

Amendments to Riverlights Development Agreement

RECOMMENDATION

1. To approve the amendments to the Riverlights Development Agreement outlined in this report.

REASON FOR RECOMMENDATIONS

2. The Development Agreement needs to reflect the new uses introduced into the scheme and timescales need up dating.

SUPPORTING INFORMATION

- 3.1 The Council entered into a development and sale agreement with MetroHolst Riverlights Limited ("the Developer") and Metropolitan and District Developments Limited ("the Developer's Guarantor") on 18 May 2001.
- 3.2. The agreement is lengthy, over 100 pages with schedules, but the following is a brief summary:
 - if fifteen preconditions are fulfilled, the Council will be obliged to grant a 150 year lease of the site to the Developer at a peppercorn rent.
 - after the grant of the lease, the Developer must construct the development including a new bus station and an improved road system near the site at its own cost.
 - when the development is completed, the Council will be granted a peppercorn lease of the new bus station for approximately 150 years
 - after the developer has recovered their costs incurred in the development and taken a priority return of 15% of development costs, further profits are shared equally between the parties.
- 3.3 The development which the Developer is required to construct is specifically set out in the agreement and includes a multiplex cinema. UCI Cinemas have withdrawn their interest and there is now little or no chance of the Developer being able to let the proposed multiplex cinema.

- 3.4 On 18 November 2002 MetroHolst gave a presentation on its latest proposals to the Riverlights Cross Party Working Group who agreed "... that a planning application should be encouraged with a sympathetic design which fitted in with Cityscape". Two planning applications for residential and office use have now been submitted and were considered by Planning Control Committee on 23 October 2003. The Committee were minded to grant planning permission subject to GOEM not calling in the two applications.
- 3.5 At its meeting on 14 January 2003 Cabinet authorised the "...Directors of Development and Cultural Services and Corporate Services, in consultation with the Riverlights Cross Party Working Group to make amendments to the Development Agreement to take account of the new Metro Holst scheme proposals and to set new deadlines enforceable by either party"
- 3.6 Deadlines have been agreed with MetroHolst as follows and Cabinet is asked to approve them:
- agree the temporary bus station arrangements by 31 May 2004
 - agree the bus station specification by 31 May 2004
 - submit outstanding reserved matters planning applications within 2 months of receiving outline planning permission for residential and office uses
 - start on site by 31 October 2004
- 3.7 The deadlines will be extended if delays are incurred through reasons out of the control of the Council and MetroHolst.
- 3.8 The delay in bringing back a report has been due to discussions over the office development block 'D'. Due to the complex infrastructure phasing, it will not be possible to start the office site until the other blocks are nearly complete. We have thoroughly investigated whether it would be practical and desirable to require the office building site to revert to Council if development is not commenced within a specified period after practical completion of the remainder of the development.
- 3.9 We were concerned that the office development may not immediately follow on from the rest of the development and did not want a prime city centre site to lie undeveloped if there was a viable demand for it. However, the investors view the office site as an integral element of Riverlights. Loss of control would lead to uncertainty over its future use which would substantially reduce the value of the scheme. It has proved impossible to find a solution which meets the aspirations of both parties.
- 3.10 However, having taken advice from external solicitors experienced in such development agreements, we believe the risk to the Council of delayed completion of the office development is minimal for the following reasons:
- there is a strong incentive to bring the site forward quickly as it will be the last and most profitable phase of Riverlights because the infrastructure will already be in place

- if it is commercially viable it will be built either by MetroHolst, or if in the unlikely event they were to go into receivership, the bank would wish to step in to complete the scheme and secure their return on the investment. As a last resort, the Council could step in and complete.

3.11 We therefore recommend that the development agreement does not include a requirement for the office site to revert to the Council.

3.12 If there is a delay because of a lack of demand at that time, the site will be temporarily landscaped. Although there is a clear incentive for the developers and investors to maintain the attractiveness of the site, we recommend that the Council secure a commuted maintenance sum for any temporary landscaping.

OTHER OPTIONS CONSIDERED

3. None.

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Background papers:	None
List of appendices:	Appendix 1 – Implications

Appendix 1

IMPLICATIONS

Financial

1. The proceeds of the actual or deemed disposal will first be used to repay the Developer's costs incurred in the development. The balance of the proceeds, if any, will be gross profit and the Developer will be entitled to a priority return (15% of the costs incurred by the Developer). This is effectively the Developer's fixed profit margin. Any gross profit left over after the Developer's priority return has been paid will be shared equally between the Developer and the Council.

Legal

2. The Development Agreement will need to be amended to reflect the changed circumstances.

Personnel

3. There are no personnel implications arising from this report.

Corporate Objectives and Priorities for Change

- 4.1 Riverlights will provide **job opportunities** during the construction process and in the offices, bus station and leisure units.
- 4.2 It also promotes the priority of providing **shops, commercial and leisure activities**, all of which will be incorporated in Riverlights.