

Cabinet – 20 June 2012

Growing Places Fund: Black Country Enterprise Zone – Darlaston Site Investigation Programme

Portfolio: Councillor Adrian Andrew, Deputy Leader, Regeneration

Service: Regeneration, Development and Delivery

Wards: Bentley and Darlaston North; Pleck

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 In 2011 the Department for Communities and Local Government (DCLG) formally approved the Black Country Enterprise Zone (EZ), which comprises of a portfolio of sites in Darlaston and Wolverhampton North, totalling over 120 hectares. The Darlaston part of the Zone comprises a cluster of 15 sites either side of the M6 at Junction 10. The purpose of the Black Country EZ is to create sustainable private sector led, economic growth, with the Darlaston EZ area forming part of a wider package of measures designed to regenerate the Darlaston area, namely the Local Development Order (LDO) and Darlaston Access Project.
- 1.2 To date due diligence work has been carried out to understand the development potential of the 15 Darlaston EZ sites, which has resulted in an emerging knowledge of ground conditions and reclamation needs. Without a comprehensive understanding of the nature and extent of the conditions and a strategy to reclaim the sites, these poor ground conditions present a significant risk to delivery of the Darlaston EZ area and the overall Black Country EZ.
- 1.3 To overcome this key obstacle to realising economic growth, Growing Places funding, administered and allocated by the Black Country Local Enterprise Partnership (LEP) for the purposes among other things of overcoming infrastructure barriers to economic growth, was applied for in March 2012 for grant funding (circa £1.075m) for the Black Country Enterprise Zone- Darlaston Site Investigation Strategy. This funding will assist in providing a grant programme to all eligible landowners of the Darlaston EZ sites to carry out Site Investigation (SI) works on their land. If successful, the Council will act as the grant recipient for its award from Growing Places Fund (Sandwell MBC are accountable body for the Growing Place Fund as awarded by Central Government) and the Council will subsequently act as Accountable Body in managing and administering the grant programme to eligible land owners.

- 1.4 In accordance with the Grants Manual (2010) Cabinet approval is required for the submission of all external funding applications. Unfortunately due to the timescales and deadlines set for the GPF bidding round, a report to Cabinet prior to the submission of the GPF funding application for the Black Country Enterprise Zone- Darlaston Site Investigation Strategy was not possible; retrospective endorsement from Cabinet is therefore sought.

2. Recommendations

- 2.1 That Cabinet agree to retrospectively endorse the submission of the Growing Places Fund (GPF) application for grant funding (circa £1.075m) for the Black Country Enterprise Zone- Darlaston Site Investigation Strategy.
- 2.2 That Cabinet approves the Council acting as the grant recipient for the Growing Places Fund (GPF) allocation for the Black Country Enterprise Zone- Darlaston Site Investigation Programme, and subsequently act as the Accountable Body for the proposed Black Country Enterprise Zone- Darlaston Site Investigation Strategy grant programme.
- 2.3 That Cabinet delegate authority to the Executive Director – Regeneration, in consultation with the Regeneration Portfolio Holder, to sign or authorise the sealing of any deeds, contracts and other related documents in relation to the Growing Places Fund (GPF) funding award and management of grant to individual applicants under the Black Country Enterprise Zone- Darlaston Site Investigation Strategy programme.
- 2.4 That Cabinet delegate authority to the Executive Director – Regeneration, in consultation with the Regeneration Portfolio Holder, to authorise decisions to allocate the Growing Places Fund monies received by the Council to third parties or otherwise to support the Black Country Enterprise Zone- Darlaston Site Investigation Strategy, by way of a grant or otherwise.

