

REPORT TO EXECUTIVE

Date of Meeting: 28 November 2023

REPORT TO COUNCIL

Date of Meeting: 12 December 2023

Report of: Director Finance and the City Surveyor

Title: Development Land Disposal Programme

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

1.1 Following an Assurance Review of Exeter City Living (“ECL”) completed by Local Partnership in August 2023 the Council agreed, in October 2023, to reduce the function of ECL to a holding company and enter into a business sale agreement with Exeter City Council (“ECC” or “the Council”) dealing with its assets and liabilities and, if necessary, to receive a report setting out a site disposal strategy in the likely event of a shortfall on the ECL loan after the Council acquires ECL’s assets.

1.2 The Council agreed that the shortfall between ECL’s asset and liabilities would be written off and although this might create an in year shortfall, the financial impact can be managed over a short period. This report proposes a programme of disposals (from land already identified for redevelopment) that will contribute towards the mitigation of the shortfall over the longer term and address the issue of there being a debt that is no longer attached to an asset.

1.3 The report also seeks authority for short-term expenditure that is required to facilitate the programme of disposals.

2. Recommendations:

That Executive recommends to Council to approve:

2.1 the unrestricted disposal of land at Mary Arches Street Car Park as shown on the site boundary plans in Appendix 1,

2.2 the unrestricted disposal of land at Clifton Hill as shown on the site boundary plans in Appendix 2,

2.3 delegate authority to the City Surveyor, in consultation with the Leader and the Director Finance (s.151 Officer) to approve the final terms of the disposals, in accordance with the Local Government Act 1972 Section 122 to appropriate the sites, which belong to the Council (shown on the plans at Appendices 1 and 2), for planning purposes to

facilitate the carrying out of development, re-development or improvement on or in relation to that land.

2.4 a budget of £800,000, funded by a mix of the earmarked reserve set aside for this purpose and the surplus income from the Guildhall Shopping Centre, to cover the costs of preparing the sites for disposal and the facilitation of best consideration for the Council's assets.

3. Reasons for the recommendation:

3.1 To minimise financial risk to the Council and generate best consideration for the Council's assets.

4. What are the resource implications including non financial resources

4.1 The value of the loan outstanding as at today is £10.1million. Once the work to reduce the scope of ECL has been completed, any remaining cash will be returned to the Council. Whilst the Council can do as it chooses with this cash, it is expected that much of it will be treated as a further repayment of the loan, which will reduce the outstanding balance closer to £9 million.

4.2 The £9 million will be split in two. Acquisition of the Clifton Hill Land and Work in Progress will cover around £3.7 - £4 million and the balance (approximately £5 million) will be written off. Any sale of land at Clifton Hill will therefore address the asset-backed element of the loan first (the land and work in progress), and the sale of any other assets will address written off element.

4.3 The development land disposal programme will generate capital receipts for the Council that will be used to reduce the Council's Capital Financing Requirement accordingly.

4.4 The development of the land in the disposal programme may also generate income for the Council from the Community Infrastructure Levy ("CIL"), Council Tax and Section 106 receipts generated by anticipated subsequent re-development.

4.5 There will be officer time involved in managing the vacant possession process, due diligence, the appointment of disposal agents plus the instruction and management of the disposal programme, which will be met within existing resources.

5. Section 151 Officer comments:

5.1 The report sets out a number of options to deliver the funding required to address the outstanding debt. This will have a positive impact on the Council's Medium Term Financial Plan and will also address the fact that there is an outstanding debt requirement against which there will be no asset. The recommendation would allow Council to generate capital receipts in excess of that required to enable it to address some of the essential requirements for capital expenditure, such as the Material Recycling Facility (as set out in another paper on this agenda).

6. What are the legal aspects?

6.1 Local authorities are under a duty to comply with Section 123 (2) of the Local Government Act 1972, with regard to land held in the General Fund, as is the case here,

which requires that except with the consent of the Secretary of State (“SoS”) a Council they shall not dispose of land under this section for a consideration less than the best that can reasonably be obtained. The proposed open market disposal programme will ensure that best value for the Council’s development land is achieved.

6.2 If the Council chooses to place restrictions on the disposals and these restrictions cause an undervalue of more than £2m, then SoS consent must first be obtained. Where the under value is less than £2m, then disposal would be referred back to Executive for approval in accordance with the general disposal consent order (the Local Government Act 1972 General Disposal Consent 2003).

6.3 The General Disposal Consent does not apply to property which has been appropriated for planning purposes so if the recommendation to appropriate contained in paragraph 2.3 of this report is agreed any disposal of either site at an undervalue would require the specific consent of the Secretary of State.

7. Monitoring Officer’s comments:

The Monitoring Officers’ comments are intended to assist members of the Council in their deliberations. Members are reminded that when making decisions they must;

- a) Act in accordance with their statutory duties and responsibilities;
- b) Act reasonably; and
- c) Have careful regard to their fiduciary duty.

