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**A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it refers to the identity, financial and business affairs of an organisation and the amount of expenditure proposed to be incurred by the Council under a particular contract for the supply of goods or services.**

**Cabinet Member: Business, Enterprise and Employment – Councillor Maton**

22 July 2014

**Director Approving Submission of the report: Executive Director Place**

**Ward(s) affected: St Michael's**

**Title: Belgrade Plaza Development**

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**Is this a key decision?**

**No**

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**Executive Summary:**

*In order to enable the possible restart of development at Belgrade Plaza the Council needs to approve the assignment of part of ground lease of Belgrade Plaza, current held by Oakmoor Deeley Partnership ("ODP") lease to the Downing Group and to enter into a direct development agreement with Downing Group to allow phase 3 of the Belgrade Plaza scheme to be developed for student housing conditional upon planning consent being granted.*

**Recommendations:**

Cabinet Member (Business Enterprise & Employment) is recommended to:

- (1) Approve the assignment of the land designated for phase 3 of Belgrade Plaza (as outlined red on the attached plan) to the Downing group conditional on planning being granted for a student housing scheme*

(2) *Delegate authority to Executive Director Place and Executive Director of Resources to enter into the necessary legal documentation to facilitate the delivery of the development on Phase 3 and securing the payment of the outstanding “third tranche” payment and to utilise this receipt to improve the public realm between Belgrade Plaza and the city centre.*

**List of Appendices included:**

Appendix 1 – site plan

**Other useful background papers:**

*None*

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

## **Report title: Belgrade Plaza Development**

### **1. Context (or background)**

- 1.1 *In May 2005, following a developers competition, Oakmoor Deeley Partnership (“ODP”) were appointed as the Council’s preferred developer for the Belgrade Plaza scheme (“the BP scheme”) CCC and ODP subsequently entered into a Development Agreement dated 20th May 2005 to facilitate the development of Belgrade Plaza.*
- 1.2 *The 125 year leasehold interest in the site was simultaneously granted by the Council to ODP dated 20th May 2005.*
- 1.3 *ODP contracted to pay a substantial financial premium, in three tranches to the Council for the long leasehold interest in the BP site*
- 1.4 *Whilst the early phases of the BP scheme, which incorporated hotel, car park, retail and café bars and restaurants, were successfully developed, the subsequent phases known as 2B and 3, which were to provide a hotel, café/bar, retail and residential apartments, have been stalled by the recession.*
- 1.5 *The two sites (Phases 2B and 3) within the overall scheme, which are subject to the Development Agreement, remain undeveloped. Accordingly whilst the first two premium tranches have been paid, the third premium remains unpaid in part, the balance having been spent on public realm works defined under the original Agreement.*
- 1.6 *ODP have confirmed to the Council that they are unable to facilitate a completed development of Phases 2B and 3 and in turn unable to pay to the Council the outstanding third tranche of the lease premium.*
- 1.7 *In consideration that 1) the development of Phase 2B and phase 3 has not been undertaken and delivered and 2) part of the third premium payment remains outstanding it is acknowledged by both ODP and the Council that ODP are in breach of the both the Development Agreement and the Lease. Notwithstanding this the Council has remained in dialogue with ODP and has been supportive to facilitate development and recover the outstanding third premium payment.*
- 1.8 *Under the Development Agreement ODP has an obligation to Whitefriars Housing Association to provide twelve one-bedroomed flats in a self contained block to be constructed by OPD within the BP development. This was agreed to replace the flats above the “Lunn Poly Building” that were demolished to facilitate the BP scheme . The Council were legally bound into this agreement dated 8th June 2007 in order to protect Whitefriars position.*

### **2. Options considered and recommended proposal**

- 2.1 *ODP have now agreed Heads of Terms with Downing Group who wish to purchase, subject to planning, Phase 3 (as shown edged red on the attached plan)(“Phase 3”)and to undertake development of a 500plus bed student housing scheme. Phase 2B is not the subject of these discussions.*
- 2.2 *The lease dated 20th May 2005 permits the land demised forming “Belgrade Plaza” to be used for purposes in accordance with the Master Plan – this being the planning application*

*in respect of the proposed development reference 51684. The lease was subsequently varied by a Deed of Variation dated 22nd August 2006 to provide that the “Master Plan” shall include any variation or subsequent application thereto. Officers consider that if the planning application submitted by Downing Group is made pursuant to 51684 – any use to include student accommodation would be permissible under the terms of the lease.*

