



BUSINESS SENSITIVE AND CONFIDENTIAL

The Westway Centre, Botley

Issues and Observations

1. Introduction

In 2011 the Council, joint with other land owners marketed the site to the east of the Westway shopping centre on Westminster Way as a development opportunity. Following the marketing process Doric Properties was chosen as preferred bidder with draft Heads of Terms (HoTs) then worked up with them for the sale of the freehold interest. The site's red line, includes an element of the Westway shopping centre. For the purposes of this note the site will be referred to as 'Phase 1'.

Since these negotiations began, Doric have approached the Council with a proposal relating to a wider development opportunity which would take in the Westway shopping centre, a site which is in the freehold ownership of the Council. For the purposes of this note we refer to the rest of the site as 'Phase 2'. This note considers the issues related to the main two options that are currently open to the Council relating to the options for a wider redevelopment of the site. They are:

1. Engage with Doric on their proposal relating to the wider site and establish firstly, whether it is possible to pursue in procurement terms and secondly if so, how best to structure a deal to ensure the best financial deal for the Council is obtained.
2. Extricate themselves from the existing deal relating to Phase 1 if possible and then take the wider site (phase 1 and 2) back to the market as a wider development opportunity.

2. Context

- As set out above the Council are part of a co-marketing agreement with the other landowners of the Phase 1 site which was developed prior to taking this site to market last year. The Council do not believe that this is a binding agreement with the parties being able to walk away at any time, however, this needs to be confirmed.
- As well as this agreement there is also draft HoTs that has been worked up with Doric in relation to the Phase 1 site. These are currently still draft with exchange of them having been stalled whilst options regarding the incorporation of Phase 2 are discussed.
- If the Council chose to move forward with Doric the structure of a second deal would have to be carefully considered and structured to ensure that it does not fall foul of procurement law. Most likely a second land deal would have to be structured. (See procurement section below for further comment)
- If the Council wanted to extricate themselves from the existing HoTs and take the wider site to market, legal advice would have to be taken as to how to approach this. Consideration would also have to be had as to how to capture the two existing land owners on the Phase 1 site as they are vital to enable a wider development to come forward.

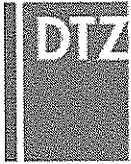
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3. How does it relate to Council's objectives and roles and responsibilities

- The Council have stated that their main priority for the Westway Shopping Centre site is to maximise the financial benefit from the site and most importantly maintain, and if possible, increase their existing income stream from it.
- Regeneration of the centre is also important but the Council believe that the planning arm of the Council will have enough control to ensure the scheme meets the planning and regeneration requirements for the area.

4. Procurement – issues related to this/can the Council legally go forward with Doric's proposal?

- Under procurement law all contracts made by public bodies and other parties that are considered to be procuring public works and fall above a certain value threshold are to be advertised to the market in the Official Journal of the European Union (OJEU), via a contract notice. If a contract that is considered to be a public works contract is awarded off market a challenge could then be made by affected parties and, if successful, make the contract void.
- If the Council were to continue with Doric and structure two back-to-back deals there could be a risk that the decision not to advertise the second contract for the wider site and to award it off market could be challenged, which if successful would make the contract void.
- However there are a number of things that could help create a case for doing this further deal with Doric:
 - If the second deal was also constructed as a land deal this removes the ability for the seller to place conditions on the buyer therefore removing any obligation on the buyer to undertake works. In this situation it is unlikely that the contract would be considered a public works contract. In this scenario the Council would have to solely rely on the planning arm of the Council to dictate what was delivered on the site.
 - If there was still considered to be a procurement risk there could be a possibility of building a case around the fact that Doric have a special interest in the wider site therefore meaning that the Council can not engage with any other party. This would only be the case however after the first deal has completed and this interest has been created. To build upon this case it could be said that Doric were originally selected through a competitive process and only then was it established that to enable a planning permission to be obtained the planning had to relate to the wider site.
- If the Council went down the route of taking the wider site back to the market and offering it as a development opportunity this would remove the procurement risk. In this scenario a shortened more streamlined marketing exercise would have to be undertaken.
- DTZ would state that the Council should obtain further legal advice on this matter.



