

DECISION-MAKER:	CABINET		
	COUNCIL		
SUBJECT:	EASTPOINT REDEVELOPMENT		
DATE OF DECISION:	21 DECEMBER 2009		
REPORT OF:	CABINET MEMBER FOR ECONOMIC DEVELOPMENT AND REGENERATION		
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STATEMENT OF CONFIDENTIALITY

Appendix 2 of this report is not for publication by virtue of Category 3 (Information relating to the financial or business affairs of any particular person including the Council) of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution. It is not considered to be in the public interest to disclose this information because this Appendix contains confidential and commercially sensitive information relating to the property interests potentially involved in this matter.

SUMMARY

Cabinet and Council are asked to approve the sum of up to £3M to be paid to Eastpoint Centre Ltd as compensation for the surrender of their current unexpired lease of the site. This will enable it to build and service the new Community Training and Conference Centre.

Following surrender, 1.5 acres of the Eastpoint site will transfer to the ownership of Eastpoint Centre Ltd, to provide the site upon which the new Eastpoint can be built. The Council will regain the freehold of the remaining 5.19 acres of the site with an option retained by Itchen College, so that it can locate to the site if it has a commitment by the indicative date of March 2011 (final date to be agreed).

This proposal maintains Cabinet's continued support to enable the delivery of the new Eastpoint Centre, a flagship project of the Thornhill Plus You (TPY) regeneration programme and secures both the successful investment of £7,064,280 of TPY grant, but also a future income for the TPY successor body.

RECOMMENDATIONS:

CABINET

Cabinet is recommended to :-

- (i) Continue to support the principle of the redevelopment of the Eastpoint site by Eastpoint Centre Ltd; with Eastpoint Centre Ltd building the new Eastpoint on 1.5 acres as identified in Appendix 1 and, through a revised Tripartite Legal Agreement, Itchen College retain an option to develop on the site at a future date;

- (ii) Request Council (subject to the conditions listed below) to approve a sum of up to £3,000,000 to be added to the Economic Development Portfolio Capital Programme as a payment to Eastpoint Centre Ltd as compensation for the surrender of their current unexpired lease, to enable them to fund the building and servicing of their new Community, Training and Conference Centre. The Council will gain 5.19 acres with Itchen retaining an option to locate to the site until March 2011 or such other later date as may be agreed by the Chief Executive;

Recommendation (ii) is subject to the following:

- (a) Government Office for the South East (GOSE) and Department of Communities and Local Government (DCLG) approving funding allocation and release of the £2.5 Million in the Thornhill Plus You Delivery Plan for 2010-11, in time to allow Eastpoint to let its contract for the construction of the new Eastpoint and complete the spend of the TPY grant to Eastpoint before the end of the NDC programme in March 2011
 - (b) A Revised Eastpoint Business Plan being approved by both the Head of Finance and IT and GOSE, in addition to any final approvals required from GOSE and DCLG;
 - (c) Eastpoint concluding any s106 agreement in order to achieve planning consent and issue of the decision notice and confirmation that there are no planning issues outstanding from the links with the Itchen College outline planning consent;
 - (d) the successful completion of the revised Tripartite Legal Agreement, which sets out the land deal for the Eastpoint site, the option for Itchen College to still locate to the site and the Council's position
- (iii) Grant to Itchen College an option to locate to the site until March 2011, or such other later date as the Chief Executive may decide, upon such terms as the Solicitor to the Council considers reasonable;
 - (iv) Approve subject to Council recommendation (i) below, expenditure of up to £3,000,000 for the surrender of the Eastpoint Lease;
 - (v) Request Council to add £130,000 to the Capital Programme for the demolition of the old Eastpoint centre following the construction of the new Eastpoint building and services, and the vacation of the old Eastpoint Centre;
 - (vi) Require Eastpoint Centre Ltd (and Itchen College should it in future go ahead on the Eastpoint site) to submit to the Council a Community Plan setting out how the facilities developed on the site will be available for the use of the wider community. This plan will cover the ten year period commencing when the facilities are open for use and will include both recreational and educational activities. The outline of this plan, covering the key principles, will be in place before the land transactions are completed respectively for each development;

- (vii) delegate authority to the Assistant Chief Executive (Economic Development and Regeneration), following consultation with the Cabinet Member for Economic Development and Regeneration, Executive Director of Resources, the Solicitor to the Council and Head of Property Services and Procurement to negotiate, and agree conditions of the redevelopment in the general terms outlined in the report, to resolve and implement anything necessary to effect the proposals contained in this report, including agreeing amendments to the Tripartite Legal Agreement underpinning the land deal for the site;
- (viii) To note that this Cabinet decision supersedes all previous Cabinet decisions regarding Eastpoint redevelopment

COUNCIL

Council is recommended :

- (i) To approve the addition of up to £3,000,000 to the Economic Development Portfolio Capital Programme for the surrender of the current Eastpoint Lease
- (ii) To approve the addition of £130,000 to the Economic Development Capital Programme for the demolition of the old Eastpoint centre following the construction of the new Eastpoint building and services, and the vacation of the old Eastpoint Centre.

