



Mayor and Cabinet

Besson Street: Annual Business Plan Update

Date: 20 September 2023

Key decision: Yes

Class: Part 1

Ward(s) affected: Telegraph Hill

Contributors: Interim Executive Director for Corporate Resources, Interim Executive Director of Place, Director of Law

Outline and recommendations

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

Delegates authority to the Interim Executive Director of Corporate Resources, in consultation with the Interim Executive Director of Place, to implement the Besson Street Business Plan once finalised.

Agree to reduce the Council's financial threshold of a 7% IRR so that the scheme can proceed with an IRR of 6% or above.

Agree a revised finance strategy to permit the Council to input up to 50% of the debt funding required during the development phase and to delegate to the Interim Executive Director of Corporate Resources, in consultation with the Interim Executive Director of Place, to vary (if required) the Hold Co agreement to reflect this revised strategy.

Delegate authority to the Interim Executive Director of Corporate Resources, in consultation with the Interim Executive Director of Place, to approve and implement (based upon professional advice) a first buyer, second buyer structure to improve tax efficiency and to vary (if required) the legal agreements to reflect this new structure.

Delegate to the Interim Executive Director of Corporate Resources, in consultation with the Interim Executive Director of Place the further extension/s necessary to the longstop date of the Option Agreement for Besson Street such that the longstop date for exercise of the option and subsequent land transfer is extended to align with the anticipated date for the satisfaction of the Final Viability Test, currently expected to be August 2024.

Timeline of engagement and decision-making

Annual Business plan Interim update report, approved by Mayor and Cabinet, 19 July 2023

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 sixth annual Besson Street Business Plan, which has been updated to reflect the progress during the current year and notably the second staircase redesign process along with the proposed variation to the financial strategy to seek to deliver a financially viable scheme. 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 sixth annual Besson Street Business Plan attached as **Appendix A** to the Part 2 report: and
- 2.3. Delegates authority to the Interim Executive Director of Corporate Resources, in consultation with the Interim Executive Director of Place, to implement the Besson Street Business Plan once finalised.
- 2.4. Agree to reduce the Council's financial threshold of a 7% IRR so that the scheme can proceed with an IRR of 6% or above.
- 2.5. Agree a revised finance strategy to permit the Council to input up to 50% of the debt funding required during the development phase and to delegate authority to the Interim Executive Director of Corporate Resources, in consultation with the Interim Executive Director of Place, to vary (if required) the Hold Co agreement to reflect this revised strategy.
- 2.6. Delegate authority to the Interim Executive Director of Corporate Resources, in consultation with the Interim Executive Director of Place, to approve and implement (based upon professional advice) a first buyer, second buyer structure to improve tax efficiency and to vary (if required) the legal agreements to reflect this new structure.
- 2.7. Delegate to the Interim Executive Director of Corporate Resources, in consultation with the Interim Executive Director of Place the further extension/s necessary to the longstop date of the Option Agreement for Besson Street such that the longstop date for exercise of the option and subsequent land transfer is extended to align with the anticipated date for satisfaction of the Final Viability Test, currently expected to be August 2024.

3. Policy Context

- 3.1. **Policy Context**

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- 3.2. The Council's Corporate Strategy (2022-2026) 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 to the provision of quality housing in the borough:
- Tackling the Housing Crisis – deliver more social homes for Lewisham residents, working to provide as many people as possible with safe, comfortable accommodation that they can be proud of and happy living in.
 - Develop a Lewisham Repairs Charter – improving the condition of the borough's housing stock.
 - Support for renters – providing support through further landlord licensing and enforcement of poorly managed homes, holding landlords to account and giving a voice to renter across the borough.
 - Safeguarding our heritage – preserving and restoring our historic buildings and landmarks, ensuring Lewisham's history is preserved and maintained for future generations.
- 3.3. 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

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- 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:
- 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 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.
- 4.1. At the Mayor and Cabinet in June 2019 the draft second annual Besson Street Business Plan was approved.
- 4.2. At the Mayor and Cabinet meeting of the 9 July 2020 the third annual Besson Street Business Plan was approved.
- 4.3. 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 twelve storeys

