

Public Document Pack  
SOUTHEND-ON-SEA CITY COUNCIL

**Policy and Resources Scrutiny Committee**

**Date: Wednesday, 24th April, 2024**

**Time: 4.30 pm**

**Place: Council Chamber - Civic Suite**

**Contact: Tim Row (Principal Democratic Services Officer)**

**Email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

**A G E N D A**

**1 Chair's Introduction & Apologies for Absence**

**2 Declarations of Interest**

**3 Questions from Members of the Public**

**\*\*\*\* ITEMS FOR PRE-CABINET SCRUTINY**

**4 Fossetts Farm, Land Transactions (Pages 3 - 22)**

**5 Exclusion of the Public**

To agree that, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the items of business set out below on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**6 Fossetts Farm. Land Transactions - Confidential Appendix 1  
(Pages 23 - 26)**

**TO: The Chair & Members of Policy & Resources Scrutiny Committee:**

Councillor S Wakefield (Chair),

Councillors L Burton (Vice-Chair), B Beggs, M Borton, S Buckley, O Cartey, T Cowdrey,

M Dent, F Evans, N Folkard, S George, J Harland, R McMullan, M Sadza, C Walker,

J Warren and P Wexham

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**Meeting:** Cabinet  
**Date:** 29 April 2024  
**Classification:** Part 1 with Part 2 (Confidential) Appendix  
**Key Decision:** Yes  
**Title of Report:** Fossetts Farm, Land Transactions

**Executive Director:** Alan Richards, Executive Director Environment & Place  
**Report Authors:** Alan Richards, Executive Director for Environment and Place  
**Executive Councillor:** Cllr Tony Cox, Leader of the Council

## 1. Foreword Notes:

**A: PLANNING:** This report deals only with the land transaction. New planning applications will be required in due course for all development proposed at Fossetts Farm. No applications have been submitted at this stage and are not anticipated until the summer of 2024 at the earliest and nothing in this report or any associated decisions will fetter the separate responsibilities of the Council in discharging its statutory planning function as Local Planning Authority, through the Development Control Committee

**B: TRUST MATTERS:** Whilst all steps have been taken to reduce the impact on trust land, and it is no longer anticipated that the proposed development at Fossetts Farm will have any implication on the land held in trust at Jones Memorial Ground or the Youth Commemoration Ground. It is anticipated, subject to the highways design and modelling, that the requirement for a small slither of land at the northeast corner of Victory Sports Ground will stand. Decisions pre-exist to deal with this and do not need to be varied at this time therefore Councillors need not have direct consideration of any trust related matters for the purposes of this report.

## 2. Executive Summary

- 2.1. This report provides Cabinet with an update on the Council's due diligence, the proposed transaction, and the next steps. The recommendations seek agreement to proceed to exchange of contracts for the updated transactional arrangements subject to the satisfactory (to the Council) completion of due diligence and a range of other conditions to secure the Council's, and related party interests.

- 2.2. The proposed transactions no longer include Roots Hall which is set to be sold to a consortium of buyers trading as COSU FC Ltd and POSU FC Ltd. (hereafter referred to as The Consortium) in connection with the sale of Southend United Football Club (SUFC).
- 2.3. The sale of SUFC is only relevant to this transaction due to the requirement for a financial contribution of £20m to be made by the landowner (Thames Plaza Plc) and developer (Citizen Housing) (from a combination of development profits and land payment, at no cost to the Council or taxpayer) to the Consortium (in this case POSU FC Ltd, as a subsidiary of COSU FC Ltd) and the need to secure that payment to secure the future of SUFC and its investment in to Roots Hall.

