

Wichelstowe Joint Venture

Cabinet

Date: 18th October 2017

Author: Cabinet Member for Strategic Planning and Sustainability
Corporate Director of Resources & Growth

Wards: Wroughton and Wichelstowe, Old Town

Parishes Affected: Wroughton

1. Purpose and Reasons

- 1.1 This report sets out the amendments that Cabinet is invited to make to the Joint Venture terms for the development of Middle and West Wichel previously reported to Cabinet and seeks approval to move forward with the finalisation of the 5-year business plan and finalisation of the legal agreements.
- 1.2 In June 2015, the Council selected BDW Trading Ltd (BDW), a wholly owned subsidiary of Barratt Developments, as the Preferred Bidder to enter into a Joint Venture with the Council to deliver the Wichelstowe development (Cabinet Minute 5, 2015/16 refers). In September 2016, Cabinet agreed to progress the District Centre development outside the Joint Venture (Cabinet Minute 51, 2016/17 refers) and discussions with BDW were temporarily paused.
- 1.3 Discussions recommenced with BDW in January 2017 and it is considered prudent to provide an update to Cabinet prior to finalising the Joint Venture agreement due to the time elapsed since the original decision was made.
- 1.4 Wichelstowe is one of the Council's strategic programmes. The completed development will contribute towards the Council's Vision in particular the ambition to be a model of well-managed housing growth that supports and improves new and existing communities. It refers specifically to pledge 14 – "with Barratt Homes we will build up to 3,500 homes in Wichelstowe..."

2. Recommendations

Cabinet is recommended to:

- 2.1 Authorise the Director of Law and Democratic Services in consultation with the Cabinet Member for Strategic Planning and Sustainability, and the Corporate Director of Resources & Growth, to complete the necessary contractual arrangements for the Joint Venture, together with associated documentation, on such terms as he considers necessary to protect the council's interests.
- 2.2 Authorise the Corporate Director of Resources & Growth in consultation with the Cabinet Member for Strategic Planning and Sustainability to work with BDW Trading Ltd to finalise the 5 year business plan.

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- 2.3 Authorise the Director of Law and Democratic Services in consultation with the Cabinet Member for Strategic Planning and Sustainability to provide formal approval for relevant business plans.

3. Detail

Discussions with BDW

- 3.1 Whilst the vast majority of outstanding legal points were resolved with BDW during 2016, concerns arose regarding the alignment of objectives and the overall approach to delivery. Discussions with BDW were temporarily paused in September 2016 to allow a period of reflection whilst the Council focused on taking forward the delivery of the district centre.
- 3.2 The discussions recommenced in January 2017 with a number of site visits to develop a shared understanding and approach to delivery. The two parties have subsequently met on a number of occasions and it is now felt the two parties' objectives are aligned and the Joint Venture can progress.

Amendments to the Legal Agreements

- 3.3 In addition to the alignment of objectives described above, a number of amendments to the draft legal agreements have been progressed since the tender submission. All amendments have been agreed with BDW and are not considered material. External legal advice has been provided to the Council by Pinsent Masons throughout.
- 3.4 **District Centre** – As set out in the report to Cabinet in September 2016 (Minute 51, 16/17 refers) the core District Centre area has been removed from the scope of the Joint Venture. The BDW tender proposals included the third party sale of the pub/restaurant and housing for older people's parcels as well as the exploration of alternative models for delivering the mixed use blocks. The only change from the BDW approach is the removal of the core District Centre infrastructure from the Joint Venture along with a number of residential parcels required to recoup the costs of these works.
- 3.5 **One Tier Structure** - The legal agreements have also been updated to reflect the change from a two tier to a one tier structure considered in detail and approved by Cabinet in February 2016 (Minute 67 15/16 refers)
- 3.6 **M4 Southern Access** - Funding has also been secured by the Council to bring forward the delivery of the M4 Southern Access. It is anticipated that these works will be fully grant funded and it has therefore been agreed that the works will be delivered by the Council. In the eventuality that the grant funding is not received or the cost of the works exceeds the current estimate, then that is at the Council's risk but provisions have been included within the legal agreements to allow for a contribution to be sought from the Joint Venture and, if agreement cannot be

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reached with the Joint Venture, then the Council has the option to wind-up the Joint Venture on a “no fault” basis.

