

<b>Cabinet</b>	<b>Ref No: CAB13 19/20</b>
<b>18 February 2020</b>	<b>Key Decision: Yes</b>
<b>Arrangements for delivery of the Horsham Enterprise Park Scheme</b>	<b>Part I with Part II Appendix</b>
<b>Report by Executive Director Place Services and Director of Property and Assets</b>	<b>Electoral Divisions: Horsham East, Horsham Hurst and Horsham Riverside</b>
<p><b>Summary</b></p> <p>This report seeks Cabinet endorsement of arrangements for the delivery of the Horsham Enterprise Park scheme on land owned by the County Council. These include entering into a development agreement through the procurement of a development partner, who would carry out commercial and residential development in accordance with the approved outline planning permission for the site; and funding and carrying out enabling works to facilitate the development.</p> <p>The main objectives are to develop an enterprise park that will retain and promote high-value employment in Horsham and the local area and to generate a financial return on the Council's investment.</p>	
<p><b>West Sussex Plan: Policy Impact and Context</b></p> <p>The proposal is in accordance with the West Sussex Plan `Prosperous Place` priority and is a key project in the adopted West Sussex Economic Growth Plan 2018-2023.</p>	
<p><b>Financial Impact</b></p> <p>The sum of £4.157m is to be drawn from the Horsham Enterprise Park capital programme allocation for site enabling works and infrastructure upgrades, professional services, internal project and contract management, and statutory approvals. It is expected that the scheme will give the County Council a net capital receipt taking account of the additional revenue expenditure, including interest payments.</p>	

**Recommendations** - The Cabinet is asked to:

- (1) Confirm the proposal to deliver the Horsham Enterprise Park Scheme through a 'development agreement'.
- (2) Authorise the Director of Property and Assets to procure a development partner through an OJEU procurement process using the competitive procedure with negotiation (CPN), and to procure the work packages for enabling works through a non-OJEU procurement process.
- (3) Delegate authority to the Executive Director Place Services to award the contract to the bidder submitting the most advantageous tender to deliver the Horsham Enterprise Park scheme consistent with the outline planning permission to finalise negotiations on the contractual development agreement, and to award the contract or contracts for the enabling works.
- (4) Authorise the use of £4.157m from the Horsham Enterprise Park capital programme allocation for site enabling works and infrastructure upgrades, professional services, internal project and contract management, and statutory approvals to be undertaken through existing contractual arrangements or framework agreements.
- (5) Delegate authority to the Director of Property and Assets, in consultation with the Director of Highways and Transport, to consider and pursue options to enable and fund improvements to the junction of Wimblehurst Road and Parsonage Road, Horsham (adjacent to the site), and to sign a funding agreement if successful, subject to County Council governance.

## **Proposal**

### **1. Background and Context**

- 1.1 The County Council purchased the site formerly owned by Novartis Pharmaceuticals in Wimblehurst Road, Horsham, in December 2016 for £16.952m. The key driver for the County Council's investment in this acquisition was to sustain and build on the site's long-established position as a major centre for high value employment in Horsham town, and as a key contributor to the local, county and sub-regional economy.
- 1.2 The Council recognised the development was unlikely to be commercially viable for high quality employment use, otherwise a private sector developer would have stepped in when the site became available for purchase. The Council intervened to secure the site for high quality employment use and was awarded a Coast to Capital LEP grant of £3.66m towards the site acquisition cost in recognition of the market challenge.
- 1.3 Following site acquisition, the County Council undertook a programme of work with its commercial advisors which culminated in a Key Decision LDR07 (18/19) authorising the submission of an outline planning application to Horsham District Council (the planning authority) for a mixed commercial and residential scheme. Outline planning permission was secured in October 2019, subject to the signing of a Section 106 agreement. The Section 106

Agreement was signed in February 2020 between Horsham District Council and West Sussex County Council.

