

**Report of the Directors of Resources and City Development**

**Report to Executive Board**

**Date: 17 October 2012**

**Subject: Support to the Leeds Rail Growth Package**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Kirkstall, Horsforth, Bramley & Stanningley	<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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? <b>If relevant, Access to Information Procedure Rule number:10.4(3)</b> <b>Appendix number: B</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

**Summary of main issues**

1. The developer of the Kirkstall Forge site has approached the Council for financial assistance in the development and delivery of the Leeds Rail Growth Package. The development of the Kirkstall Forge site is of strategic importance to the city and the wider city region and when developed will bring new homes, offices and jobs to the city. As well as the provision of new housing the development includes a new rail station, access road and car park.
2. As explained in the report, if the Council is minded to provide financial assistance to this scheme, there does remain a number of significant issues, both financial and legal, to be determined in order to ensure that the Council's position is as secure as possible.
3. At this stage therefore, this report only seeks the in principle approval of financial support to the scheme, and delegates to the Directors of Resources and City Development final approval of an agreement, subject to conditions as outlined in the report being agreed.

**Recommendations**

4. That the Executive Board agree in principle to the Council providing financial assistance as outlined in the exempt **Appendix B**, to support the delivery of the Leeds Rail Growth Package, but that this be subject to the finalisation of the agreement of terms and conditions which as outlined above ensure that the Council's position is as

secure as possible, and that final agreement be delegated to the Directors of Resources and City Development.

## **1 Purpose of this report**

- 1.1 The Council has been approached by the developer of the Kirkstall Forge site to provide financial assistance in the development of the Leeds Rail Growth Package.
- 1.2 As explained in the report, if the Council is minded to provide financial assistance to this scheme, there do remain a number of significant issues to be determined in order to ensure that the Council's position is as secure as possible. As such at this stage, this report only seeks the in principle approval of financial support to the scheme and supporting access works, and delegates to the Directors of Resources and City Development final approval of an agreement, but subject to conditions as outlined in the report being agreed.

## **2 Background information**

- 2.1 Kirkstall Forge is a 23 hectare brown field site, 3.7 miles from Leeds City Centre, bounded by the A65 to the North and the Airedale/Wharfedale railway line to the south. The site was purchased by GMV Twelve Ltd in 2003, but the development of the site is being undertaken by their agent, Commercial Estates Group (CEG). A plan of the proposed development is attached at **Appendix A**
- 2.2 GMV Twelve Ltd is a property development company registered in Jersey and its holding company, GMV Holdings Ltd is registered in Gibraltar.
- 2.3 The development of the Kirkstall Forge site is of strategic importance to the city, and indeed the wider city region. The proposals include:

- 1,045 new homes
- 300,000 sq ft of Grade A offices

The forecast economic and other benefits claimed for the development include:

- Levers in £350m of private sector investment
- During the construction, supporting the full time equivalent (fte) of 300 jobs construction jobs
- 1800 direct jobs once the development is completed and operational
- Supporting nearly 300 (fte) local jobs within the wider community
- Increased economic spend
  - Gross wage of £40m for office workers
  - £5m extra turnover in local shops

- Additional council tax and business rates
- New homes bonus of £5m to £6m over 6 years

2.4 An important part of the development is the construction of an access road and new rail halt which would be one of two stations (Kirkstall Forge in Leeds and Apperley Bridge in Bradford) that are planned to be constructed as part of the Leeds Rail Growth Package (“the LRGP”). The LRGP is supported by the Department for Transport and Metro.

2.5 The original intent in developing the scheme was for the site development to commence in advance of the rail halt opening which would then fund the wider infrastructure requirements. However, the availability of development finance has impacted upon this. The willingness of financial institutions to provide development finance has been affected by:

- § the slow recovery of the first time buyer market and
- § the large proportion of bad debt of the UK’s leading financial institutions linked to commercial and residential loans.

These two factors have resulted in lenders being reluctant to provide development finance for developments such as this and as a result the development of the site has been delayed significantly.

