

AGENDA ITEM

REPORT TO CABINET

14 MARCH 2024

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

**Lead Cabinet Member – Councillor Robert Cook
Regeneration and Housing – Lead Cabinet Member – Councillor Nigel Cooke**

DURHAM LANE INDUSTRIAL ESTATE REDEVELOPMENT

SUMMARY

The report provides Cabinet with an update on the vacant employment land at Durham Lane Industrial Estate that the Council purchased with Indigenous Growth Fund (IGF) monies in July 2021 in order to safeguard the site and bring forward development. A preferred developer has been selected to deliver a business park, subject to completion of legal contracts. This report seeks authority to dispose of the land to the developer.

REASONS FOR RECOMMENDATION(S)/DECISION(S)

To provide Members with an update on Durham Lane Industrial Estate and seek approval to dispose of the land to a preferred developer.

RECOMMENDATIONS

1. Cabinet approve the disposal of land at Durham Lane Industrial Estate on a phased basis to the preferred developer, in accordance with the details outlined in this report and Appendix A and in accordance with the Development Agreement subject to recommendation 2 below.
2. Cabinet delegate authority to the Assistant Director - Inclusive Growth and Development in consultation with the Leader of the Council and Cabinet Member for Regeneration and Housing, to agree the detailed terms of the disposal and the Development Agreement.
3. Cabinet note that any money received from the sale of the land is required to be spent in line with the TVCA IGF criteria.

DETAIL

Background

1. In January 2020, Cabinet approved the acquisition of vacant, undeveloped employment land at Durham Lane Industrial Park at Market Value to safeguard strategically important employment land. The site was purchased in July 2021 for £2.8m using IGF monies. Durham Lane is a key element of the Council's IGF Strategic Initiatives Programme which seeks to promote inward investment, unlock employment land, support existing business growth, and be a catalyst for economic growth and job creation across the borough.

2. Since July 2021, numerous site surveys along with an options appraisal have been commissioned in order to better understand the sites opportunities and constraints; essentially completing due diligence to make the site more attractive to a developer.
3. In summer 2022 Knight Frank were appointed as the Council's land agents following an engagement process. DWF were also appointed as the Council's legal advisors using the NEPO framework. It was agreed following advice from DWF that the site should be dealt with as a land disposal as The Public Contracts Regulations 2015 would not apply, but that certain conditions should still be included as part of the land transaction to ensure the Council's aspirations for the site are delivered and to minimise risk to the Council.
4. Knight Frank marketed the site on behalf of the Council to attract a developer. They advised on the strategy and produced a marketing brochure which was supported by an SBC Design Code for the site. The site was marketed between May and July 2023 via a mailshot to potential developers and agents, Knight Frank, EG Propertylink, Rightmove Commercial and Invest Stockton-on-Tees websites, and in the Estates Gazette, accompanying website and dotmailer to their subscriber list which boasts UK coverage. The advert had a really good response with 28 enquiries received, with several requests for access to the Data Room which held detailed information on the site including the topographical, archaeological, drainage, flood, ground investigation and ecological surveys that have been completed since SBC purchased the site.
5. Interested developers were requested to submit an initial bid proposal for the site by 12th July 2023. 5 Expressions of Interest bid proposals were submitted for consideration which Knight Frank considered a good response. The 5 bid proposals were shortlisted to two by SBC, Knight Frank and DWF based against a criteria of requested information to demonstrate the bidders financial resources, track record and proposed delivery of a scheme at Durham Lane. A period of competitive dialogue and interviews took place in October, and in November a developer was selected as the Council's preferred development partner.
6. The preferred development partner was recommended by Knight Frank as they can demonstrate their ability to develop on a magnitude similar to Durham Lane and have a knowledge of end users of a scale and size from outside the North East which would be beneficial to attract to the site. The developer's ambitions are also more aligned with the Council's in terms of removing obstacles to efficient development, improving the offer of the estate and they aim to achieve BREEAM excellent rated buildings. They have a strong 'in-house' and external professional team and the financial information provided also demonstrated that they were the stronger company with greater financial resources to call upon than most of the other parties. Detail of the preferred developer partner is commercially sensitive and is included at Exempt Appendix A. It is proposed that the land is drawn down to the preferred development partner under the terms set out in the Development Agreement.

Site Disposal Update

7. The preferred developer is currently working with the Council and key partners, at risk, to better understand Durham Lane's opportunities and constraints and develop the masterplan. An Exclusivity Agreement has been signed with the preferred developer until 31st March 2024 whilst the legal contracts are being drawn up. They have committed to submitting a planning application soon after the agreement is signed and intend to deliver the project on a phased basis. They have committed to defraying £3m IGF grant monies by March 2026 on infrastructure improvements to unlock the land for development.
8. Initial Heads of Terms have been provisionally agreed by both parties and lawyers are now working to complete a Development Agreement. The detail is commercially sensitive and included as Exempt Appendix A.

