

Special Council

Monday, 11 November 2013

Present: Councillor John Walker (Mayor), Councillor Roy Lees (Deputy Mayor) and Councillors Eric Bell, Julia Berry, Alistair Bradley, Terry Brown, Jean Cronshaw, Matthew Crow, Magda Cullens, John Dalton, David Dickinson, Doreen Dickinson, Graham Dunn, Dennis Edgerley, Robert Finnamore, Christopher France, Danny Gee, Peter Goldsworthy, Marie Gray, Alison Hansford, Harold Heaton, Steve Holgate, Keith Iddon, Kevin Joyce, Hasina Khan, Paul Leadbetter, Adrian Lowe, Marion Lowe, June Molyneaux, Greg Morgan, Mick Muncaster, Steve Murfitt, Beverley Murray, Mark Perks, Alan Platt, Pauline Phipps, Dave Rogerson, Geoffrey Russell, Rosie Russell, Joyce Snape, Kim Snape, Ralph Snape, Paul Walmsley and Peter Wilson

Also in attendance

Officers: Gary Hall (Chief Executive), Lesley-Ann Fenton (Director of Partnerships, Planning and Policy), Jamie Carson (Director of People and Places), Chris Moister (Head of Governance) and Carol Russell (Democratic Services Manager)

13.C.85 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Ken Ball, Henry Counce and Anthony Gee.

13.C.86 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest.

13.C.87 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – that the press and public be excluded for the following item of business on the grounds that it involves the disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act.

13.C.88 SUSPENSION OF COUNCIL PROCEDURE RULES

The Mayor proposed that Council Procedure Rules be suspended in order for the meeting to be held in committee format to enable greater freedom of debate.

RESOLVED – that the meeting be held “in Committee” format.

13.C.89 REPORT AND RECOMMENDATIONS OF THE MARKET WALK STEERING COMMITTEE ON THE POTENTIAL PURCHASE OF MARKET WALK SHOPPING CENTRE

Members received a report of the Market Walk Steering Committee which provided an overview of the work it had undertaken in investigating the potential purchase of the Market Walk Shopping Centre, a proposal agreed at the last Council Meeting on 17 September 2013.

Appended to the report were the following documents which provided the background information to the potential purchase, and in particular, the outcomes of the due diligence process:

- Minutes of the three meetings of the Market Walk Steering Committee held on 28 September; 14 October and 4 November 2013
- Valuation Report from Deloitte
- Building Survey Report from Deloitte
- Environmental Survey information from URS (and historic information from WSP and Frank Knight)
- Legal Reports from Hill Dickinson Solicitors
- Retail Report from Tushingham Moore
- Lancashire County Council Advice on the Potential Purchase of Market Walk, including Financing Options
- Illustrative Cashflow Analysis from Deloitte
- A proposal for the Future Management of the Market Walk Shopping Centre from Deloitte
- Town Centre Masterplan Baseline Report from Deloitte.

Councillor Alistair Bradley, Executive Leader presented the proposals of the Market Walk Steering Committee and their recommendations that the Council purchase the Market Walk Shopping Centre, the preferred financing option and a suggested approach to the future management of the centre. The main reasons for recommending the purchase were to create an income stream to help meet the increasing gap created by reduced central government funding; and to help ensure a sustainable future for the town centre through the town centre strategy, ensuring tenants in Market Walk were engaged and involved. There were undoubted risks involved in such a major transaction and financial undertaking but risks could be mitigated and the Market Walk Steering Committee had considered detailed information relating to the outcomes of the due diligence process and retail trend analyses.

Councillor Greg Morgan expressed concerns that the Council would be borrowing over £20million over a period of 50 years without any expertise as elected members in this area of business, He and Councillor Joyce as members of the Steering Committee had voted against the purchase because they felt it was impossible to know what town centre retailing would look like so far ahead and the risks involved were too great. Councillor Joyce referred to three reasons for not supporting the recommendations – in his opinion, the price of the Shopping Centre was too high, particularly in light of the outstanding repairs; he did not feel the Council had the expertise to run an asset of this type; and the financial risks were too great with a possibility that central government would change local authority borrowing rules over time which could impact on the Council, even to the possibility of insolvency.

A number of Members referred to press coverage about reduced levels of occupancy in retail premises in town centres; the reduction in retail rental levels; the unknown impact of the new Asda development in the town centre and any future out of town retail development at, for example, Botany Bay.

In response, the Leader said all these aspects had been considered by the Steering Committee through the Town Centre Masterplan. Retail rentals had been maintained in Market Walk, they were set at a reasonable level, voids were low and the shops on offer matched the town's demographics with stores like B & M Bargains, Iceland and Costa Coffee trading extremely well. The report acknowledged the need to bring expertise in to manage the Shopping Centre and recommended that Deloitte undertake that role for at least the first 12 months. The Council would continue to bring in external specialist advice to ensure the centre

maintained low void levels and a good retail offer. The service charge that tenants paid, would meet the cost of managing the Shopping Centre.

Councillor Peter Goldsworthy referred to interest from other investors in buying the Shopping Centre, and as such there was no need for the Council to do so. His main concern was the financial burden on Council tax payers if void levels dropped significantly and what strategy would be adopted to deal with that situation.

Councillor Dennis Edgerley referred to the growth of Chorley as a town and its surrounding areas which was set to continue for 10 years at least. This put the town centre in a good position. Over the years the Council had invested in other sites and facilities and all had proved successful. This was a low risk investment opportunity in his opinion. Councillor Wilson referred to the need to meet the increasing budget gap and that central government were advocating this method of Council's generating additional income.

Other Members raised concerns about the risks highlighted in the LCC report, the risks around maintaining existing tenancy levels and concerns about the valuation undertaken by Deloitte.

