

**MILTON KEYNES DEVELOPMENT PARTNERSHIP (“MKDP”)
Board Meeting
15th September 2020
17:30 – 18:00
Video Conference via MS Teams**

Board Members Present:

Nicola Sawford, Independent Chair (NS)
Bernadette Conroy, Independent Board Member (BC)
Huw Lewis, Independent Board Member, (HL)
Steve Mallen, Independent Board Member, (SM)
Roger Bell, Independent Board Member, (RB)
Cllr Rob Middleton, (RM)
Cllr Jenni Ferrans, (JF)
Tracey Aldworth, Board Member, (TA)

In Attendance:

Matthew Green, MKDP, Property Development Director, MG
Tim Roxburgh, MKDP, Special Projects Director, (TR)
Gavin Gager, MKDP, Chief Financial Officer, (GG)
Allison Pettifer, MKDP, Secretary to the Board, (AP)

Item		Action
1	Declarations of Interest	
	<p>Mike Clarke, Independent Sub Committee Member MKDP, did not take part in the meeting due to a possible conflict of interest with First Base the preferred Developers.</p> <p>Tracey Aldworth declared a conflict due to Saxon Court being part of the proposed scheme for the Council.</p> <p>Rob Middleton stated he was probably conflicted due to having taken the Cabinet Decision on behalf of the Council.</p>	
2	MK Gateway	
	<p>Saxon Court office building owned by MKC and the adjacent land owned by MKDP.</p> <p>The extraordinary Board meeting was called to discuss amendments to the original structure of the proposed scheme with First Base.</p> <p>Background: Following a c2 year procurement exercise heads of terms were approved by Board in May 2020, for a joint disposal with MKC for Saxon Court and MKDP’s land adjacent to the building. Heads of Terms were agreed by all parties and follow the standard MKDP deal structure of a ‘subject to planning’ contract followed by a building lease which obligates construction of the approved scheme. When complete transfer of the investment lease/freehold is triggered.</p> <p>Issues: FB have approached funding agents who have confirmed that given the current unprecedented market conditions particularly around new office development, potential funders will not accept ‘absolute obligations’ to build the scheme out. In order to proceed, a change to the enforceability of the building obligations is proposed with the contract amended to reflect reasonable endeavours to comply with the building obligations. The result of</p>	

this change is that, in the event of the project not proceeding, the developer could put itself in control of the site, with MKDP having little way of enforcing progress. However, FB would not be able to build any other scheme on the site without MKDP's approval. The Executive highlighted that there is a possibility that when the purchase is completed with FB, they then do nothing with the site, although this was unlikely due to commercial pressures. It was also stated that at some point FB are likely to renegotiate the deal due to viability. It was also noted that an amendment such as this would not be recommended if it wasn't for the current market conditions.

Options:

- 1) Refuse any movement away from the approved Heads of Terms. This option is not recommended as the transaction would almost certainly not progress further.
- 2) Allow the proposed amendment, acknowledging the risk of a potential stalemate if market conditions worsen. This is the recommended option.
- 3) Include a funding condition in the transaction. This would effectively turn the deal into an option with very little risk for the developer. It would, however, ensure the site is returned to MKDP if the project does not proceed.

Board noted that MKC, on its element of the site, has approved proceeding with Option 2. The recommendation to Board is that MKDP also approves option 2 for its land parcel.

The Board were advised that a meeting with PPIsc members was convened and its members were brought up to date with the development prior to the Board meeting. It was confirmed that the preparatory meeting excluded MC due to his conflict of interest. PPIsc view was that this is a good scheme. PPIsc considered that there are significant risks attached to the scheme in the manner it is configured. In normal times MKDP would usually contractually remove such risks from its transactions. PPIsc felt that the ultimate risk was there would be a strategic city centre site that may be stalemated/moribund to the detriment of the vision for R:CMK. PPIsc considered there was an upside in that FB are a quality developer that could deliver a good scheme in unprecedented times.

PPIsc felt the risks should be highlighted and that the scheme should go ahead acknowledging the risks.

Risks:

1. Precedent: That this is not how MKDP would want to do business and is not normal practice.
2. Viability: Impact on the financial receipt could be substantial, as the scheme goes through the planning process. That the scheme may deteriorate from a good scheme to a scheme where nothing happens. The contingent risk is the funder is unknown.
3. Stalemate/Moribund: PR predicament in that 'we took the money and have done nothing for the city'.

Questions/Comments:

Should there be new heads of terms? The response was that this amendment would not actually change the Heads of Terms. The request is an amendment to a clause at the 'back end' of the lease but which could undermine the process. The Board are convened as this is a departure to

	<p>normal MKDP lease. The pressure for an Extraordinary meeting is that exchange can happen imminently if the board agree the changes.</p> <p>At what stage can FB assign the lease and what control would there be to whom they can assign it to? MKDP would get to approve the funders using reasonable endeavours. The process could be as follows:</p> <ol style="list-style-type: none"> i. Planning permission approved. ii. Complete and pay the majority of the money £10m. iii. Assign the building lease to their funders who have to demonstrate they have the money to complete the scheme. iv. Funders can then call for the virtual freehold. At this point they only have reasonable endeavours to comply with their building obligations. If the project reached a stalemate, approval would be required by MKDP and MKC to build anything else. <p>End stop dates: Building obligations are to complete by 7 years, moved from 5 years, although now with reasonable endeavours to complete.</p>	
DECISION		
	<p>The Board voted unanimously to go ahead with the recommendation to allow the proposed amendment, acknowledging the risk of a potential stalemate if market conditions worsen. Cllr Rob Middleton and Tracey Aldworth did not take part in the vote.</p> <p>Approval was given on the basis of:</p> <ol style="list-style-type: none"> a) The uniqueness of the scheme b) Its contribution to placemaking c) That it is not a precedent for other schemes 	

Confirmed as a true record of the meeting of the Board held on 15th September 2020 and published in accordance with the Freedom of Information Act 2000.

Nicola Sawford

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Independent Chair