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- 550sqm dedicated resident amenity space, with direct access to a roof terrace
 - 690sqm GP surgery
 - 120sqm pharmacy
 - 122sqm community centre
 - 100sqm flexible commercial space
- 4.4. The original planning application was approved by the strategic planning committee on 30 July 2020.
 - 4.5. 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. The committee resolved to grant permission subject to planning conditions and conclusion of a S106 legal agreement.
 - 4.6. The application was referred to the GLA for a Stage 2 response, which raised no objections to the proposals, or the draft S106.
 - 4.7. The S106 legal agreement was finalised on the 12 January 2022, and full planning approval was achieved on the 28 January 2022.
 - 4.8. Following the successful achievement of the Initial Viability test, the project entered the Final Viability stage in accordance with the current year's agreed business plan.
 - 4.9. 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 the 14 July 2021 Mayor and Cabinet.
 - 4.10. The 'Initial Viability Test' was confirmed as satisfied in June 2022 and the relevant notices served, however the transfer of the land into the ownership of the JV has not yet occurred. The members agreed on 18th October 2022 to postpone the transfer of the land into the JV's ownership until there is greater clarity on the start on site date.
 - 4.11. As a result of the above the longstop date for drawing down the land value was extended to 6th November 2023.
 - 4.12. A decision was made to continue to work on the stage 4 design before commencing the procurement process for the contractor rather than procure at end of stage 3. This decision was made due to the unprecedented rise in inflation and seeking to de-risk the scheme whilst waiting for the market to settle. However, market uncertainty has been further compounded by the potential changes in building regulations and the potential need to include a second staircase in residential dwellings.
 - 4.13. The Loan Agreement for Grainger plc (GPlc.) to provide funding to the JV for the Final Viability Test Phase (detailed design and main contractor procurement) is in place.
 - 4.14. This provides funding for detailed design and main contractor procurement along with the refinancing of all other costs incurred to date. The current loan agreement expired on 30th June 2023.
 - 4.15. Given the delays to the commencement for the procurement of the main contractor, the current scheme viability and the added uncertainty of the second staircase redesign there was a requirement to extend the term of the loan agreement.
 - 4.16. 19 July Mayor and Cabinet approved the extension of the loan agreement to 31 October 2023 and to increase the loan sum.
 - 4.17. 19 July Mayor and Cabinet also approved the appointment of Katharine Nidd (to replace David Austin) as a Member Representative on Lewisham Grainger Holdings

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LLP and Besson Street LLP and as a Director of Besson Street Second Member Limited and agreed to enter into a Deed of Indemnity with Katharine Nidd in respect of the appointments.

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

- 5.1. The sixth 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 2022.
- 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 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 also concluded with the Initial Viability Test being achieved, which triggered the potential 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 concluded that the Final Viability Test had 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.
- 5.7. The fifth annual business plan also approved 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 agreed to enter into a Deed of Indemnity with Patrick Dubeck in respect of the appointments.
- 5.8. The sixth annual Business Plan updates are summarised below:
The Procurement Strategy
- 5.9. The following main contractors were shortlisted following a competitive PQQ (Superseded by the SSQ (Standard Selection Questionnaire)) process in Q3 2022

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(based on the previous two-stage procurement strategy):

- McLaren
- Sisk
- Vistry
- Higgins
- Bouygues.

The RIBA Stage 4a design work is now complete, and the revised strategy will propose to procure a main contractor on a single stage basis. A single stage procurement process is the most reasonable tendering strategy going forward, which will save time and reduce risk by agreeing to a construction price with a selected contractor.

- 5.10. The current programme assumption is that main contractor procurement will commence in January 2024 (upon the assumed completion of any second staircase related redesign), with selection of a preferred main contractor in June 2024.
- 5.11. The SSQ shortlisted contractors will need to be reassessed in time to reconfirm their suitability and interest.
- 5.12. The Procurement Strategy will also be reviewed by the Development Manager on an ongoing basis and updated by Gardiner & Theobald as appointed Quantity Surveyor prior to approval of the procurement route and programme.
- 5.13. There are no changes to the procurement principals, as detailed in previous reports.

