HERTSMERE BOROUGH COUNCIL
REPORT TO EXECUTIVE

Item no: 6.1 **Document Reference no: EX/15/50**

Date of Meeting / Decision: 14 December 2015

This is a key decision on the grounds of urgency

Urgency: The proposals are not exempt from call-in

NEWBERRIES CAR PARK DEVELOPMENT SCHEME
PORTFOLIO HOLDER: COUNCILLOR GRAHAM

1. ACTION RECOMMENDED

1.1 That, subject to approval of the finance and costings laid out in the Part II report (EX/15/76), the Executive recommends to Council approval to progress the design and development to planning application stage of a scheme for an 11,000 ft² GIA Retail/Food Store and an 80-bedroom hotel, based on the initial design shown in Appendix 1, subject to planning consent and an "Agreement to Lease" being in place.

1.2 That, subject to 1.1 above, the Executive also recommends that the Council approve the capital spend towards financing this project as explained in paragraph 7 of the Part II report (EX/15/76), which will most likely be from prudential borrowing in line with the Council's treasury management strategy.

1.3 That, subject to the Council's approval of recommendations 1.1 and 1.2 above, the Executive agrees that:

(i) these proposals be progressed with the preferred operators identified in the Part II report, based on their current financial offers as a minimum and conclude negotiation to a position for "Agreement to Lease";

(ii) authority be delegated to the Chief Executive, in consultation with the Finance and Property Portfolio Holder, to progress the scheme to the construction phase subject to approval of the business case as detailed in the part II report and an "Agreement to Lease" that is legally binding being in place; this based on the minimal rental figures detailed in the Part II report and tendered construction costs being within 5% of the estimated build costs in the Part II report;

(iii) a Project Board Panel be set up consisting of Chief Officers, the Finance and Property Portfolio Holder, and nominated elected members to manage the project and associated risks;

(iv) initial funding of £400,000 from the Innovation and Investment Fund be approved for the procurement of a Project Manager to drive and deliver the project to planning application stage.

1.4 Further progress update reports to be presented to the Executive on a periodic basis.

2. EXECUTIVE SUMMARY / PROPOSALS

2.1 There have been a number of proposals for the development of Newberries Car Park. The most recent of these included the possibility of developing a retail store with a hotel premises above, and discussions have been ongoing with the various interested parties as detailed in Appendix 3 of the Part II report.

2.2 The car park itself represents a substantial asset of the Council. It covers an area of approximately 5,000m^2 and has spaces for 216 cars. The spaces have an occupancy level in the region of 60% and delivers an average car parking income of £75,000 per annum. It is important to note that the proposed development will be built on stilts and there will be no, or minimal, loss of the current car parking facility.

2.3 Newberries Car Park is within the EA's Flood Zone 3b or the 'Functional Floodplain' of Tykes Water. This zone is taken to be either the envelope defined by the 5% annual probability of flooding, also referred to as a return period of 20 years or less, or an area that is designed to flood in a more extreme event. It is understood that the area was flooded as recently as February 2014 and the design will need to mitigate any flood risk and satisfy the Environment Agency's requirements as a statutory planning consultee.

2.4 There is, however, no differentiation between developed and undeveloped land for the purposes of a flood plain. This raises the possibility of developing the site with a property on stilts, with a level access from Watling Street. The ground floor area would then continue to be used as it is now, for car parking.

2.5 In addition to the classification of the area as a functional flood plain, there is also a large diameter main foul sewer running under the site with a 12m x 10m concrete storage tank and flow control device in the car park. These form part of the local sewage network and belong to Thames Water as the Sewerage Undertaker in the area. As such, any development will require Thames Water's approval and consent for building over or near to a public sewer.

2.6 The development also includes additional parking on the decked level to cater for the users of the retail area.

2.7 The Asset Management Panel agreed at its meeting on 20 October 2014 that officers should proceed with investigating the potential development of Newberries Car Park. Vincent & Gorbing were commissioned to produce feasibility drawings and estimated build costs (see Appendix 1 and the part II report).

3. REASON(S) FOR RECOMMENDATION

3.1 The proposed development will aid local economic regeneration via creating jobs within the borough and boosting the local economy with hotel guests using the local shops, restaurants and other facilities. This will also provide a much-needed hotel facility within the area which currently does not exist.

3.2 The Government's proposal regarding further cuts to public spending means the Council's current Revenue Support Grant funding of £1.2M will disappear by 2019/20 or even sooner. For the 2015/16 Revenue Budget, the Council's net budgetary requirement of £11,895,140 has been financed by £6,822,950 Council Tax levies, £1,247,270 Revenue Support grant, £290,750 Council Tax Freeze grant, £1,148,380 New Homes Bonus and £2,385,790 Business Rate Grant.

