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| SUBJECT: | WESTERN GROWTH CORRIDOR – NEXT STEPS |
| DIRECTORATE: | MAJOR DEVELOPMENTS |
| REPORT AUTHOR: | KATE ELLIS – STRATEGIC DIRECTOR, MAJOR DEVELOPMENTS |

1. Purpose of Report

- 1.1 To update Executive on progress since securing planning consent in January 2022 and to seek authority to proceed with the next stages of the delivery of the Western Growth Corridor (WGC) development including:
- Starting the procurement process for the design and build of the Tritton Road bridges and spine road that would complete the transport infrastructure through the site, so that delivery timescales could be met should funding for the Tritton Road bridges from Levelling Up Fund Round 2 (LUF2) be secured; and
 - The use of Compulsory Purchase Order (CPO) powers to enable delivery of Phase 1a of the development.

2. Background

- 2.1 The Western Growth Corridor (WGC) is one of 4 sustainable urban extension (SUE) areas around Lincoln identified and promoted in the Central Lincolnshire Local Plan for development to meet the area's growth projections up to 2036. It is the closest SUE to the city centre and has the greatest opportunity to achieve real sustainability both within the development and for the surrounding communities. It is the major area for housing and employment growth in the city itself and is a key part of delivering Lincoln's Growth Strategy over the next 20 years.
- 2.2 The Central Lincolnshire Local Plan adopted in April 2017 following a robust and thorough examination has now approved the principle for development of the site. Having established the principle of development, the next stage was to consider the key building blocks of the development at a broad rather than a detailed level. The Local Plan allocation is for a new neighbourhood of 3,200 new homes (20% affordable), 20 hectares of commercial/employment space, a new Leisure Village, improvements in accessibility and range of green space, flood mitigation improvements, remediation of the former tip and a range of improved connectivity (roads, cycle paths and pedestrian routes).
- 2.3 The City Council is a significant landowner (owning about 60% of the site included within the proposed masterplan area) and has been leading on bringing forward development of the area in a viable, sustainable and deliverable way since 2016. WGC is a key priority within the City Council's Vision 2025 (and Vision 2020 before

that) and delivers across all the Council's priorities and objectives. It is also the single biggest development area within the City boundary.

- 2.4 The remaining development land on WGC is owned by Lindum Western Growth Community Limited (LWGC) which is a subsidiary of the locally owned and based construction/development company Lindum Group. Together the Council and LWGC submitted a planning application for the whole development on 03 April 2019.
- 2.5 Outline planning consent for the wider scheme and detailed consent for the two main access points into the development at Skellingthorpe Road and Tritton Road was obtained on 20 January 2022.
- 2.6 The Council and LWGC work jointly together as the two landowners (the developer team) to shape and progress the development including jointly commissioning work from expert consultants, identifying funding and financing opportunities, reviewing viability and delivery.

3. Project Delivery – Progress Update

- 3.1 **Planning Consent:** Outline planning consent for the overall development and detailed planning consent for the two access points into the development at Skellingthorpe Road and Tritton Road was considered on 12 January 2022. Following the decision of the Secretary of State to not call in the application, a decision notice was issued on 20 January 2022. A judicial review period then followed which ended without further challenge in March 2022.
- 3.2 **Technical Approval:** Since March 2022, the developer team have been working with both Lincolnshire County Council (LCC as the Highways Authority and the Lead Local Flood Authority) and the Local Planning Authority on the more detailed plans for the opening-up infrastructure from Skellingthorpe Road. The detail for the new signalised junction into the development on Skellingthorpe Road/Birchwood Avenue (s278 works) was submitted to LCC on 30 September 2022 for technical approval. Details on the proposals for the infrastructure/drainage works on the site beyond the junction (s38 works) were also submitted to LCC on 30 September 2022. Once approvals are in place, the works contract can be let (subject to being within budget) to enable a start on site which is currently targeted for late Spring/Summer 2023.
- 3.3 **Planning Conditions:** The planning approval contains an extensive number of planning conditions as would be expected for a development of this scale. This includes some pre-start conditions for both the infrastructure and the housing in the first phase, which the developer team has been working on to ensure they can be discharged before work starts on site.
- 3.4 **Resources:** In order to deliver the Council's contribution to the first phase of development a number of fixed-term appointments (maximum of two years) have been made in the past few months/weeks to support the Strategic Director (Major Developments) in progressing the scheme. These are:
 - Senior Communications Officer – Partnerships (part-time) to lead on implementing the community/resident engagement plan including keeping all stakeholders informed of opportunities to influence the development and advanced warning of activity on site.

