

<b>DECISION-MAKER:</b>	Cabinet
<b>SUBJECT:</b>	Chapel Riverside Development
<b>DATE OF DECISION:</b>	25 June 2024
<b>REPORT OF:</b>	<b>CABINET MEMBER FOR ECONOMIC DEVELOPMENT</b>

<b><u>CONTACT DETAILS</u></b>		
	<b>Title</b>	Chief Executive
	<b>Name:</b>	Andrew Travers
	<b>E-mail:</b>	Andrew.travers@southampton.gov.uk
<b>Author:</b>	<b>Title</b>	Executive Director Growth and Prosperity
	<b>Name:</b>	Nawaz Khan
	<b>E-mail:</b>	Nawaz.khan@southampton.gov.uk

### **STATEMENT OF CONFIDENTIALITY**

Appendix 1 and 2 of this report contain information deemed to be exempt from general publication based on Category 3 of Paragraph 10.4 of the Council's Access to Information Procedure Rules. This includes details of commercial terms which have not yet been agreed between parties and which if disclosed, could put the Council or other parties at a commercial disadvantage.

### **BRIEF SUMMARY**

The report advises Cabinet of the way forward for progressing the Chapel Riverside Development since Inland Homes (the developer) entered administration. The recommended way forward, novating the development agreement, is the fastest option to re-start the delivery of this key regeneration site.

### **RECOMMENDATIONS:**

	(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 REPORT RECOMMENDATIONS**

1.	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
----	---

	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.
2.	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.
3.	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.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
4.	<ul style="list-style-type: none"> <li>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.</li> </ul>
5.	<ul style="list-style-type: none"> <li>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.</li> <li>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</li> </ul>

	then re-procure a new development agreement to complete the development, therefore this option has been discounted at present.
<b>DETAIL (Including consultation carried out)</b>	
6.	The Chapel Riverside development is a key regeneration project for the City. The Councils' roles as landowner and Planning Authority are central to the delivery of this development, which includes a Development Agreement with Inland Homes (entered into in 2016) along with various planning conditions and agreements associated with the planning permission for the development.
7.	A Development Agreement with Inland Homes was entered into in November 2016 after an OJEU procurement process. Existing planning conditions, S106 agreements, CIL obligations, and S278 agreements are in place in relation to planning permissions for the various phases and are monitored by the Council as Planning Authority.
8.	The redevelopment of Chapel Riverside comprises 5 phases of works. Phases 1-3 are substantially complete, this includes 204 residential flats (in occupation), 2 small commercial units, a new river wall and riverside walkway. The one outstanding element of phase 3 is the completion of a new underground stormwater storage tank (the caisson) and the demolition of three existing above-ground stormwater settlement tanks. Planning permission for phases 4 and 5 includes a further 316 flats, 5,418sq.m of commercial floorspace, the remainder of the riverside walkway and a new public square. The planning permission has been implemented by the construction of some minor initial drainage works. This keeps the permission 'live' and capable of being fully implemented at any point. That said, the completion of the caisson and the demolition of the existing wastewater storage tanks is needed before the rest of the site can be developed.
9.	Financial difficulties at Inland Homes led to the appointment of Administrators FRP in October 2023. Council officers have worked alongside Inland and the Administrators to identify options for the Administrators to pursue to help continue the delivery of the scheme.
10.	A confidential marketing exercise was undertaken by the Administrators, following consultation with Council officers, to establish interest from other developers in delivering the project via a novation of the Development Agreement. This marketing process has recently concluded and demonstrates that there is interest from other developers in continuing the development as per the terms of the original Development Agreement. Full details of the marketing process and outcomes are set out at Appendix 1 – Marketing Report.
11.	The new developer will need to meet the same terms of the existing Development Agreement and satisfy the selection criteria set out in the original developer selection process. They will be expected to rectify outstanding planning matters as well as delivering the incomplete infrastructure elements of the scheme.
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
12.	There are no direct capital/revenue implications from the novation of the agreement as the Administrators have funded the marketing exercise and the Administrators will cover a capped level of the council's legal fees subject to the

