

Agenda Item No: 8 **Report No:** 177/15
Report Title: North Street Quarter Petition Response
Report To: Full Council **Date:** 9th December 2015
Cabinet Member: Councillor Andy Smith
Ward(s) Affected: Lewes Bridge, Lewes Castle, Lewes Priory
Report By: Nazeya Hussain, Director of Business, Strategy and Development
Contact Officer(s)-
Name(s): Max Woodford
Post Title(s): Head of Regeneration & Investment
E-mail(s): max.woodford@lewes.gov.uk
Tel No(s): 01273 661378

Purpose of Report:

To respond to the petition submitted to full council on 14th October 2015 regarding the council's involvement in the North Street Quarter development. This report focuses on the council's requirements to consult and strategically plan for the future of Lewes and to achieve best value for any assets it owns, and the work done to achieve this.

Officers Recommendation(s):

- 1 To continue working towards the delivery of the existing joint LDC/Santon North Street Ltd. (SNS) scheme for the North Street Quarter.
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Reasons for Recommendations

- 1 The existing joint LDC/SNS scheme has been through a significant process of consultation, and is a viable and deliverable scheme that meets all planning policy requirements for the site, as set out in section 2 of this report. Santon have considerable experience in delivering developments of this size and the funding with which to do so. Moving away from the existing LDC/SNS scheme which has been developed over three years to start again on an alternative development would create a number of risks that are set out in section 5 of this report.

2 Information

- 2.1 A petition was submitted to Full Council on 14th October 2015. The petition states:

We call on Lewes District Council to rethink development plans for the Phoenix / North Street Estate to better meet the needs of Lewes

We the undersigned are deeply concerned that the proposed development from Lewes District Council & Santon for the Phoenix / North Street Estate in Lewes will:

- destroy the unique economic hub of creative businesses, start-ups, light manufacturing, social and cultural enterprises*
- lead to the loss of existing local employment and the last affordable work and venue space in the town, including the reusable heritage buildings of the Phoenix Ironworks*
- whilst not providing the truly affordable housing at social rent levels that Lewes desperately needs.*

We urge Lewes District Council and Santon to work together with Lewes Phoenix Rising to get a better development that meets the needs of the community.

- 2.2** The North Street Quarter comprises land north of the Phoenix Causeway, bounded by the River Ouse and the Pells area, and accessed predominantly via North Street. The majority of the site is in the ownership of LDC (approx. 35%) and Santon (approx. 65%), who acquired their interest in 2012. The site largely comprises light and general industrial buildings and was subject of significant flooding in October 2000. The site remains a flood risk and so whilst businesses have returned to the area, not all buildings are fully utilised and the businesses that are there are on low rents to reflect the fact it is an identified development site.
- 2.3** The Council recognises the importance of this brownfield site within the County town and took an early decision in April 2013 to not dispose of ownership to the private sector, but to enter into partnership with Santon to ensure a high quality designed development would come forward providing much needed housing and ensure it is built in a timely manner.
- 2.4** LDC has been working with SNS and the South Downs National Park since 2012 to bring forward the viable, high quality scheme. The proposed development and our Joint Venture arrangements with SNS have been subject to five separate Cabinet reports dating back from 2012 (see Appendix 1) and provide strong evidence of democratic decisions for the proposal. When LDC agreed to enter into the Joint Venture with Santon, we set out our priorities for the scheme, which include:

Essential – a balance of:

- Achievement of the policy target of 40% affordable housing as far as possible, to meet local needs in partnership with a Registered Provider e.g. a housing association; and*
- Maximisation of a return on assets through a recurring revenue stream.*

Desirable

- Up to 40,000ft² of commercial floor space, including a cultural quarter, leisure, retail and a health facility*
- Extra care housing; and*

- *Improved public realm and improved connectivity with the town.*

2.5 LDC and SNS have a legal agreement to jointly submit a planning application. That planning application site is due to be considered tomorrow by the South Downs National Park. The scheme, which will be built in three phases, includes the following benefits:

- 415 new homes, 40% of which will be affordable (the major scheme in the district to offer this level of provision). This housing will provide a mix of accommodation aimed at families, older people and first time buyers.
- 140,000ft² of flexible workspace, with subsidised rent for over 19,000ft².
- Public spaces and riverside walkways, opening up the river to the public
- Vital flood defences to complete defences for the town.
- Pioneering green energy system taking thermal energy from the River Ouse which runs through the heart of Lewes.
- New health facilities including 2 doctors' surgeries, dentists, a pharmacy and other medical services, serving 26,000 people.

