

EAST HERTS COUNCIL

EXECUTIVE: 26 FEBRUARY 2018

REPORT BY: CLLR GEOFF WILLIAMSON, EXECUTIVE MEMBER FOR  
FINANCE AND SUPPORT SERVICES

OLD RIVER LANE

WARD(S) AFFECTED: ALL

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**Purpose/Summary of Report**

To request the Executive to approve the recommended developer for Old River Lane, following the completion of the OJEU process, and recommend capital and revenue budgets for approval to Council.

**RECOMMENDATIONS FOR EXECUTIVE: That Executive,**

(A)

***With reference to:***

- i. the scores from the procurement exercise, set out in Exempt Essential Reference Paper D,
- ii. the final Heads of Terms for the preferred developer set out in Exempt Essential Reference Paper B,
- iii. the draft masterplan by the preferred developer set out in Exempt Essential Reference Paper C,
- iv. the viability report written by Montagu Evans and set out in Exempt Essential Reference Paper D,

**Approves** the preferred developer and **authorises** the Chief Executive, the Head of Strategic Finance and Property and the Head of Legal and Democratic Services (or their delegates) to issue a Contract Award Notice and proceed to sign a development agreement with the developer in due course, subject to

- (a) appropriate final due diligence on the developer's

	proposal, and (b) the Council approving capital and revenue funding for the arts centre (see recommendation B below).
(B)	<p>With reference to the Proposed Capital Funding Package, set out at Exempt ERP F and the Financial Business Case for the new arts centre, set out at Exempt ERP G, <b>recommends</b> to Council that:</p> <ul style="list-style-type: none"> <li>(i) a capital allocation of £30m to fund the arts centre is made in the Council's capital programme</li> <li>(ii) a revenue allocation of £250,000 to fund the East Herts' share of the arts centre running costs be made in the Medium Term Financial Plan from 2022 onwards</li> <li>(iii) a provisional revenue allocation of £430,000 be made to cover the required borrowing costs once all other funding bids/strategies have been exhausted.</li> </ul>

## 1.0 Background

1.1 Old River Lane (ORL) is an ambitious town centre scheme which replaces a dated office building and sizeable surface car park in the middle of Bishop's Stortford with a vibrant new quarter for the town, featuring a 5,500 m<sup>2</sup> modern multi-purpose arts and entertainment venue, 4,220 m<sup>2</sup> commercial/retail space, enhanced public realm including a new town square, and 137 residential units.

1.2 Over the course of nearly two years, officers have worked under the guidance of the Old River Lane Delivery Board to secure the support of partners (Rhodes Trust, Bishop's Stortford Town Council and Hertfordshire County Council) on this exciting project. All partners are fully supportive of the project, demonstrated by their involvement in developing various elements of it, and in the case of the Town Council, a

firm commitment to a significant capital contribution.

- 1.3 The final part of the process is now to appoint a developer for the core site and complete the funding package required to deliver the capital and revenue funding for the arts centre.
- 1.4 While there is still considerable detail to finalise with the preferred developer, it is considered that sufficient work has been undertaken to proceed to the next phase. Therefore this report recommends that a Contract Award Notice is issued and the lead officers are given delegated authority to agree the necessary legal documentation to enter into a Development Agreement in due course.

## 2.0 Report

### **Appointment of preferred bidder**

- 2.1 The procurement process for a developer to develop Old River Lane started in July 2018 and is now complete. The EU Competitive Dialogue route was followed, which allowed officers three opportunities to meet each developer as they shaped their proposals.
- 2.2 On 28<sup>th</sup> January, bidders submitted their final bids, and these were scored by a team of officers with support from Montagu Evans, the council's property advisors.
- 2.3 A presentation by each bidder was made to a group of members from East Herts Council and the Arts Centre Steering Group on 6<sup>th</sup> February. While not part of the formal scoring process, it was an important exercise in ensuring that both bidders were able to present their proposals to councillors and Steering Group members who have been so heavily involved in shaping the project.
- 2.4 Scoring was on the basis of two elements, the draft masterplan (and how well it met the brief) and the financial offer (known as the viability assessment). Each element was weighted

equally (so 50% was awarded for Functionality, Use and Design, and 50% for Delivery and Commerciality).