REASONS FOR REPORT RECOMMENDATIONS

Revisions required to the funding of the new Eastpoint due to Itchen College loss of funding source

1. Due to government funding constraints Itchen College is now unable to access the government funding required in order to allow the decision by Cabinet in July 2007 to be implemented. Itchen has no funds to buy the Eastpoint site from the Council and therefore, the Council does not have the money from this land transaction to pay Eastpoint Centre Ltd £3,000,000 to enable them to surrender their lease and proceed to build the new Eastpoint Conference and Training Centre on the 1.5 acres, in the timescale necessary to spend the Thornhill Plus You grant allocation to the project by March 31st 2011.
2. Given this position, the Cabinet decision of July 2007 recommendation (x) made provision: 'to undertake a comprehensive review of the Cabinet's position regarding support to Eastpoint Centre Ltd if Itchen College is unable to develop its new provision on the Eastpoint site, on the basis that all previous decisions regarding Eastpoint Trust Ltd will need to be reconsidered'. This Cabinet report is the consequence of such a review.
3. It is not possible for Eastpoint Centre Ltd to build the new Eastpoint Conference and Training Centre and utilise the Thornhill Plus You grant within the lifetime of the New Deal for Communities (NDC) programme (March 31st 2011) unless the Council agrees to pay Eastpoint Centre Ltd for the surrender of their lease on the current Eastpoint site. The value of surrender is equivalent to the gap funding for the new scheme of up to £3,000,000 towards the construction of the building and necessary servicing and access to the new Eastpoint site.

- 4 Eastpoint Centre Ltd requires up to £3,000,000 towards its funding package to build the new conference and training centre. Currently, Eastpoint is out to tender with a return date of the 18th December 2009. Due to the contractors' Christmas break it is not anticipated that the final winning tender figure will be known until mid January 2010. It is proposed that any financial payment to Eastpoint by the Council, including the cost of the surrender of the Eastpoint lease, will reflect the actual build costs submitted by the winning contractor.

Value for Money for the Council's Funding

- 5 The Council is carrying out due diligence work to ensure that the tendering and building specification is of a correct standard and represents value for money.
- 6 The Council's funding of Eastpoint will only be recommended if the results of the due diligence and value for money checks are satisfactory.

Sale and Lease Back Agreement between Thornhill Plus You and Eastpoint Centre Ltd

- 7 In return for Eastpoint Centre Ltd surrendering its lease 5.19 acres will pass into Council ownership and the remaining 1.5 acres of the site will be owned initially by Eastpoint Centre Ltd. However, in order for Thornhill Plus You to receive maximum gain from its remaining £2.5 million investment in the new Eastpoint there is agreement for Thornhill Plus You to buy the 1.5 acres from Eastpoint Centre Ltd who then pays an annual sum to the TPY successor body, enabling the latter, to gain a source of regular income. Currently, the Heads of Terms for the sale and leaseback agreement have been agreed by the parties. Final approval is required by central government for this spend, which currently sits in the TPY Delivery Plan for 2010-2011.

Benefits to the Council of Gap Funding Eastpoint

- 8 In return for supporting the project the Council will secure the successful TPY spend of £7 million. Thornhill Plus You (TPY) has already spent £1,052,459 on developing the project and a further £6,011,821 is due to be spent, largely on construction. This latter figure includes money held in an escrow account and the £2.5M, which is due in 2010-11, subject to central government final approval. The successful delivery of the new Eastpoint also secures an annual income for the TPY successor body through the sale and lease back agreement.
- 9 Other benefits of delivering the new Eastpoint include a flagship project for TPY with benefits for both the Thornhill community, and those in the east of the city. The Council also gains 5.19 acres of the site, no longer encumbered by the Eastpoint lease. The short term option on the land, which will be given to Itchen College, is in line with Council priorities and if Itchen does not proceed then the Council can develop other plans for the site. The land will have the advantage of the new junction and access from Bursledon Road.

Future Council responsibility for the vacated Eastpoint Centre

- 10 As previously stated, under this proposal the Council will become the freehold owner of the remainder of the Eastpoint site and will be responsible for the existing Eastpoint Centre when it becomes vacant. Under the existing and revised terms of the Tripartite Legal Agreement all current tenants of the existing Eastpoint must vacate the building according to the terms of their lease. It is highly likely that the most cost effective solution for the Council, as owner, will be to demolish the existing building, therefore approval for this is included in the report. Although this requires additional financial commitment by the Council there is a possibility that the cost could be recovered, at a later date if land values sufficiently recover, as part of the capital receipt for the site.

