

Southend-on-Sea Borough Council

Report of Director of Regeneration and Business
Development
To

Shareholder Board

On
16th October 2019

Agenda
Item No.

Report prepared by: Emma Cooney, Director of Regeneration
and Business Development
Shareholder Representative
On behalf of the Better Queensway Partnership Board

Porters Place Southend-on-Sea LLP: Business Plan Report

A Part 1 Public Agenda item

1. Purpose of Report

This report accompanies the submission of the new business plan (“the Business Plan”) as appended to this report for Porters Place Southend-on-Sea LLP to the Shareholder Board. The report’s objective is to provide the Shareholder Board with clarity and assurance in regards to the Business Plan, while highlighting the implications for the Council, in order to support Shareholder Board members in fulfilling their responsibilities in considering the Business Plan.

2. Recommendations

- 2.1 That the Business Plan be recommended for approval subject to the amendments at paragraph 3.8 and section 2 in the part 2 report being made in the Business Plan;
- 2.2 That the updated name of the joint venture (JV) to Porters Place Southend-on-Sea LLP be noted;
- 2.3 That the Director of Regeneration and Business Development in consultation with the Leader is authorised to:
- (a) agree any non-material changes to any Business Plan presented by the JV whereupon any such matters shall be noted for information and reported to the following Shareholder Board.
 - (b) approve, agree or action any necessary outcome or product of or from the Business Plan necessary to progress the Better Queensway regeneration project.

(c) agree with the LLP the principles and process of establishing what constitutes the “final proposals” (as defined in the Partnership Agreement) that are to be submitted to the Council for approval prior to submission of the planning application.

3. Background

- 3.1** The Better Queensway regeneration project (“the Project”) is a Southend 2050 roadmap project which contributes to a number of the themes and outcomes. These are set out in section 8.
- 3.2** It should be noted that the Business Plan contains commercially confidential information and therefore sections 1.5, 2.8, 3 and 4.1 are considered in a Part 2 appendix paper and marked as confidential.
- 3.3** On 12th February 2019 the Cabinet agreed a report appointing Swan Housing Association as the Council’s joint venture (JV) partner to progress the Project. This was the result of a compliant procurement process through which Swan Housing Association demonstrated how the Council’s requirements and aspirations could be met. As provided in that Cabinet report, Swan established a subsidiary, thereafter confirmed as Swan BQ Ltd, as the Swan Housing Association JV Partner for the purpose specifically for the delivery of the Project. For ease of reference these are referred to both collectively as “Swan” in this report.
- 3.4** The Cabinet report of 12th February 2019 provided that the JV, now named “Porters Place Southend-on-Sea LLP”, will report on a regular basis to the Council’s Shareholder Board and that this reporting will be supported by a paper from the Council assessing compliance by all parties with their legal obligations and will provide any relevant advice or commentary upon the JV’s report.
- 3.5** The JV was initially named “Porters Place Southend LLP” and this has been updated to “Porters Place Southend-on-Sea LLP” to be better aligned with the name of the borough.
- 3.6** The terms of reference of the Shareholder Board have since been updated to include all the joint venture partnerships which the Council is party to.
- 3.7** The Business Plan has been written by and for the JV as the vehicle which has the responsibility for delivering the Better Queensway regeneration project. The Council is represented on the JV by three senior officers who have been appointed to the board by the Council’s Chief Executive in consultation with the Leader in accordance with the Cabinet report of 12th February 2019.
- 3.8** The Business Plan, which this report accompanies, seeks to supersede the business plan which was agreed at the signing of the legal suite of documents, such documents hereafter referred collectively to as the “Partnership Agreement”. This version of the Business Plan was agreed by the JV Board on 10th October 2019. It now requires approval by both the Council and Swan as the JV partners.