### 3. Recommendations

#### It is recommended that Cabinet:

- 3.1. **NOTE** the current due diligence programme which is underway and which elements remain to be completed and **AGREE** to proceed to exchange of contracts and completion subject to all due diligence being completed to the satisfaction of the Council, as explained in the body of this report, and subject to the simultaneous sale of Southend United Football Club to the Consortium.
- 3.2. **DELEGATE AUTHORITY** to the Executive Directors for Environment and Place and Finance and Resources (s.151), in consultation with the Leader of the Council and the Cabinet Member with responsibility for regeneration, subject to paragraph 10.3 of this report, to agree any adjustments required to the transaction and to authorise the exchange of contracts **SUBJECT TO:**
- A) the completion of all due diligence to the satisfaction of those to whom authority is delegated above.
  - B) The simultaneous sale of Southend United Football Club to The Consortium.
  - C) a pre-exchange condition that CBRE/Merseyside Pension Fund consent to the Agreement for Lease and any other relevant elements of the transaction.
  - D) Suitable contractual protection for the Council and the new owners of Southend United Football Club (POSU FC Ltd and COSU FC Ltd (parent company) that the payments from the landowner (currently Thames Plaza Plc) and the developer (Citizen Housing Ltd) totalling £20m from profit and land receipts, to be secured and invested into Roots Hall.
- 3.3. **NOTE** that any development at Fossetts Farm will be subject to a new planning application and that the Council must remain unfettered in dealing with this through its statutory planning function as Local Planning Authority, through the Development Control Committee. This report relates only to the proposed financial and property transaction. The requirements on the applicant/related parties to enter into a planning agreement (s.106) to require the payment of £20m as above is also expected so that this is secured both in the land transaction, and through the planning agreement.

## 4. Background Context

- 4.1. Cabinet will be familiar with the proposed arrangements relating to Fossetts Farm and Roots Hall having considered numerous reports on the evolution of the transactions which, historically were designed to enable, amongst other things, the relocation of the home of Southend United Football Club from Roots Hall to Fossetts Farm.
- 4.2. The proposed transactions no longer include Roots Hall which is set to be sold to The Consortium of buyers in connection with the sale of Southend United Football Club (SUFC). The sale of SUFC is only relevant to this transaction due to the requirement for a financial contribution to be made by the developer (from its profits, not at any cost to the Council or taxpayer) to the The Consortium and the need to secure that payment to secure the future of SUFC.
- 4.3. Cabinet has already agreed the principle of facilitating development at Fossetts Farm using an income strip (annuity lease) model as a means of raising the necessary level of capital to unlock development.
- 4.4. The whole history across several decades and many scheme iterations is not included here however below follows a chronology (with links where applicable) of previous Cabinet reports and the associated minutes for ease of reference dating back to the point where residential development was contemplated in place of out-of-town retail. In summary:

**Presentation to Members 19 July 2019** - Citizen Housing initially presented a residential scheme proposed for Roots Hall to Councillors. Following this, negotiations have been underway.

**Cabinet 15 September 2020** – [Report and Minutes](#) - Update as part of Housing Pipeline Update paper including the principle of using an annuity lease structure to unlock development and facilitate the relocation of the stadium as part of a wider housing delivery plan across both Roots Hall and Fossetts Farm.

**Cabinet 24 November 2020** – [Report and Minutes](#) - Comprehensive explanation of transactions which led to the exchange of contracts on 14 May 2021 for the Agreement for Lease and Framework Agreement currently in place to facilitate the relocation of the Stadium to Fossetts Farm as part of a wider housing delivery plan across both Roots Hall and Fossetts Farm.

Notes:

- Planning Permission was subsequently granted for this proposal.
- A report dealing with a range of Trust matters to enable this was presented and agreed.

**Cabinet 9 November 2023** – [Reports and Minutes](#) - A report updating on the proposed sale of SUFC, key changes to the principles of the transaction

including the removal of Roots Hall from the proposals, not relocating the stadium and introducing additional houses into the development proposals at Fossetts Farm. This report proposed maximum numbers following this change at up to 911 apartments and up to 400 houses at Fossetts Farm.

- 4.5. There is some wider, important context around the urgency of this decision in that The Consortium looking to take ownership of SUFC is concerned about the debts of the club, exacerbated by the most recent petition to wind up the club which is currently going through the court process. It has been adjourned until mid-May by which time the parties to the club sale hope that the sale will have completed.

## **5. What is an income strip model?**

- 5.1. Income strip transactions are so called because they effectively 'strip' or separate the income (rent) generated by a lease from the value of the underlying real estate asset.
- 5.2. This means that the income that an investor receives represents 100% of the value of the investment.
- 5.3. In an income strip transaction, the owner (in this case Thames Plaza Plc) sells the underlying real estate to the investor (likely to be a pension fund) and the fund then enters into a lease agreement (with the Council). The Council retains the option to buy the land, and the built assets and all associated income and liabilities back for a nominal sum (e.g. £1) when the lease ends. This effectively means income strips have an amortising repayment profile of the underlying real estate where the remaining future cashflows are secured against the property.
- 5.4. For tenants (in this case the Council), income strips offer the benefit of raising long-term affordable financing against their strategic real estate holdings, while retaining ownership of the freehold when the lease ends (so long as all lease payments are fulfilled).
- 5.5. For investors (in this case the pension fund), income strips could provide long-dated, investment grade, inflation-linked cashflows with an attractive yield, secured against business-critical UK real estate. This investment profile is attractive to different types of institutional clients such as pension funds and insurers seeking to generate long term inflation-linked cashflows.