The obligation to act reasonably means making a decision 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.

8. Report details:

Background

8.1 Whilst the Council is now required to set aside funds for the repayment of the debt relating to the outstanding loan, the two elements set out in section four above have a different level of urgency. For the element of the loan written off, there is now no asset to back the outstanding debt and therefore the council needs a clear and timely plan to address this. There are two options – setting aside revenue resources to write off the debt or setting aside capital receipts. Clearly, it is in the Council’s best interests to protect its revenue position and minimise the possible impact on residents and therefore this report focuses on the generation of capital receipts to address this.

8.2 In respect of the other element, there is an asset backing this (Clifton Hill) and the Council therefore can properly repay the debt over the life of the asset. However there is a revenue cost to this (approximately £80,000 a year, which will require reductions to be found to address). A more measured approach to the sale can be made however as the debt is asset-backed.

8.3 The amount of capital receipts ECC will need to find following the winding down of ECL is in the region of £9m. It is important to note that any sale will be dependent on planning permission being granted and therefore failure to agree a proposed scheme will jeopardise the Council's ability to write off the debt.

8.4 With the above in mind, independent Chartered Surveyors were appointed to provide valuation advice on the potential development receipts achievable for a range of sites, originally envisaged for development via ECL, being Clifton Hill and Mary Arches Street Car Park. Three types of valuation have been requested. A fourth valuation for the sale of Clifton Hill for 100% Affordable Housing was also included.

- Unrestricted sale;
- Sale restricted to include Co-living development; and
- Sale restricted to residential only.

8.5 The valuation reports are attached at Appendices 5, and 6 (Part II). A summary of the findings is detailed in Appendix 7 (Part II).

8.6 The Clifton Hill Existing Site is the area of Clifton Hill sold to ECL (shown in blue on Appendix 2). The Clifton Hill Wider Site is the area of Clifton Hill that includes the existing site plus some ancillary neighbouring land (highlighted green on Appendix 2). The Clifton Hill Whole Site comprises all of ECC's land holdings in the area including the Ski Slope and the Driving Range (shown outlined in red on Appendix 3).

8.7 The Mary Arches Street Multi Storey Car Park ("MSCP") comprises just the Multi Storey element of the car park (outlined in red on Appendix 1). Mary Arches Street Car Park MSCP + Surface comprised the whole car park (shown outlined in red on Appendix 4).

8.8 The above values assume that planning consent is achieved for the proposed uses and vacant possession is achieved for Mary Arches Multi Storey Car Park in line with the advice from ECC's Compulsory Purchase Surveyors (see Appendix 8).

Options available

8.9 There is a range of values achievable from the sites depending on the restrictions (or lack of restrictions) imposed meaning there are a number of option available to ECC.

8.10 To address the write-off element of the loan

The following options are expected to deliver sufficient funds to address the write off:

Either

- Sale of Mary Arches (Multi Storey Car Park) – unrestricted; or
- Sale of Mary Arches (Multi Storey Car Park) and the surface car park for Co-living; or
- Any option requiring sale restricted to residential on both sites would require the further sale of other assets to address the shortfall.

8.11 To address the asset-backed element of the loan

The most appropriate asset to sell is Clifton Hill. The following options are expected to deliver sufficient funds to address the asset backed element of the loan:

- Any of the options listed in the valuation report, with the exception of sale for Affordable Housing, is expected to provide sufficient funds to pay off the debt.

8.12 It is important to note that the valuations are guidance only. The market will determine the actual value of the sites and this may be higher or lower than those contained in the report.

Officer proposal – A Tailored Disposal Programme

8.13 Exeter City Council has to solve the current financial predicament and return to a situation where it can demonstrate a balanced budget but it has the flexibility to do this without needing to sell all of the potential land development sites simultaneously.

8.14 It might be possible to keep sites that currently accommodate facilities that encourage an active lifestyle like Exeter Ski Club and Exe Water Sports Association by releasing more value from less land.

8.15 With the above in mind along with the findings of the Exeter Parking Strategy – April '23 (which concluded that based on future demand scenario testing even the maximum forecast still shows an overcapacity of parking and the proposed closure of Mary Arches Street Car Park has a positive impact on finances and traffic flows) the recommendation would be to sell at least the Mary Arches MSCP site and the Wider Clifton Hill site (land sold to ECL plus adjoining ancillary land) unrestricted.

8.16 The outcome will hopefully be a receipt from student housing developers that covers the ECL write off whilst potentially generating some capital that could be used to unlock further site for the disposal programme (i.e. the relocation of existing operational facilities).

8.17 Clifton Hill and North Gate are already areas popular with students. Mary Arches could build on the success achieved at the high quality, all inclusive (residents gym, cinema room, games area, karaoke room, lounge, study rooms, private dining room, bike provision), The Neighbourhood scheme ([The Neighbourhood | Exeter Student Accommodation | Collegiate AC \(collegiate-ac.com\)](#)) on Mary Arches Street whilst PWSA at Clifton Hill might release a significant amount of Victorian terrace housing from Houses in Multiple Occupation (“HMO’s”) for conversion back to family homes.

