

SECURING AN ANCHOR F&B TENANT FOR THE CINEMA COMPLEX

Deputy Leader and Cabinet Member for Leisure, Parks & Major Projects

Date:	9 April 2024
Agenda Item:	8
Contact Officer:	Simon Fletcher, Chief Executive, Anthony Thomas, Assistant Director Finance & Commissioning and S151 Officer, and John Smith, Performance & Programmes Manager
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Key Decision?	YES
Local Ward Members	Stowe Ward – Cllr Russ Bragger, Cllr Hugh Ashton and Cllr Ann Hughes.



Lichfield
District Council

Cabinet

1. Executive Summary

- 1.1 This is the latest in a series of papers which introduces and seeks the support of Cabinet and Full Council for the development of the old Debenhams building on Bakers Lane in Lichfield, in our capacity as 50% shareholder of the Darwin Prospect LLP, the company bringing forward this major city centre development.
- 1.2 The paper introduces a proposal for securing a national brand, high-quality anchor Food and Beverage (F&B) tenant for the development, alongside Everyman Cinemas. A preferred Anchor F&B tenant has been identified and discussions with them have progressed positively. The confidential report (see confidential appendix) introduces that preferred tenant and their 'Anchor F&B tenant' brand.
- 1.3 It also introduces a need to provide a capital contribution as part of a deal to attract the tenant. It identifies that doing so is both quite normal with the type of development we are invested in, but will also significantly improve the overall quality of the new Three Spires Quarter we are seeking to develop.

2. Recommendations

- 1.1. Subject to the receipt of external assurance that the proposed Head of Terms and lease provides Best Value to the Council, Cabinet approve and delegates authority to the three Council LLP Board Representatives (Leader of the Council, Chief Executive and Chief Operating Officer) to agree on behalf of the Council that the LLP enters a lease with the tenant. The delegation is based on the Head of Terms included in the confidential report, is subject to Council approving 2.2 and resulting financial implications for the Council remaining within Approved Budgets.
- 1.2. Cabinet agree and recommends to Full Council to update the Medium-Term Financial Strategy:
 - To increase the budget in the Capital Programme by **£1,700,000** to fund the capital contribution contained within the Head of Terms. The plan is for the borrowing need created by the capital contribution to initially be funded through internal borrowing.
 - Then to:
 - a. Either allocate the first **£1,700,000** of capital receipts generated from the sale of land in the Birmingham Road Site to fund the capital contribution and negate the creation of borrowing need or;
 - b. In the event the capital receipt does not reach the **£1,700,000** level, or Council does not approve its allocation to this project, to approve the identification of budgetary savings (to maintain the level of Approved risk 'headroom') equivalent to the Central Scenario annual Capital Financing Costs by ensuring no increase in the funding gap.

- To continue the approach that the MTFS is based on a neutral (no surplus or deficit or capital receipts are included) budget position until more informed financial projections are provided through the Business Plan. Any future changes following receipt of the Business Plan will be reported in line with the Council's budget monitoring and any budget approvals will be in line with the budget framework.

3. Background

- 3.1 The Council is 50% shareholder with our partner Evolve Estates / Rookman Properties in Darwin Prospects LLP, a company created to bring forward the redevelopment of the old Debenhams building on Bakers Lane in Lichfield city centre.
- 3.2 'Three Spires Quarter', as the site is currently being marketed as, will create 22,000 sq ft of prime restaurant and leisure space, as well as a planned 'landmark rooftop restaurant' feature. The LLP has recently announced a 25-year lease to Everyman Cinema as anchor tenant who will create a four-screen cinema in the complex, the first step in bringing the building back to life. Several Food & Beverage and leisure providers are now either in discussion over terms for the opportunity or have progressed to the development of lease agreements for space. Once complete, it is expected the development will be both a catalyst for the regeneration of the Council's Birmingham Road Site and significantly further enhance the cities day and night-time economies, drawing visitors from across the district and wider region.
- 3.3 It is now the job of the LLP to attract, negotiate and lease the Food and Beverage and Leisure units that will be created by the refurbishment, which gained planning permission in January this year. The council committed **£5,313,750** in cash and assets (excluding Council Contingency and the Buy Out) as 50% shareholder, matched by our joint venture partner in the company, Evolve Estates / Rookman Properties, and this financial contribution was intended to fully fund the internal partitioning and external refit of the building per the designs submitted to Planning Committee.
- 3.4 With limited marketing to date, the site has already gained significant interest from the commercial sector, evidenced by four of the five F&B / Leisure units now being in discussion over terms or lease arrangements. One of the four organisations in discussion with the LLP is a nationally recognised F&B operator and it is their interest that is the focus of this paper.
- 3.5 The tenant is the operator of a number of pubs, bars and restaurants across the UK, including well-known names. It is one of these brands that they would like to bring to the Three Spires Quarter.

