

EAST HERTS COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE – 19 JUNE 2018

REPORT BY CHIEF EXECUTIVE

OLD RIVER LANE, BISHOP'S STORTFORD

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To provide a detailed update on the progress of the Old River Lane site in Bishop's Stortford and ask members to steer the next phase of the development.

RECOMMENDATIONS FOR OVERVIEW AND SCRUTINY

COMMITTEE: That Committee Members scrutinise the pack of evidence attached to this report and:

(A)	refer any comments or suggestions to the Executive, with respect to the Old River Lane Delivery Board's preferred options for: <ul style="list-style-type: none">• the suggested delivery model set out in Exempt Essential Reference Paper D (Business Case) and summarised in this report at 2.2 below;• the procurement phasing, set out in Exempt Essential Reference Paper E (Procurement Strategy) and summarised in this report at 2.4 below; and
(B)	Review the Risk Register set out in Essential Reference Paper F and refer any issues/additions/changes to the Executive.

1.0 Background

1.1 In December 2017 Members resolved at full council that: the land at Old River Lane and adjoining Northgate End should be used to develop a mixed town centre scheme, to include:

- a significant new Arts/Cultural Centre that includes a 500 seat theatre, 3-4 cinema screens, shared reception space, *potentially* the Bishop's Stortford library, a one-stop-shop for Council services, hot-desking work space, cafe/bar
- up to 180 homes (including a range of tenures)
- retail (shops and restaurants), and
- parking provision for the whole site.

1.2 Since then, work has progressed and a number of key milestones have been achieved, as set out in 2.0 below.

1.3 This work has been led by the Old River Lane Delivery Board, comprising of Cllrs Haysey, Jones, Williamson, Buckmaster and Warnell. A number of relevant documents and FAQs are set out on the council's Old River Lane website page here:

<https://www.eastherts.gov.uk/oldriverlane>

1.4 The council is now at a stage where it needs to confirm its intent to go out to the market with a preferred delivery model and procurement route.

1.5 Members should note that any progress is subject to the planning outcome on the application for the Multi Storey Car Park, and that no assumptions have been made in this regard.

2.0 Report

2.1 Work has progressed at pace since the Council's land use decision on 13 December 2017, report details link here: (<http://democracy.eastherts.gov.uk/documents/s42341/Old%20River%20Lane%20Land%20Use.pdf?j=3>) . The following is a summary of key milestones:

- (a) The **Arts Centre Heads of Terms** document (attached at **Essential Reference Paper B**) has been signed by all three parties – East Herts Council, Bishop’s Stortford Town Council and Rhodes Birthplace Trust, committing all parties to work together to:
- deliver the arts and entertainment centre
 - commit revenue funding of up to £250k annually, from both Bishop’s Stortford Town Council (providing the Rhodes Trust becomes self-sufficient) and East Herts Council
 - commit capital funding in proportion to the eventual asset ownership
 - establish an interim steering group/trust shadow board in advance of the establishment of a new trust to govern the arts centre;
- (b) A **planning application** has been submitted for a multi-storey car park (MSCP) at the north end of the site, to accommodate 581 vehicles; a block of 15 residential apartments and approximately 400m² commercial space is proposed adjacent to the MSCP, on the corner of Rye Street and Link Road (the application is due to be considered at Development Management Committee on 20th June);
- (c) **Soft market testing** has been carried out by the council’s property consultants, Montagu Evans, to assess the likely interest from developers for the whole of the Old River Lane site. The exempt report is attached (**Essential Reference Paper C**), but in summary significant interest was expressed by a wide range of developers;
- (d) A **bid has been submitted to the Local Enterprise Partnership** to fund the gap between the development value and the development cost. The result of this bid is expected by the end of June;

- (e) Extensive research has been carried out on the **design brief for the arts centre**, which has included:
- a three day tour of eight arts centres/theatres by the Arts Centre Working Group (two representatives from each of Bishop's Stortford Town Council, East Herts Council and Rhodes Birthplace Trust)
 - an open invitation workshop attended by 30 arts groups from Bishop's Stortford to gather feedback on what facilities they would like to see in the arts centre
 - two workshops with Rhodes staff and volunteers to ascertain information on what works really well and what are the current constraints at the Rhodes
 - the first in a series of public engagement events summarising the views ascertained from the above activities and asking for feedback; further engagement events are planned;
- (f) A report on the latest financial viability and proposed delivery models prepared by Montagu Evans has been considered by the Old River Lane Delivery Board and the latest version of the **business case**, with preferred delivery models for each part of the site as recommended by the ORL Delivery Board, is attached at **exempt Essential Reference Paper D**;
- (g) A report on the proposed **procurement** strategy is attached at **exempt Essential Reference Paper E**.