3. Report detail

- 3.1 In 2011 the Department for Communities and Local Government (DCLG) formally approved the Black Country Enterprise Zone (EZ), which comprises of a portfolio of sites in Darlaston and Wolverhampton North, totalling over 120 hectares. The Darlaston part of the Zone comprises a cluster of 15 sites either side of the M6 at Junction 10. The purpose of the Black Country EZ is to create sustainable private sector led, economic growth, with the Darlaston EZ area forming part of a wider package of measures designed to regenerate the Darlaston area, including the Darlaston Area Local Development Order and the Darlaston Access Project.
- 3.2 The 15 sites within the Darlaston EZ area consist currently of low grade employment land that are either cleared/derelict vacant sites or part occupied; all of which are privately owned by different landowners. Whilst three sites are currently being marketed by agents acting on behalf landowners, initial due diligence work carried out to date indicates that the poor ground conditions of all the sites prevents them being readily available. Without a comprehensive understanding of the nature and full extent of the ground conditions and the subsequent means to reclaim the sites, the ground conditions therefore present a

significant risk to the delivery of the overall EZ programme. A programme of site investigation works across all the sites is required to obtain a thorough understanding of the ground conditions and remediation strategy on a site by site basis, in order to inform realistic land value expectations and stimulate appetite for bringing sites forward to the market. However, aside from one EZ site, the private land owners whilst recognising the possible need to undertake a site investigation in support of bringing forward their sites appear reluctant or unable to fund such works directly without the aid of external funding sources. A letter inviting land owners to consider whether they will wish to participate in the programme if GPF funding is awarded to the Council has been issued.

- 3.3 Growing places funding of circa £1.025m has therefore been sought by the Council to operate a grants programme that will be available to the landowners of 14 (out of 15) Darlaston EZ sites in order to fund comprehensive site investigation works (excluding the Phoenix 10 site whereby such works have been undertaken and are subject to separate considerations of land reclamation strategies by the current and prospective future land owners). The grants programme will require landowners to apply for staged grant funding up to a percentage of the total works cost (as evidenced through supplying quotations as part of the grant application process). The programme will also be setup with appropriate controls to ensure consistency of work quality and deliverability across all sites (see Section 5.4). Upon approval of the Growing Places funding application and signing of contracts with the Black Country LEP, it is anticipated that the SI programme will be practically completed within a 12-month timeframe, which factors in the timescale for seeking and approving individual grant applications (see **Appendix A** – Project Plan). The results of the site investigation works will subsequently inform the need and strategy for future interventions by the landowners and/or the Council, such as pursuing site remediation works, in order to present readily-available sites to the market. It is imperative that landowners are in a position to initiate such activities to ensure development comes forward in time for future occupying businesses to take advantage of the business rate discount before 1st April 2015.
- 3.4 The benefits of the Black Country EZ are well rehearsed as it provides an excellent opportunity to secure inward investment to the area which is essential in delivering the vision for economic growth in the Black Country as set out in the Core Strategy. The Darlaston element has the potential to create approximately 3,199 jobs through the reclamation and redevelopment of approximately 48.84ha of brownfield land (including Phoenix 10) and the creation of 213,418 sq metres of new employment floorspace. The ability to attract new investors and occupiers to the EZ sites will also enable the Black Country to capture and benefit from the business rate retention generated from business occupation for the first 25years, and as governed and awarded by the Black Country LEP, to be reinvested in other economic regeneration priorities across the Black Country.

4. Council priorities

- 4.1 The programme aims to assist in preparing and bringing forward readily-available sites to the market for employment uses within the Darlaston Enterprise Zone area. Ultimately, the programme will support investment and employment growth in Walsall and the delivery of the Enterprise Zone. The programme therefore

contributes positively towards the Council's 'Economic' priority as set out in the Corporate Plan 2011/12 – 2014/15.

5. Risk management

5.1 Risk 1 – Eligible landowners of the Darlaston EZ sites do not apply to obtain a grant to carry out a programme of SI works (Medium Level Risk)

The grants programme will be open to all landowners of the 14 Darlaston EZ sites. It is recognised and acknowledged that not all landowners will have existing knowledge and experience of carrying out site investigation programmes; which could potentially deter them from applying. Cash-flow may also be a determining factor when landowners consider applying to the programme.