Who are Anchor F&B tenant?

- 3.6 The finer details of the Anchor F&B provider are set out in more detail in points 3.6 -3.11 in the confidential report
- 3.7 The company is a multi-award-winning operator of some of the most innovative bar & restaurant brands in the UK, offering uniquely immersive drinking and dining experiences.
- 3.8 The company boasts many venues with ambitious plans for growth and has been recognised across the industry, holding accolades from The Casual Dining Awards, The Publican Awards and The Restaurant & Bar Design Awards.
- 3.9 In addition to a high quality 'lounge' experience with good food and drinks, some sites offer live music. The Lichfield site, at just under 7,000 sq ft (including a terrace) will be one of their smaller sites – a new direction they are seeking to take their brand – and as such will not be large enough to house live music.
- 3.10 Their interest in the Debenhams site has developed over several months through a series of discussions and subsequent site meetings.

- 3.11 Representatives of the LLP, including the Council's Chief Executive, have met with them twice on site in Lichfield. Key individuals from their board attended these site meeting, including the Executive Chairman and Property Director.

Is this Anchor F&B tenant a good fit for the site?

- 3.12 The Anchor F&B tenant is well-recognised as a high-quality brand throughout the UK. It continues to grow steadily, with new venues recently opened. There are several key strengths and opportunities that arise from having this Anchor F&B tenant in the Three Spires Quarter:

Brand power	This Anchor F&B tenant brand attracts other F&B and Leisure providers to a location, through its 'Halo effect'. Their interest in coming to Lichfield has already led to other F&B outfits making contact about space in the venue alongside them. This is no doubt why the LLP is so advanced with the letting process for other units and the interest the site has generated, with minimum marketing needed.
Everyman obligation	The Everyman lease has a number of obligations on the LLP contained within it. One is that at least one of a short list of eight F&B providers must be contracted alongside them.
Future proofing	It is reasonable to assume that as the site goes forward, there will be a natural turnover of F&B tenants, for various reasons. The LLP's key priority is to ensure the site continues to be a vibrant, sought after part of the city centre – and this will very much be determined by the quality of brand we have in situ. This Anchor F&B tenant, as above, draws other F&B providers to sites it operates in. Having them in the Three spires Quarter will hopefully be the difference to between our site continuing to be fully tenanted where other parts of the region struggle to attract hospitality business.
Draw	As with the imperative to be able to draw other F&B providers to the site, equally important of course, both for the site and for the vibrancy of the city centre as a whole, is our ability to draw people to Lichfield from both inside the district, the county and broader region. A brand like this Anchor F&B tenant will support this aspiration far more than an unknown, regional operator could. The experience of other towns and cities is that having this tenant located with them draws visitors from far and wide, which can only benefit the wider city economy.
Economic benefits	In addition to the temporary jobs the refit of the unit will create, in addition to those the refit activity the LLP undertakes will generate, the Anchor F&B tenant predict approx. 80 – 100 permanent additional jobs will be created on the site. More information on the type and quality of jobs will be provided as the site approaches opening.

What are the proposed Heads of Terms of the agreement for lease (AfL)?

- 3.13 The key terms being discussed, including the financial contribution from the LLP sought by the tenant, are as set out at confidential APPENDIX A.
- 3.14 **How can the capital contribution be funded?**
- 3.15 Capital contributions on schemes like this, with the type of brands we are seeking to attract are quite normal, as evidenced by the other Council's we have spoken to about the anchor F&B tenant.
- 3.16 Discussion has been held with our LLP partners, Evolve Estates / Rookman Properties, about the capital contribution needed for this deal to proceed. In December 2023, Council considered and approved a recommendation from Cabinet following a request from Evolve Estates / Rookman Properties that a Put and Call (buy-out) clause be included into the LLP agreement. This inclusion in the LLP agreement enables Evolve Estates / Rookman Properties to divest themselves of their shareholding in the LLP 2 years after practical completion of the development. For that reason only, Evolve Estates / Rookman Properties has said it would not be willing to fund any part of the capital contribution proposed by the tenant.
- 3.17 Therefore, if a capital contribution is to be made, it will fall entirely on the Council to make it. A capital contribution of this scale does not form part of the Approved Budget for this project. Therefore, approval by the Council for the LLP to enter this lease based on the draft Head of Terms in this report would result in a budgetary shortfall or borrowing need.
- 3.18 There are several options to fund this budgetary shortfall or borrowing need:
- Borrowing – internal (reduction in investments) or external borrowing – **likelihood high.**
 - Reprioritisation of the Approved Capital Programme – **likelihood low.**
 - Allocation of an element of capital receipts from the sale of land in the Birmingham Road Site – **likelihood medium.**
 - Reprioritisation of any uncommitted earmarked reserves – **likelihood low.**

