<u>IN THE MATTER OF AN APPEAL TO THE FIRST – TIER TRIBUNAL (INFORMATION RIGHTS) UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000</u>

BETWEEN **EA/2014/0239**

VALE OF WHITE HORSE DISTRICT COUNCIL

<u>Appellant</u>

And

INFORMATION COMMISSIONER

<u>First Respondent</u>

And

MS MARY GILL

<u>Second Respondent</u>

And

DORIC PROPERTIES

<u>Third Respondent</u>

OPEN BUNDLE (No 2)

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Appellant

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First Respondent

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OPEN BUNDLE (No 2)

Exempt minutes

of a meeting of the

Cabinet

held at 1.00pm on Friday 7 December 2012
at The Abbey House, Abingdon, OX14 3JE

Vale of White Horse District Council

Exempt Information Under Section 100A(4) of the Local Government Act 1972

Ca.47 West Way, Botley

Cabinet considered the strategic director's report on the proposed redevelopment of land at West Way, Botley. The report proposed the conditional sale of the West Way shopping centre in order to pave the way for the comprehensive redevelopment of this area, known as site 2 and wider site. The council had previously agreed to sell its interest in the adjoining land, known as site 1, with a consortium of landowners. This would redevelop the area and bring the council a substantial capital receipt. The Cabinet member for property, Councillor Elaine Ware, believed the proposed deal represented good value.

Officers had worked with Doric, the developer, to ensure that the council had appropriate controls in place to protect its interests. As part of these negotiations, the Existing Use Value initially offered (£6.85 million) was raised to a Minimum Agreed Value of [redacted] plus a [redacted] sum for [redacted]. In addition, the council had the opportunity to share in any super profit based on [redacted] per cent of any sum once a development profit of [redacted] per cent had been made. This was capped at [redacted], recognising the additional amount Doric offered moving from the Existing Use Value to the Minimum Agreed Value.

The council would be required to sign off the approved funder at an appropriate point as part of the agreed funding strategy. In addition, Doric had contractually committed to meeting officers as a minimum monthly, and reporting to Cabinet on a quarterly basis to provide updates on progress on all aspects of the scheme. The council also had other long stop dates if it wished to terminate the deal if insufficient progress was being made. The developer had 12 months from signing this agreement to submitting planning (this included the council as landowner approving the submission) and a further 12 months from this point to gain planning permission.

The cabinet member did not believe the council could do nothing. As the procurement risks associated with this deal had been tested, she believed Cabinet should agree this conditional deal and move forwards. The scheme had challenges and was not without risks; however, on balance the cabinet member believed the opportunity presented to regenerate this area of Botley, creating jobs and new amenities, was an exciting one that the council should pursue. There would be full consultation prior to, and as part of, the planning process. This would give local communities the appropriate opportunity to input to the development process.

Councillor Dudley Hoddinott, a non-cabinet member, asked three questions:

1. What reassurance could the cabinet member give that, due to the current national economic situation, the longer-term value from this proposed deal was not worse than option 2: a general refurbishment?

2. How could the time for compulsory purchase be estimated so that users of the shopping centre did not see a steady decline of their shopping centre while compulsory purchase was taking place?
3. How could the Cabinet member ensure that the developer's consultation and local involvement would convince local opinion of the benefits of this development, rather than have their views overridden?

In response, it was reported that it was impossible to reassure the councillor on the future value of the scheme; it was only possible to make a decision based on the scheme before councillors today. Option 2, refurbishment of the shopping centre, would only be an expensive way to manage the centre's decline.

Cabinet noted the assurances contained within the consultant's report from DTZ. Cabinet preferred the proposed scheme that would improve the viability of the centre. Cabinet hoped that there would not be a need for the council to use its compulsory purchase powers but would use them if needed. For this reason, the chairman asked all councillors to maintain strict confidentiality over this scheme. In due course, the council would consult on the scheme and would need to gain local support.

RESOLVED: To

(a) confirm the council no longer wishes to hold the West Way shopping centre in Botley purely as an investment asset;

(b) agree to use ownership of the West Way shopping centre Botley to facilitate the regeneration of Botley in line with the strategy set out in the Vale Council's core strategy preferred options report;

(c) approve the conditional sale of this property to Doric Properties in accordance with the terms set out in the report and in the report from the council's consultant's, DTZ, dated December 2012, as appended to these minutes;

(d) authorise the strategic director responsible for property in consultation with the relevant portfolio holder to agree any significant variations to the terms that may be necessary (and for the avoidance of doubt such decision shall not be regarded as a key decision);

(e) authorise the head of legal and democratic services, as an exception to the council's contract procedure rules, to appoint Pinsent Masons as the council's legal advisor on this project;

(f) agree in principle that if all third party interests in the development site cannot be acquired after reasonable endeavours by private treaty, Cabinet is minded to consider the use of compulsory purchase powers in respect of the development of the Botley site in line with the compulsory purchase indemnity agreement; and

(g) authorise the head of legal and democratic services to complete all the necessary agreements.

The meeting closed at 2.26 pm

Vale of White Horse
District Council

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

RECORD OF DECISION OF CABINET MEMBER OR KEY DECISION OF OFFICER			
1	**Name of decision maker**	Councillor Elaine Ware	
2	**Type of decision** (Please □ as appropriate)	**Key** Yes	**Other**
3	**Date of decision** (This should be the same as the date form signed)	3 August 2011	
4	**The decision**	1. To authorise the strategic director with responsibility for property, in consultation with the portfolio holder, to declare as surplus and approve the proposed sale of part of the council-owned Westway Shopping Centre (WSC) in Botley in conjunction with other adjoining landowners and with the aim of delivering a new development of a major food store and car parking together with the relocation of the existing community hall and Baptist Church 2. To authorise the head of legal and democratic services, as an exception to the council's contract procedure rules, to appoint Pinsent Mason as the council's legal advisor on this project.	
5	**Reasons for decision**	This matter was considered by the executive at its meeting on 5 November 2010. The report set out the background, including details of the original purchase of the WSC, the current rental income and highlighted its rather tired and dated appearance. The report also contained details of the proposed partnership arrangements between the Vale of White Horse District Council, other landowners and a developer (Stockdale Land Limited) to jointly market a site for a major food store development. The Vale Council's contribution to the overall site would comprise the shoppers car park off Chapel Way (adjoining the Co-op), the Seacourt Hall site (leased to North Hinksey Parish Council at £1 a year expiring in 2024) and part of the Co-op store itself. The head of economy, leisure and property, in consultation with the strategic director and portfolio holder, was authorised to agree and complete a joint venture sale agreement and this document, termed a marketing co-operation agreement (MCA), was completed in February 2011. The thrust of the agreement was	

that the parties would jointly market the overall site with a view to achieving certain common objectives, these being a sale on the best terms, including a price that meets the Vale Council's statutory obligations, and delivering a comprehensive development within five years that complements the existing WSC. The MCA provided that in the event of a sale then the capital receipt (following deduction of certain costs) would be split in accordance with stated percentages. The Vale Council would receive 30.96 per cent of net proceeds up to £16.5 million, 0 (zero) per cent between £16.5 million and £20 million, and 25 per cent over £20 million. It was not anticipated that the sale proceeds would exceed £16.5 million. The agreement is not binding inasmuch as any of the parties has the right to withdraw, but there is an obligation on all to act in good faith. When previously reported, it was anticipated that the Vale Council would receive a figure in the region of £3.7 million for its land as part of the scheme.

The site was subsequently marketed by the Vale Council's strategic property advisers, Cushman & Wakefield, and this produced 13 firm offers ranging from £6 million to £16 million from a mixture of developers and food retailers. Six bids were shortlisted and these were analysed further, including input obtained from planning officers, and each of the parties were interviewed jointly by the agents and landowners. Having regard to the level of the bid and the suitability of the schemes, two parties emerged as frontrunners and these were Asda/Bride Hall (a partnership between the food retailer and an established developer) and Doric Properties, a developer with no end user identified.

Further negotiations developed with the intention of clarifying and, where possible, improving the terms on offer. The consensus of the parties was ultimately that the Asda/Bride Hall bid offered the best combination of price (currently agreed at £16.55 million), certainty (the end user was known, as opposed to Doric's proposal to competitively market the site once it had a planning consent), and suitability (the scheme was for a more modest 40,000 sq ft sales area compared to Doric's sales area of 50,000 sq ft). The Asda/Bride Hall proposal includes 60 residential units and a total of 453 parking spaces (393 for shoppers, 60 for residents. The extent of the residential space in the scheme will be a matter for discussion with the planners and it is proposed that if the number of flats falls below 60 then the overall price will be adjusted downwards by £9,166 per unit lost, but subject to a minimum price of £16 million.

If the matter proceeds then this would initially be by way of an agreement for sale of the land, with completion of the sale dependent on meeting certain conditions. These conditions would be the grant of planning consent for the scheme identified by the developer, vacant possession of the entire site, satisfactory ground conditions and a maximum allowance of £1 million for any planning and highways contributions.

Asda/Bride Hall have indicated that they do not require the Co op

		store in order to develop out the scheme in their preferred format but this may change as the detailed design work and discussions with planners develop. In the event that the Co op was not required, this may mean the Vale Council's share of the capital receipt declines, although of course it will retain the building and the income from it. No serious discussions have been held over this but officers will be looking for the overall balance of the deal to be broadly similar. There are some other important issues to be resolved, predominantly around the need to obtain vacant possession and relocation of existing uses, namely Seacourt Hall, the library and the Baptist Church. In the matter of the church, the provisions of the MCA places responsibility on Stockdale Land to relocate the church premises, with the costs deducted off the sale proceeds. The possibility of locating the library and community hall together with the church in a single building was raised but this is understood to be unsatisfactory. Before the Vale Council can enter into an agreement for sale of the food store site, a scheme for relocation of the community hall will have to be worked up and agreed with the parish council. Meetings have been held with the parish council to discuss what is required and the next step will be for possible options to be sketched out for further consideration. Stockdale Land is presently assisting with this. In a similar way, consideration is being given to relocation of the library, possibly in a facility shared with the community hall. It is anticipated that the relocation of the library would be on a commercial basis, reflecting its present leasing arrangements, whereas any replacement lease for the community hall is likely to be on a peppercorn rent basis, as at present. A new facilty is expected to provide a significantly better building than the present, being more flexible and making more efficient use of the space, as well as being more economical in terms of outgoings. The parish council has a secure lease and whilst it has indicated its willingness to co operate, understandably it will want to be satisfied that the new facility puts it in a better postion than at present. It should be noted that there are some additional issues with other landowners needing to secure vacant possession of parts of their properties. In some instances this is unlikley to be problematic and may be an opportunity for the Vale Council, as this includes a dry cleaners and Natwest bank premises who could be relocated into WSC. In one other instance, the tenant is proving difficult and legal action is underway. Officers are monitoring this as it has the potential to delay or even challenge delivery of the scheme. In the worst case situation, and as a last resort, use of compulsory purchase powers might have to be considered to resolve this, although any such decision is some way off when legal action/negotiations have been exhausted. Asda/Bride Hall are keen to make progress quickly, as are the landowners, and in order that the Vale Council is in a position to make decisions quickly, officers recommend that the decision to declare as surplus the property identified in the November 2010

