

Cabinet – 23 January 2013

Phoenix 10 Project

Portfolio: Councillor Adrian Andrew, Deputy Leader, Regeneration

Related Portfolio: Councillor Chris Towe, Finance and Personnel

Service: Regeneration – Development and Delivery

Wards: Pleck

Key decision: No

Forward plan: No

1. Summary

- 1.1 The Phoenix 10 project, within the Black Country Enterprise Zone, involves the reclamation of the former IMI Copper Works site (currently owned by the Homes & Communities Agency [HCA]) and adjacent Council owned land and its subsequent redevelopment for employment purposes. Subject to obtaining the necessary planning permissions the project aims to bring vacant land back into use, generate inward investment and create jobs. Walsall currently has an inadequate supply of readily available employment land and therefore the successful delivery of this project will help to address this problem.
- 1.2 This report provides Cabinet with an update on the negotiations with the prospective purchaser of the Phoenix 10 site and advises of the intention to explore alternative delivery mechanisms for the project in partnership with the HCA that may involve the Council taking a direct role in reclamation of the land.

2. Recommendations

- 2.1 That Cabinet note the decision to cease negotiations with the prospective purchaser of the Phoenix 10 site.
- 2.2 That Cabinet support the review of delivery mechanisms in respect of the Phoenix 10 project, note that resources have been allocated to assist this workstream and agree to receive a detailed report on the preferred delivery model at its meeting on 13 March 2013.

3. Report detail

- 3.1 Ownership of the former IMI Copper Works transferred to the HCA from Advantage West Midlands (AWM) in September 2011. Prior to that AWM had selected Parkhill Reclamation & Regeneration (Parkhill) as preferred purchaser

for the site and was in the process of contracting the disposal of the site. The disposal method was a sale contract that would be exchanged with a number of conditions and consents to be met by both parties within an 18 month period and once these were met the sale would be complete and transfer of the freehold of the site concluded. In February 2012 the HCA formally approved the sale of the land to Parkhill on similar terms to those negotiated by AWM with the intention that the disposal would allow a major reclamation project to take place which would eventually enable the site to be brought back into use for employment purposes.

- 3.2 Directly adjacent to the north of the former IMI site is an area of Council owned land. This land was formerly used as a landfill site for domestic and commercial refuse and is known to be further polluted by material displaced by the creation of all-weather pitches at West Walsall E-ACT Academy. On this basis Parkhill expressed an interest in acquiring the land to form part of the wider reclamation project. As such, Parkhill have been in parallel discussions with the Council regarding the acquisition of the adjoining land. In this context Cabinet, on 14 December 2011, approved the sale of this land subject to terms to be agreed at a future meeting.
- 3.3 Since that time the Council and HCA have been in discussion with Parkhill regarding their acquisition of all the land to enable the Phoenix 10 project to proceed and to support this process ground investigation works have been undertaken across both sites to inform proposals for a reclamation strategy given the existing pollution. A financial appraisal of the project was also undertaken to provide Parkhill with greater certainty on costs and values and exposure to risk.
- 3.4 That additional work was completed in September 2012 and on 12 November 2012 at a meeting of the Council, HCA and Parkhill to discuss how the Phoenix 10 project could move forward Parkhill stated that one of the conditions of the draft agreement with the HCA relating to a guarantee of delivery could no longer be agreed.
- 3.5 On this basis Parkhill were advised that the HCA would be unable to dispose of its land as the terms of the approved sale and purchase agreement would not be met, and that as a result the Council, for the same reason, would not therefore be in a position to complete negotiations regarding its land. As previously referred to, one of the Council's requirements was to have a guarantee of delivery in relation to remediating the land and achieving the aims of the project. Furthermore, given that Parkhill would no longer be acquiring the HCA land, the Council's justification for dealing with a named purchaser in respect of the disposal of its land would also no longer apply. Both the Council and the HCA subsequently wrote to Parkhill formally setting out their position.
- 3.6 On 5 December 2012 Parkhill wrote to the Council and the HCA formally confirming that their position was unchanged. On this basis discussions with them have now ceased.
- 3.7 In view of this the Council and HCA have begun to consider alternative means of progressing the reclamation and development of this key site within the Black Country Enterprise Zone. Given that the agreement originally prepared by AWM is no longer being progressed the HCA require an options appraisal to be

undertaken in order to provide them with sufficient comfort that the project is being moved forward on the most appropriate basis. To this end DTZ (professional property advisors), in their role as appointed Black Country Enterprise Zone management consultants have been jointly tasked with reviewing the project by the Council and HCA.

