

BABERGH DISTRICT COUNCIL

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| TO: CABINET | REPORT NUMBER: BCa/22/36 |
| FROM: Cabinet Member for Economy | DATE OF MEETING: 05/12/2022 |
| OFFICER: Fiona Duhamel | KEY DECISION REF NO. CAB331 |

NOTE: PART EXEMPT - REPORT OPEN BUT ALL APPENDICES CONFIDENTIAL

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

HADLEIGH A1071 ROADSIDE COMMERCIAL WORKSPACE DEVELOPMENT

1. PURPOSE OF REPORT

- 1.1 To report back to Cabinet with updated viability appraisal, options and borrowing cost information.
- 1.2 To seek Cabinet approvals of (a) draft Heads of Terms for an updated freehold disposal for the A1 use convenience retail/drive-thru parcel of the site, together with; (b) anchor tenant leasehold agreement draft Heads of Terms for the Council retained ownership office unit (approximate area of 372 m², or 4,004 ft²).
- 1.3 These matters relate to a proposal for the Council to directly deliver a low-density commercial employment development scheme alongside the A1071 at Hadleigh, and in doing so provide workspace units and employment opportunities at a key location in the district - where evidenced demand is not being met by the market.

2. OPTIONS CONSIDERED

| OPTIONS CONSIDERED PREVIOUSLY | |
|--|---|
| (a) DO NOT PROGRESS WITH A DEVELOPMENT | Rejected by Cabinet at its meetings of 08 June 2021 and 08 July 2022 |
| (b) PROGRESS WITH DESIGNING A VIABLE / DELIVERABLE SCHEME | Approved by Cabinet at its meeting of 08 June 2021 |
| OPTIONS CONSIDERED WITH THIS REPORTING STAGE | |
| (c) PROCEED TO SECURE ANCHOR TENANT & ALTERNATIVE FREEHOLD PURCHASER FOR A1 USE | Recommended to secure the viability and regeneration objectives of the development |
| (d) DO NOT PROCEED TO SECURE ANCHOR TENANT & ALTERNATIVE FREEHOLD PURCHASER FOR A1 USE | Not Recommended given previous Cabinet resolutions and marketing period/works undertaken to secure priority outcomes |
| (e) PROCEED TO FINALISE OPTIMAL SITE LAYOUT AND SUBMIT PLANNING APPLICATION | Recommended to secure the viability and regeneration objectives of the development |
| (f) DO NOT PROCEED TO FINALISE OPTIMAL SITE LAYOUT AND SUBMIT PLANNING APPLICATION | Not Recommended given previous Cabinet resolutions and marketing period/works undertaken to secure priority outcomes |
| (g) THAT THE COUNCIL DEVELOP AND CONSTRUCT THE A1 UNIT AND LEASE OUT | Not Recommended given previous Cabinet resolutions and elevated risks introduced by this option |

3. RECOMMENDATIONS

RECOMMENDED TO CABINET

- 3.1 That Cabinet note progress, since its last meeting of 08 July 2022, on refinement of an optimal scheme layout and design to support the Council's regeneration priorities. Further, that Cabinet notes the updated order of costs estimate and viability assessment (attached as Confidential Appendix A).
- 3.2 That Cabinet authorise the Director for Economic Growth and Climate Change to conclude an optimal scheme design and layout, based upon occupier and local marketing intelligence gathered, and proceed to submit a planning application during early 2023.
- 3.3 That Cabinet approve the draft Heads of Terms lease agreement for the office unit (with associated parking and service areas) identified in Confidential Appendix B, and with the tenant identified within that draft agreement.
- 3.4 That Cabinet delegate to the Director for Economic Growth and Climate Change the authority to agree or vary the final terms for the lease agreement of the land shown in Confidential Appendix B.
- 3.5 That Cabinet approve the substituted bid terms of offer for the freehold transfer of the A1 use-class convenience retail/drive-thru unit identified in Confidential Appendix C, and as being the best consideration reasonably obtainable.
- 3.6 That Cabinet delegate to the Director for Economic Growth and Climate Change the authority to agree or vary the final terms for the freehold disposal of the land shown in Confidential Appendix C. Further, that the Director for Economic Growth and Climate Change be delegated authority to accept a substitute bid received on the same or similar terms, in the event this latest sale agreement does not proceed.
- 3.7 That Cabinet authorise the Director for Economic Growth and Climate Change to proceed with marketing for the Light Industrial (B1 use class) units.

