

CABINET

Canal Corridor Redevelopment 18 January 2011

Report of Deputy Chief Executive

PURPOSE OF REPORT				
To consider the Development Agreement for the development of the City Council's land for the proposals contained within the Lancaster Canal Corridor Development Brief.				
Key Decision	X	Non-Key Decision		Referral from Cabinet Member
Date Included in Forward Plan		04 January 2011		
This report is public				

RECOMMENDATIONS OF COUNCILLOR STUART LANGHORN:

- (1) To discuss with Centros the extension and amendment of the Development Agreement and to bring back the proposed terms and conditions to Cabinet.
- (2) That the Head of Property Services obtains independent valuation advice from the District Valuer (or their appointed professional), funded through the Development Agreement, to ensure that it can be seen to be acting properly and prudently throughout all its dealings.
- (3) That, in negotiating the Development Agreement, specific reference is made to Centros carrying out comprehensive consultation with communities as part of the planning process. The development agreement should also make reference to how the economic growth of Lancaster District can be implemented through the visitor economy, particularly cultural and heritage aspects.
- (4) That the Canal Corridor Cabinet Liaison Group be re-established.

Background

- 1.1 In March 2005, Cabinet approved Centros to be preferred Developer Partner for the Canal Corridor North site, with detailed terms and conditions of the Development Agreement being approved in July 2006.
- 1.2 As a condition of the Development Agreement, Centros submitted a formal planning application for the comprehensive redevelopment of the site and, following a call-in request made by the Secretary of State, this application was refused in December 2009.

Issues

- 1.3 Since the refusal of consent by the Secretary of State, officers of the Council, Centros, English Heritage and the adjoining landowners, have held several meetings to see if the issues raised by the Secretary of State regarding the heritage assets/listed buildings and financial viability could be amicably addressed and, whilst there is currently no formal agreement, assessment of the heritage assets and the informal discussions are progressing in a positive manner.
- 1.4 A useful outcome from the Secretary of State's decision was that clarity was given to the City Council that it was considered acceptable for a mixed use retail scheme to be developed out on the canal corridor site (albeit at a smaller scale if the development proceeds before 2015) and that the assumptions outlined in the development brief and Local Development Framework were acceptable.
- 1.5 The existing Development Agreement has a "long stop" date of October 2011 by which time the conditions within the Agreement must be completed. The main condition is to obtain a suitable planning permission for an approved form of development. Given the current situation, it is clear that it will not be possible to obtain a suitable planning permission by October 2011. It is also clear that Centros are keen to take forward the redevelopment of the site.
- 1.6 As a consequence of the positive discussions to date, the City Council has now been approached by Centros and the adjoining land owner with a request to extend the Development Agreement agreed in 2006 by Cabinet for a further 5 years to reflect the above. However, due to current market conditions, the extended contract would need to be renegotiated by the District Valuer (or their appointed professional) to ensure all terms of contract remain appropriate. This would be needed as "special purchaser" arrangements and the disposal must be facilitated in accordance with Section 123 in the Local Government Act 1972.

2.0 Proposal Details

- 2.1 As detailed above, Centros have formally requested an extension of the existing contract, due to the difficulties they would have in re-submitting a planning application, with the time limits set out in the original agreement (see Appendix A).

3.0 Details of Consultation

- 3.1 As stated above, discussions have taken place with English Heritage, Centros and the adjoining land owner. However, it has remained premature to consult publicly at this stage.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Terminate the Development Agreement with Centros (due to there being insufficient time	Option 2: Extend/Revise the Development Agreement with Centros, subject to revised terms and conditions being	Option 3: Terminate the Development Agreement and retain all existing uses on the Council owned	Option 4: Terminate the Development Agreement and dispose of the
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	to process an acceptable planning application by October 2011) and seek to carry out a community based masterplanning process, and at the same time procuring a developer.	negotiated by the District Valuer (or their appointed professional) to comply with S123 of the Local Government Act 1972 due to the special purchaser arrangements that are in place	land	Council owned land on the open market
Advantages	<p>Such a process will engage with all the communities who have an interest in the process, including the residents associated with "Its Our City".</p> <p>The outcome could also inform the Local Development Framework Land Allocations process for Members to consider.</p>	<p>As detailed in Appendix B, the adjoining land owner has agreed to enter into a land sale agreement with Centros to dispose of their interests in the land. Considering this, the Council would not need to consider acquiring the land, nor would it need to consider the cost of submitting a planning application as these would all be covered in the Development Agreement with the adjoining land owner, Centros.</p> <p>It would not be considered to be economically value for money to consider acquiring land from a developer where that developer is willing to undertake development themselves. Such an option of "special purchaser" is considered</p>	None	The Council would obtain a capital receipt, but this would be lower than that received if planning approval is sought first.

		<p>acceptable on the proviso that the disposing authority ensure it receives market value for the asset and to facilitate this, it is proposed that the District Valuer will be appointed to agree suitable terms and conditions of the proposed Development Agreement.</p> <p>The Council would retain ownership of the site, up until the point when the site is developed, thus maintaining control over the development process.</p> <p>Should members approve working with Centros, this would allow an early start on the planning process, maximising on the positive progress made to date.</p>		
Disadvantages	Although a community based process would result in a masterplan being produced, such a process would perhaps not deliver what all the communities may “desire” as many of the principles of the development	None	Such an option would be contrary to the current Development Brief for the site and the principles of the Council’s approved Local Development Framework.	The Council would have no trustee land owner control over the form that the planning process would take as a development partner. It would only have control through its

