
NON EXEMPT

HAVANT BOROUGH COUNCIL

CABINET

10 February 2021

Closure of Civic Plaza Car Park Redevelopment project

FOR DECISION

Portfolio Holder: Cllr Michael Wilson

Key Decision: *No*

Report Number: HBC/028/2020

1 Purpose

- 1.1. This paper is submitted to Cabinet for decision to formally close the Civic Plaza car park redevelopment project (as set out in the Cabinet report of 20 March 2019) and to develop an outline business case for an enhanced and comprehensive scheme, to be known as the Civic Plaza Plus (working title).
- 1.2. This report sets out:
 - a. The history of the project and approvals to date, including;
 - details of the Homes England Funding Agreement and the implications of terminating it
 - the procurement process that has been undertaken to date
 - issues relating to the viability of the development.
 - b. Recommendations for the way forward in relation to the site in the context of the wider development of Havant Town Centre.

2 Recommendation

- 2.1 Members are required to approve and delegate to the Director of Regeneration and Place:
 - (i) Formal closure of the project in its current form.
 - (ii) Formal notification to the remaining two bidders that the project will not be proceeding, in line with specialist external advice.

- (iii) Termination of the signed Funding Agreement with Homes England dated 25 January 2019.
- (iv) Development of an outline business case, for consideration at a future Cabinet meeting, for the comprehensive development of the wider Civic Plaza site (working title to be known as Civic Plaza Plus).

3 Executive Summary

- 3.1. The Civic Plaza Car Park Redevelopment project was approved by Cabinet as the first project in phase 1 of the Council's Regeneration Programme on 24 October 2018. The detailed business case was subsequently approved by Cabinet on 20 March 2019. The site was recognised not only as a key site for the regeneration of Havant Town Centre, but also as important site in the delivery of houses, in line with the Local Plan.
- 3.2. In 2018, the project was awarded a grant of £3.36M from the Homes England Accelerated Construction Fund. This funding was secured to enable the scheme to become financially viable and to support the delivery of housing. It included a capital contribution towards infrastructure as well as development funding, to enable the Council to undertake site investigations and procure a development partner.
- 3.3. An OJEU compliant Competitive Dialogue procurement process was subsequently undertaken in 2019. However, this process demonstrated that even with the £3.36M contribution, the scheme was not viable without additional public sector funding.
- 3.4. Additional funding support (up to an additional £3.6M) was subsequently offered by Homes England, on the basis that the level of housing delivered under a revised scheme with that additional funding would be higher than that set out in the original Funding Agreement.
- 3.5. The last stage of the procurement (invitation to submit final tenders) was re-run with the benefit of the additional funding in January 2020 and this process was successfully concluded in May 2020. The intention was to bring a recommendation to Cabinet in summer 2020, to select a preferred development partner and enter into a development agreement.
- 3.6. In June 2020 however, Homes England confirmed that they had to withdraw the offer of additional funding support due to national pressures to support the Covid recovery effort. As such, the scheme

as procured is no longer financially deliverable in its current form. However, discussions with Homes England have continued and they have indicated a willingness to continue to support the project.

- 3.7. Around £185k of the Homes England grant has been spent to date on professional fees relating to the procurement and site investigations. Homes England has confirmed that the funding agreement can be terminated without any clawback implications.
- 3.8. It is now recommended that the project is closed in its current form. Closing the project means formally informing bidders that the project is not proceeding and terminating the funding agreement with Homes England, if required.
- 3.9. Approval is also sought to develop an outline business case for a more comprehensive scheme, which includes sites immediately adjacent to the car park. This could include the wider public estate to the south and the Leisure Centre site to the north.

4 Additional Budgetary Implications

- 4.1. None. Any budget to develop the outline business case will be found within the existing budgetary framework. Budgetary implications for the comprehensive scheme will form part of the new business case, to be brought back to Cabinet for approval in due course. Officers will also investigate and seek to secure any grant funding to support the development and implementation of the outline business case.

