

RECORD OF EXECUTIVE DECISION

Tuesday, 25 June 2024

Decision No: (CAB 24/25 45151)

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	Cabinet Member for Economic Development
SUBJECT:	Chapel Riverside Development
AUTHOR:	Nawaz Khan

THE DECISION

- (i) To approve the novation of the Chapel Riverside Development Agreement to a new developer.
- (ii) To delegate authority to the Chief Executive following consultation with the Leader, Executive Director Corporate Services, Executive Director for Growth and Prosperity and Director of Legal & Governance to progress with the novation of the agreement to the preferred party (Developer A) as set out in Appendix 1.

REASONS FOR THE DECISION

The Chapel Riverside development has stopped as the developer, Inland Homes has entered administration. Various elements of the scheme are incomplete, including the storm water 'Caisson' tank and there are a number of planning breaches due to delivery ceasing. As the freehold landowner, the Council aims to support the re-commencement of the Chapel Riverside development as soon as possible in line with its vision for the City's growth and to rectify the planning breaches. There is an existing development agreement in Agenda Item 12 place which facilitates the delivery of the remaining phases of the scheme and therefore a new development agreement is not required to complete the development as the Council originally intended.

Following a marketing process conducted by the Administrators, other developers have expressed interest in completing the unfinished components of the scheme and advancing the remaining phases of the project in line with the development agreement. Allowing a novation of the agreement would enable a new developer to take forward the development according to the terms outlined in the existing agreement between the Council and Inland Homes. Further details of the marketing process undertaken by Inland and the Administrators to identify a suitable new developer is set out at Appendix 1 – Marketing Report and Next Steps.

Inland Homes through their administrators have the ability to novate the agreement,

which represents the quickest path toward securing a new developer to undertake the project. This approach is also beneficial as it ensures a comprehensive exchange of information between all involved parties. The process requires the Administrators to source and appoint a new contractor in accordance with the conditions set out in Regulation 72(1)(d)(ii) of the Public Contract Regulations 2025. The Council must be satisfied that they have undertaken the relevant process to comply with the Regulations but must not play a part in the selection of the new contractor in its own right. Legal and procurement advice has been sought from the outset, and SCC officers are satisfied that this option is compliant with procurement regulations.

DETAILS OF ANY ALTERNATIVE OPTIONS

- Do Nothing. Choosing to take no action means the site will remain unfinished. Since Inland Homes is in administration, they can't complete the development. Without support from the Council to transfer the agreement, the site could stay empty for an indefinite period. This would mean the issues of the site, relating to odours from the open storm tanks will persist as the new tanks will not be completed. Other planning conditions will also remain uncompleted.
- Terminate the Development Agreement. Terminating the agreement with Inland Homes is an option given insolvency is statutory grounds for termination. The Council would be required to reimburse reasonable costs to the developer (up to 100%). The costs the developer has incurred in the site could be substantial and likely to be more than any losses the Council could attempt to claim as a result of the insolvency.
- This option would require the Council reconsidering how to finish the project which could include the Council restarting the process of finding a new developer through a marketing/ procurement process. The use of an accelerated process under Reg 32 of the PCRs was reviewed in relation to this option to speed up this route, however advice on this matter established that there would likely not be a case for the Council to use an accelerated route and therefore a full procurement process to procure a new development agreement would be required. The Council would incur additional costs in setting up a new development agreement, would be responsible for managing a vacant construction site and would incur further delays before any work could begin on the site to complete the scheme. It is not considered necessary to terminate the agreement and then re-procure a new development agreement to complete the development, therefore this option has been discounted at present.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None

CONFLICTS OF INTEREST

None

CONFIRMED AS A TRUE RECORD

We certify that the decision this document records was made in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and is a true and accurate record of that decision.

Date: 25 June 2024

Decision Maker:
The Cabinet

Proper Officer:
Claire Heather

SCRUTINY

Note: This decision will come in to force at the expiry of 5 working days from the date of publication subject to any review under the Council’s Scrutiny “Call-In” provisions.

Call-In Period expires on

Date of Call-in *(if applicable) (this suspends implementation)*

Call-in Procedure completed *(if applicable)*

Call-in heard by *(if applicable)*

Results of Call-in *(if applicable)*