



Mayor and Cabinet

Besson Street: Annual Business Plan Update

Date: 6 July 2022

Key decision: Yes

Class: Part 1

Ward(s) affected: Telegraph Hill

Contributors: Executive Director for Housing, Regeneration and Environment, Executive Director for Corporate Resources, Director of Law

Outline and recommendations

The Mayor and Cabinet agrees the fifth annual Business Plan for Besson Street attached as **Appendix A** to the Part 2 report; and

Delegates authority to the Executive Director for Corporate Resources and Executive Director for Housing, Regeneration and Environment to implement the Besson Street Business Plan once finalised including agreeing that the Final Viability Test has been achieved provided that the Council's Red Lines have been met with the exception of the minimum internal rate of return (IRR) which must be equal to or greater than 6% instead of the 7% as set out in the Joint Venture Agreement; and

approves the replacement of Katharine Nidd by Patrick Dubeck as a Member Representative on Lewisham Grainger Holdings LLP and Besson Street LLP and as a Director of Besson Street Second Member Limited; and

agrees to enter into a Deed of Indemnity with Patrick Dubeck in respect of the appointments referred to above.

Timeline of engagement and decision-making

Annual Business plan Update, approved by Mayor and Cabinet, 14 July 2021

Update and Land Transfer to the Joint Venture, 4 March 2022

1. Summary

- 1.1. As part of the JV Governance, Reporting and Council Oversight arrangements approved by Mayor and Cabinet in December 2017, it was agreed that the Besson Street Business Plan would be updated annually and then presented to Mayor and Cabinet for approval.
- 1.2. This Part 1 report provides information on the fifth annual Besson Street Business Plan, which has been updated to reflect the achievement of the initial viability test, the transfer of the Besson Street site to the joint venture, the continued refinement of the design, and the start of the process to procure a contractor for the build. The accompanying Part 2 report provides commercially sensitive financial information in relation to the Business Plan.
- 1.3. The main differences between the previous Business Plan and the new Business Plan are set out in section 5 below.

2. Recommendations

- 2.1. It is recommended that Mayor and Cabinet:
- 2.2. Agrees the fifth annual Besson Street Business Plan attached as **Appendix A** to the Part 2 report; and
- 2.3. Delegates authority to the Executive Director for Corporate Resources and Executive Director for Housing, Regeneration and Environment to implement the Besson Street Business Plan once finalised, including agreeing that the Final Viability Test has been achieved provided that the Council's Red Lines have been met with the exception of the minimum internal rate of return (IRR) which may be equal to or greater than 6% instead of the 7% as set out in the Joint Venture Agreement;
- 2.4. approves the replacement of Katharine Nidd by Patrick Dubeck as a Member Representative on Lewisham Grainger Holdings LLP and Besson Street LLP and as a Director of Besson Street Second Member Limited; and
- 2.5. agrees to enter into a Deed of Indemnity with Patrick Dubeck in respect of the appointments referred to in recommendation 2.4 above.

3. Policy Context

- 3.1. **Policy Context**
- 3.2. The Council's Corporate Strategy (2018-2022) outlines the Council's vision to deliver for residents over the next four years. Building on Lewisham's historic values of fairness, equality and putting our community at the heart of everything we do, the Council will create deliverable policies underpinned by a desire to promote vibrant communities, champion local diversity and promote social, economic and environmental sustainability. Delivering this strategy includes the following priority outcomes that relate to the provision of new affordable homes:
- 3.3. Tackling the Housing Crisis – Providing a decent and secure home for everyone.

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- 3.4. Building an Inclusive local economy – Ensuring every resident can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
- 3.5. Building Safer Communities – Ensuring every resident feels safe and secure living here as we work together towards a borough free from fear of crime.
- 3.6. Lewisham’s Housing Strategy (2020-2026), includes the following themes that relate to the provision of new affordable homes:
 1. Delivering the homes that Lewisham needs.
 2. Preventing homelessness and meeting housing need.
 3. Improving the quality, standard and safety of housing.
 4. Supporting our residents to live safe, independent and active lives.
 5. Strengthening communities and embracing diversity.

