

## Agenda Item 28



**CABINET**

**02 October 2013**

**13/1318**

### **The Moridunum, Seaton**

#### **Exempt Information**

Para 3 Schedule 12A information relating to the finance or business affairs of any particular person

#### **Summary**

This report sets out details of proposal to facilitate the enhancement of the Moridunum on Seaton seafront as part of an adjacent redevelopment scheme at Fosseyway Court.

#### **Recommendation**

**In partnership with Devon County Council and in consultation with the Economy Portfolio Holder, the Principal Estates Surveyor be authorised to enter into and conclude negotiations with the landowner adjacent to The Moridunum to facilitate a holistic redevelopment of Fosseyway Court and enhancements to the seafront.**

#### **a) Reasons for Recommendation**

To enable The Moridunum area on Seaton's Seafront to be enhanced as part of the redevelopment of Fosseyway Court. This offers the opportunity to commence improvements to the seafront and this accords with the wider ambitions of the Seaton Regeneration Board.

#### **b) Alternative Options**

To not pursue discussions with Devon County Council and the owner of Fosseyway Court.

#### **c) Risk Considerations**

There is a possibility that the costs involved with incorporating The Moridunum into the redevelopment scheme will prove prohibitive. However, until further investigations have been made, and the details of a scheme worked up, this remains unknown at present.

**d) Policy and Budgetary Considerations**

It is not currently anticipated that there will be a financial gain to the Council in taking forward this work, but it could potentially contribute to the Council's wider regeneration ambitions for Seaton. Members will need to balance the expenditure of staff resource, particularly that in the Estates and Legal departments, in facilitating this project against a non-financial return for the Council.

**e) Date for Review of Decision**

Spring 2014.

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**Main Body of the Report****1.0 Background**

- 1.1 The Moridunum is an elevated tarmac walkway (maintained by Devon County Council); with what were public toilets maintained by East Devon District Council underneath. The toilets were decommissioned a number of years ago. Damp penetration has caused corrosion of the steel work supporting the walkway and Property Services continue to monitor condition.
- 1.2 Directly behind the Moridunum is Fosseway Court, which currently comprises two apartment blocks built in the 1960's and of poor architectural merit. Fosseway Court has suffered from many years of neglect and lack of investment. The basic fabric of the buildings and surrounding structures have declined to a point where virtually every aspect of the site is now in need of major works and significant investment. The residents have never been required to pay into a sinking fund for major works, only a small annual maintenance fund. We are advised that the residents are extremely unlikely to be in a position to fund the works necessary to the existing two buildings (estimated in excess of £900,000).
- 1.3 The current owner of Fosseway Court is proposing that the only way the buildings will ever be upgraded and improved, is by using funding created from further development on the site. The essential proposal is to create a new apartment building in the centre of the site above the garage while enhancing the existing buildings in such a way that all three buildings appear to be part of the same design concept. This could be done in a way that would transform the overall vista of the seafront and esplanade.

**2.0 Fosseway Court**

- 2.1 Fosseway Court can be seen from miles around and is very much a prominent beacon. However, years of neglect brought about by lack of investment in the building and its surrounds, make this an unsightly eyesore. See Figures 1 & 2.



Figure 1



Figure 2

- 2.2 The challenge for the existing owner, working with the Fosseyway Court Owners Association, is to come up with a design that is worthy of this prime esplanade location and which can also be applied to the existing buildings to improve their appearance and bring them up to a standard which makes them an attractive feature on the Seaton seafront. Plans have been drawn up, shown at figures 3 & 4, to incorporate a new central building which links the two existing buildings and re-orientates some rooms in the existing rear flats. The shape and style of the new section of building has been designed to maximise light and seaviews from both the new and existing apartments. The aesthetics of the new building and the modification and improvements to the existing buildings are designed to create a contemporary landmark for the Seaton seafront.



Figure 3



Figure 4

- 2.3 It is anticipated that the new central building, will pay for the works to the two existing buildings and the enhancement to the site.
- 2.4 The unhappy alternative for the site is that in excess of £900,000 is required to bring the existing buildings back to a position where they would meet all health and safety requirements along with required aesthetic improvements. We are advised that the 31 residents have no way of raising this level of investment and which is why this development scheme, incorporating the new block, is attractive: it will enable the rest of the site to be brought up-to-date. (If taken forward, it is acknowledged that discussions will need to take place with the freeholder and residents about making adequate provision in the future to ensure that a similar scenario does not occur again.)