Need to Secure the Council's Commitment at this time

- 11 Good progress is being made towards resolving all the issues necessary to enable the Eastpoint project to build. Recommendation (ii) is subject to items a) to e), which set out the outstanding items, which are being progressed, but are still to be finalised. A Council decision to pay money to Eastpoint Centre Ltd can only take place once these matters have been satisfactorily resolved.
- 12 However, Eastpoint Centre Ltd and Thornhill Plus You require as much certainty as possible, at this time, in order that can continue to commit to the delivery of the new Eastpoint Centre within the timescale (March 31st 2011) of the New Deal for Communities (NDC) programme.

Revised Eastpoint Business Plan

- 13 The Eastpoint Business Plan has been revised to reflect the impact of the recession and the proposed sale and lease back agreement between Eastpoint Centre Ltd and Thornhill Plus You. GOSE appointed a regeneration specialist to report on the revisions, which has been positive. Council Finance Officer's are in ongoing discussions with Eastpoint Centre Ltd regarding the revisions and TPY are to carry out further due diligence. Signs are positive that the revised Business Plan will be accepted by Council officers and TPY, however, government sign off is also required.

Revision to the Land Deal: The Tripartite Legal Agreement

- 14 Following the Cabinet decision of July 2007 Itchen College, Eastpoint Centre Ltd and the Council worked on a legal agreement which put in place the details of the land transaction that would allow the college and Eastpoint to build on the site. However, the legal agreement signed in March 2008 and predicated on Itchen College receiving government funding now cannot be executed within the timescale required by Eastpoint to build and spend the TPY grant before the end of the NDC programme on 31st March 2011. This is due to the current lack of availability of central government funding for the college building programme. Therefore, with the agreement of the parties involved, the Tripartite Legal Agreement must be revised before the Council can pay Eastpoint Centre Ltd any money.

December 2009 Decision to Supersede all previous Eastpoint Cabinet Decisions

- 15 Now that Itchen College cannot implement the agreed Cabinet decision of July 2007 and the Council are now the only alternative funder of the shortfall in the project this new Cabinet decision will supersede the previous decisions

CONSULTATION

- 16 Since the July 2007 Cabinet decision on the Eastpoint Redevelopment the respective parties Itchen College, Eastpoint, Thornhill Plus You and the Council have continued to develop proposals for the site in conjunction with a variety of consultations.
- 17 In line with recommendation (ix) of the July 2007 Cabinet report the Council set up an Itchen Eastpoint Project Board, which has met regularly to co-ordinate and facilitate the work of the various partners in the development.
- 18 Council officers hold regular meetings with both Thornhill Plus You and Eastpoint and discussions have also taken place latterly with the main parties concerning revision to the Tripartite Legal Agreement.
- 19 Public consultations were held as part of the planning application process undertaken by both Itchen College and Eastpoint.
- 20 There have also been ongoing discussions with Government Office for the South-East (GOSE) and the Department of Communities and Local Government (DCLG) who oversee the New Deal for Communities (NDC) Programme, which funds Thornhill Plus You (TPY).

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

The Council Does Not Approve the Funding

- 21 If the Council does not approve the funding to enable the transaction proposed, in this report, then it is doubtful that the new Eastpoint will be built. It is unlikely that Eastpoint could attract the level of commercial borrowing required, and the banks would wish to secure the first charge on the property, thus, reducing the security of TPY's funding. TPY would be left in the last year of their programme with a large sum of unallocated money, which they would be unlikely to be able to re-programme, and the funding would be lost to the benefit of the Thornhill community. TPY's successor body would lose the opportunity to gain a regular source of income from the proposed sale and lease back agreement currently agreed between Thornhill Plus You and Eastpoint Centre Ltd. They would also have to find and pay for new office accommodation and its support. If Eastpoint is not built then the Thornhill community lose a valuable new community asset and an important flagship building, which is going to be visible proof of the regeneration of the area and a boost to local morale.

Funding the financial gap with alternative grant funding

- 22 There are currently no grants available to meet the size of the funding deficit. Also due to State Aid regulations the conference and training centre cannot be funded using public grant money. It must be money to pay for a commercial transaction like the one proposed in this report.

Seeking Commercial Funding to cover the gap

- 23 It is highly unlikely that the application for a commercial loan of this magnitude would be successful, since the enterprise although run as a commercial business has local community regeneration and social benefit as the recipient of its profit. Eastpoint Centre Ltd have prepared bids to two banks, but further work on this has been postponed, since it required further investment of £50,000 in order for the banks to consider them. As previously stated previously commercial lenders insist on having the first charge on property and therefore, other investors, such as TPY in this case, have little protection for their investment.