4. Background

- 4.1. On 9 December 2015, Mayor and Cabinet agreed that the Council should seek to develop a Build to Rent development on the Besson Street site using a Joint Venture (JV) with an experienced private sector partner, in order to bring in expertise and share risk.
- 4.2. On 13 July 2016, and following an extensive review of the ways in which the Council could both play an active role in the private rented sector, and could generate a sustainable income to support service provision, Mayor and Cabinet agreed that officers should start a selection process, to select a partner to form a JV to deliver a Build to Rent housing scheme on Besson Street.
- 4.3. On 6 December 2017 Mayor and Cabinet approved the selection of Grainger plc as the Council’s preferred bidder to form a JV to deliver the Besson Street development in the manner previously agreed.
- 4.4. This 50/50 partnership between the Council and Grainger has created a new ethical and socially-minded commercial landlord, which will set new standards including:
 - Offering tenants a residency period of at least 10 years, by providing a five year tenancy with an automatic right to renew;
 - Tenants however, will have the flexibility to leave at a time of their choosing;
 - Rent increases will be fixed at the time of sign-up, and linked to inflation (CPI), so that tenants can know in advance what rent they will pay in the future;
 - Tenants will deal with their landlord direct. There will be no agents, and therefore no fees;
 - Tenants will benefit from a very high standard of housing management and additional services including:
 - 24/7 responsive repairs
 - Pet friendly options
 - The opportunity to customise their home
- 4.5. The structure of the development itself, and the JV landlord that will bring it forward will also create additional social benefits for the Council. The nature of the structure incentivises a patient and long-term return, meaning that there is less pressure on the partnership to generate an up-front return. The Council is effectively investing rather than selling its land, and this again reduces the imperative to drive up-front receipts. The net effect of this arrangement, in the case of Besson Street, enables:

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- A model where homes are rented rather than sold, and owned by the company that develops them, creating an inherent incentive to build high quality new homes and to maintain them effectively;
 - The provision of 35% affordable housing to be delivered as the London Living Rent product aimed at low-to-median earning Lewisham households;
 - Genuine tenure-blind development, with all homes built to the same standard, all tenants having the same service offer regardless of tenure, full pepper-potting across the development and an equal distribution of living and full market rents across all unit sizes;
 - A new and fully-fitted out GP surgery and health centre for New Cross. This is in keeping with the original ethos of the scheme, as a healthy living development;
 - A stable, long term and inflation linked income to the Council; and
 - A continuing 50% ownership by Lewisham Council of the site and the development.
- 4.6. In December 2017, Mayor and Cabinet also agreed the Heads of Terms that had been negotiated with Grainger through the partner selection process, and agreed that the Council could enter into a JV with Grainger on those terms.
- 4.7. In March 2018 Mayor and Cabinet agreed the final terms of the agreement to form the JV with Grainger, and approved the Officers' Mandate and Governance Guide and Indemnities required to establish the JV Company.
- 4.8. At the Mayor and Cabinet in March 2018, authority was delegated to the Executive Directors of Resources and Regeneration to agree the first annual Besson Street Business Plan, which was agreed on 10 September 2018.
- 4.9. The JV agreement was then formally signed in November 2018, and since then, the partnership has been working to design the Besson Street development based on the agreed vision of the site.
- 4.10. At the Mayor and Cabinet in June 2019 the draft second annual Besson Street Business Plan was approved.
- 4.11. At the Mayor and Cabinet meeting of the 9 July 2020 the third annual Besson Street Business Plan was approved.
- 4.12. The planning application for the Besson Street development was submitted by the Besson Street LLP on 13 November 2019, and was validated on 4 December 2019. The Planning Committee granted planning permission on 30 July 2020 for the following development:
- 324 residential units (35% affordable at London Living Rent level) in six blocks (Block A1– D), ranging in height between three and 12 storeys
 - 550sqm dedicated resident amenity space, with direct access to a roof terrace
 - 690sqm GP surgery
 - 120sqm pharmacy
 - 122sqm community centre
 - 100sqm flexible commercial space
- 4.13. The original planning application was approved by the strategic planning committee on 30 July 2020.
- 4.14. The application was returned for consideration at the Strategic Planning committee 15th December 2021, following an application stage design review panel review and an independent Noise Survey being undertaken in relation to the adjacent Music Room.

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The committee resolved to grant permission subject to planning conditions and conclusion of a S106 legal agreement.

