7a

2012

CABINET KEY DECISION 12 SEPTEMBER 2012

Leyton Mount - Approval of the Site Lease Value and Transfer of the site to Bournemouth Development Company LLP

Executive Summary

- The Council owns a number of surface level car parks in the town centre. The Council wishes to promote inward investment in the town through the town centre Vision and has agreed to utilise its land holding to kick start this much needed investment in what can only be described as one of the most challenging markets in recent years.
- The Council and Morgan Sindall have formed a property development company called the Bournemouth Development Company llp. This company is to be the Council's key delivery mechanism for bringing forward development in the Bournemouth town centre .
- One of the key stages in bringing forward development is obtaining cabinet's approval to what is termed the Site Lease Value of the land to be transferred from the Council to the property development company.
- The Site Lease Value represents the Council's *equity investment* in the Bournemouth Development Company llp. The Council's equity investment is returned to the Council at the end of the development provided there are sufficient proceeds. The Council's equity investment is therefore at risk and dependant upon the success of the completed development.
- The proceeds from the development of the site is to be used to undertake a number of much needed improvements to key public spaces in the town centre which is seen as vital to the success of the town.

CABINET KEY DECISION

Subject:	**Town Centre Master Vision** **Leyton Mount - Approval of the Site Lease Value and Transfer of the site to Bournemouth Development Company LLP**
Cabinet Portfolio:	Leader
Corporate Lead:	Tony Williams, Chief Executive
Service Director:	Roger Ball –Director of Technical Services
Meeting Date:	**12 September 2012**
Status:	Public
Contact:	Martin Tiffin, TCV Programme Leader, Town Centre Vision Project ☎ 01202 451138 martin.tiffin@bournemouth.gov.uk

1. Summary

1.1 The Council and Morgan Sindall Investments have formed a property development company called the Bournemouth Development Company llp ("BDC"). BDC is a limited liability partnership ("LLP") and under the terms of an option agreement dated 17 February 2011("the LLP Option Agreement"), the Council is required to grant a 150 year lease to BDC upon satisfaction of a number of conditions termed in the LLP Option Agreement as "Viability Conditions".

1.2 On the 11 November 2010 Cabinet approved the *Stage 1 Site development plan for Leyton Mount* and in the process authorised BDC to seek a planning approval for a mixed use residential led development and on receiving a planning permission, to undertake detailed design and obtain firm construction price for the proposed works and to estimate the end value of the completed development.

On the 20 February 2012 BDC obtained planning permission for a residential led mixed use development consisting of 62 open market residential flats and 604 square metres of commercial space fronting Madeira / Old Christchurch Road.

In July 2012 BDC submitted a s73 Minor Material Amendment application. The application seeks to vary the mix of apartment type to optimise the marketability of the scheme and enhance the rate of sale of the apartments. The application also seeks an increase in the number of units from 62 to 64, working largely within the existing footprint of the consented scheme.

Since February BDC has undertaken detailed design work and through the proposed building contractor Lovell's is in the process of tendering , on an open market basis, various parts of the building works to arrive at firm lump sum

construction price. BDC has also obtained a valuation of the end value of the proposed development from Goadsby and obtained indicative terms for the proposed financing of the works.

1.3 This report outlines how the Leyton Mount *Site Lease Value* has been calculated and seeks to obtain the Council's approval to the proposed value, which is one of the conditions that needs to be satisfied under the terms of the LLP Option Agreement. The Site Lease Value calculation assumes that the debt funding of the scheme will be provided by Lovells, a subsidiary of the Morgan Sindall group . There is scope for the Council to provide some or all of the debt funding for the scheme. Preliminary work is being undertaken by the Council's finance team to look at the pros and cons of the Council acting as one of the debt funders.

1.4 By approving the Site Lease Value (£1.0 million) the Council is realising the development value of an under utilised asset, which in turn once the development is completed, will mean that the end occupiers will boost the spend in the town centre by an estimated £300-400k pa as well as allowing the Council to claim an estimated £500K under the new homes bonus initiative. There is also the potential for business rate retention from the commercial space.

2. Recommendations

2.1 That Cabinet, on the basis that the s73 Minor Material Amendment application is successful and in accordance with the terms of the Option Agreement, approves the "Site Lease Value" in the order of £1,000,000 for the Leyton Mount surface level car park.

2.2 That the Council's s151 officer in consultation with the Head of Property Services have delegated authority to agree with BDC a plus or minus 10% variation in the level of Site lease Value prior to the Council granting of a long leasehold in the site to BDC.

