

Sale of commercial development land at Lufton, Yeovil (Lufton 2000 joint venture)

Executive Portfolio Holder: John Clark, Economic Development inc Commercial Strategy
Ward Member(s) Cllr Barbara Appleby, Cllr Peter Seib, Cllr Jeny Snell
Strategic Director: Jill Byron, Solicitor and Monitoring Officer
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Purpose of the Report

1. To update the recommendation for the sale of the Council's 50% share in the Lufton 2000 Joint Venture (JV) to its joint venture partner Abbey Manor Developments Limited (AMDL).

Forward Plan

2. This report did not appear on the District Executive Forward Plan. The basis of the proposed sale has been agreed in principle with the other party, subject to District Executive and Full Council decision making. Like most transactions, delay at this stage would reduce the prospect of a successful outcome.

Public Interest

3. The Council owns a 50% share in an area of land intended for commercial development on the west side of Lufton Trading Estate, Yeovil. The proposal was made to Full Council in September 2022, and approved for the Council to sell its share to the joint venture partner in return for an immediate capital receipt reflecting the current value of the Council's interest. The sale was subject to S24 direction approval by Somerset County Council which has been progressed but not concluded.
4. Since the proposal and price were discussed subject to approval factors that impact on price have worsened materially. Due to these changes, the prospective buyer has indicated they would need to pay a reduced price if the matter is to proceed.
5. There are commercially sensitive details with this matter and those are contained in a confidential appendix to protect the commercial position of the buyer and the joint venture partner.

Recommendations



South Somerset District Council

6. That District Executive recommend that Full Council agree to:-
 - a. Note the contents of this report.
 - b. Members to approve the proposal to sell the Council's share in the Joint Venture in the asset named Lufton 2000 on the terms outlined in the confidential appendix to this report.
 - c. Authorise the Chief Financial Officer to seek the approval of the Somerset County Council to the sale under the S24 direction.
 - d. If proposal is approved, to delegate the power to the Solicitor and Monitoring Officer approval of detail of the sale.

Background

7. The Background remains the same as set out in the reports to District Executive in August 2022 and to Full Council in September 2022.

Economic Changes

8. Discussions between council officers and representatives of Abbey Manor Developments Limited involving the potential sale of the Council's 50% share in the Lufton 2000 Joint Venture took place in early 2022. Terms considered acceptable by officers were established in late March 2022. Work was then carried out leading to the reports to District Executive, Full Council and after those to implement the process on the S24 direction approval by Somerset County Council.
9. During this time period, there has been a dramatic increase in the level of inflation, Bank of England base rates have been increased from 0.5% with eight separate increases taking the rate to 4.0%. There was particular economic turbulence around the mini-budget delivered by the Chancellor of the Exchequer. This was followed by exceptional events including the resignation of the Prime Minister after the shortest period in office and the reversing of budget changes and increases in the tax burden. Economic outlook for the UK worsened through this with the outlook being little or no growth in GDP in the next few years.
10. Inevitably, for a property transaction involving paying out capital now against potential proceeds gathered over a considerable number of years, combining increased costs of finance, poorer economy meaning a likely slower rate of disposal and higher Corporation Tax rates, significantly impacts on the appraisal which determines the achievable price.
11. The buyer, Abbey Manor Developments Limited is willing to proceed with the purchase but has reduced the price they are prepared to pay. Officers experienced in this field have assessed the value and concluded that the revised price represents the best price reasonably achievable in the current market. The revised price remains above the book value of the council's asset. Further commentary on this is provided in the confidential appendix.

12. There is a risk involved in any property transaction that either party might change their mind and not proceed, until near certainty is achieved by exchange of contracts. This risk is considered low in the circumstances that both parties already have a high level of understanding. However, major matters of recent years show how major national and world changes can arise quite unexpectedly causing unforeseen impacts on parties.
13. There is also risk in relation to the price that has been discussed. Again, with the level of familiarity this is not considered to be a high risk but detailed preparatory work could reveal an unforeseen issue.
14. The matter will require Somerset County Council approval under the S24 direction, which cannot be guaranteed.