- 1.4 The main features of the scheme are to develop a high quality mixed-use development comprising up to 25,000 square metres of employment space suitable for B1 use classes (offices, research and development uses, and light industrial) on two thirds of the site including a new enterprise hub or collaborative workspace for micro and small businesses; and up to 300 new homes on one third of the site in a range of sizes, types and tenures, and including provision of 35 per cent affordable housing in full compliance with the Adopted Horsham District Planning Framework (2015). There will also be community facilities for shopping and services.
- 1.5 Wider benefits of the scheme include additional council tax income (estimated at £361,000 per annum), business rates income (estimated as £636,000 per year), and community infrastructure levy income from the residential development estimated at around £2.3 million for social infrastructure. It is also projected the scheme will provide an additional £88 million to £105 million Gross Value Added (GVA) associated with the additional jobs over time.
- 1.6 Work has been progressed on the options for scheme delivery with support from appointed external advisors. Key criteria to inform the consideration of options for scheme delivery are to:
  - achieve the scheme's original objectives of developing an enterprise park that will retain and promote high-value employment in Horsham and the county
  - generate a financial return on the Council's investment
  - progress the residential element of the scheme as enabling development to support the feasibility of the scheme overall (it is not the Council's main objective to develop and/or retain the residential element)
  - consider the risk profile of the delivery options, particularly in respect of development risks to the Council.

## **2. Proposal Details**

- 2.1 The proposal is to proceed with the option of a 'development agreement' through the OJEU procurement of a single development partner to develop out the whole site in agreed phases. A development agreement is a common form of development contract that public authorities use to partner with the private sector on mixed use or housing schemes for a range of urban regeneration and town centre developments.
- 2.2 The proposal to proceed through the procurement of a development partner follows extensive options appraisal work with support from external advisors. Six short-listed options for the site have been considered in terms of financial costs and benefits; non-financial benefits; risks and issues, with a focus on risk to the Council and the extent to which the option meets the Council's objectives for high value employment and a return on investment.
- 2.3 The preferred option would see the Council engaging the services of an experienced development partner to carry out the entire process of

development, construction, sale of homes and buildings to final occupation. This development partner would be procured through a public procurement procedure in accordance with the Public Contracts Regulations 2015. The Executive Director Place Services would approve the terms of the development agreement, to be executed as a deed under seal. The Director of Property and Assets would lead the governance of the project under the terms of the development agreement for the oversight and delivery of the development programme.

- 2.4 A market sounding exercise was undertaken over the summer and autumn of 2019, with the objective to gauge market interest and sentiment for delivery of the proposed Horsham Enterprise Park scheme. Key messages included the value and importance of the residential element to the overall deliverability of the scheme, and that a speculative build approach for the commercial development would be unlikely, with respondents overwhelmingly advocating a pre-let strategy whereby tenants are secured in advance of commercial development.
- 2.5 The market sounding confirmed sufficient market interest in the development opportunity to enable the Council to have confidence in initiating a procurement process that will result in a successful bidder being selected.
- 2.6 The market sounding also highlighted the importance of engaging early with potential occupiers in support of the pre-let strategy for the commercial space. Private sector organisations have expressed interest in letting space in the first commercial phase of the scheme. These discussions are commercial-in-confidence at this stage and will proceed in parallel with the procurement of a development partner, with the objective of confirming agreements to lease with future occupiers. The Director of Property and Assets would oversee and authorise agreements to lease in consultation with the Director of Law and Assurance and once it is clear the obligations of any lease can be met by reference to the development agreement.
- 2.7 It is proposed to fund and carry out the essential works that will enable early commencement of the first phase of commercial development. These include works to existing buildings, general site works and drainage, sewer and utility works. This work would have three advantages: first, it will allow the works to occur at the same time as procurement of the development partner, saving six to nine months on the programme; second, the works will substantially de-risk the site and so reduce development uncertainty; and third the works will increase the overall value of the site. The County Council has obtained cost options and the lowest, £2.717 million, is preferred to enable early commencement of the first phase of commercial development.
- 2.8 It is proposed to pursue possible options for external funding to improve the junction at the intersection of Wimblehurst Road and Parsonage Road (cost at around £2.2 million). The intersection was a cause for concern amongst local residents during the outline planning process. If a funding option becomes available a funding agreement would only be signed if the County Council is able to meet the funding conditions, and in accordance with council governance arrangements. These works are not required under the terms of the outline planning permission as the funds that could reasonably be levied from the scheme would not cover the cost. A funding route via the Community Infrastructure Levy may be possible at a future date. Any

junction improvement by the County Council is conditional on external funding being secured.