2.6 The current position is that substantial sums need to be spent to deliver the rail halt and associated infrastructure, without which funding that is already secured could be lost and the scheme delayed. Details of the total funding requirement are contained within the exempt **Appendix B**.

### **3 Main issues**

3.1 CEG, on behalf of GMV–Twelve has approached the Council to provide financial assistance to the development as detailed in the exempt **Appendix B**. Given the timescales associated with the funding of this development, the urgent need to move it forward and the absence of other appropriate funding options, this request has been considered by the Council. In future however, funding for such developments should be directed to the Transport Fund and the Regional Economic Growth Fund both of which are in the process of being developed and which are referred to elsewhere on this agenda.

3.2 In considering whether to provide this assistance, there are a number of issues that the Council need to consider, being

- ∇ Confirmation of the Council’s legal position and specifically compliance with State Aid rules.
- ∇ The ability of GMV –Twelve to make repayment to the Council.
- ∇ Security for the Council’s financial commitment.

- ∇ To determine a repayment schedule and an interest rate which ensures that there is no cost to the Council tax payer.

Each of these issues will need to be fully understood and considered before a final decision can be made; however, the following paragraphs provide a position statement as to our current understanding.

- 3.3 The proposal does provide an opportunity for the Council not only to support the delivery of a key improvement to the local transport infrastructure, but also the potential to “kick start” an important commercial and residential development. As such there are sound economic reasons for the Council to respond positively to the request to provide support to the scheme..
- 3.4 The Council would need to take out borrowing in order to provide funding to the developer. The Council is free to take out borrowing under the Local Government Act 2003, provided that it takes prudence and sustainability requirements into account when making decisions on borrowing in compliance with CIPFA’s Prudential Borrowing Code.
- 3.5 Details of the financial arrangements proposed by CEG are set out in the exempt **Appendix B.**
- 3.6 As referred to earlier, there are significant elements of the proposal from CEG which require further work before a final decision on financial assistance could be considered. A key consideration has to be to ensure that as far as possible the Council’s financial position is protected and further work is required to ensure that we gain an understanding of the capacity of the development to generate the value necessary to repay any support from the Council.
- 3.7 An important consideration will be to ensure that any arrangements are State Aid compliant. In order to comply with these requirements consideration will need to be given to interest rates, the financial rating of the company and the level of collateral provided.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The Rail Growth Package has been subject to extensive public consultation both as part of the Local Transport Plan and also in terms of the previous planning process for the Kirkstall Forge development.
- 4.1.2 The proposal for the development was subject to the necessary consultation as part of the detailed planning consent which was secured in 2010.
- 4.1.3 There has been no external consultation in respect to this report as it is not considered appropriate.

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

- 4.2.1 An equality impact assessment for the scheme has been prepared by Metro as part of the scheme development process. The recommendations of this report

relate to a financial arrangement. A screening document has been completed and concludes that there are no specific implications for equality and diversity, nor for cohesion and integration. This is attached as **Appendix C**.

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

- 4.3.1 The proposal for which financial support is required is of strategic importance to the city and the wider city region. It is consistent with the Council's City Priority plans in terms of its impact on the sustainable growth of the Leeds economy, the redevelopment of Brownfield land, provision of new housing, increasing the number of residents who can get to work by public transport and the creation of new permanent jobs.
- 4.3.2 A park and ride strategy aligns with the West Yorkshire Local Transport Plan and with the objectives of the Leeds City Region Transport Strategy with themes such as 'developing a strategic framework for demand management' and 'improving strategic connectivity to tackle congestion'.
- 4.3.3 The Leeds City Region Transport Strategy also includes interventions to provide new and expanded park and ride sites in the short term as well as new park and ride facilities located adjacent to the motorway and other priority corridors.

