

EAST HERTS COUNCIL

COUNCIL - 25 JULY 2018

REPORT BY LEADER OF THE COUNCIL AND THE EXECUTIVE MEMBER  
FOR FINANCE AND SUPPORT SERVICES

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OLD RIVER LANE

WARD(S) AFFECTED: ALL

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**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 agree the next phase of the development.

<b><u>RECOMMENDATIONS FOR COUNCIL:</u> That</b>	
<b>(A)</b>	<b>the comments and suggestions from the Overview and Scrutiny committee held on 19 June 2018 (set out in summary at 2.6 of this report) be noted;</b>
<b>(B)</b>	<b>as recommended by the Executive on 17 July, the suggested delivery models for the three parts of the scheme be approved as follows:</b> <ul style="list-style-type: none"><li>• <b>Northgate End: Direct Delivery</b></li><li>• <b>Core ORL Site: Development Agreement</b></li><li>• <b>Arts Centre: Direct delivery, with developer taking overarching project management role for all of core ORL site.</b></li></ul>
<b>(C)</b>	<b>as recommended by the Executive on 17 July, officers be instructed to proceed with procurement, splitting the whole scheme into two parts, with two parallel</b>

	<b>procurement processes (Option 2 as set out in 2.4 below); and</b>
<b>(D)</b>	<b>subject to (C) above, to note that the budget for the next stage of development is £480,000, and approve the use of LEP resources to fund it.</b>

## 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.

## 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) **Planning permission** has been granted for a multi-storey car park (MSCP) at the north end of the site, to accommodate 571 vehicles; a block of 15 residential apartments and approximately 400m<sup>2</sup> commercial space is proposed adjacent to the MSCP, on the corner of Rye Street and Link Road;
- (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 (exempt **Essential Reference Paper C**), but in summary significant interest was expressed by a wide range of developers;

- (d) 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;
- (e) 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**;
- (f) 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 **ERP 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 **ERP 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, which were supported by the Overview and Scrutiny Committee at their meeting on 19 June and the Executive at their meeting on 17 July 2018:**

Project	Comment
<b>Northgate End</b>	<b>Suggested Delivery Model: Direct Delivery</b>  <b>Rationale:</b> 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>Direct Delivery will also be expected to secure some cost savings, through negating the requirement for a full developer's profit. This assumes that the Council will be able to forward fund the development costs for the MSCP.</p>
<p><b>Core ORL Residential Site</b></p>	<p><b>Suggested Delivery Model: Development Agreement</b></p> <p><b>Rationale:</b> 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><b>Arts Centre</b></p>	<p><b>Suggested Delivery Model: Direct delivery, with developer taking overarching project management role for all of core ORL site.</b></p> <p><b>Rationale:</b> 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</p>

	<p>ensure integration of the Arts Centre with the wider development, and this might be better achieved 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>
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## 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 **ERP 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 **ERP 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 and this preference was supported by Overview and Scrutiny Committee on 19 June 2018 and the Executive on 17 July 2018.**

## **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**.

## **2.6 Overview and Scrutiny (O&S) Committee held on 19 June 2018**

2.6.1 On 19 June O&S scrutinised the pack attached to this report. **Members had a wide ranging discussion, and supported the Old River Lane Delivery Board's recommended delivery models and procurement route.** Points raised by O&S members were:

- the issue of risk in relation to the options proposed (Members were keen to minimise risk);

- Charrington's House occupancy levels and current improvements, and the absence of itemised demolition costs within the evaluations;
- the dependency of the ORL scheme on the multi-storey car park;
- land costs and disposal (including legislative restrictions) and whether the figures detailed included the costs associated with buying back the land originally sold to a developer;
- levels of affordable housing proposed and whether the Council as developer could afford 20% affordable, given the viability of the overall scheme;
- their support for the commercial /residential properties being kept within the Council's portfolio to deliver a revenue stream;
- the need to accommodate successes (such as Launch Pad) within the new scheme arrangements;
- the need to have firm plans in relation to the arts centre;
- the funding gap and how this would be addressed;
- the use of Section 106 monies and proposed financial support by Bishop's Stortford Town Council to support the scheme;
- Development proposals for the Arts Centre: the need for it to be centrally located and what consultation had been carried out over the last 18 months; proposed development proposals (including the need to install a "fly tower") for the arts centre stage.

## 2.7 Local Enterprise Partnership (LEP) funding

2.7.1 On 22 June 2018 Hertfordshire's LEP announced that the Council's application for gap funding had been successful, and that the LEP has awarded a grant of £6m and an interest free loan of £3.62m to the Old River Lane project. This is clearly exceptionally good news.

## 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

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