

**POLICY, RESOURCES & GROWTH
COMMITTEE**

Agenda Item 26

Brighton & Hove City Council

Subject:	Grant of new leases Shoreham Airport		
Date of Meeting:	13 July 2017		
Report of:	Executive Director for Economy Environment & Culture		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The freehold of the airport is owned jointly by Brighton & Hove City Council (“BHCC”) and Worthing Borough Council (“WBC”) (together “the councils”) with BHCC owning 2/3 and WBC owning 1/3.
- 1.2 In October 2016 the administrators of the head lease contacted the councils with a proposal which the administrators believe will maximise the value of the site including their purchase of the freehold of the site and bringing forward a development on land for use as a new employment site.
- 1.3 Since this initial approach, officers from the councils have met with ICG and the administrators a number of times to progress negotiations. These negotiations have worked to ensure the airport and commercial estate continue to function, and ensure that the administrators continue to invest in the airport and surrounding business units and assist in facilitating the new development of employment land. These negotiations have also sought to protect the councils’ interest in the site with regards to future value opportunities.
- 1.4 This report summarises the current negotiated position with the administrators, and seeks agreement to enter into new leases on this basis. It also identifies other options and potential outcomes of not proceeding. It is complemented by a separate report in part two of this Agenda.

2. RECOMMENDATIONS:

That Committee notes the approach made by the administrators and authorises:-

- 2.1 The surrender of the existing head leases.
- 2.2 The grant of a new 350 year lease on the whole site outlined red on the plan at Appendix 1 in return for:
 - (i) the payment of the £1 million outstanding debt owed
 - (ii) the payment of a lease premium detailed in the part 2 report

- (iii) the dedication of approximately 8 acres of land to facilitate the Environment Agency's flood defence project
- (iv) dedication of land for a memorial garden for the Shoreham Airshow Crash

Such lease to contain a wider user clause than the existing lease to enable commercial use and development of the land shown coloured blue on the plan at Appendix 1, and permit the underletting of further parts of the airport as shown on the indicative lotting plan at Appendix 1.

- 2.3 That the Committee delegates agreement of the detailed lease terms and all other steps necessary to enable the proposals outlined in this report to proceed to the Executive Director Economy Environment & Culture and Assistant Director of Property.
- 2.3 That Committee notes that the two previous schemes approved by Policy & Resources Committee on 1 May and 16 October 2014 are no longer proceeding.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Founded in 1910, Shoreham Airport ("the airport") is the oldest airport in the UK. The freehold of the airport is owned jointly by Brighton & Hove City Council ("BHCC") and Worthing Borough Council ("WBC") (together "the councils") with BHCC owning 2/3 and WBC owning 1/3.
- 3.2 In June 2006 the Councils granted two linked long headleases of the whole site to the Erinaceous Group for the total sum of £9.1 million. £1 million of this consideration was deferred in return for the lessee agreeing to expend £4 million towards the improvement of the Airport including refurbishing the Grade II listed Terminal Building and Municipal Hangar. Any failure to make the required investment in the Airport within five years triggered payment of that deferred £1 million. The works were never carried out and the £1 million deferred consideration remains due. The 2 headleases have approximately 140 years unexpired.
- 3.3 In 2009 Erinaceous entered into insolvency and sold their interest in a fire sale to Albemarle Shoreham Airport Limited ("ASAL"). In taking an assignment of the two linked long leases ASAL also inherited the requirement to invest the £4 million in the refurbishment of the Airport by a revised deadline of 28 October 2013. During 2013 it became clear that the £4 million investment in the Airport was not going to be achieved by the revised deadline. An invoice for the £1 million deferred consideration was raised in May 2014 and remains unpaid.
- 3.4 Regular discussions between ASAL and the councils had been taking place to explore the most effective way of securing the medium and long-term future of the airport. At the request of ASAL the councils have approved two alternative schemes in May and October 2014 through Policy and Resources Committee (BHCC) and Joint Strategic Committee (WBC) by which the lease of the airport could be varied to enable commercial development of the open areas. Disappointingly, neither of these schemes progressed despite pressure by council officers on ASAL.