2.2 Delivery Models

2.2.1 There is a range of delivery models that could be used to support and facilitate change at ORL. These are set out in detail at **exempt Essential Reference Paper D** (the Business Case) and members are strongly advised to read this

document carefully. Five broad delivery models were considered and have been discussed and evaluated with the ORL officer group and the ORL Delivery Board:

- A. Direct Development / Delivery by Council
- B. Development Agreement
- C. Wholly Owned Development Company
- D. Joint Venture
- E. Overarching Delivery Vehicle

2.2.2 Each of these delivery models has strengths and weaknesses. Further detail can be found in **Essential Reference Paper D**. Based on emerging Council objectives for ORL, those models which were viewed and evaluated more favourably are:

- Development Agreement
- Joint Venture
- Direct Delivery

2.2.3 The key difference between a Development Agreement and a Joint Venture relates to the financial risk profile; in a Development Agreement the Council's return is more likely to be fixed and therefore risk is reduced, whilst in a Joint Venture the return is more likely to not be fixed, and indeed a risk of losses occurring (as well as enhanced profits). Another key difference is the view that Joint Venture arrangements may provide for greater levels of control over scheme development and decision making. Ultimately, this would depend on the detail of any legal drafting of an agreement – both for a Development or Joint Venture agreement.

2.2.4 The case studies set out in the **Essential Reference Paper D** – and Montagu Evans' experience in large scale town centre regeneration elsewhere – point heavily toward a Development Agreement structure with a private developer being by far the most common way of councils delivering major town centre schemes. Ultimately, this may be a reflection of councils seeking to find a suitable balance between the degree of control desired and the level of financial risk a council is

prepared to take on. This does not though preclude other approaches being used, if there are good reasons to do so.

2.2.5 There is also a strong case to consider the development of ORL as a number of development packages – with the potential to adopt different delivery models for them. These development packages could comprise:

- Northgate End -
(MSCP and adjoining residential/commercial block)
- Core ORL residential site
- Arts and Entertainment Centre

2.2.6 Direct Delivery could be favoured for some parts of the scheme – the Arts Centre and MSCP / Northgate area. This reflects the specific circumstances for these parts of the site and what will be delivered there as well as financial considerations.

2.2.7 While it is acknowledged that the shape of the projects at ORL will continue to evolve – not least as the detailed masterplan and land uses are shaped further - **the review undertaken on delivery models in this report and in the context of potential ORL site packages has resulted in the Old River Lane Delivery Board proposing the following approaches:**

Project	Comment
<p>Northgate End</p>	<p>Suggested Delivery Model: Direct Delivery</p> <p>Rationale: the Council has already submitted a planning application for the Northgate area of ORL, including for the car park. East Herts have already undertaken much of the background and design and specification work. As it will already be doing much of the role of a developer it could look to take on full development responsibility through Direct Delivery.</p> <p>Direct Delivery will also be expected to secure some cost savings, through negating the requirement for a</p>

	<p>full developer's profit. This assumes that the Council will be able to forward fund the development costs for the MSCP.</p>
<p>Core ORL Residential Site</p>	<p>Suggested Delivery Model: Development Agreement</p> <p>Rationale: Could be delivered as a single package, or potentially as part an integrated wider development (via a Development Agreement / development management agreement) alongside the Arts Centre. The development of substantial residential uses will require some form of public private partnership arrangement. The scale of the scheme will still be substantial and it will be in a prominent location in the remodelled town centre and EHDC is likely to wish to influence development strongly here. Both the Development Agreement and Joint Venture model would allow EHDC to achieve that.</p> <p>There is the prospect that some modest increased return to EHDC could come from a Joint Venture proposition, though this would need the Council to inject substantial investment / equity. Alternatively, a Development Agreement would place far less financial risk on the Council, provide much greater certainty on returns at an early stage of the process and still allow for a reasonable degree of control.</p>
<p>Arts Centre</p>	<p>Suggested Delivery Model: Direct delivery, with developer taking overarching project management role for all of core ORL site.</p> <p>Rationale: the specification for the Arts Centre will be driven by the Council. Cost savings could be secured through Direct Delivery. However, there is a need to ensure integration of the Arts Centre with the wider development, and this might be better achieved</p>

