

**Report of: Director of City Development**

**Report to: Executive Board**

**Date: 7 March 2012**

**Subject: Eastgate Quarter – Amendment to Legal Documentation & Commercial Deal**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): City & Hunslet	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4 (3) Appendix number: A & plan 1	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

### Summary of main issues

1. In September 2011, after securing revised outline planning permission for the development at Eastgate, Hammerson approached the Council with a revised proposal for their development of Eastgate which would help secure the potential delivery of the main anchor store, John Lewis.
2. To secure the delivery of a John Lewis store, a commercially viable scheme has to be developed which will enable John Lewis Partnership to be trading by 2016. Changes will be required to the existing legal documentation. These changes are now set out in the confidential Appendix A and Plan 1.

### Recommendations

Executive Board is recommended to:-

1. Note the report and the current position of the project.
2. Approve the Heads of Terms set out in the report for the changes to the existing Development Agreement.
3. Authorise the Director of City Development and the City Solicitor to conclude all the documents required to amend the existing Development Agreement in accordance with this report, and to agree any further alterations that might be required in consultation with the Executive Member for Development and Regeneration and in accordance with the appropriate schemes of delegation.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to seek the approval to revise the terms of the Development Agreement with Hammerson. Hammerson have requested that the Development Agreement be reviewed and that revised terms are agreed to facilitate the delivery of the project.
- 1.2 The detailed Heads of Terms which relate to the proposed variation are detailed in the confidential Appendix A.

## **2 Background information**

- 2.1 As reported to Executive Board in March 2011, the Eastgate project will be a flagship development which will further move Leeds towards being one of the top retail destinations in the UK. This will partly be achieved through the securing of a John Lewis department store as a main anchor for the development.
- 2.2 In March 2011 Executive Board agreed that the original 2006 legal documentation, which included a Development Agreement and a CPO Indemnity Agreement, should be varied. This was to take into account changes which were necessary due to Hammerson reappraising the project with the intention of creating a commercially viable scheme which would deliver the benefits originally intended; namely the regeneration of 10 hectares of the city centre and the creation of over 4,000 permanent new jobs.
- 2.3 The existing legal documents relating to the project were varied in April 2011; allowing Notices to Treat to be served for all the land interests required to enable the scheme to be delivered. The variation to the 2006 Development Agreement revised the terms of the commercial deal between the Council and Hammerson, details of which are set out in the confidential Appendix A.
- 2.4 Subsequent to the revisions noted above, in July 2011, Hammerson secured detailed planning permission for the erection of a Low Carbon Energy Centre at Bridge Street and on 6 September 2011 outline planning permission for a revised development consisting of a maximum of 117,000sq m and a minimum of 80,000 sq m of A1 retail use with associated ancillary uses. The permission allows flexibility of delivery within this size range.

## **3 Main issues**

- 3.1 In September 2011 Hammerson presented the Council with a revised approach which would help secure the delivery of the main anchor store, John Lewis. Also at this time the John Lewis Management Board visited the city and stated that whilst they wanted to provide a flagship store in Leeds, a way to secure delivery of the project needed to be identified.
- 3.2 Since September 2011 a series of meetings have been held with a view to securing a commercially viable scheme which can be delivered and enable the John Lewis store to be trading by 2016. These meetings have established that to secure the delivery of the John Lewis store by 2016 changes are required to the existing legal documentation. Details of these changes are set out in the confidential Appendix A.

3.3 Hammerson's current outline planning permission provides the flexibility for this approach, but the existing legal agreements will need to be reviewed and varied.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 As part of the planning and CPO process Hammerson and the City Council have ensured that interested parties are as well informed as possible. Meetings have been held on a regular basis with the Civic Trust, the Kirkgate Market Forum (traders & members) and there has been dialogue with the Friends of the Kirkgate Market. Land owners affected by the CPO are being updated on a regular basis either through individual dialogue or by letter.

4.1.2 The Leader, the Executive Member for Development & the Economy and the Chief Executive have been kept apprised of the situation on a regular basis. Ward Members have also been informed of the current position.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 It is currently not applicable for an EIA or a screening form to be undertaken at this time.