## **6. The Current Position:**

- 6.1. Following the agreement of principles at Cabinet on 10 November 2020, officers worked with all associated parties to try to reach agreement on revised terms to enable the transaction whilst protecting the Council's interests.
- 6.2. Headline terms for variations to the exchanged transactions were agreed in principle, subject to the completion of all necessary due diligence on 1 January 2024. These are attached at **Part 2 Confidential Appendix 1**.

- 6.3. The Council received confirmation of an undertaking to meet the costs associated with the necessary due diligence on 15 February 2024 enabling the various elements of due diligence to be contracted and progressed subject to all necessary information being available.
- 6.4. It is also important to note that at the point of agreeing in principle the updated Heads of Terms and procuring the due diligence, the Council had no visibility at all of the proposed housing development which will replace the stadium development. This was first presented for comments on 21 March 2024 and is the subject of further refinement.
- 6.5. Following the initial market and scheme review by Cortland, a market leading Build to Rent (BtR) operator and advisor, various changes have been requested to be made to the housing mix and layouts within the apartments. Citizen Housing has taken these comments on board and is working hard to accommodate these.
- 6.6. As a result of these, and other changes, the Council is considering the mix, type and tenure of the affordable housing element therefore these elements remain in refinement. These will affect the build cost, the rents, the letting-up risks and the operational and lifecycle costing models therefore whilst progress is being made on these, the final position has not yet been reached. For this reason, cabinet is asked to agree the delegation to relevant Executive Directors in consultation with the Leader and the relevant cabinet member is appropriate to agree the final quantum, mix, type and tenure to enable matters to progress but to reflect the need for further refinement. This delegation is therefore set out in 3.2 above. Any such decision in a land and leasing context cannot fetter the council's independence of the Council's role as Local Planning Authority which will separately have to test the viability of any affordable housing which deviates from planning policy (30% on a scheme of this nature) and will require consideration by Development Control Committee.

## **7. Update on the Council's Due Diligence (DD).**

### **7.1. What is DD, why is it so important and why does it take time?**

- 7.1.1. DD is the process of carefully checking and reviewing key information that is relevant to a business deal, property transaction or legal agreement. It generally occurs before exchange, but elements may also continue post-exchange and be covered in the drafting provisions. This enables informed decisions about whether a particular transaction is right for the organisation and for risks identified to be understood and mitigated.
- 7.1.2. From a buyer's perspective (as is the case here), DD involves inspecting the fundamentals of the property (land), the transaction, the seller, the market, and the financing arrangements in order to reduce and mitigate financial uncertainties.
- 7.1.3. DD is mainly addressed before the purchase contract is signed although it is also possible for contractual provisions to be drafted

(usually as conditionality) in the contracts, for further items of DD/assurance that the buyer must undertake and the time this will take. This also serves to compel the seller to deliver required documents promptly.

7.1.4. In larger transactions, such as this, it is common to have multidisciplinary legal and professional teams representing the parties on a range of issues.

## 7.2. **What DD is necessary for this particular transaction?**

7.2.1. The Council has determined that for this particular transaction DD falls in to four main categories: market/property, financial, legal, and external audit. Each of these are explained further below:

### 7.3. **Market/Property DD:**

7.3.1. This falls in to three main categories.

7.3.2. Firstly, understanding the detailed specifics of the proposed development and the design, specification, environmental credentials, mix, cost, value, and market pitch of the proposed product. In this case, a Build to Rent product which is new to the Southend market.

7.3.3. It is crucially important for the Council to have assurance that the type of product proposed will be met with sufficient market take-up to maintain the high rents (as confirmed by the Cortland due diligence) needed to make the financing work and that there is a sufficient market of occupiers for which the proposed product will be an attractive and affordable option.

7.3.4. Secondly, the wider transactional market for this type of transaction, the risks and benefits associated with the financing structure. The appetite from funding institutions to provide the capital financing for this type of structure (i.e. low yield, long term annuity finance), the likely terms of that finance and any flexibilities which may be available during the term.

7.3.5. Thirdly, the balance between market and affordable housing, and the appropriate affordable housing tenure and mix to have the optimum impact on housing waiting lists, with as much affordable housing capped at Local Housing Allowance (LHA) rents as possible.