5 Background and relationship to Corporate Strategy and/or Business Plans

- 5.1. The redevelopment of the Civic Campus has been identified in the Local Plan (Core Strategy) since 2011 as an opportunity for the rationalisation of public services, provision of improved facilities, better access to new and existing facilities and the provision of much needed residential accommodation. Phase 1 of the Local Plan allocation, the Plaza refurbishment, is complete. The Civic Plaza Car Park Redevelopment Project was identified as the next phase for delivery.
- 5.2. The Council owned public car park at the centre of the Civic Campus (plot A1 in appendix 1) was identified as a stand-alone element of the development, having potential for the early delivery of over 100 housing units. It was established that this could be achieved without compromising the development of the wider

campus, which is in multiple ownerships and was considered to be a much more complex project and likely to take significantly longer to deliver.

- 5.3. In August 2018 the Council was awarded a grant of £3.36M from Homes England (HE) under the Accelerated Construction Fund to deliver housing on the Civic Campus car park. This was made up of a contribution towards infrastructure costs and also an element relating to development costs, to progress the procurement of a development partner and undertaking of site investigations and development options. The legal agreement securing the grant was signed on 25 January 2019.
- 5.4. The disposal of the site for commercial development was first approved by Cabinet along with the adoption of the Opportunity Havant Regeneration Strategy on 24 October 2018. The detailed project and business case was subsequently approved by Cabinet on 20 March 2019.
- 5.5. In December 2018 external lawyers, Womble Bond Dickinson (WBD) were appointed to assist and advise the Council in relation to the procurement of a development partner. An OJEU compliant Competitive Dialogue Procurement process took place between February 2019 and December 2019.
- 5.6. The tenders submitted through this process showed that the site was not commercially viable under the terms set out, other than by means of an income strip model, which was considered unacceptable to the Council.
- 5.7. In November 2019, Homes England agreed to review their funding support so that the grant could potentially double to over £7M. This was calculated using a benefit/cost ratio (BCR) analysis, based on the number of residential units delivered.
- 5.8. Following consultation with the Director of Regeneration and Place and Executive Board in January 2020, it was agreed to re-run the final stage of procurement (invitation to final tenders), in line with advice from Womble Bond Dickinson, to both incorporate the additional funding and remove any unnecessary barriers to viability (number of residential units and requirements for car parking). It was agreed with Homes England that the outcome of this process would inform the precise funding contribution required and that would then be formalised through a revised Funding Agreement.
- 5.9. A further round of competitive dialogue was undertaken with the final two bidders between December 2019 and June 2020, incorporating

the additional Homes England funding. Revised bids were received on Friday 15 May 2020 and both bids set out viable and deliverable schemes. The intention at that point was to make a recommendation to Cabinet to select a preferred development partner in summer 2020.

- 5.10. In June 2020 Homes England informed the Council that due to internal restructuring of project funding and financial pressures to support the national Covid recovery effort, they were withdrawing the offer of the additional funding. Homes England advised that the original funding award of £3.36M, which was already contracted through the Funding Agreement with Homes England and signed in February 2019 would not be withdrawn.
- 5.11. In order to secure alternative funding, in the summer of 2020, regeneration officers submitted an application for £3.9M to the Solent Local Enterprise Partnership (SLEP) for the Government's Get Britain Building economic stimulus fund. This fund was targeted to unlock stalled shovel-ready schemes. This fund was significantly oversubscribed and unfortunately in September 2020 SLEP informed the Council that this application was unsuccessful.
- 5.12. Discussions with Homes England continued over the following few months and they have indicated they are very keen to continue to support the project and work closely with the Council. However, it was not possible for them to re-establish the offer for additional funding at that time.
- 5.13. In October 2020 advice was sought from Womble Bond Dickinson on the most prudent way to close the project in line with the OJEU procurement guidelines.
- 5.14. To date, just under £200,000 of the Homes England grant has been spent on site investigation, feasibility and procurement work. Homes England were also asked to provide assurance that they would not seek to claw back any of the spend to date from the grant relating to the procurement process and site investigations. This has now been confirmed and formal written confirmation has been obtained.
- 5.15. In parallel, officers have informally begun to consider options for an alternative comprehensive scheme, which could incorporate the public estate to the south and the Leisure Centre site to the north.

