

DECISION-MAKER:	CABINET
SUBJECT:	COLLEGE STREET CAR PARK – LEASE TO COLLEGE STREET YARD LIMITED
DATE OF DECISION:	18 October 2022
REPORT OF:	COUNCILLOR BOGLE CABINET MEMBER FOR ECONOMIC DEVELOPMENT

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
<p>Appendix 3 contains information deemed to be exempt from general publication based on Category 3 (financial and business affairs) of paragraph 10.4 of the Council's Access to Information Procedure Rules. In applying the public interest test this information has been deemed exempt from publication due to confidential sensitivity. It is not considered to be in the public interest to disclose this information as it would prejudice the Council's ability to operate in a commercial environment.</p>	
BRIEF SUMMARY	
<p>A report seeking approval to enter into a lease for part of College Street car park (Appendix 1: Site Plan) with College Street Yard Limited (CSYL) for use as a 'box park'. The box park scheme will comprise an arrangement of shipping containers adapted to be used to provide food and drink, office space, retail and entertainment; for visuals see Appendix 2: Scheme Plan. The container box park was granted a conditional temporary planning permission for 10 years by the Council's Planning and Rights of Way Panel in October 2021. A lease of 7 years less than 1 day is proposed as this is defined as a Short Tenancy with regard to S123 of the Local Government Act 1972.</p>	
RECOMMENDATIONS:	
	(i) To approve the proposal in principle.
	(ii) To delegate authority to the Head of Property, following consultation with the Cabinet Member for Economic Development to approve the preparation and granting of a lease once final details are agreed to College Street Yard Limited (CSYL) for a lease of seven years less one day for the use of part of College Street car park as a box park, as described in the report.
	(iii) To authorise the Head of Property, following consultation with the Cabinet Member for Economic Development to negotiate and agree

		the final details of the lease as required to facilitate the letting of the site.
REASONS FOR REPORT RECOMMENDATIONS		
1.	To facilitate the provision of a temporary “box park” development on part of College Street car park in accordance with the planning permission granted for the scheme which will include the following uses:	
	A1 Retail (net tradeable area)	132 m2
	A3 Restaurants and Café	106m2
	A4 Drinking Establishments	160m2
	B1(a) office	160m2
2.	To generate the benefits to SCC set out in Appendix 3.	
3.	To support the wider benefits from the scheme, such as increasing footfall in the area, providing opportunities for start up business space and diversification of the retail, food, beverage and entertainment offer in the City.	
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED		
4.	Reject proposal	
	This would mean the development with planning permission cannot be delivered and the Council would not receive the benefits identified in Appendix 3.	
DETAIL (Including consultation carried out)		
5.	College Street Yard Limited (CSYL) is a new company with an interest in setting up a box park (shipping container village) on part of the College Street car park. The directors of the company are local to the area and are involved with various property projects in Southampton.	
6	CSYL has designed the scheme in accordance with the requirements of their business. A resolution to grant a temporary five year planning permission was approved by the Local Planning Authority in 2020 and the Company subsequently re-submitted for a temporary 10 year planning permission and approval was granted subject to conditions on 15 th October 2021 (ref: 21/01199/FUL). The scheme will include retail, places to eat and drink, entertainment and also offices.	
7.	Direct benefits from the scheme to SCC will be the generation of revenue through rent and business rates. Wider benefits include the opportunities for small businesses to use the space, creation of a new venue and attraction in the area leading to increased local spend from visitors to the scheme.	
8.	It is noted that the proposal is generally supported by the community including the current Business Improvement District. When the original planning application was considered, 20 comments were received in support with seven local objections. The objections were from local residents and referred to issues in relation to noise, traffic and loss of parking. There are conditions attached to the recent planning permission to address these objections.	

