

CHURCHGATE DEVELOPMENT PROJECT

FAQ UPDATE FOR WEBSITE MAY 2011

What is the status of the Churchgate Project Board?

The Churchgate Project Board was established by Full Council “to act on behalf of the Council in respect of all functions required under the Development Agreement (DA) and the delivery of the Churchgate project generally. This includes approving any scheme prior to its submission for a planning application.

Which Councillors sit on the Project Board?

There are four Councillors on the Project Board, none of whom are Planning Committee Councillors, to ensure separation of duties at Member level. The portfolios which currently make up the project board are: Leader of the Council; Finance Portfolio Holder; Planning and Enterprise Portfolio Holder and Chair of Hitchin Area Committee.

What is the purpose of the Development Agreement?

The Development Agreement is a legal contract signed between the Council (NHDC) and Simons Developments as its developer for the Churchgate centre and the surrounding area. It outlines the steps required to deliver the scheme and it is normal practice to have such an agreement at the start of such an important project.

The Agreement imposes certain conditions that must be satisfied by Simons prior to the grant of any lease or the carrying out of any development on the site. There are certain milestones within the agreement that must be met and break clauses should Simons fail to meet its obligations as set out in the Agreement.

What profit are Simons allowed under the terms of the Development Agreement?

The Development Agreement provides for Simons to receive a fixed profit on their investment, in carrying out the development. If that fixed profit level is exceeded the Council and Simons will share in any additional profit.

It is premature at this stage to anticipate the profit as Simons are still working on their proposed scheme, and until this scheme is fixed the detailed final financial modelling cannot be undertaken.

Does the Development Agreement prevent Simons from building on St Mary’s Square and Portmill Lane?

No – the Development Agreement does not preclude development on these sites. Within the background section of the Development Agreement there is reference to the key development objectives of the procurement exercise, one of which was development on Churchgate, the Biggin, the market and enhancement of St Mary’s Square and Portmill Lane. This background section is not legally binding . It is there to assist with the interpretation of the Development Agreement in the event of a dispute.

Ultimately the Planning Authority will decide what, if any, development is appropriate on the entire site including St Mary's Square and Portmill Lane.

Where can I access a copy of the Development Agreement?

A redacted version (redacted for commercial sensitivity reasons) of the Development Agreement is available to view under the Procurement Process webpage.

Why has the Council agreed to a 250 year lease for the development?

At the time of drawing up the Development Agreement the Council sought expert advice from DTZ (development adviser) and Eversheds (legal adviser) on the requirements of the bidders for a 250 year lease. Both companies advised that a lease of this length was required by funders and reflected the requirements of the development market as it offers the level of security required for funding multi-million pound developments.

When will the lease be granted?

The Development Agreement allows for a 250 year lease to be granted subject to Simons having first met a number of requirements in the Development Agreement including having planning permission granted. The lease contains safeguards to protect the public interest and the Council's financial return.

Will the Council retain any ownership of the land and who will ultimately own the lease?

The Council will retain the freehold as it owns the majority of the land potentially being used in the scheme. The Council will not receive payment for granting the lease, instead in return for granting the lease it will receive a share of the rental income. Simons could sell the lease onto a funder, such as a pension fund, which is the usual approach for this type of development.

Where can I see a copy of the lease?

A redacted version (redacted for commercial sensitivity reasons) of the lease is available on the Procurement Process web page.

What income does the Council receive under the lease?

The Council will have a minimum guaranteed annual income of £200,000 from day one of the scheme opening. The current estimates are that the Council's income will be £350,000 per year, equivalent to existing income from the Churchgate centre and surrounding car-parks.

Why has the Council accepted 10% ground rent for any new scheme when the current Churchgate owner pays approximately 40%?

Seeking to compare the percentages of rent paid to the Council is misleading. It is anticipated that the redevelopment will increase the overall income generated by the site. Therefore a smaller percentage figure is acceptable as it will still give at least the same and potentially a greater return than currently received. For example, if we get 40% of £100 we get £40. If we get 10% of £400 we still get £40.

Is the Council required to make any further financial contribution?

The Council is not required to make any further financial contribution to the development. However, the Council would have to forgo some rental and car-park income during the construction period. When the final scheme is known, discussions will take place regarding phasing of the construction works to seek to minimise any loss of income to the Council.

What benefits will the development bring to the town other than shops and housing?

As part of the £50million project there will be improvements to some areas of Hitchin Town centre, including a river walkway, public space and market. Council taxpayers will make no financial contribution to these improvements. In the current financial climate, it is extremely unlikely that the Council could afford to carry out any investment itself. In the longer term, repairs and maintenance costs of some areas, e.g. any multi-storey car-park, will also be covered and will therefore represent a saving to the council tax payer.

Are Simons allowed to have a Joint Venture Partner?

Under the terms of the Development Agreement Simons can seek a Joint Venture partner but that partner would have to be approved by the Council. No proposal has been put to NHDC at this time (11 May).

Why is Simons entering into a joint venture partnership with a third party to fund the scheme?

Simons are in negotiations to bring in a joint venture partner for the development. This will enable them to acquire key assets that would enable progress to be made on certain elements of the scheme including the purchase of the existing Churchgate centre. A joint venture partner also has the potential to be the long-term owner and operator of the site.

By seeking a partner now, Simons will be able to focus their resources on the development and planning aspects while the partner deals with acquisition of key assets to ensure that any scheme that receives planning approval is capable of being delivered in a timely fashion. Simons would still head the development and be responsible for delivering it.

Who is responsible for leading the public consultation process?

Simons are responsible for leading the consultation process with input from the Council where appropriate. The Development Agreement states that Simons must hold public consultations in respect of the development in accordance with a consultation strategy agreed with the Council.

Mechanisms are in place to ensure that all comments and feedback are recorded, for example through the Churchgate Liaison Forum Meetings, through regular updates

to the Hitchin Committee, and through the Council's website. These are reported to the Churchgate Project Board for awareness and action where appropriate.

Simons will have a public exhibition on their revised scheme prior to it being submitted as a formal planning application.