

**DELEGATED OFFICER DECISIONS
STRATEGIC DIRECTOR OF REGENERATION & ENVIRONMENT**

Date: Tuesday, 26th June, 2018

A G E N D A

1. Acquisition of property at Old Colliery Way, Beighton Link (Pages 1 - 7)

Summary Sheet

Council Report

Approval by Strategic Director Regeneration and Environment

Title: Acquisition of property at Old Colliery Way, Beighton Link.

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Damien Wilson – Strategic Director, Regeneration & Environment.

Report Author(s)

Tim O’Connell – Head of RiDO.

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Ward(s) Affected

Rother Vale.

Executive Summary

The Cabinet and Commissioners’ Decision Making Meeting of the 11th September 2017 agreed;

“That the Strategic Director of Regeneration and Environment be authorised to agree terms to acquire land at Old Colliery Way, Beighton Link, Rotherham and enter into a development agreement with J F Finnegan Ltd.” Minute 46 (1)

“That, subject to an assessment of the financial viability of the proposed final terms of the agreement with J F Finnegan and formal approval of the JESSICA funding bid, the funding for the purchase be taken from the £5m Growth Fund, which was approved as part of the Capital Strategy 2017-2022.” Minute 46 (2)

This report provides further details on the agreement including an assessment of the financial viability of the proposed final terms and the JESSICA funding bid. It recommends that the Council proceeds with the purchase and a JESSICA loan.

Recommendations

- 1) The Council proceeds with the purchase of Beighton Link and the JESSICA loan as detailed in this report.

List of Appendices included

Appendix 1 – Beighton Link Business Units Acquisition (exempt).

Background Papers

Report to Cabinet and Commissioners' Decision Making Meeting of the 11th September 2017, "Unlocking Property Investment – Beighton Link".

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No.

Exempt from the Press and Public

An exemption is sought for Appendix 1, under paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A of the Local Government Act 1972 is requested, as this report contains sensitive commercial information with regards to costing for works and commercial agreements which could disadvantage the Council in any negotiations if the information were to be made public.

It is considered that the public interest in maintaining the exemption would outweigh the public interest in disclosing the information, as the parties' commercial interests could be prejudiced by disclosure of commercial information.

Title (Main Report):

Acquisition of Property at Old Colliery Way, Beighton Link

1. Recommendations

- 1.1 The Council proceeds with the purchase of Beighton Link and the JESSICA loan as detailed in this report.

2. Background

- 2.1 The proposal agreed by Cabinet in September 2017 was for the Council to enter into an agreement with JF Finnegan to acquire two business units on a site owned by JF Finnegan at Beighton Link in Rotherham.
- 2.2 Further to the Cabinet decision in September 2017 the Council has been seeking to finalise terms for the proposed JESSICA funding and assess financial viability. The JESSICA funding was a key element of the deal for the Council and was intended to mitigate risk through the creation of a “rent guarantee fund” that ensured the Council would receive rent for the property even if it was not let to a tenant.

3. Key Issues

- 3.1 It became apparent during discussions with the JESSICA Fund Manager that the JESSICA funding could only be provided as a capital loan to fund development costs. The Council required the funding to provide potential revenue in the form of rental income.
- 3.2 A structure to allow the funding to be received as a capital loan has been developed as a solution. It is proposed that JF Finnegan create a rent guarantee fund through payment into an ESCROW account and the Council pay a higher purchase price. The higher purchase price will include both the property and a rent guarantee fund.
- 3.3 Through this structure the net purchase price paid by the Council for the property is unchanged. The increase in purchase price is equivalent to the amount of the JESSICA loan plus the amount of the Council’s agreed contribution to the rent guarantee fund. Instead of the Council using these monies to create a rent guarantee fund, the fund will be created by JF Finnegan using the same sums and the fund will be used in the same way as originally proposed.
- 3.4 The Council has taken advice on the alternative structure, including state-aid compliance issues, from Freeths LLP which is acting as legal adviser to the Council in this transaction. Freeths has confirmed that the proposed recommendations are lawful and will continue to advise the Council on the purchase, the establishment of the rent guarantee fund and on the JESSICA loan agreement.

- 3.5 The negotiations to finalise terms for the JESSICA funding have clarified fees and charges attached to the loan and allowed these costs to be included in the financial viability assessment.
- 3.6 An independent valuation of the property carried out for the JESSICA Fund Manager has indicated an increase in the rental value that the Council is expected to receive on letting these units. The estimated rental value is now £283,000 (two hundred and eighty three thousand pounds) per annum. The original estimated rent was £269,500 (two hundred and sixty nine thousand five hundred pounds).
- 3.7. Financial viability has been modelled using a prudent estimate of rental value at £5.50 per square foot (rather than the higher figure from the valuation described above). This gives an annual gross rental income of £269,500 (two hundred and sixty nine thousand five hundred pounds) per annum. In addition the Council will receive additional business rates income of circa £66,000 (sixty six thousand pounds per annum) once the units are let.
- 3.8 The annual financing costs, based on a 40 year asset life and a 3% Public Works Loan Board rate are £203,440 (two hundred and three thousand four hundred and forty pounds) per annum. In addition the Council will have to pay interest and administration fees on the JESSICA loan of £11,500 (eleven thousand five hundred pounds per annum – for 4 years) and one-off arrangement, legal, valuation and administration fees of circa £35k.