7.3.6. At the developer's cost, the Council has appointed Cortland (a Build to Rent Specialist) to advise on the specific scheme generally including the estimated rents, operational costs and Cushman Wakefield's Capital Markets team to advise on the wider market and property financing elements.

### 7.4. **Financial DD**



- 7.4.1. The proposed transaction is a very long-term financial instrument which will be used to facilitate the significant capital investment needed to meet the construction and development cost of the development.
- 7.4.2. The finance is raised off the back of the Council's commitment to pay a substantial rent (which will be index linked) which in turn is covered by the incoming rents from homes (rents linked to market), hence the importance of the independent assessment of these rents by Cortland, specialist in the BtR market.
- 7.4.3. At the end of the leases, the option to acquire the freehold of the development (the reversionary interest) sits with the Council therefore this estimated exit value must also be considered although because the leases are so long, the value of this today will be low, but increasing as time passes and the reversion becomes less remote.
- 7.4.4. The Council must therefore satisfy itself that over the life of the asset, the incoming rent (from occupiers of the property) will be greater than the sum of the outgoing rent (that the Council will need to pay to the pension fund) and all management, maintenance, repair, and replacement costs.
- 7.4.5. The Council must also satisfy itself that all the parties involved in the transaction have sufficient experience, credibility, and financial resilience to be able to meet the covenants that they will be entering into as part of the transaction.
- 7.4.6. At the developer's cost, the Council has appointed 31Ten to support with the financial analysis and DD.

## 7.5. **Legal DD**

- 7.5.1. The Council will require specialist legal advice throughout the transaction. This is because the transaction is complex and relatively specialist in nature and our internal resources will not be sufficient in terms of capacity or specialism to be able to lead this work, although they will remain involved. It will involve detailed dialogue with a range of legal, funding and development counterparts and the comprehensive documentation of all elements of the transaction to facilitate exchange. The documents will need to be satisfactory to all parties including, importantly, the institutional funder.
- 7.5.2. The legal work will also include substantial title, ownership, and transactional DD, making sure all covenants, restrictions and charges and other liabilities are understood and the associated risks mitigated to a satisfactory degree.
- 7.5.3. There will also be an element of company due diligence covered by the legal advisers to assist the Council in satisfying itself that all the parties involved in the transaction have sufficient experience, credibility and

financial resilience to be able to meet the covenants that they will be entering into as part of the transaction.

7.5.4. At the developer's cost, the Council has appointed Gowling WLG to support with the legal work.

## 7.6. **External Audit DD**

7.6.1. Once all other DD has been completed and the Council is sufficiently assured that the transaction is in all respects a good prospect, consideration will be given to whether risks are understood and mitigated and that the financial considerations, over the long term, are manageable and beneficial for the Council.

7.6.2. It will be necessary for the Council's external auditors to review the transaction and provide assurance to the Council's s.151 Officer such that he may be satisfied to progress the transaction to exchange of contracts. In this case, this assurance is likely to be the final piece of pre-exchange due diligence required prior to exchange of contracts.

## 7.7. **Latest position on the Council's DD and areas under development**

7.7.1. At this stage there remain a number of moving parts. For example, Cortland have not yet received details of the specification for the properties therefore their figures are based on assumptions on quality. They have also not yet been provided with any information on Citizen's approach to Environmental, Social and Governance (ESG), including sustainability benchmarks.

7.7.2. Cortland have also not yet received any updated gross areas for the apartments, which include layouts and amenity provision so again, their advice is based on assumptions.

7.7.3. This should be caveated in that the design work, particularly for the houses (Zone C) is young in its development and much of this level of detail would naturally come further into the design process and may require some development during the planning stage but nevertheless, it needs to be fully agreed and settled prior to construction. A plan showing the indicative development zones is attached at **Appendix 2.**

7.7.4. A significant amount of analysis has now been completed by Cortland on the rental market and where this new type of product should be pitched in the local Southend market. This has been developed from evidence taken from a range of build to rent schemes in other locations and adjusted to reflect the characteristics of Southend. This evidence points to a price point approximately 20% higher than the upper quartile of embedded market rents in Southend due to the high quality of accommodation, environment, and amenity – hence the importance of the specification, ESG, design and amenity. It is important to draw this point out so that Cabinet appreciates that the product in design is a top of the market product, catering to a particular demographic of renters.

For this reason, considerable work has also been done on affordability which indicates that one of the primary markets for the product will be the sharer's market (i.e. two individuals or 2 couples sharing a 2-bed apartment). These factors also influence both management costs and lifecycle costs and therefore underlines the need for reliable operational expenditure modelling.