		executive report and enter into a sale agreement is delegated to the strategic director with responsibility for property in consultation with the portfolio holder. It should be stressed that whilst Asda/Bride Hall are currently considered to be the most likely purchasers, there is still some work to do in finalising the fine detail of the agreement and it is not impossible that if those details could not be agreed, or the currently strong interest from Asda/Bride Hall waned, that the parties may want to reopen negotiations with Doric Properties. It is anticipated that a capital receipt from this project will enable a refurbishment of WSC. The precise extent and cost of this have not been considered in detail, although a budget figure of £1.5 million was mentioned in the November 2010 executive report. Subject to progress on the proposed sale, officers will shortly start preparing a brief to architects for consideration of the options together with an appropriate report or briefing to the cabinet to highlight the issues.
6	**Alternative Options rejected**	The Vale Council is not bound to enter into the sale agreement and, therefore, has the option of pulling out and taking no further action with regard to a sale. However, this would run contrary to the course that has been set, including the outcome of the earlier executive report, and we would forgo the potential for a substantial capital receipt and the possibility of refurbishing the existing centre, which currently derives a significant revenue cash flow for the Vale Council.
7	**Resource implications**	None, apart from legal input into sale documentation and completion. As indicated below, it is proposed that the solicitors who acted on the MCA, Pinsent Mason, continue and the precise level of fees will be a matter for discussion. This firm has also acted on the Abingdon Abbey Centre and Charter agreements and a good working relationship has been built up.
8	**Legal implications**	Officers propose that, in order to maintain continuity, Pinsent Mason continue to act on the Vale Council's behalf and provide the required input into finalising the necessary legal documents. Therefore, officers recommend that the head of legal and democratic services, in accordance with contract procedure rule 77 (exceptions authorised by the cabinet) is authorised to appoint Pinsent Mason as the Vale Council's legal advisor on this project.
9	**Financial implications**	Under the MCA, the Vale Council's share of the proceeds is estimated at £3.7 million. However the executive report of 5 November 2010 estimated the potential loss of the income from the Co op unit at £105,000 a year. It remains to be seen whether the Co op unit will be required for the scheme (either for the main development or potentially to assist in a relocation) or indeed whether Co op would wish to stay in occupation if the development goes ahead, but these matters will need to be finalised prior to entering into a contract on a satisfactory basis. Officers carried out a financial appraisal of the estimated costs and revenue and this shows a positive net present value of £1,475,488. This disregards the potential increase in rents for the shop units due to the refurbishment works and impact of the

		new development and if this is factored (on the basis of a ten per cent uplift) the net present value increases to £1,969,182. On this basis, the strategic director with responsibility for finance is supportive of the proposals contained in the report.
10	**List of consultees** (See guidance below)	Finance – approved Legal – (Margaret Reed) – approved Head of ELP (Chris Tyson) – approved Strategic Director (Matt Prosser) – approved S151 officer (Steve Bishop) – approved
11	**Reports and background papers considered**	Previous executive report on 5 November 2010.
12	**Date of receipt of reports**	N/A
13	**Declarations of interests**	None
14	**Dispensations**	None
15	**Is this decision confidential and if so, under which exempt category?**	Yes, under paragraph 3, part one, schedule 12a of the Local Government Act 1972.
16	**"Call in" waived?**	
17	**Signature and date**	.... 3/8/11.................................. Decision maker Dated
18	**This form must be physically handed to a member of the democratic services team**	Note: The date and time at which this form is received will be recorded by the head of democratic services. The decision will then be published and is subject to "call in". .... Date...4/8/2011...Time...9:00am Head of democratic services Date and time form received

19	**Details of publication on the web and date of expiry of "Call In"** Note: This part of the form will be completed by democratic services	Date of expiry of "Call In" ...5.pm...Thursday...11 August '11 Date published.......4/8/2011....................................... Date ~~hand delivered~~ emailed to chair of scrutiny....4/8/2011.......

Vale of White Horse
District Council

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

RECORD OF DECISION OF CABINET MEMBER OR KEY DECISION OF OFFICER			
1	**Name of decision maker**	Councillor Elaine Ware	
2	**Type of decision (Please ? as appropriate)**	**Key** Yes	**Other**
3	**Date of decision** (This should be the same as the date form signed)	30 April 2012	
4	**The decision**	1) That, following a change in circumstances, the cabinet member reconfirms the authority previously given for the strategic director with responsibility for property, in consultation with the portfolio holder, to declare as surplus and approve the proposed sale of part of the Vale Council-owned Westway Shopping Centre (WSC) in Botley in conjunction with other adjoining landowners and with the aim of delivering a new development of a major food store and car parking together with the relocation of the existing community hall and Baptist Church. 2) That the cabinet member confirms that the Vale Council would be minded to use compulsory purchase powers in circumstances where there was no other reasonable option available to ensure vacant possession and thereby delivery of the scheme, where it was clear that the use of those powers was lawful, that the Vale Council had received the necessary indemnities as to its costs and subject to cabinet considering a detailed report and formally confirming approval of the use of such powers.	
5	**Reasons for decision**	This matter was considered by the executive at its meeting on 5 November 2010. In addition, a cabinet member decision was made on 3 August 2011. The cabinet member's decision gave authority for a disposal of this Vale Council-owned property to Asda/Bride Hall (a partnership between the food retailer and an established developer). However, since that decision, the proposed disposal terms and the identity of the purchaser have changed and, as a consequence, officers are requesting the cabinet member to consider the matter afresh. The original executive report in 2010 set out the background,	

		including details of the original purchase of the WSC, the current rental income and highlighted its rather tired and dated appearance. The report also contained details of the proposed partnership arrangements between the Vale Council, other landowners and a developer, Stockdale Land Limited (Stockdale), to jointly market a site for a major food store development. The Vale Council's contribution to the overall site would comprise of the shoppers car park off Chapel Way (adjoining the Co-op), the Seacourt Hall site (leased to North Hinksey Parish Council at £1 a year expiring in 2024) and part of the Co-op store. The head of economy, leisure and property, in consultation with the strategic director and portfolio holder, was authorised to agree and complete a joint venture sale agreement and this document, termed a marketing co-operation agreement (MCA), was completed in February 2011. The thrust of the agreement was that the parties would jointly market the overall site with a view to achieving certain common objectives, these being a sale on the best terms, including a price that meets the Vale Council's statutory obligations, and delivering a comprehensive development within five years that complements the existing WSC. The MCA provided that in the event of a sale then the capital receipt would be split in accordance with stated percentages. The Vale Council would receive 30.96 per cent of the sale receipt up to £16.5 million, 0 (zero) per cent between £16.5 million and £20 million, and 25 per cent over £20 million. When previously reported, it was anticipated that the Vale Council would receive a figure in the region of £3.7 million for its land as part of the scheme. The budget figures contained in the MCA included a substantial allowance (approximately [redacted] to achieve vacant possession, The MCA provides that in the event that settled heads of terms are provisionally agreed with a prospective purchaser representing the best available offer then Stockdale will issue a 'sale notice' proposing that a sale of the site proceeds on that basis. Each of the parties is able to serve a dissatisfaction notice in the event that those terms are not acceptable. If a party does not serve a dissatisfaction notice it is intended that the sale will proceed. Non-service of the notice would not mean the Vale Council is contractually bound to a sale, but it is required to act in good faith at all times towards the other parties to the agreement and so it should treat the sale notice procedure effectively as a final decision on the matter, assuming circumstances do not change. Following completion of the MCA, the site was subsequently marketed by the Vale Council's strategic property advisers, Cushman & Wakefield, and this produced 13 firm offers ranging from £6 million to £16 million from a mixture of developers and food retailers. Six bids were shortlisted and these were analysed further, including input obtained from planning officers, and each of the parties were interviewed jointly by the agents and landowners. Having regard to the level of the bid and the suitability of the schemes, two parties emerged as frontrunners and these were Asda/Bride Hall (a partnership between the food retailer and an established developer) and Doric Properties, a

		developer with no end user identified. Further negotiations developed with the intention of clarifying and, where possible, improving the terms on offer. The initial consensus of the parties was that the Asda/Bride Hall bid offered the best deal and, therefore, this was highlighted in the earlier cabinet member decision report as being the preferred bid. However, progress with that party subsequently slowed and issues arose about the design and some of the detailed contract terms and ultimately Asda/Bridehall reduced their bid to an uncompetitive level. However, the agents had maintained contact with Doric throughout the process with a view to keeping its interest alive and, therefore, it was possible to restart discussions with them over the terms. Doric indicated a willingness to exchange contracts for a sale of the site in the sum of [redacted] but subject to a number of conditions, these being the grant of planning consent, that the vendors are capable of delivering vacant possession, completion of a stopping up order in relation to the section of highway required and a maximum allowance of £250,000 for highway works. Further discussions with Doric focussed on the issues around achieving vacant possession (VP). In this respect, the Vale Council would need to deliver VP of Seacourt Hall, the Co-op store, the public conveniences and car park. The Vale Council controls the latter two and this is straightforward, but there are leases in relation to the other two. The Co-op's lease would need to be terminated and the relevant notices have been served so that possession can be obtained subject to proving (in court if need be) that a redevelopment is proceeding. The lease of the hall to New Hinksey Parish Council (NHPC) is for a term of 35 years expiring in November 2024 and, whilst it has indicated its willingness to co operate over a relocation, understandably NHPC will want to be satisfied that the new facility puts it in a better position than at present. A new facility is expected to provide a significantly better building than the present, being more flexible and making more efficient use of the space, as well as being more economical in terms of outgoings. Stockdale had undertaken to relocate the Baptist Church to achieve VP of that site, and this cost is a substantial part of the [redacted] allowance stated earlier. Another party to the MCA (Willow Property) owns Elms Court, which includes the library, NatWest (which has now closed), a local dry cleaner and in the upper floors, a firm of surveyors. As discussions unfolded it became clear that Doric wished to have an active involvement in achieving VP and instead of the onus being on the parties to the MCA to deliver VP it was proposed that Doric take on this role. It was subsequently agreed that [redacted] would effectively be deducted from the purchase price on the basis that there would no longer be a condition in the contract requiring VP to be provided by the members of the consortium. Doric would therefore be responsible for reprovision of the church and community facilities as well as negotiating termination of the business tenancies.

Following the recent cabinet briefing, members are also aware of Doric's wish to extend the development to take in the WSC and potentially additional land as well. The Vale Council owns the remainder of the shopping centre and this would involve an additional agreement if it was to proceed. Officers are currently awaiting a financial offer and development appraisal before considering further.

Completion of a disposal of the original food store site to Doric would be conditional on grant of a satisfactory planning permission. However, given Doric's aspirations for a wider development, Doric's view of a satisfactory planning permission will relate to the wider scheme, not just the original site. Doric has had pre-application discussions with planning officers over its proposals and early indications are broadly positive but it is an ambitious scheme so there will be many issues to be resolved.

The original proposal for the sale of part of the site under the MCA has therefore become complicated by Doric's wish to include the remainder of the WSC in the overall development proposal. There are advantages to a comprehensive, integrated scheme, but at the present time there is no financial proposal to consider and this report does not seek any decision in connection with the major part of the WSC, only with the original site. In this connection, Stockdale has now issued a sale notice proposing a sale to Doric in the sum of [redacted], based on a gross price of [redacted] but subject to a [redacted] allowance for the cost of achieving vacant possession (which otherwise would have fallen on the parties collectively). The breakdown of the purchase price shown in the statement attached to the sale notice indicates the Vale Council's share of the proceeds is estimated at [redacted] albeit this could be subject to minor variation dependent on certain costs that are incurred in the sale process. This compares to previous estimates which have been put in the range of [redacted] to [redacted].

It is proposed that the Vale Council proceeds with the intended disposal of the original site on the terms set out to Doric and to this end does not serve a dissatisfaction notice. For the purposes of obtaining the necessary authority and to cover circumstances where there may be minor changes to the proposed terms, it is recommended that the cabinet member reconfirms the authority previously given for the strategic director with responsibility for property, in consultation with the portfolio holder, to approve the proposed sale of part of the Vale Council-owned WSC as envisaged in the MCA. It should be noted, however, that the proposed transaction appears to be firmly linked to the wider proposal and if terms cannot be agreed for that then the liklihood is that the arrangement with Doric for the original site may not proceed.