Other council's with similar deals and how its gone

- 3.19 As part of the council's due diligence process, we engaged with other Local Authorities (see **paragraphs 3.19 – 3.24** at confidential **APPENDIX B**).

Financial Appraisal and Best Value

- 3.25 The draft Head of Terms for this potential second floor tenant is shown in detail above. However, there are three key areas of uncertainty related to the combined rates and service charges in the first 5 years, the level of turnover rent over the lease term and funding the capital contribution that will need to be considered in the financial modelling.
- 3.26 To understand the impact of different assumptions on financial outcomes, three financial scenarios will be prepared. These three scenarios together with the key assumptions (Rent figures are based on Aspinall Verdi projections) utilised are shown in the table below:

	Scenario			Comments
	More Pessimistic	Central	More Optimistic	
Capital Contribution	£1,700,000	£1,700,000	£1,700,000	Per the Head of Terms
Borrowing Need	£1,700,000	£1,700,000	£1,700,000	Capital contribution initially funded by Borrowing
Base Rent	(£135,000)	(£135,000)	(£135,000)	Per the Head of Terms
Annual Turnover Rent Growth	0%	3%	5%	Prudent annual levels for growth in turnover
Turnover Threshold	£1,820,000	£1,820,000	£1,820,000	Per Head of Terms
Turnover Rent	10%	10%	10%	Per head of Terms
Turnover Rent Limit	(£168,000)	(£168,000)	(£168,000)	Modelling assumption
Shortfall - Rates	£78,000	£77,000	£75,000	Base Rent as a proxy for Rateable Value
Shortfall - Service Charge	£57,000	£36,000	£15,000	Modelling assumption
Shortfall - Total	£135,000	£113,000	£90,000	Comparators - higher than Base Rent
Asset Life (years)	15.00	15.00	15.00	Period prior to the first break clause
Internal Borrowing Rate	3.50%	3.50%	3.50%	Budgeted rate for investment income

- 3.27 In this initial financial appraisal, it is assumed that the capital contribution is funded by Internal Borrowing (reducing investments) over the initial 15-years of the lease. This approach and alternative options are discussed further in the financial implications section. In Local Government, Best Value under the 1999 Act is normally demonstrated through a form of market engagement focussed on price and quality. Although the lease is between the LLP and the tenant, the Council is providing all the capital contribution and therefore Best Value must be a key consideration.
- 3.28 However, it is also possible to demonstrate Best Value through the positive socio-economic impacts from the proposal such as the level and type of jobs created, the Business Rates payable and Gross Value Added etc. and external assurance has been sought in this area.

