
Executive

24 November 2016

Report of the Director of Economy and Place
Portfolio of the Executive Member for Finance and Performance

Update on Land Assets on Piccadilly

Summary

1. This report recommends the council grant Spark:York a three year tenancy to provide a meanwhile development on the former Reynard's Garage site. The proposal would offer a vibrant and active destination of start-up space and street food on a vacant city centre site, opening in spring 2017. This would generate footfall in to the neglected Piccadilly area, encouraging redevelopment of neighbouring vacant private sector sites and potentially increasing land values and the council's revenue returns from the future redevelopment of the site.
2. The responsibility for securing funding and planning permission would rest with Spark:York meaning this is a low risk option for the council to deliver an exciting and bold development. The upfront investment required to provide utilities to our site would be recovered through a rental agreement in staged monthly payments over the term of the lease, and the council would also benefit from a profit share agreement. Delivery of the scheme would signal the council's ambition and commitment to the Southern Gateway, building confidence in the project and making short term use of the council's land assets in advance of bringing forward long term development plans.

Recommendations

3. Executive are asked to:
 - a) Agree to grant Spark:York a three year lease for the use of 17-21 Piccadilly from Spring 2017 to build and operate a shipping container development for start-ups and street food, subject to them:
 - Securing finance

- Securing planning permission

Reason: To allow the meanwhile use of 17-21 Piccadilly to drive the regeneration of the area in advance of the sites long term redevelopment.

- b) To note the use of the remaining capital demolition budget of £40k to provide utility services to site, the cost of which would be recovered through Spark:York's rent over the term of their tenancy

Reason: To provide the necessary utilities to the site to allow the meanwhile use to proceed.

Background

4. In October 2015 the Executive approved the principle of the regeneration of the Southern Gateway, an area in which the council has a number of land assets identified for redevelopment and the long term vision for the wider area will be brought back to Executive in the new year. The most neglected area is Piccadilly, a key route in to the city characterised by former light industry which has become run-down and underused. There are a number of vacant or derelict buildings and the area is desperately in need of the investment that would be attracted by increased footfall in to the area. One of the council's land assets is the former Reynard's Garage site at 17-21 Piccadilly, identified in the map at Annex 1, which was previously marketed for sale with the highest bids received being for budget hotels or student accommodation. As the site is seen as an important catalyst for the regeneration of the area these proposed uses were deemed to be unsuitable, and the Executive agreed to seek a joint venture partner to carry out its long term redevelopment.
5. The demolition of the site was completed in September 2016 and we are poised to implement the associated planning condition to provide planting on site until the long term redevelopment proceeds. Over the summer we have been exploring alternative temporary uses for the site which bring it in to use in the short term and animate the area. A number of options were explored such as markets, street food, leisure uses, and short term parking. Turning the site into a car park would require planning permission and there is unused capacity in a number of car parks in the area so would add little value. Other uses were explored with partner organisations including Make it York, The BiD, and Jorvik Viking Centre but they did not feel able to take the site on in the short term. Whilst these discussions were ongoing the council were approached by a Community Interest Company (CIC) called Spark:York who were interested in finding

a site for pop-up development providing start-up spaces for social enterprises and new businesses. They subsequently submitted a business plan to the council for 17-21 Piccadilly.

Proposal

6. The proposal is an exciting opportunity based on the success of other similar schemes in London such as Pop Brixton, Boxpark Shoreditch and The Artworks London. These have all become destinations in their own right as vibrant and creative hubs that attract people in to the area. This scheme seeks to provide affordable space to local start-up businesses, social enterprises, community groups and charities for over 20 businesses in fully fitted out shipping containers. The completed scheme would offer street food kiosks, retail, shared workspaces, meeting room, performance area and public workspace. Although constructed from shipping containers they can be clad and finished in a variety of finishes to fit the locality and create a high quality aesthetic finish.
7. The construction method has the key advantage of being incredibly quick to implement and scale up or down, and at the end of the tenancy the project can easily be relocated to an alternative site if successful. The working timetable for development, should Executive agree to offer a tenancy, is:
 - to have secured investment by January 2017
 - planning permission by March 2017,
 - the quick construction method allowing the scheme to open in May 2017
8. The proposed scheme would be of significant benefit in promoting the regeneration aims of the Southern Gateway. In the short term it would provide a meanwhile use for a vacant site in advance of establishing, agreeing, securing planning for and implementing the long term future of the site. However, more importantly the proposal stands on its own merits as an opportunity to act as a catalyst and economic driver of the regeneration of the area whilst delivering additional social benefits.
9. One of the key advantages is that it would achieve early delivery in the Southern Gateway. The scheme opening would represent an early milestone, building confidence in the council's commitment to the regeneration of the area and in our ability to deliver the complex project. It would also drive footfall in to Piccadilly, and act as a continuation and

