

CABINET

9 December 2009

SILVER HILL RENAISSANCE UPDATE

REPORT OF CORPORATE DIRECTOR (OPERATIONS)

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RECENT REFERENCES:

CAB 1733_- Upper Brook Street Car Park Winchester – Revised Terms (exempt) – 15 Oct 2008

PDC768 – Silver Hill, Winchester – 21 October 2008

CAB1739 – Silver Hill Compulsory Purchase Order – 18 November 2008 (part exempt)

EXECUTIVE SUMMARY:

The report provides an update to Cabinet on the progress of the Silver Hill scheme and the milestones reached. It sets out a provisional timetable for the next stages of the project. There are no recommendations requiring a decision at this time.

RECOMMENDATIONS:

- 1 That the report be noted, and
- 2 That supplementary approval for revenue budget of £34,000 is granted for legal fees in 2009/10.

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DETAIL:

- 1 Introduction
- 1.1 The last report to Cabinet on the Silver Hill scheme was in November 2008 when Cabinet authorised a number of revisions being made to refresh the Development Agreement between the City Council and Thornfield Properties, the Council's development partner.
- 1.2 The work to revise the Development Agreement was undertaken in conjunction with work to complete the agreement to lease the site of the Upper Brook Street car park to Thornfield as a potential location for replacement surgery building.
- 1.3 This latter task proved more complex and time-consuming than had been expected because of a range of land related issues, including some arising from the original acquisition of the land in the 1950s. In the current financial climate it is necessary to resolve issues which might have once been accepted 'at risk' in a transaction and this took considerable time.
- 1.4 However it can now be reported that both the revisions to the Development Agreement and the agreement to lease Upper Brook Street have now been completed. The revisions to the Development Agreement have been made in accordance with Cabinet resolution except that the long-stop date has not been amended. Instead, both parties have entered into an agreement not to implement their rights under the long-stop provisions before 31st December 2012. This has the effect Cabinet agreed without constituting a change to the Development Agreement itself.
- 1.5 Thornfield are now bringing discussions with the St Clements practice to a conclusion with the aim of submitting a planning application for the replacement surgery in early 2010.
- 1.6 The full indemnity agreement between Thornfield and the City Council is now being finalised. This provides for the costs of the compulsory purchase order (CPO) and the acquisition of land should the CPO be confirmed in due course to be met in full by Thornfield Properties under arrangements which are very much standard practice for such development. Drivers Jonas (chartered surveyors) and Berwin Leighton Paisner (solicitors) continue to advise the Council. Both firms are very experienced in CPO led development processes

and so far the Winchester scheme has not given rise to any unique or unusual commercial or legal points.

2 Timetable for CPO

- 2.1 The provisional timetable for the next stages of the CPO process are set out below. Cabinet should note that the timing of the most significant elements is largely beyond the control of the City Council or Thornfield and may be significantly shorter or longer depending on the timing of the Inquiry, the number and type of objections and the speed of response from various outside agencies.

| Activity | Likely Timescale |
|---|-------------------------|
| Complete refresh of information for CPO | December-February 2010 |
| Make CPO | February 2010 |
| CPO Inquiry | September 2010 |
| CPO decision | April-May 2011 |
| First property acquisitions | Third quarter 2011 |
| Works commence | Second quarter 2012 |

- 2.2 Throughout this period attempts to acquire property through negotiation will be made so as to reduce the number of likely objections at the Inquiry. Cabinet is reminded that no private residential property needs to be acquired through the CPO.

OTHER CONSIDERATIONS:

3 SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

- 3.1 The Silver Hill scheme promotes a range of objectives from the Sustainable Community Strategy and Corporate Business Plan including promoting the economic vitality of Winchester, the provision of affordable housing and the efficient use of resources, specifically Council owned property.

4 RESOURCE IMPLICATIONS:

- 4.1 It should be noted that the Council's legal costs of the Upper Brook Street agreement to lease have been settled at £34,000 which is slightly higher than originally envisaged due to the complex issues which arose during the process. These costs will be offset by the capital payment to be received by the Council on completion of the leases. However, because this will occur in

a future financial period, a supplementary approval is required to cover this revenue cost in 2009/10.

5 RISK MANAGEMENT ISSUES

- 5.1 There are three 'strands' to the risk to the City Council embedded with the project. These have been considered in each previous report but in the current financial climate it is sensible to review them again.
- 5.2 The first strand is the risk of direct financial exposure to the costs of the CPO process. This risk is covered by the Indemnity Agreement with Thornfield Properties. The indemnity requires that before the Council incurs any costs of the legal and administrative process an agreed amount is placed in an escrow bank account from which the Council can withdraw sums to cover properly incurred costs. It is not necessary therefore under normal circumstances for the Council even to submit claims for reimbursement to Thornfield Properties – although this may be necessary in the unlikely case that a particular cost is unexpectedly large. Thornfield Properties' liability to meet the costs of the scheme is not subject to any limit by the indemnity agreement. However the terms of the Development Agreement do permit either the Council and Thornfield not to proceed to the unconditional stage if the scheme does not meet the viability condition.
- 5.3 The second strand of risk relates to acquisition costs. If the CPO is successful then, by definition very substantial sums totalling in the order of £35 million will be required to make acquisitions. It should be stressed that the City Council does not use its own funds to make these acquisitions. The Indemnity Agreement sets out the process by which Thornfield Properties can only require the Council to use its powers to acquire (granted by the CPO) on condition that it has provided the necessary sums in advance. The Council cannot therefore be required to make any acquisition at its own financial risk.
- 5.4 The third strand of risk is the only one which cannot be addressed through agreement between the parties. This is the risk that in some future financial climate the Scheme will not be considered financially worthwhile. Funding for the Silver Hill development, like almost all such schemes, is provided by banks, pension funds and other financial institutions who must be convinced that their investment will show a good return. At present there is every reason to be optimistic. Silver Hill is one of few such schemes in the UK still proceeding through a CPO process and the continued financial commitment of Thornfield Properties is indicative of the positive messages about the fundability of the scheme in the markets. Winchester is an attractive proposition for retailers and although the residential market has been slowed by the recession it is beginning to improve and housebuilding schemes are being actively promoted throughout the district. Whilst there can be no certainty about the external financial environment there is every reason to believe that the internal financial 'logic' of the Silver Hill scheme remains viable.

BACKGROUND DOCUMENTS:

None

APPENDICES:

None