Reason for recommendation - Purpose Built Student Accommodation (“PBSA”)

8.18 The Council’s current corporate policy is not to dispose of any of its land for Purpose Built Student Accommodation (“PBSA”) in the city centre.

8.19 On sites particularly suitable for PBSA like the Mary Arches Street MSCP site this could mean forgoing something in the region of 70% of the site’s potential value.

8.20 The University of Exeter is ranked 21st within The Times and Sunday Times Good University Guide 2023 and is ranked 163rd within the QS 2023 World University Rankings. The University is undergoing an ambitious Capital Strategy which will see it invest £430m in its campus, estate and infrastructure over the next 10 years.

8.21 There are currently approximately 29,000 full time students studying at the University of Exeter and student numbers are anticipated to increase to circa 36,500 by 2026/27.

8.22 PBSA stock is failing to meet rising demand, with the student-to-bed ratio currently at 2.26x and expected to increase to 2.82x by 2026/27. Currently 56% of full time students are unable to access PBSA and new supply is growing slower than expected student growth. This puts extreme pressure on the City's existing housing stock and leads to significant risk that homes, particularly homes in the private rented sector, will be converted to the more lucrative student accommodation, leading to fewer homes being available and a loss in Council Tax income.

8.23 Students bring diversity (28% of students currently originate from overseas), youth, vitality, activity and purchasing power to the city centre which all contribute towards the Corporate Plan 2022-2026 strategic aspiration of an active city centre.

8.24 Building PBSA in appropriate locations helps: facilitate the regeneration of obsolete assets, contribute towards a well-run council by demonstrating good management of assets (contributing towards a balanced budget); whilst also releasing existing lower density housing stock back to the owner occupier/ residential market freeing up homes for family occupation.

Reason for discounting Maximum Receipt Disposal

8.25 The proposal that would deliver the best financial outcome for ECC would be to sell all land in an unrestricted way.

8.26 The macro economic reasons that contributed to ECL's insolvency, namely: uncertainty around the terms of the UK's departure from the European Union, the global pandemic, Russia's invasion of Ukraine, the highest inflation rates in 40 years; and more recently the 14 consecutive interest rate rises mean that the current market conditions aren't necessarily the best market conditions to be selling property, particularly development land which is intrinsically sensitive to future expectations and projections.

8.27 Although many of the sites might not be contributing their maximum financial or housing potential they may still be contributing to Exeter Vision 2040 aspirations around Exeter being the most active city in the UK (e.g. the ski slope and driving range at Clifton Hill).

8.28 Based on the above, selling every potential development site available for its maximum potential value (probably PBSA) in the current market place is not the recommended route.

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

9.1 This decision will contribute to the Council's strategic priority of 'Leading a Well-Run Council'.

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

10.1 That further reductions to Council budgets in addition to those set out in the Medium Term Financial Plan are required reducing front line services.

10.2 This risk can be mitigated by approving the recommendations at the beginning of this report.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In relation to this report, no potential impact has been identified on people with protected characteristics as determined by the Act because the proposals do not seek to reduce or change services to the extent that they will impact on any individuals including those with protected characteristics.

12. Carbon Footprint (Environmental) Implications:

12.1 In July 2019 the Council declared a Climate Emergency. Disposing of brownfield land for redevelopment should reduce pressure on Greenfield sites which should help the delivering our carbon reduction target (carbon neutral by 2030).

13. Are there any other options?

13.1 The alternative options to the recommendation above are:

(a) **Do Nothing** – As there is a debt in our Capital Financing Requirement, which no longer relates to an asset on our Balance Sheet, there is a strong risk that the Council would be expected by our Auditors to address this via setting aside revenue. This would lead the Council to a position where it could not fulfil its financial obligations.

(b) **Cut front line services** – Exeter City Council is already progressing a transformation programme to reduce costs whilst maintaining essential services. It's unlikely that finding the savings required could be achieved without a materially detrimental effect on the quality of front line services provided by ECC.

(c) **Sell more for less** – Restrictions on the sale of assets will require more to be sold. As the valuations for residential restrictions on all sites valued would not address the total outstanding, further assets would need to be sold.

Director Finance, David Hodgson

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

Appendices:-

- 1) Mary Arches Multi Storey Car Park Site Red Line Plan
- 2) Clifton Hill Wider Area Red Line Plan
- 3) Clifton Hill Whole Area Red Line Plan
- 4) Mary Arches Street Car Park Whole Area Red Line Plan
- 5) Savills Options Review Clifton Hill (Part II)
- 6) Savills Options Review Mary Arches (Part II)
- 7) Summary of Savills Option Reviews (Part II)
- 8) Savills Mary Arches Street Car Park CPO Settlement Recommendation (Part II)

Background papers used in compiling this report:-

Exeter Parking Strategy – April 2023

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