

CABINET

10 JULY 2018

MIXED USE DEVELOPMENT AT QUEEN STREET/SLICKETTS HILL CAR PARKS, THE BROOK, CHATHAM

Portfolio Holder: Councillor Alan Jarrett, Leader
Councillor Adrian Gulvin, Resources

Report from/Author: Perry Holmes, Chief Legal Officer

Summary

This report updates the Cabinet on the progress to reach agreement to bring forward a mixed use development scheme at Queen Street and Slicketts Hill Council owned car parks, whilst retaining public car parking facilities.

1. Budget and Policy Framework

- 1.1 Cabinet has authority to enter into agreements for the development of Council owned land.
- 1.2 Cabinet approved the appropriation of this land for planning purposes, if needed, a procurement exercise to seek a partner to develop the site and a delegation to officers to complete the necessary agreements at its meeting on 9 February 2016.

2. Background

- 2.1 The Council owns the freehold of the site edged black on the attached plan at Appendix 1. The site area is approximately 0.69 hectares (1.71 acres). Outline planning consent was approved by the Council's Planning Committee (Application reference MC/09/2626) on 10 March 2010, subject to completion of a Section 106 agreement.
- 2.2 Full Council at its meeting on 15 April 2010 agreed:

“..to undertake as landowner, to require as a condition of the land transfer that a developer enters into a s.106 agreement securing the planning obligations agreed with and required by the planning authority” (minute no. 746c/2010 refers).
- 2.3 Outline planning consent was granted on 21 April 2013 for a mixed use scheme comprising of residential and 3,375 sq metres of commercial

space (retail Classes A1 and A2) with ancillary parking for 146 spaces/202 cycle spaces. The residential element to consist of 7 x 3-bed houses, 7 x 4-bed houses, 48 x 1-bed flats, 38 x 2-bed flats, 18 x 3-bed flats. Consent was granted subject to the prior approval of 'reserved matters' – full details of the appearance of any proposed buildings and landscaping – which had to be submitted before 21 April 2015. Development should then have commenced within two years of approval of the reserved matters.

- 2.4 Cabinet at its meeting of 13 May 2014 delegated authority to the Assistant Director, Legal & Corporate Services in consultation with the Portfolio Holder for finance, to declare surplus and then dispose of the car park site, so that it can be used for development on the best consideration reasonably obtainable (decision no. 97/2014).
- 2.5 The disposal of the site was not pursued due to:
 - 2.5.1 The loss of parking spaces and because the income generated from the car park was giving the Council a better return than if it invested any disposal receipt elsewhere.
 - 2.5.2 The deterioration in the property market and the postponement of development plans for other, privately owned, sites in the area. However there are now some signs of market recovery.
- 2.6 The Cabinet considered a further report on 9 February 2016 which provided details of a proposal to seek developer interest in developing the above Council owned car park whilst retaining car parking facilities.
- 2.7 The Cabinet agreed to delegate authority to the Chief Legal Officer in consultation with the Leader and the Portfolio Holder for Resources to:
 - Appropriate the site for planning purposes.
 - To carry out a procurement exercise to seek a developer to provide a mixed use development, with a retained Council car park on the best terms reasonably obtainable.
 - Enter into any necessary agreements to secure the development of the site and preserve the Council's ability to use the car park after the development has taken place (decision no. 25/2016 refers).

3. Update

- 3.1 Two procurement exercises were completed following Cabinet's decisions in February 2016 but officers were unable to recommend proceeding with a developer partner at that stage.
- 3.2 A partner, Creval, did make an offer to the Council the details of which are set out in the exempt appendix 1, and officers have been in negotiation to agree Heads of Terms which will bring this proposed scheme forward and appropriately manage risk for the Council.

3.3 The details of the Heads of Terms are set out in the exempt appendix 2, but are summarised in the body of this report.

4. Options

4.1 Officers have identified the following options:

4.1.1 The site could be retained as a car park, providing an income but not delivering town centre housing in a mixed use development.

4.1.2 The site could be disposed of and used for development, in which case the parking and income would be lost, but a capital receipt would be realised.