- 5.16. To support this work, a bid was submitted to the Government's One Public Estate (OPE) programme in November 2020 with a view to exploring the development options and bringing together a stakeholder group for the wider Civic Plaza estate. This could potentially include the Police, Ministry of Justice and Department of Work & Pensions. Approval is sought to develop an outline business case, to be brought back to Cabinet in due course.
- 5.17. The closure of the Civic Plaza Car Park redevelopment project and creation of Civic Plaza Plus project meets the following **Corporate objectives**:
- a. **An environmentally aware and cleaner borough** – provision for environmentally sustainable development was built into the procurement process through the Invitation to Participate in Dialogue and Invitation to Submit Final Tender documentation.
 - b. **A thriving local economy** – redevelopment of the land to act as a stimulus for wider economic development opportunities and to enhance and improve the economy of the wider town centre.
 - c. **A revitalised borough with infrastructure that meets our ambitions** – a new exciting town centre development scheme that provides for a range of new infrastructure and facilities as well as contributing to the wider regeneration aspirations for the borough.
 - d. **A sustainable council** – The development of this site forms part of the Council's wider Civic Plaza Masterplan. This aims to enable the the Council to rationalise its estate and make best operational and economic use of its property assets.
- 5.18. In addition, the proposal supports the Council's Regeneration Strategy 2018 and associated Delivery & Business Plan in facilitating the development of the Civic Plaza car park site for housing and in acting as a catalyst to bring forward other key development sites in the Town Centre.

6 Options Considered

- 6.1. Based upon the expert procurement advice from Womble Bond Dickinson, a range of options have been considered for taking the site forward in light of Homes England's decision to withdraw the additional funding. The options considered are:
- i. *Go back to the remaining bidders and ask them to re-evaluate their bids to see if they can be made to be viable without the additional Homes England funding support.*

Without the benefit of the additional £3.6M Homes England grant, it is felt that any scheme would not be financially viable. As such, this option is not recommended.

- ii. *Restart the procurement for the Civic Plaza car park site on the basis of the original £3.36m funding only.*

Without the benefit of the additional £3.6M Homes England grant, it is felt that any scheme would not be financially viable. There would also be significant further cost in running a new procurement exercise (circa £200k) and it is not likely to lead to delivery of a viable scheme. As such, this option is not recommended.

- iii. Close the current project and widen the scope to include the whole Civic Plaza Plus site, working with adjoining landowners to consider a more comprehensive scheme.

A wider project would need to be evaluated from a viability point of view, but it is felt most likely to deliver a positive outcome. Funding would need to be identified to take forward the project and this will form part of the outline business case. It is recommended this option is taken forward.

7 Resource Implications

Financial Implications

- 7.1. To date around £185,000 of the Homes England grant has been spent on site investigations, legal advice and management of the procurement process. This has been claimed back on a quarterly basis under the terms of the grant agreement. While the funding agreement with Homes England made provision for potential clawback in the event the Council did not meet specific project milestones or in the event the Council chose to terminate the agreement, Homes England has confirmed they will not seek any clawback.
- 7.2. At the time of writing, around £20,000 of the monies spent to date has not yet been recovered from Homes England, although this is expected to be forthcoming. In the event that this is not recovered, it will be found within our existing budgetary framework. Any future costs associated with closing the project will either be borne by Homes England or found within existing budgets. These costs are expected to be fairly minimal.
- 7.3. Once the project has been closed and the funding agreement terminated, this funding will no longer be available and the cost of progressing an alternative scheme will fall to the Council to secure.

This will be scoped in the outline business case, to be delegated to the Director of Regeneration & Place.

- 7.4. A bid to the One Public Estate (OPE) programme has been submitted and further discussions with Homes England will take place to seek their further funding support. If additional funding is required beyond the agreed budgetary framework, Cabinet approval will be sought in accordance with the normal process.

