

Summary Sheet

Name of Committee and Date of Committee Meeting

Cabinet – 17 December 2018

Report Title:

Rotherham Town Centre Masterplan: Forge Island Agreements

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

Yes

Strategic Director Approving Submission of the Report

Paul Woodcock – Acting Strategic Director of Regeneration & Environment

Report Author

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Ward(s) Affected

Boston Castle

Executive Summary

The Town Centre Masterplan was adopted by the Council in September 2017. The Masterplan identifies the redevelopment on Forge Island as an essential catalyst to wider regeneration.

Following an extensive selection process, a development partner has been identified for the Forge Island development, this report seeks Cabinet approval for the approach required to deliver this. This includes both the legal and financial aspects outlined in the 'Agreement for Lease' and 'Development Agreement' documents.

Recommendations

1. That approval be given to enter into a development agreement and the granting of the long lease of the Forge Island development site to the selected developer, Muse Developments Ltd.
2. That approval be given to the outlined financial approach to deliver the Forge Island development and the Strategic Director for Regeneration and Environment be authorised to approve the final proposal in consultation with the Cabinet Member for Jobs & the Local Economy; subject to confirmation by the Strategic Director Finance and Customer Services that the final proposal is affordable within the Budget and Financial Strategy and within the following parameters:

- The initial rents the Council is entitled to receive from occupiers are greater than the initial head lease rent and
- The financial modelling over the 35 year period shows that the Council's anticipated income from the development exceeds the total anticipated head lease costs.

3. The Assistant Director of Legal Services be authorised to agree the final legal documentation.

List of Appendices included

Appendix 1 (Exempt) Financial Modelling

Background Papers

A copy of the Town Centre Masterplan is available at

https://www.rotherham.gov.uk/downloads/download/345/town_centre_masterplan

The 2016 Supplementary Planning Document can be found at

http://www.rotherham.gov.uk/downloads/download/113/additional_planning_guidance

Forge Island Development Cabinet Report, 11 June 2018

Rotherham Town Centre Implementation Masterplan, Cabinet Report 11th September 2017

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Overview and Scrutiny Management Board – 12 December 2018

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.

Rotherham Town Centre Masterplan: Forge Island Agreements

1. Recommendations

- 1.1 That approval be given to enter into a development agreement and the granting of the long lease of the Forge Island development site to the selected developer, Muse Developments Ltd.
- 1.2 That approval be given to the outlined financial approach to deliver the Forge Island development and authorises the Strategic Director for Regeneration and Environment to approve the final proposal in consultation with the Cabinet Member for Jobs & the Local Economy; subject to confirmation by the Strategic Director Finance and Customer Services that the final proposal is affordable within the Budget and Financial Strategy and within the following parameters:
 - The initial rents the Council is entitled to receive from occupiers are greater than the initial head lease rent and
 - The financial modelling over the 35 year period shows that the Council's anticipated income from the development exceeds the total anticipated head lease costs.
- 1.3 The Assistant Director of Legal Services be authorised to agree the final legal documentation.

2. Background

- 2.1 In 2016 the Council adopted a Supplementary Planning Document (SPD) which sets out the spatial and planning framework for the regeneration of the town centre. The SPD identified a series of development sites, which were essential to the sustainable regeneration of the town centre.
- 2.2 Subsequent to the SPD it was agreed that a full Masterplan was required for the town centre, providing further detail on the projects required to revitalise the town centre and how they could be delivered. The Town Centre Masterplan was prepared and adopted by the Council in September 2017.
- 2.3 The site identified in both the SPD and Town Centre Masterplan as key to deliver the transformation and regeneration needed was Forge Island. Both documents also identified Forge Island as a catalyst site suitable for development as a mixed use leisure-led scheme to provide facilities and services currently lacking in the town centre and encourage further investment and development.
- 2.4 Following approval of the Town Centre Masterplan in September 2017, the Council prepared a 'Development Brief' for the Forge Island site and invited expressions of interest from developers. Thirty five initial expressions of interest were received at Stage 1 and three developers were selected to progress to Stage 2 of the selection process. This required the submission of detailed masterplans for the site, financial appraisals illustrating development costs and funding proposals.