extension of the already successful reinvigoration of the Fossgate and Walmgate area.

10. The additional activity, footfall and vibrancy in the area would create an environment conducive to development and encourage other private sector landowners to invest and bring forward their sites and may have an impact on the broader ambition for improving the quality of the area and by driving footfall, contribute to uplift in land values. Should these impacts be realised it would also significantly improve the nature of 17-21 Piccadilly. The site currently looks out on to the vacant and run down Banana Warehouse. Discussions with the landowners suggest that the site will be redeveloped by the time Spark:York's tenancy would complete. This, coupled with the increased footfall to the area from the Spark:York development, would result in the council's site being a more attractive proposition potentially increasing both land value and the achievable revenue returns.
11. Any profit generated by the scheme will be subject to a profit share agreement with the council (detailed in paragraph 16). This helps to de-risk the project but ensures that the council benefits if it is a commercial success. It is also important to note that as a Community Interest Company any profit generated by Spark:York will be reinvested in to community projects associated with the scheme. They have committed to an open book approach to finances with the council to sign off actual profit achieved, and to agree with the council the broad principles of what Spark:York's profits will be used for. The council would also have a representative on Spark:York's advisory board, which will be consulted on the proposed use of their profits.
12. The business plan that has been submitted to the council is comprehensive, detailed and innovative, and a summary version is included as Annex 2. The nature of meanwhile uses on short term tenancies and organisations with strong social aims and low rent models means that they carry a level of risk of failure. However, it has been interrogated by cross-directorate officers and partners at Make It York and The BiD. There is a reasonable level of confidence in the assumptions made in the business model and the scheme is backed by an experienced and respected advisory board. Spark:York have already secured half of the start-up investment needed through angel investors, grants and donations without having been able to go public with the proposal and give certainty of the council's offer of a tenancy.

13. Crucially for the council the main risk for the proposal rests with Spark:York. It is their responsibility to secure finance and planning permission. If neither can be achieved then the offer of a tenancy will be withdrawn. If once up and running the project was not an ongoing viable concern then the site would simply return to the council and be available earlier for redevelopment. Importantly, there is sufficient commercial value in the fitted out shipping containers that there would be no risk of them being left on site if Spark:York were to cease to exist.
14. For the project to be viable Spark:York would need a 3 year tenancy to allow the start up and investment costs to be recouped. It also provides certainty to investors and allows the offering of longer term agreements to prospective tenants for the development. The option of offering a 3 year tenancy with a break clause at the end of year 2 was considered to give the opportunity for control of the site to be taken back earlier if required. Even if an in principle payment was agreed with Spark:York to cover all outstanding costs to break even significant operational risks would remain. The most challenging of these would be the restrictions on their ability to offer tenancies longer than 1 year in the second year of the lease due to the uncertainty created by the potential imposition of the break clause. In turn the sub-tenants would be reluctant to invest in kitting out their units and this uncertainty would consequently damage investor confidence.
15. The length of term does not significantly impact on the current anticipated delivery programmes and models for the council's land assets in the area. It allows an ongoing use of the site that has wider benefits whilst the council secures partners, planning permission, consults and procures contractors. It is likely that this site would form a second phase of the redevelopment of the area meaning it is built out in an improved area with potential higher land values and returns. As a consequence the risk to the viability of the project of inserting a break clause, the cost to the council to enact it, and the fact that the difference of one year is unlikely to adversely impact on the development of the site, the option was discounted.
16. Profit share/rent – As a piece of unused land with few amenities and a short tenure the commercial value of the site is limited. To de-risk the project, enabling the best chance of success whilst ensuring the council benefits if it is commercially successful, the rent will be predominantly on the basis of a profit share agreement, with a guaranteed base rental figure to repay the council the cost of providing the necessary utilities to the site. The cost of the provision of water, electric and gas supply has been estimated to be circa £40,000. From being ordered the supply of these utilities can take up to 6 months, and as a consequence would need to be

paid for and ordered by the end of November to meet the project timescales. As there is no market rent to justify that expenditure the cost will be recouped from Spark York's profit over the tenure period as a monthly rent.

