

# Birmingham City Council

## Report to Cabinet



17<sup>th</sup> March 2020

**Subject:** **WHEELS SITE DEVELOPMENT: STRATEGIC BUSINESS CASE**

**Report of:** Interim Director, Inclusive Growth

**Relevant Cabinet Member:** Councillor Ian Ward, Leader of the Council  
Councillor Tristan Chatfield, Finance and Resources

**Relevant O & S Chair(s):** Economy and Skills, Councillor Lou Robson  
Resources, Councillor Sir Albert Bore.

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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): <i>Bordesley &amp; Highgate</i> |   |  |
| Is this a key decision?                                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No                      |
| If relevant, add Forward Plan Reference: 007228/2020        |   |  |
| 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 type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No           |

### 1 Executive Summary

- 1.1 The Council is the ultimate freeholder to the Wheels Site. Following dispute with the previous leaseholder, the Council obtained control of the Wheels Site on 31<sup>st</sup> January 2020, and this report sets out the options for the re-development of the site in accordance with the Bordesley Park Area Action Plan adopted by the Council on 14<sup>th</sup> January 2020 (which provides the statutory local planning framework for the area).
- 1.2 Professional advice will need to be procured and appropriate surveys carried out to identify the preferred option for bringing forward redevelopment. The Council has incurred costs regaining control of the site, in-house project officer

time and in addition, work is required to carry out site surveys, treatment of Japanese Knotweed and engage professional expertise to assist the evaluation of development options. This report seeks approval to progress these works and fund the expenditure required.

## **2 Recommendations**

- 2.1 Approves the proposal to bring forward the development of the Wheels Site (shown at Appendix 1 identified within bold area) in accordance with the Bordesley Park Area Action Plan adopted by Council on 14<sup>th</sup> January 2020 and the release of up-front funding of up to £0.790m in order to fund costs incurred to secure control of the site and commence options appraisal and site investigation works.
- 2.2 Notes any future capital receipt from the Wheels Site disposal has been ring-fenced as part of the City Deal Public Asset Accelerator approved by Cabinet in October 2014 which will be used to reimburse site acquisition costs of £0.640m.
- 2.3 Approves the commencement of preparatory legal work to facilitate the potential acquisition of third-party interests.
- 2.4 Authorises the Assistant Director Property to negotiate and execute a lease agreement with existing occupiers at a commercial rent for up to one year until the redevelopment can commence.
- 2.5 Authorises the Acting City Solicitor (or their delegate) to negotiate, execute, and complete all necessary documentation to give effect to the above recommendations.

## **3 Background**

- 3.1 Bordesley Park is identified as one of ten key growth opportunities (Policy GA7) within the Birmingham Development Plan (adopted in 2017).
- 3.2 On 14 January 2020, the City Council adopted the Bordesley Park Area Acton Plan (BPAAP) which seeks to drive forward the regeneration of the area delivering economic and housing growth opportunities to local residents and businesses, enhancing public transport and connectivity and supporting the sustainable growth of the city up to 2031.
- 3.3 The BPAAP identifies the Wheels Park site and environs as a key area of change (Key opportunity 1) which has the potential to become an attractive location for high quality employment use which delivers inclusive and sustainable growth, improved transportation and employment and training opportunities.
- 3.4 At the heart of the Wheels Park area is the Wheels Site owned by the City Council (shown at Appendix 1 identified within bold area), a former landfill site which has a number of challenges including contamination, access constraints, a poor environment and significant differences in ground levels.

