

Proposed Joint Venture Agreement - Ty Du, Nelson, Caerphilly

SUBJECT TO WG AND CCBC APPROVAL

From: The Welsh Ministers, Crown Building, Cathays Park, Cardiff, CF10 3NQ ("WG")

To: Caerphilly County Borough Council of Penallta House, Tredomen Park, Ystrad Mynach, Hengoed, CF82 7PG ("CCBC")

- (a) WG owns a freehold interest in a 42.34 acre site at Ty Du, Nelson, shown edged in red on the plan attached at Appendix 1 ("Site")
- (b) WG and CCBC wish to procure the construction of speculative units comprising 20,000 square feet at the Site for B1 business uses in a location to be agreed within the Site ("Property").
- (c) The Site has the benefit of outline planning permission for a mixed use development comprising employment and residential uses, 9.39 acres (3.8 ha) and 67,812 sq ft of which is proposed for employment land.
- (d) CCBC will be the lead partner in terms of delivering the construction of the units, management of the units and granting occupational tenancies
- (e) CCBC and WG will share the rental income and capital receipts in the ratio to which they have contributed to the construction costs and taking into account the value attributed to the land required for development (as shown edged red at Appendix 2.

Agreed terms:

1. **Primary purpose:** the construction, management, letting and disposal of the units
2. **Funding:** CCBC will apply for financial support from WEFO of 66% of the total development costs which will be in the region of £2,000,000 under the West Wales and the Valleys European Regional Development Fund 2014-2020. CCBC will be liable for complying with all conditions set out or referred to in the grant offer letter.

Match funding will be provided by WG and CCBC of 17% each with WG's contribution being a maximum of £340,000.

CCBC will use reasonable endeavours to ensure that the construction costs do not exceed £2,000,000.

WG's contribution will be released to CCBC in staged payments on a [monthly/quarterly] following receipt of satisfactory evidence of expenditure and certificates which will be verified by a quantity surveyor appointed by WG.

Claims to WEFO will be submitted by CCBC on a quarterly basis.

3. **Land value:** the land edged red on the plan attached at Appendix 2 will be valued by the [District Valuer/independent valuer] and the share of revenue/capital receipts will reflect the both the capital contribution and value of land contributed by WG.
4. **Development obligations:** CCBC will be responsible for:
 - a. obtaining detailed planning permission for the construction of the units;
 - b. appointing a professional team to be procured from the NPS framework;
 - c. designing and preparing tender documentation for the construction of the units;
 - d. appointing a contractor;
 - e. supervising the construction of the units;
 - f. procuring a set of warranties from the professional team and main contractor in favour of WG, CCBC and occupational tenants in the form attached at Appendix 3 required by WG (acting reasonably)
5. **WG approval:** WG approval in writing will be required in respect of the design of the units, the appointment of the professional team and contractor. WG shall be entitled to attend the final inspection when the certificate of practical completion shall be issued in respect of the construction of the units. The certifying officer shall take into account any proper representations made by WG.
6. **[Estate Road:** WG will be responsible for constructing the estate road within the Site to provide access from the Property to the public highway at its own expense.]
7. **Project team and accounts:** a project team will be set up comprising of CCBC officers to meet on a monthly basis.

CCBC will maintain annual management accounts that clearly show the contributions of each partner including capital expenditure, eligible costs, rental income, capital receipts, management costs and funds distributed and will provide copies to WG upon request.
8. **Steering Group:** A steering group will be set up comprising of officers within CCBC and WG that will meet on the following basis to formulate proposals and recommendations for the parties to approve:
 - a. Quarterly until practical completion of the units;
 - b. 6 monthly following practical completion until all units are fully let; and
 - c. Annually thereafter until termination of the JVA

CCBC will be responsible for preparing and circulating minutes of each steering group meeting which will include details of any outcomes and actions agreed.

9. **Term of the JVA:** To comply with WEFO requirements the JVA will be for a minimum of 5 years from the final payment of grant until disposal of the last unit or 20 years (whichever is later).
10. **Lease:** to facilitate the grant of occupational lettings by CCBC, WG will grant a lease of the Property to CCBC upon the following terms:
- a. Term: [20 years?]
 - b. Rent: WG will receive a % of rents received on an annual basis based on WG's capital contribution and the land value attributable to the property having deducted CCBC's reasonable management charges (to include reasonable estate management costs, surveyors and legal fees in connection with occupational lettings)
 - c. Service charge: a fair proportion of the estate service charge will be payable.
 - d. Termination: the lease will determine upon termination of the JVA
 - e. Use: B1 use
 - f. Alienation: Assignment of the lease is prohibited but CCBC may underlet the whole or part of the Property to occupational tenants on market terms [subject to the approval of WG to the terms of the underlease]
 - g. CCBC will use reasonable endeavours to enforce the tenant's covenants in occupational leases and market the units to ensure that they are fully let
 - h. The Tenant will be required to take a share in any management company set up in respect of the provision of services for the Site

11. **Occupational Lettings:** CCBC must use reasonable endeavours to secure lettings for the units as soon as reasonably practicable following practical completion.

The terms of all lettings must be on market terms, at a market rent, for a minimum term of 3 years and be approved by WG.

No premium leases may be granted until the expiry of the WEFO clawback period, i.e. 5 years from the final payment of grant.

The cost of any vacant units will be met by CCBC

12. **Disposals:** following the expiry of the WEFO claw back period CCBC may market the units for disposal, the terms of which are to agreed by WG in writing and will be on a long leasehold basis with service charge payable in respect of the services provided for the Site.

The proceeds of sale will be split in the ratio to which the parties have contributed to the construction costs and taking into account the value attributed to the Property owned by WG having deducted CCBC's reasonable management costs.

13. **Termination of the JVA:** If the units have not all been disposed of within 15 years of the date of the JVA CCBC will be required to either acquire a long leasehold interest (not less than 99 years) in the remaining part of the Property on market terms or dispose of it on the market.

14. **Ultimate long stop date:** there will be an ultimate long stop date of 20 years from the date of the JV whereby if any part of the Property remains unsold CCBC will be required to acquire a long leasehold interest (not less than 99 years) from WG at market value.