3.3 Additionally, the Council cannot place ongoing reliance to balance the budget on the New Homes Bonus for a number of reasons, such as change in government policy, change in the number of units built etc. However, the main reason which has to be borne in mind is that land is not an inexhaustible resource and sooner or later the building programme will have to slow down in future years.

3.4 This gives us an additional challenge. Hence, the Council needs to look seriously at all its assets in a commercial and entrepreneurial manner. One of the key projects which may be able to provide the Council with guaranteed revenue income is Newberries Car Park in Radlett via rent as well as additional business rates. This was also recommended by the Price Waterhouse Cooper report which the Council commissioned a few years ago to identify possibilities for income generation and efficiency gains.

3.5 By designing and developing the scheme itself, the Council will be able to retain the whole of the rental income from the finished property. The site is ideal for a hotel and retail food store as it is well connected to the M25, M1 and A1, and in close proximity to the rail station with excellent travel links to London. Radlett currently lacks hotel facilities, the nearest hotel facilities are in St Albans and Elstree/Borehamwood.

3.6 An operator will only enter into an "Agreement to Lease" subject to the Council's commitment to fund and deliver the project as well as planning permission being sought. It is therefore crucial that the scheme is developed to Planning Application stage as soon as possible, and that the commitment to funding the development is agreed subject to planning permission and final tendered cost.

3.7 The preferred operators need to agree and be 'on board' at the outset as their input is essential in the design and specification required to take the scheme to planning application stage.

3.8 The retail market can be very changeable as has been seen over the last 12 months with some major high street supermarkets forced to abandon or reduce their development plans. This makes it essential that the Council is able to tie operators in to an agreement to lease at the earliest possible stage.

4. ALTERNATIVE OPTIONS

4.1 The Council has three alternative options regarding this site as follows:

4.2 Disposal of the Site with Planning Consent

4.2.1 The Council could advertise the development opportunity and simply sell the site to an interested party. The Council would receive a single capital receipt, would take no further part in the development of the scheme, and would receive no share of the rental income. However, the rental income is much needed for sustainable financial resourcing for the Council's ongoing service delivery.

4.2.2 Additionally, due to the complex nature of the site, outright disposal of the site even with planning consent may not deliver a significant capital receipt. Furthermore, in the current economic climate of low interest rates, the capital receipt will not generate much needed revenue income streams unless other investment opportunities arise.

4.2.3 **In light of the above this option is not recommended.**

4.3 Lease-based Disposal

4.3.1 The Council could proceed similar to an existing development in Borehamwood, ie selecting a development partner to develop the scheme as they see fit on a long leasehold basis. The Council would receive a share of the rental income for the scheme but would not contribute financially to the development (the Council's input being in the value of the land).

4.3.2 This type of deal is based on a long lease of a minimum of 70 years plus, and rental income is formulated as being the same percentage as the value of the land to the gross development value. In the case of the existing Borehamwood development, the land was valued at 22% of the total development value which resulted in Hertsmere receiving 22% of the ongoing rental income which approximates to £120,000 per annum. However, in the case of Newberries Car Park, the higher build cost and the lower land value mean the Council may realise no more than 2% in rental return. The financial details of this option are explained in the Part II report of this agenda (EX/15/76).

4.3.3 **Hence this option is not worth exploring.**

4.4 Joint Venture with Preferred Developer

4.4.1 The Council could select a development partner for this scheme and make a financial contribution towards the scheme in addition to providing the land. The Council would only receive a share of the rental income from the scheme, proportionate to its investment.

4.4.2 However, it needs to be borne in mind that, while the Council has a cheaper source of borrowing via the PWLB facility, a similar source is not available to private sector borrowers. This means the preferred development partner might demand a 2 to 3% additional profit contribution thus further reducing the Council's ongoing income share in the region of 40 to 45%. Furthermore, as explained in para 4.3.2, since the land value in this case is comparatively low this means the Council's contribution to the overall scheme will be low unless the Council decides to contribute additional capital. The Council's return will be dependent upon the size of its contribution towards the Gross Development Cost.

4.4.3 **In view of the above this option is not recommended.**

4.5 However, it should be borne in mind that each option has a degree of risk and reward. The Council's aim is to maximise the benefits arising from this project while mitigating the risks as much as possible. The key risks are set out in paragraph 10.

5. PLANNED TIMETABLE FOR IMPLEMENTATION

5.1 As soon as practically possible subject to Planning Permission, Tender Processes, and Legal Agreements.

6. DELEGATION

6.1 This is a matter for the Council as a whole.

7. FINANCIAL AND BUDGET FRAMEWORK IMPLICATIONS

7.1 Even though on average the asset life of this type of development is expected to be a minimum of 60 years, in order to be prudent the financial appraisal in Part II of this agenda (EX/15/76), especially the income streams, is calculated over 40 years.

7.2 It is important to note that the Council will receive three main income streams from this venture/development: rental from the hotel and supermarket, additional business rate income, and enhanced car parking income which has existing usage of 60% only.