Whilst it is proposed that Doric take all necessary action to obtain VP by agreement, it is not inconceivable that if this cannot be achieved then the only remaining option to ensure delivery of the scheme would be the use of compulsory purchase (CP)

		powers. Officers consider it would be premature to make a decision to commit to use of CP powers at this time. However, given that the proposed development contributes to a number of corporate priorities and having regard to the policy of the local plan in relation to this site, officers recommend that the Vale Council confirms at this stage that it would be minded to use such powers in circumstances where there was no other reasonable option available to ensure delivery of the scheme and where it was clear that the use of those powers was lawful and that the Vale Council had received the necessary indemnities as to its costs. However, the actual resolution to use such powers would be a full cabinet decision. Again, at this stage, the decision sought relates only to the original site, but if terms can be agreed provisionally with Doric for the wider site such that a further authority is sought relating to that, then it seems likely that CP will have to be considered in relation to VP issues for that site. Finally, it should be noted that the proposed deal with Doric is for the entirety of the site as marketed, which includes the back half of the Co-op store (this was not required by Asda / Bride Hall). This will mean that the Co-op store will need works to rebuild the rear elevation and reconfigure it into a lettable unit. Of course if the wider scheme happens, then this will not be necessary as it would encompass the entirety of the Co-op store.
6	**Alternative Options rejected**	The Vale Council is not bound to enter into the sale agreement but if it wishes to pull out then the onus is on it to serve a dissatisfaction notice as detailed above. However, this would run contrary to the course that has been set and the Vale Council would forgo the potential for a substantial capital receipt.
7	**Resource implications**	None, apart from legal input into sale documentation and completion. As authorised in the last report, Pinsent Mason is acting on the Vale Council's behalf.
8	**Legal implications**	Pinsent Mason will act for the Vale Council, although some input will be required from the Vale Council's legal team.
9	**Financial implications**	The Vale Council's share of the proceeds has previously been estimated in the range of [redacted] to [redacted], and the latest estimate attached to the sale notice is showing a receipt of [redacted] However, there are a number of costs that will be incurred including professional and legal fees. Other costs will depend on whether the wider scheme proceeds, such as works to the retained half of the Co-op building or the cost of refurbishing the WSC, which was estimated at £1.5 million for the purposes of the November 2010 executive report.
10	**List of consultees** (See guidance below)	Finance – agreed 26 April 2012 Legal – (Margaret Reed) – agreed 25 April 2012 Head of ELP (Chris Tyson) – agreed 19 April 2012 Strategic Director (Matt Prosser) – agreed 27 April 2012 S151 officer (Steve Bishop) – agreed 26 April 2012
11	**Reports and background**	Previous executive report on 5 November 2010. Cabinet member report 3 August 2011.

Form updated 14 September 2007

	papers considered	
12	**Date of receipt of reports**	N/A
13	**Declarations of interests**	None
14	**Dispensations**	None
15	**Is this decision confidential and if so, under which exempt category?**	Yes, under paragraph 3, part one, schedule 12a of the Local Government Act 1972.
16	**"Call in" waived?**	
17	**Signature and date**	.... Decision maker ....30/4/12.......... Dated
18	**This form must be physically handed to a member of the democratic services team**	Note: The date and time at which this form is received will be recorded by the head of democratic services. The decision will then be published and is subject to "call in". .... Date..30-4-12...Time..16:00 Head of democratic services Date and time form received
19	**Details of publication on the web and date of expiry of "Call In"** Note: This part of the form will be completed by democratic services	Date of expiry of "Call In" .....8 May 2012.................. Date published......30 April 2012.............................. Date hand delivered to chair of scrutiny.....30 April 2012

Cabinet report

Vale of White Horse District Council

Report of Strategic Director

Author: Matt Prosser

Telephone: 01235 540399

E-mail: matt.prosser@southandvale.gov.uk

Wards affected: All

Cabinet member responsible: Elaine Ware

Tel: 01792 783026

E-mail: Elaine.ware@whitehorsedc.gov.uk

To: CABINET

DATE: 7 December 2012

NOT FOR PUBLICATION

Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. The public interest in maintaining this exemption outweighs the public interest in disclosing this information.

Sale of West Way Shopping Centre, Botley

Recommendations

That the cabinet:

(a) confirms it no longer wishes to hold the West Way shopping centre in Botley purely as an investment asset

(b) agrees to use its ownership of the West Way shopping centre Botley to facilitate the regeneration of Botley in line with the strategy set out in the Vale Council's core strategy preferred options report

(c) approves the conditional sale of this property to Doric Properties in accordance with the terms set out in this report

(d) delegates authority to the strategic director responsible for property in consultation with the relevant portfolio holder to agree any significant variations to the terms that may be necessary (and for the avoidance of doubt such decision shall not be regarded as a key decision)

(e) authorises the head of legal and democratic services, as an exception to the council's contract procedure rules, to appoint Pinsent Masons as the council's legal advisor on this project

(f) assuming cabinet has taken decisions (a) to (d), it agrees in principle that if all third party interests in the development site cannot be acquired after reasonable endeavours by private treaty it is minded to consider the use of compulsory purchase powers (CP) in respect of the development of the Botley site in line with the CP indemnity agreement

(g) authorises the head of legal and democratic services to complete all the necessary agreements.

Purpose of report

1. This report invites the cabinet to agree to the terms of the conditional sale of our freehold interest in the West Way shopping centre, Botley, in order to facilitate a positive and comprehensive redevelopment of the area. The Vale Council owns the freehold of this shopping centre and has held this historically for investment purposes. It has proven to be a good investment generating a very healthy level of income. However, in order to make this decision the cabinet must satisfy itself that the regeneration benefits to the Botley area, as proposed by the developer and the forecast financial receipts, are sufficient to justify the disposal. The decision to enter into the contract complements the decisions previously taken in relation to the contract for the sale of adjoining council owned land.

2. Assuming that the cabinet concludes the regeneration benefits and capital receipts proposed are sufficient to justify the sale of the freehold of the site, then the report seeks authority for the strategic director responsible for property in consultation with the relevant portfolio holder, to negotiate the terms of the sale and exchange contracts with Doric properties. The report also seeks the authority for the head of legal and democratic services to appoint Pinsent Masons as the Vale Council's legal adviser on this project.

3. Finally , the report seeks cabinet's agreement in principle that it is minded to use compulsory purchase (CP) powers if necessary to secure the development , subject to all necessary preliminary matters having been properly addressed and subject to a formal resolution by full council for use of such powers at the appropriate time.

Corporate objectives

4. The sale and redevelopment of the West Way shopping centre will contribute to the Vale Council's corporate objective of building the local economy, specifically to "enter into a commercial partnership to secure new retail development at Botley and use some of the proceeds to improve the West Way shopping centre". In addition it will contribute to the corporate objective to deliver effective management of resources and specifically the ability to "agree prudent and sustainable medium term financial plans".

Background

5. West Way shopping centre is owned by the Vale Council having been purchased as an investment property in the 1990's. Despite its age and appearance it is a valuable asset, from which we currently derive an annual gross income in excess of £600,000. The centre is not without its problems however including the relatively poor standard of construction (the state of the roof currently being a particular concern), the need for comprehensive refurbishment of the public areas, tough trading conditions which has led to some voids and arrears issues in a small number of cases.

6. Officers have, since the latter part of 2010 been working with neighbouring owners in bringing forward a proposed foodstore development on a site which included council owned land and which is identified as site 1 (see attached site plan at appendix 1 attached to this report). Under the terms of a marketing and co operation agreement with the other landowners (approved by Cabinet on 5 November 2010) it was agreed that site 1 would be offered to the market as a site for a food store, for which thirteen bids were received and a final shortlist of two was agreed between all partners. These were Asda/Bridehall and Doric. After six months working with Asda/Bridehall, the partners concluded that a better offer and solution lay with Doric, who is not associated with a food store operator at this stage.

7. Doric and its professional team, having met initially with our planners, felt that it was clear that a comprehensive redevelopment of not just site 1 but including also the West Way shopping centre was a preferred planning solution, ensuring regeneration of a tired centre and integration of all elements on the site. As a result, Doric is now proposing a full redevelopment of sites 1 and 2, plus some additional land. On this basis Doric therefore proposed that the council (and the other land owners) went ahead with the agreed deal for site 1 and proposed terms for a separate contract for the purchase of the West Way Centre. The two deals are now to a great extent linked by the comprehensive nature of the development proposals (which cover both sites without distinction as to the boundary between the two sites), conditionality in the contracts, procurement law and viability.

8. Officers have been working with Doric to agree terms and shape the offer prior to Cabinet formally considering this.

Current offer

SITE ONE

9. The overall offer for site one which includes part of the current Co-op, Seacourt Hall and the council's car park, would deliver a capital receipt of [redacted] to the council and as part of the agreement with the partners Doric will provide a new church, replacement community hall and space for a library (subject to a commercial lease with OCC). This contract was exchanged on the 21 November 2012. It is conditional upon the Vale Council signing the contract on site two by 21st December 2012.

SITE TWO

10. West Way shopping centre is wholly in the ownership of the Vale Council but is subject to short/medium term leases of the retail units at commercial rents and a 999 year lease of the office block over Tesco at a peppercorn rent to Development Securities. Officers have worked with Doric to finalise the financial offer and other terms if the Vale Council was to agree to a full redevelopment.

11. The offer is subject to conditions, not least of which is the ability to gain planning permission. In addition the deal would be conditional upon the developers acquiring all the necessary property interests including the leasehold interests in the shopping centre but also the additional land outside the council's ownership that are required. In some instances it may be difficult to acquire land by agreement and the developer is therefore looking for agreement from the Vale Council to indicate it will use its CP powers should they be required. It should be noted that these conditions are also replicated in the site 1 deal. Doric will fully indemnify the Vale Council for the costs associated with the CPO process.

12. The proposal would provide on the site and adjoining land:

- a new food store of some 85,000 to 110,000 sq feet (spanning sites one and two) including publicly accessible toilets
- new retail units, mixed sizes currently shown, some small for existing independents and some large for national multiples
- a new church
- a new community building (larger than existing)
- space for a library
- a cinema (five screen mini-multiplex)
- student accommodation (above the super store – limited to 600 units)
- replacement accommodation for 19 existing flats
- underground car parking (550 spaces) replacing existing
- high quality public realm space
- restaurants.

13. There are various legal conditions that support this including long stop dates and conditions that need to be met on either side for completion, but the headline offer for our part of the site is as follows:

- purchase price of [redacted] is payable once conditions precedent in the contract are cleared, these conditions mirror those in the contract for site one, and the sum payable is not delayed until after construction.
- overage offer on predetermined profit – once Doric make [redacted] per cent profit on the scheme the Vale Council will receive [redacted] per cent of any further profit up to a cap of [redacted]
- Doric has offered [redacted] to be deposited with solicitors on signing of the contract (the Vale contract) to be used as [redacted] This payment of [redacted] once made to the Vale Council is not refundable.
- the first [redacted] of the [redacted] would be transferred to the Vale Council as income a year after contract two signs; say December 2013: no Doric conditions attached are attached to this amount
- the remaining [redacted] of the [redacted] to be transferred to the Vale Council when planning is granted, post the judicial review period and post the making of the CPO inquiry (if required) but before any CPO inquiry is undertaken, say September 2014.

14. This would give the Vale Council potential capital receipts in the order of [redacted] from sites one and two, plus [redacted] to help [redacted] prior to development. Post development there is the potential for overage of up to [redacted] although it is your officer's view that this should be treated as a windfall.

15. Assuming the conditions are met and the sale completes the Vale Council would have to seek investment opportunities in order to replicate the annual rental revenue of some £600,000 received currently. Given the Vale Council would only be able to consider a replacement purchase when the completion monies were in sight the investment markets are bound to change. However, it is expected that the present rental can be matched, if not exceed, and that a replacement investment would be of better quality. The Vale Council's strategic property advisers, DTZ would be required to provide a report on best consideration in respect of the sale of site two at an appropriate point in the future once the funding partner is known and there is more detail on the final proposal. However, based on the current offer DTZ have commented that, "we consider the Council has created a good conditional financial structure to the transaction with Doric, based on Doric's current scheme proposals, and the existing West Way shopping centre asset". In addition DTZ will be commenting on the size of receipts needed to replicate the revenue income. This will be kept under review once we get closer to the potential development.