Alternative options	<p>The council could choose to not bring the Anchor F&B tenant to Lichfield and seek alternative F&B operators to compliment the Everyman cinema brand. However, a brand like this will support the council's aspiration to be able to draw other F&B providers to the site far more than any unknown, regional operator could.</p> <p>Equally our ability to draw people to Lichfield from both inside the district, the county and broader region for the vibrancy of the city centre, is dependent on having a brand that appeals. The experience of other towns and cities is that having this F&B tenant located with them draws visitors from far and wide.</p>
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Consultation	Ward Members (see confidential report) and Overview and Scrutiny Committee.
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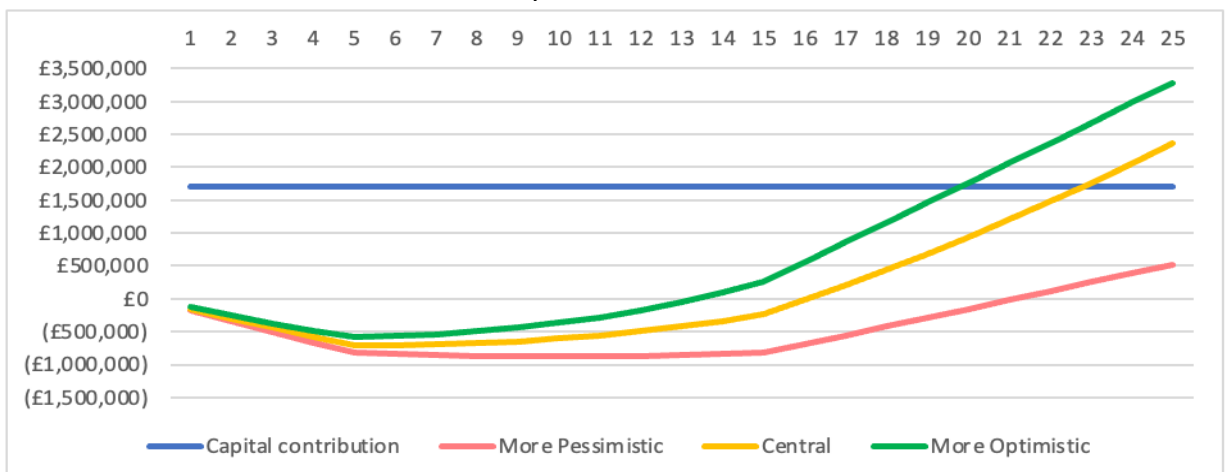
Financial implications	<p><u>The Approved Financing of the Joint Venture</u></p> <p>The Council and the partner Evolve Estates/Rookman have contributed assets and cash to the Joint Venture. The relative proportions of assets and cash together with the Council's Approved Capital Programme Budget (excluding Council Contingency and the Buy Out) are shown in the table below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2"></th> <th colspan="3">Joint Venture Contributions</th> </tr> <tr> <th>LLP Budget £</th> <th>Council Budget £</th> <th>Partner Budget £</th> </tr> </thead> <tbody> <tr> <td>Total Contributions</td> <td>£10,627,500</td> <td>£5,313,750</td> <td>£5,313,750</td> </tr> <tr> <td>Asset Contributions</td> <td>£3,725,000</td> <td>£409,750</td> <td>£3,315,250</td> </tr> <tr> <td>Cash Contributions</td> <td>£6,902,500</td> <td>£4,904,000</td> <td>£1,998,500</td> </tr> <tr> <td>% Cash Contributions</td> <td>100%</td> <td>71%</td> <td>29%</td> </tr> </tbody> </table> <p><u>The Approved Medium Term Financial Strategy</u></p>		Joint Venture Contributions			LLP Budget £	Council Budget £	Partner Budget £	Total Contributions	£10,627,500	£5,313,750	£5,313,750	Asset Contributions	£3,725,000	£409,750	£3,315,250	Cash Contributions	£6,902,500	£4,904,000	£1,998,500	% Cash Contributions	100%	71%	29%
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The Approved Capital Programme and Revenue Budget is shown in detail at confidential **APPENDIX A** and the elements related to the Food and Beverage element impacted by this proposal are summarised below:

- Capital Programme:
 - **Capital Contributions** - the Food and Beverage element of the Approved Budget is **£355,230** (£500,000 in the Joint Venture). This Budget will be used for Shell and Core works in the three units plus the first and second floor areas. It is prudent to assume, based on current information, this budget is largely committed. Therefore, a capital contribution of the scale in this proposal would be in addition to the Approved Budget.
 - **Rent Free Periods** – the Food and Beverage element of the Approved Budget is **£639,420** (£900,000 in the Joint Venture). Any rent-free periods are assumed to be funded by this budget.
 - **Tenant Incentives** - it is important to note that accounting requirements will mean that tenant incentives will ultimately be spread over the lease period however there will be no impact on the Approved Budget.
- Revenue Budget:
 - The Rental Income Budget is **(£600,000)** and the second-floor Food and Beverage element is **(£135,000)**.
 - Approved budgets for operating expenses are applicable to all scenarios.

