

# Wichelstowe Joint Venture

**Cabinet**

**Date: 10<sup>th</sup> February 2016**

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Author: Cabinet Member for Adult Health and Social Care  
Board Director, Resources

Wards: Wroughton and Wichelstowe, Old Town

Locality Affected: South

Parishes Affected: Wroughton

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## **1. Purpose and Reasons**

- 1.1 This report provides an update on the due diligence works associated with the establishment of the Wichelstowe Joint Venture.
- 1.2 The report also sets out the detail of the change that is sought to be made to the current proposed Joint Venture structure, which was presented to the Cabinet on 17<sup>th</sup> June 2015 (Cabinet Minute 5, 2015/16 refers). It then seeks the Cabinet's approval of the change.
- 1.3 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..." Wichelstowe also supports the Corporate Strategy aim of consistently making best use of Swindon's resources inside and outside the Council.

## **2. Recommendations**

Cabinet is recommended to:

- 2.1 Approve the change to the proposed Joint Venture structure from two tiers to a single tier as detailed in paragraphs 3.6 – 3.11 of this report.
- 2.2 Authorise the Board Director, Resources, in consultation with the Cabinet Member for Adult Health and Social Care, to take such steps as are necessary to implement the change agreed in 2.1.

## **3. Detail**

Due Diligence

- 3.1 The Council has been working closely with BDW Trading Ltd (BDW) to complete a range of due diligence activities including a detailed review of existing technical information, an update of the infrastructure costs and further site investigation works to assess ground conditions.

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Further information on the subject of this report can be obtained from Deborah Heenan, Direct Dial Telephone Number 4930, dheenan2@swindon.gov.uk.

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- 3.2 Early discussions have also taken place with a number of operators who may be interested in delivering specialist housing or occupying units in the District Centre. These discussions have been overwhelmingly positive with a number of operators keen to buy into the vision for both the District Centre and the wider site. These discussions will move forward as soon as the Joint Venture is established with the aim of starting work on site during 2016.
- 3.3 The due diligence has been completed and reviewed. There have been some changes to the costs and returns as a result of both inflation since the tender was submitted and additional costs uncovered by the technical due diligence. The site remains viable and projections continue to show that the venture will generate tens of millions of pounds allowing the Council to more than recover its outstanding debt of £43m and meet all interest charges associated with the debt.
- 3.4 Barratt Developments Plc main board approved the Joint Venture agreement for the Wichelstowe Joint Venture on 25th January 2016. Barratt confirmed that subject to concluding the outstanding legal agreements, they are confident of delivering a high quality residential development in partnership with the Council, starting on site later this year once Reserved Matters Planning permission is in place.
- 3.5 Barratt believe the development will contribute significantly to the local economy and provide a step change in the provision of attractive, high quality homes for Swindon as well as significant contributions to education, open space and transport infrastructure for the local community.

## Joint Venture Structure

- 3.6 On 11<sup>th</sup> September 2013 Cabinet authorised “the Board Director, Resources in consultation with the Cabinet Member for Strategic Projects and Transformation, and the Director of Law and Democratic Services, to develop the detailed structure for the Joint Venture, finalise the procurement documentation and publish a notice in the Official Journal of the European Union”. (Cabinet Minute 48(2), 2013/14 refers).
- 3.7 Further to this, a structure was developed which then formed the basis of discussions and negotiations with BDW. The detail of the proposed structure was set out in the report to the Cabinet on 17<sup>th</sup> June 2015 with paragraph 3.8 detailing the use of a two-tiered LLP structure (Cabinet Minute 5, 2015/16 refers).
- 3.8 Subsequently and following receipt of advice from Accountancy and Legal advisors which indicate that a single tier structure will be more beneficial to both parties, it is felt that approval is required from Cabinet to the change to the current proposed structure.

