

Supplementary Committee Agenda



**Epping Forest
District Council**

Cabinet Thursday, 23rd July, 2015

Place: Council Chamber
Civic Offices, High Street, Epping

Time: 7.00 pm

Democratic Services: Gary Woodhall
The Directorate of Governance
Tel: 01992 564470
Email: democraticservices@eppingforestdc.gov.uk

19. ANY OTHER BUSINESS

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules contained in the Constitution require that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order 6 (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks' notice of non-urgent items is required.

19.a SITE OF FORMER SIR WINSTON CHURCHILL PUBLIC HOUSE, LOUGHTON - DEVELOPMENT AGREEMENT (Pages 131 - 134)

(Asset Management & Economic Development Portfolio Holder) To consider the attached report (C-020-2015/16).

19.b EPPING FOREST SHOPPING PARK - PROGRESS REPORT (Pages 135 - 140)

(Asset Management & Economic Development Portfolio Holder) To consider the attached report (C-021-2015/16).

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Report to the Cabinet

Report reference: C-020-2015/16

Date of meeting: 23 July 2015



**Epping Forest
District Council**

Portfolio: Asset Management and Economic Development

Subject: Site of Former Sir Winston Churchill Public House, Loughton –
Development Agreement

Responsible Officer: Derek Macnab (01992 564051).

Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

(1) That Agreement is given to:

(i) a variation of the Heads of Terms for the Development Agreement with CK Investment (Loughton) Ltd, to allow a Novation Agreement and Deed of Variation and Consent which changes the party responsible for constructing the development to Higgins Homes Plc and they be granted an under-lease accordingly; and

(ii) a variation of the lease to permit access for tenants to carry out repairs on the neighbouring car parking area, but that a clause is inserted to prevent obstruction;

(2) That the Asset Management and Economic Development Portfolio Holder be authorised to agree minor amendments to the documentation, in consultation with the Director of Neighbourhoods.

(3) That the Call-In procedure with respect to this decision be waived on the grounds of Urgency in order to prevent further delay to the start of the development.

Executive Summary:

This report seeks Members' agreement to a variation to the Heads of Terms of the Development Agreement with respect to the site of the former Sir Winston Churchill Public House, in Loughton. If agreed, the party responsible for construction will change to Higgins Homes Plc.

Reasons for Proposed Decision:

The Council has previously agreed Heads of Terms with CK Property Investments (Loughton) Ltd for the redevelopment of the site of the former Sir Winston Churchill Public House in Loughton. The previous decision gave authority for the Asset Management and Economic Development Portfolio Holder to agree minor amendments to the contract documentation. However, matters have now arisen, which are considered to be outside of the scope of "minor" amendments and as such the report seeks the full Cabinet's consideration.

Other Options for Action:

The Cabinet may choose not to agree the proposed variations. This action, would delay the approved development scheme for the site, which has been vacant for several months. In addition, this would also cause further delay to the regeneration benefits sought by the Debden Town Centre and Broadway Development Options Brief.

Report:

1. In September 2013, the Asset Management and Economic Development Portfolio Holder proposed Heads of Terms for a Development Agreement for the Sir Winston Churchill Public House site. The form of development proposed was, in accordance with the previously adopted Debden Town Centre and Broadway Development Options Brief. Cabinet agreed the Heads of Terms and a period of negotiation was undertaken with the developer, CK Property Investments (Loughton) Ltd. As a result of these discussions, a subsequent report was considered by Cabinet in December 2014, which agreed a further variation of the Development Agreement. This variation guaranteed that the Council retained the freehold and income from the commercial premise to be developed on the site, as this would be financially advantageous to the authority. As part of this decision, the Portfolio Holder for Asset Management and Economic Development was authorised to agree minor amendments to the documentation in accordance with the Director of Governance. This has been the Council's accepted practice in such circumstances. However, the developer CK Property Investments (Loughton) Ltd has now requested yet further variations. Firstly a Novation Agreement has been requested. If agreed, this would change the identity of the party responsible for constructing the development. Secondly, a variation of a lease which permits access for the tenants to carry out repairs on the neighbouring car parking area and finally an agreement to an under-lease to Higgins Homes Plc, is also sought.

2. These variations fall outside of the definition of minor, being more material in nature. As they have not been referred to previously, the full Cabinet is now being made aware and authority sought to their agreement.