16. It should be noted that the long term owner/funder of this project is not yet known. Doric is in essence pulling together this project and funding the initial investments from its own equity (around [redacted] in the first instance in deposits, money in escrow accounts and investment in achieving planning permission). We have asked to be involved in the process of finding and agreeing a funding partner this is now accepted by Doric and has been built into the funding strategy agreed as part of the negotiations. It is likely this agreed funder would be a mutual fund/pension body. As this is yet to be determined it is still a risk to the scheme. The agreed funder would be the party who would underwrite the costs of the compulsory purchase process. The agreed funding strategy is shown at appendix 2.

PLANNING MATTERS

17. The Vale Council core strategy (preferred options) January 2009 outlines the council's expectations for Botley, including that there are opportunities to redevelop the shopping areas built in the late 1960's and early 1970's in Abingdon, Wantage and Botley. In respect of Botley, it specifically states that Botley will continue as a district centre serving the community and nearby parts of Oxford city and villages in the north east of the Vale. West Way shopping centre and Elms Parade could be identified as a site for comprehensive redevelopment to include a large supermarket, shops, offices and other town centre uses.

18. Planners have had initial discussions with the developer that have focused on the comprehensive nature of the development. The emerging proposals are working designs of a conceptual basis, showing potential framework layouts and general land use apportioning only at this stage.

Options

19. Officers have considered the following three main options open to the Vale Council in respect of this site:

    (a) Do nothing and accept that rental income will over time deteriorate. This option was dismissed as there are structural repairs that are required currently that necessitate income being invested. Whilst the income of the site has been strong, there have been no funds set aside for reinvestment of a significant nature.

    (b) Pull out of the current joint venture on site one and return to the open market to receive bids on the redevelopment of the whole site. Whilst this might result in higher capital receipts to the Vale Council's, it would certainly add at least two years to the process as we would have to go back to square one and start again. Cabinet when asked about this option previously confirmed (informally) its desire to pursue the option with Doric until or unless it became unviable.

    (c) Continue with the current option on the table, seeking to ensure the best return for the Vale Council in terms of finance and for the community in terms of the comprehensive redevelopment of the site.

20. Your officers' view is that the final option is viable, providing both the ability to replicate the current level of revenue income and deliver a comprehensive redevelopment of the site in line with Vale council's agreed corporate objectives.

Financial Implications

21. A table is attached at appendix 3, setting out net present value calculations of the three options which are stated above, and includes the various assumptions made in arriving at the predicted income flows for each report This indicates that the option to sell on the basis of the agreed terms represents the best financial outcome for the Vale Council. This does not take into account the [redacted] receipt from site one, any overage or the [redacted] negotiated during the process as a [redacted]

22. The concept drawings and negotiations allow for up to 600 student units and 19 residential flats that could attract new homes bonus. For new homes bonus

purposes the total number of units have to be converted to "band D equivalents" as currently happens when the council sets its council tax base. Early estimates are that the 600 student units and 19 residential flats would convert into 416.9 band D equivalents. Based on current figures this could potentially be worth £2,889,617 (416.9 X £1,444.00 X 80 per cent X six years) however the position on this is not certain. In calculating the number of new homes to which the bonus applies, the determining factor is the number of units which would be separately assessed for council tax. In some instances student halls of residence have a single assessment and would count as only a single new home for the purpose of the new homes bonus, in others each unit is separately assessed. The basis of assessment is a technical matter determined by the Valuation Office - the main factor appears to be the degree of self containment and this will not be known until more detailed plans are available.

23. Members should be mindful of the forthcoming localisation of business rates and the potential for an adverse impact on income if there is a decline in total business rates collected. During the course of the construction a significant number of properties will be removed from the rating list and for that period there could be a knock-on affect. At worst the maximum loss would be 40% of all or part of business rates lost, but the complexity of the proposals and the inclusion of a safety net (below which no further loss of revenue could occur) make it impossible to give any certainty on this. The fact that loss of the business rates would not happen for some time compound the difficulty in estimating the implications.

24. There will inevitably be additional jobs created in the increased retail space which will derive as yet un-quantified additional business rates.

Legal implications

25. The sale of this site, for the sums set out in this report, represents good value as detailed in report of DTZ dated 5 December 2012 and included as a background document to this report. As part of the overall funding strategy and at the appropriate point, agreed by the council, DTZ will produce for the Vale Council a full report on best consideration including a.section 123 valuation report in accordance with the Local Government Act 1972: General Disposal Consent (England) 2003 in order to demonstrate that the value generated from the sale represents good value.

25. The Vale Council sought initial legal advice from Pinsents Masons due to it's known specialist expertise in this field. On the basis that the cabinet wishes to progress with the Doric offer, it would be sensible to maintain continuity and appoint Pinsent Masons to work on all the necessary legal documentation. Officers ask the cabinet to authorise the head of legal and democratic services, in accordance with contract procedure rule 77 (exceptions authorised by the cabinet) to appoint Pinsent Masons as the Vale Council's legal advisor on this project.

Risks

26. There are inherent risks with a scheme of this complexity and scale; however, there are also many risks to the Vale Council from doing nothing in the short to medium term. Structural repairs are already required to the roofs of the shops; a patch has been agreed but this will only survive for a few years at best.

27. In response to the economic downturn and trading positions some local retailers have struggled to survive and as a result have closed leaving voids within the

current West Way shopping centre. Therefore, there is a risk if we do nothing that the gross income derived from this investment facility will continue to diminish. However, if we proceed with the development, we may also see some drops in income prior to and during the development phases. This has been mitigated in part through the negotiation of a sum of [redacted] payable to the Vale Council. In addition, out of the current £600,000 a year gross income, over £400,000 of this comes from five national chains that have secure leases and who are likely to trade right up until construction works begins.

28. During the construction phase there could be a loss of amenity/facilities to local people. Officers will work with developers to try and protect as much as is possible through the phasing of the construction works. The key to this will be good communication with the parish council, local groups and residents.

29. In order to deliver such a comprehensive scheme it is likely that the council will be need to use its CP powers. Whilst the costs will be indemnified this will be a time consuming process that we will need to resource accordingly.

30. Procurement is also an issue that has now been tested. Whilst the Vale Council, with the consortium, went to the market for the sale of site one, it has essentially entered into this as an off market deal on the basis of a special purchaser relationship with Doric, now the consortium have exchanged contracts on site one. This position was tested with counsel (Nigel Giffin QC) on 4 December 2012. Counsel has concluded that as currently negotiated there is no procurement risk because the agreement does not constitute a public works contract.

31. Finally, this deal is being prepared with a developer who is unlikely to be the final approved funder. When the funder comes on board, it is likely to have further requirements that need to be met or agreed. This could involve an element of renegotiation of the purchase price downwards, based on the latest viability assessment of the scheme being proposed in light of the planning process. Officers have sought to mitigate this by the inclusion of an agreed funding strategy that allows the Vale Council to be involved in these negotiations with the funder at all key stages.

Other implications

32. There will be significant local interest in this project, both positive and negative. If agreed officers will work closely with Doric's retained communication specialists PPS in order to inform the general public and local stakeholder groups about the decision, and allow groups the opportunity to comment both as part of a pre-planning consultation process and as part of the formal planning application.

Conclusion

33. This is a highly complex deal with both risks and potential reward both for the regeneration of the Botley area and delivering valuable capital receipts for the Vale Council. These capital receipts in the main will need to be reinvested in order to provide a revenue income stream replicating the funds received currently from the West Way shopping centre.

34. Options have been set out in the paper but officers believe that the proposal as presented to work with Doric gives the best option at present for regeneration and realisation of suitable capital receipts within a reasonable time period.

Background Papers

- Report from DTZ Dated December 2012

APPENDIX 2

FUNDING STRATEGY

1. When the Developer seeks external funding for the Development (who will also act as Guarantor for the DA), as provided for in this Agreement, the selection of any/all funding partner(s) shall be in accordance with the following policy and principles. The overriding principle is that the Developer and the Council will jointly undertake the exercise, with both having to agree on the process, timescales, the identity and the associated items.

1.1 The Developer and the Council/its agents will agree a target list of potential funding partners.

1.2 The Developer and the Council/its agents will agree the appropriate time and nature of approach to potential funding partners.

1.3 The Developer and the Council must work together in running the exercise. This will include the discussion and agreement on any funding document(s) and the process that is followed to secure a funding partner.

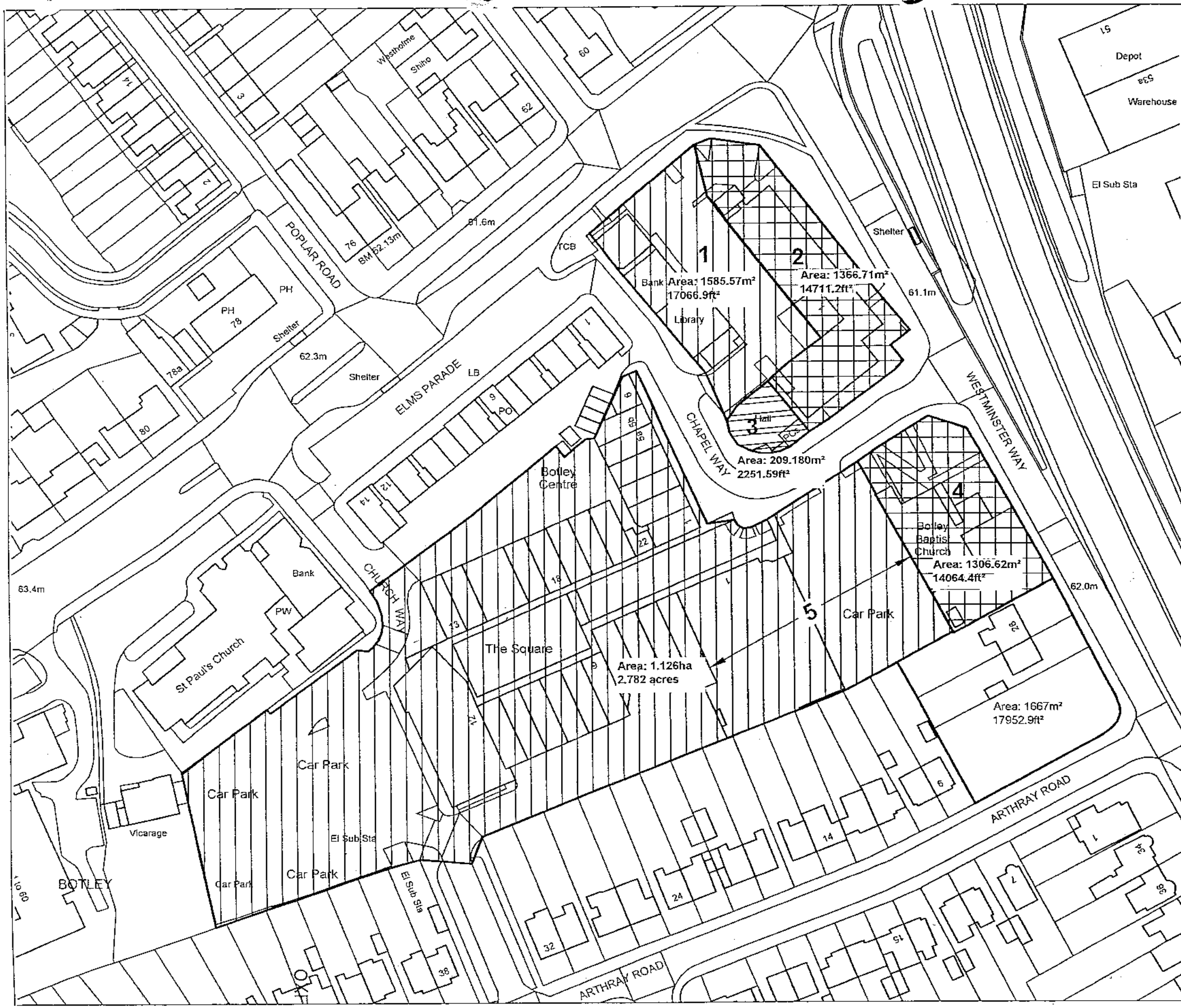
1.4 Council/its agents will be invited to be involved in all key meetings with potential funding partners.

