



Delegated decision report

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE 4 DECEMBER 2017

Title **VARIATION OF OPTION TO SOUTH COAST LEISURE LIMITED,
LAND AT ST GEORGES WAY, NEWPORT**

Report to **THE CABINET MEMBER FOR RESOURCES**

EXECUTIVE SUMMARY

1. In January 2015, the Isle of Wight Council (IWC) granted an option to South Coast Leisure Ltd (SCL) to purchase a piece of council owned land at St George's Way, Newport for an agreed price. SCL has subsequently requested that some of the terms of that option be varied. The original option permitted "non-food retail or light industrial uses". The variation requests that two food retail units also be permitted providing up to a maximum of 29,800 square feet, plus ancillary food retail use within non-food retail units up to 15 per cent of the unit's floor area.
2. Terms of an option affect the land value, therefore the council needed to ascertain whether these new terms affected the land value previously agreed. This valuation exercise is now complete and it has been confirmed that the value of the council's land remains unchanged.

BACKGROUND

3. In January 2015, SCL approached IWC to request a five year option to purchase a piece of council owned land at St Georges Way, Newport. The land is immediately adjacent to land owned by SCL, currently occupied by Newport Football Club, and which SCL intends to redevelop for a mixture of commercial uses. SCL intends to include the option land in that redevelopment. The option land is shown hatched and dotted on Appendix 1 attached, and SCL's land is shown adjacent. The dotted land shows the balancing pond, which forms part of the drainage system for the new Asda spine road which connects St Georges Way to Bluebell Meadows/Pan.
4. IWC instructed District Valuation Services (DVS) to independently validate the price agreed for the land subject to the option. In the absence of any development proposals by SCL at that time, it was difficult for DVS to undertake a valuation of the council's land. Accordingly, DVS had to make some assumptions about SCL's proposed development (on both the Newport Football Club site and the option land) on the basis that if the option land was needed for a different use at some point in the future the land could simply be revalued at that time. The assumptions regarding the future use of the option land were reflected in the terms of the

option, a land value was agreed (£350,000) and the option was signed (under council decision “Disposal of Employment Land at Pan, Newport”, reference 136(14/15)).

5. The development permitted within the original option was “for non-food retail or light industrial uses”.
6. SCL has subsequently approached IWC to vary some of the terms of the option to enable their preferred development and better meet market demand. Therefore SCL has requested that the above option wording be amended as set out in the agreed heads of terms attached as Appendix 2, summarised as follows (these may be subject to minor changes as the legal process evolves):

Not to use the property (which includes both SCL and IWC’s land) for any purpose other than for:

- Non-food retail; and/or
- Light industrial purposes; and/or
- Food retail, up to two food retail units (18,800 square feet and 11,000 square feet maximum respectively), plus ancillary food retail use within a non-food retail unit up to 15 per cent of that unit’s gross internal area.

Not to use the property for the following:

- Hotel.
- Residential.
- Non-residential institution.

7. DVS was asked to revisit the value of the council’s option land based on the above to ensure the council receives any additional value which may be generated. DVS completed this exercise and confirmed that no additional value has been created.
8. For expediency, the balancing pond valuation issue has not been investigated at this time, but should SCL call for the balancing pond at some point in the future this will be valued at that time. This would be subject to a further formal council approval. Accordingly the deed of variation allows the hatched and dotted area to transfer to SCL as two separate tranches of land at different times.
9. The council therefore seeks approval for the existing option between SCL and IWC as landowner to be varied to reflect the above changes, for no additional value. Any other necessary consents or permissions will need to be the subject of separate applications, for example planning permission.

STRATEGIC CONTEXT

10. 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

11. This report is a variation of terms of a previous Cabinet decision. The Cabinet Member for Resources has been regularly briefed on the on-going negotiations and finalisation of agreed terms.

FINANCIAL / BUDGET IMPLICATIONS

12. As this report is only a variation of terms approved by a previous Cabinet decision there is no direct financial implication of this decision to IWC.
13. IWC is responsible for the management and maintenance of the site until the ownership transfers to SCL (approximately £1,000 per annum). IWC has no control over when SCL may or may not exercise its option during the term of the option (five years from January 2015), and therefore when the site may transfer to SCL.
14. Once the site transfers to SCL, IWC will receive a capital receipt of the agreed price as set out in the original option (£350,000 plus the retail price index increase).

CARBON EMISSIONS

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

LEGAL IMPLICATIONS

16. The original option, signed in January 2015, was for a period of five years.
17. If this report is approved the council will need to vary the wording of the option which controls the use of the site. This will be affected via a deed of variation, the cost of which will be met by SCL.

EQUALITY AND DIVERSITY

18. 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.

19. Under the Equality Act 2010 we are required to have due regard to our equality duties when making decisions, reviewing services, undertaking projects, developing and reviewing policies. There are no equality and diversity issues generated from the approval of this report.

PROPERTY IMPLICATIONS

20. 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 which will better match market demand.
21. 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

22. Option 1 – agree the terms of SCL’s request and amend the wording of the option accordingly.
23. Option 2 – refuse the terms of SCL’s request.
24. Option 3 – endeavour to renegotiate and improve on the terms set out in this report.

RISK MANAGEMENT

25. There is very limited risk to the council in approving SCL’s request, as the DVS has verified whether any additional value may be due to the council as a result, and has confirmed that there is none.
26. SCL is funding the council’s legal 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.
27. 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 on-going management and maintenance of a surplus council property asset for which there is currently no revenue budget.
28. The council is committed to this course of action through already having signed an option with SCL, so there is no additional risk to IWC in agreeing this variation of terms.

EVALUATION

29. Option 3 is not recommended as the DVS has assessed whether any potential additional value is due to the council, and has confirmed that none is due. Therefore it is not considered worthwhile revisiting this.

30. 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 of the consequent socio economic benefits that would otherwise result.
31. Option 1 is therefore recommended: for the council to approve the variation of the option wording to enable SCL to proceed with its preferred development.

RECOMMENDATION

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

APPENDICES ATTACHED

33. [Appendix 1](#) – IWC land subject to an option to South Coast Leisure Limited.
34. [Appendix 2](#) – Heads of Terms.

BACKGROUND PAPERS

35. Disposal of Employment Land at Pan, Newport - Executive 20 January 2015
[Decision reference 136 \(14/15\)](#)

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COUNILLOR STUART HUTCHINSON
Cabinet Member for Resources

Decision

Signed

Date