- 2.5 The preferred bidder scored 38.7/50 on Functionality, Use and Design and 36.5/50 on Delivery and Commerciality, giving a total score of 75.2%. Their final Heads of Terms, draft masterplan and financial offer can all be seen in Exempt ERP B, Exempt ERP C and Exempt ERP D respectively. These ERPs are exempt because they are commercially sensitive. Furthermore due to the fact that we are still in the formal procurement process, it is critical that this information is not divulged to anyone outside the Council.
- 2.6 On the basis of the procurement exercise, the Executive is now requested to approve the appointment of preferred bidder, subject to final due diligence being undertaken by officers and Council allocating funding for the arts centre.
- 2.7 Following appointment, a Development Agreement will be drawn up on the basis of the final Heads of Terms set out at Exempt ERP B.

### **Arts Centre capital and revenue budgets**

- 2.8 The new venue has the potential to transform the centre of Bishop's Stortford, creating a public space which will bring new life and vibrancy to the town centre. Open 14 hours a day, seven days a week, high footfall is expected throughout the day by visitors of the library, cinemas and café, while the theatre, studio and cinemas will also create a night time destination that will bring added value and diversity to the town's night time economy. The professional artistic programme will be mixed, appealing to a wide and varied audience, and the new centre will also offer the opportunity for young people and amateur groups to perform in state of the art facilities, whether in the main or studio theatres. Incorporating the library into the Arts and Entertainment Centre is an exciting opportunity to create potential new audiences for both the arts centre and the library, and the

concept is fully supported by Hertfordshire County Council (represented on the Arts Centre Steering Group by a senior library service officer).

### ***Capital funding***

- 2.9 A budget of £28m has been set for the arts centre, on the basis of the agreed brief (which went through an extensive consultation process under the guidance of the Arts Centre Steering Group). This budget excludes professional fees, estimated to be £2m, taking the overall required capital sum to £30m.
- 2.10 Bishop's Stortford Town Council agreed at their Council meeting on 4 February to provide up to £3m of capital funding for the arts centre, subject to a number of conditions, set out in Essential Reference Paper E.
- 2.11 Discussions are still ongoing with Hertfordshire County Council about whether their contribution to the library should be via revenue funding (effectively renting space annually) or a capitalised sum paid up front. For now, the latter has been modelled and is set out at Exempt ERP F. It should be noted that we are still in discussions with HCC and no capital sum has been agreed.
- 2.12 The total budget and committed funding for the project is set out below:

<b>Funding requirement</b>	<b>£30m</b>
<b><i>Less funding secured:</i></b>	
East Herts DC S106	1.4m
Herts CC S106 (library allocations)	0.2m
Bishop's Stortford Town Council	3.0m
National Lottery	0.1m
<b>Remaining funding requirement</b>	<b>25.3m</b>

- 2.13 The remaining funding requirement is £25.3m. The proposed funding package to fill the gap is set out in Exempt ERP F. The reason this appendix is exempt is because it contains commercially sensitive information.

### ***Revenue funding***

- 2.14 The financial business case for the arts centre revenue funding is set out at Exempt ERP G. This has been developed in partnership with officers from the Rhodes Trust and Bishop's Stortford Town Council, and has been scrutinised by the Arts Centre Steering Group (which consists of two members from each of East Herts, Rhodes Trust and Bishop's Stortford Town Council, and three independent members). Expert advice from consultants has been sought for the cinema, and food and beverage ('F&B') elements. The financial business case is inevitably still reasonably high level, not least because it won't come into effect for another three or so years. However, given the level of scrutiny it has received, officers believe it to be robust and reliable.
- 2.15 Members will recall the Heads of Terms which was signed with Bishop's Stortford Town Council, East Herts Council and the Rhodes Birthplace Trust. The Heads of Terms can be found on the council's website here:  
<https://www.eastherts.gov.uk/oldriverlane>
- 2.16 With respect to revenue funding the key section from the Heads of Terms is set out here:

*"2d. Provided that the Bishop's Stortford Museum becomes self-sufficient, the parties agree that the running costs will be in the region of £550,000 per annum (subject to a final business case). Best endeavours will be made to reduce this sum to no more than £0.5m per annum.*

- *EHDC agrees to contribute 50% towards running costs;*
- *BSTC agrees to contribute 50% towards running costs.*

*Should the revenue funding be higher than £0.5m, further funding will be sought from EHDC, or a third party. The Project will not proceed until the overall revenue funding package for the Arts Centre is in place.*