- 2.9 The arrangements will provide gigabit-capable digital infrastructure for the site, as part of the County Council's 'Converged Fibre Connectivity Scheme' with partners (which has received Coast to Capital LEP Local Growth Funding). The scheme will build a duct spine which includes Horsham to enable ultrafast speeds, and Horsham Enterprise Park is a site identified for inclusion in the project.
- 2.10 The recommendations are made based upon a series of assumptions which will be regularly reviewed and tested and mitigating action will be taken if needed to ensure the project remains on track to meet the overall objectives. The arrangements will include ongoing dialogue with the local community as plans progress towards delivery, through communication activities and occasional community events.

## **Factors taken into account**

### **3. Consultation**

- 3.1 Officers from legal, finance, procurement, capital, property and assets, and highways and transport have been engaged in developing and responding to the proposals through the Horsham Enterprise Park Project Board (Chaired by the Director of Property and Assets); and through the Council's Procurement Board, Assets Hub, and the Capital and Assets Board as part of capital programme governance.
- 3.2 A market sounding exercise with developers has been undertaken with the objective to gauge market interest for delivery of the proposed Horsham Enterprise Park scheme.
- 3.3 The Performance and Finance Scrutiny Committee scrutinised the proposals at its meeting on 22 January 2020. The committee raised a number of concerns over highway congestion issues and the financial viability of the project but, after debate, endorsed the proposed arrangements and objectives for the delivery of the Horsham Enterprise Park scheme. The committee fully supported seeking external funding to achieve improvements to the main road junction and emphasised the importance of maintaining a dialogue with the community on this and the wider development as plans progress towards delivery. The committee requested clarification on the land value estimates for the site and for proposed arrangements for scheme delivery.
- 3.4 The development of the site is included in the Horsham Growth Deal agreed between the County Council and Horsham District Council. The District Council is keen to see the site developed in accordance with the planning permission that it has granted.

## **Financial (revenue and capital) and Resource Implications**

- 4.1 It is proposed to allocate £4.157m from the capital programme allocation for the enabling works, and for the professional services, internal project and contract management, and statutory approvals for scheme delivery as set

out below. The costs are set out to 2025/26 to reflect the expected date for the completion of the entire development.

<b>Proposed Capital Expenditure</b>							
<b>Item (£m)</b>	<b>Total</b>	<b>20/21</b>	<b>21/22</b>	<b>22/23</b>	<b>23/24</b>	<b>24/25</b>	<b>25/26</b>
Enabling works	2.717	2.717	-	-	-	-	-
Professional fees	0.750	0.500	0.050	0.050	0.050	0.050	0.050
WSCC staff costs	0.690	0.115	0.115	0.115	0.115	0.115	0.115
<b>Total:</b>	<b>4.157</b>	<b>3.332</b>	<b>0.165</b>	<b>0.165</b>	<b>0.165</b>	<b>0.165</b>	<b>0.165</b>

- 4.2 The resource implications for finance, procurement, legal and other services are met through existing resources and through the proposed capital programme allocation.
- 4.3 Value for money will be ensured through the use of existing contractual arrangements or framework agreements for the capital programme allocation spend.
- 4.4 Overall the scheme projects a net capital receipt to the County Council which is the balance of projected total capital grants and receipts minus total capital expenditure. The detail of these estimates which cover total revenue expenditure over the period to 2025/26 are set out in the appendix (available to members only) which is currently commercially sensitive due to its relevance for the planned procurement.

## **5 Legal Implications**

- 5.1 Legal implications have been fully considered through the development of the scheme options and proposal. Provided the enabling works and development partner are both competitively procured, no State Aid issues arise.

## **6 Risk Implications and Mitigations**

- 6.1 The main risks and mitigations actions are set out below.

<b>Risk</b>	<b>Mitigating Action (in place or planned)</b>
Procurement risks	<b>Risk minimised.</b> Risks associated with failure to achieve competitive bids have been minimised through an extensive period of market sounding/soft market testing with the development industry. This market testing has confirmed sufficient market interest in the development opportunity to enable the County Council to have confidence in initiating a procurement process that will result in a successful bidder being selected.