- Commercial Solicitor (part-time) to undertake the extensive legal work required including works contracts; and
- Assistant Director WGC (hours to be agreed) to lead the implementation of the substantial delivery programme for the Council.

3.5 Levelling-Up Fund Round 2 (LUF2): The government launched a second round of Levelling-Up Funding on 23 March 2022 for large-scale capital schemes that deliver infrastructure to improve everyday life of residents and help to drive economic success and prosperity. The City Council in conjunction with Karl McCartney as the local Member of Parliament submitted a LUF2 capital funding bid on 02 August 2022 for £20million to enable the accelerated delivery of the overbridge linking the development into Tritton Road, providing the much-needed alternative route to and from the city centre that avoids the rail level-crossing on Skellingthorpe Road. The outcome of the bid is expected later in 2022.

If successful, the funding would see an all vehicular/cycle/pedestrian bridge over the railway from the development into Tritton Road and a pedestrian/cycle bridge replacing the existing pedestrian rail crossing at Oak Farm (opposite the new LN6 development). A plan showing the location of the bridges is attached as Appendix E. The funding would enable the bridge to be delivered in 2025 which would be significantly ahead of the original date, to open-up more housing and accelerate the overall development to further minimise short-term negative impacts of the development on the existing communities.

3.6 Whole Scheme Development: The developer team have continued to review the overall scheme viability and deliverability. Opportunities to secure further funding to accelerate delivery particularly of the main infrastructure through the site that opens-up further housing development are being actively pursued. The inflation cost pressures and uncertainty in the economy generally and specifically the cost and availability of construction materials and housing market issues remain a concern. A range of options are being explored and developed to mitigate the impact of this on the ability to start on site and will be covered in a report to Executive in the next few months.

4. Project Delivery – Next Steps

4.1 Phase 1a Infrastructure: Forming the new signalised junction on Skellingthorpe Road/Birchwood Avenue will inevitably mean inconvenience for local residents and businesses, so the developer team have been working with LCC and the proposed works contractor to identify a programme to minimise that disruption. The works package is currently out to several sub-contractors for pricing with a delivery programme, after which there will be a series of consultation events with local residents to discuss the proposals in more detail.

4.2 Phase 1a Infrastructure – Use of Compulsory Purchase Order (CPO) Powers: In investigating the title of land required to deliver Phase 1a there are two small pieces of unregistered land which will affect the commencement of the infrastructure element of the scheme in a timely manner. Significant research has been undertaken to try and establish the ownership of the land. Given the history of the land sales on the site, both pieces of land appear to be the result of a scaling/administrative plan error.

Whilst there are a number of routes that the developer team could pursue to correct the apparent errors, current delays at the Land Registry and the need for certainty to enable the infrastructure opening-up works to happen in a timely manner given funding, cost and network availability constraints, have led our legal advisor after careful consideration to recommend that we apply for use of CPO powers. It is considered that in relation to this unregistered piece of land, enough and significant work has been undertaken to try and resolve these issues and identify parties to the unregistered land, however the potential risks of not having complete control outweigh the risks of seeking compulsory purchase powers to secure that control of those areas of unregistered lands to vest ownership of the land to the Council. This will then ensure that phase 1A of the development can commence.

4.3 The land that would be the subject of the CPO order (identified in Appendix B) is:

- Slender parcel of unregistered land between the highway on the north of Skellingthorpe Road and the land owned by the City Council and the Church of Jesus Christ of Latter-Day Saints (CJCLDS); and
- Slender parcel of unregistered land along the Boultham Catchwater adjacent to WGC landowners including the City Council.

Both parcels of land are only required for infrastructure (not any form of commercial/housing development) and would not affect any existing rights. The potential risks of not having complete control over land required outweighs the risks of seeking compulsory purchase powers to secure that control.

4.4 Previous reports to Executive on WGC including the 20 March 2019 report have identified the potential need to apply for the use of CPO powers given our experience in previous schemes including the Lincoln Transport Hub where an order was sought, secured and CPO powers exercised. In addition, the Landowner Delivery Agreement jointly entered into with Lindum Western Growth Company Limited states that the Council shall consider whether, in respect of the Development, and having regard to the objectives, it should seek a resolution to make and pursue a CPO for the acquisition of such land or interests in land if the Council is satisfied that there is a compelling case in the public interest, sufficiently justified to interfere with the human rights of those with an interest in the lands and properties affected. In pursuing any CPO route LWGC must confirm to the Council that it is ready, willing and able to meet the share of the CPO costs that is required for the compulsory purchase of land required for common infrastructure (which they have done).