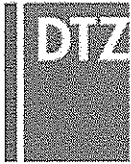
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5. Planning/policy framework – ability for the Council to obtain permission/policy

- There is no specific SPD that relates to the site but the Westway shopping centre of Botley is covered by the Local Plan which is currently still the adopted plan.
- The plan states that the nature of the local shopping centre must be preserved with the current range of retail uses present protected and the inclusion of other uses such as A2 and A3 not being at the expense of existing retail uses.
- With the importance of maintaining a functioning local centre that has a range of retailers represented, set out as a priority within the Local Plan, a planning application which covers the whole of the site and creates an improved integrated centre is more likely to gain planning permission than a smaller foodstore scheme on the smaller site. In this scenario the two sites may not be integrated and may leave an un-refurbished Westway shopping centre that could fall into decline.
- This therefore suggests that to obtain planning and fit with planning policy a planning application for the whole Phase 1 and 2 is the most appropriate way to approach the site in planning terms.

6. Ability for Council to maximise the regeneration benefits

- The Council have stated that the regeneration of the centre is of importance however the centre is not held as a regeneration asset but as an investment asset with the protection of their income from it being of the up most importance. The regeneration of the centre does however have strong links to the protection of the Council's income therefore making it an important factor.
- As stated previously the Council are however confident that the planning controls of the Council's planning arm would be able to ensure that a properly improved centre, for the benefit of the community could be provided without the need to put obligations in any contract with the buyer.
- Gaining vacant possession of the whole wider site is one of the greatest risks to delivering overall regeneration as there are a number of key interests across the wider site which could be hard to capture. The use of the Council's CPO powers would likely be required to enable a clean site to be obtained and the ability to develop a compelling case for a CPO would likely be easier if it was being used to enable the delivery of a comprehensive, well integrated regenerative scheme.
- The comprehensive approach to planning is most likely to deliver a more comprehensive, well integrated scheme for the area.



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7. Ability to capture a foodstore and other key occupiers

Currently Doric state that they are not engaging with any foodstore operators and that they will only engage with them when they have a planning permission in place. This approach increases the risk of delivery as the obtained planning permission may not fit with the foodstore operators' requirements, leading to the planning application having to be amended therefore adding time and hurdles to the delivery of the scheme. Doric however are convinced that the demand is so great from foodstore operators that they will fit in with the planning obtained. DTZ would comment that foodstores' requirements are usually quite specific with them having a strong preference to be involved in the development of a planning application.

DTZ also believe that Doric will not go unconditional on a deal without a foodstore signed up due to the large risk of giving up the money and then not being able to deliver a scheme. DTZ would suggest that the Council put pressure on Doric to either share their true position in relation to a foodstore, or if they believe that they are really not engaging with any potential occupiers, put pressure on Doric to do so prior to going unconditional. The reason for this being the possible impact a delay in delivery would have on the on the Council's income stream moving forward.

If the Council went back to the wider market with the site it is highly possible that other developers who may be partnered with a foodstore would show strong interest as currently schemes of this lot size, located in a strong catchments and with the ability to pre-let large elements of it (foodstore pre-lets) are very appealing to the development market. This opportunity has to be balanced against the risk associated with the Council extricating themselves from the existing agreements, being able to capture Willow and Siemens and also not knowing what the ultimate financial return would be from going back to the market.

8. Ability to create a viable scheme

From looking at the high level numbers below there is a strong ability to make a viable scheme with both Doric's and DTZ's appraisals both showing relatively high profit outputs. What could however have a significant impact on this is the cost of obtaining vacant possession, especially if a CPO was required.

9. Ability to maximise money for the Council

As mentioned above, the key objective for the Council from this site is to maximise the financial benefit from it with an emphasis being on income stream moving forwards. The below considers the financial implications of Doric's offer:

The Westway shopping centre currently produces a good income for the Council however there is an acknowledgement that the centre needs investment in order to protect and maintain this income stream with the Council currently not having either the required capital or specific skills to invest in the centre and provide a comprehensive redevelopment. The below considers the financial implication of the initial offer from Doric:

The headline offer from Doric is set out below:

- Doric wants to buy 50% of the Council's interest in the site and have offered 50% of what they believe to be the Existing Use Value of the site [REDACTED] is their current offer).
- Doric will then undertake the development and want the Council to pay for half of this. Based on the current figures in the appraisal the Council's receipt for their 50% interest will cover an

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element of the 50% cost contribution [REDACTED] in their appraisal), but not the whole. It should be established with Doric whether they are assuming the Council would contribute half of the total development costs.