2.6 This petition requests that LDC work closer with Lewes Phoenix Rising (LPR), who are proposing their own alternative plans for the site, despite having no land holdings and no financial means to do so.

The LPR masterplan is based on retaining a large proportion of the poor quality commercial building stock on the site for the existing tenants.

This retention of low density buildings means the masterplan then requires getting the remaining local plan policy, including 400 homes, on the remaining site (which they expect LDC/Santon to achieve). This, combined with the absence of flood defences so requiring 'flood resilient' uses at ground floor, would mean 6 to 8 storey housing adjacent to the Pells area. This level of density is similar to previous proposals for the site of 650 homes that were considered unacceptable. The development needs to effectively use the whole 15 acres to comply with reasonable landscape and height restriction. Therefore LDC/Santon will not contemplate relinquishes a proportion of the site to LPR.

2.7 The LDC/SNS proposal opens up this part of the town for everyone, and it completes the flood defences for the town, which we would be unable to do if the Phoenix Iron Works were to be retained.

Consultation

2.8 Lewes residents and businesses have helped to shape the scheme's final design during a three-year programme of community consultation events, which started in 2012. Hundreds of comments were collected at three consultation exhibitions run by an independent organisation, The Democratic Society. These events were promoted widely through leaflet drops to all households in Lewes and adverts in the local media. The requirements and views of specific groups, such as the views of schoolchildren and residents living adjacent to the site,

were explored further at their own dedicated events. Design workshops were facilitated by ATLAS a Government design agency employed by the planning authority to help facilitate discussion, which continued through dozens of local design workshops and two Lewes Town X-Ray events focused on design aspects of the plans.

- 2.9** Consultation and engagement has also continued through groups such as the Sounding Board, made up of community representatives including Friends of Lewes, The Lewes Town Partnership, the Chamber of Commerce and the Community Land Trust that meets every month. This Sounding Board has requested, and LDC and SNS as applicants agree to, an ongoing role as a formal consultee on design and detailing as the planning conditions and reserved matters for later phases are developed and submitted. More detail on the consultation and feedback can be seen on the application web page, which is updated frequently: <http://northstreetqtr.co.uk/consultation/>. In addition there is a summary in the Statement of Community Involvement in the planning application documents.

Existing Businesses

- 2.10** The proposed LDC/SNS scheme is the only one that is proposing full flood defence of the site and surroundings. The LPR masterplan does not propose flood defences, and instead relies on flood resilience. This would be unacceptable to the Local Planning Authority; the Environment Agency; development finance providers; mortgage companies and insurers, and it would mean all of the existing businesses in the area would remain at a high risk of flooding. If floods like those that hit in October 2000 were to come again then the ability of those businesses and enterprises to continue to operate in a safe and viable manner will be seriously compromised and there would be no form of legacy strategy as is being proposed under the LDC/Santon scheme. Businesses will not be able to invest and grow in premises that are not flood defended.
- 2.11** LDC recognises and values the current creative and other uses on the site that are currently exposed to future flooding risk. The LDC/SNS application includes 64,000ft² of new creative space, which together with other employment space on the site will accommodate more jobs than are on site at present. This new modern space will enable flood defences which will be delivered during phase one, and will also offer the opportunity of creative spaces that animate the street and bring vitality to the area.
- 2.12** LDC and SNS, as landlords, have duties to their respective tenants and have been discussing the opportunity to move to new better quality and flood defended premises where businesses are able to invest without fear of their investment being wiped out by flooding. This includes in the new Santon development at Malling Brooks, where work has now started on 75,000ft² of light industrial buildings. A number of the existing larger businesses (both Santon and LDC tenants) have reached agreed terms with Santon for such relocation and will be moving to the new premises which should have the first

units ready for occupation at the end of 2016. That development is now fully sold or let.