4.5 Subject to confirmation of the order, the Council will be able to use its powers under section 226(1)(a) of the Town and Country Planning Act 1990 ("TCPA"), section 111 (1) Local Government Act 1972 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 ("MPA") to acquire land compulsorily.

4.6 The detail of the proposed CPO is contained in the following appendices:

- Appendix A – The wider scheme red line plan.
- Appendix B – The draft Order Plan which shows the extent of the land described.

- Appendix C – The draft Statement of Reasons which is a composite statement addressing all the areas of land affected including reasons for the CPO being sought and the investigations undertaken; and
- Appendix D – The draft Order which provides a schedule of the land.

4.7 If Executive agree the resolution, then the Strategic Director of Major Developments and City Solicitor will approve the final form of the above which would then be publicised and submitted to the Secretary of State for Levelling Up Housing and Communities.

4.8 **Appropriate the Land to Planning:** In order to facilitate development of the land it is proposed that the area of land should be appropriated under section 203 of the Housing and Planning Act 2016 in order to ensure that there is a mechanism to extinguish any interests or rights which may prevent development of the site. This is because if any third party were able to establish rights over the site then the development could potentially be delayed or more seriously prevent the build.

Such rights include any easement, liberty, privilege, right or advantage annexed to the land and adversely affecting other land including any natural right to support.

This does not apply to protected rights of way or the right to lay down apparatus on protected land.

Should any such rights subsequently arise this may involve paying out compensation to affected parties, but this removes the ability for the development to cease by these rights being raised. The risk of this is considered to be minimal.

4.9 **Procurement of Design/Build Contractor for Tritton Road Bridges/Spine Road:** If successful the LUF2 funding would require the Council to spend the funding by the end of March 2025 and deliver the bridges in 2025 – with the design of the spine road required to inform the bridge installation. Whilst we will not know whether we have been allocated the funding until the end of 2022, in order to meet the timescales for delivery the procurement of the contractor for the works will need to start in advance. The Council is seeking to tender the works by competitive dialogue whilst further investigating potential framework options should this initial process be unsuccessful in the current market conditions. The resources required to start the procurement will be mainly existing staff resources but will also involve some external consultants which can be funded from the grant allocated to the Council to help with the development of the project, so will not require additional Council resources. No contracts will be entered into that commit the Council in advance of any further funding being offered, explored or approved by Executive. There is therefore no risk to the Council in commencing this procurement process early.

4.10 **Other Activities:** Over the next quarter a range of activities to progress the development will be taking place including:

- **Community Engagement:** A range of work with existing residents and businesses will get fully underway including information events, consultation events and newsletters to ensure the local community are aware of what will happen and when and to enable residents to shape the proposals wherever possible.

- **First 52 Homes on City Council Land:** Initial pre-development work on design layout, sustainable features, landscaping and delivery cost will be undertaken to inform planning reserved matters submission and budget cost for this first phase of new market homes.
- **Procurement:** Range of procurement work for services required to deliver the next stages of the development including options for works contracts, website development, branding and further expert consultancy.
- **Funding Applications:** A range of work to secure further external funding to accelerate the delivery of both infrastructure and new homes will be undertaken.
- **Scheme Viability:** A range of work to update and inform detailed phasing and overall scheme viability, costs and delivery will be undertaken.

5. Strategic Priorities

5.1 Let's drive inclusive economic growth

The creation of a new neighbourhood provides homes for the workforce alongside 20 hectares of commercial land providing a wide range of employment opportunities.

5.2 Let's reduce all kinds of inequality

The development will have a positive benefit in terms of this priority. As well as 20% of the new homes being affordable, a range of employment opportunities, a range of cultural/leisure opportunities as well as a wide range of options for walking/cycling and other transport measures.

5.3 Let's deliver quality housing

The Council will be ensuring through its land ownership that a full range of type and tenure of housing choice is delivered to a quality standard.

5.4 Let's enhance our remarkable place

The area for development has a fantastic environment and some very special attributes in terms of existing quality landscape, views of the historic area and the biodiversity of the natural environment which will be utilised to create a quality community environment.

