



# Council Meeting

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**Wednesday, 16th  
December, 2020**

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## HASTINGS BOROUGH COUNCIL

Dear Councillor

You are hereby summoned to attend a meeting of the Hastings Borough Council to be held at the MS Teams, on Wednesday, 16th December, 2020 at 6.00 pm at which meeting the business specified below is proposed to be transacted.

Yours sincerely,

Chief Legal Officer

Muriel Matters House  
Breeds Place  
Hastings

8 December 2020

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### **AGENDA**

5. Bathing Pool Petition

Note: Nothing contained in this agenda or in the attached reports and minutes of committees constitutes an offer or acceptance of an offer or an undertaking or contract by the Borough Council

# Agenda Item 5



**Report to:** Council

**Date of Meeting:** 16 December 2020

**Report Title:** Site at West Marina

**Report By:** Peter Grace  
Assistant Director Financial Services & Revenues  
(Chief Finance Officer)

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## Purpose of Report

To consider the Petition received regarding the development of land at West Marina (Old bathing pool site).

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## Recommendation(s)

1. The Council continues with the current proposals.

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## Reasons for Recommendations

The Council notes the request of the petitioners which would effectively require the Council to start the whole development process again. The Council considers that the current proposals will deliver a “destination” that the residents of Hastings seek along with a level of housing that the town needs – whilst meeting planning requirements.

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## Background

1. At the Cabinet meeting on 3 September 2018 it was determined that County Gate/Sunley are the preferred bidder and to instruct our agents, Carter Jonas, to negotiate further to agree Heads of Terms in order to make a recommendation to Cabinet.
2. Cabinet at its meeting on the 4 March 2019 considered 17 objections to the disposal. In addition a petition, signed by 211 people, was received which stated, " We the undersigned petition the council to request: (A) that the Council does not proceed with proposals to erect 152 dwellings on its land at Seaside Road; and (B) that the Council actively and fully engages with the local community and other existing and potential recreational users of the site to develop an agreed plan for its future use.
3. The petition, being considered by the Council at its meeting on the 16 December 2020 is as follows:-

**“We the undersigned petition the council to Genuinely and urgently engage with the local community in West St Leonards and other interested parties to develop a clear community-led action plan for the former bathing pool site and the area around it. “**

## The Site

4. A brief description of the site is provided below and repeats much of what has been presented before.
5. The West Marina site is in ownership of Hastings Borough Council and has been largely vacant for well over 30 years, following the closure of the former lido. As a result, the Council has been looking to see the site developed in order to provide a mixed use development (residential and commercial) in line with the Local Development Plan (the strategic planning document already agreed for the borough). It is again worth emphasising that this redevelopment has been a long term aspiration and the site has been identified for development in successive Local Plans.
6. The site has the benefit of having a seafront location and is in close proximity to West St Leonards train station. It is however disadvantaged by having both sea and fluvial flooding issues and lying on the outer reaches of the Hastings sea front. The flooding issues and the infrastructure already in place restrict where development can occur on the site.
7. As the Development Plan identifies, Seaside Road is one of the few remaining significant re-development sites on the Hastings/St Leonards seafront. It presents an opportunity to create a high quality development which can help regenerate the area and act as a destination in its own right, as an addition to Hastings and the Old Town. The site is expected to support a varied housing mix including affordable housing, and given its size is capable of providing a significant number

of new homes making a valuable contribution to the town's housing requirement as set out in the Local Plan.

8. The Council expects to see a high quality innovative design with particular regard to sustainability. The Grosvenor Gardens Conservation Area sits immediately to the east of this site. Any new development on this site must sustain and enhance the setting of the conservation area.
9. The plan makes particular mention of the "location, scale and massing of housing units should have regard to the outlook of adjacent properties in Seaside Road and Grosvenor Gardens. Opportunities should be taken where possible to exploit the sea views that the site offers. Developers will be expected to create a broad promenade for pedestrians and cyclists behind the seawall running east to west across the site. This should also act as a way of protecting views along the seafront. Improvements to the seawall will be required and the potential for vegetative shingle creation will need to be explored".
10. The site is considered to be suitable for leisure and recreational uses, particularly those associated with the water. The site could also accommodate small scale kiosk style retail uses normally found at the seaside, a cafeteria and a public house/restaurant.