- 2.13** In addition to this, we are providing support to the existing smaller businesses and temporary creative workshops that are not under any formal management arrangements with either Santon or LDC. Most of these are sub-tenants with limited legal protections. However, we have engaged Locate East Sussex as the county's business facing investment company to assist with the process of finding new premises where necessary. They have contacted 35 businesses on the site to date. Locate East Sussex are prioritising those businesses in phase 1 of the development, and they will continue to work with those willing to engage.
- 2.14** A number of options are available to these business, including relocating them into phase 3 of the development during construction of phase 1 (approx. 24 months). Those businesses may then take permanent space within the new 64,000ft² of creative workspace in the North Street Quarter.
- 2.15** Depending on the nature and use of their business, they may qualify for some affordable workspace at subsidised rents. This workspace will be managed by a local community focused company who will be procured to deliver what is a very important part of the scheme. This then provides permanent, sustainable, affordable creative workshop space in perpetuity for both existing tenants and others in the town. Half of the new workspace in the North Street Quarter will be offered at half the market rate for these purposes, with this being guaranteed by £640,000 of subsidy in the section 106 agreement accompanying any planning permission.

Heritage

- 2.16** The petition refers to retaining "*the reusable heritage buildings of the Phoenix Ironworks.*" The Victorian Ironworks on the Phoenix Industrial Estate in Lewes burned down over sixty years ago, since when the existing sheds were erected in the period between the 1950s and 1970s. Small elements of industrial heritage remain, but nothing that ties together as being a single heritage asset. The only remaining complete buildings are the Old Foundry wall and Fire station, and both of those remain in the scheme. Heritage England, who are a statutory consultee on the planning application, were asked by LPR to look at whether any of the Ironworks buildings on the site were worthy of listing and they decided they were not. The LDC/SNS scheme does however propose taking those hidden elements of industrial heritage and integrating them into the design of probably the best used building in the final development, the Causeway Building, which will include doctors and dentists as well as public workspaces.

Affordable Housing

- 2.17** The most important message from the public during consultation was the need for as many affordable homes as possible for local people. The LDC/Santon scheme will deliver:
- 416 homes, with 40% of them – a total of 165 – being affordable. This will be the first significant development in the District to achieve 40% affordable

housing. The type and size of these affordable units will reflect the identified housing need for the town, as evidenced through the Housing Needs Register.

- In addition a further 15% (38) of the open market homes will available as a first priority to local people. We aim to tie this in with any Government 'Home-Buy' low deposit schemes that are targeted at first time buyers that are on offer at the time of delivery.
- Of the 416 homes, 55% have 2 bedrooms or less, some specifically designed for young, single people, and 45% have 3 bedrooms or more.

2.18 The development partners will work to optimise the affordability of the 40% affordable housing within the North Street Quarter scheme. Working together, Santon North Street and Lewes District Council, which is also the local housing authority, will make the most of any Government funding available at the time of delivering construction to ensure that the housing is as affordable as possible. The key will be selecting a Registered Social Provider who can offer best value and quality of management to ensure that funding and management costs do not push the rents up. We transfer the completed homes to the registered social provider for the construction price, rather than the market value. Depending on final costs this is normally around 50% of the market value.

2.19 The LPR proposal promises set rental levels, but there is no evidence those rents have been tested with Registered Providers or could be viably delivered. Furthermore, their masterplan includes affordable live/work units for existing workers on the site, but there is also no evidence of housing need for that group and no justification for them bypassing the existing housing waiting list.

Planning Policy

2.20 In LDC's Joint Core Strategy with the South Downs National Park there is a clear planning policy for the North Street site (as well as the adjacent Eastgate area), which includes building at least 400 homes, creating employment space and delivering flood defences. Anything that does not comply with the policy will be unlikely to receive planning permission. The LDC/Santon scheme fulfils all of the policy criteria, and we have worked closely with independent financial advisers GVA to ensure the viability of the scheme and make sure that the scheme offers those benefits while remaining deliverable. The scheme will also deliver key benefits as part of the section 106 agreement, as required by planning policy including a new riverside walkway, a footbridge over the Ouse and public realm improvements.

