

	REPORT TO CABINET TO BE HELD ON 20 May 2014
	Key Decision YES Forward Plan Ref No 17
Corporate Priority Aim 2 – Prosperous Aim 3 – Inclusive and Vibrant Aim 4 – Quality Environments	Cabinet Portfolio Holder Cllr. Mike Cockerill Cllr. Derek Bastiman

REPORT OF: DIRECTOR OF BUSINESS SUPPORT – 14/171

WARDS AFFECTED: CASTLE

SUBJECT: FUTURIST THEATRE AND JOINT VENTURE AGREEMENT WITH THE HOMES AND COMMUNITIES AGENCY

RECOMMENDATION (S):

Cabinet is recommended to:

agree to the implementation of a two phased development approach (Lower and Upper Tier) to accelerate delivery of development on the Lower Tier site;

- (i) approve in principle the disposal strategy for the Lower Tier site and delegate authority of final approval to the Joint Venture Board;
- (ii) approve in principle a leasehold disposal of the Lower Tier site;
- (iii) note that the Homes and Communities Agency's original capital investment of £3.25m has enabled the Joint Venture to commission relevant surveys in order to take the Lower Tier site to market;
- (iv) subject to the conclusion of the surveys on the Lower Tier site authorise the Homes and Communities Agency's withdrawal of £2.942m being part of its original investment of £3.25m from Joint Venture surplus cash reserves to enable the Homes and Communities Agency to meet its wider objectives;

- (v) authorise the realignment of the Joint Venture equity split to 74%/26% in the Council's favour including the payment by the Council of £147k into the Joint Venture Account to be funded from the Capital Development Reserve;
- (vi) agree to amend the Joint Venture Agreement to incorporate recommendations (i) – (v) above;
- (vii) note that surveys are in progress and that Officers will not make arrangements to board up the frontage of the Futurist Theatre until those surveys have been completed.

REASON FOR RECOMMENDATION (S):

- To accelerate development on the Lower Tier site;
- To retain the Homes Communities Agency as a partner;
- To agree the strategy for disposal of the Lower Tier site;
- To facilitate the withdrawal of the unspent element of the Homes and Communities Agency's original investment to enable it to meet its wider corporate objectives.

HIGHLIGHTED RISKS:

The risks are set out in the risk register at Appendix A however, the key risks are detailed beneath:

- Failure to select a suitable purchaser for the Lower Tier site;
- Homes and Communities Agency withdraw from the Joint Venture;
- Innovative leisure facility not delivered;
- Council has to inject significant capital funding to make development viable;
- Adverse publicity in respect of the Futurist Theatre;
- Failure to achieve connectivity to the Upper Tier by dividing the development into two phases.

1. INTRODUCTION

- 1.1 The Council and the Homes and Communities Agency (HCA) entered into a Joint Venture Agreement on 29 March 2012 for the purpose of redeveloping and regenerating the Town Hall and wider site. The HCA has invested £3.25 million and the Council has invested £150k into the Joint Venture (JV). The HCA's property investment consists of the Former Mermaid Pub and Fish and Chip shop and the Council's property investment includes the Town Hall and King Street car park (excluding Civic and CCTV) and the Futurist Theatre site including the land to the rear of the Futurist.
- 1.2 As previously advised (13/359) the Council contributed the majority of the property in the JV and the HCA the majority of the capital in the JV. The value of each party's assets was translated into a 76% / 24% equity split in

the HCA's favour meaning that the Council's level of financial liability for JV costs is 24%.

- 1.3 On 16 July 2013 (13/276) Cabinet instructed Officers to enter into negotiations with the present operator of the Futurist Theatre acknowledging that the redevelopment of the Town Hall and wider site development is the preferred option.
- 1.4 In November 2013 Council (13/359) approved the JV's budget of £500k to progress the development of the Town Hall and wider site up to the appointment of the preferred developer and provided authority for the Council to enter into contract with consultants to assist the Council and the HCA. Council also approved the issue of an OJEU notice to commence a European procurement process to appoint a developer to implement the development of JV's assets subject to further reports to Cabinet.
- 1.5 On 13 December 2013 (13/447) the Leader agreed not to increase the direct contribution to the Futurist Theatre operator noting that this would result in the temporary closure of the Futurist Theatre at the expiration of the operator's lease. The Leader also authorised Officers to explore the potential for alternate operators to come forward for the 2014 season. No suitable and viable submissions for the operation of the Theatre were received.

2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN

- 2.1 The outcome of this report contributes to Corporate Aim 2 – Prosperous; Aim 3 – Inclusive and Vibrant and Aim 4 – Quality Environments.

3. BACKGROUND AND ISSUES

- 3.1 The original JV objectives as defined by the JV Agreement are:
 - to generate development activity and develop the Town Hall and Wider Site in accordance with the Futurist and Town Hall Development Brief (or as otherwise agreed);
 - value the assets contained within the Town Hall and Wider Site (now complete);
 - to identify and acquire any interests within the Site which are necessary (whether by way of CPO or otherwise) for the purpose of procuring the development of the Town Hall and Wider Site;
 - to agree and implement a procurement, delivery, marketing, management and disposal strategies for the Town Hall and Wider Site;
 - to devise a structure and mechanism for the maintenance of public access and public realm within the Town Hall and Wider Site.
- 3.2 The Development Brief for the Futurist and Town Hall site was adopted by the Council in September 2012 (12/404). Some of the aspirations of the Development Brief include creating connectivity through the scheme between St Nicholas Street and the South Bay promenade and provide a gateway

mixed use development which contributes to the renaissance of the eastern part of the town centre.