- The Council will then end up with ownership of 50% of the asset at the new higher value, (c. [REDACTED] on Doric's estimates (it should be noted that this is a development value with an investment value likely to be slightly lower and a formal valuation should be undertaken) and the income stream from half of the centre [REDACTED] from the appraisal). This income stream is slightly higher than the Council's existing income stream but is arguably more sustainable, however is largely dependent upon what the ultimate scheme is and whether vacant possession issues can be overcome to deliver a comprehensive scheme.

The below tables summarises the before and after scenario for both parties based on Doric's current offer. The first table assumes Doric's numbers and the second DTZ's view of them:

1. Capital Value

	Inputs	Outputs	Overall
Council	<p>50% of Westway shopping centre [REDACTED] is Doric's current assumption for this)</p> <p>50% of total costs for the development (£9.3 m – taken from Doric's current appraisal)*</p>	<p>Increase in value of the Council's remaining 50% interest in Westway (on Doric's numbers this increases from [REDACTED] to [REDACTED] – it should be noted however that this is a development value with the investment value likely to be lower</p> <p>Receipt for 50% interest in Westway - [REDACTED]</p>	<p>[REDACTED] up in value terms (formal valuations required)</p>
Doric	<p>50% of cost of redevelopment [REDACTED]</p> <p>Cost of acquiring 50% of Westway shopping centre [REDACTED]</p>	<p>50% of refurbished Westway centre £ [REDACTED]</p> <p>Profit from scheme as reflected in appraisal – currently showing [REDACTED] PoC [REDACTED]</p> <p>Dev Management Fee of [REDACTED]</p> <p>Possible Marriage Value</p>	<p>[REDACTED]</p> <p>Plus possible marriage value</p>

*This figure is half of the total development costs of the scheme which is the proportion that Doric stated in their proposal that they would be looking for the Council to contribute. This is obviously higher than their initial, we therefore need to question Doric as to their detailed thinking on this.

Income



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	Before	After	Difference
Council	████████	████████	████████

The below tables update the numbers assuming DTZ's assumptions in Doric's appraisal:

Capital Value

	Inputs	Outputs	Overall
Council	<p>50% of Westway shopping centre ██████████ is Doric's current assumption for this)</p> <p>50% of total cost for the development (£9.25m on DTZ current numbers)</p>	<p>Increase in value of the Council's remaining 50% interest in Westway (on Doric's numbers this increases from ██████████ – it should be noted however that this is a development value with the investment value likely to be lower</p> <p>Receipt for 50% interest in Westway - ██████████</p>	<p>████████ up in value terms (formal valuations required)</p>
Doric	<p>50% of cost of redevelopment ██████████</p> <p>Cost of acquiring 50% of Westway shopping centre ██████████</p>	<p>50% of refurbished Westway centre ██████████</p> <p>Profit from scheme as reflected in appraisal – currently showing ██████████ PoC ██████████).</p> <p>Dev Management Fee of ██████████ (of construction costs, ██████████)</p> <p>Possible Marriage Value</p>	<p>████████</p> <p>Plus possible marriage value</p>

Income

	Before	After	Difference
Council	████████	████████	████████

As can be seen above DTZ have undertaken their own version of Doric's appraisal and would state firstly that the scheme concept appears to be a viable. However we would make the following comments about their assumptions:

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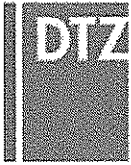
- Rental level for the foodstore looks to be quite high and the yield for the rental units quite bullish.
- The cost to acquire vacant possession is currently just an assumption and could end up being much higher.
- It is hard to understand their assumptions on phasing moving forwards as we have not seen a cashflow from them.