9.	The scheme had been in abeyance as CSYL needed to seek a funder which they now confirm is in place and meetings have recently taken place with SCC officers to discuss the steps that will be required to bring the scheme to fruition. The next steps are to prepare and agree the lease, this will allow CSLY to then proceed with detailed design and construction. CSYL expect opening would be either summer 2023 or spring 2024.
RESOURCE IMPLICATIONS	
<u>Revenue</u>	
10.	The scheme will be delivered by CSYL. SCC will not be contributing towards the cost of the development.
11.	CSYL have agreed to cover SCC legal costs estimated at £1,500, Traffic Regulation Order costs up to £5,000 and car park reconfigurations up to £3,000.
12.	There will be minimal officer administration time required from the City Development Team in monitoring the progress of the development with CSYL and negotiating a rent review for after the 4 th year. The payment of any external valuation costs associated with the rent review will be set out within the lease, it is expected these would be paid by CSYL.
13.	The full financial implications are set out at Appendix 3. SCC will benefit from lease income from CSYL for use of the car park. Car park income is expected to reduce slightly however SCC will also benefit from a reduced business rate liability from the reduced size of the car park. Business rate income is expected to increase overall from additional rates payable by the development.
<u>Property/Other</u>	
14.	The indicative redline site boundary (Appendix 1) indicates that the proposal would require 67 spaces to be removed from the existing car park use, reflecting circa 40% of the site. Officers have previously consulted with Parking Services to confirm they are in agreement with the loss of the 67 car spaces. Recent discussions have confirmed Parking Services have no objection to the scheme progressing as the car park continues to be underutilised and has not reached pre-pandemic use.
15.	The terms of the agreement will require CSYL to be responsible for all maintenance of the shipping containers and to reinstate the land at the end of agreement.
16.	A tenancy of less than 7 years is considered a Short Tenancy with regard to Section 123 of the Local Government Act 1972. This means that Secretary of State approval is not required to agree the lease. A lease of over 7 years would need to demonstrate 'best consideration', which in some circumstances may require a marketing exercise to have been undertaken. CSYL approached SCC directly about the proposal and therefore in the absence of a marketing period to test 'best consideration', officers considered it would be prudent to only agree to a Short Tenancy of less than 7 years.
LEGAL IMPLICATIONS	

Statutory power to undertake proposals in the report:

17.	Section 123 Local Government Act 1972: States that local authorities shall not dispose of land otherwise than by way of a short tenancy (i.e. less than seven years) for a consideration less than best unless the Secretary of State's consent is obtained. This is subject to specific consents issued from time to time in the form of Government Circulars.
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Other Legal Implications:

18.	<p>The planning permission for the scheme is subject to a s.106 (Town and Country Planning Act, 1990) agreement requiring:</p> <ul style="list-style-type: none">(i) CSYL to enter into an agreement with the Council under s.278 of the Highways Act to either undertake a scheme of works or provide a financial contribution towards site specific transport contributions for highway improvements in the vicinity of the site.(ii) Submission of a highway condition survey to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.(iii) Submission, approval and implementation of a CCTV network that can be linked into and/or accessed by the Council and its partners, with contributions towards community safety facilities
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19.	<p>Public Sector Equality Duty: the council is required, in carrying out its functions, to have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010 to:</p> <ul style="list-style-type: none">(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. <p>Accordingly, an Equality and Safety Impact Assessment is appended at Appendix 4.</p>
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RISK MANAGEMENT IMPLICATIONS

20.	There is no guarantee from this decision that the development will be undertaken as the CSYL may not sign the lease or proceed with the development.
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21.	Officers will engage with CSYL and identify any risks to delivery of the scheme, supporting where necessary.
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POLICY FRAMEWORK IMPLICATIONS

22.	The proposals are in accordance with the Policy Framework, notably Southampton Economic & Green Growth Strategy 2020 – 2030. This document sets out objectives for Business Innovation and Growth, including supporting <i>“local businesses to grow, encourage start-ups in growing markets and aid business expansion. Southampton should be seen by the business</i>
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	<i>community as a supportive place to test, develop and scale-up new and innovative business models.”</i>
23.	In terms of Planning, the scheme was judged to meet the policies and proposals of the Development Plan through determination of application 21/01199/FUL. The proposal was considered to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and planning permission was granted.

KEY DECISION?	no
WARDS/COMMUNITIES AFFECTED:	Bargate Ward
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Site Location Plan
2.	Scheme Plan
3.	Financial Information -exempt
4.	Equality and Safety Impact Assessment

Documents In Members' Rooms

1.	NONE
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
See Appendix 4.	
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
Other Background Documents	
Other Background documents available for inspection at:	
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