

<b>REPORT TO</b>	<b>DATE OF MEETING</b>
<b>CABINET</b>	<b>13 June 2012</b>

Report template revised June 2008



<b>SUBJECT</b>	<b>PORTFOLIO</b>	<b>AUTHOR</b>	<b>ITEM</b>
<b>REGENERATION OF LAND OFF WESLEY STREET, BAMBER BRIDGE</b>	<b>PLANNING AND HOUSING</b>	<b>HELEN HOCKENHULL</b>	<b>7</b>

## **SUMMARY AND LINK TO CORPORATE PRIORITIES**

A report was made to Council in July 2011 regarding the lack of progress that had been made in securing the regeneration and redevelopment of the Wesley Street Mill site in Bamber Bridge. In order to bring the site forward, the Council delegated to Cabinet, the selection of a developer partner through a competitive process and the signing of a development agreement to facilitate the redevelopment of the site.

The purpose of this report is to provide an update on the progress that has been made and to seek authority to proceed with the procurement of a developer partner and to continue negotiations with the landowners concerned.

The approach set out in this report complies with the Council's corporate policies of a clean, green and safe borough, a strong South Ribble in the heart of a prosperous Central Lancashire and strong and healthy communities.

## **RECOMMENDATIONS**

That in order to secure the regeneration and redevelopment of land off Wesley Street, Bamber Bridge that the Cabinet :

- i. note the progress made as outlined in this report
- ii. give authority to proceed with the procurement of a developer partner through the OJEU process using the competitive dialogue contract award process
- iii. endorse the draft Pre Qualification Questionnaire, the evaluation criteria and the draft Development Brief (Appendix 1 and 2).
- iv. delegates to the Director of Planning and Housing in consultation with the Cabinet member for Strategic Planning & Housing, authority to make further minor text and layout changes if required before the procurement commences.
- v. note that following the completion of the procurement process, a further report will be made to Cabinet to agree the selection of the developer partner.

## **DETAILS AND REASONING**

### **Background**

The Wesley Street Mill site forms a brownfield site in the urban area of Bamber Bridge that has been deteriorating over a number of years and has continued to impact on the prospects for

regeneration in this area, the character of the locality and the amenity of local residents. The site is in a sustainable location close to the centre of Bamber Bridge and would be suitable for residential development and if developed, would contribute to the Council's 5 year housing land supply.

Since the Council meeting in July 2011, Officers have been investigating the way forward and what needs to be done to secure a developer partner through a competitive process.

A corporate Project team has been set up including officers from planning, legal, estates, and finance. It is intended that other specialisms within the Council can be brought in to assist as and when required.

An experienced firm of legal advisors to provide guidance on the procurement process were appointed at the end of October 2011. The consultants advised that procurement by the public sector is governed by European legislation. This requires that projects of a certain type and value are advertised openly in the Official Journal of the European Union (OJEU). The advice we have received is that this project forms one of this type and therefore the procurement of a developer partner must be in line with these OJEU regulations.

The OJEU regulations set down various steps to go through which have set timescales. This includes the posting of a formal notice to invite expressions of interest and the completion of a pre qualification questionnaire (PQQ). This stage has a minimum timeframe of 37 days. The purpose of the PQQ is to seek information on the track record of potential developers, their financial position and their technical and professional ability to take on a scheme of the nature proposed. This process enables potential bidders to be rejected if they do not meet the necessary criteria. Following this exercise the aim would be to shortlist 2/3 potential developers to be invited to the next stage in the process.

The advice we have received from our legal advisors is that it would be appropriate to use a process called 'Competitive Dialogue' to select a developer partner. This approach ensures a structured, well managed process. Potential developers are invited to submit outline proposals for the site and are given a period of time in which to do this, typically 4-6 weeks. It is likely that members will be involved in an informal way in the selection process perhaps when developer bid presentations are made or at a developer bidder's day. Discussions (or dialogue) are held with each bidder to refine the outline proposals and develop commercial and contractual aspects. The dialogue phase is closed and subject to each bid meeting set down evaluation criteria, a bidder would be invited and given a further period of time, again 4-6 weeks to prepare and submit a detailed proposal and final tender document for consideration. Once these have been received and evaluated, Cabinet would be informed of the outcome of the exercise and details of the preferred developer, the scheme and the bid submitted, in order for a final decision on selection to be made.

The Project Team with the assistance of consultants, have been preparing the procurement documents required to commence the selection of a developer partner including the OJEU Notice and Pre Qualification Questionnaire (PQQ) together with a Development Brief for the site.

OJEU documents namely the PQQ, seek information on the track record of a potential developer, their financial position, their technical and professional ability to take on a scheme of the nature proposed. Evaluation Criteria to assess the suitability of potential bidders have been prepared as part of this document. A copy of the draft PQQ, Appendix 1, will be circulated to Cabinet Members following the publication of this report.

There are certain criteria within the PQQ which will be judged on a pass or fail basis such as Economic and Financial standing, Insurance, Health and Safety.

Other factors are given a percentage score which is totalled to achieve an overall score for each potential bidder. These include Relevant Experience, Quality, Contract and Project Management,

Contract Termination, Contract Withdrawal. The indicated weightings have been formulated on the basis of good practice having regard to other similar procurement exercises. Cabinet endorsement of these criteria is sought.