3. Reason for recommendation

3.1 The Council wishes to promote inward investment into the town centre. Since 2007 it has been promoting a regeneration project known as the Town Centre Vision. It is using its land holding in the town centre to kick start the project with BDC acting as the key delivery vehicle.

3.2 In order to undertake development of the Council's land, BDC must undertake a five stage process.

3.3 The first stage is for Bournemouth Development Company to prepare a site development plan - "The Stage 1 Draft Site Development Plan". This involves preparing outline scheme design, undertaking pre application discussions with the planning authority and preparing a preliminary budget for the scheme and obtaining the Council's approval to the stage 1 Site

Development Plan. The Stage 1 Draft Site Development Plan was approved by Cabinet on the 11 November 2010.

3.4 The second stage is for BDC to progress the design to RIBA stage D and to submit a planning application. BDC obtained planning permission on the 20 February 2012.As noted above, a s73 Minor Material Amendment application has recently been submitted and detailed design has been progressed on this basis.

3.5 The third stage is for BDC to satisfy the viability conditions in the Option Agreement. This primarily involves obtaining the Council's agreement to the residual land value for the site with the benefit of planning permission (the "Site Lease Value"). This Cabinet report deals with this third stage. Once the Viability Conditions have been satisfied the Council will pursuant to the terms of the LLP Option Agreement grant a 150 year lease of the Leyton Mount Car Park to BDC so that construction work on the development can proceed. The Cabinet report dated 15 February 2012 sets out a summary of the terms of the LLP Option Agreement. The grant of a 150 year lease of the land is the Council's equity investment in BDC.

3.6 The fourth stage is for BDC to procure the building contractor and manage the construction phase.

3.7 The fifth stage is for BDC to manage the sale/disposal of the completed development. On the sale of the development, and provided there are sufficient funds available from the proceeds, BDC will pay the Council the Site Lease Value together plus a share of any profit.

4. Background

4.1 The Town Centre Vision (TCV) is a key priority for the Council. The Council has formed a joint venture development company with Morgan Sindall Investments (MSI). This development company is known as the Bournemouth Development Company llp ("BDC"). BDC's primary role is to act as the delivery mechanism in bringing forward development on the Council's land within the town centre. The BDC business plan approved by Cabinet on 15 February 2012 sets out the partnership's strategic direction over the next twenty years, with a particular emphasis on the first five years. One of the sites identified for development during 2012 is the Leyton Mount surface level car park.

4.2 On 20 February 2012 BDC was granted planning permission for a residential mixed use scheme at the Leyton Mount car park. BDC have engaged with Officers prior to submission of the s73 application and are hopeful of an early determination.

4.3 Morgan Sindall has funded the costs incurred in progressing the scheme to date, including the planning application and the detailed design. These costs to July 2012 amount to £524k and are within the sums reported in the Cabinet Report dated 11 November 2010 (£580K termed as Advance Sums). However costs will

continue to be incurred on detailed design and procurement and are forecast to have reached £748k by the time the Council grants a long leasehold interest in the site to BDC. These Advance Sums represent Morgan Sindall's initial investment in BDC and are essentially a loan from Morgan Sindall to the BDC.

The Site Lease Value represents the Council's investment in BDC in a similar way to Morgan Sindall's Advance Sums. Under the terms of the LLP Members Agreement dated 17 February 2011, Morgan Sindall are obligated to provide further sums, so that the sums loaned by Morgan Sindall to BDC match the Site Lease Value. In this case, Morgan Sindall are required to invest a further £252K. Both these loans (The Site Lease Value loan note and Morgan Sindall's loan of circa £1.0million) to BDC will be repaid by BDC at the end of the development, once the third party funders have been repaid. Any surplus is then distributed to the Council and Morgan Sindall at the discretion of the BDC Board. The expected profit potentially available to share is £328K. From this profit share it is expected that the BDC Board will recommend that £50K is used to repay part of the non site specific costs which currently (July 2012) stand at £172K.

4.4 *Appendix 1* sets out a summary of the development appraisal prepared to show how the Site Lease Value has been arrived at. All the assumptions are considered prudent and conservative bearing in mind the current state of the economy and reflect the value of the land with the benefit of planning permission.

4.5 Officers and BDC's joint venture partner Morgan Sindall Investments (MSI) have worked together to determine the Site Lease Value. As part of the s123 valuation exercise (discussed in more detail at 7.4 below) Sibbert Gregory report that the unrestricted value of the Site is £800,000. The Site lease value is therefore £200,000 in excess of the s123 valuation.