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- 3.9 Pricewaterhouse Coopers (PwC) was appointed to review and advise on the tax efficiency of the Joint Venture. This review identified that the current proposed structure is not as tax efficient as it could be.
- 3.10 The key area where tax efficiency could be improved was in relation to Stamp Duty Land Tax ("SDLT"). Under a two tier structure, Stamp Duty is payable upon transferring the Council's bare land into the JVCo, and then again when serviced land (which is a much higher value) is transferred from the JVCo into the DevCo. In order to mitigate this issue, it is proposed to change to a single tier structure so that SDLT is only incurred once, when bare land is transferred from the Council to the JVCo.
- 3.11 SDLT costs ultimately fall on the Council as these costs are deducted from the price paid for the land. It is estimated that this will save around £4m based on current financial modelling.
- 3.12 The single tier structure will also simplify a number of the legal agreements to be entered into by the parties and result in cost savings associated with the administration of two separate companies.
- 3.13 The single tier arrangement is being legally structured to mirror the two-tier approach as closely as possible and there are no changes to the commercial structure of the deal. There is some weakening of the security in relation to the financing the Council are providing to support house building through the Revolving Credit Facility but any financial risk is managed through the Council owning 50% of the Joint Venture rather than being treated as pure external funder. There will however need to be additional checks included to ensure that the Council's funding is only used for house building as both infrastructure costs and house building costs will flow through the same corporate body if the single tier proposal is accepted.
- 3.14 The stamp duty arrangements on a large phased site such as Wichelstowe even with a one-tier structure remain complex and it will be essential to liaise closely with HM Revenue and Customs (HMRC) to ensure the appropriate payments are made.

## Governance and Approvals

- 3.15 The representatives from both BDW and the Council who will form the Joint Venture Board have started to hold regular meetings to consider the emerging issues. These meetings have been positive and there is a strong sense of collaboration and buy in to the vision for the site.
- 3.16 The next step is to finalise the legal agreements and business plan and establish the Limited Liability Partnership. It is likely that the venture will be formally established during March 2016 and construction will start later this year.

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- 3.17 It is proposed that a short press release be issued on signature of the agreements along with a letter to all key stakeholders introducing the Joint Venture. A formal launch will then follow in the coming months once design work has commenced and the plans for the first phases have been developed.

## 4. Alternative Options

- 4.1 A decision is taken not to complete the contract documentation and the procurement process is 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.

## 5. Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

- 5.1 The financial implications are covered in the body of the report.
- 5.2 Details of the procurement process were set out in the September 2013 (Cabinet Minute 48, 2013/14 refers), March 2014 (Cabinet Minute 98, 2013/14 refers), and June 2015 (Cabinet Minute 5 2015/16 refers) reports to Cabinet. The process has been conducted in accordance with the Council's Gateway procurement process.

### Legal and Human Rights Implications

- 5.3 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.
- 5.4 The detailed legal documentation to support the Joint Venture procurement is currently being developed by the Director of Law and Democratic Services and the project's specialist external legal advisors (Pinsent Masons), and will be completed by the Director of Law and Democratic Services in line with the Cabinet authority granted on 19 September 2014 (Cabinet Minute 98, 2013/14 refers).

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

- 5.5 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, 2013/14 refers) meetings of Cabinet.
- 5.6 There will be staffing implications associated with the establishment of the Joint Venture Vehicle. Two Council officers will be seconded to work within the Joint

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Venture Vehicle. Secondment agreements have been drafted and will be finalised alongside the other Joint Venture legal documents.

## Diversity Impact Assessment

- 5.7 The Diversity Impact Assessment (DIA) was updated to support the June 2015 Cabinet report. There are no further impacts identified as part of this report. A copy of the DIA is available from the report author on request.

## Risk Management

- 5.8 A risk register has been prepared for the Joint Venture project. Risks are managed in accordance with the Wichelstowe programme risk management process.
- 5.9 The key risks relating to the Joint Venture are:
- Change in market conditions, increased costs or reduced sales values
  - The partners objectives are not aligned
  - Quality development management team are not appointed
  - Council does not have a strong Client team

## **6. Consultees**

- 6.1 The Board Director, Resources (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 and Forward Plan**

- 9.1 This is a Key Decision and is included in the Cabinet Work Programme and Forward Plan for February 2016.