- 3.5 On 9 September 2016 ASAL's largest creditor ICG Longbow SARL ("ICG") appointed Menzies LLP ("the administrators") to run the business.
- 3.6 The councils have an ongoing financial interest in the airport on account of the following:
- ASAL owe the councils £1m plus interest in respect of deferred consideration for the purchase of the airport.
 - As the current leaseholder is in administration any interest owing on the deferred consideration will be an unsecured debt and unlikely to be recoverable).
 - The council receives annual income for providing consents to allow non-aviation based use at the airport for the Wild Life music festival.
 - Should the leaseholder carry out non-aviation related development on part of the site it would have to apply to the councils for a relaxation of the user covenants in the lease. This value would be captured by the overage which entitles the council to 20% of any land value, less costs of development.
 - The airport is earmarked in the Greater Brighton City Deal as a 'Growth Hub' location (details at Appendix 2) which, along with Shoreham Harbour, is hoped to provide an estimated 1,740 new skilled jobs for the city region.
- 3.7 The administrators have approached the councils with a new business plan for the airport. This plan includes development as follows:
- 3.8 Permit the Environment Agency (EA) to develop flood defence structures and dedicate land to enable further flood protection on the site. ASAL will subsequently assume ongoing riparian responsibility over this once built. This will provide flood protection for future properties built on the site and benefit all occupiers, the EA and Local Authorities involved.
- 3.9 The administrators propose to work in collaboration with the owner of the adjoining New Monks Farm development site (Brighton & Hove Albion Football Club) and prepare a planning application to submit jointly in the near future. This is likely to include a new access from the A27 which would be required to facilitate both the new housing development site and any new employment space on the airport land referred to at 3.10 and 3.13 below.
- 3.10 Potential development of 15,000 - 25,000 sq m of commercial space on the eastern side of the airport. This land is described in the Adur local plan as capable of providing a minimum of 15,000 sqm of new employment generating floorspace (both aviation and non-aviation related), including a mix of B1 (business), B2 (general industry) and B8 (storage)/hangar uses. This is likely to require significant highway alterations at the "Sussex Pad" junction and a new access roundabout to be provided in conjunction with the New Monks Farm development.
- 3.11 The administrators are currently consulting on what type of development would suit the site to provide for greatest value. They are aware of the councils' desire

for job creation and its link to the Greater Brighton City Deal. In order to enable this development, covenants within the lease will need to be relaxed or released and the development will generate income for the council as landowner through the overage clauses that exist. The development of commercial space was earmarked as part of the Greater Brighton City Deal (Appendix 2) in conjunction with certainty over future investment in flood defences at Shoreham Airport.

- 3.12 ICG and the administrators also propose to provide space for a memorial garden for the victims of 2015 Shoreham Airshow plane crash. Details of this to be confirmed.
- 3.13 By granting this extended lease and facilitating the improved flood defences, this agreement will help to secure private sector investment to create a major new Growth Hub at the airport
- 3.14 ICG have been consulting with Adur District Council as local planning authority regarding this development and submission of an outline planning application is expected imminently.
- 3.15 The administrators will seek to sell sub-leases of the four main areas (identified at Appendix 1) to separate purchasers once the long lease has been granted and planning permission is in place, including the disposal of the development site for delivery by a developer.
- 3.16 The administrators have informed the council that, as part of their commitment to investment in the site, a building contract for repairs to the Grade II listed Municipal Hangar has been signed with works to commence on 12th June 2017. It is estimated that the contract sum is circa £500,000 including fees.
- 3.17 The administrators have also embarked upon a number of asset management initiatives such as a re branding exercise including improved signage for the whole estate, essential road repairs and urgent works to drainage systems. This investment is likely to be in the region of £200,000. It is hoped that these works will raise the profile of the airport to make it more attractive to occupiers generating further investment and economic benefits for the region.
- 3.18 The administrators (backed by ICG) have indicated they would be able to pay the councils the £1m deferred consideration and lease premium in return for the council facilitating the regeneration and development at the airport and granting a new 350 year lease of the site, thus enabling ICG to recover as much debt owed as possible.
- 3.19 The councils' officers have negotiated and can recommend a new lease of 350 years which is agreeable to ICG and the administrators in exchange for a premium detailed in Part 2 of this report, with conditions attached as per 2.1(a) above. This will make the site attractive to developers and enable commercial funding to be sought and enable the councils to recover the outstanding money owed.
- 3.20 The councils would continue to retain the freehold of the site and would be entitled to share overage on the development land and other airport land, protecting value for the future.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 Retain existing leases