Section 151 Officer comments

Date: 21.01.2021

As included in report, costs for closing this scheme are covered by grants from Homes England. A future scheme will be covered by a future cabinet report.

Human Resources Implications

- 7.5. None. Work to close the project and scope the revised project will be carried out by officers within the Regeneration team

Information Governance Implications

- 7.6. Any commercially sensitive information relating to the bidders will be kept confidential and disposed of in the appropriate way, including information relating to the respective bids. Legal advice will be sought if required.

Other resource implications

- 7.7. None.

8 Legal Implications

- 8.1. Consideration of s123 LGA 1972 has been given to the options relating to proceeding with or closing this project, in order to demonstrate 'best consideration' for the Council's asset.

- 8.2. Internal legal advice was provided in respect of the Homes England funding agreement.
- 8.3. External legal advice has been obtained from Womble Bond Dickinson (WBC) throughout the project in respect of the procurement process and their advice has been followed. The procurement process was undertaken in compliance with OJEU guidelines for a competitive dialogue procurement process.
- 8.4. The procurement documentation clearly and explicitly sets out that bidders entered into the procurement process at their own risk. Womble Bond Dickinson have provided advice on how to ensure the closure of the project is managed appropriately.
- 8.5. The funding Agreement with Homes England gives them the ability to recover spend to date funds from the Council where funding milestones have not been met and/or in the event that the Council choose to terminate the agreement. However, Homes England has confirmed they will not seek clawback in this instance. Internal or external legal advice will be sought to ensure the agreement is properly terminated and the matter concluded.

Monitoring Officer comments

Date: 28.01.2021

No further comment to the legal implication's comments above.

9 Risks

- 9.1. In these situations, there is always a risk that bidders may choose to challenge the process and try to claim some or all of their costs. The procurement documentation explicitly sets out that bidders were to proceed at their own risk. Further, the Council has taken all necessary steps at every stage throughout the process to ensure it conducts the procurement correctly and to explicitly set out the risks to bidders in the procurement documentation. Informal discussions have also taken place more recently to advise the bidders of the situation and they have received notification of the Council's intent to terminate the project, subject to Cabinet approval. As such, Womble Bond Dickinson has advised that a challenge is unlikely and even in

the event of a challenge, it is not considered likely to succeed. Ongoing discussions with the bidders will also take place to further mitigate this risk.

- 9.2. There is a risk that Homes England may opt to claw back some or all of the spend to date on the project under the terms of the signed Funding Agreement. However, Homes England has confirmed it will not seek clawback and therefore this risk has been managed. Ongoing positive discussions with Homes England continue to take place which seek to mitigate this risk further.
- 9.3. There may be a reputational risk to the Council within the development industry on the basis that this scheme has failed to deliver. However, it is not unusual within the sector for such schemes not to proceed and given the extreme and unprecedented conditions the country has faced and still continues to face in light of the pandemic, it is expected this risk to be minimal. It will further be mitigated and managed through a positive communications strategy and ongoing relationship building with the development sector.

10 Consultation

- 10.1. The Director of Regeneration and Place has been given regular briefings throughout the project to ensure that he was fully aware of all actions and assured that the best consideration for the site is represented, in line with the March 2019 Cabinet resolution. The project has been reported to the Executive Board at key milestones.
- 10.2. Briefings have been provided to the Strategic Regeneration Programme Board (SRPB) through regular papers and verbal updates. A project book is updated monthly as an ongoing record of all projects in the Regeneration Programme. This includes updates to this project and is circulated to members of the SRPB in advance of meetings. The SRPB includes the consultees required under the 2019 Cabinet direction to dispose of the site. The SRPB is not a decision-making body. This process ensured that the consultees identified by the direction were fully updated on all actions taken so that any issues could be identified at the earliest opportunity.
- 10.3. In addition to being a member of the SRPB, the Portfolio Lead for Regeneration was briefed on the project on a regular basis by the Head of Regeneration in regular one-to-ones.
- 10.4. Progress on the project has been reported to the Council's Executive Board at key milestones or when guidance was required on the most appropriate course of action in order to meet the objectives of the March 2019 Cabinet Resolution.