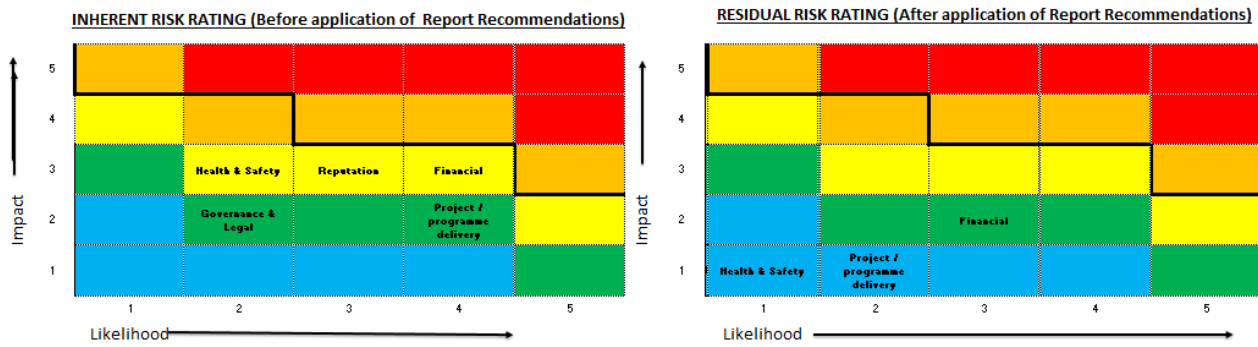
Financial Implications

15. The recommended option will deliver a significant capital receipt to the Council that has not been budgeted for. It is understood this would be completed and received during the current financial year. The receipt would be available to use to fund the existing capital programme and could replace external borrowing. The Chief Finance Officer will set out in the quarter 3 capital budget monitoring report proposals for the use of the receipt.
16. There is no budgeted revenue from this asset and none is anticipated in general.

Legal implications (if any) and details of Statutory Powers

17. If District Executive approves this recommendation, it will be necessary to contract for the sale and complete the transaction. This should be relatively straightforward as both parties have long term involvement with the property. It will also be necessary to ensure that all aspects of the JV are up-to-date and finalised alongside the property transaction.
18. The Council has wide ranging legal powers in relation to this transaction including the General Power of Competence under Section 1 of the Localism Act 2011.
19. S.120 Local Government Act 1972 –
20. Acquisition of land by agreement by principal councils for the purpose of its functions under this or any other enactment, or the benefit, improvement or development of their area the council may acquire by agreement any land, whether situated inside or outside their area.
21. S.145 Local Government Act 1972
22. A local authority may do, or arrange the doing of, or contribute towards the expenses of the doing of, anything (whether inside or outside their area) necessary or expedient for any of the following purposes, that is to say: (a) the provision of entertainment (b) the provision of theatre, concert hall, dance hall or other premises suitable for the giving of entertainment.

Risk Matrix



Risk Re	Risk Category	Inherent Risk Rating	Residual Risk Rating
1	Project / programme delivery	10	3
2	Financial	15	9
3	Delivery of Services	0	0
4	Staffing & Capacity	0	0
5	Reputation	14	3
6	Health & Safety	13	1
7	Governance & Legal	8	1

Risk Description	Mediation / Controls
Commitment of officer resources on a frequent and regular basis to work on the JV	Recommendation would involve short term additional work but none following sale
Uncertain capital costs and receipts in terms of timings and amounts.	Need to secure transaction including price. Risk that issue might come forward that impacts AMDL offer
0	0
0	0
Possible conflicts between commercial objectives of JV, planning or other public priorities	Sale of JV share not expected to impact reputation and risk removed thereafter
Ownership of large area of land may involve risks to third parties.	Sale of JV share expected to remove risk from SSSC
Need to deliver or contribute to JV governance,	Sale of JV share expected to remove risk from SSSC

Council Plan Implications

23. This project contributes positively across the Council Plan themes – Protecting Core Services and Economy.

Carbon Emissions and Climate Change Implications

24. There will be no impact on Carbon Emissions and Climate Change Implications if the recommendation is approved.

Equality and Diversity Implications

25. There are no specific implications in these proposals.

Privacy Impact Assessment

26. There are no adverse personal data implications to this report.

Background Papers

- Full Council Report - 15th September 2022 - Sale of commercial development land at Lufton, Yeovil (Lufton 2000 joint venture)