To reduce this potential risk, in consultation with Legal and Finance officers, consideration will be given to the way in which the grants programme is structured and setup. The grants programme structure will need to ensure that procedures are advantageous and not onerous for landowners (e.g. template agreements, grant claims process) whilst providing the necessary legal and risk assurances to the Council. Officers will also liaise directly with landowners prior to launching the grants programme to provide a better understanding and an informed view of the programme.

5.2 Risk 2 – Eligible landowners of the Darlaston EZ sites choose not to apply for grant funding for SI works despite implementing the mitigation methods set out in Risk 1 above (Medium Risk)

The bid made to the GPF to facilitate the SI programme across all 14 sites is for the total estimated project value of £1.025m. In setting-up the grants programme the Council will ensure that the process and documentation does not deter landowners from applying. However, it is recognised that despite this, landowners may still choose not to apply which will mean a reduction in the total estimated project value. A letter inviting land owners to consider whether they will wish to participate in the programme if GPF funding is awarded to the Council has been issued. The response to this will provide further guidance on the total estimated project value and inform the due diligence work and discussions with the Black Country LEP as part of the GPF funding application.

5.3 Risk 3 – Level of funding that is received through the GPF bid is less than the total cost of the grant applications received. (Low Level Risk)

The total project cost estimation has been prepared by the Council in consultation with a specialist SI consultant and in-house specialists, which takes account of their good working knowledge and experience of known ground conditions in the area and current contractor rates and professional appraisal fees for undertaking such works. The project cost is the estimated cost for

carrying out the total amount and level of works, as well as the appraisal work of the grant applications and consultant reports.

If in the event that grant applications exceed the budget available, a site prioritisation process would have to be undertaken (e.g. Desk Top Studies may be funded for all sites, but intrusive works may be selected on a site-by-site basis according to priorities). Alternative funding opportunities would in turn have to be reviewed to support the delivery of the whole intended programme of works.

5.4 Risk 4 - The SI works commissioned by landowners is poor quality and inconsistent across the EZ sites and not delivered on time.

(Low Level Risk)

As part of the grant programme documentation and agreement, in consultation with Legal Services, the Council will put in place safe guards to ensure that all works meet the standard required by the Council. This may take the form of a standard outputs specification; internal specialist officers (Geotechnics & Structures and Pollution Control) appraising draft specifications and reports provided by consultants on a site-by-site basis, or; the Council setting-up a mini framework of preferred consultants for landowners to procure from. This will assist in exercising a degree of control over the quality and consistency of works regardless of the number of different SI consultants that are commissioned in total across the sites. As part of any grant agreement, the Council will also receive a copy of any draft and final reports which will be reviewed and checked by in-house teams for sign-off.

6. Financial implications

- 6.1 The bid made to the GPF to facilitate this programme is for the total estimated project value of £1.075m. Sandwell Council act as the Accountable Body for the Growing Places Fund. The Council will therefore be the grant recipient and will act as the accountable body when administering the grant programme. This funding will cover the costs of the site investigation work as well as revenue costs for carrying out internal appraisals of applications and reports. The funding will however not cover the revenue costs required for Regeneration officers to manage and administer the project; this will be carried out by officers as part of existing work programmes within Development and Delivery.
- 6.2 The estimated total project value has been provided by a specialist SI consultant, which takes account of their good working knowledge of known ground conditions in the area and experience and current contractor costs for undertaking such works for each eligible site. As part of the application process, landowners will be required to submit cost quotes (number required to be confirmed) for their SI works. This will determine the level of grant funding each landowner will receive and confirm the overall total project value.
- 6.3 Discussions are on-going as to how and when the Council will claim/receive the grant funding from the GPF. This will inform the claims procedure adopted for applicants of the grants programme. Grant payments will be made to landowners based on staged payment in arrears; except in cases where landowners provide sufficient evidence that require staged payments to be made upfront. Standard

grant agreements will be drafted for each option (the former option of payment in arrears being the default) and amended as necessary on a case-by-case basis. Finance and Legal Services will continue to work closely with officers to ensure procedures are compliant and manageable.

