

Record of Cabinet portfolio holder decision

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Decision made by	John Cotton (Science Vale Portfolio)
Key decision?	Yes
Date of decision (same as date form signed)	tbc
Name and job title of officer requesting the decision	Vicky Trietline (Didcot & Science Vale Officer)
Officer contact details	Tel: 01235 547680 Email: Vicky.Trietline@southandvale.gov.uk
Decision	<p>Didcot : Orchard Centre – Phase 2 Extension</p> <p>To:</p> <ol style="list-style-type: none"> 1. Approve the ‘Alternative Scheme’ proposed by Hammerson for Orchard Centre Phase 2A, and to approve the key terms for a Deed of Variation (to vary the 2011 Development Agreement) necessary to implement the scheme. 2. Authorise the responsible Strategic Director, in consultation with the relevant cabinet member (John Cotton) to enter into the full Deed of Variation (on the basis of the key terms) to vary the existing 2011 Development Agreement with Hammerson - as required to implement the Alternative Scheme (Phase 2A).
Reasons for decision	<p>Context – Scheme Evolution</p> <p>The Orchard Centre Phase 2 scheme is a central component of the Council’s comprehensive regeneration strategy for Didcot town centre. The delivery of the scheme is critical to unlock a much needed significant ‘step change’ in both the offer and environment of Didcot town centre, and its attractiveness to shoppers, residents, and wider business investment. In turn this will be fundamental in enabling the ambitious housing growth targets for Science Vale to be met.</p> <p>A Development Agreement (DA) was signed between the</p>

Council and Hammerson in 2011 for Phase 2 of the Orchard Centre. Phase 2 was to cover the land to the east of the Orchard Centre Phase 1, extending from the Phase 1 eastern boundary up to the Broadway and Hitchcock Way, bringing in the Rich's Sidings land. However due to market conditions and the difficulty of securing an anchor store for their retail - led scheme, a Deed of Variation (DoV) was signed in March 2014 giving Hammerson an extension of time (until 22 December 2014) to either secure an anchor store, or propose an Alternative Scheme.

Whilst several of the named target anchor (department) stores have been close to committing to the scheme since 2011, the last remaining interested party confirmed in October 2014 that they would not take a department store at the scheme.

Therefore no anchor (department) store (as defined in the 2011 DA) has been secured, and Hammerson have instead proposed an Alternative Scheme (Phase 2A). Phase 2A covers a reduced land area compared to the original proposed Phase 2, as it excludes the Rich's Sidings land. Hammerson's Alternative Scheme - Phase 2A – has 20% less retail floorspace than the original phase 2 and it excludes the housing element, which will be progressed in parallel by the council as Phase 2B.

Alternative Scheme - Phase 2A

The Phase 2A scheme comprises approximately 14,828 sqm (160,000sqft) of retail and leisure floorspace anchored by an M&S Simply food store. It is considered by officers and our external property advisors, DTZ, to be the best option available to achieve a significant retail expansion scheme in the medium term. DTZ advise that, in the current High Street environment this is probably the optimum scheme possible.

Whilst total floorspace has been reduced from the original scheme of approximately 18,536 sqm/ 200,000 sqft, the café/ restaurant (leisure) component has increased, which is a very positive feature in line with the changing function of town centres as a place for 'leisure trips', as much as for shopping. In addition 'place-making' attributes are stronger in the new scheme, with the inclusion of a town square around which the café/ restaurant units are located, improved public realm and environmental improvements.

The proposed smaller scheme will be developed largely on Hammerson land with the inclusion of two shoppers car parks owned by the council. The financial terms of the original development agreement have not been varied and the council will receive an income stream as negotiated in 2011.

Hammerson have requested that the council dedicate a small site on Station Road owned by the council (which has been used as a works compound for the Didcot station improvements for the past two years), to car parking in order that the required parking numbers for Phase 2A can be achieved in commercial terms. Hammerson will pay for the works to establish the car park, and its ongoing maintenance, however, the council will retain ownership and management of the car park. The council commits to maintaining the land as a car park for a ten year period and this is incorporated into the revised Development Agreement. Our advisors, DTZ, have confirmed that this is a reasonable deal for the council.