*In concluding this agreement the parties recognise that the Rhodes Birthplace Trust has stated that it is not possible for the current operations at the Rhodes to become self-sufficient and the Rhodes Trust cannot voluntarily surrender the grant from the Town Council. However the Trust recognises that the Town Council may make the decision to withdraw all or part of the grant currently received as part of the package and the Trustees will explore other funding options as a contingency provision in case this occurs. The parties commit to working together to seek a satisfactory resolution to these challenges. Having regard to this the future of the museum, which is the principal responsibility of the Rhodes Trust, will be an integral part of the planning during the implementation of this partnership agreement."*

- 2.17 The financial business case as set out in Exempt ERP G demonstrates the need for subsidy of £446,000 in year 1, reducing to £293,000 in year 5. Split 50:50 with BSTC, this would mean indicative costs for East Herts of £223,000 in year 1 reducing to £146,500 in year 5.
- 2.18 BSTC is unable to finalise their contribution to the arts centre until the Rhodes Birthplace Trust has finalised its proposed future business plan (and how much money will be required to subsidise the museum). Officers understand that this information will not be publicly available until the late Summer. However, the business case demonstrates that by year 5 considerably less than £250,000 per council will be required, and East Herts should therefore feel comfortable to proceed on the basis of a 50:50 split of the subsidy, mindful of the fact that it is possible in the first 2-3 years East Herts may need to pay slightly more than £250,000. Given that the financial business case is still reasonably high level and the

numbers around the cinema and food and beverage income are fairly conservative, officers recommend that East Herts should feel comfortable with allocating £250,000 in the MTFP from 2022.

## **Risk and Other Options**

- 2.19 The Council has made a number of decisions about Old River Lane over the last 18 months. First it agreed the land use (December 2017), then the delivery options and procurement routes for both the ORL and Northgate End sites (July 2018) and latterly the capital allocation of funding for the multi-storey car park (December 2018). This is now the final stage of the process.
- 2.20 The development is not without risk and a detailed risk register can be found at Exempt Essential Reference Paper H. This ERP is exempt for reasons of commercial sensitivity.
- 2.21 Other options at this stage are as follows:

(a) Do not proceed

The Council could simply leave the site as it is – a surface car park, three houses and a dated (but income generating) office building. The Council has invested £1.15m into the ORL project so far (£480k of which was funded by the LEP), and has received unanimous support at each Council meeting to proceed with a town centre redevelopment scheme (see 2.19 for a summary of the decisions taken at this meeting). A LEP grant of £6m and loan of nearly £4m has been awarded and any spent funds would need to be repaid. This is therefore not a recommended course of action.

(b) Delay proceeding

The developer's offer is valid for 12 months, so while the Council could delay the decision, doing so could give a poor



signal to the developer who has spent nearly eight months investing time and money in developing their scheme and proposals. Considering the strong support from members for this important town centre redevelopment as demonstrated at the three previous Council meetings, there is no clear rationale to delay proceeding.

(c) Sell the entire site to a developer at market rate.

The Council could choose not to proceed with any of its own development at Old River Lane and sell the site to a developer. Assuming that the developer did not build an arts centre, this would create a bigger capital receipt for the Council. However, it would be contrary to all commitments made and decisions taken by the Council over the last two years (and the decision in 2015 to purchase the site from a developer).

### 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

Council December 2017

<http://democracy.eastherts.gov.uk/documents/s42341/Old%20River%20Lane%20Land%20Use.pdf?j=5>

Council July 2018

<http://democracy.eastherts.gov.uk/documents/s45373/ORL.pdf?j=3>

Council December 2018

<http://democracy.eastherts.gov.uk/documents/s47205/Old%20River%20Lane.pdf?j=3>

**Essential Reference Paper A: Corporate issues**

**Exempt Essential Reference Paper B:** final Heads of Terms for the preferred developer

**Exempt Essential Reference Paper C:** Draft masterplan by the preferred developer

**Exempt Essential Reference Paper D:** ORL Viability Report

**Essential Reference Paper E:** Bishop's Stortford Council funding resolution

**Exempt Essential Reference Paper F:** Proposed Capital Funding Package

**Exempt Essential Reference Paper G:** Arts Centre Financial Business Case (Revenue)

**Exempt Essential Reference Paper H:** Risk Register

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