5. Consultation

5.1 A public exhibition setting out the design, aims and objectives and the wider economic impact of bringing forward a development on the Leyton Mount site was held in the 2011. BDC has consulted with the Council's parks team to ensure integrated landscape enhancement works on Horseshoe Common come forward at the same time as work on the site commences. The proposed modest public realm enhancements, partly funded from s106 monies released as part of the development, will add to the appeal of the Leyton Mount development. This will in turn increase the commercial success of the scheme and the return the Council hopes to enjoy from its participation in BDC.

5.2 A key driver for the TCV is to have more people living in the town centre which will not only add to the town's day time vibrancy but also in part boost retail expenditure. An added benefit is to create natural surveillance over Horseshoe Common which in time will reduce anti social behaviour in and around the area.

5.3 Extensive consultation with the Police has been undertaken regarding the design, layout and density of the development and the Police fully support the

view that the completed development will in time deter anti social behaviour in this part of the town centre.

6. Alternative Options Considered and Rejected

6.1 The development of the site could be delayed and the site could remain as a surface level car park. This option is rejected on the basis that the Council's primary objective is to use its underutilised assets in a prudent and efficient manner to promote inward investment for the benefit of the town centre, for its residents, users and visitors.

6.2 Whilst it could be argued that delaying the development until residential property values return to a higher level there is an equally strong argument that property values may not return to the levels of 2007 for a considerable amount of time. Also delaying the development will not meet one of the Council's overriding objectives of the TCV which is to have more people living in the town centre and the regenerative benefits this will have for the town. Conservative estimates indicate that the increase spend from having an extra 60-to 80 people living in the town centre will mean an increased spend of between £300K-400K pa which will be a vital boost to the local economy.

7. Summary of Financial/Resource Implications

7.1 Capital

The land value (termed Site Lease Value in the Option Agreement) of £1.0 million represents the Council's equity investment into BDC. This equity investment is documented in what is termed a loan note. The loan note put simply is a document which records the fact that the Council has loaned money to BDC which is intended to be repaid on the development's completion. Because the land value represents the Council's "equity investment" in BDC, the risk of the development and land value remains for all practical purposes with the Council. As result the precise level of capital that will be returned to the Council at the end of the development will depend upon whether there are sufficient funds available from the eventual sale of the completed development.

The Cabinet report dated 11 November 2010 stated that the Council's projected profit share was in the region of 560K. This is now projected to be £164K. This reduction is due to the fact that it was felt prudent by the Board of BDC (of which of the Council has three representatives) following outline conceptual design work to submit a planning application for a 62 unit scheme rather than a 82 unit scheme reported in the November 2010 cabinet report and that the level of s106 contributions has been assessed at 316K as opposed to the estimated 160K. Any distribution of profit will also be dependant upon the Bournemouth Development Company board passing a resolution for such a distribution. In doing so the Bournemouth Development Company board is required to act in the best interests of the partnership which in practical terms means the Board is to act prudently having taken appropriate advice and taking

into account the partnership's regeneration objectives and future cash requirements.

On the grant of the 150 year lease of the site to BDC, the site asset on the Council's corporate balance sheet currently standing at a value of 410K will be removed and the expected capital receipt of £1.0 million recognised in the accounts. The value of the capital receipt will be offset by the value of the corresponding loan to BDC and is expected to be repaid upon completion of the development.

7.2 Revenue

The initial sums required to fund the work necessary to obtain planning permission and meet the other Viability Conditions have been and will continue be met by Morgan Sindall Investments as part of their cash contribution to Bournemouth Development Company llp. If the Council does not give its approval to the Site Lease Value then BDC will be unable to draw down the site and proceed with the construction of the development. The costs incurred to date will continue to attract interest.

Approximately 2-4 weeks before work is due to commence on site the car park will need to be closed. The Council will therefore lose the benefit of the income from this car park. It is hoped that some of the parking displaced from this car park will move to other Council controlled car parks in the locality although there is a risk that the displaced car parking may transfer to other non Council controlled car parks. It is felt prudent to predict that the Council's car parking revenue from the closure of the Leyton Mount car park will reduce by something in the region of 50K pa and this reduction will remain until such time as the new multi storey car park on Madeira Road comes on stream in mid 2013 (subject to planning). The income loss will be addressed as part of a refresh of the medium term financial plan.