Added Benefits through Economic and Social Value

9. The development of the strategically important, vacant employment land at Durham Lane will attract inward investment, support existing business growth and allow the Council to realise additional economic value as a result of job generation and social value through our partnership approach with the preferred developer.
10. The Council is committed to maximising the impact of its public expenditure for the benefit of the local economy, the environment and wider society and communities, and this is being delivered through embedding strong Social Value policies through our partnership approach with the preferred developer. Social Value is an ability to determine and measure what is created as added value through a contracts and commissioning processes, considering more than just the financial transaction but what added benefits we wish to achieve.
11. The preferred developer has committed to delivering social value objectives and will be required to prepare an Employment and Skills Plan.

COMMUNITY IMPACT IMPLICATIONS

12. The proposals in this report will potentially have numerous community impacts including, amongst others, employment, transport and environment. As the proposals are further developed a Community Impact Assessment will be undertaken.

CORPORATE PARENTING IMPLICATIONS

13. This report does not contain corporate parenting implications.

FINANCIAL IMPLICATIONS

14. Financial Implications are set out in Exempt Appendix A.
15. As part of the Development Agreement conditions, the preferred developer has committed to defraying up to £3m IGF monies on behalf of the Council to deliver infrastructure improvements which will assist unlocking the land for development. SBC Officers are working with the preferred development partner to agree a programme of approved works. Expenditure of the monies will be managed by SBC Officers and paid on production of valid invoices. The preferred developer will commit to defraying the IGF by 31st March 2026 in line with the IGF agreement. This funding has been earmarked from within the IGF programme as per the update report to Cabinet in July 2023.
16. All income received for the sale of land must be reinvested in activities which align with the TVCA IGF criteria.

LEGAL IMPLICATIONS

17. Consideration has been given as to whether the defrayment of £3 million IGF monies is compliant with the Subsidy Control Act 2022. The legal position is that whilst it may fall within the 2022 Act, the defrayment is specifically for infrastructure works in order to promote inward investment, unlock disused employment land, support existing business growth, and be a catalyst for economic growth and job creation across the Borough. These policy objectives respect each of the seven Subsidy Control Principles listed at Schedule 1 of the Act and, for this reason, the defrayment is considered compliant with the 2022 Act. It is also noted that given the level of defrayment (£3 million), there is no legal requirement to report this to the Competition and Markets Authority under the 2022 Act.

18. The Council's Valuation and Property Manager has confirmed that the transaction represents best consideration as prescribed by the Local Government Act 1972.

RISK ASSESSMENT

19. This update report on development at Durham Lane is categorised as low to medium risk. Existing management systems, which include a detailed risk register that is reported quarterly to TVCA, a monthly Steering Group, alongside daily routine activities, and the appointment of key advisors which include DWF for legal advice and Knight Frank for land agent advice are considered sufficient to control and reduce risk.
20. Comprehensive site surveys and investigations regarding ecology, contamination, ground investigations, utilities, drainage, archaeology, topography and power were undertaken by the Council prior to the site being marketed to ensure the sites constraints and opportunities could be understood fully by the future developer prior to commitment to ensure the land disposal deal is realistic and to minimise risks regarding site development and potential delays.
21. Due diligence was completed during the process to select the preferred developer, which has ensured that risks such as non-delivery have been mitigated through the selection process which has secured a developer with a good track record and a strong financial position. Selection of the preferred developer was also recommended by Knight Frank who have extensive experience of the logistics/industrial market in the North East as well as insight into drivers influencing the development sector. The legal contracts, being completed by DWF, will also ensure that future risk regarding non-delivery and piecemeal, poor development will be mitigated further and that any future financial risk will be minimised for the Council.
22. As the land disposal is undertaken in phases, the necessary risk assessments and due diligence will be completed. Delivery of the scheme will be market driven and governance arrangements are being established with the preferred developer. This will range from technical; communication and marketing and business engagement groups as well as a senior board. The preferred developer has committed to open book financial appraisals and an agreed reporting mechanism for social value measures.

WARDS AFFECTED AND CONSULTATION WITH WARD/COUNCILLORS

23. Leader of the Council – Councillor Robert Cook and Cabinet Member for Regeneration and Housing – Councillor Nigel Cooke.
24. Ward Councillor – Councillor Stefan Houghton, Councillor Jim Taylor, Councillor Diane Clarke, Councillor Laura Tunney

BACKGROUND PAPERS

Cabinet Report: Indigenous Growth Fund Update - 23rd January 2020.

Cabinet Report: Indigenous Growth Fund Update – 12th January 2021.

Cabinet Report: Indigenous Growth Fund Update – 13th July 2023.

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