4.1.3 The Council could enter into a joint venture arrangement with a developer partner to build a mixed use housing and commercial scheme whilst retaining the existing level of council parking spaces plus sharing the profit from the development. Development options would be subject to planning restrictions and ground conditions. This is the recommended option for reasons set out in section 5 below.

5. Advice and Analysis

5.1 If the site is sold for development as set out in paragraph 4.1.2 that would mean either a low capital receipt from sale of the site relative to the long-term loss of income, currently around £68,500 per annum net and/or loss of 105 pay and display public car parking spaces and 6 disabled spaces.

5.2 The proposal recommended by officers, as set out in paragraph 4.1.3 above, would provide a significant profit share after completion of the development with Creval, continued parking provision, delivery of urban housing units close to the centre of Chatham and some complimentary commercial provision.

5.3 The negotiation with Creval has included agreeing in a Heads of Terms document the following principles:

5.3.1 Creval will complete a planning application at their cost and risk with no financial recourse to the Council if unsuccessful.

5.3.2 The Council will provide Creval with an agreement to lease the land subject to the approval of planning permission for the site.

5.3.3 The lease will only be completed, if planning permission is agreed and once the Council has assessed a financial viability completed at that stage approved by a Quantity Surveyor which must show a minimum profit share at a defined figure will be returned to the Council on completion of the development. That figure is in excess of the value of the land.

5.3.4 Creval will provide a bond for the construction contractor.

- 5.3.5 Creval will only borrow from an external funder up to an agreed percentage of the cost of construction of the development. The funder will have a first charge on the land. The remaining funding will be provided by Creval but will not be charged on the land.
- 5.3.6 Creval will pay for an Employer's Agent who will report to the Council on the quality of works completed at each stage and that the funding released for each stage has been spent appropriately.
- 5.3.7 If Creval should fail financially for whatever reason, the Council would have a choice whether to work with the appointed funder or not to complete the scheme.
- 5.3.8 Once development is commenced there is a longstop date after which if construction is not completed the Council can take the site back.
- 5.3.9 There will be compensation paid by Creval to the Council for the temporary loss of car parking income.

6. Risk Management

- 6.1 Detailed discussions have been ongoing to set out an agreement, the terms of which officers can recommend to Cabinet.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Adverse reaction to temporary reduction/loss of parking.	Car park users object to the proposals.	Consultation with users and signage to alternative parking, including disabled parking in Fullager's Yard and Solomons Road. The proposal will maintain a car park in the long term.	C3
Large reduction in house prices makes the scheme unviable	Historical data ¹ shows that house prices dropped by 37% in the early 1990s (over 6 years) and 26% in the last recession starting in 2007 (again over 6 years). See figure 1 below for the evidence in chart form, from 1980.	External funding will be capped at a percentage of costs to mitigate against a drop in the value of houses. Build time is estimated at 18 months to 2 years so a drop of that magnitude in a shorter period is unlikely.	C2

¹ <https://www.nationwide.co.uk/about/house-price-index/download-data#xtab:uk-series>

Contractor failure means the project does not proceed.	Increased project costs due to contractor failure.	Bond allows new contractor to be engaged taking into account any additional costs	C3
Partner failure	Creval or the Creval special purpose vehicle (SPV) fail.	The Council is protected from failure in the wider Creval business by the SPV. The Council has step in rights if the SPV fails	C3

6.2 Below is a chart showing house prices (adjusted for inflation to give “real house prices”) since 1980. The two periods of significant value reductions can be clearly seen.