1.5 The Developer and the Council/its agents will jointly lead discussions with potential funding partners in accordance with the pre-agreed strategy.

1.6 Both the Developer and the Council will receive copies of any/all proposals received form potential funding partners.

1.7 The Developer and the Council must both be satisfied as to the final identity of the funding partner and the terms of the funding agreement. The Developer must obtain the Council's formal approval on both the identity and the terms prior to entering into an agreement.

1.8 There will be an obligation on the Developer to use all reasonable endeavours to secure an appropriate funding partner and to agree the terms contained in the Development Agreement.



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NOTES:

1. This drawing to be read in conjunction with all relevant drawings, documents and specifications.
2. Dimensions not to be scaled from drawing.
3. Dimensions are in millimetres unless otherwise stated.

Revision	Description	Date
00	—	

Status:

Vale of White Horse District Council
Abbey House
Abbey Close
ABINGDON
OXON
OX14 3JE

Client: Vale of White Horse District Council

Contract: Westway Botley Development Area

Title: Appendix A Area Plan

Suzanne Malcolm - Shared Economic Development Manager

Division: Property	Date: 10/2010	
Scale: 1:1250 @ A4	Drg No.	Re 00
Drawn by: RGE	Chkd by	App by

Financial opinion - West Way

Background

This paper details the assumptions underpinning the analysis of options for West Way, Botley
This has been prepared by taking the work of Simon Hewings in September and updating it for the propsed heads of terms and after discussion with Graham Hawkins.
The options model does not take account of the [redacted] due from the site 1 deal which will almost certainly not be achieved without the site 2 deal being completed
Generally the model's assumptions are relatively optimistic in respect of option 2 and cautious re option 3

Effective options considered

1) Do nothing
2) General refurbishment / refurbishment of roof
3) Sale and redevelopment

Assumptions underpinning each option

1) Do nothing

Rent income levels will slowly decline, assumed an avarage fall of 4% p.a. although in reality the falls will be stepped and may not start for a few years

2) General refurbishment / refurbishment of roof

Capital works likely to cost £1 million, including £30-40k pre-fees to be spent 2013/14 with works undertaken in 2014/15
Current income levels will be enhanced by the two empty shop units being filled
Real terms rental growth assumed from Yr 4 on, most likely around 12.5% over a 5 year period (2.5% p.a.)
For modelling purposes the 2.5% real growth to continue for remainder of appraisal period

3) Sale and redevelopment

Sale and redevelopment will realise [redacted] capital receipt in 2015/16
It is assumed no overage will be received
Fees of c. £206k will be incurred - 60% in 2012/13 and 40% in 2015/16 - all other costs fall to the developer
Marginal loss of [redacted] until completion/capital receipt - developer will provide [redacted] compensation for [redacted] in 2 tranches (per heads of terms)
Capital Receipt assumed to be invested at a low real rate of return (0.5%)

Appendix 3

Financial opinion - Botley West Way

Basic Data

Current Rental income	-£583,250
Floor area - Let	37,684
Floor Area - Vacant	4,105
Income decline (do nothing)	4%
Additional sq ft let - general refurbish	1707
Rental Growth (from year 4)	2.5%
Cost of Capital	3.5%
Interest Returns	0.50%
Discount Rate	3.00%
Results	
Option 1	-5,288
Option 2	-8,730
Option 3	-11,810

	2012/13 £000	2013/14 £000	2014/15 £000	2015/16 £000	2016/17 £000	2017/18 £000	2018/19 £000	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000	2025/26 £000	2026/27 £000	2027/28 £000	2028/29 £000	2029/30 £000	2030/31 £000	2031/32 £000
Option 1 - do nothing																				
Revenue cash flows																				
Current income from rents	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)	(583)
Income falls from deterioration (4%)		12	35	58	81	104	127	150	173	196	219	242	265	288	311	334	357	380	403	426
Costs:																				
- empty rates	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24
- agent fees	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
- bad debt	25	25	24	23	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8
Net revenue cash flows	(524)	(512)	(490)	(468)	(445)	(423)	(401)	(379)	(357)	(335)	(313)	(291)	(269)	(247)	(225)	(203)	(181)	(159)	(137)	(115)
		-4.29%																		
Option 2 - general refurbishment / refurbishment of roof																				
Revenue cash flows																				
Income from rents	(583)	(583)	(583)	(583)	(598)	(613)	(628)	(644)	(660)	(676)	(693)	(710)	(728)	(746)	(765)	(784)	(804)	(824)	(844)	(865)
Additional unit lets				(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)	(45)
Costs:																				
- empty rates	24	24	24	14	14	14	14	14	14	14	14	14	14	14	14	14	14	14	14	14
- agent fees	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
- bad debt	25	25	25	25	27	28	28	29	30	30	31	32	32	33	34	35	36	36	37	38
- loss of interest / capital	0	0	18	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35
Net revenue cash flows	(524)	(524)	(507)	(544)	(557)	(570)	(586)	(601)	(616)	(632)	(648)	(664)	(682)	(699)	(717)	(735)	(754)	(774)	(793)	(813)
Capital cash flows																				
Refurbishment costs	0	40	960	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Net capital cash flows	0	40	960	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Overall cash flows	(524)	(484)	454	(544)	(557)	(570)	(586)	(601)	(616)	(632)	(648)	(664)	(682)	(699)	(717)	(735)	(754)	(774)	(793)	(813)
Option 3 - sale and redevlopment																				
Revenue cash flows																				
Income from rents	(583)	(583)	(583)	(583)																
Income falls from uncertainty (4%)		12	35	58																
[redacted]		[redacted]		[redacted]																
Income from capital receipt investment					[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Costs:																				
- empty rates	24	24	24	24																
- agent fees	10	10	10	10																
- bad debt	25	25	25	25																
Net revenue cash flows	(524)	[redacted]	(489)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Capital cash flows																				
Capital receipt				[redacted]		0														
Costs incurred	124			82																
Net capital cash flows	124	0	0	[redacted]	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Overall cash flows	(400)	[redacted]	(489)	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

The West Way Shopping Centre

Prepared on behalf of

The Vale of White Horse

December 2012

DTZ
125 Old Broad Street
London
EC2N 2BQ

PRIVATE & CONFIDENTIAL
www.dtz.com

Contents

1 Introduction

The West Way project has now reached a pivotal point with the site A contract having exchanged and the site B contract agreed subject to Member sign off.

Following intensive work over the last few months a deal has been agreed with Doric that relates to the sale by the Council of the remainder of the freehold interest in the West Way shopping Centre to enable a redevelopment of the area.

To help the Council consider the deal that has been negotiated and the wider way forward this note will provide a summary of the commercial terms, DTZ's view of them and the issues that the Council must satisfy themselves on prior to entering into the contract.

2 Doric's proposal

Following Doric's selection as preferred bidder for site A by the consortium in January 2011, it became apparent that the original foodstore scheme was not deliverable in planning terms and that to gain planning consent only a comprehensive development, taking in the Westway Shopping Centre would be acceptable in planning terms. As a result Doric then amended their scheme and started to develop their ideas as to how a deal could be structured with the Council to deliver this wider development.

The Council have now been engaging with Doric regarding a wider scheme for a number of months with a deal agreed and the legal documents drafted up. Below is a summary of the key elements of the agreed commercial deal.

SUBJECT TO CONTRACT

1. **Contracting parties**

    a. Initially Doric but with the funder/contract guarantor/developer ultimately being A N Other. Doric will go to the market jointly with the Council to find and secure a deal with this third party. It is important to note that A N Other will not only just guarantee delivery of scheme but will also take on the full development risk therefore becoming the developer. Doric may choose to maintain a development management role or may sell their full interest in the scheme and have no further involvement with it possible for them to want to go to the market at any point from exchange.

2. **Scheme – below sets out the minimum requirements as set out in the contract:**

    i. Foodstore of between 70,000 – 110,000 sq ft

    ii. 19 residential units

    iii. Student accommodation (up to 600 units)

    iv. Between 10,000 and 40,000 sq ft GIA of A1 retail

    v. A3 restaurants of between 15,000 and 30,000 sq ft if there is a cinema or 5,000 to 20,000 if there is not a cinema in the scheme

    vi. Car park

    vii. Replacement accommodation for Seacourt Hall – to be agreed between the developer and the North Hinksey Parish Council

    viii. Replacement accommodation for the Botley Baptist Church save where the Church elects to relocate off the development site

    ix. A library where the developer has been able to secure an agreement to take such space from Oxfordshire County Council at an open market rent

    x. A health facility where the Developer has been able to secure an agreement to take such space from a health care provider and/or general practitioners

The current appraisal shows a cinema but this is not a required requirement of the scheme

3. Land

a. Site A land – Doric have a three month window from signing the contract for site A in which to sign the Site B deal. Site A would only go unconditional in conjunction with Site B therefore consideration would not be paid until unconditionality on both deals which is likely to be at least 2-2.5 years from exchange based on their current programme.

b. West Way shopping centre - Site B deal obviously relates to the sale of the freehold of this land.

c. Third party land acquisition – to deliver the current scheme Doric would need to acquire a number of key third party interests which would be a condition of the Site B deal. Doric would look to the Council to use CP powers to support these acquisitions where they cannot be agreed by way of private treaty.

4. Planning

a. It is unclear at present whether a hybrid or detailed planning application would be submitted. We are currently awaiting an updated programme from Doric which should provide greater clarity on this point.

5. Deal structure

a. The Site A deal is on the same terms that was previously agreed

b. The purchaser pays [redacted] for the freehold interest in the West Way shopping centre to be paid on unconditionality if/when unconditionality of the site B contract occurs.

c. [redacted]: Doric will pay the council [redacted] one year after exchange with a further [redacted] to be paid on the date the Council makes a CPO.

d. Overage: Over and above a priority profit of [redacted] Profit on Cost the land owner will pay the Council [redacted] of any overage up to a cap of [redacted] This will be calculated a year after practical completion of the scheme on an open book basis.

6. Conditionality

a. Acquiring all necessary land

b. Vacant Possession of all necessary land

c. Securing detailed planning consent for the overall area

d. Pre-letting the foodstore and the student accommodation

e. Securing a third party funder in accordance with the funding strategy

f. The scheme needs to be achieving [redacted] Profit on Cost to meet the viability condition. Doric have the ability to waive this condition

g. Securing a building contract

7. Programme

We are currently awaiting a headline programme from Doric but the contract has a long stop date of 4 years after the date of exchange by which time all the conditions need to be met otherwise the Council have the right to terminate the agreement.

8. Funding

a. Doric have stated that they may fund initial risk capital to secure hybrid planning consent and key occupier pre lets [redacted] However, DTZ believe this to be unlikely as we believe Doric are more likely to may want to go to the market to obtain a funder at an earlier point than this. There is nothing to stop them from doing this apart from requiring agreement from the Council under the funding strategy.

b. The agreed contract contains a funding strategy which sets out the principles of the approach to obtaining the new funder/developer/guarantor. Due to Doric acting as facilitator to obtaining this new third party the funding strategy document needs to provide as much control for the Council as possible. It therefore sets out that the process will be a jointly run process with the Council having to agree the approach, the identity and the terms of any deal.

c. This new party (could be parties) will be the party that pays the Council their base consideration of [redacted] for Site B , not Doric, assuming the Party agrees to the amount that has been agreed and the terms of the deal. They will also be responsible for delivery of the project and the full development risk, not Doric. Doric may have a development management role; they may, though as stated, have no role and simply 'sell out' of the Agreement before it goes unconditional. This is the most likely scenario, in our opinion.

d. The developer/funder, to be identified, will also be responsible for paying the consideration for Site A to both the Council and the other Site A landowners, again, assuming they agree to that figure.

e. Linked to the above points, there is a risk that the combined base purchase price will not be acceptable to developer/funders, and that Doric will want/need to renegotiate this.