It is important to note that a live Business Plan is an essential part of the JV's operation and it is representative of a point in time as the work of the JV is progressively evolving. Following a further review of the Business Plan since its approval by the JV board a small number of matters appear to have been lost through version control. These changes have been requested of the JV Board and agreed in principle by the Chair save for part (b), below that will be resolved through the delegation as provided at 2.3 (c):

- a) 1.1 The activities of the LLP will be in line with this Initial Business Plan until such time that a revised Business Plan is agreed and adopted. *This Plan will be adopted through submission firstly to the LLP Board for approval, and then on to the two LLP Members for their approval (Southend on Sea Borough Council and Swan BQ Ltd.)* – addition of text in italics to affirm the approval process.
- b) 1.2.1 Quarterly updates against the Business Plan will be reported to the LLP Board and its two Members being Southend Borough Council (SBC) and Swan BQ Ltd. The LLP Board will approve final proposals prior to planning submission. The LLP Board, and its 2 Members, will approve the final proposals prior to planning submission. *to ensure compliance with the Minimum Requirements and Scheme Objectives.* – removal of text in italics.
- c) 2.2 The programme currently envisages 8 phases with a balance of tenures to accommodate decants and to deliver a viable scheme *as defined by the Land Agreement.* – insertion of text in italics.

3.9 The role of the Shareholder Board in reviewing the Business Plan is to represent the Council's interests as Shareholder, and as such to ensure that the Council's objectives are fully reflected in the JV and that in turn the Business Plan addresses the JV's objectives. Whilst it is not within the remit of the Shareholder Board to change the detail of the Business Plan where the principles meet the previously agreed requirements, the Board should ensure it has the assurance that the JV is following the agreed strategic direction and that the Council is safeguarded from any excessive risk taking and from poor performance by the JV.

3.10 It should be noted that the Business Plan forms a critical part of the Partnership Agreement signed between the JV partners. This is due to the fact that many of the bid commitments made by Swan through the procurement process were captured as legal commitments through this document. Material changes to the Business Plan must be agreed unanimously by both the Council and by Swan. Going forward, in regards to non-material changes and actions resulting from the Business Plan so as to enable its timely delivery, these are recommended for delegation as detailed at Recommendation 2.3 above so that progress can continue at pace between Shareholder Board meetings with any changes and action reported to the next meeting.

4. The Business Plan

4.1 This section will consider the Business Plan section by section and seek to provide members of the Shareholder Board with clarity, assurance and an

understanding of the implications of the Business Plan for the Council. The Business Plan has been reviewed by senior officers on the Council's Partnership Board (who do not sit on the JV Board) and the Council's procured specialist advisors. It is the view of the Council's officers and advisors that this Business Plan meets all the requirements set out in the Partnership Agreement subject to the amends in section 3.8 being made.

- 4.2 1.1 Introduction** – it is useful to remind the Shareholder Board that there is a Business Plan already in place for the JV which is part of the Partnership Agreement. There must always be a live Business Plan for the JV in order to direct its activities and should the version presented now not be agreed by both the Council and Swan the April 2019 version will stand until a revised version is agreed by all parties.
- 4.3 1.2.1 History** – the final paragraph of this section confirms that prior to submitting a planning application the JV board and its two “Members” i.e. the Council and Swan, will approve the final proposals to be submitted. The form and process of this is currently being resolved through delegation 2.3(c) above but currently will not be a review of the whole planning application as this will be undertaken by Planning Committee.
- 4.4 1.2.2 Scope of Development** – it is useful to highlight that **ii) Objectives** confirms that the procurement objectives set by the Council are included in the legal agreements that underpin the JV reinforcing that they continue to provide the parameters for the development. They are appended to the Business Plan for reference.
- 4.5 1.4 Porters Place Southend LLP Structure and governance** – it should be noted that Ian Ambrose has left the Council to undertake a new role. This board seat is now filled by the Head of Corporate Procurement. Both the Council and Swan representatives who sit on the JV board must act in the best interests of the JV rather than those of the Council or Swan. It should also be noted, in relation to the reserved matters referred to, that the Business Plan is one such item.
- 4.6 1.6 Appointments** – the process and responsibilities for these appointments set out in this section were agreed through the procurement and confirmed in the Partnership Agreement.
- 4.7 2.1 Design and Planning: Overview** – The scheme included with the Business Plan is predominantly the scheme submitted as part of the procurement process. The overview is not explicit in how this scheme will meet the minimum requirements and some of the preferences of the procurement, however these are dealt with later in the Business Plan. If the scheme, as included within this Business Plan, underpins the planning consent to be submitted there is no need to submit an updated scheme to the Council. However, as is anticipated, should an updated scheme emerge through the design and consultation process, there will be a requirement to bring the final proposals to the Council for approval. This is anticipated to be through a process in January and February 2020 and due to the timing of this it is likely to require an additional Shareholder Board meeting.

