



# Delegated decision report

## DECISION UNDER DELEGATED POWERS

**DECISION CANNOT BE TAKEN BEFORE TUESDAY, 21 MAY 2019.**

Title **FURTHER VARIATION OF OPTION TO SOUTH COAST LEISURE LIMITED, LAND AT ST GEORGE'S WAY, NEWPORT**

Report to **DEPUTY LEADER AND CABINET MEMBER FOR RESOURCES**

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### EXECUTIVE SUMMARY

1. In January 2015, the Isle of Wight Council (the council) granted an option to South Coast Leisure Ltd (SCL) to purchase a piece of council owned land at St George's Way, Newport at an agreed price for "non-food retail or light industrial uses" only.
2. Since then two requests to vary the option have been received from SCL in order to better meet market demand which had changed over time. The first request was approved in 2018 (delegated decision reference 11/17).
3. This report deals with the second request for the following changes:
  - more flexibility as to how use of the food retail floor space is allocated;
  - an additional 400 sq. ft. food retail;
  - to allow hotel use;
  - to allow the development to be built out in two phases, and for the option land to be sold/let piecemeal if necessary.
4. Terms of an option affect the land value, therefore the council needed to ascertain whether the new terms affected the land value previously agreed. This valuation exercise is now complete and has confirmed that these variations increase the council's land value from £350,000 to £525,000. SCL has agreed to pay this higher price if the further variation is approved.

### BACKGROUND

5. In January 2015, SCL approached the council to request a five year option to purchase some council owned land at St George's Way, Newport ("the option land")

located immediately adjacent to SCL's land currently occupied by Newport Football Club ("NFC site"), and which SCL intends to redevelop for a mixture of commercial uses. SCL intends to include the council's option land in that redevelopment. The option land is shown hatched and dotted on Appendix 1 attached, and SCL's NFC site is shown adjacent.

6. The development permitted within the original option was "for non-food retail or light industrial uses" at an agreed purchase price of £350,000.
7. Due to changing market demand, in 2017 SCL requested some amendments to the option, and a deed of variation was granted on 15 February 2018 incorporating these (delegated decision reference 11/17). These widened the original use restriction to include two food stores of 18,800 sq. ft. and 11,000 sq. ft., and allowed ancillary food retail sales in non-food retail units up to 15 per cent of a unit's floor area. Residential and hotel use remained prohibited. A requirement was also introduced that the end development could only be sold as a single lot as it was SCL's intention at that time to sell the entire development to a single financial institution. A valuation exercise was undertaken which concluded that these variations did not generate an increased land value for the council.
8. SCL is now requesting a further set of variations which it says have become necessary as a result of the extremely challenging retail market conditions which were not apparent in 2016/17: SCL now concludes that there is insufficient demand to populate the entire scheme due to the weakening retail market and that the sites now need to be developed in two phases to be viable.
9. The detailed agreed heads of terms are attached as Appendix 2 and are summarised as follows:
  - (i) More flexibility regarding food retail space in the non-food retail units up to 20 per cent of the units floor area, or 30 per cent if the 11,000 sq. ft. food retail unit is given up.
  - (ii) To increase the 18,800 sq. ft. food retail unit to 19,200 sq. ft. to meet the current new store format for a new operator coming into Newport.
  - (iii) Hotel use to be permitted.
  - (iv) To enable the development to be built out in two phases, where the second phase can be developed piecemeal as and when demand permits, and be sold in separate freehold lots if necessary.
10. A valuation exercise has been undertaken and as a result of these changes the council land's value has increased from £350,000 to £525,000.
11. The council therefore seeks approval for the option between SCL and the council to be further varied to reflect the above changes, for an increased purchase price of £525,000. Any other necessary consents or permissions will need to be the subject of separate applications, for example planning permission.

12. If this report is approved the council will need to vary the wording of the option and 2017 deed of variation which controls the use of the site. This will be affected via a further deed of variation, the cost of which will be met by SCL.
13. Whether or not the scheme progresses will depend on whether planning permission has been granted by the Local Planning Authority.
14. SCL is funding the council's reasonable legal and professional fees in progressing this request.

