

Report to: Leader of the Council

Date: 2 April 2020

Title: North Street Quarter (NSQ) - scheme delivery

Report of: Ian Fitzpatrick, Director of Regeneration and Planning & Deputy Chief Executive

Cabinet member: Councillor Zoe Nicholson, Leader of the Council

Ward(s): Lewes Bridge, Lewes Castle and Lewes Priory

Purpose of report: This report provides an update on progress with securing a Developer for the scheme. It also seeks approval to enter into agreements to acquire third party land and interests at the NSQ site, and confirmation of the Council's minimum requirements from any redevelopment.

Decision type: Key

Officer recommendation(s):

- (1) To delegate authority to the Director of Regeneration and Planning, in consultation with the Leader of the Council and Assistant Director – Legal & Democratic Services, to enter into an Exclusivity (Lockout) Agreement with NSQL's preferred Developer.
- (2) To delegate authority to the Director of Regeneration and Planning, in consultation with the Assistant Director – Legal & Democratic Services, to enter into the necessary legal agreements to acquire third party land and interests at the NSQ, on the terms set out in Appendix 1.
- (3) To confirm the Council's minimum requirements in respect of any redevelopment of the NSQ site.

Reasons for recommendations:

- (1) To progress redevelopment of the strategically significant North Street Quarter (NSQ) site in Lewes.
- (2) The land in third party ownership forms part of the NSQ development site and is required to deliver the permitted scheme.
- (3) To ensure that, should the appointed Developer wish to change the permitted scheme, the Council's minimum requirements from the development (set out in Appendix 2) are fully protected.

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1 Background

- 1.1 At a previous Cabinet meeting on 30th September 2013, it was resolved, subject to agreeing Heads of Terms and securing planning permission, to enter into a joint agreement with the majority landowner at the North Street Quarter (NSQ) – Santon North Street (now North Street Quarter Ltd (NSQL)) . The joint Land Collaboration Agreement (LCA) would, in accordance with planning policy, facilitate the comprehensive redevelopment and regeneration of the NSQ site.
- 1.2 On 7th January 2016, a previous Cabinet approved heads of terms (HoTs) of the LCA between LDC and NSQL, along with the procurement route for the development. These HOTS gave NSQL, as majority landowner and joint venture partner, exclusive rights to undertake the development and made NSQL responsible for the contractual arrangements to appoint the Developer partner.
- 1.3 A planning permission for the NSQ scheme was granted on 25th May 2016 by the Planning Authority (South Downs National Park Authority – SDNPA), with full planning permission being granted for Phase 1 and outline permission for the remaining Phases 2 and 3.
- 1.4 The two landowners continued to negotiate their collaboration and on agreeing the content of the LCA, and in line with the previously agreed procurement route which would see NSQL appointing the Developer, NSQL began marketing the development opportunity on 22nd June 2019. The marketing exercise for a Developer concluded on 9th December 2019 and bids have been assessed.

2 Proposal

- 2.1 At this stage, the Council is not being asked to enter a contract to deliver the scheme. Cabinet is asked to grant delegated authority for the Council to enter into an Exclusivity (Lockout) Agreement with NSQL's preferred Developer for a specified (time limited) period - to be agreed (likely to be 100 days). The Exclusivity Agreement would prohibit the Council from dealing with its land at the NSQ site in any way that would prevent the preferred Developer from entering into a proposed Development contract with NSQL. The Exclusivity Agreement would, for example, prevent the Council disposing of or granting rights in relation to its land at the NSQ to a third party. The Exclusivity Agreement is not, however a legal agreement for the Council to enter into a contract to deliver the NSQ scheme, either during or after the Exclusivity period.
- 2.2 An Exclusivity Agreement is a common form of preliminary agreement that is usually entered into prior to the drafting of contracts. It is intended to reduce the risk of wasted costs and management time on all sides. In this instance it will provide the third party Developer with an opportunity to:

- carry out its own due diligence (i.e. detailed investigations into the title and property) at the NSQ site, and
- negotiate contractual arrangements with NSQL, and commit to a proposed contract, without competition from third parties.

2.3 Following the Exclusivity period, depending on the outcomes of the prospective Developer's due diligence, either:

- a report will be presented to Cabinet which will seek authority for the Council to enter into the necessary agreements to deliver the scheme, or
- if the parties do not wish to progress delivery of the scheme following the Exclusivity period, then the Council would be free to consider other options for its land at the NSQ.

2.4 Alongside the marketing exercise, LDC has continued to work to acquire / assemble the remaining land and interests at the site which are owned by other (third) parties and which are needed to deliver the permitted scheme. Cabinet is asked to delegate authority to the Director of Regeneration and Planning, in consultation with the Leader of the Council, Chief Finance Officer and Assistant Director – Legal & Democratic Services, to enter into legal agreements to acquire outstanding third party interests at the NSQ on the commercial terms set out in Appendix 1.