DTZ would make the following comments relating to the proposed structure of the deal:

- To enter a 50% structure the Council would have to feel comfortable that they will be able to work with Doric to both develop out the site and to run it jointly moving forwards –key roles and responsibilities should be set out at the outset.
- If Doric are asking the Council to cover 50% of the full development costs of the project the Council are highly likely to have to find a larger amount of money than the receipt they are currently being offered. It should be established what Doric's current thinking on this is and then careful consideration had to the overall impact on the Council's overall value position, which, as shown in the tables above could be severely affected.
- In principle, to sign off Best Consideration and to ensure the Council receive a fair deal the following elements should be addressed which are not currently incorporated into their offer:
 - It should be established if Doric would look for the Council to contribute half of all the development costs; If they did then this would be considerably higher than their initial figure of [REDACTED] and therefore put the Council in a much worse off financial position.
 - Doric are assuming both a profit and a development management fee for undertaking the development, neither of which the Council currently receive a share in, in the current offer from Doric. As the development is being funded jointly the Council should share in these elements.
 - This also raises the question as to what the correct priority level of profit a developer should require when undertaking a scheme that has the ability to have a large percentage of it pre-let and therefore significantly reducing the risk of delivery. In DTZ's view this should really be no more than c.10% Profit on Cost.
 - If 50% of the development value for the site is higher than existing use value then the Council should push to receive this for the sale of the their 50% interest in the site.
 - As a base, the Council's income through the construction period should be protected which Doric have said they would look at.

From undertaking an initial analysis of the offer and the figures DTZ would stress that the following issues should be considered:

- Doric's proposals show that the Council would end up with only a slightly higher but arguably a more sustainable income stream moving forwards. This however would be highly dependent a number of elements:
 - How much a foodstore would be willing to pay and;
 - whether vacant possession could be obtained of Westway to deliver the new units and a more comprehensive scheme which would attract the higher rents.



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- Doric have made it clear that they would want to sell following the completion of the development, the Council would have to satisfy themselves that they could find an alternative way in to invest the money to replicate the income stream from the centre. If not the Council would have to make it clear that they would not be willing to sell on completion.
- Formal valuations should be undertaken to enable a detailed assessment of their offer and impact on the Council and to ensure that Best Consideration could be signed off.

If the Council went back to the market to market the wider site the Council would more likely:

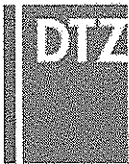
- Be in a position to retain the freehold interest across the whole of the site and therefore maintain more control over the development that would come forwards and a geared income going forwards.
- This would also help to create a strong argument for the use of CPO powers which may make it easier to enable land assembly and deliver a more comprehensive scheme and therefore drive the value.
- They would also be able to ensure that they were maximising the value of their interest in the whole.

Considering the development as a whole

Another third option should also be considered. In this option the Council could consider extricating themselves from Doric and taking forward both phase 1 and 2 as an overall development project themselves. This would obviously require the Council to take on a larger element of risk, however, it should be noted that Doric are already asking the Council to do that to a certain extent by funding half of the refurbishment of the Westway Centre.

To understand the financial impact of this possible option DTZ developed a high level appraisal of the overall development (phase 1 and 2), looking at two scenarios, one assuming DTZ's assumptions and one assuming Doric's assumptions, as above. In undertaking these appraisals we have assumed that the cost to assemble the first phase of the land is the current agreed figure of [REDACTED]. The below tables show the summary figures from these appraisals:

	With Doric Assumptions	With DTZ Assumptions
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Outputs		
Profit £	████████	████████
PoC	██████	████
NDV	████████	████████
Total Costs	████████	██████
Dev Mgmt Fee	██████	██████
Council Land	████████	████████
Land Assembly	████████	████████

As can be seen above, when the site is considered as a whole and the land assembly cost for assembling the phase 1 site is assumed to be the negotiated ██████, the viability is not as good as the appraisal for the Westway site on its own. This is primarily because of the large land assembly cost.

If the Council were to consider this option there would be a need to renegotiate the existing acquisition price for the phase 1 land interests down to improve the viability of the overall scheme,

However, as the Council own 100% of the phase 2 land the reduction in receipt from phase 1, which would effectively be deficit funding phase 2, may be justifiable if the financial benefit from the phase 2 scheme was at a level to at least cover the deficit from the phase 1 scheme or better, cover it and create a surplus.

To understand these financial implications it would need to be established what the overall scheme could afford to pay for the phase 1 land and then establish if the receipt from the overall scheme, with the lower land assembly cost, would balance out the loss to the Council on phase 1 and possibly put them in a financially better position overall. To understand this further appraisals would need to be undertaken.

The other benefits of pursuing a development of the whole would be the ability for the Council to maintain an overall interest in the site, therefore gaining both from the added value and from the income moving forwards. They would also be able to benefit from the profit produced by the scheme.