4. Options considered and recommended proposal

- 4.1 **Withdraw from the purchase** – this would result in the Council not achieving the revenue income expected from this project and not achieving the benefits set out in the report to Cabinet in September 2017. An alternative purchase could be considered but as detailed in the Cabinet report the Council has taken independent professional advice on a number of options and the purchase of property at Beighton Link was identified as the most beneficial option.
- 4.2 **Proceed with the transaction without the JESSICA Funding** – this would result in the proposed rent guarantee fund not being established and increase the level of financial risk to the Council.
- 4.3 **Proceed with the purchase under the revised structure** described in section 3 (above). **This is the preferred option.**

5. Consultation

- 5.1 This paper provides information on the assessment of the financial viability of the proposed final terms of the agreement with J F Finnegan and formal approval of the JESSICA funding bid. The information is to inform a delegated decision. Additional consultation, other than with Finance and Customer Services and the Council's legal advisors has not been carried out.

6. Timetable and Accountability for Implementing this Decision

- 6.1 The Cabinet and Commissioners' Decision Making Meeting of the 11th September 2017 agreed delegated decision making to the Strategic Director for Regeneration and Environment in this matter.
- 6.2 A saving has been built into the budget for 2019/20, R&E 3 -1 to reflect this proposal.

7. Financial and Procurement Implications

- 7.1 An annual saving of £269,500 has been factored in to the Council's budget plans from 2019/20 based on developing the Beighton Link site.
- 7.2 The total acquisition costs are as follows:

	£
Land value	990,000
Land legal/agency fees	22,275
Stamp duty on land purchase	39,500
Build costs	3,063,750
Purchase agents/legal fees	135,240
Developer profit	296,735
RMBC contribution to rent guarantee	155,000
JESSICA fund contribution to rent guarantee	500,000
Total acquisition/development costs	5,202,500

The terms of the JESSICA fund loan are such that they can only be used to fund capital costs. On that basis the proposal will be to pay the rent guarantee element as part of the development costs and J F Finnegan will establish the rent guarantee fund in an ESCROW account. On that basis of the above acquisition/development cost SCR JESSICA fund will provide a loan of £500k, leaving the Council to provide the balance of £4,702,500. The current capital programme provides a sum of £5m to cover this development.

- 7.3 The financial business case for this scheme is as follows:

	Year 1	Year 2	Year3	Year 4
Expenditure				
Jessica fund arrangement fee	£20,000	-	-	-
JESSICA fund legal/valuation fee	£15,000	-	-	-
JESSICA loan interest and administration fee	£11,500	£11,500	£11,500	£11,500
Annual financing costs	£203,440	£203,440	£203,440	£203,440
Total Costs	£249,940	£214,940	£214,940	£214,940
Income				
Rent/rent guarantee	£269,500	£269,500	£269,500	£269,500
Business rates (assuming letting after 12 months)	-	£66,000	£66,000	£66,000
Total Income	£269,500	£335,500	£335,500	£335,500
Net Benefit to the Council	£19,560	£120,560	£120,560	£120,560

<i>(note – the £203,440 financing costs are already factored into the financing of the approved Capital Programme).</i>				
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Note: The annual financing costs in the table above are based on a 40 year asset life and a 3% PWLB rate and are included for illustration purposes only. There is provision in the current capital programme to spend up to £5m on this project, so these costs are covered as part of funding the overall capital programme.

- 7.4 The set up costs, loan interest and admin fees which amount to circa £81k over the 4 year period can be covered as follows:-
- £46,500 in year one to be covered from windfall income (YORHUB rebate)
 - The £11,500 (per annum) for years 2-4 will be covered from additional rental income over and above that which has been declared as a budget saving i.e CBRE advice is that a rental value of £283k may be achievable as opposed to the £269,500 originally assumed.

8. Legal Implications

8.1 Freeths LLP is acting as legal adviser to the Council in this transaction. Freeths will continue to advise the Council on the purchase, the establishment of the rent guarantee fund and on the JESSICA loan agreement and their implications to the Council.

9. Human Resources Implications

9.1 There are no Human Resource implications to this paper.

10. Implications for Children and Young People and Vulnerable Adults

10.1 This paper does not raise any implications for Children and Young People and vulnerable adults.

11 Equalities and Human Rights Implications

11.1 None

12. Implications for Partners and Other Directorates

12.1 None

13. Risks and Mitigation

13.1 Risk that the properties do not let

13.2 The rent guarantee will create a fund to cover void periods for up to 3 years once the units are constructed. This is considered to be a more than adequate period to find a tenant for the property based on independent

market advice. Money drawn down by the Council from the rent guarantee is non-repayable and therefore provides mitigation for this risk.

14. Accountable Officer(s)

14.1 Tim O'Connell, Head of RiDO

Approvals Obtained from:-

Finance and Customer Services: Julie Copley, 4 June 2018

Legal Services: Lesley Doyle 25 May 2018

Head of Procurement (if appropriate):- N/A

Human Resources:- N/A