## 11. Petition - Response to Justification Issues Raised

### **(i) The Borough Council is undertaking a review of major projects, including re-development of the former bathing pool site**

*It is true that following the Covid-19 pandemic and with the potential impacts of an economic downturn on the local economy remaining unclear, projects across the country, and their financial viability, are quite naturally under review. Resources are limited and priorities have to be reviewed. The West Marina site is identified as a mixed development site – housing and commercial.*

*As previously stated, the purpose of the development is to create a leisure development that will benefit all Hastings residents, as well as providing much needed housing, and create an attraction that will bring tourists to the eastern end of the promenade. As the principal of developing the site for these purposes has been already been established through a lengthy process of consultation, the future consultation would be on the detail of the development, and how it can practically be achieved. At the previous open meeting, people raised all sorts of ideas, amongst which were artists' studios and a slipway, which is why those ideas will be incorporated.*

### **(ii) The Borough and County Councils are developing post-COVID economic recovery plans and the Borough Council is conducting a review of the Local Plan;**

*The West Marina development can be a significant aid in the long term recovery plans for Hastings and the local community, and although a difficult site to develop, remains a priority . As well as providing much needed housing, there are*

*employment opportunities, short term construction jobs – and training, and longer term opportunities for holiday accommodation, artist studios and for leisure related activities and catering businesses.*

**(iii) post-COVID 19 there will be an increased demand for staycations and locally based recreation and tourism and Hastings and St Leonards are well placed to meet that demand and provide local employment if they offer a wide range of high quality attractions;**

*Agreed. This is indeed why the Council still views this site as an important opportunity to create a “destination” and has not simply sold off the site for housing development. A mixed development site can include accommodation for staycations, which along a mixed housing development can help ensure that the destination retains a vibrancy throughout the year.*

**(iv) the former bathing pool site stands immediately alongside the seafront and the established shops, catering and recreational facilities in Bexhill Road and Grosvenor Gardens and other brownfield land in Cinque Ports Way and it is readily accessible by bus and train;**

*The development is seen as aiding the sustainability of local businesses. Additional visitors and residents would help support the local shops and businesses in the area. The transport links whilst good can potentially be enhanced even further.*

**(v) the area offers a chance, if dealt with comprehensively, to create a mosaic of high quality formal and informal, open space and built, leisure and recreational facilities in the area;**

*There are a number of open spaces within a short distance, not least the Combe Valley Countryside Park, West Marina Gardens, and the seafront itself.*

*The redevelopment of the site has been a long term aspiration and has been identified for development in successive Local Plans. It is the Council’s intention and that of the Development Plan to significantly enhance the area through mixed development and additional recreational facilities making it a destination in its own right.*

*Housing in the current local plan remains a priority and future government planning requirements are only expected to increase the requirements for more housing.*

**(vi) the most recent Borough Council proposals for the area look at the bathing pool site alone propose an unrealistically high level of housing on the site and do not match the opportunities and needs of the current crisis;**

*The Hastings Planning Strategy (adopted February 2014) identifies a need for a minimum of 3,400 additional housing units in Hastings by 2028. The development of the site could accommodate some 152 housing units (subject to planning*

*permission) which would help with the need. However, the Council has not set this as a target for the developer or for the site.*

*As the planning authority, the Council must ensure that it maintains a sufficient supply of land to meet housing targets as set out in its adopted Local Plan. That means identifying sites which are suitable, available and capable of being delivered within the lifetime of the Plan. The Local Plan process has confirmed that this site is suitable for a mixed use development including housing.*

*In bringing the site forward for development, the Council as landowner is making a valuable contribution to meeting identified housing requirements, including the provision of affordable housing which will be required as part of the housing mix. Applying this requirement would yield in the order of 38 affordable units.*

*There is no development scheme at this time and any scheme would have to accord with the policy FB3 in the Local Plan which says the site is for mixed use (residential and commercial). The Development Plan wording makes specific reference to “location, scale and massing of housing units should have regard to the outlook of adjacent properties in Seaside Road and Grosvenor Gardens”*

**(vii) there is an active and rising interest in the local community to engage with positive development proposals for West St Leonards, this has already led to the generation of many ideas for the area and for example seed funding from Locality for a neighbourhood forum and plan (Show truncated justification text)**

*Until such time as there is a properly worked up proposal to consider from a developer it is inevitable that meaningful engagement will be limited. The developer will need to undertake the necessary surveys and if they decide to proceed, will undertake planning forums, consult and submit detailed plans.*

*The legal agreements produced are complex and reflect the requirements that the Council has, that the site is to be developed as a destination. It also seeks to ensure that the developer completes all the elements and not just the housing units.*

## **Current Position**

12. Heads of Terms were agreed by Cabinet on 4th March 2019 with approval to enter into a long leasehold for the redevelopment of West Marina by the Purchaser; with additional points being incorporated on 2 April 2019, including reference to a destination, existing beach hut income and a consultation programme.
13. Further Heads of Terms negotiations centred around (i) the release of freeholds for housing on the development following changes in national requirements, and the timing of any such releases (ii) Affordable housing/social rents.
14. Final Heads of Terms were agreed in July 2019 and the Councils lawyers, Bevan Brittan, instructed to draft documentation – which has been complex.



