any person resident or present in its area:

- (i) the promotion or improvement of economic well being
- (ii) the promotion or improvement of social well being
- (iii) the promotion or improvement of environmental well being

7.3 The objects listed above are met, as described in paragraph 3.6 to this report. However, disposal at less than best consideration is subject to the condition that there is no undervalue, or that where any undervalue exists, it does not exceed £2,000,000 (two million pounds). The undervalue is the difference between the unrestricted value of the interest to be disposed of and the consideration accepted.

7.4 In this instance, the result is an undervalue of less than £2m, or no undervalue. It is also important to consider the implications of Articles 107, and 108 of the Treaty on the Functioning of the European Union which prohibits *aid given by a member state or through state resources* (such as by local authorities) *in any form whatsoever*.

7.5 The transaction complies with the market economy investor principle by which, where PCC act in a way to promote economic benefit directly to them in the same manner as any market economy investor, then the transaction does not impugn the rules on state aid. Here, the property and non-property benefits (including the betterment to the site, the right to a market rent where the entitlement to the built out unit at no cost on a reversion of the site, and the cumulative benefit to the local authority area) are found, in the Commercial Valuation report, to represent a sound commercial deal for PCC.

8. Head of Finance's comments

8.1 The proposed lease terms state that BAR will not be required to pay a rent while the site is being used to compete in the Americas Cup. This will result in a net reduction in rental income from the Camber site, however the Property Portfolio will manage any loss within its existing cash limit.

- 8.2 As stated within the report, in the event that the America's Cup ambition ceases then the rent free period will stop and open market rent for surfaced industrial land will become payable with immediate effect, resulting in an increase in rental income from the site overall, compared to the status quo.
- 8.3 It should be noted that any structure built by BAR on the site will return to PCC ownership upon lease expiry for future commercial/development use. Should BAR choose not to develop on this site, alternative uses delivering best value will be considered.

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 Signed by: Alan Cufley, Head of Corporate Assets, Business & Standards

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
Not applicable	

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by the Cabinet on 26th June 2014

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 Signed by Cllr Donna Jones, Leader of the Council