The consultants, as part of the preparation work for the Development Brief have undertaken some 'soft market' testing with potential developers to ascertain the potential level of interest in the site. Residential developers have commented positively and conformed that they would be interested in the site for residential development. An access from Station Road through the McKenzie Arms is seen as having benefits to increase the marketability and attractiveness of the site. On the negative side, they have expressed concern about the uncertainty of the extent of on site contamination (discussed below), the land assembly and the prospect of any Compulsory Purchase proceedings.

The Development Brief describes the Wesley Street site and its context in Bamber Bridge, sets out the Councils vision for the site, a high quality residential led development with a primary access off Station Road. The document also outlines the relevant planning policies which must be complied with and the Councils aspirations for regeneration. The brief also outlines the procurement process and the opportunities open to a potential developer. A copy of the draft development brief, Appendix 2, will be circulated to Cabinet members following the publication of this report. Cabinet endorsement of this document is sought.

As Cabinet members are aware a developer partner would be required to sign a Developer agreement with the Council which would place obligations on the developer to work with the Council to negotiate with the landowners concerned, to submit a planning application, secure the demolition of the mill and commence the redevelopment of the site. Should negotiations to acquire the land required fail, the developer partner would be required through their agreement with the Council to support any Compulsory Purchase Proceedings. This will help to minimise the risks to the Council and cover the associated costs. The legal advisors appointed to assist with the procurement are currently drafting the developer agreement in line with the Heads of Terms previously presented to the Council meeting in July 2011.

A full risk assessment for the project has been prepared and continues to be monitored and updated. Not pursuing this approach is likely to lead to further severe delays in securing the redevelopment of the site with the detrimental impact on local residents, the community, the regeneration of the area and the environment. The selection of a Developer Partner and the signing of a Development Agreement reduces the risk to the Council of the acquisition, compensation and development costs and exposure of capital funds.

To supplement the above procurement documents and provide further information about the site to potential developers, the Project team are commissioning site investigations to be undertaken with the consent of the landowners.

In addition, in order to provide more information to a potential developer of how the site is envisaged to be accessed, the project team have approached highway consultants to draw up a sketch access scheme from Station Road through the McKenzie Arms pub.

It is recognised that there is a need for a carefully managed communications strategy at each stage in the proceedings, which ensures that the reasoning and approach of the Council is explained. The Project team have prepared a communications plan to this end.

Now that the necessary documentation is nearing completion, the procurement process could, subject to Cabinet approval, commence in the summer.

Whilst the work to prepare the OJEU documents has been undertaken, Officers have continued to negotiate with the landowners of the mill, the McKenzie Arms and Lancashire County Council in order to bring the site forward for development.

## SUMMARY

The necessary procurement documents required to select a developer partner are now substantially complete. The Cabinet is asked to affirm the intention to proceed with this procurement and endorse the documents as outlined in this report. A further report will be made to Cabinet on completion of the procurement process, to agree the selection of the developer partner. In the interim Officers will continue to negotiate with all landowners concerned in order to bring the site forward for re development.

## WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

<b>FINANCIAL</b>	<p>The main financial burden would be borne by the developer partner. The Council in exercising its statutory powers will be obliged to pay any compensation for acquisition, blight, business compensation and costs to be determined by the lands tribunal. This determination can take several years but would be recoverable under the Development Agreement with the Developer Partner. This Agreement will include clear accountable actions that the developer must adhere to and will include termination clauses in the event of non compliance. Initial costs of securing a Developer Partner can be covered by external funding through Growth Point monies. There will also be some internal staff costs in pursuing this action.</p>
<b>LEGAL</b>	<p>There is a clear statutory process to be undertaken.</p> <p>The method by which the preferred Development Partner is selected needs to be thoroughly transparent and in accordance with good procurement practice. Clearly one of the checks that must be carried out is to check the financial viability/security of those companies who express an interest. The risk of any Development Partner subsequently going into liquidation must be minimised.</p> <p>The Developer Partner would be expected to enter in to a contract with the Council in particular to cover all the Council's costs of acquiring the land. This agreement will include clear accountable actions that the developer must adhere to and will include termination clauses in the event of non compliance.</p> <p>Compulsory Purchase Proceedings are a last resort – it is only if negotiations fail that the Council can go down this route. In the event that no progress is made with negotiations then at the appropriate time a further report will be brought to Council which will set out in detail the Council's case for proceeding with a CPO including in depth legal advice. Clearly the statutory criteria to justify a CPO must be justified.</p> <p>If a CPO is subsequently made and objections from land owners are made then a Public Inquiry would need to be held. The process would not be quick and could involve considerable legal costs.</p>

<b>RISK</b>	<p>A full risk assessment of the recommended approach has been prepared. Not pursuing this approach is likely to lead to further severe delays in securing the redevelopment of the site with the detrimental impact on local residents, the community, the regeneration of the area and the environment.</p> <p>The selection of a Developer Partner and the signing of a Development Agreement reduces the risk to the Council of the acquisition, compensation and development costs and exposure of capital funds but does not totally minimise the risks identified in the Legal Section above. The Development Agreement will include key milestones which would be required to be adhered to and if not, will include termination clauses which would reduce the further risk to the Council.</p>
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<b>OTHER (see below)</b>	
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<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

