

<b>Subject:</b>	<b>Grant of Development Option at Land at Corner of New England Street and New England Road</b>		
<b>Date of Meeting:</b>	<b>8th October 2020</b>		
<b>Report of:</b>	<b>Executive Director, Economy, Environment &amp; Culture</b>		
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<b>Ward(s) affected:</b>	<b>St Peter's &amp; North Laine;</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Following an options appraisal, this report seeks authority to grant a Development Option Agreement to QED Estates, subject to returning to Committee within 6 months with a defined Business Case for approval to proceed subject to planning on the sale of a long lease to QED Estates for a defined development scheme.
- 1.2 QED are the freehold owner of 45% of the site. BHCC own the remaining 55% consisting of 3 parcels of land adjoining QED's ownership. Working in collaboration with QED, the intention is to facilitate a comprehensive redevelopment of the assembled site. See site plan Appendix 1
- 1.3 The 3 parcels of council owned land largely fall within a wider strategic allocation in the City Plan (Part 1) for new employment floorspace and residential development – and are covered by further planning guidance in the London Road Central Masterplan (SPD 10).
- 1.4 The site has been assessed through the asset disposal process to support the Medium-Term Financial Strategy and achievement of capital receipts as approved by March 2020 Policy & Resources Committee. The site has been identified as surplus to requirements and is not required for council redevelopment of 100% affordable council housing units.

**2. RECOMMENDATIONS**

- 2.1 That the Committee authorise the council to enter a Development Option Agreement with QED with a long stop date of 31<sup>st</sup> August 2024 (co-terminus with an existing lease on the site coloured orange). Within six months, a Business Case will be presented to this Committee for approval to proceed through the planning phase. At this stage, delegated authority for the Executive Director of Economy, Environment and Culture will be sought to finalise detailed terms to

grant 250-year leases of up to three sites at Market Value, subject to achieving satisfactory planning consent.

### **3. CONTEXT/ BACKGROUND INFORMATION**

3.1 The council owns three parcels of land, shown on the plan at Appendix 1, which in summary includes:

- Site coloured orange: Former Cobblers Thumb pub, Leased by BHCC on an Excluded lease to QED Estates Limited until 31 August 2024 for use as either Temporary Accommodation or Commercial Use in line with any planning consents. The site is currently used to accommodate 8 small business units under a temporary planning consent that expires 7 May 2023.
- Site coloured pink: Leased by BHCC to GE Richardson and Son metal recycling for use as a 'Metal Merchants' (metal recycling and waste processing). This lease is protected and expires 31<sup>st</sup> May 2063.
- Site coloured blue: Under Licence from BHCC to GE Richardson and Son for use as temporary parking in association with their adjoining lease (coloured pink) as a metal merchants (metal recycling and waste processing). This agreement ends 24 December 2020 but has historically been renewed annually.
- Site coloured green: forming approximately half of the site, owned freehold by QED's investment company and is used in conjunction with the Orange Site. This site accommodates 36 units of emergency residential accommodation under a temporary planning consent expiring 7 May 2023.

3.2 It is important to note that the green and orange sites (see attached plan) operate under a temporary planning consent expiring on 7<sup>th</sup> May 2023. This temporary planning consent cannot be renewed and relocation of the site uses is required.

3.3 The intention is to relocate the existing uses to alternative sites before the site is redeveloped (See Part 2 Report).

#### Planning

3.4 The sites coloured pink and blue (the Richardson's building and adjacent parking) form part of a wider strategic allocation (with the adjoining Enterprise Car Hire/Brewers sites) for 3,000m<sup>2</sup> of office and research employment floorspace and residential development within the allocation DA4 of City Plan Part 1 (New England Quarter and London Road Area).

3.5 As well as the City Plan, the London Road Central Masterplan (SPD 10) provides further planning guidance covering all of the sites, which also fall within the periphery of a 'tall buildings node' as described in supplementary planning guidance note SPG 15 ('Tall Buildings').

3.6 The current use as the 'shipping container village' was granted a temporary planning consent for interim use, whilst permanent regeneration proposals were brought forward. It is a requirement of BHCC Planning Department's consent BH2017/02795 that the buildings "shall be permanently removed from the site on

or before 7 May 2023 in accordance with a scheme of works which shall be submitted to and approved in writing by the Local Planning Authority”.