	<p>have already been set by approving the LDF, and the inspector's decision on the planning application.</p> <p>Because the scheme in question is strategic and will affect the total population of the district (over 140,000) and communities from South Lakes and Wyre, it is difficult to identify how a community based process would comprehensively capture and balance all views of the community. Because of the strategic nature of the project, it would probably be best to leave such engagement with the community to the developer and have a robust engagement strategy through the planning process.</p> <p>The cost of running a process of masterplanning and selecting a Development</p>			<p>regulatory function. And hence could be overridden by the Secretary of State.</p>
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	<p>Partner would be considerable.</p> <p>There would be a significant delay in bringing forward any development scheme for consideration.</p>			
Risks	<p>There can be no assurances that a private sector developer would accept a “community led” development. The City Council would need to fund the cost of carrying out the masterplanning process, which could run into hundreds of thousands of pounds, and selecting a Development Partner.</p> <p>A community led approach could also raise the expectations of the community and may create a plan which is undeliverable in commercial terms. A formal land allocation in the LDF could not be made if practical delivery were questionable.</p> <p>The Council already has a Development</p>	<p>There is a risk that the Developer will not carry out community consultation to a satisfactory level. However, this can be mitigated through phrasing within the revised Development Agreement.</p>	None	None

	<p>Partner with whom it has been working to develop the site, and who are willing to take the development forward. There would be a risk that the Council's commercial reputation could be questioned should it choose to go back out to the market to seek alternative developers.</p> <p>There is a risk that the Council could be seen as spending considerable time and money on going through a process which will only leave it in the same position as when it started the process.</p>			
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5.0 Officer Preferred Option

- 5.1 Members, in considering this report, are requested to consider how best the City Council uses its land asset to deliver to its corporate objective of creating economic growth. It must ensure that it not only seeks to maximise the financial return in connection with the land, but also that any subsequent development of the site is carried out in a manner which delivers to its corporate priorities, at the minimum of risk and cost to the Council.
- 5.2 This report being put forward to members is not to seek approval to any planning process (which will be dealt with via planning policy or planning committee) but to seek the best way of utilising the Council's assets to ensure that its corporate objectives are best met.
- 5.3 Officers advise that Option 2 is the preferred option; to discuss with Centros the extension and amendment of the Development Agreement and to bring back the proposed terms and conditions to Cabinet. Officers also recommend that the Head of Property Services obtains independent valuation advice from the District Valuer (or their appointed professional), funded through the Development Agreement, to ensure that it can be seen to

be acting properly and prudently throughout all its dealings.

6.0 Conclusion

- 6.1 That negotiations take place to extend and amend the Development Agreement, and prepare Heads of Terms for the Council's consideration.

RELATIONSHIP TO POLICY FRAMEWORK

One of the Council's key priorities in economic regeneration is improving the heritage and visitor offer of the district. The recent cultural heritage strategy clearly identified enhancing Lancaster City Centres retail offer as fundamental to improving the overall tourism package offered by the district. The Local Development Framework Core Strategy identifies the Canal Corridor site as a planned expansion of Lancaster's primary shopping area and this aim has been strengthened by much of the substance of the Secretary of States decision relating to the earlier planning applications. The site is still the subject of a Development Brief adopted in 2004 for the Canal Corridor North which identifies mixed use development including retailing as being appropriate for the site, and is also identified in the Lancaster City Centre Strategy of 2004. A review of the Lancaster Conservation Area has taken place and there is a strong likelihood that the whole of the site will become part of the extended city centre Conservation Area.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The expansion of Lancaster City centre's retail offer has the potential to have considerable impacts for the communities in the district. The City Centre is one of the largest concentrations of employment in the area, at the hub of the sub regional transport network. The development of the site for an expanded retail area would contribute to the creation of a considerable growth in employment opportunities, enhancement of the cultural offer in the city and provide new homes in a proven sustainable location. Improving accessibility to higher order retailing would mean that the many rural communities in North Lancashire and South Cumbria would have to travel far less distance for quality shopping and potential employment, and could assist in encouraging young people to stay living in the communities around the Lancaster district and Morecambe Bay, rather than being attracted away to metropolitan areas. Lancaster University also considers that an improved retail offer will help increase the attractiveness of Lancaster and Morecambe for students outside the area.

LEGAL IMPLICATIONS

In the event of either options 1,3 or 4 being recommended Legal Services would be required to serve the appropriate termination notice in accordance with the provisions of the Development Agreement. If the preferred option is approved Legal Services would be required to advise on and agree the terms of the approved extension of the Agreement and also ensure appropriate documentation was in place to reflect such amended terms.

FINANCIAL IMPLICATIONS

There are no immediate financial implications arising from the principles of this report. The Council continues to receive a variety of incomes from the site, which will need to be taken into account in extending/revising the current Development Agreement, subject to revised terms and conditions being negotiated by the District Valuer should

option 2 be agreed.

The Council's Financial Regulations identify that on disposal of assets, the maximisation of benefits is achieved. In addition, under S123 of the Local Government Act 1972, the Authority is under a similar requirement to achieve the best consideration reasonably obtainable on the disposal of an interest in land. By continuing to work in a form of Partnership with Centros, maximisation of income could be achieved whilst still retaining control over the development that takes place, which may not necessarily be the case with options 1 and 4; any decision on pursuing either of these options would need to be in principle, subject to consideration of a further report setting out all implications, not just financial aspects.

It is re-iterated also that option 2 is not without financial risks, depending on the actual profitability of the development and the structuring of the financial aspects of the revised heads of terms. A full appraisal of this would need to be included in a future report to Cabinet prior to entering into any further financial/contractual commitment.

Option 3 would raise no new financial or budget implications.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

As detailed in the report and background papers

Open Spaces:

As detailed in the report and background papers

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Cabinet report 22 March 2005 – Canal Corridor, Lancaster, Development Options.

Contact Officer: Heather McManus

Telephone: 01524 582301

E-mail:

deputychiefexecutive@lancaster.gov.uk

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