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

- 4.4.1 The Council would need to take out borrowing in order to provide financial support for this development. In considering the terms of any such support, whilst there could be an impact on the Council's budget in individual years (either positive or negative) the Director of Resources will ensure that, overall, there will be no residual cost to the Council Tax payer.
- 4.4.2 The development of the Kirkstall Forge site is a strategic development for the city and the wider city region as detailed in paragraph 2.3. As well as the jobs, homes and investment it brings to the city there are other economic benefits. The council will receive new homes bonus (for a period of 6 years) for each new house delivered as well as council tax payable on the new properties and business rates on the commercial properties.

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

- 4.5.1 The Council has the legal powers to provide financial assistance of this kind under the Section 3 of the Local Authorities (Land) Act 1963. Section 3 does contain a number of requirements which should properly be regarded as restrictions or limitations and as such any proposal for financial assistance for the development of land will be subject to the requirements of Section 3. The key elements of Section 3 are:
  - § The Council must be satisfied that to make such an advance would be "for the benefit or improvement of their area",
  - § The principal and interest must be secured by a mortgage of the land in respect of which the advance is made,

- § The principal must not exceed nine-tenths of the value of the completed building.
- § Interest must be charged at not less than 0.25% more than the Treasury rate at the date of the advance, or at such other rate as the Minister may fix
- § Repayments must be over a period not exceeding 30 years.
- § Repayments must be made either by instalments of principal, or by an annuity of principal and interest combined.
- § There must be provisions for repayment on demand in the event of non-compliance, and for early redemption.

4.5.2 The Council would need to enter into a legal agreement with the company. The details of such an agreement have yet to be determined and it is proposed that finalisation of the agreement is dealt with under the delegated authority of the Directors of Resources and City Development.

4.5.3 The information contained in **Appendix B** of this report has been identified as exempt because it contains information relating to the financial and business affairs of GMV –Twelve and the Council. The public interest in maintaining the exemption in relation to Appendix B outweighs the public interest in disclosing the information by reason of the fact that it contains information and financial details which, if disclosed, would adversely affect the business of the Council and GMV – Twelve.

4.5.4 The report is eligible for call in.

## **4.6 Risk Management**

4.6.1 The main risk with this proposal is that the financial support provided is not returned to the Council. The Council is considering several forms of security and their value with a view to ensuring that security measures can be put in place to protect the Council's position should financial assistance be provided. It should be noted however that there is no absolute guarantee that any financial support provided will be repaid.

4.6.2 Further information relating to risk and potential security is contained in Appendix B.

## **5 Conclusions**

5.1 The Council has been approached by the developer of the Kirkstall Forge site to provide financial assistance in the development of the Leeds Rail Growth Package.

5.2 The development planned is of strategic importance to the city and the wider city region. It is consistent with the Council's City Priority plans in terms of its impact on the sustainable growth of the Leeds economy, the redevelopment of Brownfield land, provision of new housing, increasing the number of residents who can get to work by public transport and the creation of new permanent jobs.

- 5.3 The proposal does provide an opportunity for the Council not only to support the delivery of a key improvement to the local transport infrastructure, but also the potential to “kick start” an important commercial and residential development. As such there are sound economic reasons for the Council to respond positively to this request.
- 5.4 Given the timescales associated with the funding of this development, the urgent need to move it forward and the absence of other appropriate funding options, this request has been considered by the Council. In future however, funding for such developments should be directed to the Transport Fund and the Regional Economic Growth Fund both of which are in the process of being developed and which are referred to elsewhere on this agenda.
- 5.5 Should the Council be minded to support this request, further detailed work needs to take place, both financial and legal, to mitigate the risk associated with the proposal and ensure that the Council’s position is as secure as possible.

## **6 Recommendations**

- 6.1 Executive Board are asked to agree in principle to the Council providing financial assistance to GMV-Twelve, as detailed in **Appendix B**, to support the delivery of the Leeds Rail Growth Package, but that this be subject to the finalisation of the agreement of terms and conditions which ensure that the Council’s position is as secure as possible, and that final agreement be delegated to the Directors of Resources and City Development.

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

- 7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council’s website, unless they contain confidential or exempt information. This list of background documents does not include published works.