

## Bath & North East Somerset Council

DECISION MAKER:	<b>Cllr Roper, Cabinet Member for Economic and Cultural Sustainable Development</b>	
DECISION DATE:	<b>On or after 6 May 2026</b>	EXECUTIVE FORWARD PLAN REFERENCE:
		<b>E 3704</b>
TITLE:	<b>Bath Quays North Development</b>	
WARD:	<b>Kingsmead</b>	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b> Appendix 1 Cabinet Meeting Resolution E3122 Appendix 2 Plan as form original decision showing red line of all plots 1 to 7		

### 1 THE ISSUE

- 1.1 The Council is progressing the regeneration of the Bath Quays North site (the Site) (Appendix 2). To support future delivery, the Council must ensure appropriate delegations are in place to allow land to be appropriated for planning purposes at the appropriate time, and, where necessary, to rely on the powers available under Section 203 of the Housing and Planning Act 2016.

### 2 RECOMMENDATION

#### **The Cabinet Member is asked to.**

- 2.1 Delegate authority to the Executive Director of Sustainable Communities, in consultation with the Leader, Chief Executive, the Council's Section 151 Officer and Monitoring Officer, to appropriate the Bath Quays North site for planning purposes under section 122 of the Local Government Act 1972 in phases and at times the Director considers appropriate.
- 2.2 Authorize the delegated officer, where land is appropriated for planning purposes, to exercise the power (if required) under section 203 of the Housing and Planning Act 2016 to facilitate the redevelopment of the appropriated land.
- 2.3 Delegate disposal of appropriated land to the Executive Director of Sustainable Communities for the purpose of implementing development by 3<sup>rd</sup> parties.

### **3 THE REPORT**

- 3.1 At its meeting on 6 February 2019, Cabinet resolved (decision E3122) to delegate authority to officers to appropriate the Bath Quays North (the Site) for planning purposes. That decision was intended to enable appropriation to take place in phases, aligned to the proposed redevelopment of the Site by its development partner, at that time, Legal & General.
- 3.2 The Council is now proceeding with the original development proposal in phases starting with development on plots 6 & 7.
- 3.3 The Council has previously taken separate decisions relating to the delivery of plots 6 & 7 within Bath Quays North, including the establishment of Aequus Regeneration Bath Quays LLP for the purpose of delivering development on those plots. Those decisions sit alongside, but are distinct from, the delegation sought in this report. Nothing in this report authorises the disposal of land, the entry into development agreements, or the appointment of development partners; all such matters remain subject to separate decisions and governance arrangements.
- 3.4 Given the passage of time and the changes in the factual and commercial context it is prudent to refresh the previous delegation to ensure that future decisions to appropriate the Site are robust.
- 3.5 This report does not seek to approve appropriation at this stage. Instead, it establishes an appropriate governance framework under which officers may, at a future point, consider whether and when land should be appropriated for planning purposes, having regard to the statutory considerations set out below.

### **4. STATUTORY CONSIDERATIONS**

- 4.1 Appropriation of land for Planning Purposes and section 205 Housing & Planning Act 2016 Powers.
- 4.2 Third party legal rights and easements (e.g. rights of way or of light) exist to benefit neighbouring land and will impact the Site at the time the redevelopment of the Site commences. However, if prior to commencement of the development, the land is appropriated formally to planning purposes under Section 122 Local Government Act 1972, then Section 203 of the Housing & Planning Act 2016 ("Section 203") will be enabled.
- 4.3 Section 203 of the Housing & Planning Act 2016 provides that where land has been appropriated for planning purposes then existing rights which could prevent the development of that land from being carried out in accordance with the planning permission can be overridden, subject to payment of compensation to the affected parties. The benefit of overriding easements and other rights can be transferred by the Council to the Council's appointed developer who will develop the Site in line with the scheme (as set out in this report).

- 4.4 The only power under which a local authority may dispose of land (including by the granting of any interests in that land, such as a lease), which it has acquired or appropriated for planning purposes, is under Section 233 Town & Country Planning Act 1990 ("Section 233"). Section 233(1) expressly provides, that the authority may dispose of the land "to such person, in such manner and subject to such conditions" as appear to the authority expedient to secure the best use of the land, or the construction or carrying out of any buildings or works needed for the proper planning of the area.
- 4.5 The disposal of land under Section 233 includes the sale of freehold interest, granting of lease, assignment of unexpired term of lease or granting of easements. The Council is required to obtain the best consideration that can be reasonably obtained except in the case where the consent of the Secretary of State is obtained, unless only a short term lease is granted (seven years or less) or the assignment of a term of years of which seven years or less are unexpired at the date of the assignment.
- 4.6 However, before the land can be appropriated, the land must no longer be required for the purpose for which it was held immediately prior to appropriation. Therefore, this report seeks authority to delegate the decision to appropriate parts of the Site until such time as each phase comes forward (when conditions precedent for the development agreement have either been satisfied or waived).
- 4.7 The power contained in Section 203 does not remove the legitimate rights of those persons taking the benefit of the easements or other rights to compensation arising from the interference with such rights, but it does remove the potential for such persons to frustrate the development by obtaining an injunction to prevent interference with their rights.
- 4.8 However, having regard to the potential interference with private rights, local authorities, in order to use Section 203 of the Housing & Planning Act 2016 should have regard to the following factors:-
- (i) whether the appropriation will facilitate the carrying out of the redevelopment of the Site;
  - (ii) whether the appropriation will contribute to the promotion or improvement of the economic, social or environmental well-being of the Site and the area;
  - (iii) whether it is in the public interest that the redevelopment of the Site as proposed in the planning permission should be carried out; and
  - (iv) whether the use of section 203 is proportionate with any interference with the human rights of those persons affected.
- 4.9 As indicated, when making the future decision(s) to exercise s.203 powers the Council will need to be satisfied that regard has been had to the factors as set out in this paragraph.
- 4.10 The Council will transfer Plots 6 & 7 and enter into a development agreement with Aequus BQN LLP pursuant to its powers contained in section 1 of the Localism Act 2011, and section 111, 120 and 123 of the Local Government Act 1972.

**5. RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

NA

**6 RISK MANAGEMENT**

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

**7 EQUALITIES**

7.1 An EIA will be carried out at the development stage.

**8 CLIMATE CHANGE**

8.1 Development will be progressed in line with the Council's carbon neutral agenda.

**9 OTHER OPTIONS CONSIDERED**

9.1 An option to take no action was considered. However, this would leave the council without a clear and up-to-date delegation framework, potentially delaying future phases of the regeneration project and increasing legal risk.

**10 CONSULTATION**

10.1 Leader, Chief Executive, the Council's Section 151 Officer and Monitoring Officer

<b>Contact person</b>	<i>Jonathan Seaman</i>
<b>Background papers</b>	<i>Resolution E3122</i>
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