Comprehensive Regeneration - Phases 2A and 2B

South Oxfordshire's Core Strategy Policy CSDID2 provides for a mixed use retail-led development to include 20,000 m2 to 25,000 m2 gross of additional retail floorspace, approximately 300 dwellings, and other ancillary uses on land at the Orchard Centre.

Any scheme has to provide for the comprehensive development of the whole site. The Hammerson Phase 2A scheme occupies only part of the original Phase 2 area and does not include the Rich's Sidings site. To ensure comprehensive development of the entire site, the residential element of the scheme, phase 2B, will be progressed in parallel with the retail element, phase 2A. The council will be appointing consultants shortly to design and bring forward a planning application for phase 2B, the residential element of the scheme.

This scheme will be the subject of a separate cabinet report in the near future and will outline the scheme design and the proposals for developing the site, including delivery strategy, the financial parameters of a scheme and delivery timescales.

In line with the residential focus of Phase 2B Hammerson will not be granted any rights over the Phase 2B area. There are opportunities in the future to further expand retail and leisure uses in the town centre through increasing densities and providing deck access car parking.

Planning Application - Phase 2A

Planning and highways officers have given their 'in principle' support to the Phase 2A scheme proposals, and pre – application discussions have been undertaken. A detailed planning application for phase 2A has been submitted and is in the process of being validated.

Deed of Variation (DoV) - to amend 2011 Development Agreement (DA)

A DoV is being negotiated between the council and Hammerson to document the changes required to the 2011 DA which enable the Phase 2A scheme to be implemented. The changes are largely to reflect the amended scale and content of the new scheme. DA timings/ and deadlines (for 'condition' satisfaction etc) will also be amended via the DoV to reflect the new scheme, and the reality that the dates agreed in 2011 now need updating.

The Deed of Variation also provides for a lease surrender of a strip of land within the Phase 1 lease area (as identified on the attached Plan A) such that this land can be included in the new lease proposed for Phase 2A.

Plan A illustrates in purple shading the proposed land to be surrendered, with the purple and blue lines showing the Phase 1 lease and Phase 2A proposed new lease boundaries respectively.

The rationale for this is that the Phase 1 lease boundary line cuts through a few of the proposed units within the Phase 2A scheme, and as such the partial lease surrender is required to ensure sensible and workable lease arrangements for both phases, with a new Phase 2A lease properly containing the new scheme extension.

The Phase 1 lease boundary will be adjusted via a surrender arrangement under the proposed Deed of Variation, such that the boundary line is re-drawn to allow the Phase 2A scheme units to be properly contained within a new Phase 2A lease.

Our property advisors, DTZ, have confirmed that the transfer of land from phase 1 to phase 2A represents a reasonable deal for the council. They advise,

'The majority of the land lies on the existing highway and bus route and therefore we are of the view that there is little prospect of this area being developed in isolation of the Phase 2 scheme. It therefore has minimal/ nil existing use value'

The Hammerson scheme has been demonstrated to be financially viable and cabinet member consent is sought on the understanding that council investment into the scheme is not required.

DTZ have advised that the key terms of the proposed agreement with Hammerson for the Phase 2A scheme are