- 3.7 This temporary consent was renewed in January 2018 to extend the temporary use until 7<sup>th</sup> May 2023. This permission was against national planning policy but justified due to the lack of proposals for a permanent development. It was felt that an extension to the temporary planning consent would not prejudice a more comprehensive regeneration of the site and planning officers have sought to encourage a more comprehensive regeneration of the wider area through their comments and report.
- 3.8 Council officers are proposing a proactive approach and now seek to bring forward permanent solutions for regenerating this site upon expiry of the current uses, to avoid the site being held vacant in the future with associated costs. This will allow time for engagement with all stakeholders, leaseholders, Brighton Housing Trust who manage the meantime accommodation as well as local residents and businesses.
- 3.9 QED have been working closely with Brighton Housing Trust and have a process in place for the relocation of the 36 emergency residential units. All tenants will be offered alternative accommodation and the process will be closely managed to ensure this occurs. This process is consistent with the Homeless and Rough Sleepers Policy approved at Policy and Resources Committee on 9<sup>th</sup> July 2020.
- 3.10 BHCC are working closely with QED on alternative sites for the relocation of GE Richardson. Initial consultation is underway.
- 3.11 More detail on the relocation plans will be provided in the Business Case to be presented in the future

#### Planning Considerations

- 3.12 It is unlikely any extension of this second temporary consent would be granted consent and the current temporary permissions expire in May 2023. QED Estates are actively engaging with Brighton Housing Trust and council officers to look at alternative options for the provision of temporary accommodation within the city to off-set this potential future loss. This will work in conjunction with BHCC Homeless and Rough Sleeper Strategy to ensure full rehousing.
- 3.13 This site is currently unsightly and the combination of temporary accommodation and industrial waste processing is not considered to be a complimentary mix of accommodation for a permanent development.
- 3.14 Following the grant of planning consent at Longley Industrial Estate and proposals for Vantage Point, this area is one of the few remaining sites that has not been regenerated in the New England Quarter.
- 3.15 The site is likely to suffer from historic contamination from its previous and current use. Issues of noise environment, amenity and contaminated land have been noted and a comprehensive redevelopment of the whole site has been recommended to address these through a permanent scheme of development where costs of remediation can be spread across a greater quantum of development reducing viability issues seen with a smaller development.

- 3.16 Policy also notes that the use of these units for more long term 'temporary accommodation' may not be suitable for occupation on a more permanent basis.

Proposal

- 3.17 Entering a time limited Development Option Agreement to QED Estates (co-terminus with the current lease agreement on the orange site and shortly after the current planning expiry on the orange and green sites) will enable QED in collaboration with BHCC to engage pro-actively with the local planning authority and stakeholders. This will lead to the submission of a proposal for the comprehensive re-development of the larger assembled site under a considered master plan, avoiding piecemeal development of individual sites, and is therefore likely to maximise both quantum of development and the value of the sites.
- 3.18 The proposed subject to planning option is for a period to 31<sup>st</sup> August 2024 being co-terminus with QED Estates lease on the orange site. There will be the ability to extend the option if planning has been submitted before 31<sup>st</sup> August 2024 but not yet determined to a time 3 months post satisfactory planning consent or appeal determination. The site will be leased at a peppercorn rent. The sale price will be the residual land value to be determined by a jointly appointed valuer apportioned on a pro rata floor area basis as between the land to be purchased from the BHCC and the land owned by QED.
- 3.19 Whilst no detailed planning work has been undertaken, a comprehensive high level massing study across the whole site has been reviewed. The high level scheme would provide 568 sq m of commercial space with active frontage at ground floor and up to 64 housing units (27no 1 beds and 37no 2 beds) in up to 8 storeys of accommodation. It is important to note that no pre-application advice has been received on this and subject to planning the mix of uses and size of units can vary accordingly.
- 3.20 Affordable housing proposals for any development on the site will be subject to the council adopted policy standards as an absolute minimum per the City Plan Part 1 and viability.
- 3.21 The council's design advice confirms that the most economic option would be to combine all four sites which would enable a comprehensive re-development on a scale which would be comparable to the proposals on Vantage Point, the Longley site and the already developed New England Quarter.
- 3.22 Viability across the site is improved with the wider comprehensive site development allowing abnormal costs to be spread across a greater development. The more viable the development, the greater affordable housing delivered without additional subsidy. Third party development costs are also significantly cheaper than the council's build costs so will likely yield a more efficient development and higher land receipt whilst delivering more affordable units without subsidy. The sites will likely still suffer from contamination (potentially ongoing) from the adjoining pink site meaning likely remediation works for a permanent scheme of development will be required as an abnormal cost in any scheme. The larger the scheme of development, the greater dilution of these costs resulting in an increase in viability. With all schemes, issues with

amenity and environment that will need to be addressed are most easily managed in the comprehensive development proposals.