- 7.7.5. The Operational Expenditure modelling Cortland has undertaken by looking in detail at a range of schemes that they and other leading operators are involved in, and has shown that in the current market, operators of a scheme of this nature should expect the operational expenditure to be between 27-29% of the gross rental income (certainly no less than 27%).
- 7.7.6. The comparatively high rental price point will also have implications on the affordable housing element of the development. The Council has consistently maintained that the scheme must provide the minimum requirement of 30% affordable housing. This position is supported by planning policy. However, to assist with scheme viability and its place in the rental market, consideration is being given to a number of approaches to the delivery of the affordable housing element with a strong preference for maximising the amount of housing delivered with rents capped at LHA rates and this may need to include a reduction in the overall amount of affordable housing provided. The Leader has specified that this must be no less than 13-15%, all at LHA rates (with any movement down from 15% to compensate for variations in the expected rental yields) and in any event will be subject to planning viability testing in due course.
- 7.7.7. The Council's DD also needs to be sequenced. For example, the elements discussed in 7.7.1 – 7.7.6 above need to be settled before a reasonable assessment of build cost can be made. Once they are settled and a robust assessment of build cost is available, the development appraisal can be completed and 31Ten instructed to undertake their modelling, value for money and stress testing analysis of the financial sustainability of the development.
- 7.7.8. Only once the Cortland and 31Ten work is complete can the legals be substantially advanced and the external auditors be invited to review the proposed scheme.
- 7.7.9. Throughout this work as elements evolve or are changed, these need to be evaluated again. Given that as set out above, the housing element was only first seen by the Council on 21 March 2024, this illustrates the amount of work which remains outstanding to reach a settled scheme which meets the requirements of the Council, the developer and prospective funds and therefore the need to provide for the wide delegations to enable adjustments to be analysed and approved as everything is refined up to, during and following planning.

7.7.10. At this stage, the working assumption is that in Zone A there will be up to 944 apartments. Zone C is likely to provide around 315 homes, the majority of which will be houses with c.18% flats and c.12% maisonettes where these blocks help to create statement buildings at key locations. So there is a slight rebalancing of numbers between Zones A and C. Affordable housing will be spread across all housing types and across Zones A and C (See **Appendix 2**). The affordable housing which will be capped at LHA rates, is likely to be located together for management reasons and because the layouts of these will differ (for example with fewer bathrooms to reduce lifecycle costs and the different occupancy type (i.e. not professional sharers). It is hoped that the number of apartments will be limited to 944 in Zone A.

## **8. Conditionality requirements**

8.1. As is usual with any significant (and often less significant) transaction, there will need to be elements of conditionality baked into the contractual arrangements. Some of this conditionality will need to be addressed prior to exchange of contracts and some can be conditioned in the contracts to be dealt with at later stages. The list below is not exhaustive but demonstrates the types of conditionality which will fall into each category.

### **8.2. Pre-exchange (or at exchange) conditionality:**

- Design, specification and ESG credentials agreed.
- Mix, specification and affordable housing distribution and tenure types agreed (subject to planning permission and associated viability testing).
- Satisfaction of all pre-contract DD (Market/Property, Financial, Legal and Audit)
- Payment of all costs
- Completion of the SUFC sale and transfer of Roots Hall (may happen simultaneously)
- CBRE/Merseyside Pension Fund consent to amended Agreement for Lease arrangements.
- Satisfactory security for payments to COSU FC Ltd / POSU FC Ltd and that they will be invested in Roots Hall.

### **8.3. Post-exchange (contractual) conditionality:**

- Securing planning permission
- Satisfaction of planning conditions including any s.106 conditions.
- Satisfaction of phase conditions
- Confirmation of funding
- Legal completion following unconditionality, lease drawdown.

8.3.1. Further conditionality will run on through construction, lease drawdown and right through beyond completion of the development and warrantee periods. This will also include the security of stage payments on a phased basis from the developer (from its profit) to The Consortium currently proposing to buy SUFC.

