

Brighton Waterfront Part 1 Summary of the draft Heads of Terms as at 01.12.14

1. The Parties and Transaction Structure

- 1.1 Standard Life Investments (“SLI”), who are the freeholder owners of Churchill Square, will contract to purchase the freehold of the Brighton Centre from the Council, with a view to extending Churchill Square. Via Venue Ventures (“VV”), an experienced events venue delivery company, the agreement to purchase the land will also provide that SLI will work collaboratively with the Council to help deliver the replacement venue at part of the Black Rock site and enabling development on the remainder of that site. At the same time as entering into the agreement with SLI, the Council will also enter into an Agreement for Lease with the commercial operator of the new venue.
- 1.2 Once the scheme for Black Rock has been designed, there will be a further land deal with a housing partner (“HP”), in relation to the enabling development to be constructed on the Black Rock site. This will also be procured as a land transaction outside of the EU procurement rules, The council will also need to procure with VV’s assistance a building contractor for the BR site to build to shell and core the housing to be fitted out by HP and the Venue to be fitted out by the Council and the commercial operator of the Venue. The building contract will be procured in accordance with the EU procurement rules.
- 1.3 The disposal of the Centre site to SLI will only take place once there is certainty that the venue can be delivered within the Council’s affordability envelope. Also at this point, VV’s contract with SLI in respect of Black Rock may be assigned to the Council.
- 1.4 After the Black Rock site has been fully developed the leases will be granted to HP and the venue operator.
- 1.5 Leading Counsel has confirmed that the above structure is appropriate given the project’s constraints and requirements.

2. Achieving the Development

- 2.1 The development at Black Rock will be progressed and fees funded by SLI to the point of obtaining a suitable planning permission and necessary consents, concluding all appointments and warranties, site investigation surveys and sufficient design to secure a building contract procured in accordance with OJEU regulations to enable the Council to deliver and fund the scheme .
- 2.2 VV will provide the development management services for both SLI and then the Council to ensure effective handover of the venue and delivery of the HP development.
- 2.3 At the point a building contract can be entered in to, it is intended that the Council will assume the role of developer, funder and owner in respect of the

venue and the initial developer in respect of the enabling housing development. At this stage it is anticipated that major risks will have been mitigated with funding in place, HP and venue operator in place, design and build contractors in place, plus full client side experience resource being provided by VV. Primary ground conditions and contractor risks will have been managed through a proposed risk mitigation strategy.

- 2.4 The current assumed procurement and State Aid strategy reflects the roles of the three principal parties to the development, ie SLI, the Council and VV in creating the two site solution and venue design. The solution assumes that the investment by SLI in developing the proposals (estimated at c£10m) would be offset against the future land value of the central site. SLI will be responsible for the fees of the commercial and professional teams to manage this process to the unconditional date at which the two schemes can be developed independently following the further contribution by SLI of the Land Value for the existing Brighton Centre.
- 2.5 The council will be required to assist the delivery of Waterfront Central which will include using their CPO and Appropriation powers (if required) and selling the Brighton Centre land to SLI. The Council will be required to work with VV and SLI in advancing the proposition for the Black Rock site to develop the scheme to an agreed specification and design for planning submission and procurement of a build contractor and to enter in to Agreements to Lease with the preferred operator of the Venue and HP.

3. Funding

The Council will become responsible for all of the funding for the Black Rock development once SLI has executed its obligations under the Agreement. The proposed sources of funding include:

1. Capital receipt from SLI for the Brighton Centre;
2. Prudential borrowing supported by the Venue Operator rent;
3. Capital receipt from HP;
4. Potential grant funding applications and
5. Direct Council investment/ grant.

4. Conditions

- 4.1 There are some Preliminary Conditions to be satisfied prior to entering into the Agreement with SLI. Apart from the respective authorities for SLI and the Council to enter the Agreement being given by the parties' respective governance arrangements, these are: **Feasibility** (feasibility studies delivered to SLI's reasonable satisfaction), **Viability** (SLI being reasonably satisfied that an appropriate level of return can be achieved and the Council being reasonably satisfied that the Black Rock development represents value for money) and **Procurement & State Aid** (SLI and the Council being comfortable that State Aid and procurement requirements are met). Re the last Condition a conference with leading counsel took place Friday 28th

November 2014 and his written advice is awaited. It is expected that this advice will lead to this Preliminary Condition being satisfied.

- 4.2 Once the Agreement is entered into there are a number of Development Conditions to be satisfied. For the central site these relate to **Viability** (SLI achieving profit on development costs in accordance with an agreed form of appraisal), **Planning** (satisfactory grant of planning permission free from challenge), **Land Assembly** (land available as required), **Required Consents** (all consents obtained e.g. re stopping up of highways), **Pre Lets** (agreed % of pre lets in the shopping centre), **Funding** (available funding either through SLI itself or a third party) and **Utilities** (diversion of services permitted). For the Black Rock site these are **Planning** (satisfactory grant of planning permission free from challenge), **Land Assembly** (land available as required), **Venue Operator** (the entering into of the agreement with the operator), **Enabling Development** (the entering into of the agreement with HP), **Funding** (ability to cover the costs), **Building Contract** (procurement of the contractor,), **Required Consents** (all consents obtained e.g. re stopping up of highways), **Utilities** (diversion of services permitted) and Environmental (satisfactory ground conditions).
- 4.3 The agreement between SLI and VV will need to be assigned to the Council at an appropriate time and 14 working days after all of the Conditions are satisfied the Council will transfer the Centre to SLI for the agreed land price. The sum of money payable by SLI will be reduced by the defined Qualifying Expenditure (to include costs fees and expenses associated with the Black Rock site).