9. Doric's professional team

a. Doric have stated that they are looking to appoint a number of further key consultants which would be supplementary to the existing team. Details of them are below:

Planning Consultants

- Julian Philcox
- Nathaniel Litchfield

Architects

- Andrew Rockett
- Mountford Pigott

Highway Consultants

- RPS

Communications

- PPS Group

Lawyers

- Reed Smith

3 DTZ's view on the deal

Scheme deliverability

Assembling land

Due to the change in the redline area Doric's proposed scheme has become a much larger, more comprehensive retail-led mixed use scheme and one that is very different to the original proposed foodstore on the consortium's land. Although the overall development value increases, the complexity and risk also does with Doric now planning to acquire a number of third party pieces of land as well as procure vacant possession of the whole site. This therefore becomes an increasingly complex scheme to deliver. A key element to overcoming this is the support of the Council with CP powers required meaning that a joint approach with the Council is an imperative.

Market Demand

From a high level perspective demand still exists from the key occupier markets including foodstores and cinemas although the foodstore operators are scaling back the size of stores they are currently looking to take, making a move away from the extra large store format. The student accommodation market has been strengthening and performing well over the last few years. This market is however very specific to the city the scheme is located in, the nature of demand from the Universities located there. [redacted]

Due to the foodstore and the student accommodation making up the majority of the income the demand for these uses is critical along with the nature and structure of the deal that is agreed with the leaseholder as well as the covenant strength. Securing pre-lets with all the key occupiers is vital to enable delivery of the scheme and is likely to be a fundamental requirement of a funder.

Planning risk

Although the scheme has become much larger, driven by the requirements of planning policy there is also a balance relating to the scale of it. The risk of it being too large or elements of it being too large, (especially the foodstore) may contradict existing planning policy which states that a scheme has to be 'in keeping with the scale and character of the centre'. It is understood that in a meeting in April 2012 David Rothery expressed general support for the type of uses proposed however an updated view on the scale is required.

Overall, a scheme of this nature will have more hurdles to delivery than the original proposed foodstore which would therefore also require a different approach to delivery with the Council playing a key role in achieving this.

Conditionality

The contract has a number of conditions related to it and as stated above, many more than in the existing deal for site A creating a number of key hurdles that need to be overcome to reach unconditionality. Although creating hurdles, the conditions also provide assurance to the Council that key elements that create a deliverable scheme are being considered. It does however reduce the certainty of the Council receiving their consideration along with increasing the risk level that they are exposed to in the intervening period.

A number of the conditions are likely to require the input and support of the Council which will be done at risk to the Council. These include obtaining vacant possession of the site and therefore emphasises the partnership approach that it is required to enable delivery of a scheme of this nature. DTZ believe that the conditions set out are usual conditions that one would expect to see in a conditional Development Agreement with most of the fundamental elements of creating a deliverable scheme being covered by them.

Funding

The most important point that the Council have to satisfy themselves on is the issue of the funder/overall developer/guarantor with the identity of them currently unknown and the extent of their ultimate role in the project also unknown. Doric are essentially creating a contractual position on the development with them then going to obtain a party who will be the funder/guarantor and take on all the development risk; Doric are effectively acting as a facilitator to the ultimate deal. Funding will be a key condition and one that the principle of which the Council should satisfy themselves on prior to entering into the contract. As set out above Doric have said that they will go to the market to obtain a third party funder however, it is not clear at exactly what point they will wish to do so. There are a number of scenarios relating to the way that Doric may choose to progress this but any route will result in the Council being contractually involved with a different developer and funder as the party will take on all the development risk. The only possible involvement that Doric may have is a management role if they choose to stay on as Development Manager.

Due to the number of different scenarios that could occur and there being a number of unknowns the funding strategy that has been agreed as part of the contract is the most importance element of the deal for the Council. The process of obtaining a funder and possibly new development partner needs to be a jointly run one with the Council needing to be in agreement with when and how Doric approaches the market, the terms of any deal that is done and the identity of the party who they are contracting with. This new funder will be the party who pays the Council's consideration, funds the development of the scheme and who could also act as developer. Any terms of the existing deal will have to be satisfactory to the funder with it not unlikely for them to look to renegotiate elements of the existing deal that they are not comfortable with.

Structure of deal

The proposed deal is a conditional deal with the Council only able to receive their consideration once all the conditions are met. As stated above Doric have offered an element of [redacted] throughout the conditional period but are not covering the existing level of [redacted] therefore leaving the Council exposed somewhat in [redacted] over this period. Over this period it is likely that the value of the shopping centre will be negatively impacted due to the course of bringing the development forward with Doric looking to the Council for their support during this period to help delivery. If the contract were not to go unconditional the Council could be left with a blighted asset and no protection were that situation to arise.

Financial deal

Doric provided DTZ with an electronic version of their appraisal which we have considered and interrogated. Due to the scheme still being very high level and the appraisal therefore being based on quite a number of assumptions it is not possible to provide a definitive view on the viability of the scheme but we have however developed a view of the range for what we believe to be the development value of the land (testing Doric's offer of [redacted] for sites A and B). Due to the student accommodation and the supermarket capital value making up the majority of the income for the scheme these inputs are the most sensitive part of the appraisal. We are able to ascertain a good idea of the rental level and capitalisation yield that will be achieved for the supermarket in the current market although without offers from operators it is impossible to be exact. Our view is that the supermarket yield they have adopted is at the right level however is the best yield that could be achieved and assumes a long well structured lease. We believe that the rent assumed is full however with us assuming a slightly lower level in our appraisals. It is however much harder to formulate a precise view of these for the student accommodation. The yield that an investor will pay for a student accommodation investment varies enormously depending on a number of factors that include the length of the lease agreed (ideally c.25 plus years income is optimum), the covenant strength of the leaseholder (Universities will strong covenant strengths are ideal) and the structure of the deal. The difference in these factors can have a large effect on the yield achieved and therefore the ultimate capital value.

We have undertaken our own version of Doric's appraisal changing assumptions where required to ensure that we believe that they reflect market levels. The appraisal is for the whole scheme that includes site A and site B which we believe is the correct approach. Doric are agreeing to pay the Council and the rest of the Consortium [redacted] in total for both sites so to enable us to test this offer for the land we also ran appraisals which residualised our appraisals to land value. To account for the possible variations in the values that could be achieved due to the difference in yield that can be applied to the student accommodation and the supermarket rent that can be achieved we assumed a base case and an upside scenario. The upside case land value was [redacted], dropping to [redacted] in the base case scenario. The range is large but shows the large impact on values that differences in the yields and rents achieved for the supermarket and the student accommodation can have. What our analysis does show however is that the offer of [redacted] is likely to be a good offer with even our best case scenario not producing this land value. It should be noted however that the third party funder has to satisfy themselves that they are happy to pay this amount with them likely to want to renegotiate if they do not believe it is a fair value.

To contextualise the numbers we looked at how the appraisal could achieve their offer of [redacted]. There are obviously a number of ways that the appraisal could change but as stated the student accommodation and the supermarket values are the elements that are most likely to vary. If the supermarket rent increases to [redacted] and the yield on the student accommodation drops to 4.0% the land value produced is [redacted] This shows again the large impact that these two elements have. DTZ do not believe that these shifts are achievable in the current market but exemplify what would be required to reach their land value of [redacted]

Please see appendix 1 for more detailed analysis of their appraisal.

Once further engagement has been had with supermarket operators and student accommodation providers and solid offers are produced much more clarity on the appraisal can be gained.

Doric are looking to take a priority profit return of [redacted] Profit on Cost which DTZ believe to be an acceptable return for the nature of the scheme. Due to the nature of the development having changed a party who is well rehearsed in delivering a shopping centre refurbishment and possible extension will consider margins that relate to Development Yields and IRR as a focus with Profit on Cost still having a place but not the main measure. This would therefore affect the deal that was done due to a different approach being taken if with another party.

Who is the Council contracting with?

The Council have to carefully consider this question because as stated above Doric are looking to bring a funder/developer/guarantor on board at a later stage with a possibility that they will also completely sell their interest in the project. In either scenario the party that the Council are actually contractually involved with will change emphasising the importance of the funding strategy and the large role and approval rights the Council have in the process of agreeing who this party is and the terms of the deal with them.

How proposal relates to Council's objectives and desired risk profile

Entering into a contract with Doric does present a number of risks to the Council with the ultimate funder/developer/guarantor currently unknown presenting the largest risk. However, as stated the involvement in the funding process will help to mitigate this risk with the Council having a joint role in this. The reduced income during the conditional period is also a key risk for the Council to consider along with the possibility of being left with a blighted asset if unconditionality is not met.

Overall Key risks to the Council

Interim position

- Possible drop in income and negative impact on value through the conditional period.
- If the contract does not go unconditional the Council could end up with an asset that has been negatively affected with no protection. The Council are effectively taking on a large element of risk with little protection for a significant period of time.

End party the Council are contracting with

- As stated above this is the biggest risk factor to the Council at present with the identity of the funder/developer/guarantor unknown and the ultimate role they will have in the project also unknown with the possibility existing that this party may want to renegotiate elements of the deal. To mitigate this the funding strategy ensures that the Council are jointly involved in the process of finding and contracting with this party to ensure that they maximise their position from it as well as ensuring that they are happy with the party and confidence that they will deliver.

Planning Risk

- At present an up to date view on the planning risk has not been obtained which is vital to understand the deliverability of the scheme especially due to the current scale of it.
- Due to the scheme evolving and changing rapidly the contract sets out the minimum requirements of the scheme to put parameters on the scheme.

Pre-lets

- For the scheme to be deliverable securing pre-lets with the key anchors, especially for the foodstore and the student accommodation is vital. [redacted]

Procurement

- [redacted]

Proposed financial terms

- Although the Council have rightly not yet requested a formal valuation which would ideally be undertaken as part of the subsequent funding strategy DTZ have analysed Doric's current appraisal and believe that an offer of [redacted] for site B is a good offer at this time and based on Doric's current scheme proposals and the existing West Way shopping centre asset. A formal valuation would have to be undertaken to formally sign off the proposed financial terms at a later date when all the key elements of the schemes content and delivery strategy are known. The Council intends that this formal approval will come within the terms of its approval of the Funding Strategy which we support. .

Council's actual return following development

- With Doric offering to buy the Council's freehold interest the Council have to be satisfied that they could successfully invest the money elsewhere to provide an income that is at least as good as what they are currently receiving.