## **9. Approach to related company checks.**

- 9.1. The Council has run company reports on the significant company interests involved in the transaction and these will be kept under review. Reporting has been completed for the companies directly involved in the contractual structure. Their roles in the development are illustrated on the diagram at **Appendix 3**.
- 9.2. It is important to note that the contractual and transacting arrangements for Fossetts Farm will place different obligations on the parties at particular points during the pre-funding, pre-development, development, and handover stages.
- 9.3. It is also important to note that it is commonplace for development companies to be set up as single-project vehicles. These will be used to fund and hold, and take all risks associated with the land acquisition, all planning and development costs, and only very much later in their term will income start flowing into such companies when the proceeds of development start to be realised.
- 9.4. For the development at Fossetts, the principal long-term relationship is between the Council and the Fund. Both parties therefore need to be satisfied that the developer has the skills and experience needed to deliver the development to the quality and specification required. Protection measures need to be in place to protect this. Here, in simple terms, the fund will have its money secured via a long lease agreement with the Council. Both parties will have a vested interest in ensuring that the developer completes the development to a high standard. The Council only takes significant financial risk once the first phase of development is completed and handed over, ready for letting. Therefore, it is the fund who is principally at risk while the development is underway, and it will have security and step-in rights to protect its position.
- 9.5. On satisfactory completion of each phase, the Council will become liable to pay the rent to the fund and will be entitled to let and collect rent from all the units in that phase. Protection needs to be built in to ensure that on the completion of each phase, the developer pays the sums due, from its profit to The Consortium. This will need to be secured through the planning agreement but also via the transactional arrangements to protect against an application to vary the s.106.
- 9.6. It is therefore intended that company checks are kept active and maintained regularly, including at key points throughout the development process and that suitable protection measures and security is obtained at the relevant points, as needed. The Council is likely to require external advice around these securities on an ongoing basis, but some comfort should be taken from the fact that our interests are largely aligned with those of the fund throughout.

## **10. Next Steps**

- 10.1. The further refinements referred to above must continue to be progressed and fed into the DD work until such time as the Council is satisfied that all elements can be satisfactorily signed off.
- 10.2. Officers will collaborate closely with the advisory team to ensure that the Council's interests are protected at all times.
- 10.3. Whilst the delegation is provided for in recommendation 3.2 of this report, this could only possibly be exercised by the Executive Directors having first consulted with, and with the agreement of the Leader and relevant Cabinet member once all due diligence is deemed to have been satisfactorily completed.
- 10.4. The Consortium is keen to progress the club acquisition during May 2024.
- 10.5. A new planning application for Fossetts Farm is anticipated in the summer of 2024 and the applicant has been encouraged to engage via a presentation to members in advance of engaging in pre-application advice from the planning team and then ultimately submitting the new application(s).

## **11. Reasons for Decisions**

- 11.1. To provide suitable protection and assurance for Cabinet and key stakeholders of the Council's intention to proceed with the transactions for Fossetts Farm, subject to the completion of all relevant due diligence and the security of suitable protections where required.
- 11.2. To provide certainty such that the sale of SUFC can proceed to completion with assurance that provisions have been made, beyond any s.106 obligations, for the payment of funds to The Consortium from the development profits at Fossetts Farm and that the expectation that these are also secured via s.106 (both at no cost to the Council or the taxpayer) is also noted.

## **12. Other Options**

- 12.1. The Council remains perfectly entitled to opt not to proceed with the varied terms and to disengage in the negotiations. The exchanged agreement for lease remains valid however this is no longer deliverable with the change in ownership of SUFC and the need to separate Roots Hall and Fossetts Farm.
- 12.2. The Council could seek to support the principles but encourage the developer to find an alternative partner to take the built product. This is an option although the Council has previously agreed to take on this role and there is benefit in retaining control over the housing, housing types and tenure and in receiving the long-term commercial benefit from the rental income (above rent paid-out and costs) and ultimately the full capital value for £1 at the end of the 55-year lease terms.

## **13. Financial Implications**

- 13.1. The financial implications are set out in principle in the report. The detailed modelling is not yet available for all the reasons explained above however the independent financial assurance conditions will mean that there is no prospect of proceeding to exchange of contracts unless and until the Council and its advisors and external auditors are fully satisfied that the transaction as a whole is in the best long-term interest of the Council and the residents of Southend-on-Sea.
- 13.2. With the delegation to proceed directly including the Council's s.151 officer this protection is strong, and Cabinet can take good assurance from this position.

#### **14. Legal Implications**

- 14.1. The Council's legal position will be protected through the transactional documentation completed and negotiated by Gowling WLG and their highly experienced team. The Council's legal team will also be involved at all key stages to ensure that there is a satisfactory level of involvement and understanding across the transaction.
- 14.2. The Council's Monitoring Officer will need to be involved in determining the satisfaction of the legal due diligence position and ultimately in any instructions or arrangements around legal completion.