- 4.8 2.3 Highways** – the Cabinet report of 13th February 2018 (item 743) included the design of the highway in the procurement and it is therefore the responsibility of the JV to deliver this. However, so as to ensure that that the highway designed fits with the wider road network and given it will be maintained by the Council on completion, highways engineers are supporting, as appropriate, the work of the JV.
- 4.9 2.4 Housing** – this complies with the procurement requirement to increase the 441 affordable homes. The Council’s resolution of February 2019 to actively seek to maximise the number of affordable rented homes is included later in the Business Plan at 3.6.
- 4.10 2.5 Phasing** – this table sets out an indicative approach to the proposed phases of development. Each phase will have implications for the Council, such as housing decant, highways and compulsory purchase. Detailed workplans should guide this, setting out the resources which will be required. Shareholder Board members can be assured that the JV’s requirements of the Council are capable of being met.
- 4.11 2.6 Planning Approach and Programme to Planning Submission** - It is the responsibility of the JV to develop a planning application for submission and to engage with residents, stakeholders and other interested parties accordingly. As with the phasing section above, the milestones have implications for the Council, in this instance as Local Planning Authority and in relation to its contractual relationship with Homes England regarding the Housing Infrastructure Fund (HIF) monies allocated to the scheme. In order to fulfil these the Council will need to ensure it is appropriately resourced in the development control, legal and regeneration teams. It is useful to note here, and linking to the next section, that consultation will continue throughout the development period to inform future phases.
- 4.12 2.7 Communications and Consultation** – as the JV is now the vehicle for taking forward the Project it follows that it is appropriate for communication and engagement with Queensway residents about the Project to be via the JV. It is important to note that as the Council is a 50% “shareholder” in the JV partnership, that operationally staff will be working across both organisations to ensure that communication and engagement is thorough and well planned. This reflects the Council’s scheme objectives which sought equal input into community/resident engagement, and for the partnership to keep all relevant stakeholders engaged and informed in an open, honest, timely and appropriate way. Until the new homes are built residents will remain tenants of the Council, managed by South Essex Homes, who therefore also have an ongoing role in engaging with their tenants. GL Hearn has been appointed to work with the JV through to planning determination. The timetable in 2.6 indicates initial public consultation in September 2019 - this was the residents’ event which took place on 26th September, and a public consultation update in October 2019.
- 4.13 4.3 Delivery Structure** – delivery of the Project is the responsibility of the JV and the structure set out represents that which was included in the procurement process. The relationships are as were explained through the February Cabinet cycle with Council officer involvement as is appropriate.

4.14 The JV is contracting with a variety of Swan entities to provide services for the JV in delivering the Business Plan. These were agreed at a headline level through the procurement process that appointed Swan, as the Council's partner. Finalising the detail of this work and managing risks associated with it, is underway and updates will be provided through future reports to the Shareholder Board.

4.15 This section includes a number of acronyms which relate to companies within the Swan Housing Group:

- SNH "Swan New Homes"
- SHA "Swan Housing Association"
- SCS "Swan Commercial Services"
- HERA - Swan Housing Association's private property management arm

4.16 **5.0 Key Risks** – this section sets out the key risks for the JV.