## STRATEGIC CONTEXT

15. To agree an amendment to the original option is consistent with the council's Corporate Plan 2017 to 2020 "Our Island-Our Vision" by delivering the following important outcomes:
  - Create opportunities for all.
  - Deliver economic growth and prosperity.
  - Plan for our future needs.
  - Businesses have confidence to invest.
  - A financially balanced and sustainable council.

## CONSULTATION

16. This report is a variation of terms of a previous Cabinet decision and delegated decision.
17. Newport and Carisbrooke Parish Council has been advised of this proposal and recommendation.

## FINANCIAL / BUDGET IMPLICATIONS

18. If this report is approved, the capital receipt the council would receive for the sale of its land will increase from £350,000 to £525,000.
19. The council is responsible for the management and maintenance of the site until the ownership transfers to SCL (approximately £1,000 per annum). The council has no control over when SCL may or may not exercise its option during the term of the option (which expires in January 2020), and therefore when the site may transfer to SCL.

## CARBON EMISSIONS

20. As this land will transfer to SCL as an undeveloped site, the sale of this land will not adversely affect the council's carbon emissions target. Consequent development of this land by SCL will be subject to planning controls in the normal way.

## LEGAL IMPLICATIONS

21. The council has the power to dispose of property under section 123 of a Local Government Act 1972 which requires it to achieve 'best consideration' in any disposals.

## EQUALITY AND DIVERSITY

22. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
23. There are no implications for any of the protected characteristics as a result of this decision.

## PROPERTY IMPLICATIONS

24. If the council agrees to vary the terms of the current option, SCL will be able to provide a wider variety of uses within their proposed development, and will be able to sell the completed development on the option land piecemeal which will better match market demand.
25. If SCL does exercise its option and purchase the land, the council will be required to transfer the freehold interest of it to SCL and will therefore sell one of its property assets.

## OPTIONS

26. Option 1 – agree the terms of SCL's request and amend the wording of the option accordingly.
27. Option 2 – refuse the terms of SCL's request.
28. Option 3 – endeavour to renegotiate and improve on the terms set out in this report.

## RISK MANAGEMENT

29. There is very limited risk to the council in approving SCL's request, as the additional value due to the council as a result has been confirmed and agreed by SCL.
30. SCL is funding the council's reasonable legal and professional fees in drafting the deed of variation, and therefore if SCL does not eventually sign the deed or chooses not to exercise its option for any reason, the council will not have wasted funds in pursuing this decision.

31. If the council refuses SCL's request, the development may not proceed, with the consequent loss of jobs, new employers being attracted to the Island and business rates that would otherwise be generated. The council would also remain responsible for the cost of ongoing management and maintenance of a surplus council property asset.
32. The council is committed to this course of action through already having signed an option with SCL, so there is no additional risk to the council in agreeing this variation of terms.

### EVALUATION

33. Option 3 is not recommended as the additional value due to the council has already been assessed therefore it is not worthwhile revisiting this.
34. Option 2 is not recommended as while the council is able to refuse such a request, if it does so it would simply frustrate SCL's regeneration proposals for their site, leading to either the consequent loss of the regeneration scheme or a less attractive one, with the loss of all the socio economic benefits that would otherwise result.
35. Option 1 is therefore recommended: for the council to approve the variation of the option to enable SCL to proceed with its preferred development.

### RECOMMENDATION

36. Option 1 – agree the terms of SCL's request and amend the wording of the option accordingly.

### APPENDICES ATTACHED

37. [Appendix 1 – Site plan showing Isle of Wight Council land subject to an option to South Coast Leisure Limited.](#)
38. [Appendix 2 – Agreed heads of terms.](#)

### BACKGROUND PAPERS

39. [Disposal of Employment Land at Pan, Newport - Executive 20 January 2015 Decision reference 136 \(14/15\).](#)
40. [Variation of Option to South Coast Leisure Limited, Land at St George's Way, Newport – Delegated decision 24 November 2017 Decision reference 11/17.](#)

**All representations must be sent to [Delegated.decisions@iow.gov.uk](mailto:Delegated.decisions@iow.gov.uk) or they may not be considered as part of the decision-making process.**

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