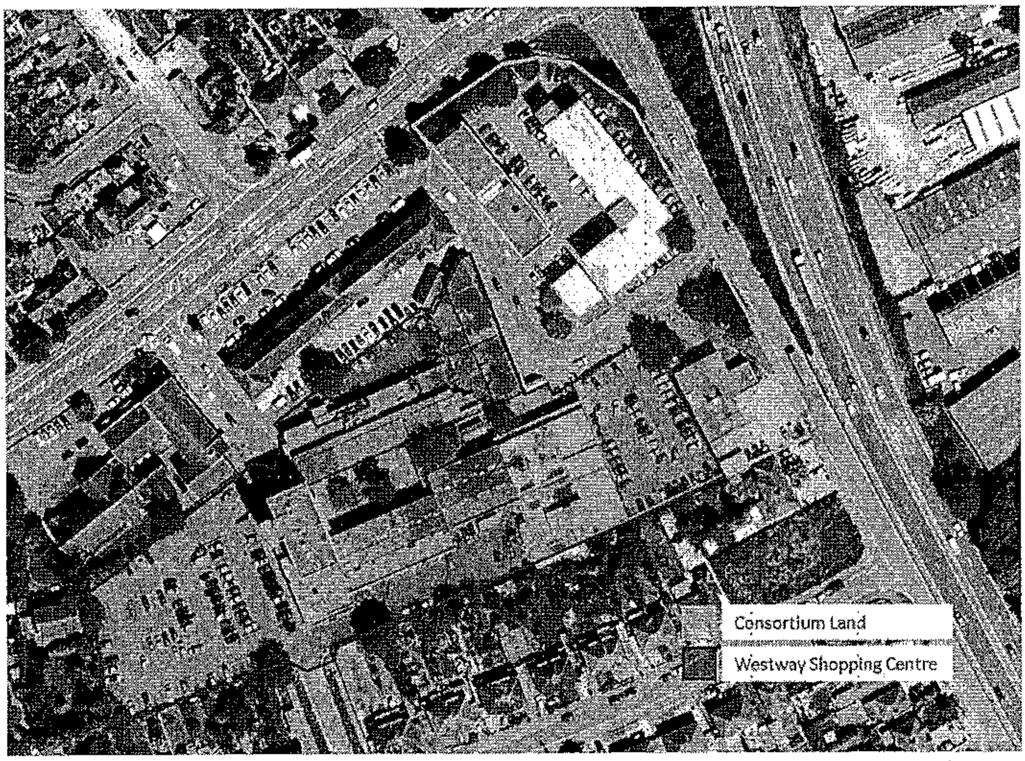
Political Risk

- The Council must be sure that they are happy to remove the existing local independent retailers to deliver such a development. Doric have said that they would let space in the new scheme to local retailers however DTZ would question the viability of doing this.

4 Other options open to Council

The project has reached a critical point for all parties but especially for the Council due to the fundamental shift in the percentage of their land ownership in the overall site compared to the site that was originally marketed. As a result, it is important that the Council are happy with their current position, their objectives for the project and the best way forward to meet these objectives.

If we consider the current proposed redline and the land ownership split of it, it can be seen in the below plan that the Council are now the dominant/controlling land owners meaning no other party is able to take forward a comprehensive development without them.



As well as the size of the scheme, the nature of the development product has also changed. What was previously a smaller foodstore development, has become a much larger scheme, taking in the Westway shopping centre with a comprehensive mixed-use scheme proposed. As a result the balance of risk between the Council and the other Consortium partners has fundamentally changed along with their respective roles and responsibilities.

This fundamentally different project requires a different development partner and deal structure than the consortium were originally looking for. Any development partner is now looking for more of a partnership with the Council and the Council are looking for an investment partner to share the risk involved in such a comprehensive scheme. This therefore suggests that if the Council agree with this point they are likely to be of the view that Doric who is a trader developer are not best placed to deliver such a scheme and provide the protections the Council are looking for. This again raises the importance of the funding strategy and the involvement in the Council of going to market to find the funder.

If the Council were minded not to enter into the contract with Doric it is important to address the other options that are open to them therefore we have set them out below:

If we therefore consider the other options the main ones are as follows:

- Do not continue with Doric and market the site either:
    1. With the consortium
    2. Without the consortium
- Do nothing

If we first address the 'do nothing' option this is not a viable option due to the declining state of the Westway shopping Centre and the need for the investment in the near future. It is also not possible to remarket the site on the previous basis due to the planning position therefore this is not a consideration.

By remarketing the site the Council can go back to the market with a clear message of what they are requiring, the involvement they are willing to have in delivering the project and also the outline structure of the deal they are looking to do including the risk profile they require and the necessity to protect income, along with the type of development partner they are looking for.

The redline boundary is one of the first things to consider if the Council were to remarket the site. Due to the focus now becoming the Westway shopping centre it would seem sensible to begin from there. It should be considered what element, if any of the consortium land should be included. An assessment of the optimum land take would need to be undertaken. If elements or all of the consortium site were decided to be included the Council could go forward and market it in conjunction with the other land owners or could market it on their own with those parcels of land to be acquired by the development partner.

The different options are set out below with the pros and cons of each considered

Remarket the site in conjunction with the consortium

Pros

- By taking this approach any developer would have the basis of land deals to assemble these pieces of land if required
- The consortium owners will also not provide resistance to a development in this scenario although could frustrate the process simply through the necessity of having a number of different parties making decisions.

Cons

- The parties in the consortium will all want to maximise their land receipt which could impact on the Council's ability to maximise their land receipt.
- Dealing with such a number of parties is also likely to make the process more complicated.
- [redacted]
- A development party may not want to utilise all the consortium pieces of land

The Council remarket the site on their own

As mentioned previously there is a strong case in favour of the Council remarketing the site on their own due to them now owning the freehold in the majority of the current proposed site. In this scenario the Council could inform the market that there was an historic agreement with the other land owners in place which set out a land equalisation deal and is something that these land owners may still accept if a development partner wanted to pursue this.

Pros

- This puts the Council in a position of control when making decisions and enables them to be guided by their requirements, not having to consult a number of different parties.
- It would also make the process more streamlined enabling them to do all they can to maximise their return
- Any development party is likely to also want the comfort of knowing that they have the Council's support through such things as CPO.
- A developer is likely to prefer working with one party as opposed to a number of parties

Cons

- There is the political fallout of not continuing with the consortium and Doric but as stated the Council are not currently bound by any contractual relationship with either of them
- The development partner may have to assemble any required bits of third party land and if other land owners were not willing to engage a CPO process may be inevitable

If the Council were to remarket the site they could request bids on the following bases:

1. A partner buys out the Council upfront with overage also agreed which reduces the Council's risk but to ensure they share in the upside of the development. A party in this scenario would likely request a resolution to use CPO powers from the Council to provide them with the comfort they would need.
2. A partner buys 50% of the Council's interest up front to ensure that the partner is sharing the risk of the delivering the development with the Council
3. A party protects the Council's income through the conditional period which would become a development cost with either the freehold or a leasehold sold when unconditonality is reached.
4. A party underwrites some of the speculative costs and then brings another party on board at a later date. (DTZ assumes the Council would not consider this option as this is what Doric are currently offering.)

In principle interest for possible development parties/funds

When considering the wider development interest in the Westway site, it has many strong advantages that would be appealing to the development market. Being located in the South East, near Oxford with a good catchment, the Council owning a large percentage of the site and it being zoned for retail uses all create an appealing product for the market.

From speaking with our retail investment team they believe that there would be, in principle good demand for a development opportunity with it likely that a number of major parties would be interested in a retail led redevelopment. [redacted]

5 Key Conclusions

1. **Context/'Building blocks' to DTZ advice**

- Site A is a deal that has now been exchanged and DTZ were not involved in that transaction. The Council had other agents advising it (and the other Site A landowners) on the marketing of that site, and the selection of Doric.
- The Council wish to continue with Doric, and extend the transaction to include Site B.
- Doric, the Council (as landowner) and the other Site A landowners have had to consider the wider project to unlock Site A due to the planning position, which emerged after marketing of Site A, and Doric's selection, which now requires a comprehensive redevelopment solution covering both sites.

Within this context DTZ have been asked to advise on how best to structure a Site B transaction, and within that how best to manage risk on the Council.

2. **Key Risk Points for VWHDC (commercially; Pinsents advising on legal risks)**

- The developer, and funder of the project is/are currently unknown.
  - This party (could be Parties) will be the party that pays the Council their base consideration of [redacted] for Site B, not Doric, assuming the Party agrees to it. They will also be responsible for delivery of the project, not Doric. Doric may have a development management role; they may, though, have no role and simply 'sell out' of the Agreement before it goes unconditional. This is the most likely scenario, in our opinion.
  - The developer/funder, to be identified, will also be responsible for paying the consideration for Site A to both the Council and the other Site A landowners, again, assuming they agree to that figure.
  - Linked to the above points, there is a risk that the combined base purchase price will not be acceptable to developer/funders, and that Doric will want/need to renegotiate this.
- The Council is exposured to [redacted] from Site B during the conditional period
  - Doric have gone some way to addressing this point with an offer of two payments. An element of which is conditional [redacted] and an element of which is not [redacted] 1 year after exchange). However, compared to the circa £600,000 that we understand VWHDC currently receive annually, and a circa 3-4 year conditional period, this clearly means the Council will be far from fully protected during this conditional period – and if the project doesn't go unconditional, reductions in Council [redacted] would then potentially be 'permanent'.
- If the contract does not go unconditional, the Council could be left with a blighted asset, and/or one reduced in value, potentially significantly reduced.
- Confidence in delivery. A strong partnership is required to unlock the scheme, and with a Party with a proven track record. This will not be Doric, as they acknowledge their lack of track record in complex town centre schemes of this nature. It will be the as yet unidentified developer/funder.
- The possible risk of third Party challenge. This will principally be covered in Pinsents advice however, it will be an off market transaction, and there will need to be as robust an argument/case in place as possible to defend this position. Certainly, this must include the fact that Site A is under contract to Doric before Site B is signed with them.
- Is the Council content with the overall 'proposed scheme'? There is currently very little detail to this at present with us expecting to see more than this at this stage.
- Land assembly: Site B will require a CPO which might not be confirmed and might be contentious which could be a risk point for the Council.

- There are currently no anchor occupiers in place which is obviously a key driver to the scheme. No scheme would go ahead without these being signed up.
- There are a range of conditions in the Site B transaction, that need to be met before it would go unconditional, many more than in Site A - which means increased time, complexity and risk. Site A was only conditional on highways, planning and title, but now site A is linked to Site B, so the Site A transaction is also conditional on all of the Site B conditions.
- There is the potential for Doric to 'sell' the development opportunity very early on, once a transaction is conditionally exchanged, and that as a consequence, the developer/funder Party requires most/all of the upside/value – hence lowering the Councils' return.
- There is a risk that Doric select an inappropriate developer/funder, and present the Council with a 'fait accompli', which the Council find hard to refuse (even if legally they may be able to – but equally, might not be able to)
- The significant conditional period to the contract means market circumstances could change substantively, potentially affecting the assumed schemes viability (either positively or negatively)

3. Presumed reasoning for why VWHDC wish to continue with Doric

- Time. Due to the marketing of Site A commencing some 2 years ago, VWHDC wish to build on negotiations/progress to date, rather than 'starting again'.
- Site A landowners. With a land agreement in place with the main landowners in Site A, which VWHDC does not wish to reopen this helps to capture these land interests and the Council wishes to build upon this.

4. How best to deal with the key issues identified in 2 above (within the context of VWHDC's desire to progress as outlined in 1 above)

- VWHDC have a very robust Funding Strategy included within the development documentation with Doric, giving VWHDC, through DTZ, the ability to jointly agree, with Doric, the basis on how the funding Partner – and, in reality, the developer – is selected. To include joint decision making on all key aspects of the 'when; how, who, and on what terms'.
- The above is THE key element of any documentation between VWHDC and Doric. It should – must – be 'non negotiable' on the above key principles.
- A detailed land assembly strategy, and associated interim management strategy for Site B, should be agreed prior to exchange of Site B which is currently being developed.
- [redacted]
- VWHDC should also be directly involved in all key anchor occupier negotiations
- The agreement sets out a number of long stop dates that provide comfort to the Council that Doric are making the desired progress with the development during the conditional period. They include:
    - Doric have to submit a planning application to the Local Planning Authority within 12 months from the date of the agreement. If they do not then the Council have the ability to terminate the agreement.
    - Prior to submitting the application to the Planning Authority Doric have to submit the application to the Landlord for their approval. Alongside this Doric have to also provide a summary report to the Council as land owner setting out an update on their wider progression of the development. This will cover such elements as signing up anchor tenants, site assembly and when they plan to approach the funding market.
    - To provide extra comfort in relation to progression Doric have also agreed to hold monthly meetings with officers and give quarterly presentation updates to Members to ensure that the Council have a clear understanding of the progress they are making.

- The agreement also sets out that Doric have to achieve a planning consent in 2 years from exchange otherwise the Council have the ability to terminate the agreement.
- There is also an overall long stop date of 4 years by which time all the conditions have to be met. If they are not the agreement terminates.