In response the Executive Leader reported that Deloitte had been asked to take a pessimistic view on the situation should void levels drop. In reality Market Walk was a thriving shopping hub for the town. Retail analyses had been undertaken and he had confidence that this would remain so, irrespective of future development at Asda or Botany Bay. There was significant rental income from the centre and this was a good opportunity for the Council. There was a tight timescale because of the type of transaction.

In response to a question from Councillor Paul Leadbetter regarding confidentiality of the information following the Council meeting, the Monitoring Officer reported that the decision on whether or not to go ahead with the transaction could be made public after the meeting but any details contained in the reports on the agenda remained confidential and should not be disclosed.

Councillor Greg Morgan expressed further concerns relating to the speed of the transaction. He proposed and Councillor Paul Leadbetter seconded the following amendment to the recommendation:

“That a referendum be organised here in Chorley to ask the residents of Chorley Borough whether they wish their Council to go ahead with this purchase of Market Walk and the finance issues that will be involved.”

On being put to the vote, Councillors cast their vote as follows:

FOR: Councillors E Bell, M Cullens, J Dalton, David Dickinson, Doreen Dickinson, P Goldsworthy, M Gray, A Hansford, H Heaton, K Iddon, K Joyce, P Leadbetter, G Morgan, M Muncaster, M Perks, A Platt, G Russell and R Russell.

AGAINST: Councillors J Berry, A Bradley, T Brown, J Cronshaw, M Crow, G Dunn, D Edgerley, R Finnamore, C France, D Gee, S Holgate, H Khan, R Lees, A Lowe, M Lowe, J Molyneaux, S Murfitt, B Murray, P Phipps, D Rogerson, J Snape, K Snape, R Snape, P Walmsley and P Wilson.

ABSTENTION: The Mayor, Councillor John Walker

The vote was therefore LOST.

Councillor Alistair Bradley, Executive Leader then proposed, and Councillor Peter, Wilson, Executive Member for Resources, Policy and Performance seconded, that the recommendations as circulated to all Councillors be approved.

On being put to the vote, Councillors cast their vote as follows:

FOR: Councillors J Berry, A Bradley, T Brown, J Cronshaw, M Crow, G Dunn, D Edgerley, R Finnamore, C France, D Gee, S Holgate, H Khan, R Lees, A Lowe, M Lowe, J Molyneaux, S Murfitt, B Murray, P Phipps, D Rogerson, J Snape, K Snape, R Snape, P Walmsley and P Wilson.

AGAINST: Councillors E Bell, M Cullens, J Dalton, David Dickinson, Doreen Dickinson, P Goldsworthy, M Gray, A Hansford, H Heaton, K Iddon, K Joyce, P Leadbetter, G Morgan, M Muncaster, M Perks, A Platt, G Russell and R Russell.

ABSTENTION: The Mayor, Councillor John Walker

The vote was therefore CARRIED and it was RESOLVED –

- 1. That Chorley Council purchase the Market Walks Shopping Centre for a price of up to £23.341 million (inclusive of Stamp Duty and Fees)**

Reason – Primarily, purchasing the Market Walks Shopping Centre will provide the Council with greater control and influence over the town centre, improving opportunities to implement Economic Development Strategies and Town Centre Masterplan in the long term. It will, as a secondary consideration, provide an income stream which the Council may use to further invest in the Town Centre. It is recognised that not purchasing the Shopping Centre in itself presents a risk as if it is seen as a short term investment vehicle (as it has been recently) this is likely to inhibit investment in it. This in turn is likely to limit its appeal to tenants and damage Chorley Town Centre.

- 2. That there be delegated authority to the Head of Governance to agree the purchase contract terms and to execute the transfer.**

Reason – The Due Diligence exercise has demonstrated that there is sufficient income generated from the rentals to meet the Council's exposure to the borrowing. The Legal Title is shown to be clear from risks and the building and environmental surveys do not disclose any matters which are cause for concern. The investment is sound in terms of the financial benefits and whilst there is risk in relation to future occupancy the advice received from the retail consultant confirms that the mix within Market Walks Shopping Centre is sustainable and there is scope to improve the tenant base making the investment more secure.

- 3. That the Chief Financial Officer be given authority to borrow the sum of £23.341 million and the amended Minimum Revenue Provision Policy and amended Prudential Indicators be adopted.**

- It is noted that it is intended that the borrowing be taken on an annuity basis over a period of 50 years. It is recognised that should the Chief Financial Officer be so advised the basis and period of the borrowing may change if more advantageous terms are identified. The final terms agreed by the Chief Financial Officer will be brought to full Council for information.**

Reason – An annuity loan over a term of 50 years has been highlighted as the preferred method of borrowing as it provides flexibility and a good rate of return on the investment. Whilst it will have a greater cost in terms of interest repaid, the benefit provided by the flexibility and income over comes this. Advice can be taken on other methods of financing the borrowing. If a more advantageous arrangement is identified which provides the same benefits over a shorter period or with a lower overall charge to interest this recommendation enables the Chief Financial Officer to elect to enter into the improved terms.

- 4. That authority be delegated to the Chief Financial Officer to increase the Council's Authorised Limit and Operational Boundary Prudential Indicators to reflect the borrowing.**
- 5. That Deloitte's RP be appointed to act on behalf of Chorley Council to Manage Market Walks Shopping Centre for a period of 12 months with authority delegated to the Chief Executive and Head of Governance jointly to agree the terms of the appointment.**

Reason – Management of a Shopping Centre requires specific specialist skill and experience. Deloitte will offer experienced management of the centre for a year to enable the Council to undertake a procurement exercise at the end of that period. Deloitte have knowledge of this particular centre as they have been advising the Council and this will provide for a more efficient transition.

Chair