Council sells the site on the open market

- 24 There is no guarantee within the short timescale available that a successful outcome could be achieved. The timing of selling the site would not be good given the fall in property prices and activity due to the economic recession and a site would not necessarily realise its value.

DETAIL

- 25 This should be read in conjunction with the section of the report on Reasons for the Report Recommendations.
- 26 The provision of a new Eastpoint Centre has been in the Thornhill Plus You Delivery Plan since the beginning of their programme in 2001. The Council, as a key representative, in the partnership has over many years supported the work to deliver a flagship project on the site.
- 27 There have been various iterations of a development on the site. The previous version before Cabinet was the location to the site of a new Itchen College to site beside the new Eastpoint Conference and Training Centre. However, this was dependent on Itchen College receiving Learning and Skills Council funding, which is now not available in the timescale necessary to deliver the new Eastpoint Centre.
- 28 This outcome has required the partnership of Thornhill Plus You, Eastpoint Centre Ltd, the Council and Itchen College to review and reconstruct a new agreement if the Eastpoint Centre is to be built.
- 29 Currently, the financial deal on the land between Itchen College, Eastpoint Centre Ltd and the Council is legally binding in the Tripartite Legal Agreement. Currently this is under revision between the parties, but cannot be finalised by Council officers without Cabinet approval.
- 30 A crucial element for the Council is the lack of immediate funding from the land deal with Itchen College so that the Council can pay Eastpoint for the surrender of their lease, which currently runs until 2024.
- 31 Therefore, the Cabinet and Council now have to decide whether to fund up to £3,000,000 required by Eastpoint for the surrender of their lease. In addition the Council will become the landowner responsible for the vacant Eastpoint and it will need to either, reuse the building, secure it, or demolish it. This report contains a cost for demolition, which is considered to cheapest option in the long run.

- 32 The Council will not be required to exercise its financial decision unless the other outstanding issues listed in the decision are successfully completed. Many of these decisions are not within the Council's control and are subject to central government approval.

Community Benefit

- 33 A Community Benefit Report has been produced by Eastpoint Centre Ltd and is available on request. The proposed benefits are wide ranging and include: 9 community rooms, (affordably priced for community use), new premises for the existing social club, a community development manager, use of further space for social and community educational functions and offices for the TPY successor body. Eastpoint Centre Ltd will also continue and expand the range of social and education activities for which it is well known and reflect its charitable aims.

Timescale for the Build of the new Eastpoint

- 34 The contract for the build of the new Eastpoint is due to take 15 months from start to practical completion. It is anticipated that all necessary consents, including those from central government, can be achieved to allow a site start at the beginning of April 2010, which would enable practical completion by end of July beginning of August 2012.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

- 35 This report asks for formal approval for a sum of up to £3M for the surrender of the Eastpoint Lease and for a further £130,000 for the demolition of the old Eastpoint building once it has been vacated
- 36 The actual level of the payment to Eastpoint for the surrender of their lease will be dependent on the final costs of the construction of the new building and services for the site. Given that the funding for the lease surrender effectively represents gap funding it has been made clear to Eastpoint Centre Ltd that the Council will want to limit it's liability as far as possible by ensuring that all works and specifications are good value for money. However the position will be clearer once tenders are received for the construction costs but these will not be known until later in January 2010.
- 37 It is anticipated that the Council can recouped , if not all, a substantial sum of the gap funding from the eventual sale of the old Eastpoint site, but given current market conditions there is likely to be quite a time delay between the payment to Eastpoint and the receipt of sale proceeds for the site.
- 38 This would mean funding the expenditure from Council resources (most likely prudential borrowing) in the short term before the receipt is realised. It should be pointed out that this timing difference is not an unusual situation for the Council but it does mean that they are taking the risk on whether the full value of the expenditure can eventually be recouped from the site.

Revenue

- 39 It is anticipated that the Council would carry out demolition 'back to back' with the vacation of the building by Eastpoint and its tenants. If this was not possible then the Council would be liable to pay the cost of; building

insurance, securing the building, security patrols, and £60k per annum empty property rates. The full revenue cost of looking after the building has not been costed.

Property

40 The property implications are contained within the contents of this report and in the confidential appendix.

Other

41 None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

42 Section 2 Local Government Act 2000

Other Legal Implications:

43 None

POLICY FRAMEWORK IMPLICATIONS

44 The report conforms with the Council’s Policy and Framework Plans.

SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members’ Rooms and can be accessed on-line

Appendices

1.	Site plan
2.	Confidential Appendix

Documents In Members’ Rooms

1.	Community Benefit Report
2.	Plans of the new Eastpoint Building

Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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Background documents available for inspection at:

FORWARD PLAN No: ED03650 **KEY DECISION** **Yes**

WARDS/COMMUNITIES AFFECTED:	Bitterne and other wards in the east of the city
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