- 4.15. The application was referred to the GLA for a Stage 2 response, which raised no objections to the proposals, or the draft S106.
- 4.16. The S106 legal agreement was finalised on the 12 January 2022, and full planning approval was achieved on the 28 January 2022.
- 4.17. Following the successful achievement of the Initial Viability test, the project has now entered the Final Viability stage in accordance with the current year's agreed business plan.
- 4.18. The Executive Director for Corporate Resources and Executive Director for Housing, Regeneration and Environment approved the land transfer to the JV in March 2022, in accordance with the current Business Plan as agreed by Mayor and Cabinet of the 14 July 2021.

5. Key updates in the fifth annual Besson Street Business Plan

- 5.1. The fifth annual Business Plan is attached as Appendix A to the Part 2 report. This is an updated version of the previous Besson Street Business Plan that was agreed by Mayor and Cabinet in July 2021.
- 5.2. The Besson Street Business Plan defines the activities of the JV in relation to the Besson Street site. It sets out:
 - The Vision and Red Line Requirements for Besson Street;
 - The Development Management Approach, including key appointees, project board members, programme dates, key design objectives, unit mix, planning strategies and the construction and delivery approach;
 - The Asset and Operational Management Approach, including the community and place making approach and the stabilised operating expenditure aims;
 - The Housing Management Approach, including the product offer and the creation of the Besson Street resident's charter;
 - The Stakeholder and Community Engagement Approach;
 - The Financial Summary, including the minimum financial requirements, the management fees and transfer land value calculation model, funding assumptions, details of future investment, cost predictions based on an increased scheme density, and details of how each partner will obtain approvals from within their own organisations;
 - The Risk Management Strategy; and
 - Agreed Key Performance Indicators.
- 5.3. The second annual Business Plan expanded and provided additional detail to all of the above elements, informed by the ongoing design process, although the essential approaches set out Business Plan remained the same.
- 5.4. The third Business Plan was updated in light of the submission of the planning application, the key milestones in the period post planning approval, and recent COVID 19 issues.
- 5.5. The fourth and current annual Business Plan was updated to reflect the delayed submission of the planning application, and revised the key milestones for the period post planning approval concluding the pre development phase, which concluded with the Initial Viability Test being achieved, which triggered the transfer of the land from the Council to the JV and the start of the Final Viability Phase.
- 5.6. The fifth annual Business Plan updates are summarised below:

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The Besson Street Procurement Strategy – The procurement period will commence from the first week in June to the end of April 2023 and the approach remains;

i. A hybrid approach whereby following a pre-qualification exercise a shortlist of contractors (probably 3 to 4) are invited to tender on the completion of a robust Stage 3 design with the Stage 4 design work continuing in tandem by the JV to keep control of the design and ensure continuity of the design team.

ii. Once the contractors return their price based on the Stage 3 information one will be selected to reconcile their price based on the Stage 4 information. At this point a collaborative approach will be adopted whereby the selected contractor works with the JV and its design team to finalise the lump sum price and add any value with buildability/VE advice on the Stage 4 design. This period of time will attract a Pre-construction Services Agreement (PCSA) fee as included within the Gardiner & Theobald (G&T) cost plan.

iii. It is worth noting, that it will be a requirement that contractors provide a fixed price for certain elements of the scheme during the first stage to increase cost certainty for the JV as it enters into the second stage of the process when the competition will be reduced.

Given the current market conditions and inflationary pressures, this approach will be kept under constant review based on market feedback by G&T and Arcadis. A collaborative approach between the JV and the selected Contractor would be required to be able enter into a viable build contract

Employment and Local Labour - The JV is committed to ensuring that employment and training opportunities are made available that benefit local residents. Prior to commencement of the works a Local Labour and Business Strategy will be submitted to and agreed with the LPA (as part of the Section 106 commitments). This strategy will include a jobs apprenticeships training and business strategy for the Development setting out strategies and initiatives to provide and improve training employment and business contract opportunities within the Borough of Lewisham and assist local people and local businesses to secure employment or business opportunities at the Development, including:

- Routes to employment including direct access to employment opportunities at the development and addressing wider barriers to employment;
- recommended training routes to secure jobs;
- proposals to encourage diversity in the workforce;
- measures to encourage local businesses to apply for work and/or secure contracts in relation to the Development;
- training opportunities and employment advice or programmes and employment and training brokerage arrangements;
- provision of opportunities for modern apprenticeships
- interview arrangements for jobs;
- arrangements for working within schools and colleges; and
- targets for monitoring the effectiveness of the strategy.

The JV will actively look to recruit local residents for permanent job opportunities in the end development (for example concierge and maintenance roles).

