

Bath & North East Somerset Council		
DECISION MAKER:	Cabinet Member Economic Development	
MEETING/ DECISION DATE:	23 June 2017	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2987
TITLE:	To extend the previous Cabinet resolution dated 2 December 2015 relating to Aequus Developments Limited to permit the Grant of a Lease and Loan to Aequus Construction Limited (a wholly owned subsidiary of Aequus Developments Limited)	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1 Legal advice		
Appendix 2 Accountant advice		
Appendix 3 Side letter		
Appendix 4 Cabinet resolution of 2 December 2015 re ADL		

1 THE ISSUE

- 1.1 The Cabinet Member Patrick Anketell-Jones for Economic Development is requested to exercise Rule 16, special urgency rule, to enable officers to progress with the transfer of a lease and the making of a loan to Aequus Construction Limited (a wholly owned subsidiary of Aequus Developments Limited) to enable the development of Riverside to proceed without further delay.

2 RECOMMENDATION

The Cabinet Member is asked to;

- 2.1 Resolve to extend the resolution of Cabinet dated 2 December 2015, relating to Aequus Developments Limited (ADL) so that reference to the “ company” includes reference to Aequus Construction Limited (ACL), a wholly owned subsidiary of ADL and in particular to permit :

2.2.1 a transfer of the Lease of Riverside to ACL

2.2.2 the extension of the delegated power in paragraph 7 (approval of Council investment) to enable the provision of the Loan to ACL.

2.2.3 the extension of the indemnity in paragraph 13 to Council Members and officers appointed as directors of ACL

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 Delay in the development of Riverside is resulting in unnecessary expenditure by the Council on security, maintenance and utility charges.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

4.1 ADL and ACL are separate legal bodies and the present delegations do not permit the current proposed transactions. Consequently, it is necessary to formally seek Cabinet approval to extend these delegations to ensure that the Council acts within its powers.

5 THE REPORT

5.1 Aequus Developments Limited (ADL) is a wholly owned B&NES company. Agreement to establish the company was provided by Cabinet on 2 December 2015.

5.2 External Legal advice (Appendix1) and Accountant advice (Appendix 2) has recommended that to minimise risk inherent in development and maximise return through an improved VAT and Corporation Tax position, the development of sites are undertaken by a wholly owned subsidiary of ADL.

5.3 The business case for the creation of ACL and it's involvement in Keynsham Riverside has been endorsed by the ADL board and approved by the Leader as shareholder representative of the Council as sole shareholder of ADL.

6 RATIONALE

6.1 Cabinet, on 2 December 2015, resolved to delegate to the Leader the exercise of all Council functions as sole shareholder of ADL, with the exception of any changes regarding ownership of the company. The formation of ACL has no impact on the ownership of ADL by the Council, it remains the sole owner, therefore the Leader authorised the formation of ACL by signing the Side Letter (Appendix 3) on 20 June 2017. The new subsidiary company ACL is now in the process of being formed and bank accounts created in readiness for the transfer of the Lease of Riverside and Council Loan to it.

6.2 The Cabinet resolution on 2 December 2015 (Appendix 4) delegated powers to officers in consultation with members to make land disposals (paragraph 5) and Council investment (paragraph 7) to ADL. However, in order to minimise risk and maximise returns from the development the proposed transfer of the Riverside Lease and Loan must be to ACL and not ADL.

6.3 The transfer of the Lease and the Loan to ADL needs to proceed as soon as possible. Currently the development is delayed pending finalisation of the Riverside Lease and completion of the Loan. Any delay is costly to the Council as it must continue to maintain and secure the Riverside building, pay utilities and incur costs in delaying the start of development.

7 OTHER OPTIONS CONSIDERED

- 7.1 It would be possible to delay this decision until the next meeting of Cabinet on 19 July 2017 but a further month will have elapsed with the consequent additional cost.

8 CONSULTATION

- 8.1 The Council's Chief Executive, Monitoring Officer and Chief Financial Officer have been consulted in accordance with the requirements of Rule 16, Special Urgency and their views provided to the Chair of Resources Policy Development and Scrutiny Panel to enable this urgent business to proceed. The Cabinet have been consulted.

9 RISK MANAGEMENT

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

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Background papers	<i>None</i>
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