REASONS FOR DECISION

1. The Council has secured a small parcel of employment land which it can directly invest in to address market failure and develop as a viable scheme to provide needed workspace, employment opportunities and support for the local community of Hadleigh and surrounding area.

4. KEY INFORMATION

BACKGROUND

- 4.1 This report follows on from Cabinet consideration and decisions taken 08 June 2021 (Paper BCa/21/7) and 08 July 2022 (Paper BCa/22/15).

- 4.2 At its meeting of 08 June 2021, Cabinet considered an outline design concept and business case for using its own land (pending transfer) for directly delivering evidence-based employment opportunities at Hadleigh, alongside the A1071 Ipswich Road. Persimmon Homes have been temporarily using the employment land as a site compound and are now overdue relocating and remediating this site. The Council will complete remaining site investigations once Persimmon have moved.
- 4.3 Cabinet's July 2022 decision resolved on the draft terms for the freehold disposal of the A1 use (convenience retail/drive-thru) portion of the site, following an extensive marketing period. This enables a capital receipt for investment in the wider scheme delivery, reduction of up-front borrowing costs and overall improvement of scheme viability. That original deal did not proceed, hence an alternative bid on very similar terms and end-use has been reported and recommended for approval in this paper.
- 4.4 The incoming land transfer to the Council is under legal instruction now the S106 trigger-point has been reached and planning obligation resolved. Simultaneously an onward freehold disposal to a private developer for the convenience retail/drive-thru portion of the site is also instructed via the Council's shared legal services – subject to the Cabinet now resolving to accept the substitute offer and Heads of Terms as being the best consideration reasonably obtainable.
- 4.5 Cabinet has resolved its preference for an optimal 'low-density' scheme design – now incorporating 8 (eight) B1 (light industrial) use units and an anchor tenant facility including office space over two floors (approx. 372m²). Also incorporating an A1 use retail/convenience store (approx. 325m²).
- 4.6 Cabinet resolved its preference for letting the built units to generate a longer-term revenue stream for the Council from its initial capital investment, and to retain control and flexibility. It was reported that this option, in addition to those gains, brings additional risks – higher exposure to long term borrowing, letting risks (e.g. void periods) and increased management resource and maintenance costs. Since this decision, negotiations with a prospective key anchor tenant, having longer leasehold requirements has been productive. The opportunity for a capital receipt from a freehold disposal of the convenience/retail portion of the site also arose and was agreed by Cabinet to best support the overall business case.
- 4.7 The architect's scheme design has refined since the Cabinet's last gateway review in July 2022. We attach as Appendix D (Confidential) the latest design prepared by the Council's appointed architect Barefoot & Gilles including schedule of accommodation. These latest adjustments cater for anchor tenant preferences arising from active negotiations on lease and plot flexibility, local retail agent intelligence and parking provision including accessible spaces and electric vehicle charging. It should be noted that the final scheme detail will continue to evolve towards planning submission (if authorised by Cabinet to progress).

MARKETING PERIOD OUTPUTS

- 4.8 Marketing of the convenience/retail portion of the site has concluded with a freehold disposal agreement in place. Council negotiations with a prospective anchor tenant on the 2-storey office unit have sufficiently progressed to the stage where draft terms of leasehold agreement can now be considered by Cabinet – see Confidential Appendix B. A recommendation is also given within this report at 3.7, seeking continued momentum in securing local interest and forward planning options.

- 4.9 This project opportunity arises on the back of the clear evidence reported via the October 2019 (refreshed in 2021) MENTA workspace and grow-on space study commissioned by Babergh & Mid Suffolk - which found a shortage in incubator space (1,500sq ft range) in the districts and reported that “ideal locations are on outskirts of population centres with good access, car parking, broadband, mobile signal etc. Locations should also be linked to areas of future housing growth, such as Hadleigh...”

