

Cheltenham Borough Council

Cabinet – 13 March 2012

Development of land at North Place and Portland Street

Accountable member	Cabinet Member Built Environment, Councillor John Rawson
Accountable officer	Head of Property & Asset Management, David Roberts
Accountable scrutiny committee	Environment
Ward(s) affected	St Pauls and Pittville
Key Decision	Yes
Executive summary	<p>Following the Cabinet decision on the 18th October 2011 which endorsed the recommendations of both the Development Task Force and full Council to appoint Augur Buchler as the preferred bidder for the sites there have been ongoing negotiations between Augur Buchler and the foodstore operator.</p> <p>Since the Cabinet decision the CBC team have been progressing the scheme on a number of fronts, which includes the clarification of the agreed legal structure (the development agreement), dealing with planning issues through the pre-application process and collaboration on points of mutual interest particularly relating to neighbouring properties.</p> <p>The negotiations between Augur Buchler and the foodstore operator have resulted in the need to provide additional car parking spaces for the food store operator if board approval was to be achieved. In addition the proposed hotel has been removed from the scheme as the operating requirements of the foodstore and hotel are not compatible.</p> <p>The outcome of the scheme delivers all the mandatory requirements of public realm works, together with a long term-income stream and a very significant capital receipt.</p> <p>Cabinet is requested to consider the report supported by the exempt legal and financial reports and endorse the recommendations below.</p>
Recommendation	<p>That Cabinet</p> <ol style="list-style-type: none">1. approves the variations to the scheme submitted by Augur Buchler and previously accepted by Cabinet at its meeting on 18 October 20112. confirms the resolutions made on 18 October 2011 that the Head of Property and Asset Management in consultation with the Borough Solicitor continues to be authorised to:-<ol style="list-style-type: none">a) conclude the documentation required to dispose of the Sites as necessary (noting that the sites may be disposed of in parts by way of leasehold and freehold disposals and to more than one party);b) enter into an agreement for the purchase of land at Warwick

Place from Gloucestershire County Council

Financial implications	<p>The overall financial offer is by far the best offer from those received and is considered to represent best consideration for the land at North Place and Portland Street. The capital receipt is supplemented by significant works and a long term income stream and GVA are confident that it represents “best value”.</p> <p>The capital receipt from this site has been associated with the Council’s Civic Pride ambitions now being delivered by the Cheltenham Development Task Force.</p> <p>Full financial implications are contained in Appendix 1 (exempt). Contact officer: Paul Jones, Head of Financial Services paul.jones@cheltenham.gov.uk, 01242 775154</p>
Legal implications	<p>The legal implications are contained in Appendix 2 (exempt).</p> <p>Contact officer: Donna Ruck, Solicitor donna.ruck@tewkesbury.gov.uk, 01684 272696</p>
HR implications (including learning and organisational development)	<p>None</p>
Key risks	<p>Failure to proceed with the disposal raises the following risks</p> <ol style="list-style-type: none"> 1. Loss of much of the momentum generated by the Cheltenham Development Task Force 2. Jeopardising opportunities for delivering associated schemes such as Boots Corner and wider public realm enhancements. 3. Damage to reputation of the Borough Council, particularly on the part of potential investors in the town, for not concluding the deal.
Corporate and community plan Implications	<p>Delivery of former Civic Pride aspirations</p>
Environmental and climate change implications	<p>Scheme linked to wider AQMA target for Cheltenham.</p>

1. Background

- 1.1 On 18th October 2011 Cabinet endorsed the recommendation from both the Cheltenham Development Task Force meeting (14th October 2011) and full Council (10th October 2011) to appoint Augur Buchler as preferred bidder for these sites.
- 1.2 The preferred bidder’s scheme provided for the entire mandatory requirements set out in the initial OJEU documentation in terms of works (construction of car park, bus node and public square), long term car park income and a capital receipt and in this case a hotel too. This was formally validated by a red book valuation from GVA.
- 1.3 Since that time the CBC team have been progressing the scheme with Augur Buchler on a range of fronts including clarification of the agreed legal structure (the development agreement), dealing with planning issues through the pre-application process and collaboration on points of mutual interest particularly relating to neighbouring properties.
- 1.4 On 23rd December 2011 all other earlier bidders were formally notified, in line with the Public Contract Regulations 2006, that CBC intended to sign a deal with Augur Buchler. No challenge

was mounted by any party who had previously expressed a formal interest in the site through the process.