	completion of the novation. It is expected that the cap will be sufficient to complete the novation but there is a risk that if complications arise during the process then there will be legal fees that will need to be covered by the council. This should be able to be funded through existing budgets earmarked for the development.
13.	. The estimated council tax and business rates receipts for phases 4 and 5 of the development are not currently built into income forecasts in the Medium Term Financial Strategy. Therefore there is no adverse impact on the existing MTFS from any delays in completion of the scheme. The estimated council tax receipts from phases 4 and 5, at 2024/25 rates, are estimated to be £0.35M. Based on the revised delivery timeline these will not be expected to be fully received until 2029/30. The council share of business rate income, again based on 2024/25 rates, is estimated to be £0.04M and the commercial space is likely to be completed after the residential.
14.	The novation enables the planning obligations from the original development agreement to be realised, albeit over a longer timeframe. This includes Community Infrastructure Levy contributions and Section 106 contributions for site specific highways works, Solent Disturbance Mitigation Programme, affordable housing, carbon management, play space and public art. The expected receipt from these items is in the region of £3.2M.
<b><u>Property/Other</u></b>	
15.	The land is owned freehold by the Council and is subject to a development agreement which allows the development of the site in phases.
16.	The Council will need to closely monitor the project and commercial arrangements related thereto, so a continued 'development management' resource will be needed on this project.
17.	Once a new developer has taken on the project, they will re-engage with SCC as Planning Authority to rectify outstanding planning breaches.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
18.	The Council powers to promote this development are Section 123 Local Government Act 1972 and Section 1 Localism Act 2011.
19.	Regulation 72(d)(ii) of the Public Contracts Regulations 2015 allows for situations where a new contractor replaces the one to which the contract was originally awarded as a consequence of insolvency. This is permitted on the basis that the new contractor fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract.
20.	In order to novate the Agreement on the basis set out in this report the Council must be satisfied that the Administrators (not the Council) have complied with the requirements of Regulation 72(1)(d)(ii) of the Public Contract Regulations 2025.
<b><u>Other Legal Implications:</u></b>	
21.	Not applicable.
<b>RISK MANAGEMENT IMPLICATIONS</b>	

22.	The Council is not taking any active participation in the re-development and (apart from timing of the projected revenue & capital receipts) no financial risks are involved.
23.	The Council must be satisfied that the Administrators have conducted the selection process in accordance with Regulation 72 (as set out above) in order to novate the Development Agreement. If the Administrators have not complied with Reg.72 in full, there is a risk of challenge to the legitimacy of the Novation under the Public Contracts Regulations 2015.
24.	This scheme is subject to uncontrollable economic events which is normal for schemes with a long delivery timetable.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
25.	The remaining phase of the scheme have implemented planning permission ref: 19/01875/FUL.
	This scheme supports many of the Council's strategic objectives around housing, environment, sustainability, Green City and economic development. The emerging Southampton Renaissance master planning work also recognises this site's potential to contribute to a vision for the City's future prosperity. The development proposals are consistent with the key growth and regeneration ambitions for the City.

<b>KEY DECISION?</b>	<b>Yes</b>
<b>WARDS/COMMUNITIES AFFECTED:</b>	Bargate
<b><u>SUPPORTING DOCUMENTATION</u></b>	
<b>Appendices</b>	
1.	Confidential: Marketing Report and Next Steps
2.	Confidential: Track Record

#### **Documents In Members' Rooms**

1.	None
<b>Equality Impact Assessment</b>	
<b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b>	<b>No</b>
<b>Data Protection Impact Assessment</b>	
<b>Do the implications/subject of the report require a Data Protection Im Assessment (DPIA) to be carried out.</b>	<b>No</b>
<b>Other Background Documents</b>	
<b>Other Background documents available for inspection at:</b>	
<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>

1.	<a href="#"><u>Decision - *Chapel Riverside - appointment development partner   Southampton Council</u></a>	
----	---	--