5. Assurance

5.1 The following comments have been provided by the Council's lead advisors 31ten Consulting (31ten) who have supported the Project through its development and procurement process and continue to do so. They have reviewed the Business Plan, also referred to as the "Porters Place Southend-on-Sea LLP – Initial Business Plan" to provide assurance on the completeness and reasonableness of the document. The results of this exercise are detailed below:

- (a) **Completeness** – The Business Plan process, and document, agreed through the procurement process that appointed the Council's JV partner agreed a specific format for the Business Plan for the JV and any amendments to this format need to be agreed by the Shareholders, Swan and the Council. 31ten reviewed the document to highlight key changes from the previously approved Business Plan. This highlighted a number of material changes which have been reviewed by 31ten who consider these acceptable for this Business Plan. Other than these elements this review highlighted a number of minor amendments, however, these appear appropriate for the Business Plan at this stage.
- (b) **Reasonableness** – The Business Plan was reviewed for reasonableness based on 31ten's understanding of:
 - The Council's role in the JV;
 - The JV activities that have taken place since the last Business Plan, that was approved at the conclusion of the procurement; and
 - The planned activities over the period that this Business Plan covers.

This review did not highlight any reasonableness issues with the document.

5.2 Further to the Business Plan other activities of the JV to date provide assurance in regards to partnership ethos and compliance with the requirements and principles set out in the Council's procurement process and can be taken into consideration. These include:

- (a) Development of a shared communications and community engagement strategy retaining the same focus on residents and stakeholders as the Council had prior to entering into the JV
- (b) Appointment of the Project Director which is a Swan appointment but which has been supported by the Council
- (c) Engagement with Homes England regarding the allocation of the Housing Infrastructure Fund monies to the point of issue of a grant agreement.

6. Other Options

- 6.1 Not approving the Business Plan would mean that the Business Plan which was part of the Partnership Agreement stands. That Business Plan therefore does not reflect the last 6 months of work by the JV and only sets out the first year's work, i.e. up to planning submission.
- 6.2 Not approving the Business Plan could also jeopardise the £15m HIF funding from Homes England which has a deadline for spend. Therefore delays resulting from the requirement for an amended Business Plan could result in non-expenditure by the deadline and therefore a gap in project funding.
- 6.3 There is also a risk to the good will that has been established between the parties if the Business Plan having been submitted and is compliant with the Partnership Agreement but is not approved by the Council. This would negatively impact on the relationship between the parties.

7. Reasons for Recommendations

- 7.1 Review of the Business Plan by Council officers and the Council's procured advisors concludes that the Business Plan provides assurance that the JV is following the strategic direction and objectives which have been agreed and is delivering its service and financial performance.
- 7.2 Delegation of agreement of non-material updates to the Business Plan and progression of actions resulting from the Business Plan are recommended in order that the JV can progress the Project at pace and with the necessary agility so as to meet funding and programme deadlines.

8. Corporate Implications

- 8.1 Contribution to the Southend 2050 Road Map
 - a) **By 2050 Southenders are fiercely proud of, and go out of their way, to champion what our city has to offer.** A regenerated Better Queensway at the heart of the City with a high quality new development with large new parks and clean and inviting streets will achieve this.
 - b) **By 2050 Southend on Sea is a successful City and we share our prosperity amongst all of our people.** Better Queensway will have been delivered and it is an integral part of a thriving town centre providing a mix of affordable and private sale homes, jobs and aspirational places to live and play for all sections of Southend's community.

- c) **By 2050 people can easily get in, out and around our borough and we have a world class digital infrastructure.** Better Queensway will have improved connectivity with a new Queensway boulevard that reconnects the town centre to the rest of the town, new cycle and pedestrian routes and a variety of digital improvements.
- d) **By 2050 people in Southend feel safe in all aspects of their lives and are well enough to live fulfilling lives.** Better Queensway will have a new green neighbourhood with a variety of homes which have been designed with safety at its heart. It has overlooked streets and active new parks as well as improved connectivity between the town centre and North Eastern Southend.
- e) **By 2050 we will have a thriving, active and involved community that feel invested in our city.** The new neighbourhood will have residents at its heart. Swan will be running a new community concierge service overseeing and managing active parks and open spaces with a range of activities funded by the Better Queensway community fund.