- 3.23 The Development Option Agreement will also provide QED Estates with confidence to engage with the long leaseholder of the pink site, GE Richardson and Son, with a view to acquiring the existing long lease of this site. It will also allow QED to incur costs on risk, with certainty that subject to meeting certain conditions, they have the security of purchasing the sites at market value.
- 3.24 QED Estates are well known to BHCC and have a strong track record of engagement with adjoining landowners and of delivery of mixed-use development within the city. They delivered the initial redevelopment of the New England Quarter. In addition to the social benefit of the TA Housing Scheme, the redevelopment of this final corner of New England Quarter provides the opportunity for positive change, allowing improvements to local air quality, improving access onto The Greenway and provide much need public housing. QED have confirmed they will undertake a practical approach to reducing carbon emissions which will be borne out in pre-planning application discussions. QED are focussed in addressing the whole life carbon footprint of the building, the role embodied carbon plays here and steps that can be taken to reduce upfront and overall carbon emissions using life cycle analysis. QED are aligned with the Council's target of a carbon neutral City by 2030.
- 3.25 It is considered QED are better placed to acquire necessary third party interests by agreement, will have lower build costs and greater capacity when seeking to deliver the benefits of a more comprehensive development.
- 3.26 The Development Option Agreement will protect the value of the council's interest on a pro-rata basis, based on an apportionment of the valuation of any final planning consent. The capital receipt received will depend on the extent of the final scheme and will be determined by an independently appointed chartered surveyor, ensuring that the council will receive best consideration.
- 3.27 Any development proposals for the land in council ownership will require the consent of the council acting reasonably in its capacity as landowner. The proposals will then be subject to the usual public engagement and consultation process with local residents and stakeholders through the planning process.
- 3.28 A comprehensive development would allow taller, more efficient footprints, a greater number of units and the ability to provide further employment space. This advice indicates that the height could possibly be increased to 6 storeys towards the rear of the site which would be at a similar level to the Vantage Point building and matches the height of the former railway sidings/greenway and even a link to it from the roof tops, subject to any necessary planning considerations.
- 3.29 Granting a Development Option to a third-party developer with a proven track record of delivery would not preclude the council from re-acquiring built units once constructed for use for its own operational/housing need, potentially off plan. This would form part of a separate business case for acquisition and could enable the council to prioritise tenure and use of the sites as required.

#### 4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The site has been assessed through the asset disposal process to support the Medium Term Financial Strategy and achievements of capital receipts as approved by March 2020 Policy & Resources Committee and has been identified as surplus to requirements and not required for the council redevelopment of 100% affordable council housing units.

4.2 Alternative options with benefits and dis-benefits are set out in the table below:

Options	Benefits	Dis-Benefits
Council seeks to develop its own sites without purchasing existing long leasehold interest on the pink site or third party interests.	<p>Council controls delivery of between 4 and 8 units (split 50:50 between 1 and 2 bedroom units).</p> <p>Units can be used for 'truly affordable housing', subject to council business case, viability and available subsidy.</p>	<p>Leads to piecemeal development on constrained development site.</p> <p>Much smaller number of units delivered.</p> <p>Less economic benefit from smaller development and lower council tax receipts.</p> <p>Does not deliver any new employment space.</p> <p>Viability challenge due to constrained site and abnormal cost spread over least number of units.</p> <p>No capital receipt received.</p> <p>Professional advice received confirms blue land is not developable in isolation due to identified site constraints.</p> <p>Results in undevelopable parts of the site and significant underutilised space.</p>
Council develops all of its sites by seeking to acquire long leasehold of pink site.	<p>Leads to greater development density and unit numbers when compared to option 1 above.</p> <p>Council controls delivery of between 14 and 20 units</p>	<p>Leads to piecemeal development.</p> <p>Does not maximise number of units.</p> <p>Less economic benefit from development.</p>