3. The proposed variations do not affect the design or scale of the development, which will remain as per the current planning approval granted by District Development Management Committee. However, if agreed it will mean the construction of the development will now be undertaken by local company, Higgins Homes PLC, whose headquarters are in Loughton. Higgins Homes Plc have a track record of undertaking both residential, public sector and commercial developments in the District. The Novation Agreement sought, would make Higgins Homes Plc responsible for constructing the development. To this end they are requesting that they would be granted an under-lease in the revised Heads of Terms.

4. The other variation sought is to a lease permitting access to carry out repairs on the neighbouring car parking area for the tenants, which currently makes no provision for preventing obstruction of other users. It is recommended that it is reasonable to allow access for repairs, but that a clause to prevent obstruction should be inserted. This also presents an opportunity to address some related issues in relation to the responsibility for the repair, maintenance and insurance of the two car parks remaining in the Council's ownership.

5. The site has been vacant for some time. In order to bring forward commencement on site at the earliest opportunity to deliver the new homes and regeneration benefits, a waiver of the Council's call-in procedure is sought on grounds of Urgency.

Resource Implications:

There are no adverse financial implications in relation to the variations sought. However, it should be recognised that the sooner the development is built and the resulting commercial premise let, the quicker the Council will benefit from rental income.

Legal and Governance Implications:

Covered in main report.

Safer, Cleaner and Greener Implications:

No specific implications although any vacant construction site has the potential to attract anti-social behaviour. The development will be built to modern energy efficient standards.

Consultation Undertaken:

Public Consultation was undertaken as part of the Planning Application.

Background Papers:

Adopted Debden Town Centre and Broadway Development Options Brief 2008.
Reports to Cabinet 9th September 2013 and December 2014.

Risk Management:

Given the financial strength and experience of Higgins Homes Plc, who, if agreed, will undertake the construction, it could be argued the risk of the development not being successfully completed has been mitigated to some extent.

Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

The new development will be fully accessible to people with disabilities in accordance with the requirements of current building regulations.

Report to the Cabinet

Report reference: C-021-2015/16
Date of meeting: 99 Month Year



**Epping Forest
District Council**

Portfolio: Asset Management and Economic Development
Subject: Epping Forest Shopping Park – Progress Report
Responsible Officer: Chris Pasterfield (01992 564124).
Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) That the Cabinet considers and notes progress on the Epping Forest Shopping Park project; and
- (2) That the Cabinet agrees, retrospectively, the licence to enable temporary car parking on the T11 Site for the monthly rental charge of £2,000 per month.

Executive Summary:

This report advises Members on progress with respect to the development of the new Epping Forest Shopping Park in Langston Road, Loughton.

Reasons for Proposed Decision:

The Council having acquired the interest of their development partner Polofind Ltd, is now the sole owner, developer and future operator. The project represents a major capital investment on behalf of the Council. Bringing forward the development is not only complex but has an element of risk. As such, Cabinet has requested progress reports at each cycle of meetings.

Other Options for Action:

None as this is in accordance with a specific request of the Cabinet.

Report:

1. Following the recommendation of Cabinet that the Council buy out the interest of their development partner, an Extraordinary Council Meeting held on the 23 June 2015, agreed the purchase. Practical completion for the purchase of the T11 Site was subsequently achieved on the 3 July 2015. As a result, the sole responsibility for bringing forward the construction, letting and future management of the shopping park, now lies with the District Council.

Project Management

2. The Council and Polofind Ltd had previously appointed a consultant project team to undertake all of the necessary technical and legal requirements, to deliver the shopping park. A number of these consultants were engaged by Polofind Ltd, although the District Council

has met 50% of the costs. The process of transferring their commissions solely to the District Council is underway. Notwithstanding, the project team continues to meet on a regular basis, their work co-ordinated by an experienced project manager from White, Young and Green. In support of this technical work, the Council has appointed a firm of specialist solicitors, DAC Beachcroft, to advise on the letting of the construction contract for the shopping park. The contract now must be procured under EU Regulations, as a solely public sector contract. The Highways contract does not reach the OJEU threshold and is being competitively tender separately. Finally, the Council retains the services of Colliers, who are actively marketing the site and securing potential tenants. A report on general progress of the respective technical areas is detailed below.

Highways

3. In order to enable the development of the shopping park, a significant highways improvement scheme is being provided. This will not only facilitate good access to the retail units, but will also benefit the wider area, which has suffered from congestion for some time. The S278 Highways Works have been fully designed by the Council's consultants and all necessary consultation undertaken with Essex County Council Highways. It is hoped that full technical approval will be formally granted by the end of July 2015.

