

APPENDIX G: DRAFT HEADS OF TERMS: DEVELOPMENT AGREEMENT

1. PARTIES

Stroud District Council (SDC)

Developer (selected pursuant to the Competitive Dialogue process)

2. INTERESTED PARTIES

SVCC – Stroud Valleys Canal Company, canal owner and operator

Homes England (HE) – funding partner

LGA/Cabinet office – One Public Estate Land Release Funding partners

3. THE PROJECT

SDC intends to select a Developer capable of delivering a profitable and sustainable, new residential led, mixed use community that meets the needs of both existing and future residents and which brings the canal, and the wider site back into vibrant use.

4. OBJECTIVES

- 4.1 To select a skilled, visionary development partner to successfully redevelop this brownfield site. The Project will be delivered by means of a contractual development agreement ("**DA**") which is at item [] in the Data Room. Prospective Developers will be required to mark-up this document in principle and submit the mark-up to SDC in accordance with the published bid timetable. The mark-up of the DA will be considered as part of the award criteria.
- 4.2. The DA will require the Developer to remediate, decontaminate, provide new infrastructure and construct a new mixed development community in accordance with a pre-set timetable. SDC has, at its own cost, undertaken the pre-development works as set out at item [] in the Data Room. The further obligations to be taken on by SDC are set out in detail at paragraph 6 below.
- 4.3. SDC requires the Brimscombe Port development offer submitted by a Developer to include the following key deliverables as set out in the SDC's **Output Specification** at item [] in the Data Room:
 - i. Reinstatement of the canal and associated infrastructure including the port basin, canal lock, winding hole, fresh water source, craning area, the towpath, site remediation and flood alleviation within the site and a short section of the canal channel excavated adjacent to the site and within SVCC's ownership.
 - b) Provision will be made for canal moorings. The Developer will provide not less than 25 moorings, comprising the following: 7 residential moorings, and 18 permanent and/or visitor classes of mooring. Not less than 8 of the 25 moorings will be finger moorings located in the basin with mooring rings and bollards. The detailed specification will follow, but the Developer is to include lighting, electricity/potable water/foul water in its specification provided for review (but these services are not necessarily delivered direct to each individual mooring). Facilities for conveniences and showering / disposal of wastewater and rubbish for moorings are also to be provided on site, in an easily accessible location of the Developer's discretion.

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- c) A water supply and drainage will also be provided to the Salt House which will be transferred to SVCC upon completion.
- d) Provision of a high density mix of residential units that will address the current housing need for 1, 2, 3 and 4 bedroom dwellings, with 30% affordable and provision of associated car parking. Unit mix and sizing is as specified in the Output Specification provided at item [] in the Data Room. The shared ownership and the affordable rented units will be transferred to SDC or to registered provider (which registered provider is yet to be defined). Costings for both tenures shall be included in the disclosed Developer financial model.
- e) Provision of new community facilities, the form and scale of which are to be determined but which are to include a community meeting space and commercial facilities that are capable of being let. It is envisaged that these will constitute a freestanding two-storey building, situated by the basin. Fit out facilities are to include heating, power, kitchens and other facilities standard for a community building. Further information is detailed in the Output Specification and at point 20 below.
- f) Provision of commercial/retail units/offices to provide a 'mixed use' element.
- g) New site access/egress points to the site.
- h) Public realm for residents and visitors. Play areas and landscaping to be delivered by the Developer. Also a bat house (already present) is to be retained and incorporated into the site as a "wilding" area and is incorporated in Atkins' GA drawings at item [] in the Data Room.
- i) Provision of a craning facility (as part of the canal infrastructure design) for a mobile crane, being a tarmacked/paved area that would be public space when not in use for purpose, built for heavy goods use and the movement of barges to and from the canal. To be in the specific area opposite the main entrance and which forms part of Atkins' infrastructure design, with the land to be owned by the CiC.

Building for Life 12 and Building with Nature will be the criteria against which proposals will be assessed.