Governance

- 3.7 The governance arrangements were approved by Cabinet in June 2015 (Minute 5, 2015/16 refers) but due to changes in the Council’s governance structure the recommendations have been updated in this report.
- 3.8 In summary, the Joint Venture will be governed by a Board comprising three Council representatives and three BDW representatives. The JV Board will meet monthly to make decisions, oversee the activities of the Joint Venture, develop the strategy, and develop and recommend business plans. The Board will act in the best interests of the Joint Venture.
- 3.9 The initial Council Board representatives will be agreed and formally appointed prior to completion of the Joint Venture legal agreements. At that time, the Council will also appoint an individual to issue formal approvals or deal with any matters escalated from the Board that are not appropriate to be dealt with by Cabinet itself. The individuals representing the Council will be reviewed from time to time.

5 year Business Plan

- 3.10 A 5 year business plan is being produced which sets out the order and pace of housing delivery during the initial 5 year period. This plan will be updated on an annual basis and will govern the activities of the Development Management Team.
- 3.11 The business plan indicates that construction of the first houses to be delivered by the Joint Venture will commence in November 2018 with the first occupations programmed for April 2019. A total of c.530 houses is projected to be delivered during the first 5 year period of the Joint Venture. This together with Council delivered sites at Wichelstowe will make a significant contribution to the Borough’s housing supply.

Development Progress Update

- 3.12 Good progress is being made within the District Centre area, which has been re-branded as Canalside, with construction of both the Secondary School and the canal underway. A procurement process is well progressed to appoint a contractor to build a key road serving the district centre with all orders placed for the installation and diversion of services in the new road. Work on the road is programmed to commence in November 2017.
- 3.13 A planning application is currently being considered by the Local Planning Authority for the Hall and Woodhouse pub/restaurant. The sales agreements for

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this site have been exchanged and it is anticipated that work will start on site early in 2018 subject to planning.

- 3.14 A planning application is currently being developed by MF Freeman for the delivery of c.175 specialist homes for older people and it is anticipated that this will be submitted early in 2018.
- 3.15 A planning application has also been submitted for the first 85 houses to be constructed to the north of the existing Waitrose store. These houses will be delivered via the Council's Housing Company, with work also starting on site early in 2018.
- 3.16 In relation to the wider site, the introduction of the peak hours bus gate at Redposts Drive has recently been reviewed. There are no plans to implement managed traffic at the Redposts Drive exit.
- 3.17 It is proposed that this position is reviewed once the implementation of the Wichelstowe Southern Access is complete and at a point at which there has been significant build out of the development to inform final traffic volumes. The target date for completion of the Southern Access is 2021 so any changes to the current arrangements are unlikely to occur until after that time.

4. Alternative Options

- 4.1 If a decision is taken not to complete the Joint Venture contract documentation the procurement process would be closed. In that event the Joint Venture would not be established and alternative arrangements would need to be made to fulfil the objectives set for the site.
- 4.2 The Council could seek to deliver the site through a combination of direct delivery, land sales and smaller scale partnerships with housebuilders. This approach would carry increased financial and delivery risk as well as higher resource requirements, although may deliver a greater level of control and return.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 A high level review of the financial model has been undertaken which confirms that the Joint Venture remains viable over the long-term. The model projects that significant income will be generated for the Council over the life of the project, allowing the Council to more than recover its outstanding debt of £43m plus on-going interest charges related to its investment in the site's infrastructure. The Council will also receive additional monies from the delivery of new housing and employment land.
- 5.2 The model contains a large number of key assumptions and therefore shows that the project is viable over the long-term rather than being able to predict both the

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value and timings of specific returns. The financial position will be updated by the Joint Venture regularly over time and refined as each phase is brought forward for development.