<p>Development / construction risks (e.g. cost escalations, skills shortages, sub-contractor non-performance, health &amp; safety, market changes, utilities, third party rights, sales slowdowns, etc.)</p>	<p><b>Risk transferred.</b> The development opportunity has been explicitly structured through the planned procurement to minimise development/construction risk to the Council.</p>
<p>Planning risks (Reserved Matters applications)</p>	<p><b>Risk eliminated and minimised.</b> The main risks associated with planning have been eliminated by the securing of outline planning permission - issues around transport and access, affordable housing, land use, quantum of development and development phasing. A Section 106 Agreement has been settled with the local planning authority. Strong working relationships with Horsham planners have been established which will facilitate future stages of planning (Reserved Matters applications). Community consultation and engagement has been open.</p>
<p>Delivery risk – first phase commercial</p>	<p><b>Risk managed.</b> The delivery of the first phase of the commercial development is critical to overall project success. Risks associated with the first phase of commercial office space will be managed through the pre-let engagement strategy and also undertaking the enabling works, developer procurement, development agreement, RIBA Stage 3 Report and associated Reserved Matters planning application.</p>
<p>Programme / timeline risks</p>	<p><b>Risk minimised and transferred.</b> Programming risks are an ever-present issue in any development project. Much of this will be managed through the development agreement. High level programme management will be monitored and managed by the Project Executive Group. The procurement process has been programmed to run concurrently with the enabling works programme.</p>

## 7 Other Options Considered (and reasons for not proposing)

- 7.1 A long list and then a short list of options were considered for scheme delivery. The short-listed options considered in addition to the proposed preferred option for the site were: land banking, site sale, option agreement, corporate joint venture, and direct development. These were fully considered

within project governance and were available for review and rationale appraisal both through the scrutiny committee meeting and in informal briefings of cabinet where the full commercially sensitive information to inform the options appraisal was available.

## **8 Equality and Human Rights Assessment**

- 8.1 This report concerns internal procedural matters at this point. Equality and Human Rights Assessment requirements will be addressed at ensuing stages as appropriate.

## **9 Social Value and Sustainability Assessment**

- 9.1 A sustainability appraisal has been prepared and shows 'very positive' outcomes across all themes and subsections.
- 9.2 The procurement process (ITT stage) will explore with potential development partners how they can improve the economic, social and environmental wellbeing of West Sussex through their employment practices and supply chains in order for the County Council to meet its obligations under the Public Services (Social Value) Act 2012.
- 9.3 Sustainability is a key concern of the planning process and requirements have been met. Sustainability will be a key consideration in the Reserved Matters applications for individual phases of the development once the development partner is selected and under contract. This statutory planning stage will focus on the environmental performance of buildings and the sustainability of the place-making aspect of the scheme.
- 9.4 A framework travel plan has been prepared and a travel plan co-ordinator will be employed for the scheme as part of the obligations under the Section 106 Agreement. Overall, the aim of the travel plan will be to reduce travel to work by private car by 15 per cent. New cycle and pedestrian links will be funded through Section 106 contributions. These will be external infrastructure improvements to link the site with Horsham station and Horsham town centre. Use of renewable energy as well as installation of electric car charging points will be encouraged through the planning process.
- 9.5 As part of the procurement process, bidders will be required to submit their sustainability and corporate social responsibility policies as well as any corporate sustainability assurance reporting. It is anticipated that a BREEAM rating level will be determined through the procurement process to which all new and refurbished buildings will need to be certified. This will be in addition to standards applied through UK building regulations. BREEAM is an international scheme that provides independent third-party certification of the assessment of the sustainability performance of individual buildings, communities and infrastructure projects. This certification scheme is governed by the UK's Building Research Establishment.

## **10 Crime and Disorder Reduction Assessment**

- 10.1 Undeveloped, vacant sites do on occasion generate crime and anti-social behaviour, and associated complaints. Bringing the site forward for development will reduce these incidents.

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**Appendix**

Table of capital programme funding and outturn projection (Part II attached for members only due to procurement and contractual confidentiality).