5. LINKS TO CORPORATE PLAN

- 5.1 The Corporate Plan (2019-27) is designed to address the challenges and seize the opportunities facing the districts, and their organisations, for the foreseeable future. In relationship to the matters contained within this report, the Council’s strong local leadership role to build great communities for living, working, visiting and investing in is particularly relevant.
- 5.2 The Joint Recovery Plan references the Councils leading a programme of place-based Vision and Invest programmes for its market towns across both districts, including the ‘Invest in Hadleigh’ brand. An outline of the potential investment opportunity has been discussed at the Hadleigh Invest Board of stakeholders who were broadly supportive of this initiative.
- 5.3 Strategic priorities linked for this matter include:
- (a) Rejuvenate our vibrant market towns (including our Vision and Invest programmes)
 - (b) Thriving, attractive, sustainable and connected Communities
 - (c) A robust financial strategy
- 5.4 The Strategic Asset Management Plan to 2025 aims to support business development and regeneration and encourage commercial activities by:
- Providing suitable accommodation for employment of the right type in the right place supporting the development of job opportunities and skills within our districts
 - Maintaining flexible lease terms
 - Undertaking property development
 - Improving availability and use of employment land
 - Undertaking considered acquisitions and disposals which meet specific criteria

6. FINANCIAL IMPLICATIONS

- 6.1 Cabinet agreed ‘in principle’ support for delivering the scheme up to a cost envelope of £2.25m of borrowing within the Capital Programme for 2022/23, and subject to a further decision with the outputs review.
- 6.2 Given recent increases to inflation, borrowing costs and build costs further costs estimation and scenario work has been undertaken as reported in Confidential Appendix A, and on a ‘worst case’ planning basis. This includes Public Works Loan Board (PWLB) borrowing costs based on forecast rates. PWLB rates do fluctuate and there is a risk that rates could be higher at the point that the borrowing is required and loans entered into. A 1% (one percent) increase in PWLB rates would increase the annual interest cost by £19.5k.

| Revenue/Capital/ Expenditure/Income Item | 2022/23 | 2023/24 | 2024/2025 |
|--|---|--|-----------|
| Previous Cabinet forward funding for design and site investigation plus marketing work | -£100k Revenue (80% of which can be later capitalised if asset created) | - | - |
| Capital receipt from sale plot | Confidential (see Confidential Appendix C) | - | - |
| Rental income from let units | Confidential (see updated Development Appraisal attached Confidential Appendix A) | - | - |
| Capital Programme Investment | Up to £2.25m in principle supported by Cabinet | | |
| Other | - | Retaining landlord obligations will incur additional costs risk (e.g. void periods) and operational and maintenance costs. Estimates have been factored into viability appraisal | |

- 6.3 The Council's Medium Term Financial Strategy (MTFS) 2021-2025 requires the Council to take a medium-term view of the budget through a robust financial strategy that is focused on delivering the six corporate strategic priorities. The Council's main strategic financial aim remains to become self-financing and not reliant on Government funding. The Council's parallel aim is to generate more funds than are required purely for core services, in order to enable additional investment into the district. This requires careful balancing of cost management, income generation and service levels.
- 6.4 In the event that the project is not pursued to delivery, then existing forward-funding revenue investment of £80k will not be able to be capitalised. The retail/convenience/drive-thru disposal may still have completed leaving uncertainty on the remaining site future uses, which will unlikely deliver against the market failure or opportunities otherwise likely for this small employment allocation. The Council's control of the site would likely give way to an onward land sale only, and for which residential uses are prohibited.
- 6.5 The Regeneration Team will continue to explore external funding opportunities for development elements as the project progresses (for example CIL and capital grant associated with carbon reduction or localised energy generation), which have potential to reduce costs and further improve viability.

7. LEGAL IMPLICATIONS

- 7.1 The transfer of land is subject to S106 obligations, including the trigger point at which the land is available for transfer to the Council from Persimmon. The Council is entitled to pursue legal remedies as appropriate to secure the benefits entitled by the S106 transfer agreement.
- 7.2 Onward disposals or leasehold agreements are subject to legal review and instruction as required.

7.3 Remaining site investigations, surveys and diligence continue and any implications requiring legal review will be picked up and addressed as part of the project management work.

8. RISK MANAGEMENT

8.1 This report is most closely linked with the Council's Strategic Significant Business Risk No. SRR013 'Additional cost pressures for BDC may result in a significant overspend that needs to be funded from reserves'.