5. THE SITE

5.1. The site is Brimscombe Port, Thrupp comprising approximately 10 acres and identified as the site edged red on the attached plan A and being registered at HM Land Registry under the following title numbers:

GR156353 (Freehold)
GR164075 (Freehold)
GR177619 (Freehold)
GR318008 (Freehold)

5.2. The transfers of the land comprising the site to the Developer and third parties is set out in paragraph 21 below.

6. DELIVERY

6.1. The Developer will be responsible for and fund (subject to paragraph 17 below) any remaining demolition, site clearance, remediation, planning, design, construction, development, property sales, and site management in order to enable delivery of the project. SDC has already undertaken and paid for the works specified in the Data Room at item [].

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6.2. The Developer and SDC will be committed to working in an open and innovative manner to successfully achieve the project objectives

7. DEVELOPER OBLIGATIONS:

These are as set out in SDC's Output Specification and are principally:

- a) To lead on community engagement and consultation;
- b) To obtain planning permission and funding for the main development;
- c) To construct the key infrastructure and development ;
- d) To market and sell the residential and commercial elements;
- e) To set up a community interest company to manage the public realm elements of the development and for ongoing maintenance of the canal and basin;
- f) To deliver social value (including sustainability) as part of the development;
- g) To ensure compliance with the conditions and milestones of SDC's funding agreements.

8. COUNCIL'S OBLIGATIONS:

SDC will:

- a) Provide or arrange the funding set out at paragraph 17 below;
- b) Provide vacant possession of the site (excluding the Port Mill and the Salt House);
- c) Secure an agreement with the Parish Council or other accountable body for the funding of the construction, fitting out and ownership of the community enterprise centre;
- d) In its capacity as Landowner, support the Developer with community engagement and consultation;
- e) Comply with the terms of the funding agreements.

9. DEVELOPMENT FINANCE

The Developer will maintain a Project Expenditure Account (PEA) that records the scheme income and costs. The Developer must on reasonable request supply copies of invoices or certificates to verify the PEA's accuracy.

10. SALE PROCEEDS

Proceeds from residential or commercial disposals will be credited to the PEA and first used to reimburse the Developer's development costs (and Developer profit). This will be encapsulated through a cash management agreement.

11. DEVELOPMENT COSTS

All costs of development are debits to the PEA and include all expenditure incurred in the reconstruction such as: surveys, investigations, fees for legal - planning - consultants - advisers - highways, stamp duty, irrecoverable VAT, insurance, site preparation, highways, remediation,

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drainage, landscaping, s104 s106 and s38 obligations, contingencies, architects, engineers, agents, interest, site management, security, insurances, contractors, materials.

12. COUNCIL COSTS

SDC is not expecting monetary receipts for its investment of land and capital funding contributed at the outset.

13. DEVELOPER PROJECT MANAGEMENT FEES

Developers are required to show any proposed developer project management fees in their financial modelling, along with payment dates. If it is a percentage cost, then the relevant percentage must be stated and the detailed method or computation set out along with the payment dates. No developer project management fees may be taken until SDC land value has been paid in accordance with the waterfall mechanic.

14. DEVELOPER PROFIT

This is to be determined through the competitive dialogue process and final bids. Land values will be assessed by reference to anticipated market values having deducted estimated development costs assembled in RICS based development appraisals.

15. DEVELOPMENT SURPLUS

If the Developer achieves its projected income levels as set out in the site development appraisals, it will share additional income over and above this threshold with SDC in a 50:50 // SDC:Developer proportion.

16. RISKS

- 16.1 Development risks will be the Developer's responsibility.
- 16.2 The Developer shall submit its viability appraisal by [date] and the final appraisal by [date].

17. PUBLIC INVESTMENT/FUNDING

SDC has secured funding for the scheme from Homes England (£2m) and the Government's Land Release Fund (£776k). SDC has also committed £750k to the project.

18. PLANNING

- 18.1 SDC has procured the design of the infrastructure on the site and achieved planning permission - references S.19/1502/FUL and S.19/1503/LBC.

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- 18.2 The Developer shall obtain a satisfactory planning permission for the main development site. This will be subject to review before submission by the South West Design Review Panel and subject to approval of SDC as landowner and Homes England as funder.
- 18.3. Satisfactory planning permission is achieved where the permission allows the project to proceed in the manner set out in the contract with no materially onerous conditions, where an onerous condition would cost the Developer more than 10% of the projected development costs of any of the proposed works.