- 3.3 Following the Council decision in July 2012 (12/354) a consideration in the procurement of any developer for the Town Hall site is the retention/provision of on site Council office accommodation.
- 3.4 The JV Agreement sets out the governance arrangements for the JV including the establishment of a JV Board and JV Delivery Team. In November 2013 Council nominated the Portfolio Holder for Strategic Planning and Regeneration and the Director of Business Support to sit on the JV Board alongside two members from the HCA. The JV Delivery Team is made up of Officers from both organisations where necessary assisted by external resource.

4. CONSULTATION

- 4.1 There has been consultation during the Futurist Task Group, Futurist and Town Hall Development Brief and the Town Hall Accommodation Review.
- 4.2 There has been consultation between the Council and the HCA through the governance arrangements detailed in 3.4 above.

5. ASSESSMENT

- 5.1 Through the JV Delivery Team soft market testing has been undertaken to establish the development potential of the Town Hall and wider site. To take the entire Town Hall and wider site forward for development, due to the stipulation of certain elements e.g. Council office accommodation a formal EU tender via OJEU would be necessary.
- 5.2 An OJEU procurement is both time consuming and resource hungry. It is recognised by both partners within the JV that there is an immediate development opportunity on the Lower Tier site now that Futurist Theatre has permanently closed. The disposal strategy attached at Appendix B therefore proposes to divide the development into two phases being the Upper and Lower Tier sites and recommends taking the Lower Tier site straight to market as Phase One.
- 5.3 For clarity the Lower Tier consists of the Futurist buildings and the land to the rear (site of the former Futurist flats). Whilst the disposal strategy is appended the pertinent aspects of it are detailed as follows:
 - The disposal will be on a long leasehold basis to enable the Council to retain a level of control over the site;
 - The primary use of the site is leisure in accordance with the Development Brief;
 - The assessment criteria are based on price (including conditionality) 50%; and leisure offer 50%;

- The development of the Town Hall and wider site will now be implemented over two phases being Upper and Lower Tier;
 - The HCA will have an option to exit the JV on completion of Phase One.
- 5.4 The JV Delivery Team has commissioned surveys on the Town Hall and wider development site. There are still a number of surveys in progress in respect of the Lower Tier site and these will be required prior to marketing this development opportunity. The principal surveys outstanding are asbestos and a structural assessment of the Futurist building.
- 5.5 Once the outstanding surveys have been completed Officers will arrange for the frontage of the Futurist building to be boarded up appropriately. The Council will continue to conduct basic house keeping of the Futurist Theatre and keep the building under review.
- 5.6 Whilst the Lower Tier site is in a prime sea front location the JV recognises that there may be difficulties around the development of the site thus the requirement for a capital investment by the JV or the Council cannot at this stage be discounted.
- 5.7 The HCA has confirmed their commitment in respect of developing Phase One and have reserved their position in respect of their involvement in the Phase Two opportunity. The HCA recognise that Phase Two, whilst providing the connectivity between the town and the foreshore is more aligned to the Council's objectives than the HCA's. As a consequence the HCA has requested the reimbursement of £2.942m of its original investment being surplus cash reserves that are not already committed to the delivery of the development. This will provide the HCA with capital to invest to meet their other immediate priorities and objectives.
- 5.8 The withdrawal of the uncommitted cash balance by the HCA will result in the realignment of the JV equity based on the value of the property assets held in the Lower Tier only. This will translate into a 74%/26% equity split in the Council's favour.
- 5.9 It was previously reported to Members (13/359) that the Council was liable to meet 24% of the JV expenditure and 100% of the costs of acquiring the leasehold interests in the units fronting the Futurist building if the JV failed to secure a suitable Developer (being £306k to be met from the Capital Development Reserve). Whilst 24% of the JV costs remain the same, as the focus of the development is now on the Lower Tier site the financial liability in respect of the leasehold acquisition costs is in accordance with the pro rata split of the Lower Tier assets.
- 5.10 To reflect the two phased approach to development, the realignment of the JV equity split to 74%/26% in the Council's favour, new terms of leasehold liability and the HCA's cash withdrawal the Council must inject a further £147k into the JV to fulfil its financial obligations. This will be funded from the Capital Development Reserve.

5.11 Although the HCA is withdrawing an element of their original capital investment to meet other priorities it is important to note that the HCA is still committed to the delivery of the Lower Tier opportunity and have reserved its position in respect of its involvement in the delivery of Phase Two.

6. IMPLICATIONS

(a) Policy

6.1 There are no policy implications as a result of this report.

(b) Legal

6.2 The legal implications are set out in the body of and Appendices to this report.

(c) Financial

6.3 The financial implications are set out in the body of this report.

7. ACTION PLAN

7.1 Details beneath is a high level programme for the disposal of the Lower Tier:

Cabinet Approval	20 May 2014
Marketing Campaign	July/August 2014
Evaluation	August 2014
Council Approval	September 2014

Nicholas Edwards

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Director of Business Support