

REPORT TO EXECUTIVE

Date of Meeting: 14 January 2020

REPORT TO COUNCIL

Date of Meeting: 21 January 2020

Report of: David Bartram – Director, Environment & City Management
Title: Loan to Exeter City Living for Clifton Hill development

Is this a Key Decision?

No

* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

Is this an Executive or Council Function?

Council

1. What is the report about?

1.1 The Council's development company, Exeter City Living, has submitted an 'Opportunity Paper' requesting the Council provide a loan so that Exeter City Living can progress a residential development at Clifton Hill. The report from Exeter City Living identifies the loan required, the Development Value (sales value), the Development Costs and the forecast Profit.

2. Recommendations:

2.1 That Executive recommend and that Council approve, a loan to Exeter City Living, the details of which is included in the Part 2 paper to this report to enable Exeter City Living to progress with the purchase of Clifton Hill and development of 44 new homes in the city.

3. Reasons for the recommendation:

3.1 The proposed development at Clifton Hill will be on the brownfield site of the rifle range and derelict Clifton Hill Sports Centre, helping to rejuvenate the area and remove the ongoing liability of the closed sports centre.

3.2 The development of 44 new homes is in accordance with Exeter City Council's vision of high density, high quality, and environmentally sustainable homes. Of these new homes, 11 will be affordable homes which means the development will be affordable housing policy compliant when you take account for the available Vacant Building Credit.

3.3 A profit of 20% is forecast for the development. This would be a good financial return for Exeter City Living and would aid the financial prosperity of the company, whilst also potentially boosting dividends to its sole Shareholder, Exeter City Council.

3.4 In addition to the improvement in the financial standing of Exeter City Living (& associated potential improvement in dividends to Exeter City Council), the Council will also benefit from the following:

- The 'on-borrowing' margin (the difference between the rate we are likely to secure the loan from PWLB and the commercial rate at which we will loan the monies to Exeter City Living),
- the land sale receipt income,
- the payment of CIL monies,
- the creation of Council tax income, and
- the use of existing Exeter City Council services on Service Level Agreements with Exeter City Living.

4. What are the resource implications including non financial resources.

- The sale of the brownfield site of the rifle range and derelict Clifton Hill Sports Centre to Exeter City Living.
- The provision of a loan facility and agreement for the required amount.
- The utilisation of Exeter City Council services by Exeter City Living via Service Level Agreements during the development process.

5. Section 151 Officer comments:

A loan over 25 years on an annuity basis will deliver a profit to the Council of around £339,000 a year. This is owing to the fact that the Council has to charge a state aid compliant interest rate on the loan. As at 1 January 2020. The figure to be charged is 4.94%, which will yield interest of £772,692.87 in the first year. The amount the Council pays will depend upon the PWLB rate in force on the day the loan is taken out, but as an indication the interest rate today (23 December 2019) is 2.77% for a 25 year annuity loan. This will cost the Council £433,271.10.

6. What are the legal aspects?

See Monitoring Officers comments/

7. Monitoring Officer's comments:

The Monitoring officers comments are intended to assist all members of the Council in consideration of the complex legal background to their budgetary decisions and in particular to set out the legal factors and requirements which Members of the City Council need to consider in reaching decisions on the budget.

In coming to a decision in relation to its finances, the City Council and Councillors have the following legal duties:

- a) To act in accordance with their statutory duties and responsibilities;
- b) To act reasonably; and
- c) To have careful regard to their fiduciary duty to its rate payers and Council tax payers.

When making a decision, councillors are reminded of the obligation to act reasonably and in accordance with the principals set down in the Wednesbury case. This means that councillors are required to take into account all relevant considerations and ignore any irrelevant considerations. Put simply, it would be unlawful for the Council to come to a view which is unreasonable in the sense that it is so irrational that no reasonable authority could have reached it.

The meaning of fiduciary duty is more difficult to define but can be summarised as a duty to conduct administration in a business-like manner with reasonable care, skill and caution and with due regards to the council's rate payers. When discharging their fiduciary duties councillors will need to consider the following:

- a) Prudent use of the council's resources, including the raising of income and the control of expenditure;
- b) Financial prudence both long and short term;
- c) Striking a fair balance between the interest of the council tax payers on the one hand and the community interest and adequate and efficient services on the other hand;
- d) Acting in good faith with a view to complying with statutory duties and exercising its statutory powers for the benefit of the community.

8. Report details:

8.1 The detailed 'Clifton Hill Opportunity Paper' (dated 9th December 2019) is attached to this paper.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 Building 44 new homes contributes directly to our Building Great Neighbourhoods programme. We are striving to ensure that every resident has a home which is secure, healthy and affordable. The location of this development which is within walking distance of a wide range of local services means that it is sustainable and will promote an active and healthy lifestyle.

10. What risks are there and how can they be reduced?

The 'Clifton Hill Opportunity Paper' outlines the headline risks and how these can be mitigated. The principle risk is that ECL do not make the financial returns expected.

The Opportunity Paper from ECL identifies the risks to financial return and how they are being managed by the ECL team. Additionally, Exeter City Council reviews the financial performance of ECL on an annual basis.

11. Equality Act 2010 (The Act)

11.1 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because: because

11.1.1 The development proposed will be fully compliant with City Council design standards and planning requirements

11.1.2 The development provides both open market and affordable homes in accordance with the City Council's Affordable Housing requirements (taking account of the Vacant Building Credit)

11.1.3 Public and Community consultation will be undertaken in advance of any development

12. Are there any other options?

- 12.1 Exeter City Living Ltd could seek to secure funding from outside the Council. There is a risk that the return on investment to the Council could be less than indicated if this route is pursued.

**Director
Environment and City Management**

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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