Retention of the existing headleases would put the housing development at neighbouring New Monks Farm under threat as the considerable highway improvements required are likely to require cooperation from both landowners. If the local planning authority (Adur District Council) were minded to they could mitigate this risk by working in partnership with the house-builder and use CPO powers to compulsorily purchase the land from the administrator but with significant risk and delays.

4.2 Without extending the user clause the administrator would continue to be restricted from developing the eastern part of the site for commercial (non-aviation) use. The administrators' appointment is for one year but this may be extended further if the court grants permission.

4.3 It is important to note that the councils do not have to consider any application by the administrator to assign (sell) the leasehold interest if the councils have not received the £1m deferred consideration.

4.4 Accept a Surrender of the Headleases

The councils could consider paying a premium to the administrator for surrender of the leases to enable greater control over the future development. This would enable the council to off-set the £1million owed and enable the councils to benefit from the full value of the uplift in any change of uses. To do this the councils should consider refusing any change of use requests and drive best value from any surrender. It is not thought that the councils have the current resources or appetite to deliver this option. It presents a significant risk to delivery and the administrators are unlikely to be receptive as they are seeking to recover significant sums owed.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 There is no requirement for community consultation in relation to the proposals of this report. Any future development of the site on which these recommendations are premised will be subject to public consultation as part of the planning process.

6. CONCLUSION

6.1 In conclusion, to facilitate the delivery of the growth hub earmarked in the Greater Brighton City Deal, recovery of the £1 million deferred consideration, a memorial garden and assist in the delivery of the New Monks Farm housing development, which assists Adur Council in meeting the housing delivery earmarked in the Adur Local Plan, it is recommended to proceed to grant a new long lease on the airport, subject to the conditions above.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The payment of the £1.0m outstanding plus any interest due, and lease premium will be split 2/3rds for Brighton and Hove City Council and 1/3rd to Worthing Borough Council in line with the freehold ownership. The capital receipt will be used to support the council's corporate capital investment strategy. In the event that the leaseholder carry out the development of the site which is not associated with aviation related development the council would be entitled to an overage payment of up to 20% of any land value, less costs of development.

Finance Officer Consulted: Rob Allen

Date: 15/06/17

Legal Implications:

- 7.2 Section 123 of the Local Government Act 1972 places the Council under a statutory duty to sell land at the best price reasonably obtainable. In this case, the disposal has not been marketed but the Council's Valuer (the Assistant Director of Property) has produced a valuation report and is satisfied that the proposals represent the best value the Council could achieve.

Lawyer Consulted: Alice Rowland

Date: 25/06/17

Equalities Implications:

- 7.3 There are no equalities implications directly arising from this report and an equality impact assessment has not be carried out.

Corporate / Citywide Implications:

- 7.4 The Airport has failed to deliver job creation due to poor management of the tenant in administration, despite numerous schemes being proposed, there has been no delivery to meet wider employment generation aims.
- 7.5 This presents an opportunity to facilitate the delivery of the outcomes highlighted in the Greater Brighton City Deal as well as leading to wider investment in Adur District and the wider greater Brighton region and promoting inward investment in the region.

SUPPORTING DOCUMENTATION

Appendices:

1. Plan of proposed sub lease areas
2. Greater Brighton City Deal:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/288903/Greater_Brighton_City_Deal.pdf