7.3 The projected net cash flow shows, based on loan repayment on a 25 year annuity basis, that the Council will receive a contribution of at least £160,000 in year 2, and by year 25 it will amount to £1.2 million per annum.

7.4 The financial implications of this project are set out in Part II of this agenda (EX/15/76).

7.5 It is recommended that initially the cost to planning approval and tender stage be funded from the New Initiatives Reserve as until such time that Planning is approved this spend is at risk and cannot be capitalised in the event that Planning were to be refused.

7.6 If the Planning process is successful Hertsmere would then need to consider its capital funding position and, given the potential capital spend on this project, it is likely that the Council would need to consider borrowing again. A decision to borrow would need to be made in accordance with the Treasury Management Strategy and, as required under the Prudential Code, will be separate from the decision to approve capital spend on this project.

7.7 The tenants will be responsible for their demises of the property under effectively full repairing and insuring leases. The Council will be responsible for insuring the structure on its general property insurance policy and for repairs to the exterior of the buildings, the structure and communal areas including the car park which will then be recharged to the tenants proportionately via a service charge clause within the lease. The tenants will be directly responsible for repairs and decorations to the interior of their demises and for insuring contents, fixtures and fittings and public liability.

8. LEGAL POWERS RELIED ON AND ANY LEGAL IMPLICATIONS

8.1 Officers will have to comply with the Council's adopted Contract Procedure Rules and/or the Public Contracts Regulations 2015 in the procurement of the building works and any related professional services.

8.2 Section 123 of the Local Government Act 1972 provides a general power for the Council to dispose of land and property provided that is not for a consideration less than the best that can reasonably be obtained.

9. EFFICIENCY GAINS AND VALUE FOR MONEY

9.1 This capital investment will generate an ongoing revenue stream that will support the Revenue General Fund and will be regarded as efficiency gains. The financial appraisal in Part II of this agenda (EX/15/76) sets out the potential rate of return from this investment.

10. RISK MANAGEMENT IMPLICATIONS

10.1 There is a risk that planning permission may not be granted. This can be mitigated by ensuring that the planning requirements are properly complied with.

10.2 The project may run the risk of insufficient capacity as well as the lack of the required expertise due to the project being outside the normal scope of the Council's day-to-day operations. This could be mitigated by (i) bringing in a dedicated expert Project Manager, and (ii) by allowing sufficient contingency for professional advisers.

10.3 The cost of the project might exceed the estimated cost: the BCIS Tender forecast for next four quarters gives a rise for South East 4-5% which would increase project cost. However, the Council could avoid this by choosing one of the alternative options set out in paragraph 4, such as selling the site with planning consent or a lease-based disposal. As a mitigating action the Council could opt for a design-and-build construction contract to provide cost certainty, as well as ensuring sufficient contingency is allowed in the capital budget.

10.4 There is a possible risk that the tenants change their mind on taking up occupancy. It should be noted that a legal agreement will be in place prior to the award of the contract for construction which will ensure guaranteed tenants are in place and associated rental incomes.

10.5 After the lease term, the tenants might decide to withdraw, or may go into liquidation, or even demand may fall. However, the structure is generic and flexible, eg the hotel could be adapted into flats. It is also worth bearing in mind that food supermarkets will exist for the foreseeable future even if there is a change of lessee.

10.6 The retained and increasing asset value can be considered as an exit strategy for the Council if required in the future, selling the asset to a Pension Fund or other Financial Institution being a future option if required.

10.7 The financial assumptions adopt a PWLB borrowing rate of 3.2% (based on the Council certainty rate). If interest rates rise before the Council draws down the funding then surpluses would be reduced due to higher borrowing costs. This could be mitigated by:

- borrowing in advance of need, if cheaper, to secure a lower rate;
- using a greater proportion of internal reserves to fund the scheme and offset the risk.

10.8 Any delays in construction would push back the timing of receipt of the rental income, but the Council would still be required to service debt costs on any borrowing utilised to date. This could be mitigated by:

- use of reserves to fund initial scheme costs;
- strong project and contract management;
- including representatives from the preferred bidder on the project board to ensure accommodation meets their requirements and to ensure buy in from the outset.

11. PERSONNEL IMPLICATIONS

11.1 As a result of staffing capacity issues, due to the number of projects currently in hand, and the specialist nature of the work involved, a project manager will need to be engaged for the duration of the project.

12. CORPORATE PLAN & POLICY FRAMEWORK IMPLICATIONS

12.1 None other than mentioned in the body of the report.

13. ASSET MANAGEMENT IMPLICATIONS

13.1 This proposal meets the policy objectives contained in the Asset Management Plan to maximise the use of Council assets or the financial receipts received from them.

14. HEALTH AND SAFETY IMPLICATIONS

14.1 None.

15. APPENDICES

15.1 Appendix 1 - Initial Design.

16. AUTHORS

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