- 3.8 DTZ's final report will be complete by the end of January 2013 providing both parties with detailed information to facilitate future decisions regarding the site. Key areas of their work are:
- An analysis of the reclamation options and procurement issues
 - An outline spatial design for the site to understand the capacity and phasing of development.
 - An assessment of infrastructure requirements and costs
 - Business rate projections for the site to establish likely uplift
 - A detailed financial model for the project
- 3.9 Once the DTZ report is complete there will be detailed discussions between the Council and the HCA to agree a delivery mechanism for the Phoenix 10 project and it is expected that a report recommending a way forward and setting out the financial implications will be presented to Cabinet at its meeting on 13 March 2013. The delivery timetable will need to continue to reflect the existence of EZ financial incentives which in this case involves enhanced capital allowances that are available until April 2017. It is not expected that a revised approach will extend the timescale for delivery that would have applied had Parkhill's involvement in the project continued.
- 3.10 While the report to the Cabinet meeting on 13 March 2013 will confirm the recommended delivery mechanism for the project preliminary discussions between the Council, HCA and DTZ have concluded that a possible option for moving forward would be to separate the reclamation and development phases, with reclamation undertaken by the public sector and development delivered by the private sector. In view of this it may be that the Council takes a direct role in procuring a contractor to reclaim the site. Should this be the case then the Cabinet report will also seek to identify the most appropriate means of securing development of the site following reclamation. Options are likely to be completing a development agreement and disposing of the freehold or entering into a joint venture with a developer.
- 3.11 On this basis it is anticipated that it will be necessary for the Council to commit financial resources to the project in order to meet the costs associated with securing the reclamation of the site and identifying development options. Amongst others expenditure could be required for the costs of securing planning permission for reclamation, procuring a contractor and then undertaking the necessary reclamation work. The likely financial model would rely on the use of borrowing against the EZ business rate uplift which, in principle, has been supported by the BC LEP.
- 3.12 The successful delivery of the Phoenix 10 project will make a positive contribution to Walsall's employment land supply. The borough currently has an inadequate supply of readily available employment land and this serves as a constraint on investment and job creation. Potential means of addressing this

wider issue are being considered as part of the ongoing discussions regarding the Black Country's emerging City Deal proposal.

4. Council priorities

4.1 The Council has committed to focus on three priorities in the Corporate Plan and one of these is the economy. Supporting the delivery of the Phoenix 10 site will lead to economic growth and job creation.

4.2 The proposal for the Council takes a direct role in the reclamation of the site is line with the following objectives as set out in the Marmot Review:

- Give every child the best start in life
- Enable all children, young people and adults to maximise their capabilities and have control over their lives
- Create fair employment and good work for all
- Ensure a healthy standard of living for all
- Create and develop healthy and sustainable communities
- Strengthen the role and impact of ill-health prevention

Reclamation of the Phoenix 10 site would enable its future development which would have a positive impact on the lives of local people by creating new job opportunities.

5. Risk management

5.1 There are clearly a number of risks associated with the implementation of a reclamation strategy for this site and these will be set out in the forthcoming Cabinet report, once DTZ's project review is complete and there is greater clarity regarding future proposals.

5.2 There is a risk that the reclaimed Phoenix 10 site will not generate significant investor demand and therefore jobs and economic growth will not be generated. However, very recent work undertaken by DTZ on the likely market demand for the Black Country Enterprise Zone sites suggests that Phoenix 10's size and location would make it an attractive proposition to potential developers, particularly given the profile generated by Enterprise Zone status. This work also emphasises the importance of taking action to make sites available for immediate development in order to facilitate business growth.

6. Financial implications

6.1 A budget has been established to meet the costs of the work being undertaken by DTZ to review the project.

6.2 The costs associated with achieving the reclamation of the site will be significant and will be confirmed in a future Cabinet report setting out a proposed way forward. The likely financial model for any Council contribution to meeting these

costs would rely on the use of borrowing against the EZ business rate uplift which, in principle, has been supported by the BC LEP.

- 6.3 Any future sale of the reclaimed land would initially generate a capital receipt for the Council.

7. Legal implications

- 7.1 The development of the former IMI Copper Works site for employment uses would be in accordance with the Black Country Core Strategy and the specific saved policy for the site (JP4.2) in Walsall's Unitary Development Plan. The development of the adjoining Council owned land will be required to comply with planning policy and this will include the retention and improvement of open space. Both sites are also within the mineral safeguarding area (MSA) identified in the Core Strategy, and any development on a site of their size within the MSA is required to consider the feasibility of "prior extraction" of minerals, in accordance with Policy MIN1.
- 7.2 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824) are likely to apply, meaning any planning application would have to be supported by an Environmental Impact Assessment due to the scale and nature of the project.
- 7.3 Any future procurement of a reclamation contractor where the Council's money is paying for all or part of the reclamation works would have to be comply with both the Council's Contract Rules 2010 and any legislative requirements, which, dependant on the value of the reclamation contract, may involve advertising the contract via the EU procedure or engaging a contractor from an existing framework contract, if suitable.

8. Property implications

- 8.1 The Phoenix 10 project would result in the reclamation of Council owned land. Any future sale of the reclaimed land would initially generate a capital receipt and remove maintenance liabilities.

9. Staffing implications

- 9.1 There will be a need to commit staff resources to progress the agreed delivery mechanism for the Phoenix 10 site. There may be a need to procure external support to support the process.

10. Equality implications

- 10.1 At this stage of the proposal there are no immediate equality implications. Equality analysis, legal requirements and good practice issues will be considered throughout the project, and include engagement and consultation when needed.

11. Consultation

- 11.1 Officers have been providing regular updates to a group of local representatives on the position in relation to the Phoenix 10 project. It is intended that a formal Project Delivery Group will be established in due course to act as a means of ensuring that the local community are advised of progress moving forward.

Background papers

None

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23 January 2013



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