4. The Traffic Regulation Order process, to be undertaken by Essex County Council, is ready to commence, but has been delayed by an objection raised by the BP Petrol Station in Debden Broadway. This has been submitted late in the day, despite the company having had several opportunities to comment through the consultation period. BP contests that, as designed, the proposed exit arrangements from the site could have a negative effect on their trade. They have submitted an alternative scheme. The issue is due to be considered and determined by the County Council's Highways Portfolio Holder in early August 2015.

5. Five civil engineering contractors have been identified to tender for the Highways Works. If Essex County Council's technical approval is achieved by the end of July 2015, tenders are expected to be issued to achieve a tender return and award in late September 2015. With a predicted 35 week construction period, work is expected to begin in February 2016 with completion in May 2016.

Planning

6. The Reserved Matters Planning Application was approved on the 10 June 2015. Work continues on condition information requirements.

Architectural

7. The shopping park is to be constructed under a design and build contract arrangement. A set of Architectural Tender Drawings has been drawn up and issued, which will form the central part of the competitive procurement process. The project architects are liaising closely with the Mechanical and Electrical Engineers and Structural Engineers, who have not identified any significant issues at present.

Utilities

8. Quotations for the installation of utilities, required to service the development and associated highways works, have been received. The phasing and co-ordination of utilities' work with highways construction work, is currently under review, to minimise risk and potential disturbance.

CDM/Health and Safety

9. Due to changes in the CDM Regulations, the role of CDM Co-ordination has been replaced by the role of Principal Designer. As a consequence, the Council must formally appoint to this role, for both the Retail Park and the S278 Highways Works. This process has commenced.

Procurement

10. The OJEU restricted procurement timetable, for the appointment of the main contractor to build the shopping park, is being worked on by the Council's external solicitors. It is still hoped that the complex can be completed for fit-out by tenants by October 2016, to facilitate opening for the Christmas period.

Marketing/Letting

11. Strong interest in the shopping park is still being shown by the retail market. Positive discussions with a number of key anchor tenants have reached an advanced stage. The objective is to achieve a good level of pre-lets before the construction contract is signed, therefore mitigating risk.

Relocation of Other Users

12. The Council's Waste Contractor, Biffa Municipal, vacated the Council's Depot in May. The construction contract for the new depot at Oakwood Hill has been let. The successful contractor has mobilised and work is due to commence at the end of July 2015. If this programme is achieved, the Council's Grounds Maintenance and Fleet Operations should be able to relocate in April 2016. Temporary accommodation has been secured at Grangewood House on the Oakwood Hill Estate. The Museum Collection is timetabled to move to this location by September 2015.

13. The T11 Site acquired by the Council has been utilised by the previous owners as a car park for employees. Given that the physical redevelopment of the site will not commence for several months, a request to continue this use has been received. At a rent to the Council of £2,000 per month, this is an additional source of revenue. A licence has been entered into which ensures that the Council can achieve vacant possession when required. Due to the timescale between Cabinet meetings, this action requires retrospective approval.

Resource Implications:

The Council has purchased the interest of Polofind Ltd and in particular, the T11 Site for £10,250,000, plus stamp duty and agent's fees, in accordance with the agreed Heads of Terms. Adequate provision has also been agreed to fund the construction of the shopping park and the associated S278 Highways works. Final costs will be determined through the competitive procurement process. The development appraisals prepared by Colliers will be kept under review, with respect to lettings income.

Legal and Governance Implications:

The Council has engaged legal advisors to support the procurement process. Although Cabinet will continue to receive regular progress reports, it is intended that the Asset Management Cabinet Committee take on the role of more detailed scrutiny of the project to ensure that good governance continues to be achieved.

Safer, Cleaner and Greener Implications:

Highways improvements will reduce congestion and emissions. Security at the shopping park will involve the use of ANPR and CCTV

Consultation Undertaken:

Essex County Council Highways.

Background Papers:

Report to Cabinet 11 June 2015.

Report to Council 23 June 2015.

Risk Management:

The project is subject to constant risk management with a formal Risk Assessment Register reviewed regularly at Project Team Meetings.

Due Regard Record

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The new shopping park will be fully accessible with facilities for people with disabilities and young children.

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