#### **15. Policy Context**

- 15.1. **A growing city with a strong and prosperous community** – using the council's spending power to support economic growth and regeneration.
- 15.2. **A safe city with a good quality of life for all** – delivering housing and the infrastructure to support housing, building strong and resilient communities, and delivering the housing that the city needs.
- 15.3. **A clean city with a resilient environment** – Optimising environmental sustainability [through high quality new development]
- 15.4. **A transforming council delivering efficient, cost-effective services** – re-thinking how we deliver services [and development], ensuring they are resident focused and digitally enabled in delivery.

#### **16. Carbon Impact**

- 16.1. Reports have previously suggested that a Passivhaus or equivalent would be required for this development. Through the due diligence it is apparent that this level of sustainability may not be achievable, and the Council will need to be prepared to relax this requirement somewhat. The level of aspiration must remain high and the precise ESG and sustainability requirements remain to be settled. Any development will need to fully meet the new homes standard and this development will need to set high standards for quality generally, including sustainability.

16.2. Through the planning process, the applicant will need to demonstrate how all current requirements will be met, including those relating to housing standards, outside space, energy efficiency, water management and drainage, transport, and access to public realm.

## **17. Equalities**

17.1. In general terms, equality issues will be dealt with through future operation and management arrangements.

17.2. Modern standards will require a high level of accessibility and considerable design thought to safety and designing for all and this will be secured through the approach to planning.

17.3. Whilst not directly relating to protected characteristics, thoughts should focus around the affordability of the product and members need to be comfortable that it is considered appropriate for the Council to deliver a very high end rental product which could even serve to disrupt the rental market across the city and will certainly draw new residents in from other areas to this exciting new product (as has been the case in other places). While this might positively impact metrics around affluence, age profiling and improve the opportunity for more money to be spent locally, some sectors of the community may feel this type of product is out of their reach, and it will be for many (save for the affordable housing elements). It will be a new product in the Southend market.

## **18. Consultation**

18.1. All matters relating to this proposed development, SUFC have been very well publicised locally, regionally, and nationally and the Leader of the Council has been heavily involved in discussions during the later stages of the negotiation of this transaction.

18.2. There will be an opportunity for Cabinet to have regard to any matters raised through pre-cabinet scrutiny and, where appropriate, to reflect these in the discussion and decisions at Cabinet.

18.3. All development here will be subject to planning and therefore to the usual, full consultation process.

## **19. Background Papers:**

19.1. **Cabinet 15 September 2020** – [Report and Minutes](#) - Update as part of Housing Pipeline Update paper including the principle of using an annuity lease structure to unlock development and facilitate the relocation of the stadium as part of a wider housing delivery plan across both Roots Hall and Fossetts Farm.

19.2. **Cabinet 24 November 2020** – [Report and Minutes](#) - Comprehensive explanation of transactions which led to the exchange of contracts on 14 May 2021 for the Agreement for Lease and Framework Agreement currently



in place to facilitate the relocation of the Stadium to Fossetts Farm as part of a wider housing delivery plan across both Roots Hall and Fossetts Farm.  
Notes:

- Planning Permission was subsequently granted for this proposal.
- A report dealing with a range of Trust matters to enable this was presented and agreed.

19.3. **Cabinet 9 November 2023 – [Reports and Minutes](#)** - A report updating on the proposed sale of SUFC, key changes to the principles of the transaction including the removal of Roots Hall from the proposals, not relocating the stadium and introducing additional houses into the development proposals at Fossetts Farm.

19.4. Winding Up Petition (latest): [SOUTHEND UNITED FOOTBALL CLUB LIMITED \(THE\) | Petitions to Wind Up \(Companies\) | The Gazette](#)

## 20. Appendices

**Appendix 1: Part2 (Confidential)** Heads of Terms agreed 1 January 2024.

**Appendix 2:** Indicative development plan showing Zones.

**Appendix 3:** Company structure relating to the development.

## 21. Report Authorisation

This report has been approved for publication by:		
	Name:	Date:
S151 Officer	Joe Chesterton	16.4.2024
Monitoring Officer	Susan Zeiss	16.4.2024
Executive Director(s)	Alan Richards	16.4.2024
Relevant Cabinet Member(s)	Cllr Tony Cox	16.4.2024

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## Residential zones and density