	<p>within the context of an overarching Development Agreement for the site, within which the developer takes on a development management role for the Arts Centre (essentially still a form of Direct Delivery for the Council).</p> <p>Direct Delivery has the potential to realise some savings for the Council, accepting that the Arts Centre would then need to be fully funded by East Herts and a much greater degree of responsibility would lie with them too.</p>
--	---

2.3 Procurement Route

2.3.1 Assuming the delivery models above are agreed, the procurement route and timelines are set out in detail in **exempt Essential Reference Paper E**.

2.3.2 This is a complex project, and members are asked to consider the potential phasing of the procurement as set out in 2.4 below.

2.4 Options and Procurement Phasing

The options for the Council are now as follows:

2.4.1 Option 1: Do Nothing

Council agreed a land use decision at their meeting on 13 December 2017 and has already invested significantly in developing the Old River Lane project this far. This is one of the Council's most significant projects, and plays a major part in protecting the vitality of Bishop's Stortford town centre. There is increasing evidence that as consumers move to purchase online, the gaps left by high street retailers are best replaced by leisure and other alternative uses. If the Council were to choose not to proceed at this stage, the site would be likely to remain undeveloped for some time, given its recent

planning history (the Henderson's scheme) which demonstrated that without significant public financial support, the site is very unlikely to be financially viable for anything other than housing. Since the Council has already excluded housing alone as an option, the 'Do Nothing' option for the Council effectively means that the site is likely to remain undeveloped. The Council would look to offer long lease tenancies for Charringtons and continue to hold the site as an investment.

2.4.2 Option 2 – proceed with procurement, but splitting the whole scheme into two parts, with two parallel procurement processes

Launch the Old River Lane (core site) scheme to the market. *Simultaneously*, continue with Stage 3 of the MSCP design, and then tender a contract for the MSCP and adjoining housing/commercial unit, with a view to starting on site as soon as procurement is complete and a contract is signed for the core site (likely to be Feb/March 2019).

2.4.3 Option 3 – proceed with procurement, but maintain the whole scheme as a single part

Launch the Old River Lane (core site) scheme to the market. Delay the MSCP and adjoining housing/commercial unit procurement until a contract for the main scheme is signed. This would delay overall delivery by approximately 12 months, as in this option, development would start on the MSCP in the Autumn of 2019.

2.4.4 The key differences between Option 2 and Option 3 are:

- **Option 2 presents an increase in financial risk;** the Council would be proceeding without a partner for the main site in place, and if for any reason a contract could not be signed, the costs of further design stages and procurement of the MSCP and housing/commercial unit

could be abortive. The potential range of costs is set out in **exempt Essential Reference Paper E** in section 7. (Note, the Council would only start on site with the MSCP and housing/commercial unit once a contract is in place for the main site). Given the soft market testing (**exempt Essential Reference Paper C**) this is thought unlikely to be a significant risk.

- **Option 3 causes a delay to delivery;** no work would start on Northgate End until approximately Autumn 2019, and no work would start on Old River Lane until the MSCP is operational (approximately one year after start on site, so Autumn 2020). This would delay completion of the whole site until 2023.

2.4.5 The Old River Lane Delivery Board's preferred option is Option 2.

2.5 Risk

2.5.1 There are a number of risks associated with the project, and these are set out in the Old River Lane Risk Register, which is set out at **Essential Reference Paper F**.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within Essential Reference Paper 'A'.

Background Papers - None

Contact Member: Cllr Linda Haysey, Leader
01992531650
linda.haysey@eastherts.gov.uk

Contact Officer: Liz Watts, Chief Executive
01992 531650
liz.watts@eastherts.gov.uk