- 1.5 The housing element has remained relatively unchanged with a targeted 122 units, although we understand that Skanska are currently seeking feed back from registered providers over final design, which could have an impact on the final number. In addition CBC still anticipated to secure New Homes Bonus allocation for these dwellings. Augur Buchler confirmed that board approval had been secured from Skanska (at both UK and European level).
- 1.6 Further negotiations between Augur Buchler and the foodstore operator have resulted in the need to provide more car parking if the foodstore operator's board approval was to be achieved. Additionally the proposed hotel has been removed for purely commercial reasons as the operating requirements of the foodstore and hotel operator were not compatible.
- 1.7 The specific impact of these changes are that
 - A further 74 car spaces will be constructed creating a final total of 638 split 330 to foodstore and 308 to wider public. This could help assuage public concerns raised about overall reduction of car spaces in the town centre, especially as there has always been an expectation of linked trips associated with the foodstore.
 - The hotel, which is a non mandatory element, will be removed. This will reduce the massing on the site (to the benefit of neighbours) and also potentially address the concerns of the Cheltenham Hospitality Association.
- 1.8 We understand that pre-application discussions are continuing with the focus moving to the detail from the wider principles of the scheme.
- 1.9 In light of the above factors any decision other than to close the deal could provide a set back to the ambitions for the town being driven by the Cheltenham Development Task Force . This scheme delivers and provides a real deliverable opportunity to regenerate this barren area of the town and provide all of the benefits which the Council's development brief sought to achieve, including environmental and economic benefits.

2 Reasons for recommendations

- 2.1 The Augur Buchler proposal meets all of the mandatory requirements and provides a significant capital receipt and has been demonstrated to be the best offer for the site as validated by the Public Contact Regulations 2006 procedures followed and GVA red book valuation.

3 Alternative options considered

- 3.1 The scheme was selected as part of a competitive solution, with nine consortia at the beginning being reduced step by step to a shortlist of two. Of these, one consortium withdrew, leaving one preferred bidder. This competitive process has therefore had the effect of already ruling out the alternative options..
- 3.2 If the Augur Buchler deal had not delivered all of the mandatory requirements or failed to secure a positive valuation from GVA, then it would be right to consider other alternatives such as re-marketing. However, in the circumstances this is not recommended and no alternatives are proposed.

4 Consultation and feedback

- 4.1 The scheme has been in the public domain since September 2011 and there will be further

opportunity for public consultation including the scheme amendments through the formal planning process. However it is anticipated that the changes will be viewed as positive steps as they deal with some of the concerns raised through the earlier public engagement exercise.

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Appendices	Risk Assessment Appendix 1 Financial Implications Appendix 2 Legal Implications
Background information	Previous Cabinet reports dated 8 February 2011 and 18 October 2011.

Risk Assessment

Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-4	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	If CBC does not continue with the disposal to Auger Buchler then the capital receipt and public realm works will not be realised/delivered and the likelihood that the disposal of the site will be put back for a number of years.	DLR	2012	4	6	24	Accept	Paper to Cabinet with recommendation to exchange as soon as possible thereafter	Mar 2012	DLR	1
2	If CBC does not proceed with the disposal then it will seriously impact upon ability to deliver plans for the wider town eg Boots Corner scheme, public realm improvements	DLR	2012	4	6	24	Accept	Paper to Cabinet with recommendation to exchange as soon as possible thereafter	Mar 2012	DLR	
3	Failure to complete deal could have adverse reputational impact for Council/Task Force from developers/investors	DLR	2012	4	3	12	Accept	Paper to Cabinet with recommendation to exchange as soon as possible thereafter	Mar 2012	DLR	