2.5 Two full bids were received at Stage 2; an in-depth and thorough evaluation of the bids was then undertaken by the 'Evaluation Board' comprising of Council officers with support provided from independent experts. Bids were evaluated and scored under the following headings and weightings:

- Project Delivery 5%
- Proposal 60%
 - Development Proposal and Design Quality 40%
 - Timeline/Phasing 5%
 - Marketing, Letting and Sales Strategy 5%
 - Pre-let or end users 5%
 - Stewardship and management 5%
- Financial Proposal 20%
 - Financial Development Appraisal 10%
 - Residual Land Value 5%
 - Funding Mechanism 5%
- Legal arrangements 15%

2.6 Following the evaluation and scoring of bids Muse Developments Ltd, was contacted on 09 August 2018 and informed it had been selected as the preferred development partner. Following a 'standstill' period the Council was able to progress discussions with Muse to agree the legal and financial delivery model to bring the site forward.

2.7 The scheme proposed by Muse is anticipated to cost in the region of £35m and will deliver the following elements:

- Cinema
- Hotel
- Food and beverage units
- Apartments (on the Riverside site and Magistrates site)
- Approx. 350 car parking spaces
- A new bridge over the River Don and the Canal and high quality public realm including a 'Riverside Park'

2.8 The Council is also progressing a flood defence scheme for Forge Island in advance of main works commencing to help de-risk the site, increase viability and provide further flood protection as part of a wider scheme for the town centre. The planning application for this work has been submitted and work is anticipated to start in February 2019. The costs of this work are to be covered from the £17m capital budget the Council set aside for the Town Centre.

3. Key Issues

3.1 It was identified during the background research and evidence gathering stage of preparing the 'Development Brief' for Forge Island, that the current market and economic conditions in the leisure and food and beverage industry meant it was likely that bidders may require some form of public sector intervention to make the redevelopment of Forge Island financially viable.

- 3.2 Both of the detailed bids submitted at Stage 2 of the selection process required financial support or intervention from the Council to enable their delivery. The successful bid submitted by Muse Developments Ltd included options for the delivery model including the Council providing the capital funding for the scheme and a 'head lease' approach. These are outlined in section 4 of this report.
- 3.3 The head lease approach requires that the developer raises funding for the total development costs and builds out the scheme in return for the Council taking a head lease of the completed development over a fixed term. The Council, as head lessor, will sublet to and collect rents from operators, which will generate an income stream to fund the head lease costs. This is the option being proposed.
- 3.4 Under the proposal submitted by Muse, the Council does not take on the head lease until the various phases of the development are completed and a sufficient number of sub-tenants have been secured and have entered into lease agreements, thereby minimising the financial risk for the Council.
- 3.5 The precise details of the development costs, head lease rent and income to be received cannot be specified until later in the development process when the scheme is fully designed, funding secured and operator lettings are agreed. The Muse proposal is an incremental approach that allows for options to be considered as the development progresses and gives the Council discretion as to whether it wishes to invest. The information provided at exempt Appendix 1 shows a detailed analysis of the anticipated costs and income based on a thorough assessment of the current market and a prudent financial assessment (from the Council's point of view) of what could be achieved.

4. Options considered and recommended proposal

- 4.1 **Do nothing** – the Council has the option of not progressing or delaying the delivery of a leisure scheme on the Forge Island development site. This will risk further decline in the vitality and viability of the town centre and have significant negative impacts in terms of market confidence in the Council's commitment to deliver the required regeneration and transformation of the town centre set out in the Town Centre Masterplan.
- 4.2 **Enter into a development agreement, grant a long lease of the Forge Island Site to Muse Developments Ltd and agree to take a head lease of the development.** This is the preferred option. As explained in the key issues section above the Muse proposal allows for the Council to consider options at its discretion once the full commercial detail is agreed. In agreeing this as a preferred option the Council is not committed to entering into a head lease until it is satisfied with the business case and commercial offer. Based on the information currently available, taking this option provides a viable and affordable route to deliver a key component of the town centre's regeneration and a Council priority. The risks attached to this option are relatively small in comparison to the regeneration benefits that the scheme will deliver.