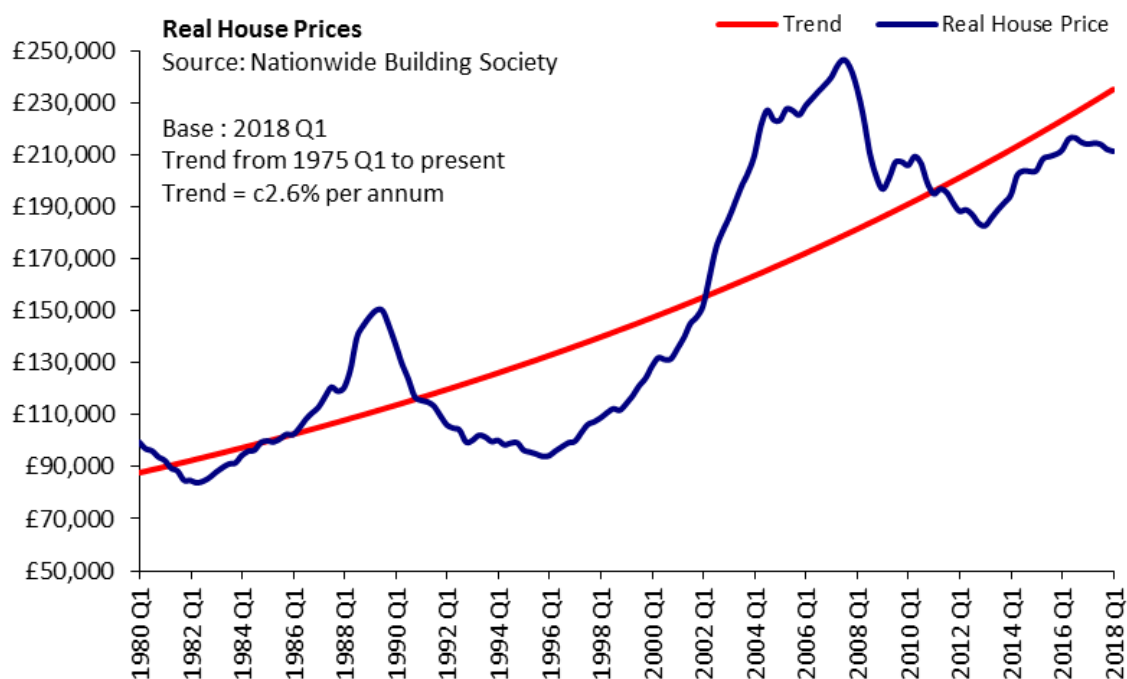


Figure 1

7. Consultation and Programme

- 7.1 Any proposed development could not take place until satisfactory planning permission has been granted. That process would involve consultation within the terms of the National Planning Policy Framework. The development could take 18 months to 24 months to complete if/when planning permission is granted.
- 7.2 Steps will be taken to provide clear signage to nearby alternative parking for car park users.

8. Financial Implications

- 8.1 The Council could have the potential to gain a significant capital sum by entering into the joint venture as outlined, however entering into this arrangement is not without risks.
- 8.2 During construction the Council would lose around £68,000 per annum in car parking income.

9. Legal Implications

- 9.1 The council must achieve the best consideration that can be reasonably obtained for its land assets, under section 123 of the Local Government Act 1972. The proposal, if completed, satisfies that requirement.
- 9.2 Subject to approval of the broad head of terms, it is recommended that Cabinet delegate authority to the Chief Legal Officer, in consultation with the Leader and the Portfolio Holder for Resources to complete the necessary agreement in a form that sufficiently protects the Council's position, whilst enabling the development to proceed, subject to planning permission being granted for the site.

10. Recommendations

- 10.1 Cabinet is recommended to:
 - 10.1.1 note the updated position and approve the draft heads of terms as set out in the exempt appendix.
 - 10.1.2 delegate authority to the Chief Legal Officer, in consultation with the Leader and the Portfolio Holder for Resources to complete the necessary agreement in a form that sufficiently protects the Council's position, whilst enabling the development to proceed, subject to planning permission being granted for the site.

11. Suggested Reasons for Decision

- 11.1 To bring forward the site for development, whilst retaining the car park and income. The proposal would provide a significant profit share after completion of the development with Creval, continued parking provision, delivery of urban housing units close to the centre of Chatham and some complimentary commercial provision.

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Appendices:

Appendix 1 - Site Plan Queen Street / Slicketts Hill Car Parks

Exempt Appendix 1 - "Business & Development" strategy dated 5 June 2017

Exempt Appendix 2 - draft heads of terms

Background papers:

Cabinet report 13 May 2014

<http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=2768&Ver=4>

Full Council report on 15 April 2010

<http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=122&MId=185&Ver=4>

Cabinet report 9 February 2016

<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=3167&Ver=4>