	<p>split 12no 1 bedroom and 8no 2 bedroom at maximum density.</p> <p>Generation of more council tax receipts.</p> <p>Units can be used for 'truly affordable housing' subject to council business case, viability and subsidy.</p>	<p>Does not deliver any new employment space.</p> <p>Council forced to acquire the existing 44 year lease of the Metal Merchants on the pink site.</p> <p>May not be developable without CPO, adding time and cost to the process.</p> <p>No capital receipt generated.</p> <p>May not be planning policy compliant as does not deliver employment space so housing numbers may be reduced further to meet policy requirements.</p> <p>Site viability is only marginally improved as abnormal costs spread across larger development but not the whole site.</p> <p>Still results in undevelopable parts of the site and significant wasted space.</p>
<p>Council seeks to develop the whole site including land not owned by the council.</p>	<p>Will lead to a comprehensive redevelopment and regeneration scheme and the same outputs as the Housing.</p> <p>Will maximise development on the site, council will control development including up to 26 units (14no one bed and 12no 2 bed) and 16,000ft<sup>2</sup> of new employment space at maximum density.</p> <p>Units can be used for truly affordable housing, subject to council business case,</p>	<p>Council is required to buy back the 44 year lease on the pink land and seek to acquire the green land that the council has no interest in. QED have indicated they do not wish to dispose of the site, so a likely CPO would be required by the Council to acquire QED site. Council would be required to provide demonstrable grounds for CPO if required but would need to reasonably consider proposals of the green site landowner (QED) which may prevent an acquisition under</p>

	<p>viability and available subsidy.</p> <p>Significant economic benefit of council tax and new employment work space through increased economic impact, most likely in CDIT sectors.</p> <p>Potential commercial investments generated.</p>	<p>statutory powers, or add costs and delay to the process if successful.</p> <p>Council takes risk of commercial development in addition to residential development.</p> <p>No capital receipt generated.</p> <p>Unlikely to succeed due to site assembly barriers.</p> <p>Site viability greatly improved as abnormal costs spread across larger development.</p>
<p>Council dispose of the sites on the open market.</p>	<p>Capital receipt generated.</p>	<p>Likely to prevent future barrier to joined up development on the site, likely to lead to a reduction in number of affordable units.</p> <p>Future development options to be determined by new owner and planning policy, lack of council control and influence.</p>
<p>Joint Venture with adjoining owner.</p>	<p>Council has greater control over development (subject to planning policy).</p> <p>Development risk shared.</p> <p>Wider comprehensive site regeneration achieved.</p>	<p>No commercial justification to justify complicated joint venture structure on a small site where commercial funding is available in the market.</p> <p>Will add delays and unnecessary cost to the process.</p> <p>Would require additional subsidy for delivery of affordable housing over the policy allocation/site viability.</p> <p>JV to be on market terms so beneficial loan rates are unlikely to apply.</p>

## 5. **Comprehensive development option**

- 5.1 QED Estates have indicated they are not willing to sell their interest shown green on the attached plan, meaning that without co-operation between landowners; a fragmented and piecemeal development is a risk.
- 5.2 To proceed with a comprehensive development, the council would likely need to engage the CPO powers referenced above, something that will add costs to the process. This action is not recommended in this case given the willingness of QED estates to bring the site forward for development in line with planning policy and to protect the council's land value. This willingness and ability to delivery redevelopment may be sufficient grounds to defeat any CPO claim in any event.
- 5.3 Third party development costs are also significantly cheaper than the council's build costs so are likely to yield a more efficient development and higher land receipt whilst delivering more affordable units without subsidy.
- 5.4 The sites will likely still suffer from contamination (potentially ongoing) from the adjoining pink site meaning likely remediation works for a permanent scheme of development will be required as an abnormal cost in any scheme. The larger the scheme of development, the greater dilution of these costs resulting in an increase in viability. With all schemes, issues with amenity and environment that will need to be addressed are most easily managed in the comprehensive development proposals.
- 5.5 The council's design advice confirms that the most economic option would be to combine all four sites which would enable a comprehensive re-development on a scale which would be comparable to the proposals on Vantage Point, the Longley site and the already developed New England Quarter.
- 5.6 A comprehensive development would allow taller, more efficient footprints, a greater number of units and the ability to provide further employment space. This advice indicates that the height could possibly be increased to 6 storeys towards the rear of the site which would be at a similar level to the Vantage Point building and matches the height of the former railway sidings/greenway and even a link to it from the roof tops, subject to any necessary planning considerations.
- 5.7 QED will work in collaboration with BHCC offering BHCC protection at each phase of the development process (plan approval, site appraisal, pre-planning, planning and final agreement of the development scheme).