### **4.3 Council policies and City Priorities**

4.3.1 As indicated in the recently published Economic Growth Strategy, retail is one of the seven core priorities identified. This document sets out the determination to correct the fact that Leeds has slipped in the retail rankings, and that Leeds will work with developers and large retailers to address this situation with a view to understanding their needs, helping them to attract new stores to the city such as John Lewis.

4.3.2 Through the delivery of these large, high quality schemes, such as Eastgate and Trinity, the strategy highlights that it will move Leeds to near the top of the retail rankings. This, along with hospitality and catering will be a major draw for tourism and leisure trips to the city and coupled with the fact that over 1 in 5 businesses and more than 1 in 7 jobs in Leeds are in the wholesale and retail sector, will reflect on inward investment decisions to the city.

### **4.4 Resources and value for money**

4.4.1 The existing legal documentation with Hammerson provides that specific fees for resources within the Council are paid by Hammerson. Agreement has been reached that all costs, both internal and external, in reviewing and agreeing changes to the documents, will be fully reimbursed by Hammerson.

4.4.2 Details regarding the financial implications relating to the commercial deal are highlighted in the confidential Appendix A. Officers are satisfied that, on the basis of the commercial terms proposed, the Council will satisfy the requirements of section 233 of the Town and Country Planning Act 1990 (i.e. that the Council is securing the best use of the land and/or that it is securing the constructions of buildings/works that are required for the proper planning of the area).

## **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 Under the City Council's Constitution, a decision may be declared as being exempt from Call In if it is considered that any delay in implementing the decision would seriously prejudice the Council's or the public interest. Any delay in completing the legal documentation as soon as practically possible may have an impact on the critical path of approvals which are being sought both from Hammerson and John Lewis Boards in March.
- 4.5.2 All legal implications in respect to changes to the Development Agreement have been considered by Counsel and a brief summary of their advice can be found in the confidential Appendix A.

## **4.6 Risk Management**

- 4.6.1 There are two options for the Council regarding varying of the legal documentation relating to the Development agreement:-
- To refuse the proposal - if the Development Agreement is not amended to allow for a revised commercial deal the Developer will be unable to bring forward a commercially viable scheme with John Lewis as the main anchor store.
  - To agree to the proposal - this is reasonable and consistent with the corporate priorities set out in the report to the Executive Board in April 2006.
- 4.6.2 Further risks are identified in the confidential appendix attached to this report which relate to the financial or business affairs of the Council. Disclosure of those risks would be prejudicial to the interests of the Council. In addition, disclosure of the terms set out in Appendix A would be prejudicial to the business interests of Hammerson in so far as they are continuing to negotiate agreements with landowners and tenants. It is considered that the public interest in treating this information as confidential outweighs the public interest in disclosing it and that these elements of the report should be treated as exempt under Rule 10.4.3 of the Access to Information Procedure Rules.

## **5 Conclusions**

- 5.1 Since completing the original Development Agreement in 2006, the Council and Hammersons, have strived to produce a commercially viable scheme which can be delivered in a challenging economic climate. It is believed that there is now a window of opportunity to secure the delivery of John Lewis in the not too distant future along with the improvement and regeneration of a significant part of the city which has housed poor quality 'at grade' car parking for a considerable period of time.
- 5.2 Also to be noted is that this development, if seen in conjunction with the proposed redevelopment of the Kirkgate Market and the Trinity development, will play a significant role in achieving one of the core Economic Growth priorities to raise the level of Leeds retail ranking and along with this the creation of a significant number of new jobs.

## **6 Recommendations**

Executive Board is requested to:

- 6.1 note the report and the current position of the project.
- 6.2 approve the Heads of Terms as set out in this report for the variation of the Development Agreement.
- 6.3 authorise the Director of City Development and the City Solicitor to conclude all the documents required to amend the existing Development Agreement in accordance with this report, and to agree any further alterations that might be required in consultation with the Executive Member for Development and Regeneration and in accordance with the appropriate schemes of delegation.

## **7 Background documents<sup>1</sup>**

### 7.1 Previous reports to Executive Board

- 9 March 2011

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<sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.