Financial Modelling

The cumulative net revenue implications compared to the Capital Contribution based on three scenarios (central, more optimistic and more pessimistic) is shown in detail at confidential **APPENDIX B** and in summary below:

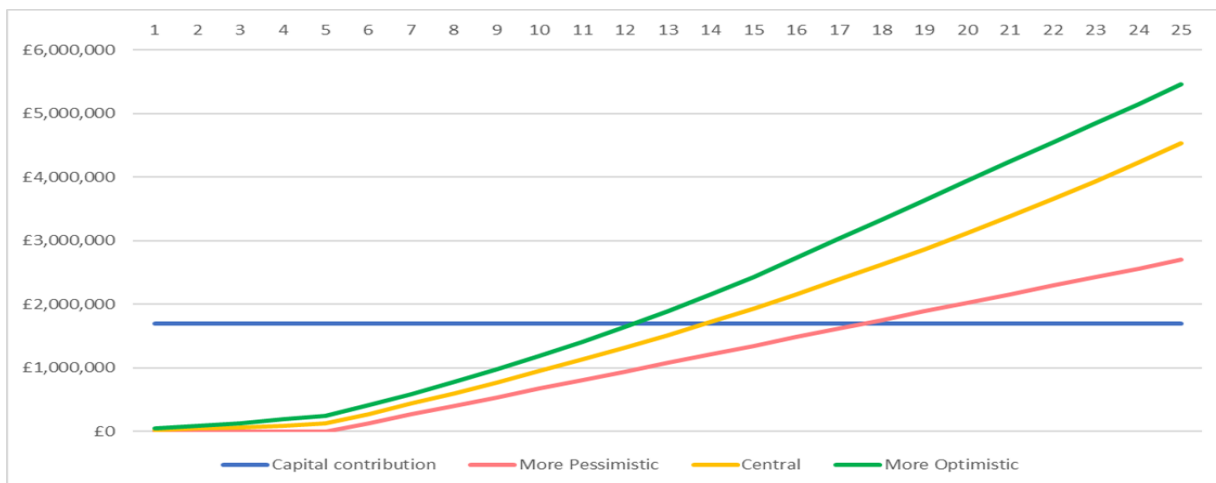


In all scenarios, in the years where costs exceed income, the projected net revenue implications are within the risk “headroom” included in the Approved Revenue Budget. Therefore there would be no adverse impact on the Medium Term Financial Strategy. The risk “headroom” would remain if the capital contribution is funded by alternative sources to borrowing.

Investment appraisal indicators are normally used to compare different options; however, they can also be used to compare the outcome of different scenarios. A range of indicators is included at confidential **APPENDIX B** and the key ones are shown below:

	Return on Investment				
	Payback Period (Years)	Initial 15 Year Period		Full 25 Year Period	
		Total Rent/Contribution	Accounting Return	Total Rent/Contribution	Accounting Return
More Optimistic Scenario	20.00	11.2%	9.5%	15.7%	12.8%
Central Scenario	23.00	9.8%	7.6%	12.0%	10.7%
More Pessimistic Scenario	34.00	7.9%	5.3%	7.9%	6.4%

The repayment of the internal borrowing over the 15-year initial period of the lease, has a significant impact on the payback period. However, if this capital contribution was funded from alternative sources such as capital receipts, reserves, or grants and contributions then the payback period would be reduced because the legally required Capital Financing Costs would not be necessary as demonstrated below:



At present, there are no uncommitted resources available to provide funding for the **£1,700,000** capital contribution. However, the Council does have some options available to improve the payback period:

- The Council is currently marketing an element of the Birmingham Road Site. In the event this capital receipt is more than the capital contribution, **£1,700,000** could be used for funding. The estimate of capital receipts from this are of the site provided by the Council’s Property Advisors is between £4m and £5m.
- If the Council does not use this capital receipt for funding, and maintains the Approved risk ‘headroom’, then to ensure the funding gap does not increase, budgetary savings would need to be identified to offset the capital financing costs.