### **Benefits**

- 5.8 With all development options that include third parties, the council could explore opportunities to receive property in lieu of a capital receipt but this will have the effect of the general fund subsidising housing.
- 5.9 Granting a Development Option to a third-party developer with a proven track record of delivery would not preclude the council from re-acquiring built units once constructed for use for its own operational/housing need, potentially off plan. This would form part of a separate business case for acquisition and could enable the council to prioritise tenure and use of the sites as required.

- 5.10 Comprehensive development through land assembly is considered one of the key barriers to an extensive and joined up redevelopment scheme for which the benefits significantly outweigh piecemeal development in terms of
- Planning compliance
  - Viability
  - Best practice design for a high-quality development without compromise for adjoining retained uses (metal merchants)
  - Economic impact on local economy
  - Environmental contamination management

## **6. COMMUNITY ENGAGEMENT & CONSULTATION**

- 6.1 Full engagement will be undertaken through the planning process with local residents, businesses and stakeholders in due course.
- 6.2 Housing have confirmed that to deliver on the strategic priorities included in the Homeless and Rough Sleeping Strategy it is essential we increase housing supply. The Work plan 2019-2023 approved by Housing Committee in September 2019, included developing 800 additional council homes and 700 other new homes.
- 6.3 Affordability and access to decent accommodation is a major factor for the City. Demand for accommodation vastly exceeds the available supply. There are 10,000 people on the Housing Register, assessed as having a housing need. This includes 2000 households in temporary accommodation provided for by the Council.

## **7. RECOMMENDATION**

- 7.1 The New England Quarter has undergone extensive regeneration over the last 20 years since the masterplan in 2001 and construction starting in 2004. There are few remaining peripheral sites to be regenerated.
- 7.2 This is an opportunity to work up proposals to bring forward a more comprehensive re-development through land assembly to avoid piecemeal or stalled development in a more efficient manner as well as a more dense development resulting in more employment space and greater number of residential units.
- 7.3 By seeking a pro-active approach to regeneration means that plans can be widely consulted on in advance of the current lease/planning permission expiries.
- 7.4 The council will receive market value for its land as part of the Development Option Agreement and the development will bring forward employment and residential development within the city.
- 7.5 Whilst this re-development will lead to the loss of temporary accommodation on this site, the temporary accommodation would be unlikely to continue past 2023 in any event due to restrictions in planning policy. The loss of office space will be met with new provision within the mixed re-development and council officers are

currently exploring alternative options for re-provision. This is supported in planning policy.

- 7.6 Given this re-development will meet the core goals to increase housing delivery and new employment space, whilst protecting the councils financial interest, we recommend entering into the Development Option Agreement with QED Estates subject to providing further detail in a concise Business Case to be brought back to Committee within the next six months.

## **8. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 8.1 The granting of the leases will likely generate a capital receipt for the Council. The value and timing of this receipt is still to be determined and will depend on the extent of the final scheme. The net receipt, less any associated costs, will be used to support the council's capital investment programme over the medium term.

*Finance Officer Consulted: James Hengeveld*

*Date: 15/09/20*

### Legal Implications:

- 8.2 With reference to recommendation 2.1, Section 123 of the Local Government Act 1972 enables a local authority to dispose of land provided it achieves the best consideration reasonably obtainable. The proposed option agreement will allow QED Estates Limited to call on the Council to sell any or all of the sites to them. The Council will be able to comply with the option because it owns the freehold of the sites. Paragraphs 3.17 and 6.4 of this report confirms that at the point when the option is exercised steps will be taken to ensure that best consideration is achieved.

*Lawyer Consulted: Joanne Dougnaglo*

*Date: 26/08/2020*

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Plan of whole site and respective interests

### **Documents in Members' Rooms**

1. None