- 5.3 In addition to the contribution of its land in exchange for loan notes, the Council is also required to provide a credit facility to fund housebuilding. This credit facility was described in a report to Cabinet in March 2015 (Minute 74, 2014/15 refers) and comprises a commitment for each party to provide up to £15m of funding on a revolving basis. This loan will be provided at state aid compliant rates and unless there is any external bank financing will take first call on the Joint Venture returns once development costs are met. The Council will make a premium on these loans due to its lower cost of funding.
- 5.4 Responsibility for delivering the Southern Access infrastructure sits with the Council. Local Growth Fund (LGF) grant of £22.89m has been secured subject to approval of a final business case. The terms of the grant funding require an element of match funding of £5.3m related to a section of connecting road. Whilst provision for this sum has been included within the Joint Venture financial model, it is currently aligned to delivery of 2,500 homes. As a result, the Council will be required to fund the works in advance and it will be a matter for the Joint Venture to determine at the relevant time how the corresponding provision within the financial model is to be dealt with.
- 5.5 In addition, the Council is also responsible for delivering the M4 Junction 16 improvements. The total estimated cost of this infrastructure is £11.8m of which LGF funding of £5.92m has been secured. The Council is responsible for funding the difference between the actual cost and the LGF funding.
- 5.6 As Barratt Developments is a publicly limited company with the associated corporate reporting requirements the detailed financial position will remain confidential.
- 5.7 Details of the procurement process were set out in the September 2013 (Minute 48, 20 13/14 refers), March 2014 (Minute 98, 13/14 refers), and June 2015 (Minute 5, 2015/16 refers) reports to Cabinet.

Legal and Human Rights Implications

- 5.8 Legal and Human Rights implications have been fully taken into account in the preparation of this report. It is believed its recommendations are compatible with Convention Rights.
- 5.9 The detailed legal documentation to support the Joint Venture procurement has been developed by the Director of Law and Democratic Services and the project's specialist external legal advisors (Pinsent Masons).

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All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.10 The Council's aspiration to deliver a sustainable development at Wichelstowe is well established and this is detailed in the reports to the February 2013 (Cabinet Minute 104, 2012/13 refers) and September 2013 (Cabinet Minute 48, 13/14 refers) meetings of Cabinet.
- 5.11 There will be staffing implications associated with the establishment of the Joint Venture Vehicle. Two Council Officers may be seconded to BDW to work within the Development Management Team. The arrangements will be developed in detail as part of the resource plan to be agreed by the Joint Venture Board.

Diversity Impact Assessment

- 5.12 A Diversity Impact Assessment (DIA) has previously been produced to support the Joint Venture procurement. The reduction in the proportion of affordable housing approved as part of the revised outline consent could have a negative impact on the homeless or those with a lower financial economic status. It is however considered that the impact would be even greater if the development was stalled on viability grounds and no housing was delivered. A mechanism to review the viability position and therefore the percentage of affordable properties regularly during the build-out period has been included within the planning conditions. A copy of the DIA is available from the report author on request.

Risk Management

- 5.13 Project risks are reviewed monthly and reported to the Wichelstowe Programme Board and cross party Cabinet Member Advisory Group. The key risks associated with the delivery of the Joint Venture are described below.
- 5.14 Failure to agree on final legal terms – Whilst the drafts have been agreed between the parties there remains a risk that further issues could be raised prior to signature.
- 5.15 Financial downturn – The risk of a slowdown or downturn in the housing market will remain throughout the life of the development. A downturn in the short-term may however impact on viability in the early phases which carry a higher infrastructure burden and delay the commencement of works. The position will need to be monitored and consideration given to amending the housing mix if a significant impact is anticipated.
- 5.16 Quality not delivered – There is a risk that the parties cannot agree on the specification for the housing and the high quality objectives are not met. The delivery of the District Centre by the Council will set a high bar and the Joint Venture Board will maintain an overview of the design and the remit to ensure the quality thresholds are achieved.

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5.17 Housing not delivered – Further delay to the commencement of housing construction on the site will put pressure on development sites elsewhere in the borough and make the delivery of the Council's housing targets more challenging. Further delay also creates a negative perception that the site has stalled making it harder to sell houses once development does progress. There must therefore be a focus on completing the agreement as soon as possible.

5.18 Ongoing liability – In line with the Joint Venture's role as 'master developer', the Joint Venture will be required to procure all necessary industry standard warranties relating to the house building activity, such as NHBC warranties, to protect both the house-owners but also the Joint Venture in respect of defect claims.

6. Consultees

6.1 The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

7.1 None

8. Appendices

8.1 None

9. Key Decision/Decision in Cabinet Work Programme

9.1 This is a Key Decision and is included in the Cabinet Work Programme for October 2017.