4.3 **The Council provides capital funding for the whole scheme.** This would require funding over and above the capital programme allocation for the town centre investment fund. It would require that the Council takes on significant additional borrowing or de-commits and re-allocates funding from projects in the current capital programme to supplement the town centre investment fund. Other reasons for not pursuing this option include

- the Council would be taking on all of the development risk
- This would be a different way of delivering the regeneration of Forge Island requiring a different procurement approach. Re-procurement would result in significant delays to delivery of the scheme and consequently undermine market confidence that it will be achieved.

4.4 **The Council provides partial capital funding for the whole scheme.** This would require the Council to allocate some of the existing town centre investment fund towards the project in return for a reduction in the head lease cost. Based on the indicative values provided and current borrowing rates this option would be cost prohibitive for the Council and thus is not recommended.

5. Consultation

5.1 There was extensive consultation on the future use of Forge Island undertaken during the production of the Town Centre Masterplan. This has included:-

- Member workshops
- Stakeholder workshops
- Presentations to the Looked after Children's Council, Rotherham Together Partnership, Business Growth Board, Rotherham Voice, Barnsley and Rotherham Chamber of Commerce Construction Network, Rotherham Pioneers and Rotherham Older Person's Forum.
- Individual meetings with private sector land and property owners.
- Soft market testing with developers and end-users
- Discussions with Historic England,
- An open public exhibition in the town centre

5.2 Most recently, progress was reported to the Improving Places Select Commission on 14th March 2018.

5.3 Further consultation will take place with local residents and other stakeholders as part of the planning application process in line with statutory requirements. The Council will also undertake further engagement throughout the planning and construction process.

6. Timetable and Accountability for Implementing this Decision

6.1 Development of Forge Island has been identified as a priority by both the Council and Muse; as such it is critical that momentum is not lost.

Task	Date
Cabinet report for legal and financial approach	December 2018
Flood Defences – Start on Site	February 2019
Submission of initial planning application for the site (anticipated to be full for peninsular, outline for rest of site)	March/April 2019
Start on site	November 2019
Flood Defences - Completion	November 2019
Practical completion of cinema and first 2 food and beverage units	October 2020

7. Financial and Procurement Implications

- 7.1 This is anticipated to be a £35m project (at current prices), which will be funded initially by the developer partner and their investors. Under the preferred option the Council would take on a head lease for the development for a 35 year term, with no break clause. At the end of that period the Council has the option to purchase the development (including all built assets) for the sum of £1. The exact details of the head lease cannot yet be specified until later in the development process when the scheme is fully designed, funding secured and operator lettings are agreed. However, based on current information and assumptions it is anticipated that the project will be self-financing over the 35 year period and the business rates growth should aid the wider economy.
- 7.2 The Council's Capital Strategy (2016-2021) was approved by the Council on 2nd March 2016 and allocated £17million to regeneration projects in the town centre. This includes the development of key strategic sites, such as Forge Island and enhancements to the leisure/night-time offer. This sum includes funding for flood defence works in respect of Forge Island, which are necessary to allow the development to progress. This work will be commissioned and funded by the Council as planned.
- 7.3 The exempt Appendix 1 provides additional information on the agreement and the financial implications.
- 7.4 The process adopted for the selection of a Forge Island development partner is objective, open, fair and transparent. In designing this process the Council has taken specialist legal advice.

8. Legal Implications

- 8.1 The Council will continue to engage specialist external legal advice to ensure that the Council complies with its procurement and regulatory obligations. In addition, the external legal advisors will negotiate the legal documentation on behalf of the Council to protect the Council's position, mitigate risk (in particular those risks identified in paragraph 13 below due to void periods) and clarify the obligations of the respective parties thereafter.