5. Recommendation

Based on the Councils' objectives as outlined within this report, and on the basis of the suggested recommendations to our report, we consider the Council has created a good conditional financial structure to the transaction with Doric, based on Doric's current scheme proposals, and the existing Westway shopping centre asset. The Council has rightly reserved its formal Best Consideration analysis, and sign off, for a later date, until all key elements of the schemes content and delivery strategy are known, as we have also advised. The Council intends that this formal approval will come within the terms of its approval of the Funding Strategy, which again, we support. For certainty, we consider that ideally this would be explicitly stated within that Funding Strategy, although the current draft confirms the Council has the right to approve the identity and terms related to the funding agreement.

Appendix 1 – Analysis of Doric's appraisal

1. Introduction

DTZ have been provided with a development appraisal by Doric, indicating the likely profit that the scheme will return based on a fixed land price of [redacted] (made up of [redacted] for the site 1 land (excluding the [redacted] for VP) and [redacted] to the Council for the Westway Centre – site 2). We have critically analysed the assumptions utilised in the appraisal produced by Doric, and have produced our own versions of it, using our own assumptions that we believe reflect market conditions, from both base and upside views. We have based these on discussions with our in house investment and agency teams and our own experience with similar types of development. We have run two different appraisals, one with the output of profit assuming the fixed land value of [redacted] which provides a comparison to Doric's appraisal and a second appraisal which residualises to land value which assumes Doric's required return of [redacted] Profit on Cost as the fixed input and land as the output. This enables us to test their offer of [redacted]

2. Key differences

There are several differences between our appraisal and that of Doric, some having a large impact (student accommodation yield and supermarket rent – further detail on these below) and others that have a smaller impact. We have set out our key assumptions and how they differ to Doric's below.

Variable	Doric assumptions	DTZ assumptions	Comment
Pre-construction	[redacted]	[redacted]	[redacted]
Supermarket rent	[redacted]	[redacted]	[redacted]
Student accommodation yield	[redacted]	[redacted]	[redacted]
Retail/Leisure rent	[redacted]	[redacted]	[redacted]
Purchasers costs	[redacted]	[redacted]	[redacted]
Stamp duty on land	[redacted]	[redacted]	[redacted]
Supermarket build cost (includes supermarket and car parking)	[redacted]	[redacted]	[redacted]
Retail/Leisure build cost	[redacted]	[redacted]	[redacted]
Letting agent fees	[redacted]	[redacted]	[redacted]
Letting legal fees	[redacted]	[redacted]	[redacted]
Development management fee	[redacted]	[redacted]	[redacted]
Sales agent fee	[redacted]	[redacted]	[redacted]
Sales legal fee	[redacted]	[redacted]	[redacted]

a. Foodstore

Doric has assumed an 84,000 sq ft Foodstore with a 40,000 sq ft mezzanine. The ground floor space has been rentalised at [redacted] and capitalised at a [redacted] yield. The build costs used are [redacted] on the main store and [redacted] for the mezzanine, which has not been rentalised or capitalised. This provides a capital value for the Foodstore of [redacted]

Market sentiment for "hypermarket" type food stores at present is diminishing, after the aggressive expansion of most of the chains for the last few years, particularly Tesco. Having said this, competition for the right sites is still strong with high rents and low yields being paid for these opportunities. However, we question the level of rent Doric is assuming can be achieved on a store of this size. Looking at comparable evidence in the market, on Hypermarket sized stores such as this; a rent in the [redacted] seems far more achievable as a base position. To achieve a yield of [redacted] will depend entirely on lease conditions, with 25 years term certain a minimum requisite, along with guaranteed rental uplifts based on cap and collar RPI linked reviews. We have adopted a rent of [redacted] on our base case rising to [redacted] on the upside, but kept the yield of [redacted], assuming Doric will negotiate an institutionally acceptable lease with a Foodstore.

We have also increased the construction costs to [redacted] on the main store, based on the construction rates we have seen adopted on other schemes we are advising on. However, Doric has yet to provide us with the cost plan for this scheme so we have not been able to run these costs past our cost consultancy team, so our view on cost may come down to be in line with the [redacted] adopted.

b. Student accommodation

Doric has assumed a development of 550 student units, rentalised at [redacted] and capitalised at a [redacted] yield.

The student accommodation market is a market that has been strengthening over recent years with investors willing to pay more for the right type of investment, however it is quite specific with long leases to Universities with good covenant strengths being vital. Any variations away from this start to impact the yield that is achievable and therefore the value.

We would say that the assumed rent, based on what is being achieved at other student accommodation developments in Oxford is low, assuming a minimum contract term of 42 weeks the current rent only equates to [redacted] Depending on quality of product, this could conceivably be anywhere from the low £100's per week through to mid £100's, although as the development is out of central Oxford it will be unlikely to achieve the highest rents achieved in the city. However, Doric have made the assumption that the low rent incentivises the University to take a longer lease as they can likely make a margin by letting the units at a higher rent which we would agree with so we have kept the rent at [redacted]

In terms of the yield, this is totally dependent on the structure of the investment. "Direct let" product (where the owner of the scheme lets beds on yearly contracts direct to students) is of little interest to the annuity type funds that Doric claim are likely to be funding this scheme, due to the lack of security of income. On the other hand, low yields are being achieved on long term annuity style leases (25 years plus) that are direct to the University, with index linked guaranteed uplifts. Legal & General have recently completed an innovative "income strip" type transaction like this with the University of Southampton, where a 1,100 bed scheme was forward sold for £93.2m reflecting a 4.15% NIY. The entire block is pre-let to the University of Southampton, a member of the Russell Group of Universities, on a 38-year lease with annual RPI uplifts. This represents the best possible investment and therefore the best possible yield achievable in the market at present. It is probably unlikely a similar yield would be achieved at Westway, as the institutional grade covenant provided by Southampton University would be harder to come by in Oxford however a longer lease would help to attract a better yield. Due to the uncertainty about what will be achieved we have adopted a yield of [redacted] on the base appraisal improving it to [redacted] in the upside appraisal.

<u>The Base case v. The upside scenario</u>

As stated the only difference between DTZ's base case and upside case is the difference in the student accommodation yield and the supermarket rent achieved, the rest of the assumptions remain the same in both. These elements of the appraisal have a large impact on the output of the appraisal and because of the uncertainties of the ultimate deal structures and values that will be achieved we believe it is wise to look at two different scenarios.

Base Case:
Supermarket rent: [redacted]
Student Accommodation yield: [redacted]

Upside Case:
Supermarket rent: [redacted]
Student Accommodation yield [redacted]

The results of the appraisals are set out below:

1. **Residualised to profit assuming a fixed land value of [redacted] as an input**

Output	Doric	DTZ Base	DTZ Upside
Profit (£)	[redacted]	[redacted]	[redacted]
Profit on Cost (%)	[redacted]	[redacted]	[redacted]
Development Yield (%)	[redacted]	[redacted]	[redacted]
IRR (%)	[redacted]	[redacted]	[redacted]

2. **Residualised to land value with profit fixed at 20% Profit on Cost to reflect Doric's priority return**

Output	DTZ Base Case	DTZ Upside
Land Price (£)	[redacted]	[redacted]
Profit (£) (reflecting 20% PoC)	[redacted]	[redacted]
Development Yield (%)	[redacted]	[redacted]
IRR (%)	[redacted]	[redacted]

3. **Conclusion**

Overall, our analysis shows that an offer of [redacted] is a good offer based on the current scheme. However, it must be remembered that the ultimate funder/developer/guarantor needs to be happy to agree to pay this amount for the land with them likely to renegotiate. In order to formally sign off Best Consideration a formal valuations would be required.

LATHAM HIGH

Development Appraisal

OXFORD ; BOTLEY

WESTMINSTER WAY APPRAISAL ONE

Report Date: 11 December 2012

Summary Appraisal for Phase 1

Currency in £

REVENUE

Rental Area Summary

	Units	ft²	Rate ft²
SUPERSTORE	1	82,800	[redacted]
Student Accomodation	550		
Cinema	1	20,000	[redacted]
Retail/restaurants	1	33,500	[redacted]
Library	1	2,400	[redacted]
Superstore Mezzanine	1	45,000	
Totals	**555**	**183,700**	

Investment Valuation

SUPERSTORE			
Market Rent	[redacted]	YP @	[redacted]
[redacted]		[redacted] @	[redacted]
Student Accomodation			
Current Rent	[redacted]	YP @	[redacted]
Cinema			
Market Rent	[redacted]	YP @	[redacted]
[redacted]		[redacted] @	[redacted]
Retail/restaurants			
Market Rent	[redacted]	YP @	[redacted]
[redacted]		[redacted] @	[redacted]
Library			
Current Rent	[redacted]	YP @	[redacted]

GROSS DEVELOPMENT VALUE

Purchaser's Costs	[redacted]	[redacted]

NET DEVELOPMENT VALUE

NET REALISATION

OUTLAY

ACQUISITION COSTS

Fixed Price		[redacted]
Stamp Duty	[redacted]	[redacted]
Agent Fee	[redacted]	[redacted]
Legal Fee	[redacted]	[redacted]
Town Planning		[redacted]
Survey		[redacted]

Other Acquisition

Vendors Costs	[redacted]

CONSTRUCTION COSTS

Construction	**Units**	**Unit Amount**	**Cost**
Student Accomodation	550 un	[redacted]	[redacted]
	ft²	**Rate ft²**	**Cost**
SUPERSTORE	92,000 ft²	[redacted]	[redacted]

Cinema	22,222 ft²	[redacted]	[redacted]
Retail/restaurants	34,536 ft²	[redacted]	[redacted]
Library	2,400 ft²	[redacted]	[redacted]
Car Park	156,500 ft²	[redacted]	[redacted]
Superstore Mezzanine	50,000 ft²	[redacted]	[redacted]
Totals	**357,658 ft²**		[redacted]
Developers Contingency		[redacted]	[redacted]
Demolition			[redacted]
Roads (S278).			[redacted]
S106			[redacted]
Other Construction			
Travelator			[redacted]
Circulation Area			[redacted]
Access Rd			[redacted]
Vicarage			[redacted]
Public Art		[redacted]	[redacted]
[redacted]			[redacted]
Sovereign			[redacted]
Howse			[redacted]
CPO Cost			[redacted]
Community Hall and Fit Out			[redacted]
Alzheimers			[redacted]
[redacted]			[redacted]
Landscaping			[redacted]
Consultation Process			[redacted]
PROFESSIONAL FEES			
Architect		[redacted]	[redacted]
Quantity Surveyor		[redacted]	[redacted]
Structural Engineer		[redacted]	[redacted]
Mech./Elec.Engineer		[redacted]	[redacted]
Project Manager		[redacted]	[redacted]
C.D. Manager		[redacted]	[redacted]
Fund Monitoring Surveyor		[redacted]	[redacted]
MARKETING & LETTING			
Letting Agent Fee		[redacted]	[redacted]
Letting Legal Fee		[redacted]	[redacted]
DISPOSAL FEES			
Sales Agent Fee		[redacted]	[redacted]
Sales Legal Fee		[redacted]	[redacted]
Additional Costs			
Dev. Management Fee		[redacted]	[redacted]
FINANCE			
Debit Rate 5.500% Credit Rate 0.000% (Nominal)			
Land			[redacted]
Construction			[redacted]
Total Finance Cost			
TOTAL COSTS			
PROFIT			

Performance Measures

Profit on Cost%	[redacted]
Profit on GDV%	[redacted]
Profit on NDV%	[redacted]
Development Yield% (on Rent)	[redacted]
Equivalent Yield% (Nominal)	[redacted]
Equivalent Yield% (True)	[redacted]
IRR	[redacted]
Rent Cover	[redacted]
Profit Erosion (finance rate 5.500%)	[redacted]

Initial MRV/Unit	Net Rent at Sale	Initial MRV
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	
[redacted]		
[redacted]		

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]