Amendments to Planning Consents

- 5.14. Due to the changes required as a result of the second staircase related redesign, a planning amendment application will need to be submitted within the next reporting period to reflect the changes to the design since the original planning consent was granted.
- 5.15. The Department for Levelling Up Housing and Communities, have indicated that the transitional period for this change will be short, stating it “encourage[s] all developments to prepare for this change now.”
- 5.16. A pre-application meeting was held with the planning department on 11th May 2023 during which the Case Officer indicated that the extent of the changes made are within the scope of a Non-Material Amendment (NMA) application, so will limit further delays to the planning approval process.
- 5.17. However, the submission of the NMA application will need to be delayed until any required redesign to incorporate a second staircase into impacted buildings has been made. This development has four of the five residential buildings which are over 18m and one which is over 30m in height, so this will have a significant impact on both cost and redesign.
- 5.18. The government consultation period initially ran until 17th March 2023 with guidance expected in October of 2023. However, it remains uncertain as to the exact date that the revised Approved Document B will be issued and the timeline in which these regulatory changes will take effect.
- 5.19. As a result of the above members agreed at the Members’ Meeting on 14th June 2023 to pause further progress on the project between July 2023 and October 2023 (whilst confirmation of the outcome of the Government’s second staircase consultation progresses).
- 5.20. The extended time would allow the time to explore changes that could be made to the development to enable the Viability Tests to be met.

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Section 106 Agreement

Affordable Housing

- 5.21. The S106 Agreement permits the London Living Rents (LLR) rents to increase for the duration of the tenancy in line with CPI + 1% up to the stated rent caps, the financial model assumes indexing of the affordable rent caps to enable rental growth at 3% per annum. This change will require agreement with planning and the GLA and an amendment to the S106 agreement, however, this change will aid the overall viability of the development.

LLP Structure Change

- 5.22. To enable the scheme to improve its viability, Members are considering a change in the structure of the LLP. The changes may enable tax efficiencies to be achieved subject to further professional advice.
- 5.23. The current LLP structure (which was originally established for corporation tax reasons) does not currently incorporate a first buyer, second buyer structure which subject to further tax advice may have advantages in terms of recoverability on VAT on professional fees and other costs.
- 5.24. This Business Plan seeks approval to amend the financing structure and make the required changes to the relevant legal agreements to allow for this change if approved by Members. Further details on the financial implications are provided in the Part 2 report.

Council Viability Test Requirements

- 5.25. The fifth annual business plan confirmed approval for the Initial Viability Test. LBL's Viability Test Requirement of "a minimum anticipated level of return generating a 7% Project IRR over a 10-year investment period" is being reduced and approval is being sought by Members so that the Council can proceed within an IRR tolerance of 6% or above for the purposes of the Initial Viability Test.
- 5.26. As a result of the above the Initial Viability Test was confirmed as satisfied on 30th June 2022. Under normal circumstances this milestone would have triggered the transfer of the land to the JV. However, a decision was made by Members on 18th October 2022 to postpone the transfer of the land into the JV. The parties subsequently agreed an extension to the Option Agreement on 28th October 2022 extending the longstop date for the exercise of the option and subsequent transfer of the land until 6th November 2023. It is proposed that the land transfer is now aligned with the successful completion of the Final Viability Test and Mayor and Cabinet are therefore asked to delegate to the Interim Executive Director of Corporate Resources, in consultation with the Interim Executive Director of Place, the further extension/s necessary to the longstop date to enable this. The Business Plan for 2023/24 expects this to be August 2024.
- 5.27. The 2022-23 business plan committed to reviewing the inputs to the financial model throughout the final viability phase and to work with members to improve the viability test metrics.
- 5.28. Currently, neither the Council nor Grainger's viability tests are being met.
- 5.29. The sixth annual business plan now requires a further extension to August 2024 for the land transfer in line with the anticipated start on site date and the conclusion of the final viability test. This will provide more time for members to determine an appropriate financial strategy, i.e. exploring opportunities to achieve the required cost savings and or value increases to bring forward a viable scheme and meet the viability test metrics.
- 5.30. A number of options will be explored including the use of grant funding further value

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engineering and an option for the Council to provide development finance into the scheme. Further details of these options are contained in the Part 2 report.