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 There are no direct implications for Children and Young People and Vulnerable Adults from the recommendations in this paper. However, the Town Centre Masterplan makes clear the important role the redevelopment of Forge Island will play in creating a town centre that is attractive to all users including young people.

11. Equalities and Human Rights Implications

11.1 None specifically from this report

12. Implications for Partners and Other Directorates

12.1 There are no direct implications for partners and other directorates from the recommendations in this paper. Forge Island is a Council regeneration priority identified as having a major catalytic impact on the town centre and is included in the Rotherham Plan. There are benefits to be gained from successfully delivering regeneration of this key site.

13. Risks and Mitigation

13.1 The Potential risks and mitigation for this project are shown in the table below:

Potential Risks	Identified Mitigation(s)
<p><u>Void periods</u></p> <p>The Council will be committed to a head lease for 35 years with no break clause. There is a risk that there may be void periods for the sub-let units at the lease break periods.</p> <p>The initial lease periods will be 20 years for the hotel and cinema and 10 years for the restaurant/café units. So if units are vacant for any length of time there is a risk that annual income would not be sufficient to cover costs and in addition the Council would be required to cover any business rates payable for vacant units and shortfall in maintenance costs due to reduced service charge income</p>	<ul style="list-style-type: none">• At the beginning of the lease term the head lease rent will not be more than 70% to 75% of the sub lease rents the Council is entitled to receive.• The agreement with the Developer will include a requirement that the Cinema, Hotel and two of the restaurant units will be pre-let before the head lease is signed.• The Council will have a right to agree all lettings and thus can review the financial stability of proposed lessees to ensure only those with strong covenants are selected.• The Council will be aware of lease durations, this allows for forward planning when expiry dates are approaching. The Council will actively commence marketing 12 months prior to all expiry dates to minimise any void periods.

<p>Tenant business failure – this would have similar consequences to the void periods above.</p>	<ul style="list-style-type: none"> • The Council will have a right to agree all lettings and thus can review the financial stability of proposed lessees to ensure only those with strong covenants are selected
<p><u>Inflationary increases</u></p> <p>These are index linked but with a potential higher cap on the head lease than on the sub leases. This is a standard arrangement for an investment of this nature. This poses a risk to the Council that in periods of high inflation, the head lease rent could escalate at a higher rate than the sub-lease income which could lead to a reduction in the headroom or surplus available to the Council. Ultimately the level of sub-lease income will be dependent on market conditions.</p>	<ul style="list-style-type: none"> • The worst case scenario could be a 3% differential between the inflationary rates applied. However, given recent historical and prevailing inflationary increases this is considered low risk for the foreseeable future.
<p><u>Ongoing costs of maintenance</u></p> <p>The Council’s head lease will be on a full repairing and insuring basis. This arrangement will be mirrored in the sub-lease arrangements. The Council will also be responsible for the facilities management and repair and maintenance of the common areas of the development, including the car park, lifts and public realm.</p>	<ul style="list-style-type: none"> • All maintenance costs will be recovered via the annual service charge, which will be charged to tenants on top of the rent. This is a standard arrangement. • The Council will have input in to the design of the site and thus has the ability to influence the design so as to minimise future maintenance requirements. • All sub-tenants will be responsible for repair and maintenance costs of their own building in line with the head lease approach.
<p><u>Council’s share of business rates</u></p> <p>Under the current local government finance system, the Council retains 49% of locally collected business rates. From 2020/21, the Government has confirmed that local authorities can retain 75% of business rates under a revised funding regime. However, the details of the amended scheme are uncertain, as</p>	<ul style="list-style-type: none"> • The Council will model the financial impact as more details are released by Government over the next 12 months and respond accordingly addressing any significant concerns.

proposals for the new scheme are still being negotiated, with the final outcomes not expected until the end of 2019.	
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14. Accountable Officer(s)

Approvals Obtained from:-

Role	Named Officer	Date
Strategic Director of Finance & Customer Services	Julie Copley	
Assistant Director of Legal Services	Lesley Doyle,	20/11/2018
Head of Procurement (if appropriate)		
Assistant Director of Human Resources (if appropriate)		

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