- 2.3 *This will, in effect, require an assignment of part of the lease dated 20th May 2005 in respect of Phase 3 to Downing Group - who in turn will become the Council’s direct tenant of Phase 3. The annual ground rent payable to the Council under the long lease will be apportioned accordingly.*
- 2.4 *ODP have also agreed Heads of Terms with Whitefriars in respect of a release of its obligations to them regarding the provision of the 12 self-contained flats as contained in the said agreement dated 8th June 2007.*
- 2.5 *In order to progress the sale of Phase 3 to Downing Group - ODP have requested the following:*
  1. *That ODP pay the outstanding part of the third tranche to the Council upon the assignment of Phase 3 to Downing Group.*
  2. *The Council use this receipt to improve the public realm linkage between the Smithford Way and Belgrade Plaza rather than the area under the ring road as currently required by the Development Agreement.*
  3. *That the Council enter into a tri-party agreement with ODP and Whitefriars to release ODP from their obligations to Whitefriars in return for a financial settlement payable from ODP to Whitefriars.*
- 2.6 *The Council will enter into a separate development agreement direct with Downing Group to ensure, insofar as is possible, the development of Phase 3 by placing a positive obligation upon Downing Group to develop Phase 3 within a fixed period of the date planning permission being granted.*
- 2.7 *The parties to this transaction are pressing for a very quick exchange and accordingly we are working to try and facilitate this albeit on a “subject to planning & contract” and a “without prejudice basis”. Officers are aiming to secure the quality development of the remaining phases and to ensure the integrity of the public purse.*
- 2.8 *It is clear that ODP do not have the resources to carry out this development, accordingly to reject this proposal would continue to leave this site developed for the foreseeable future and the remaining monies owing to the Council unpaid.*
- 2.9 *Accordingly it is recommended that the assignment of part be permitted and development facilitated.*

### **3. Results of consultation undertaken**

**None**

### **4. Timetable for implementing this decision**

- 4.1 *Downing group wish to complete the development for the start of the 15/16 academic year.*

### **5. Comments from Executive Director, Resources**

5.1 Financial implications

The Council use the receipt to improve the public realm linkage between the city centre and Belgrade Plaza rather than the area under the ring road at Bangor Street as currently required by the Development Agreement.

5.2 Legal implications

*Officers within Resources Directorate will prepare and complete the necessary legal documentation required to facilitate the objectives set out in this report and shall collect the outstanding third tranche of the premium.*

**6. Other implications**

None

**6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

Subject to planning consent being granted these proposals will facilitate development in the city centre and will provide additional student beds (in turn relieving pressure on HiMOs). In addition it is proposed to use the third tranche receipt to improve links between Belgrade Plaza and the city centre.

**6.2 How is risk being managed?**

Not applicable

**6.3 What is the impact on the organisation?**

This decision impacts on the organisation's human resources and property assets.

The impact on human resources is that officer time is required to prepare and complete the legal documents and to monitor the development progress to ensure that the development is delivered as agreed with minimal risk to the Council.

The impact on property assets is that a site within the City Centre is developed and improved and linked between Belgrade Plaza and the City Centre are improved.

**6.4 Equalities / EIA**

*No equality impact assessment has been carried out as the recommendations do not constitute a change in any Council policy or service.*

**6.5 Implications for (or impact on) the environment**

None

**6.6 Implications for partner organisations?**

None

**Report author(s):**

**Name and job title: Richard Moon, Senior Development Executive**

**Directorate: Place**

**Tel and email contact: 024 7683 2350 richard.moon@coventry.gov.uk**

Enquiries should be directed to the above person.

<b>Contributor/approver name</b>	<b>Title</b>	<b>Directorate or organisation</b>	<b>Date doc sent out</b>	<b>Date response received or approved</b>
<b>Contributors:</b>	Nigel Clews	Place	7/7/14	7/7/14
	Julie Fairbrother	Resource	7/7/14	
Other members				
<b>Names of approvers for submission:</b> (officers and members)				
Finance: Phil Helm		Finance & legal	7/7/14	7/7/14
Legal: Julie Sprayson		Finance & legal	7/7/14	7/7/14
Director: Martin Yardley		Place	8/7/14	8/7/14
Members: Kevin Maton				

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