### 3.0 The Moridunum

- 3.1 There is an opportunity to explore the possibility of incorporating the Moridunum within the redevelopment of Fosseyway Court. By combining the development of both areas, the possibility has opened up of making real change and huge improvement to a major part of Seaton seafront. This would support the aspirations of the Seaton Regeneration Board and the work that Seaton Town Council have led in looking at ways to enhance the seafront.
- 3.2 A concept illustration is shown at figure 4 depicting the toilet block converted to retail space with layered seating to the sides and above. It also shows the potential for the area in front of the Moridunum to be levelled and pedestrianised. This design is for illustration purposes only and much more detailed design work and consultation will be needed if this area were to be made available for redevelopment. In particular, the Town Council has appointed a project manager to take forward the work on the wider Seafront Enhancement proposals and close liaison in the development of the design will be key.

Figure 5



- 3.3 This report seeks authority for the Principal Estates Surveyor to enter into discussions with Devon County Council and the Owner of Fosseway Court to facilitate the incorporation of the Moridunum into the wider development scheme. It is not anticipated that there will be a financial gain to the Council in taking forward this work, but it could potentially contribute to the Council's wider regeneration ambitions for Seaton.
- 3.4 While the Council has a duty to ensure best value, usually established by offering any land asset for sale on the open market, it is proposed that in this instance, the Council initially treat only with the owner of Fosseway Court. Discussions will be undertaken on an open book basis. The Council has the discretionary power under the General Disposal Consent (England) 2003 and S.123 of the Local Government Act to consider disposals of surplus assets at less than best consideration where such disposal is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the East Devon area or its residents.

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## Legal Implications

Whilst clearly a laudable proposal and one with a structure which appears appropriate from a legal perspective, the following practical observations on real estate implications are offered constructively:-

- Although our concern as to enhancement of the local environment is inescapable, our standing in the matter under review in this instance (discounting - as we must - our local planning authority role for the purposes of consideration of this Report) is presumably limited to our ownership of the walkway and abandoned toilet block beneath, so Legal Services is assuming that EDDC's wider progression of these schematic nature.
- It is important to understand the large number of parties who would in practice have to be involved in its execution. The "landowner" / "current owner" referred to in the Report is likely to own only the freehold reversion to the blocks of flats and if "Fosseway Court Owners Association" hold any legal interest at all (and the chances are they will not) it will only be an intermediate leasehold. Long-term occupational Leases will be owned by the residents of every flat in the blocks and some of them will also have lenders with mortgagee interests.

- Whole-hearted co-operation – to the extent of legal documentation – will be required from 100% of these parties (whether or not in residence) and this will be so even if they are not being asked to make any financial contributions. Even though the improvements look certain to improve enjoyment and raise values of their flats, they would clearly face physical disturbance in the regrading processes and have the right to be asked just to be left alone.
- Legal Services obviously cannot know the exact provisions of these occupational Leases (and there is no absolute certainty that they will all be the same - especially between the two blocks), but market experience suggests it to be most unlikely that flat owners and their mortgagees can be compelled by their Leases and Mortgages to acquiesce in any large-scale refurbishment and partial reorientation of the blocks, let alone contribute to it via their service charge funding – even sinking funds are tailored to ongoing and predictable, if long-term, maintenance and repair liabilities.
- Much the same range of factors would need to be accommodated in the redevelopment of the central area between the two blocks, because the flat owners and their lenders will control pre-existing rights of use granted in each of the occupational Leases of the flats. Whilst it is clear from the Report that a “stand-alone” development of this central area is not envisaged as an alternative, if it were the practical legal constraints would not be significantly less extensive.
- It is believed, however, that flat owners canvassed by the prospective developer have been wholly positive about the refurbishment plans and this is indeed encouraging, but Legal Services should reiterate that this would have to translate into 100% support from flat owners and any mortgagees – nothing less than this will unlock implementation of this inspiring scheme.
- Assuming that total flat owner involvement can be secured, it would seem that the programme would best be implemented through Deeds of Variation of each occupational Lease that consent to execution of all of the works and either record that the attendant build and professional costs would remain borne by the freehold reversioner (i.e. the person described as “landowner” in this Report) or set up a framework for that freeholder to recover the cost or part of them from flat owners over a stated period – this has absolutely nothing to do with “service charges” as commonly expressed and so it is unlikely in the extreme that the existing Leases will accommodate them in any way.

### **Financial Implications**

There are no obvious financial implications other than those indicated within the report.

### **Consultation on Reports to the Executive**

Ward Members have been consulted and are in support of the recommendation.

### **Background Papers**

- n/a