10. Ability to deliver

Under Option 1 DTZ foresee the following things to be the main issues to delivery:

- The lack of foodstore occupier on board at this stage could lead to delayed delivery and a possible ultimate negative effect on the Council's income stream.
- Obtaining vacant possession for both phase 1 and phase 2. As mentioned a CPO would be the easiest way however the delivery of the whole would likely help to create a more compelling case for this.

Option 2:



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- The Council extricating themselves from their position with Doric and renegotiating the existing deals with the Phase 1 land owners.
- Obtaining vacant possession of the Westway site.

11. Ability to secure Funding

Doric have suggested that they already have a relationship with London and Stamford who they have suggested, would be funding the development. This situation could reduce the risk attached to funding the scheme, however it would have to be considered how it could be proved that it was the best funding deal available. Doric's relationship with London and Stamford needs to be understood further and what role they would play in funding the development.

If the scheme was taken back to the wider market the ability to fund the scheme would depend on a number of factors including the relevant parties' relationship with funders, the resultant scheme, the ability to capture an anchor and the funding market at the time. However, as a principle the bigger the percentage of income that can be pre-let, the more appealing a scheme becomes to funders. The Council could also be involved in this process to ensure that the best deal was obtained.

12. Ability to assemble land

If Doric are happy to complete on the Phase 1 as soon as is possible this would ensure that Willow and Siemens as land owners have been captured as soon as possible. However, it is uncertain whether firstly, Doric are happy to do that and secondly, as the deal is conditional on planning which would have to relate to the larger site, the obtaining of this could delay any receipt.

If the site was taken back to the wider site a mechanism to capture Willow and Siemens would have to be established with the existing deal renegotiated.

With both options there are risks surrounding gaining vacant possession of the Westway scheme as there are a number of longer leasehold interests in the site that may be harder to capture. A CPO would likely be the easiest way to capture these land owners.

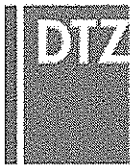
13. Ability to sign off Best Consideration

In order for Best Consideration to be signed off it has to be proved that the Council has obtained the best possible price for the land. The best way to ascertain this is to put the site out to the market, however in the absence of this formal valuations should be undertaken.

14. Summary

Below sets out the pros and cons of both of the options set out in the introduction:

Option 1: Continue with Doric's proposal and structure two back to back deals



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Pros

- The Council are able to continue with Doric and would not have to undo the existing draft Heads of Terms that are in place;
- Doric state that they have financial resource to fund the scheme which removes a large element of risk for any scheme coming forwards. However evidence needs to be provided of this funding. If they do have a funder in place it has to be questioned as to how it can be proved that they have the best funding deal available in the market;
- It may enable both the Council and the other parties in the existing deal to receive their receipt for the phase one deal sooner. However will Doric buy Phase 1 upfront? Generally? And without a foodstore?

Cons

- There may be an element of procurement risk which the Council should seek further legal advice on. A land transaction is the deal structure is likely to carry the lowest amount of risk;
- There is a risk associated with Doric not currently having a foodstore lined up. This could hinder or delay delivery of a scheme and negatively impact on The Council's income stream moving forwards;
- The Council would have to be comfortable about working in partnership with Doric to take the development forwards;
- A scheme could be delivered which does not maximise the regeneration possibilities for the Westway shopping centre again having a possible detrimental impact on the Council's future income stream;
- The current financial offer on the table would need to be properly assessed to ensure the best deal is developed as currently there are a number of key elements that have been overlooked which are not putting the Council in as strong a position in capital value terms and income terms as Doric's initial offer suggested;
- The Council are likely to have to find a replacement investment when the scheme is complete with Doric wanting to sell soon after it is completed;
- There are a number of issues relating to obtaining vacant possession on the Westway site which would have to be addressed with certain parties making it difficult to enable a refurbishment to go ahead.

Option 2: The Council extricates themselves from Doric and goes back to market with the wider site

Pros

- The procurement risk associated with constructing two back to back deals would be removed;
- The Council would be sure that they are maximising their receipt from the site by making possible bidders go through a competitive process for the whole of the site – this would also make it easier to sign off Best Consideration;
- The Council are more likely to be able to maintain an interest across the whole of the site and receive a geared income stream from the asset;
- It is likely that a party would come forward in tandem with a foodstore operator which would remove the risk of getting a foodstore on board at a later date;
- This route is would provide a more compelling case to build a CPO on therefore making it easier to obtain vacant possession of the whole a deliver a more comprehensive scheme.

