

Birmingham City Council

Report to Cabinet

13th October 2020



Subject: Icknield Port Loop Limited Liability Partnership (LLP)
Re-structure

Report of: Acting Director of Inclusive Growth

Relevant Cabinet Member: Councillor Ian Ward, Leader of the Council

Relevant O &S Chair(s): Councillor Lou Robson– Economy and Skills
Councillor Sir Albert Bore - Resources

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Ladywood, North Edgbaston.		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 007823/2020		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<p>The financial information on the proposed company restructure and changes to the project are summarised in the attached Exempt appendix 1. This is covered under Exempt information – discretion to exclude public: information falling within the categories outlined in 12A of the Local Government Act 1972 (as amended): 3 Information relating to the financial or business affairs of any particular person (including the council).</p>		

1 Executive Summary

- 1.1 On 8 June 2016 the Icknield Port Loop Limited Liability Partnership (the Partnership) was created between the Canal and River Trading Community Interest Company (CRT CiC), Canal and River Trust (CRT), the Council and the Joint Venture (JV) formed between Urban Splash and Places for People

(US/PfP) to form the Partnership. The role of the Partnership is to successfully promote the regeneration and development of the land at Icknield Port Loop as shown on the plan attached at Appendix 2 (the IPL site). Under an Option Agreement dated 8 June 2016 (the 2016 Option Agreement) with the Council, CRT CiC and CRT (the Land Owners) the Partnership can drawdown land from the Land Owners as required to deliver the IPL scheme at the IPL site.

- 1.2 This report seeks approval to the restructuring of the Partnership and to note that the Partnership Board has agreed with the Land Owners a Deed of Variation to the 2016 Option Agreement and the Partnership Members Agreement to facilitate the phased drawdown of the Land Owner's property as shown on the attached plan at Appendix 2.

2 Recommendations

- 2.1 Approves the proposed restructure of the Partnership as set out in Exempt Appendix 1.
- 2.2 Approves the proposed variations to the Land Owners 2016 Option Agreement and the Partnership Members Agreement as set out in Exempt Appendix 1 and in relation to the profit and loss waterfall and distribution policy within the Members agreement.
- 2.3 Authorises the Assistant Director Property Services to negotiate and agree all necessary commercial requirements to give effect to the above recommendations as set out in Exempt Appendix 1.
- 2.4 Authorises the City Solicitor and delegates to negotiate, execute and complete all relevant documentation to give effect to the above recommendations.

3 Background

- 3.1 The scheme comprises a residential led development of 1,150 homes and the land within the IPL site is in the joint ownership of the Land Owners as shown on the land ownership plan at Appendix 2. Phase P1 is complete and phase A1 (both on CRT land) is currently being developed by the Partnership in accordance with Outline Planning Permission 2017/04850/PA.
- 3.2 The Partnership has completed major work on the LLP site, remediated phases P1 and A1, repaired canal walls, commenced marketing and place making and brought the initial phases to market, with the first phase of modular houses (Phase P1) now occupied and Phase A1 traditional houses under construction.
- 3.3 The Partnership Board has been in prolonged discussion regarding potential for restructuring the relationship between the Land Owners and US/PfP in order to accelerate housing delivery and increase certainty over the remainder of the development, as set out in the Exempt Appendix 1.

- 3.4 The preferred solution for the Partnership Board to deliver this acceleration is to re-structure the Partnership.
- 3.5 US/PfP are also seeking to inject place making activity adjacent to Phases P1 and A1 and the park, through delivery of a Community Hub utilising the CRT owned Tube Works buildings at Rotton Park Street (identified as Phase G on the attached Plan at Appendix 2) These buildings were originally identified for clearance and development in accordance with paragraph 3.6. The Partnership Board are unanimous in their desire to see the buildings enlivened.
- 3.6 Under the original arrangements, the buildings identified on Plot G were to be demolished (save for the stable block) to enable development of a mix of uses including high density housing, non-residential space, community, business use, with change of use of the stable block to leisure, retail and non-residential.

4 Options considered and Recommended Proposal

- 4.1 **Option 1 – Do Nothing:** The commercial consequences of not proceeding with the proposed re-structure of the Partnership are as identified in the Exempt Appendix 1.
- 4.2 **Option 2 – Proceed with the proposal:** The proposed restructure of the Partnership will enable the scheme to accelerate and release the Land Owners from future exposure to commercial risk.
- 4.3 The development of the site will promote private investment into the City region.

5 Consultation

- 5.1 The relevant Ward members have been consulted and no adverse comments have been received on the report being progressed to an executive decision. – see Appendix 4.
- 5.2 Opportunities for the regeneration of the IPL site are set out in the Birmingham Development Plan and Greater Icknield Master Plan, both of which were subject to extensive consultation the outcomes of which were positive.
- 5.3 As part of the preparation of the planning application for the residential development of Phases P1 and A1 an exhibition was held for the local community, businesses and stakeholders. This exhibition also provided details of the wider vision for the regeneration framework for the IPL scheme.

6 Risk Management

- 6.1 The benefits to the Council include reduced commercial risk, guaranteed land value and accelerated development.

7 Compliance Issues

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The proposals set out in this report will support the delivery of the Council Plan and Budget 2018/22+ (as updated in 2019) the outcome being delivery of an exemplar residential development and the delivery of c.1,150 new homes (outcome 4 priority 2, appropriate housing to meet the needs of citizens) a flourishing neighbourhood with good quality housing with clean air, safe and clean streets and green spaces. They will support the delivery of the ambition set out in the Birmingham Development Plan and the Greater Icknield Masterplan through the provision of new enterprise, art and event space.

7.2 Legal Implications

7.2.1 Section 1 of the Localism Act 2011 contains the City Council's general power of competence.

7.2.2 The power to voluntarily acquire, dispose and manage assets in land and property is contained in Sections 120 and 123 of the Local Government Act 1972. Under Section 111 of the Local Government Act 1972 the City Council may incur expenditure in relation to anything which is incidental to the discharge of its functions.

7.3 Financial Implications

7.3.1 The financial consequences of the proposed Partnership re-structure and the variations of the 2016 Option Agreement and the Members Agreement are summarised in the attached Exempt Appendix 1. This is covered under Exempt Information – discretion to exclude public: information falling within the categories outlined in 12A of the Local Government Act 1972 (as amended): Item 3 (Information relating to the financial or business affairs of any particular person (including the council). In the circumstances Exempt Appendix 1 is considered not to be in the public interest as public disclosure would be prejudicial to maintaining the privacy of commercially sensitive information.

7.4 Procurement Implications (if required)

7.4.1 Under the proposed restructure the Partnership/US/PfP have the option, in aggregate to acquire and develop up to 100% of agreed phases.

7.5 Human Resources Implications (if any)

7.5.1 N/A

7.6 Public Sector Equality Duty

7.6.1 An initial Equality Assessment Ref No. EQUA538 dated 26th June 2020, is attached as Appendix 3. The assessment confirms there is no adverse

impact on the protected groups identified in the Public Sector Equality Duty statement included in this report under the Equality Act 2010, and that a full Equality Assessment is not required for the purpose of this report.

8 Appendices

- 8.1 Exempt Appendix 1 – this has Annexes
 - Annex 1 – Draft Overage Schedule
 - Annex 2 – Land Draw Down Table
 - Annex 3 – Changes in Assumptions
 - Annex 4 – Structural Diagram
 - Annex 5 – Draft Heads of Terms
- 8.2 Appendix 2 – Site Plan
- 8.3 Appendix 3 – Equality Analysis
- 8.4 Appendix 4 – Consultation

9 Background Documents

- 9.1 N/A