	<p>robust. Together with our external legal advisers they are providing appropriate expertise into the negotiations for the Heads of Terms for the new DoV to ensure the council's interests are properly protected.</p>
<p>Alternative options rejected</p>	<p>The main alternative would be to not accept Hammerson's Alternative scheme and to terminate the DA. This would leave the Council in the position of starting afresh in reconsidering scheme options for the site and bringing a suitable scheme forward.</p> <p>We have therefore sought external development consultancy advice as to the potential for an appropriate Council-led alternative scheme for the site. Our advisers (DTZ) have advised that the radical change in retail markets, brought about by the online revolution, has resulted in traditional anchor stores focusing on larger catchment towns and cities.</p> <p>This market shift is specifically evidenced by the fact that all the traditional anchor stores have rejected Didcot at this time. Without a traditional anchor (department store) there will always be a 'cap' on the size of any retail scheme, due to the reduced attraction to other retailers. DTZ also advise that the leisure sector has expanded as the retail market consolidates and this is reflected in the increased leisure component of Hammerson's Phase 2A scheme.</p> <p>DTZ have advised that major commercial leisure uses would not be a viable lead use for the site due to their extensive land and parking requirements, and financial nature (also cinema and theatre uses are already represented). Whilst wider uses such as office and residential uses have been considered they are not deemed to be suitable 'lead' uses for this area which is and should be protected for retail/ leisure uses to enhance the overall offer of Didcot.</p> <p>In this context DTZ consider the Phase 2A scheme proposed - together with the fact that it would be delivered by Hammerson, who are one of the leading UK owners and developer of retail schemes - to be the strongly preferred option to deliver a significant retail/leisure extension to Didcot town centre. Hammerson are the owners and managers of phase 1 of the Orchard Centre and own the majority of the land in phase A and so they have a greater interest than most in developing a further phase of the Orchard Centre.</p> <p>If we do not take up this opportunity it is unlikely that such a retail enhancement will be delivered for at least 10 years, based on current market and retailing conditions.</p>
<p>Legal implications</p>	<p>The report has been reviewed and endorsed by legal</p>

	services			
Property Services implications	The Head of Property Services has advised that taking into account the advice from DTZ, the proposed transfer of the purple shaded land from phase 1 to phase 2 appears to be a reasonable deal for the council.			
Financial implications	The report has been reviewed and endorsed by our accountants			
Other implications in relation to the Development Agreement	The council will be operating a pay and display car park on Station Road. A car parking order will be required. External valuation surveyors have valued the site at £550,000 on the basis of market value as a car park. This is slightly below the residual land value for residential, valued at £560,000, however, the council retains ownership of the site which may be disposed of at some future date, allowing the full capital sum for residential to be realised if wished.			
Background papers considered	None			
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?				
List consultees		Name	Outcome	Date
	Ward councillors	-		
	Legal	Pat Connell	Approved	
	Finance	Simon Hewings	Approved	
	Property Services	Chris Tyson	Approved	
	Sustainability	-		
	Diversity and equality	-		
	Communications	-		
	Strategic Management Board	Anna Robinson	Approved	13 March 2015
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?	No			
Has this been discussed by Cabinet members?	Yes			
Cabinet portfolio holder's signature To confirm the decision as set	Signature 			

out in this notice.	Date <u>13th March 2015</u>
---------------------	-----------------------------

ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.

For Democratic Services office use only		
Form received	Date:	Time:
Date published to all councillors	Date:	
Call-in deadline	Date:	Time:

Guidance notes

1. This form must be completed by the lead officer who becomes the contact officer. The lead officer is responsible for ensuring that the necessary internal consultees have signed it off. The lead officer must then seek the Cabinet portfolio holder's agreement and signature.
2. Once satisfied with the decision, the Cabinet portfolio holder must sign and date the form and return it to the lead officer who should send it to Democratic Services immediately to allow the call-in period to commence. Democratic Services staff are located on the ground floor north wing (C block) of the Crowmarsh Gifford offices. Tel. 01235 540307 or extension 7307.
Email: democratic.services@southandvale.gov.uk
3. Democratic Services will then publish the decision to the website (unless it is confidential) and send it to all councillors to commence the call-in period (five clear working days). The decision cannot be implemented until the call-in period expires. The call-in procedure can be found in the council's constitution, part 4, under the Scrutiny Committee procedure rules.
4. Before implementing the decision, the lead officer is responsible for checking with Democratic Services that the decision has not been called in.
5. If the decision has been called in, Democratic Services will notify the lead officer and decision-maker. This call-in puts the decision on hold.
6. Democratic Services will liaise with the Scrutiny Committee chairman over the date of the call-in debate. The Cabinet portfolio holder will be requested to attend the Scrutiny Committee meeting to answer the committee's questions.
7. The Scrutiny Committee may:
 - refer the decision back to the Cabinet portfolio holder for reconsideration or
 - refer the matter to Council with an alternative set of proposals (where the final decision rests with full Council) or
 - accept the Cabinet portfolio holder's decision, in which case it can be implemented immediately.