- 5.31. Members will work in the following months to evaluate the opportunities described above to achieve the JV's acceptable terms and overall viability prior to commencing further work on the scheme. Upon determining a path forward within the JV's acceptable terms (and in line with the approvals provided by Mayor and Cabinet as set out in this report), the JV will then seek approval from its Members to proceed with tendering and subsequently the Final Viability Test.
- 5.32. The Final Viability Assessment Phase will end when, the Financial Model shows that the Viability Tests (to the extent not waived by either the Council or Grainger) are satisfied.
- 5.33. It is important that the council do not miss the opportunity to secure such an important development for the area, providing much needed housing, along with the re-provision of the existing GP surgery on Queens Road along with a pharmacy community facility and an improved public realm.

The Programme

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

Milestones	1 st Business Plan	2 nd Business Plan	3 rd Business Plan	4 th Business Plan	5 th Business Plan (Current)	6 th Business Plan (New)
Enter into JV legal agreements. Formation of LLP	March 2018	November 2018	N/A	N/A	N/A	N/A
Appoint Consultant Team	March 2018	December 2018	N/A	N/A	N/A	N/A
Commence Planning Design Work	March 2018	December 2018	N/A	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	N/A
Planning Submission	Autumn 2018	Summer 2019	Winter 2019	N/A	N/A	N/A
Detailed Planning Consent	Winter 2019	Spring 2020	Autumn 2020	Summer 2021	Winter 2022	N/A
Start on Site	Winter 2019	Spring 2021	Spring 2021	Autumn 2022	Spring 2023	Summer 2024
Practical Completion	Winter 2021	Spring 2023	Spring 2024	Autumn 2025	Spring 2025	Spring 2027

The Financial Summary

- 5.35. The financial summary section of the Business Plan has been updated based on the additional costs of the redesign of the second staircase for the block that is over 30 meters. A sensitivity has also been carried out if the blocks over 18 meters also require a second staircase, along with the revised financial strategy to support a viable scheme.
- 5.36. Further details on the financial strategy are contained in the Part 2 report.

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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 agreed to transfer the land into the JV following the achievement of the initial viability test in March 2022, however the land transfer is now proposed to be delayed to August 2024 which is the current target for satisfying the final viability test.
- 6.2. Given current challenges with inflation and borrowing costs the JV is looking for alternative funding arrangements. The proposal now is that each partner of the JV funds 50% of the development phase cost via loan agreements.
- 6.3. Further financial implications are referred to in the Part 2 report.

7. Legal implications

- 7.1. In relation to the proposal that the Council inputs up to 50% of the debt funding required during the development phase, it is important that this loan is made to the JV at a proper commercial rate to satisfy subsidy control requirements.

8. Equalities implications

- 8.1. This development will provide increase the number of social rent homes in the borough to enable more households on low incomes to access secure and safe accommodation, which will have positive equalities implications.
- 8.2. It should be noted that the Council is committed to ensuring developments are inclusive and feature accessible and adaptable homes that would meet the needs of our residents throughout their life.

9. Background papers

- 9.1. Besson Street: Annual Business Plan Update, Approved by Mayor and Cabinet 6 July 2022:

[Besson Street Annual Business Plan Update Part 1.pdf](#)

10. Report author and contact

- 10.1. Angela Bryan – Strategic Development Officer
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11. Comments for and on behalf of the Executive Director for Housing, Regeneration and Public Realm

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

- 12.1. Melanie Dawson – Principal Lawyer
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