

Report to the Cabinet

Report reference: C-020-2015/16

Date of meeting: 23 July 2015



**Epping Forest
District Council**

Portfolio: Asset Management and Economic Development

Subject: Site of Former Sir Winston Churchill Public House, Loughton –
Development Agreement

Responsible Officer: Derek Macnab (01992 564051).

Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

(1) That Agreement is given to:

(i) a variation of the Heads of Terms for the Development Agreement with CK Investment (Loughton) Ltd, to allow a Novation Agreement and Deed of Variation and Consent which changes the party responsible for constructing the development to Higgins Homes Plc and they be granted an under-lease accordingly; and

(ii) a variation of the lease to permit access for tenants to carry out repairs on the neighbouring car parking area, but that a clause is inserted to prevent obstruction;

(2) That the Asset Management and Economic Development Portfolio Holder be authorised to agree minor amendments to the documentation, in consultation with the Director of Neighbourhoods.

(3) That the Call-In procedure with respect to this decision be waived on the grounds of Urgency in order to prevent further delay to the start of the development.

Executive Summary:

This report seeks Members' agreement to a variation to the Heads of Terms of the Development Agreement with respect to the site of the former Sir Winston Churchill Public House, in Loughton. If agreed, the party responsible for construction will change to Higgins Homes Plc.

Reasons for Proposed Decision:

The Council has previously agreed Heads of Terms with CK Property Investments (Loughton) Ltd for the redevelopment of the site of the former Sir Winston Churchill Public House in Loughton. The previous decision gave authority for the Asset Management and Economic Development Portfolio Holder to agree minor amendments to the contract documentation. However, matters have now arisen, which are considered to be outside of the scope of "minor" amendments and as such the report seeks the full Cabinet's consideration.

Other Options for Action:

The Cabinet may choose not to agree the proposed variations. This action, would delay the approved development scheme for the site, which has been vacant for several months. In addition, this would also cause further delay to the regeneration benefits sought by the Debden Town Centre and Broadway Development Options Brief.

Report:

1. In September 2013, the Asset Management and Economic Development Portfolio Holder proposed Heads of Terms for a Development Agreement for the Sir Winston Churchill Public House site. The form of development proposed was, in accordance with the previously adopted Debden Town Centre and Broadway Development Options Brief. Cabinet agreed the Heads of Terms and a period of negotiation was undertaken with the developer, CK Property Investments (Loughton) Ltd. As a result of these discussions, a subsequent report was considered by Cabinet in December 2014, which agreed a further variation of the Development Agreement. This variation guaranteed that the Council retained the freehold and income from the commercial premise to be developed on the site, as this would be financially advantageous to the authority. As part of this decision, the Portfolio Holder for Asset Management and Economic Development was authorised to agree minor amendments to the documentation in accordance with the Director of Governance. This has been the Council's accepted practice in such circumstances. However, the developer CK Property Investments (Loughton) Ltd has now requested yet further variations. Firstly a Novation Agreement has been requested. If agreed, this would change the identity of the party responsible for constructing the development. Secondly, a variation of a lease which permits access for the tenants to carry out repairs on the neighbouring car parking area and finally an agreement to an under-lease to Higgins Homes Plc, is also sought.

2. These variations fall outside of the definition of minor, being more material in nature. As they have not been referred to previously, the full Cabinet is now being made aware and authority sought to their agreement.

3. The proposed variations do not affect the design or scale of the development, which will remain as per the current planning approval granted by District Development Management Committee. However, if agreed it will mean the construction of the development will now be undertaken by local company, Higgins Homes PLC, whose headquarters are in Loughton. Higgins Homes Plc have a track record of undertaking both residential, public sector and commercial developments in the District. The Novation Agreement sought, would make Higgins Homes Plc responsible for constructing the development. To this end they are requesting that they would be granted an under-lease in the revised Heads of Terms.

4. The other variation sought is to a lease permitting access to carry out repairs on the neighbouring car parking area for the tenants, which currently makes no provision for preventing obstruction of other users. It is recommended that it is reasonable to allow access for repairs, but that a clause to prevent obstruction should be inserted. This also presents an opportunity to address some related issues in relation to the responsibility for the repair, maintenance and insurance of the two car parks remaining in the Council's ownership.

5. The site has been vacant for some time. In order to bring forward commencement on site at the earliest opportunity to deliver the new homes and regeneration benefits, a waiver of the Council's call-in procedure is sought on grounds of Urgency.

Resource Implications:

There are no adverse financial implications in relation to the variations sought. However, it should be recognised that the sooner the development is built and the resulting commercial premise let, the quicker the Council will benefit from rental income.

Legal and Governance Implications:

Covered in main report.

Safer, Cleaner and Greener Implications:

No specific implications although any vacant construction site has the potential to attract anti-social behaviour. The development will be built to modern energy efficient standards.

Consultation Undertaken:

Public Consultation was undertaken as part of the Planning Application.

Background Papers:

Adopted Debden Town Centre and Broadway Development Options Brief 2008.
Reports to Cabinet 9th September 2013 and December 2014.

Risk Management:

Given the financial strength and experience of Higgins Homes Plc, who, if agreed, will undertake the construction, it could be argued the risk of the development not being successfully completed has been mitigated to some extent.

Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

The new development will be fully accessible to people with disabilities in accordance with the requirements of current building regulations.