

# Southend-on-Sea Borough Council

Agenda  
Item No.

Report of Deputy Chief Executive and  
Executive Director (Finance and Resources)

To

Cabinet

On

1 July 2022

Report prepared by:  
Alan Richards - Director of Property & Commercial

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## Seaway Leisure

Relevant Scrutiny Committee: Policy and Resources Scrutiny Committee

Cabinet Members:

Councillor Ian Gilbert – Cabinet Member for Economic Recovery, Regeneration and  
Housing

Councillor Paul Collins – Cabinet Member for Asset Management and Inward  
Investment

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### Part 1 (Public Agenda Item)

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#### 1. Purpose of Report

This report confirms that the updated Seaway Leisure legal documentation is now ready to exchange, following all the required due diligence, and enables the opportunity to be presented in the best light to the funding market.

The report identifies that there are no changes to the scheme arrangements, as previously approved by Members in November 2021, but merely to ensure the Council has a final clean suite of legal documents to effectively and swiftly proceed with the scheme.

#### 2. Recommendation

**That Cabinet approve the preparation of a final clean suite of legal documents for the Seaway Leisure scheme.**

#### 3. Background

3.1 Cabinet agreed on 2 November 2021 ([minute 417](#) refers) to vary the transaction with Turnstone Estates to enable an annuity lease structure to be put in place so that the development could be funded differently and delivery unlocked.

3.2 The Council has appointed Pinsent Masons, the same lawyers who represented Colchester Borough Council on the very similar Northern Gateway transaction

(now on site), to act on its behalf to document the transaction for the Seaway development.

- 3.3 The Council has retained CBRE to advise on the property transaction and 31Ten to advise and review the proposition from a financial due diligence perspective.
- 3.4 Collectively, the professional team and officers, following all the required due diligence, are comfortable and are ready to proceed to exchange. This will then enable Turnstone to proceed to the next stage (requiring a further c.£500k investment by them) and for the funding market to be approached following exchange of contracts with a view to funding the development in the autumn of 2022 for a start on site targeted for spring 2023.
- 3.5 Given the increases in build costs arising principally from the increasing cost of inflation, it is estimated by Turnstone's quantity surveyors that the total development cost is now likely to be in the order of £70m. The final cost of the scheme will be determined during Turnstone's next stage which includes more detailed contractor engagement and procurement. It is important to note that the Council will only enter into a final agreement on the basis that the scheme is financially viable. Also that the increase in build costs being experienced has no impact on the level of the Council's agreed 'up to £10m' enabling funding (minute 417 refers).
- 3.6 The Cabinet decision in November 2021 provided for the existing transaction to be varied. The legal review and due diligence work which followed that decision has led to the conclusion that it would be significantly preferable for the Council to document the variation via a new document suite rather than a further variation of the existing suite however this was not provided for in the previous decision.
- 3.7 The benefits of the new document suite are principally to remove redundant legacy drafting which is no longer required to mitigate procurement risk as the landscape has changed since the transaction was originally documented in December 2014, and to ensure that a professionally presented, concise and current set of drafting is presented to the funding market now to reduce the likelihood and extent of the need for document changes to secure the funding. Having recently worked with Colchester to fund the Northern Gateway, Pinsent Masons are very well placed to advise on the positioning of this documentation.
- 3.8 Included at Appendices 1 and 2 are letters from Pinsent Masons and CBRE supporting the position laid out above.

#### **4. Other Options**

- 4.1 The updated transaction could be documented by way of the approved variations but this is not considered to be optimal either in terms of managing risk or presentation to the funding market.

#### **5. Reasons for Recommendations**

- 5.1 To enable the proposition to be presented clean, current documents for the funding market and to reduce procurement risk.

## **6. Corporate Implications**

### **6.1 Contribution to the Southend 2050 Road Map**

As set out in previous reports.

### **6.2 Financial Implications**

All financial considerations as set out in previous reports have been independently modelled and assessed.

Assurance has been provided by 31Ten to the Council's s.151 officer in relation to the value for money, sustainability and accounting treatment considerations associated with the transaction.

### **6.3 Legal Implications**

This report deals primarily with the mechanics for documenting the transaction.

Pinsent Masons have advised the Council on the legal side of the transaction.

### **6.4 People Implications**

No staffing implications arise from this report.

### **6.5 Property Implications**

As set out in this report.

### **6.6 Consultation**

Not applicable to the distinct point covered by this report.

### **6.7 Equalities and Diversity Implications**

Not applicable.

### **6.8 Risk Assessment**

The recommendation in this report is made to ensure that the transaction can be documented to reduce risk and present the opportunity cleanly and optimally to the funding market.

### **6.9 Value for Money**

31Ten have independently assessed and considered all the financial considerations and provided assurance to the Council's s.151 officer.

6.10 Community Safety Implications

Not applicable

6.11 Environmental Impact

Not applicable

**7. Background Papers**

Previous Cabinet reports.

**8. Appendices**

**Appendix 1 – Letter from CBRE**

**Appendix 2 – Letter from Pinsent Masons**