- 3.5 The Wheels Park scheme as outlined in the BPAAP, aims to provide up to 1 million sq ft of new and improved employment-led development, creating up to 3,000 jobs and training opportunities targeted at the local community and associated infrastructure including new access routes, an internal road network and improved access to public transport, in particular a new Metro route proposed to the south of the site which will connect the new HS2 Curzon Station in the city centre to the Airport and NEC.
- 3.6 The Wheels Site will provide the catalyst for the regeneration of the wider area between the Wheels Park and Bordesley Green. Investment in the Wheels Site coupled with the proposed Metro route will also support the improvement and redevelopment of Bordesley Green local centre.
- 3.7 It is proposed that officers also seek to explore the acquisition of sites adjoining the Wheels Site i.e. the wider Wheels Park to facilitate improved access (to be the subject of a future executive report).
- 3.8 In order to deliver on the strategic policies and secure a comprehensive approach to the area's regeneration, the City Council will need to engage appropriate experts and potentially a development partner(s) with sufficient experience, financial standing and vision.
- 3.9 In order to inform the Outline Business Case (OBC) and identify the most advantageous route to secure successful development, it is proposed that immediate professional and technical support be obtained for the following areas:
- Initial ground contamination and site remediation advice
  - Transportation advice
  - Property and commercial advice
  - Financial and delivery models (including taxation) advice
  - Legal advice
- 3.10 On 31<sup>st</sup> January 2020, the City Council regained control of the Wheels Site and is proposing to grant a contracted-out lease agreement of a one-year duration to the current occupiers, after which the redevelopment of the Wheels Site is expected to start. In the event that the lease is not signed then the occupiers will be asked to vacate the site and it will be secured before redevelopment takes place.

#### **4 Options Considered and Recommended Proposal**

Five high level options have been identified at this stage and are detailed in 4.1 to 4.5 below. Following the investigation of these and any other potential options, a preferred option for the City Council will be presented in an Outline Business Case report for Cabinet approval anticipated in the summer of 2020.

4.1 **Option 1 – Market the Wheels Ste as is – when vacant, Bordesley Park AAP in place but no remediation.**

This delivery model limits risk to the City Council as it requires the least input/resources. The Council can include delivery requirements in any disposal agreement but this will have a negative impact on the consideration achieved. Ultimately if not viable/deliverable then the developer is unlikely to advance the development despite what may be in any contract.

If this delivery model is followed the City Council loses overall control of the development and does not secure best consideration for the site.

4.2 **Option 2 – Market the Wheels Site with some remediation and planning guidance/outline planning approval.**

The City Council would carry out some remediation (to be determined) and achieve an outline planning approval which would help to de-risk the project making it more attractive to potential developers. Additional work would help to give greater certainty to the Wheels redevelopment and would have a positive impact on the consideration achieved. Financial resources will be required upfront to progress remediation and planning, which would be capitalised as an asset under consideration and funded from the future capital receipt.

The City Council can specify delivery requirements in any disposal, but with potential procurement implications described in 4.4 below, and will have a negative impact on the consideration achieved. Ultimately if not viable/deliverable then the developer is unlikely to advance despite what may be in any contract.

Given the potential contamination on site, the level of work and de-risking proposed, this might not be sufficiently attractive to potential developers. Without detailed knowledge of end occupier requirements (including loading requirements) the remediation proposed may not be appropriate (either more is required or money has been spent on remediation that is ultimately not required by the end occupier).

4.3 **Option 3 - Market individual plots and remediate/provide infrastructure as required by prospective occupiers (Aston Advanced Manufacturing Hub model).**

This delivery model was successfully implemented to deliver the Advanced Manufacturing Hub in Aston. It incorporates an enabling approach to tailor individual plots to the occupier's requirements in terms of detailed remediation and associated building loading requirements.

This delivery model will enable the City Council to remain in control of the process and can take advantage of individual grant schemes/opportunities at each phase. Along with Option 5 this option provides the greatest degree of control for the City Council.

An increased level of resources will be required to project manage and secure occupiers for each individual plot. The City Council will also need to commission

consultants to provide the necessary technical expertise to bring the site forward.

In this option the City Council provides and funds the infrastructure works such as roads, services and statutory undertakers. The City Council will receive capital receipts as the development plots are disposed of and the receipts will be used to fund the expenditure required to develop and bring it to the market. This option will generate larger capital receipts but also increased expenditure for the City Council and there is a risk of insufficient funding to complete the project, especially if additional infrastructure works are required, which might require the City Council to seek external grant funding.

4.4 **Option 4 - Procure development partner and provide funding within the financial model for remediation of Wheels Site and infrastructure (Peddimore model).**

This approach mirrors the Peddimore delivery model, approved by Cabinet on 6<sup>th</sup> March 2018, which brings a development partner on board to share risk and with a shared objective to maximise returns. The development partner will also be an established company bringing market knowledge, delivery expertise and access to finance.