8.2 Financial Implications

The Cabinet report of February 2019 agreed that an investment of £1.5M equity and £13.5M junior debt be made by the Council to match the level of investment by Swan, and that the capital investment programme for 2019/20 to 2023/24 is adjusted to reflect this.

In finalising the JV the funding structure was amended to change the balance of Equity and Junior Loan funding. Instead of the above split being applied, a £1 equity contribution was made by each party and £14,999,999 junior debt facility. This change was immaterial to the Council and was simply made to simplify the arrangements going forward.

The Business Plan also sets out the financial appraisal of the scheme which indicates the scheme is still viable and in line with the Partnership Agreement.

8.3 Legal Implications

The following comments have been provided by the Council's specialist legal advisors who have supported the Project through its development and procurement process:

The Council's legal advisers to the procurement of Swan and the subsequent incorporation of Porters Place Southend-on-Sea LLP, Sharpe Pritchard LLP, has reviewed "Porters Place Southend-on-Sea LLP – Initial Business Plan" (i.e. the Business Plan to ensure that it is consistent with the legal documentation agreed at the signing of the Partnership Agreement. The production of the Draft Initial Business Plan is contemplated by and fully in line with clause 6 of the Partnership Agreement. The two key requirements of the Initial Business Plan, as set out in the Partnership Agreement, are that:

- It incorporates the JV Objectives; and

- It is prepared having regard to and is informed by the Emerging Business Plan (the Emerging Business Plan being the temporary Business Plan adopted at signing of the Partnership Agreement pending the agreement of the Initial Business Plan).

We can confirm that the draft of the Initial Business Plan provided to us when taken together with the Partnership Agreement contains all the JV Objectives. We also confirm that, as far as it is possible to discern the same from a legal perspective, the draft Initial Business Plan has been prepared having regard to and is informed by the Emerging Business Plan. Furthermore, there is nothing in the draft Initial Business Plan that is inconsistent with the provisions of the Partnership Agreement and we have no concerns from a legal perspective.

Upon this basis and in the Council's legal service being involved in the preparation of this report there are no matters of importance that require further mention in this report.

8.4 People Implications

- a) In accordance with the Cabinet report of February 2019 three senior officers have been appointed to the JV board by the Council's Chief Executive in consultation with the Leader.
- b) While the JV is responsible for delivery of the Project, the Project continues to be supported by a number of Council officers as technical experts in fulfilling Council responsibilities and in supporting the work of the JV, and on the Partnership Board which oversees the Council's work in regards to the Project. It may be necessary to consider backfill or additional resource in some teams so as to ensure that other Council priorities are also met and outcomes delivered.
- c) The Council continues to retain and utilise its procured specialist advisors alongside officers.

8.5 Property Implications

- a) The property implications are in line with those set out in the February 2019 Cabinet report

8.6 Consultation

- a) This is within the remit and responsibilities of the JV. Some resident engagement has already been undertaken through the 'launch event' on 26th September.
- b) GL Hearn has been appointed by the JV to support its consultation activity going forward. The next stage will commence in October 2019.

8.7 Equalities and Diversity Implications

- a) The Council has undertaken an Equalities Analysis in regards to the Project and this will be kept under review in regards to the evolution of the Project.

- b) The JV has not included an Equalities Analysis as part of its Business Plan. It will be for the JV to consider how it assesses equalities impacts.

8.8 Risk Assessment

- a) The Business Plan includes a high level risk register.
- b) The Council is revising and updating its risk register in relation to the Business Plan and new stage of the Project.

8.9 Value for Money

The elements of value for money, as identified in the February Cabinet report, still remain as part of this revised Business Plan.

8.10 Community Safety Implications

There are no community safety implications of the Business Plan.

8.11 Environmental Impact

A development of this scale and nature will have a significant impact on the local environment. This will be considered through the planning process.

9. Background Papers

None

10. Appendices

Appendix 1 – Business Plan (Part 1)

Appendix 2 - Part 2 Report

Appendix 3 – Business Plan (Part 2)