17. In addition to that rent there will be a 30% profit share. Based on the profit forecasts at this stage this could generate the council a further £22k per annum. It should be noted that the outlay on utilities does carry a degree of risk as it will need to be spent in advance of having certainty that Spark:York can proceed with the tenancy. Some of this risk is mitigated by the fact that the investment does improve the value of site, would make it easier to allow alternative temporary uses, and could be of use to the long term development proposals.

Consultation

18. The council have consulted with Make It York and The York BiD who are supportive of the proposal. Spark:York have undertaken their own discussions with prospective tenants, investors and local businesses and intend to undertake a full public consultation should the Executive approve the offer of a tenancy.

Implications

19. The following implications have been identified:
 - (a) **Financial** – The recommended option would involve the Council incurring £40k capital expenditure in 2016/17, with this investment being repaid over the following 3 years as the fixed cost element the lease with further potential income generated through a profit share agreement. Assuming a 50% profit share, the indicative forecast profit and loss accounts prepared by Spark:York show that this initial outlay would be fully repaid, with a further £65k likely to be paid to the Council by the end of the agreement. There are clearly some financial risks attached to this proposal, however, it is considered that this investment would be required in any event to secure a commercial income from the site.
 - (b) **Human Resources** – There are no human resource implications.
 - (c) **Equalities** – There are considered to be no equalities implications.

- (d) **Legal** – The Council needs to be satisfied that the rental income anticipated to be received under the proposed profit share arrangement is the best reasonably obtainable in the circumstances when assessed against the improvement in the economic, environmental and social-well of the local area which will hopefully result from the proposed development. The staged monthly payment mechanism for recouping the infrastructure costs over the full term of the lease may mean that the Council is deterred from terminating/forfeiting the lease early in circumstances where it might otherwise consider this step. For example, in the event of any significant breaches of the tenant's various obligations within the lease as otherwise the Council may fail to receive full repayment of the £40,000 in question. If Executive decide to approve the proposal, it is recommended that before the Council commence commissioning of utilities provision, an Agreement for Lease is entered into between the Council and Spark York in which:
- (1) Spark York commit to using all reasonable endeavours to obtain planning permission and secure any necessary remaining funding as soon as reasonably possible
 - (2) Spark York commit to taking a lease of the site from the Council as soon as utilities are connected and planning permission in place (an agreed draft of the eventual lease would be appended to the initial Agreement)
 - (3) the Council could terminate the Agreement and recover the cost of installing utilities from Spark York if they do not enter into the lease
- (e) **Crime and Disorder** – Bringing the site back in to use would reduce the risk of anti-social behaviour that is attached to vacant sites. The proposed development would require planning permission, and the application would be considered in consultation with the police architectural liaison officer.
- (f) **Information Technology** – There are no information technology implications.
- (g) **Property** – covered in the report.
- (h) **Other** – There are no other implications.

Risk Management

20. In general the proposal is deemed to be low risk. The council is offering the tenancy subject to Spark:York securing funding and finance. Should they be unable to achieve either then the offer would be withdrawn. Meanwhile uses do carry an inherent risk in that the short term nature of the tenancy means there is a short period in which to payback the initial investment. The business case has been interrogated by officers and appears to be viable and evidences demand from tenants. Should the project fail the risk again rests with Spark:York. In a scenario in which they cease to trade the value of the converted shipping containers and their ability to be transported and used elsewhere would mean they were not left on the site.
21. There is a risk associated with the outlay on utilities. Although the profit share rent structure would guarantee the costs are reimbursed to the council over the term of the tenancy they need to be ordered in advance of certainty that the tenancy will commence.

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**Report
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All

For further information please contact the author of the report

Annexes

Annex 1 – Map of 17-21 Piccadilly
Annex 2 – Spark:York business plan summary