8.2 Significant Operational Risk No.7 (Lack of workspace delivered in our districts due to market failure) is also relevant. Identified key risks of this project are set out below:

| Risk Description | Likelihood | Impact | Score | Mitigation Measures |
|--|--------------|---------|--------|--|
| High inflation, costs of borrowing and construction adversely impacting overall scheme viability or acceptable return on investment | 3 - probable | 3 - bad | HIGH | Freehold sale disposal plot provides capital receipt to reduce costs of borrowing. Detailed finance modelling including up to date appraisals, external QS cost and borrowing forecast input |
| Failure of the Council to deliver investment in the site will reinforce market failure and leave the site under-utilised | 3 - probable | 3 - bad | HIGH | Design, finance and build out a viable commercial development with an acceptable return on investment for BDC |
| Selling the whole site undeveloped would result in loss of control on uses, miss income generation opportunities and strategic priorities delivery | 3 - probable | 3 - bad | HIGH | Freehold disposal agreement on part of the site to support delivery of the remainder. Retains control of strategic priority objectives (e.g. workspace/ jobs creation and mid-term financial strategy) |
| Failure to provide strong local leadership within 'Invest in Hadleigh' Programme stifles wider town investment opportunities | 2 - unlikely | 3 - bad | MEDIUM | Delivering a viable scheme demonstrates positive leadership intervention and supports confidence across the wider programme |
| Loss of control on end-uses from disposed area of site, resulting in lack of stakeholder/community support and possible reputational risks | 3 - probable | 3 - bad | HIGH | Some higher residual risk remains as not fully within Council control or subject to planning risk. Heads of Terms offer some mitigation and |

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|--|--------------|---------|--------|---|
| | | | | uses will be subject to planning process/engagement |
| Investment is made but demand for units and rental profiles are less than anticipated, negatively impacting business case | 2 - unlikely | 3 - bad | MEDIUM | Marketing advice shows strong demand (leasehold and freehold disposal) with good rental profile opportunities. Evidence base refresh has been undertaken post-Covid. Delivering the right quality and spec of units. Secure anchor tenant |
| Preference for retention and letting of all units will create flexibility but introduce maintenance and management costs, void period liabilities etc. | 3 - probable | 3 - bad | HIGH | Updated development appraisal including lifetime cost estimate. Secure anchor tenant. Headroom in rental levels to balance void and management risks. Further unit sale options not excluded |
| The Council retaining build and ownership responsibility for the A1 use plot will incur higher up-front capital costs and carry risk of delay, worsening cost plan or acceptable ROI | 3 - probable | 3 - bad | HIGH | Dispose of the A1 convenience retail/drive-through plot as recommended in this paper |

9. CONSULTATIONS

- 9.1 Engagement will continue through the Invest in Hadleigh Board and with the town council, prospective occupiers and local stakeholders.
- 9.2 Marketing negotiations will continue, aiming to secure anchor tenant and lessees.
- 9.3 Initial high-level discussions on the potential of a scheme have been had with the Planning Team and Strategic Assets colleagues, and this will progress to pre-application including highways.
- 9.4 Planning process will follow in due course in terms of formal responses to proposals.

10. EQUALITY ANALYSIS

- 10.1 Equality Impact Assessment (EIA) Initial Screening has been undertaken and identified no impact on one or more of the 9 protected characteristics as defined by the Equality Act 2010. No full assessment is required arising from the matters contained within this report. This commercial and workspace development will incorporate accessible design features, including for building access and parking, in

accordance with prevailing Building Regulations and/or British Standards where applicable.

11. ENVIRONMENTAL IMPLICATIONS

- 11.1 Development of the site will have associated environmental impacts requiring assessment and mitigation. The initial design work has proposed modern efficient units incorporating roof mounted solar PV, to provide self-consumption energy opportunities with potential savings and resilience for occupiers. Further, electric vehicle charging points and biodiversity planting and features are proposed to further embed green infrastructure and mitigate carbon impacts. Considerate construction scheme accreditation will be specified in procurement.
- 11.2 Any A1 use facility on the disposal part of the site will likely be well used by new residents in the locality as well as commuters, as will electric vehicle charging point (EVCP) infrastructure. The Council as developer will be able to specify sustainability and energy efficiency in design and towards the net zero carbon ambitions of Suffolk by 2030.

12. APPENDICES

| Title | Location |
|--|----------|
| A: Development and Investment Viability Appraisal by Studley Capital Ltd (15.11.2022) - CONFIDENTIAL | Attached |
| B: Draft Heads of Terms with leasehold anchor tenant (15.11.2022) including site plan showing leasehold office unit - CONFIDENTIAL | Attached |
| C: Terms of offer for A1 unit freehold disposal (15.11.2022) including site plan showing freehold disposal area - CONFIDENTIAL | Attached |
| D: Site Layout Drawing 2105 SK 10-103 (18.10.2022) by Barefoot Gilles - CONFIDENTIAL | Attached |