Post Planning Engagement Strategy – Following the successful post-planning progress briefing which took place at the Music Room, the next steps are now to revisit the post-planning engagement strategy once further progress is made with the procurement process. Ultimately, there will be a reliance on the on the appointed main Contractor's resource and presence on site to drive engagement with local stakeholders.

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The Programme - for the previous Business Plans, compared to the current programme is set out below:

Milestones	1st Business Plan	2nd Business Plan	3rd Business Plan	4th Business Plan (Current)	5th Business Plan (New)
Enter into JV legal agreements. Formation of LLP	March 2018	November 2018	N/A	N/A	N/A
Appoint Consultant Team	March 2018	December 2018	N/A	N/A	N/A
Commence Planning Design Work	March 2018	December 2018	N/A	N/A	N/A
Consultation, Engagement and Design	April 2019 – October 2019	January 2019 – July 2019	January 2019 November 2019	N/A	N/A
Planning Submission	Autumn 2018	Summer 2019	Winter 2019	N/A	N/A
Detailed Planning Consent	Winter 2019	Spring 2020	Autumn 2020	Summer 2021	Winter 2022
Start on Site	Winter 2019	Spring 2021	2021	Autumn 2022	Spring 2023
Practical Completion	Winter 2021	2023	2024	Autumn 2025	Spring 2025

The Financial Summary

- 5.7. The financial summary section of the Business Plan has been updated based on the additional information established by the design phase, the successful achievement of planning, and as a result of the actual funds required for the completion of the Initial Viability Test and pre development phase.
- 5.8. Further details on the financial summary are contained in the Part 2 report.

6. Financial implications

- 6.1. The Council will be required to inject equity into the JV to ensure its 50:50 ownership is retained. This equity will take the form of both the land and cash. The Council has now agreed to transfer the land into the JV following the achievement of the initial viability test in March 2022 during the current business plan year further details of which are included in the Part 2 report.
- 6.2. Further financial implications are referred to in the Part 2 report.

7. Governance

- 7.1. The Council currently only has the required two Member Representatives on Lewisham Grainger Holdings LLP and Besson Street LLP which is David Austin, Director of Finance and Katharine Nidd, Head of Strategic Finance, Planning and Commercials. However, both of these officers are within the Corporate Resources Directorate and it is more appropriate that the representation reflects both the Council's financial investment and housing delivery priorities. This report therefore recommends that Katharine Nidd steps down from this appointment and that Patrick Dubeck, Director of Inclusive Regeneration is appointed as the Council's second Member Representative on both LLPs.

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- 7.2. The Council also needs to remove Katharine Nidd as a Director of Besson Street Second Member Limited which is the second dormant member of Besson Street LLP, the other member being Lewisham Grainger Holdings LLP and appoint Patrick Dubeck in her stead.
- 7.3. Under the Local Authorities (Indemnities for Members and Officers) Order 2004 the Council has power to indemnify its members and officers and insure them where they carry on functions when acting as the Council's representatives at the Council's request. In line with the indemnities previously given to officers acting in this capacity in respect of the JV, this report therefore requests approval to provide an indemnity to Patrick Dubeck in respect of each of the proposed appointments.

8. Legal implications

- 8.1. Detailed legal implications are set out in the previous reports to Mayor and Cabinet and other legal implications are contained in the body of this report and in the Part 2 report.
- 8.2. The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.3. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 8.4. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 8.3 above.
- 8.5. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for Mayor and Cabinet, bearing in mind the issues of relevance and proportionality. Members must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 8.6. The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act->

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9. Background papers

- 9.1. Besson Street: Annual Business Plan Update, Approved by Mayor and Cabinet 14 July 2021:

https://lewishamcouncil.sharepoint.com/:b:/s/StratDev/EUevwiyupM1lvurGegpV_UcBhs-7M0Kx-a8LDzIWjlA3oQ

10. Report author and contact

- 10.1. Angela Bryan – Strategic Development Officer
020 8314 3015 – Angela.bryan@lewisham.gov.uk

11. Comments for and on behalf of the Executive Director for Housing, Regeneration and Public Realm

- 11.1. Shola Ojo – Principal Account
0208 314 7778 – shola.ojo@lewisham.gov.uk

12. Comments for and on behalf of the Director of Law, Governance and HR

- 12.1. Joy Ukadike – Senior Planning Lawyer
0208 314 6908 – Joy.Ukadike@lewisham.gov.uk

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