15. Bevan Brittan drafted two documents, the Development Agreement, covering the development period and the controls of the Council, and the Lease covering (i) the period following completion of the development and (ii) commercial property payments.
16. A series of legal meetings took place in September-November 2019 covering the guarantee of rent by Sunley over the development period and the lease period by the Developer or risk forfeiture of the completed development if not made, as well as pre-emption rights over the housing units and other legal wording.
17. A key outcome of these meetings was the splitting of the lease into:
  - Lease of the whole site granted on survey satisfaction until the grant of planning
  - One lease of the commercial property from the grant of planning (which will continue through development and management of the commercial property)
  - One lease of the residential property from grant of planning until practical completion of the residential development.
  - Transfer Deed so that as and when each phase of the residential development is completed, the freehold of the relevant phase would be transferred.
  - A further lease for a potential underground car park sitting below both the residential and commercial elements.
  - Further to this, the Council's appropriation rights have been agreed within the Development Agreement as well as management and cost deductions from the commercial elements.
18. The key changes from the agreed set of Heads of Terms over the period from agreement to present include:
  - Splitting of the leases as detailed above
  - Timescales for planning: 6 month survey period to be extended if necessary, approvals not gained from EA.
  - Timings/phasing for development: 60% of commercial to be built prior to 40% of private residential. The remaining 40% of commercial built prior to the 2nd phase of residential.
  - Pre-emption on residential units to be in 2nd phase of residential construction and identified at the point of planning submission – but to be 15 apartment units within a single block.
  - Landlord break option if satisfactory planning has not been obtained in 6 years
  - Adjustment of target rent and deductions
19. The outstanding issue in late February 2020 remained being able to place reliance on fluvial flood work for Combe Haven and Beach morphology for planning



permission purposes.

### **Covid -19 and Brexit**

20. Since April 2020, whilst the general terms of the agreement have not changed there have been minor amendments which reflect the uncertainty surrounding Covid-19 and risk of future pandemics – many contracts are now including clauses to address some of the potential implications.
21. Regarding the flood work, it was agreed that the 6 month survey period would be extended to 9 months with all reasonable endeavours made to complete the works in 6 months. Additionally, this licence period would be made conditional on obtaining satisfactory Flood Risk reports and approval from the EA, with a 6 month extension to this if necessary and if not approved a 12 month longstop date following this point.
22. With regard to development periods the following amendments have been made;
  - (i) An additional 14 months to complete the commercial development, meaning that the agreed completion date for the commercial development will be 74 months after the grant of a satisfactory planning consent rather than 60 months.
  - (ii) An additional 12 months to complete the residential development, meaning that the agreed completion date for the residential development will be 96 months after the grant of a satisfactory planning consent rather than 84 months.
23. These extensions are in place should there be delays, caused by pandemics, to planning or limitations to access and numbers on the construction site at any one time.
24. Carter Jonas and the Council believe that agreement has now been reached on all points with County Gate Properties; who have been finalising the terms with their funder.

### **County Gate Properties/Sunley**

25. The Council has been advised that County Gate Properties have identified a new funder, in place of Sunley. This is the Generator Group backed by Revcap. The Council's advisors (Carter Jonas) advise that the company is well paced to fund the development – due diligence conducted to date supports this view.

The Council is currently clarifying with its legal advisers Bevan Brittan whether there are any procurement issues arising given the change in one of the funding partners. It is possible that this could lead to delays and necessitate further action to meet the European Public Procurement rules (which remain embedded in UK legislation even following the imminent departure from the EU).

## Conclusion

26. If the petition were to be accepted the Council would effectively be required to start again and would not achieve the outcomes identified in the development plan for many years to come. The housing requirements for the borough remain acute.
27. The time involved in progressing the legal agreements with the developer has delayed the ability of the developer to produce proposals and commence a consultation process. The residents of Hastings and St Leonards will have the opportunity to engage and voice their views on the proposals once fully developed.
28. The Council continues to have confidence in the developer and its proposals and that these will deliver the objectives sought.
29. The pandemic has introduced delays in finalising the agreement and the change in the developer's partner could yet introduce further delays.

## Local People's Views

30. There will be a consultation process.
31. At such time as the developers have a specific development proposal, they will need to go through the usual formal planning consultation processes which will enable local people to put forward their views.

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### Wards Affected

West St Leonards

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### Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	N
Crime and Fear of Crime (Section 17)	N
Risk Management	N
Environmental Issues	N
Economic/Financial Implications	Y
Human Rights Act	N
Organisational Consequences	N
Local People's Views	Y
Anti-Poverty	N

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### Additional Information

#### Officer to Contact

Peter Grace  
Chief Finance Officer

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