On completion and registration of the residential units for Council tax purposes the Council will receive approximately £80-85K pa for six years under the coalition governments *New Homes Bonus* initiative. As completion and occupation of the units is not predicted until the later part of 2014 early part 2015 it is prudent to assume that the first payment will not be made until 2015/2016.

The completed development will generate both domestic and non-domestic rates.

7.3 Other regeneration benefits

The investment by BDC in the design and construction of a mixed use scheme at Leyton Mount will encourage further investment in Old Christchurch Road.

The ground floor commercial space, incorporating an outdoor terrace, will attract more daytime activity to the area and will provide complementary café and WC services to people using Horseshoe Common.

Through close consultation and engagement with the Parks team, the development and resultant increase in residents and activity along the street frontage, will help to police Horseshoe Common and deter some of the more anti-social behaviour that has occurred in the past.

7.4 Property

This site, along with 16 other sites in the town centre are included in the option agreement between the Council and BDC. The option agreements sets out the conditions BDC needs to satisfy before the land is transferred from the Council to BDC.

s123 of the LGA 1972 prevents the Council from disposing of land for less than the "*best that can reasonably be obtained*" without the consent of the Secretary of State. In July 2012 the Council received a s123 valuation from valuers, Sibbert Gregory confirming that in the case of Leyton Mount, the Site Lease Value represents the "*best that can reasonably be obtained*".

As set out above the Site Lease Value represents the Council's equity investment. Repayment of the Council's equity investment (£1,000,000) is dependent on the sale proceeds exceeding the development costs. The same principle applies to the Council's share of development profit. .

8. Summary of legal implications – including comments from the Monitoring Officer

8.1 By approving the Site Lease Value for the Leyton Mount Car park, the Council is acknowledging that Bournemouth Development Company will, subject to satisfying the other Viability Conditions set out in the Option Agreement, such as BDC entering into a fixed lump sum price building contract, be able to draw down the site under the Option Agreement and require the Council to grant the 150 year lease.

9. Summary of Environmental Impact

9.1 A key objective of the TCV is to reduce the town centre's carbon footprint, whilst improving its competitiveness. The Vision presents many opportunities to do this. By reducing the number of car park locations, visitors to the town centre will spend less time driving around the town looking for a car parking space. The mixed use residential led scheme represents an excellent opportunity to get more people living in the town centre which will add to the town's sense of vibrancy and help retailers. Overall, the environmental impact analysis indicates that the development of this site is likely to have a positive impact on the town's carbon footprint. The proposed building will utilise the latest building materials to ensure the building construction is undertaken with the minimum carbon foot print and minimise the completed building energy usage.

10. Summary of Equalities and Diversity Impact

10.1 The Equality Impact Needs Assessment indicates that the TCV provides substantial opportunities to create a positive Equalities Impact, particularly by improving accessibility of the town centre and harnessing substantial resources for the regeneration of the town centre which in turn leads to greater opportunities for the Town's residents, retailers and employers.

11. Summary of Risk Assessment

11.1 As a major programme of the Council, the TCV has been subject to a full Risk Assessment. The key risks are as follows:

- Investment Risk, including the risk that the development is non profit making. Whilst it is not possible to totally mitigate this risk, continual market appraisal will be undertaken and marketing of the commercial and residential flats will be undertaken at the earliest opportunity.

- Pre Construction Risk, including planning, design and funding risks. Mitigation measures employed include detailed pre planning application discussions, structuring design fee reimbursement based on milestones and continual market appraisal of funding options and associated costs.

- Construction Risk, including late completion and cost overruns. BDC will enter into a fixed price lump sum building contract. What this means is that the building contractor takes the risk in the cost of materials increasing or their late supply. Also as the contractor will take responsibility for the design and construction so that any design errors and/or construction errors will be rectified at the contractors cost.

Background Papers ~

Reports to Cabinet
Town Centre Master Vision
25 February 2009, 4 February 2009, 13 January 2009
17 December 2008, 8 October 2008, 18 June 2008, 20 February 2008
27 July 2009, 23 June 2010, 17 November 2010, 15 February 2012

Environmental Impact Assessment

Equality Impact Needs Assessment

Risk Assessment

Appendix 1- Outline Development Appraisal

Gross Development Value £12,321,454 (TGDV)

Total Costs (excluding Land) £10,988,374 (TC)

Profit £ 328,501 (P)

Land Value (Site Lease Value) = TGDV-(TC + P) = 1,004,579