### ■ Zone B - Family Homes

<b>Total</b>	<b>circa. 330no.</b>
Houses	93%
Maisonettes	3.5%
Apartments	3.5%

### ■ Zone C - SCC Homes

<b>Total</b>	<b>circa. 315no.</b>
Houses	70%
Maisonettes	13%
Apartments	17%

**Zone A – SCC Apartments**  
Maximum 911 Apartments

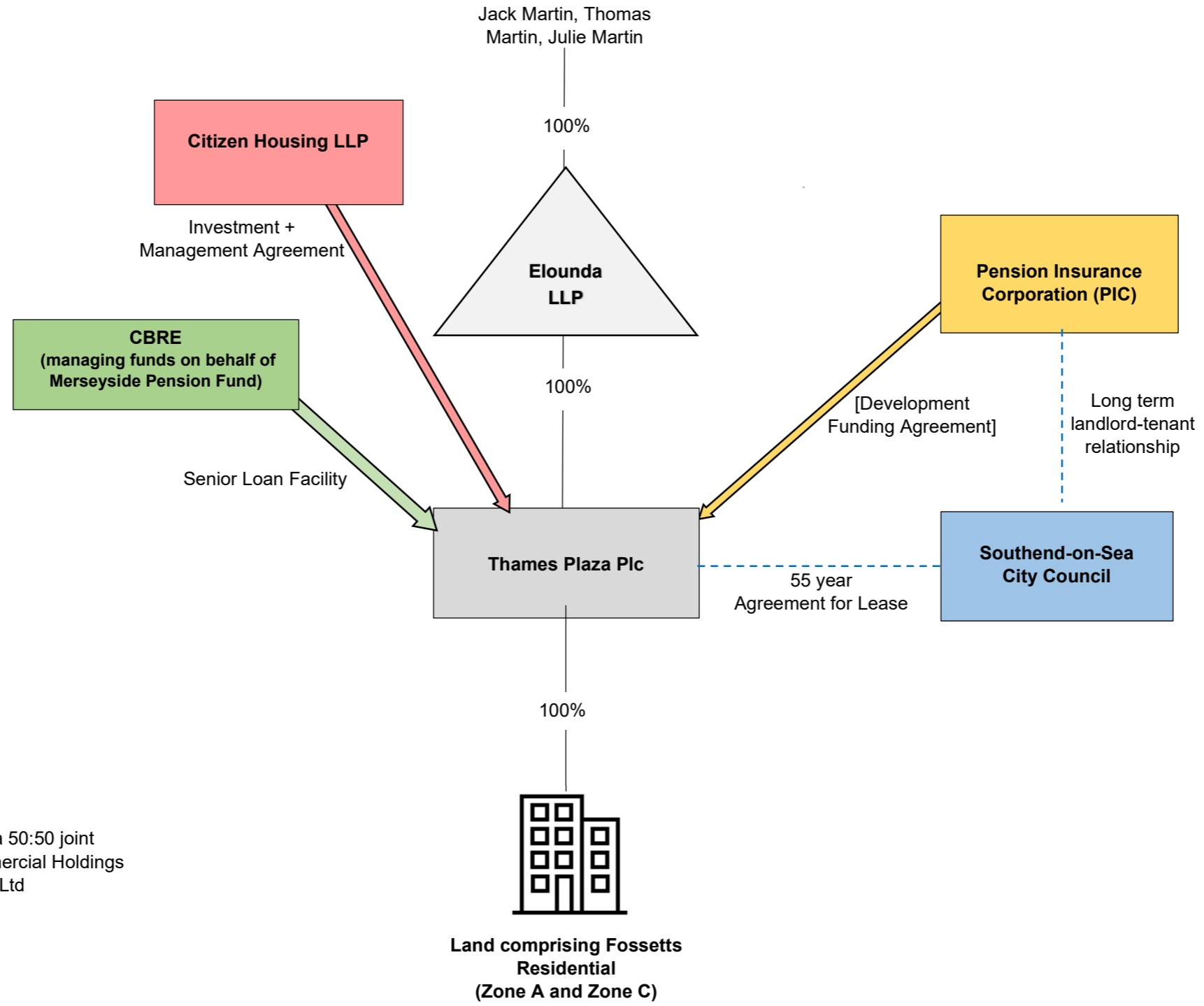
- - - Site boundary
- Site boundary - Zones B and C
- Family Homes (Zone B)
- SCC Homes (Zone C)



Appendix 2 – Indicative Zones A, B and C

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**Southend Structure Chart**  
**March 2024**



N.B. Citizen Housing LLP is a 50:50 joint venture between Allied Commercial Holdings Ltd and Lenrose Investments Ltd

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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