The procurement process to secure the development partner is likely to be an extensive OJEU process and will need appropriate procurement support. The City Council will still need to commission consultants to provide the necessary technical expertise (site information and warranties) to bring the Wheels Site forward.

4.5 **Option 5 – City Council undertakes development of Wheels Site directly (similar to Birmingham Municipal Housing Trust) and either sells completed development (all or part) or retains ownership as on-going income stream (whichever is most advantageous to the City Council).**

Implementing this delivery model will enable the City Council to have total control over the delivery of the Wheel Site redevelopment providing potential for the City Council to capture all developer profit from the scheme and/or on-going revenue stream.

This option assumes that the City Council will undertake all necessary infrastructure work to bring forward the Wheels Site for development and construct all the units on the site.

To enable this approach the City Council will need to fund all costs associated with the development (net of any grant funding that may be available). This option requires very significant levels of investment over a number of years and would expose the City Council to significant risk. It is also doubtful that the City Council has the expertise in house to manage a development project of this scale and would have to procure.

## **5 Consultation**

- 5.1 There has been extensive and wide-ranging public consultation at each stage of the preparation of the Bordesley Park AAP culminating in the Public Examination into the plan on the 30 May 2019.
- 5.2 The City Council has taken legal action to take control of the Wheels Site, which was granted on 31<sup>st</sup> January 2020. Discussions have taken place with the occupants regarding continued use for a period of up to one year under a contracted out lease agreement. In the event that this is not signed then steps will be taken for their removal from the site.
- 5.3 As the proposals for the Wheels Site are progressed, further public consultation will take place including all future planning applications relating to the wider Wheels Park.
- 5.4 A Wheels Project Board comprising the Interim Director, Inclusive Growth and senior officers from Planning and Development, Transport and Connectivity, Finance, Legal and Democratic Services, Property Services and Procurement has been convened to bring forward the development of the Wheels Site.

## **6 Risk Management**

- 6.1 Risks will be identified, evaluated and managed in line with the City Council's Risk Management Methodology 2017. The initial risks and opportunities are shown in the Risk Register at Appendix 2.

## **7 Compliance Issues:**

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

The decisions recommended in this report will facilitate the development of the Site which contributes to:

- 7.1.1 The Council's Plan 2018-2020 (2019 update) to prioritise jobs and skills for Birmingham to be a great city to succeed in and to be renowned as an enterprising, innovative and green city. The scheme will support inclusive sustainable growth in the number of jobs across Birmingham, invest in infrastructure to develop a modern, sustainable transport system; invest in growth sectors such as manufacturing; and provide training for Birmingham residents so that they can take advantage of sustainable employment. The scheme will deliver on actions within the Council Plan to concentrate on significant areas of opportunity, by facilitating jobs and training opportunities in an area of deprivation within East Birmingham, using the City Council's property assets to bring forward regeneration and investment and by facilitating the expansion of the Metro.

- 7.1.2 The Birmingham Development Plan identifies Bordesley Park (including the Wheels site) as one of ten key growth areas to deliver the objectives of the plan. It also designates the Wheels Site as a Core Employment Area which will make a significant contribution to the city's growth strategy to deliver industrial land and job opportunities.
- 7.1.3 The adopted BPAAP identifies the Wheels Site as a key opportunity for change which can become an attractive location for high quality employment uses.
- 7.1.4 The Birmingham Connect Mobility Action Plan sets out a vision to create a transport system which puts the user first and delivers the connectivity that people and business requires. The aim is to improve people's daily lives by making travel more accessible, more reliable, safer and healthier, and using investment in transport as a catalyst to improve the fabric of the city.
- 7.1.5 Birmingham Business Charter for Social Responsibility (BBC4SR)

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of any potential development partner agreement. Tenderers will be required to submit an action plan with their tender that will be evaluated, implemented and monitored during the contract period. The City Council will work with developers, partners and contractors involved in the scheme to maximise employment outcomes for local people through the development of apprenticeship schemes and prioritisation of Birmingham's job seeking residents.