Financial Appraisal

3 Financial advisors GVA Bilfinger have been appointed to oversee the process of negotiation with Santon, and they advise that the scheme is viable and capable of delivering best value to LDC. This is in addition to viability tests that have been submitted by the applicants to the Planning Authority's surveyors. Failure to deliver a scheme will mean that LDC is not best placed to achieve the Cabinet priority from April 2014 of seeking a recurring revenue stream from our land holdings at North Street.

Legal Implications

- 4 The Interim Agreement with Santon, which governs the process of submitting the planning application, states that if the council withdraw from the development for reasons not connected to our discussions with Santon (i.e. for reasons other than the deal being unviable for LDC for commercial or legal reasons) then LDC will be liable to pay 35% of the pre-planning costs, up to a cap of £390,000. This was agreed to protect Santon against the unlikely occurrence of LDC encouraging them to invest millions of pounds into a planning application on behalf of both parties, and then withdrawing from the scheme for political reasons. However, it does not compel LDC to continue with the project if it is not financially or legally advantageous to do so.

Risk Management Implications

- 5 As set out above, the LDC/Santon scheme complies with planning policy and is viable and deliverable. Moving away from that scheme to start again on an alternative development would create a number of risks:
- **Planning risk:** Any alternative scheme might be less likely to meet planning policy requirement. In addition, it will delay the delivery of one the Council and SDNPA's key strategic sites that will deliver housing in the early part of the plan period – this may necessitate the need for the planning authorities to identify alternative housing sites for delivery in this period.
 - **Economic risk:** The considerable delay to the scheme would leave the existing businesses susceptible to flooding which could remove the entire cluster of creative businesses from the town. Any alternative scheme that allowed for retention of large elements of the existing sheds would also be impossible to flood defend so that risk would remain in perpetuity, limiting the ability of businesses to invest in their premises or find insurance.
 - **Delivery risk:** Santon would continue to own over two thirds of the site and LDC cannot compel them to work with any other third parties who do not have any land interest in the site. In addition to this, any alternative scheme that does not offer flood protection would also be almost impossible to find development finance for.
 - **Financial risks to LDC:** As set out in sections 3 and 4, above.

Equality Screening

- 6 Equality analysis has been undertaken as part of the previous Cabinet decisions, and will be undertaken for the next Cabinet decision to progress the Joint Venture.

Background Papers

- 7 Full details of the North Street Quarter planning application can be found at <http://northstreetqtr.co.uk/>

Appendices

- 8 Appendix 1 – Timeline of Previous Decisions on the NSQ Project

Appendix 1: North Street Development, Summary of Cabinet Decisions to Date

01/10/2012	Cabinet Report	Agreement to undertake a feasibility study about the possible disposal of Council land for the inclusion of wider redevelopment scheme for North Street.
23/04/2013	Cabinet Report	Consideration of results of initial options assessment for LDC landholdings at North Street setting out a range of options. Resolved to consider option of entering a Joint Venture arrangement with Santon Group.
30/09/2013	Cabinet Report	Approval to enter into a JV with Santon, subject to planning permission and satisfactory Heads of Terms Agreement for a housing led mixed use development scheme and inclusion of Brook Street car park providing that new parking facilities replace the existing number of spaces currently on site. Agreement to use of CPO powers as required for land assembly subject to future Cabinet approval.
24/04/2014	Cabinet Report	Endorsement of the Masterplan for North Street.
24/04/2014	Cabinet Report	Agreement of Council's landowner prioritised objectives Lewes North Street Development including: Essential 1: Achievement of policy target of 40% affordable housing as far as possible in partnership with a Registered Provider 2: Maximisation of a return through a recurring revenue stream Desirable: 3: Up to 40,000 sq. ft. of commercial floor space including cultural quarter, retail and a health facility 4: Extra care housing; and 5: Improved public realm and improved connectivity with the town Entering a reimbursement agreement and Interim Agreement with Santon Approved submission of a joint application with Santon to South Downs National Park Authorise officers if and when the SDNP determines that planning permission should be granted, to sign a S106 agreement on behalf of the Council as landowner providing such agreement secures the Councils priorities.