19. INFRASTRUCTURE WORKS CONTRACT

SDC is procuring a Design and Build contract for the infrastructure works as identified in the Output Specifications provided at item [] in the Data Room and the B&D Contract provided at item [] in the Data Room. It is the Developer's choice whether it enters into this building contract or decides to pursue a new one independently. Either way, the Developer shall provide collateral warranties to SVCC for the infrastructure works undertaken upon completion.

20. BUILDING CONTRACTS AND SUB-CONTRACTS

- 20.1. The Developer will appoint all necessary contractors. SDC will have the right to approve any contracts covering any part of the Project in which it is invested, e.g. the community enterprise centre and the canal infrastructure.
- 20.0 Usual collateral warranties for the aspects of the Project that are being developed for SDC will be provided by the main contractor and any sub-contractors with any design responsibility prior to PC sign off. SDC may appoint a monitoring surveyor.

21. LAND TRANSFERS

21.1 Brimscombe Port Mill and The Salt House (Listed Buildings)

- a) Brimscombe Port Mill does not form part of the redevelopment. Parking for the building will have to be maintained throughout the redevelopment and parking lost due to the reinstatement of the canal and basin will need to be replaced by the Developer. The Developer shall within the existing curtilage provide temporary parking to the current provision, and at the end of the development provide a similar level of parking capacity within the development. Furthermore:
- i. The Salt House does not form part of the redevelopment.
 - ii. The Development parcels shown on the Plans at paragraph 5 above (item [] in the Data Room) will transfer to the Developer.

21.2. Development

- a) An Agreement for Lease will be entered into with the Developer for the whole of the site on or before golden brick. This agreement will provide for two types of land transactions to occur.

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Regarding all commercial, leasehold residential and community space, there will be a 999 year lease granted by SDC to the Developer either on golden brick itself or on practical completion (subject to further discussions between the parties and financial modelling). Regarding the residential houses only on the site (if any), SDC will transfer the relevant units directly to the end purchaser (through the agency of the Developer).

- b) Prior to the above land transactions, the Developer shall enter into a building licence for the site (to provide the Developer with access to undertake the works) which will be terminable upon breach.

21.3 Canal infrastructure

- a) The freehold interest in the completed canal, port basin and all related infrastructure (or grant of appropriate rights in respect of such infrastructure) will transfer to SVCC for nil consideration. The works are to be built to a contract mechanism - i.e. the Developer is responsible for undertaking and meeting the cost of the canal infrastructure specification (subject to paragraph 17 above) and on PC of these works will provide a usual warranty package to SVCC.

22. COMMUNITY/SOCIAL ENTERPRISE CENTRE

- 22.1 SDC is committed in principle to providing land or space for a community enterprise centre. The preferred location for this is hatched black on the relevant plan provided at item [] in the Data Room and will provide a minimum GEA of 335m² and a maximum of 670m². The location will also include an outdoor area for the provision of seating and a children's play area (such area to be defined) but will not exclude the submission of alternative options.
- 22.2 The detailed specification will be agreed and construction and fitting out costs will be met by the Parish Council (or another accountable body), and the Developer shall plan the construction of this as part of the build programme. The Parish Council will be granted a long lease of the facility (125 years) for a peppercorn rent.

23. MANAGEMENT COMPANY

- 23.1 A property CiC will be formed to manage and maintain the public spaces, structures and parking on site. The CiC will be responsible for the private space, SVCC will be responsible for canal walk areas etc., and SDC will ensure that the remaining space and access roads are adopted.
- 23.2 Surface water discharge consents, or any other suitable mechanisms from the site, will be utilised to financially maintain the restored canal and basin. Total funding from the Port site is modelled to be no less than £50k per annum. There is currently agreement between SDC and SVCC as to this payment in perpetuity to cover the running costs of the basin. These maintenance costs will be covered by mooring licences and other contracts following PC.

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24. MILESTONES AND LONGSTOP DATE

Please see Key Milestone chart provided at item [] in the Data Room.

25. BOND

The Developer is required to provide these and shall include proposals in their bid documents.

26. INSURANCE

The Developer is to insure from site entry.

27. GUARANTEES

Where the development is to be undertaken by a shelf company, the Developer shall set out what guarantees it is offering to support the project's delivery.