

Officer Non Key Executive Decision

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| Relevant Chief Officer | Neil Jack, Chief Executive |
| Relevant Cabinet Member | Councillor Lynn Williams, Leader of the Council |
| Report Author | Alan Cavill, Director of Communications and Regeneration |
| Implementation Date of Decision: | 16 December 2021 |

BLACKPOOL CENTRAL – AGREEMENTS RELATING TO MULTI-STOREY CAR PARK

1.0 Purpose of the report:

- 1.1 To outline and seek approval of the proposed final terms of the legal contracts to enable the delivery of the Enabling Phase 1 (a Multi-Storey Car Park) of the 'Blackpool Central' scheme (the "**Scheme**").

2.0 Recommendations:

- 2.1 To note the progress made on agreeing the terms and conditions to enable the delivery of the Enabling Phase 1 (Multi-Storey Car Park) of the Scheme and to approve that the Council enters into the following referred to collectively as the "**Legal Documents**":
- (i) a Headlease with the Funder;
 - (ii) an Agreement for Occupational Lease with the Funder and Nikal Limited;
 - (iii) an Occupational Lease with the Funder;
 - (iv) a Service Level Agreement with Nikal Limited;
 - (v) a Utilities Building Licence with Nikal Limited;
 - (vi) an Escrow Agreement with Nikal Limited;
 - (vii) Works Building Licence with Nikal Limited;
 - (viii) a Deed of Novation, which novates the Land Sale Agreement entered into in January 2020 from Nikal (Blackpool Land) Limited to Nikal Limited; and
 - (ix) a Deed with Electricity North West Limited and Nikal Limited.
- 2.2 To delegate authority to the Head of Legal Services to enter into the Legal Documents and any additional legal agreements relating to the delivery of the Scheme.
- #### 3.0 Reasons for recommendation(s):
- 3.1 To enable Nikal Limited (the "**Developer**"), funded by a third party institutional

investor (the "**Funder**"), to deliver the Enabling Phase 1 (a Multi-Storey Car Park) of the Scheme.

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

3.4 Other alternative options to be considered:

The alternative option of not entering into the Legal Documents would have a significant deleterious impact upon the delivery of the Scheme and would delay or prohibit the long term delivery of the Scheme and its attendant benefits. It would also have a detrimental impact on the relationship with the Developer who has been working with the Council over the past three years to bring forward their plans for the Scheme.

4.0 Council Priority:

4.1 The relevant Council Priorities are:

- "The Economy: Maximising growth and opportunity across Blackpool"
- "Communities: Creating stronger communities and increasing resilience"

5.0 Background Information:

5.1 The previous Executive Decisions (EX57/18 December 2018 and EX22/19 February 2019) and Officer Non Key Decision in January 2020, relating to the Scheme provided agreement to move forward with the proposals presented by the Developer.

5.2 As such, the Council entered into a Land Sale Agreement ("**LSA**") with the Developer in January 2020, and planning consent for the construction of a multi-storey car park was obtained on 14 October 2021.

5.3 The Developer conducted a marketing exercise and selected the Funder to invest to deliver the Phase 1 Enabling Works (Multi-Storey Car Park), of which the Council will enter an occupational lease. Since the Developer's selection of the Funder, the parties have been working in order to finalise the terms and conditions of the Legal Documents.

5.4 The Council appointed DWF Law LLP, Legal Advisors and JLL Property Consultants LLP to support in the negotiations with the Developer and the Funder to prepare the Legal Documents. Summaries of the Legal Documents can be found in the exempt appendices to this report.

5.5 Does the information submitted include any exempt information? Yes

6.0 List of Appendices:

Appendix 1 – summary of the Headlease with the Funder (not for publication)

Appendix 2 – summary of the Agreement for Occupational Lease with the Funder and Nikal Limited (not for publication)

Appendix 3 – summary of the Occupational Lease with the Funder (not for publication)

Appendix 4 – summary of the Service Level Agreement with Nikal Limited (not for publication)

Appendix 5 – summary of the Utilities Building Licence with Nikal Limited (not for publication)

Appendix 6 – summary of the Escrow Agreement with Nikal Limited (not for publication)

Appendix 7 – summary of the Works Building Licence with Nikal Limited (not for publication)

Appendix 8 – summary of the Deed of Novation, which novates the Land Sale Agreement entered into in January 2020 from Nikal (Blackpool Land) Limited to Nikal Ltd (not for publication)

Appendix 9 – summary of the Deed with Electricity North West Limited (not for publication)

Appendix 10 – General Risk Register relating to the delivery of the Scheme (not for publication)

Appendix 11 – financial information (not for publication)

7.0 Legal considerations:

7.1 The Council has the power to enter into the Legal Documents pursuant to:

- (i) section 123 of the Local Government Act 1972 which allows the Council to enter into a Headlease and dispose of land to the Funder for the best consideration than can be reasonably obtained;
- (ii) section 120 of the Local Government Act 1972 which allows the Council to enter into an Agreement for an Occupational Lease, and an Occupational Lease with the Funder for the benefit, improvement or development of their area;
- (iii) section 1 of the Localism Act 2011, and section 111 of the Local Government Act 1972 which allows the Council to enter into the Legal Documents with third parties to facilitate the delivery of the Scheme.

7.2 The contents of the Appendices to this report are exempt from publication on the grounds that they contain information relating to the financial or business affairs of a particular person (including the authority holding that information) under Paragraph 3,

Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) and this exempt information contained in the confidential Appendices shall not be released to the press or public.

8.0 Human Resources considerations:

8.1 There are no human resource requirements arising from this recommendation.

9.0 Equalities considerations:

9.1 There are no equalities considerations arising from this recommendation.

10.0 Financial considerations:

10.1 Financial information is set out in Appendix 11 to this report.

11.0 Risk management considerations:

11.1 There are a number of risks associated with a project of the scale being proposed by the Developer. Many of the associated project risks will be managed and monitored throughout the duration of the project by both the Developer and the Council via a 'Risk and Issues Log / Tracker' which is appended to this report. It should be noted however that the vast majority of delivery risks are those which will be managed by the Developer given the nature of the land sale arrangement.

11.2 There are however a range of direct Council risks which will have a bearing on the overall ability of the Developer to undertake the proposed Scheme and those associated with protecting the Council's interest. The headline risks were previously set out in the Officer Non Key Decision in January 2020 and further risks relating to the Phase 1 – Enabling Works (Multi-Storey Car Park) are set out in the individual Appendices (and will be incorporated into the general risk register in Appendix 10 in due course).

12.0 Ethical considerations:

12.1 None.

13.0 Internal/ External Consultation undertaken:

13.1 Internal consultation has been undertaken on the Scheme with the Director of Communications and Regeneration, Growth and Prosperity Programme Director, Growth and Prosperity Board, Finance and Legal.

- 13.2 Further external consultation with the public and wider stakeholders will be undertaken as part of the statutory planning process, as the proposals for the Scheme are progressed by the Developer.

14.0 Background Papers:

- 14.1 Executive Decision EX57/2018
Executive Decision EX22/2019
ONKD January 2020

15.0 Decision of Chief Officer:

- 15.1 To approve that the Council enters into the Legal Documents and delegate authority to the Head of Legal Services to enter into the Legal Documents and any additional legal agreements relating to the delivery of the Scheme.

16.0 Reasons for the Decision of the Chief Officer:

- 16.1 To enable the Developer to deliver the Phase 1 Enabling Works (Multi-Storey Car Park) part of the Scheme and to protect the Council's interests.