2.5 It is important that the Council protects the minimum requirements that it would expect to be delivered from a redevelopment of the site. Cabinet is therefore asked to approve the specific requirements set out in Appendix 2.

3 Purchase of assets from the NSQ scheme – Health Hub and Car Park

3.1 In order to secure a recurring revenue stream from the NSQ, Cabinet approved (2nd July 2018) the Council's purchase of the Health Hub and Car Park from the scheme, subject to a satisfactory business case and agreeing a purchase price with joint landowner, NSQ Ltd., in respect of both assets. The Council and its advisors are in the process of completing a financial assessment of these opportunities and a report, including an update on pre-lets in respect of the Heath Hub, will be tabled at a future Cabinet meeting.

4 Outcome expected and performance management

4.1 The NSQ landowners continue to work towards delivery of the scheme. Performance of the NSQ project is monitored via the Council's corporate project monitoring programme, with additional oversight carried out by a dedicated NSQ Members' Board.

5 Consultation

5.1 Public consultation has taken place during the planning application stages of the North Street Quarter scheme, and at subsequent points during its detailed development, for example the public events that took place in 2017 to gather views on the proposed improvements to the Pells and Mallings Recreation areas

and in 2018 on proposals for the appearance and landscaping of Phases 2 and 3 (Reserved Matters). The views of local residents and community groups have been also represented through the North Street Quarter Sounding Board, Landscape & Play Working Group and Design Working Group.

6 Corporate plan and council policies

- 6.1 The NSQ project will meet objectives of the Council’s Corporate Plan 2020-2024 including the delivery of new flood defences, affordable housing and local employment opportunities. Policy SP3 of the Lewes District Local Plan: Part 1 Joint Core Strategy 2010-2030 calls for the comprehensive regeneration of the North Street site - an important gateway to the town. The NSQ site is a strategic allocation in the Council’s Joint Core Strategy and constitutes a significant proportion of its housing target.

7 Financial appraisal

- 7.1 Since January 2016, Cabinet has approved total capital expenditure of £6.15m for the NSQ scheme as detailed below. The Blue Light Hub (for which costs are recoverable) and Temporary Car Park schemes have yet to be developed. To date, the Council has incurred £1.3m of recoverable costs in relation to the NSQ scheme.

The Council has been successful in bidding for £10m of Housing Infrastructure Fund (HIF) which will only be available if the scheme is delivered. This funding is to support delivery of additional new homes.

Available Resources	£'m
Capital costs (of acquiring long leaseholds and delivery)	1.7
Design and build of a new Blue Light Hub on site of Springman House, etc.	3.5
Development of the Temporary Car Park on site of 20 to 24 North Street	0.7
Recoverable contribution to planning fees	0.25
Total allocation	6.15
Housing Infrastructure funding (HIF)*	10.0*

* The funding will be fully recovered by the Council in later Phases 2 & 3 and will be used to deliver additional new homes in the District.

The consequences of non-delivery of a scheme are as follows:

- The town will not benefit from the community benefits which form part of Phase 1, including the Health Hub which will deliver much needed new premises for the GPs and their 28,000 patients
- Should the NSQ scheme not go ahead, then the area will remain at significant risk of flooding. Piecemeal development of land in the area (including Council owned land) will not be supported by the Planning Authority
- The District will not benefit from the 416 new homes (including 165 new affordable homes) that the scheme will deliver or the new employment

floorspace included in Phase 1

- The £10m HIF funding would not be secured meaning the loss of a further estimated 200 new homes in the District
- The planned improvements to Pells and Malling recreation areas (to be funded by the scheme) will also not go ahead

The financial advice is in support of recommendations included in this report.

8 Legal implications

8.1 The legal implications are set out in the body of this report and the appendices.

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9 Risk management implications

9.1 The financial implications of the proposed acquisitions are set out in Appendix 1. The Council continues to work with partners to deliver the NSQ development. Officers continue to engage with the Council's legal, commercial and financial advisors to minimise the risks to the Council at this stage of the project. The LCA will establish the terms on which the Council will proceed.

10 Equality analysis

10.1 An Equality and Fairness Analysis for the NSQ scheme was undertaken and subsequently updated when potential impacts of the scheme changed. There are no new equality impacts arising from this report. A copy of the analysis is available on request from the report author.

11 Sustainability implications

11.1 The NSQ scheme meets objectives in the Council's Sustainability Policy 2018 specifically by delivering development in a sustainable location (brownfield site), reducing the risk to local communities of flood events, delivering energy efficient new homes, including affordable homes in line with housing need, and improving biodiversity.

12 Appendices

12.1 Appendix 1 - Commercial detail of proposed acquisitions, and form of legal agreements (Exempt)

Appendix 2 - LDC minimum requirements from the NSQ scheme (Exempt)