Approved by Section 151 Officer	Yes
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Legal implications	1. Throughout the redevelopment project for the Debenhams building, the council has retained legal advisors who have been actively engaged with creating the LLP (Darwin Prospect) and providing advice where needed on all matters associated with prospective tenants that will ultimately be incorporated into the LLP arrangement.
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Approved by Monitoring Officer	Yes
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Contribution to the delivery of the strategic plan	<ol style="list-style-type: none"> 1. This will particularly support and deliver the Council’s strategic objectives of shaping place and developing prosperity and will enhance the district to visitors. 2. Having an anchor F&B tenant situated adjacent to the cinema within the district supports our enabling people to live healthy and active lives.
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	<p>3. By taking the Best Value approach to considering the Anchor F&B tenant for our scheme shows that we're a good council that is financially sound, transparent and accountable.</p>
<p>Equality, diversity and human rights implications</p>	<p>1. There are no equality, diversity or human right implications associated with the proposals at this stage.</p>
<p>EIA logged by Equalities Officer</p>	<p>No Equalities Officer confirmed not required.</p>
<p>Crime & safety Issues</p>	<p>1. Crime and safety issues relevant to the development will have been explored in detail as part of the cinema planning application. As the project moves through subsequent planning and redevelopment phases these elements will be considered further to ensure the proposed scheme plays a positive role in the reduction of crime and improvement of safety.</p>
<p>Data assessment</p>	<p>1. The former Debenhams property where the F&B tenant is to be co-located with the Everyman cinema is in Stowe Ward and is surrounded by the areas shown below. The main components of the Social Progress Index (scores are 0 to 100 where 0 signifies worst and 100 best performance) for the Ward is summarised below:</p> <div data-bbox="509 931 836 1252" data-label="Figure"> <p>The map displays the wards of Lichfield: Curborough (orange), Stowe (red), Leomansley (blue), Boley Park (blue), St John's (blue), and North Wall (blue). The Stowe ward is highlighted in red, indicating its position relative to other wards.</p> </div> <ul style="list-style-type: none"> • Social Progress Index 48.8 being 20 out of 22 Wards. • Basic Human Needs 49.9 ranked 7 out of 22. • Foundations of Wellbeing 52.5 ranked 18 out of 22. • Opportunity 44.4 ranked 19 out of 22. <p>2. Bringing a highest quality operator such this to the city centre will undoubtedly increase the vibrancy of the area and will potentially improve some of the scoring dimensions at Ward level.</p> <p>3. Successfully opening with this operator in Lichfield city centre is expected to be far more reaching and have a positive impact on the Wider District Social Progress Index.</p>
<p>Environmental impact (including climate change and biodiversity)</p>	<p>1. The lease for the Anchor F&B tenant is proposed to extend for 25 years dovetailing with the cinema operator lease which is also for 25 years. Repurposing the currently vacant Debenhams anchor store unit as a cinema with high quality Food and Beverage units will give the building an expected additional lifespan of 25 years.</p> <p>2. The environmental impact of the development has been explored in detail as part of the cinema planning application that was submitted in October 2023 that was considered for approval at the council's planning committee in January 2024. Mitigation measures and conditions including any related to climate change and biodiversity will be identified and agreed as part of any planning consent.</p>
<p>GDPR / Privacy impact assessment</p>	<p>1. No specific implications, however, data processing arrangements will be addressed as part of the LLP Partnership Agreement.</p>

	Risk description & risk owner	Original score (RYG)	How we manage it	New score (RYG)
A	The financial projections including service charge and rates short falls are inaccurate or too optimistic leading to budget pressures	Risk: Yellow Likelihood: Yellow Impact: Yellow	Three scenarios prepared using different assumptions and recommendation is to initially adopt a budget neutral position with the MTFS. These scenarios have been informed by an independent set of advisors and are subject to approval of Joint Venture Business Plan.	Risk: Yellow Likelihood: Green Impact: Yellow
B	There is a legal challenge related to the approach to awarding the concession/procurement	Risk: Yellow Likelihood: Yellow Impact: Yellow	Legal advice has been sought throughout the project including the approach to tenancy letting. The contract is between the LLP and the tenant rather than between the Council and the tenant.	Risk: Yellow Likelihood: Green Impact: Yellow
C	There is a legal challenge related to Subsidy Control	Risk: Yellow Likelihood: Yellow Impact: Yellow	Legal advice has been sought throughout the project including the approach to tenancy letting. The contract is between the LLP and the tenant rather than between the Council and the tenant and advice has been sought from independent advisors in relation to the Head of Terms in the context of the current market.	Risk: Yellow Likelihood: Green Impact: Yellow
D	Best Value cannot be demonstrated under the Local Government Act 1999 ¹	Risk: Yellow Likelihood: Yellow Impact: Yellow	The lease with the cinema operator limits the market available to 8 food and beverage operators including the proposed Anchor F&B tenant. An analysis of the socio-economic factors provided by this operator has been prepared.	Risk: Yellow Likelihood: Green Impact: Yellow

Background documents	Report to Cabinet 11 October 2022, Council 20 October 2022 Report to Cabinet 27 June 2023, Council 11 July 2023 Report to Cabinet 5 December 2023, 12 December 2023
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Relevant web links	
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¹ The Best Value Duty relates to the statutory requirement for local authorities and other public bodies defined as best value authorities in Part 1 of the Local Government Act 1999 ("the 1999 Act") to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". In practice, this covers issues such as how authorities exercise their functions to deliver a balanced budget (Part 1 of the Local Government Finance Act 1992), provide statutory services, including adult social care and children's services, and secure value for money in all spending decisions