## **7.2 Legal Implications**

- 7.2.1 The City Council has powers to hold and to dispose of land under Section 32 of the Housing Act 1984 and Section 123 of the Local Government Act 1972.
- 7.2.2 Section 1 Localism Act 2011 sets out the Council's general power of competence. Section 111 Local Government Act 1972 contains the City Council's ancillary financial and expenditure powers in relation to the discharge of its functions.
- 7.2.3 The Local Authority (Capital Finance and Accounting) (England) Regulations 2003 Part 23 enables capital receipts to be used "to meet the costs of or incidental to a disposal of an interest in land other than housing land, provided these do not exceed 4% of the capital receipt arising from the disposal."

## **7.3 Financial Implications**

- 7.3.1 The Wheels Site was included as part of the City Deal Public Asset Accelerator approved by Cabinet in October 2014. The principle of the

Asset Accelerator is that receipts generated by disposal of the assets are ring-fenced to unlock sites for housing or employment use. Due to the level of remediation and infrastructure required, further de-risking is required and the Wheels Site is unlikely to provide a viable investment proposal to the private sector alone and, for this reason the Council is looking at options for development of the Wheels Site including the procurement of a partner to limit the costs and risks.

- 7.3.2 The Wheels Site was subject to a commercial lease agreement with the previous tenant however, it was necessary to progress legal action (following the non-payment of rent) in order to regain control of the Wheels Site at a cost of £0.640m. These costs are being classed as related to the removal of an encumbrance to the eventual disposal of the site and, in line with local authority financial regulations, will be funded from capital receipts up to a cap of 4% of the estimated receipt.
- 7.3.3 In addition, to develop the Outline Business Case report for Cabinet approval, a further £0.150m of revenue funding is required to procure the necessary professional services to undertake financial viability and options appraisal, engage in-house Transport and Connectivity project officer time and to complete initial site surveys to determine the extent of remediation required. This will be funded from within existing Planning and Development budgets and mitigating actions will be taken to ensure that this is contained within the total Inclusive Growth budget.
- 7.3.4 The Council as freeholder (and in the absence of a tenant) is liable for interim management costs for business and water rates, security and officer time anticipated to cost up to £0.150m p.a. which will be charged to the Property Services surplus property revenue budget in the first instance. In the event that there is insufficient budget then the overspend will be mitigated within the wider Inclusive Growth revenue budget. The City Council will seek to establish a lease with the existing tenants to partially mitigate these management costs in the short term.

## **7.4 Procurement Implications**

- 7.4.1 The procurement strategy for the development partner and for any technical professional services to support the project will be detailed in the OBC report.
- 7.4.2 The procurement of advice and survey to inform the OBC will be carried out in accordance with the Constitution and the Procurement Governance Arrangements and contracts awarded under Chief Officer delegated authority.



## **7.5 Human Resources Implications (if required)**

- 7.5.1 The City Council will secure external financial and development advice as set out in paragraph 3.9 to work with officers in the development of the OBC. Officer time from Transport and Connectivity will be funded from the revenue development budget.

## **7.6 Public Sector Equality Duty**

- 7.6.1 The Wheels Site redevelopment scheme will support the delivery of the BPAAP which Full Council adopted on the 14th January 2020. The Equality Analysis attached to this report at Appendix 3, concluded that the BPAAP will help create a framework that will positively impact on the quality of life of the area's diverse community. A further Equality Analysis will not be required at this stage, as the report recommendations do not have an adverse impact on the groups and characteristics protected under the Equality Act 2010.

## **8 Appendices**

- 8.1 List of Appendices accompanying this report (if any):

1. Site plan
2. Risk Register
3. Equality Analysis

## **9 Background Documents**

- 9.1 The Birmingham Development Plan – adopted January 2017
- 9.2 Council's Plan 2018-2022 (Update): Cabinet report dated 25<sup>th</sup> June 2019
- 9.3 Bordesley Park Area Action Plan (BPAAP) adopted by Council 14<sup>th</sup> January 2020.
- 9.4 Driving Housing and Employment Growth through the City Deal Public Asset Accelerator report: Cabinet October 2014.
- 9.5 Peddimore – Appointment and Contract Award of Preferred Bidder: Cabinet report 6<sup>th</sup> March 2018.
- 9.6 Birmingham Connected Moving Our City Forward – Birmingham Mobility Action Plan White Paper – November 2014
- 9.7 Draft Birmingham Transport Plan – January 2020