Cons



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- The Council are currently in a contractual relationship with the other land owners of the Phase 1 site with there also being a draft Heads of Terms with Doric in relation to Phase 1. It would have to be considered how best to extricate themselves from their agreement with Doric and also renegotiate the current deal with Willow and Siemens.

Overriding themes

A Third Option

A key consideration for the Council is the level of risk they are willing to take. On Doric's proposal the Council are, to a certain extent acting as developer but are not however sharing in the profit associated with taking on that risk. If the Council were willing to take on a risk position there is a third option that they could consider whereby the Council extricate themselves from the deal with Doric, take on a development manager and develop out the whole site themselves. The risk attached to this would be balanced out with the reward of the profit as well as the increased revenue stream and the overall capital value increase. With the nature of the scheme being one whereby a large element of it can be pre-let to a foodstore it is one where a large element of the risk can be managed, making it quite an appealing development scheme to undertake.

In this scenario the Council would have to extricate themselves from Doric, re-negotiate the current deal with Siemens and Willow, and move forward with the site as a whole. The Council would not have to commit to moving forward until a foodstore was signed up.

As was seen in the high level numbers as set out in this note the financial gain of undertaking this would need to be assessed further but considering the overall position there is strong logic to suggest that the Council would likely be in a stronger position overall in the long run, especially in income terms.

CPO

There is a probable need for a CPO to enable delivery of this scheme and the ability to build a compelling case for a CPO would be much stronger if the structure of the deal was delivering a comprehensive scheme rather than through two deals which would be the case with Doric.

Foodstore Anchor

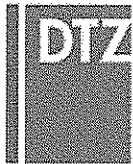
It is very important that a foodstore is on-board as early as possible to help ensure delivery of the scheme. DTZ is of the view that Doric would not pay [REDACTED] without having a foodstore in place and believe that the Council should push Doric to state whether they have one on-board and if not, state that they are not happy to move forward without this being the case as it has implications for delivery and therefore their income stream.

If any of the other two possible routes were considered which related to the wider site it would be important to get a foodstore on board at an early stage.

Procurement Risk

DTZ believes that there is still a risk in procurement terms to structuring two back to back deals with Doric and would advise that further legal advice is sought in relation to this. It should not be forgotten that parties with interests in the existing site such as Development Securities could have a strong case to challenge. Even if Doric were willing to cover the cost of procurement risk, the Council could end up with a stalled scheme and also the reputational risk associated with such a scenario.

If the overall site (phase 1 and 2) as a whole was taken back to the market this risk would be removed.



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Doric as a party to engage with

The Council have to be happy as Doric as a party for whom they would be happy to work with moving forwards and they have to be happy that they have the required skills to deliver such a scheme.

Financial benefit

The high level financial analysis has shown that Doric's current offer would not offer the Council the best financial deal relating to the Westway site with the financial contribution from the Council likely to be much higher than their receipt for their 50% interest. The current offer also does not assign any of the profit created from the scheme to the Council which, if they are half funding the scheme, they should be receiving.

If the Council were to pursue the second option of taking the wider site back to the market there would be likely advantages in maintaining an interest in the whole and geared income coming from it. Further financial analysis would need to be done to understand the full likely financial impact to the Council.

If the Council were willing to take on a higher risk position, an element of which Doric are already asking them to do in their existing offer, the Council could benefit from driving forward the development of the whole themselves. This would involve them removing Doric and re-negotiating their current deal with Willow and Siemens but would end up in the Council capturing not only the increased value but the full income and the profit from the scheme.

Capturing Willow and Siemens

A key element to delivering any scheme is the ability to capture Willow and Siemens and it must be clearly established how this can be done whichever route is pursued.

If the Council were to move forwards with Doric this is obviously covered by the existing agreement, however if the Council were to consider the site as a whole, the existing agreement with Willow and Siemens would have to be renegotiated.

Policy position

Moving into a comprehensive world, the Council needs to ensure that they have got a defensible policy position, especially if the option of taking the site forward as a whole is considered as the strongest argument for doing this would be a planning requirement.