7. Legal implications

- 7.1 Legal Services will continue to work closely with officers to ensure that all necessary legal processes will in place to minimise the risk to the Council in relation to being the accountable body, whilst working to ensure that the process is not unnecessarily onerous and a deterrent to eligible applicants.
- 7.2 If the GPF bid is successful, the Council will enter into a legal Funding Agreement with Sandwell Council (on behalf of the Black Country Local Enterprise Partnership) as the body responsible for the expenditure of this funding pot. Legal Services will be involved in that process although it is anticipated that the documentation will be in a set format that is not negotiable.
- 7.3 Landowners will be required to enter into a grant agreement with the Council as accountable body if their application is successful. This will require the applicant to define the timescales for delivery, set the level of grant funding and provide evidence of their financial need for staged payment if required upfront. The grant agreement is likely to allow for the grant funding to be paid to the applicants' in stages to reflect the key milestones of the SI work (e.g. completion of Desk Top Study, completion of intrusive site work, sampling testing and final reporting) rather than withholding payment of any grant monies until all the work has been completed. In the event of an applicant defaulting under the grant agreement with Walsall Council and not performing their obligations, the Council will not be obliged to make the remaining parts of the grant payment to that applicant and so will not claim those funds from GPF. It is expected that the majority of payment claims to land owners will be made in arrears therefore the Council would not necessarily lose payments in the event of defaulting. Necessary safeguards in favour of the Council will be developed into grant agreements in the event of defaulting, especially in exceptional cases whereby payments are made to landowners upfront to support cash flow.
- 7.4 If the Council opt to establish a mini framework of preferred consultants for landowners to procure from (as a risk mitigation method to encourage landowners to participate), this will be carried out in consultation with Legal Services and follow the required legal procurement procedures.
- 7.5 The programme will not provide grants above the relevant State aid *de minimis* level which is currently 200,000 Euros (circa £167,000) per entity over a rolling 3 year period. Prior to approving any grant application, landowners will be required to sign a legal declaration to confirm to the Council that they have not received any other benefits from the state within the last 3 years which means that the Site Investigation grant funding would exceed the *de minimis* State aid threshold and would result in any grant funding being deemed to be unlawful aid.

8. Property implications

- 8.1 In terms of Council owned land, there are no direct property implications associated with this programme, as the sites eligible for grant funding are all owned by third parties.
- 8.2 The programme will however assist in the delivery of the Darlaston EZ employment sites.

9. Staffing implications

- 9.1 The Executive Director for Regeneration will be the nominated accountable body officer for this grant funding programme.
- 9.2 The programme will be led and managed by officers within the Development and Delivery service as part of the Regeneration Directorate, in conjunction with colleagues in Legal, Procurement, Finance, Pollution Control and Geotechnics & Structures.

10. Equality implications

- 10.1 An Equalities Impact Assessment has been undertaken for this report, with the outcome stating that no major change is required to the project.
- 10.2 As part of the Equality Act 2010 officers will be seeking to ensure that wherever possible the project ensures that a positive impact is made on people / communities using the “protected characteristics”:
- Age
 - Disability
 - Gender reassignment
 - Marriage and civil partnership
 - Pregnancy and maternity
 - Race
 - Religion and belief
 - Sex
 - Sexual orientation
- 10.3 Any consultants / contractors appointed by the landowners to carry out works on this project will be expected as a minimum to support the Council’s equality and diversity policies through the grant agreements.

11. Consultation

- 11.1 The GPF bid was prepared in consultation with the Executive Director for Regeneration. Initial consultation has been held with Legal, Procurement and Finance officers and will continue throughout the preparation and delivery of the programme. Additional input in refining the bid application was provided by GPF bid assessors, including the other Black Country authorities, Homes and Communities Agency and consultant Thomas Lister.

11.2 Initial discussions have been held with landowners regarding their appetite and interest in potentially applying for and securing grant funding to undertake SI work. These discussions have been positive in the main. Discussions will continue throughout preparation, launch and implementation of the grants programme- a letter inviting land owners to consider whether they will wish to participate in the programme if GPF funding is awarded to the Council has been issued.

Background papers

None

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25 May 2012



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