11 Communication

- 11.1. Communication of the project objectives, scope, decisions and outputs has been communicated to the SRPB, Executive Board and Cabinet. Public engagement on this and other Town Centre projects was undertaken as part of the consultation on the Opportunity Havant Regeneration Strategy and the Town Centre Masterplan produced by Fabrik Architects. The project was made public as part of the Local Plan consultation.
- 11.2. A communications plan will be developed to ensure communications are managed in respect of the project closure. This will form part of wider communications in respect of the next phases of the Council's regeneration strategy.

12 Appendices:

Appendix 1 Site Plan and adjoining land ownerships

13 Background Papers:

- Cabinet decision 24 October 2018
<https://havant.moderngov.co.uk/documents/s25628/Regeneration%20Strategy%20Cabinet%20Report.pdf>
- Cabinet decision 20th March 2019 -
https://havant.moderngov.co.uk/documents/s26786/Civic_Plaza_Business_Case_Report_CABINET_20%20Mar_2019%20rev1.pdf

Agreed and signed off by:

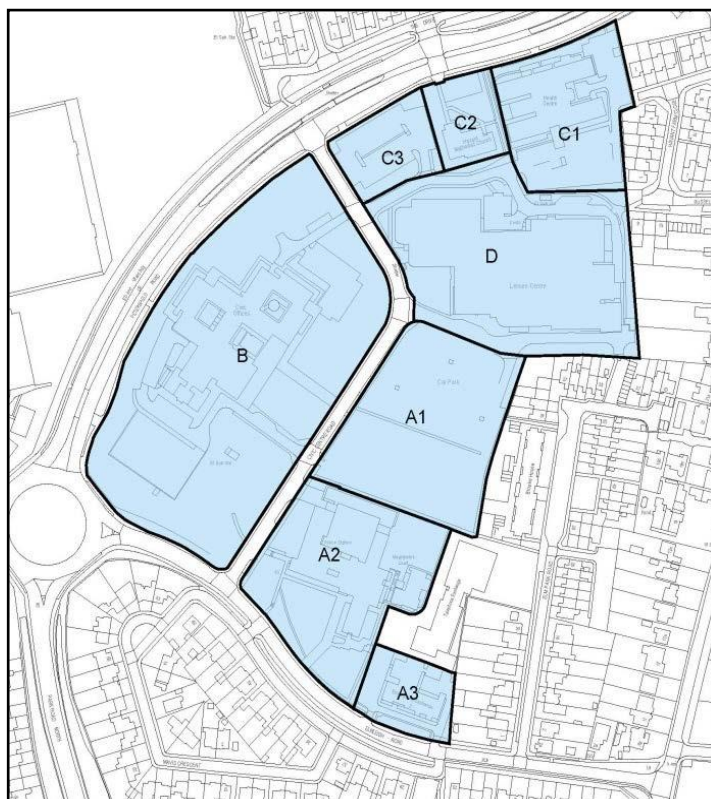
Monitoring Officer: 29.01.21

S151 Officer: 29.01.21

Director: 27.01.21

Contact Officer: Clare Chester
Job Title: Head of Regeneration & Economy
Telephone: 01730 234353
E-Mail: clare.chester@easthants.gov.uk

Appendix 1: Site plan and adjoining landownerships



| Parcel | Site Area (ha) | Landowner | Facility |
|--------|----------------|-----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| A1 | 0.98 | Havant Borough Council | Public surface car park |
| A2 | 0.96 | Havant Police station/ The Secretary of State for Communities and Local Government of HM Courts Service Estates | Her Majesty's Court Service and Hampshire Probation Service |
| A3 | 0.25 | Department of Work and Pensions | Job Centre |
| B | 2.54 | Havant Borough Council | The Plaza and staff surface car park |
| C1 | 0.64 | Havant Health Centre | NHS clinic and associated surface car park |
| C2 | 0.22 | Methodist Church | Methodist Church |
| C3 | 0.28 | Havant Borough Council | Public surface car park |
| D | 1.45 | Havant Borough Council | Leisure Centre |