5.5 Let's address the challenge of climate change

The development has the opportunity to deliver a range of environmental benefits to support the Council's target of becoming a net zero carbon city by 2030 including a range of positive biodiversity initiatives, zero carbon regulated energy homes, active travel infrastructure and measures to reduce car usage and improved transport links to reduce carbon emissions on current congested routes.

6. Organisational Impacts

6.1 Finance

Staffing Resources

As set out in paragraph 3.4 additional staffing resources are required to support delivery of the Council's contribution to the project. The additional costs of these staff resources are as follows:

| | 2022/23 | 2023/24 | 2024/25 | Total |
|--|----------------|----------------|----------------|----------------|
| | £ | £ | £ | £ |
| Assistant Director | 25,190 | 79,010 | 55,030 | 159,230 |
| Senior Communications Officer | 9,500 | 19,390 | 9,240 | 38,130 |
| Commercial Solicitor (agency resource) | 25,000 | 25,000 | 0 | 50,000 |
| Total | 59,690 | 123,400 | 64,270 | 247,360 |

The costs of the additional commercial solicitor were provided for in a separate report to the Executive on 11th April 2022.

The additional costs of £197,360, for the Assistant Director and Senior Communications Officer will be funded from a number of earmarked reserves that have been set aside to support delivery of the project, as follows:

- DMD Project Reserve - £166,800 (uncommitted balance of £166,800)
- Levelling Up Fund Capacity Grant £30,560 (uncommitted balance of £72,950)

Phase 1a

As set out in paragraphs 3.6 and 4.1, work is currently underway to review the overall scheme viability and deliverability. This includes detailed work to update the infrastructure and house build costs required to deliver Phase 1a, as well as to update the values of the homes for market sale. This will cumulate in a revised project budget for Phase 1a which will be presented to the Executive in early 2023, prior to any works contracts being let. Based on the current economic uncertainty, spiralling inflation and market issues, the cost of Phase 1a is likely to have increased since the budget was initially approved by the Executive in 2019. Funding details on the funding for Phase 1a will be included in the Executive report.

LUF2

As set out in paragraph 4.9 there is a requirement to appoint external consultants as part of the initial procurement work required for the Tritton Road bridges and Spine Road. This work will be funded from the Levelling Up Fund Capacity grant that the Council was allocated. There currently remains an uncommitted balance of £72,950 of this grant, of which £30,560 is required to fund the additional staffing resources as set out above, leaving a balance of £42,390 for this work.

6.2 Legal Implications – The legal implications are covered in sections 4.2-4.7 of this report in relation to the application for use of CPO powers and at section 4.8 in relation to appropriation of land to planning.

6.3 Procurement - All procurement to date has been undertaken compliantly, in line with the Council's Contract Procedure Rules and ultimately Public Contract Regulations 2015. A review is being undertaken of existing provisions to ensure that they meet the requirements moving forward and where allowed for, variations to scope are being prepared. Work is also commencing on scoping out future provisions that will be required to be put in place in order to deliver an exemplar scheme. These provisions will be procured via compliant routes and as with all procurement activity, with a view to ensuring value for money, as well as securing social value benefits to the local community/supply chain.

6.4 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

The work covered within this report has properly considered and applied the requirements of the Public Sector Equality Duty

7. Risk Implications

7.1 In relation to the CPO powers as identified in the report, the main risk is if the order is opposed leading to a public inquiry. An assessment of the prospects of this will take place before the decision to proceed with the publication of any order.

Further risks are:

- That the order will not be confirmed as a whole or in part. If this should occur the Council would have to assess the risks in continuing in the absence of full control over the land; and
- That there are compensations claims arising from the order. Given the investigations undertaken to date this risk is considered to be minimal. In addition, an agreement in relation to land held by CJCLDS has already been reached.

8. Recommendations

8.1 That officers commence procurement of the Tritton Road bridges and Spine Road so that the Council would still be able to meet the timescales involved in delivering the LUF2 funding requirements should the Council be awarded and accept any funding offer made.

- 8.2 That the Council uses compulsory purchase powers to acquire the two identified strips of unregistered land to enable the commencement of the opening-up infrastructure works of Phase 1a of the Western Growth Corridor development.
- 8.3 That the power to override third party rights and easements is authorised under section 203 of the Housing and Planning Act 2003.
- 8.4 That the Strategic Director for Major Developments and the City Solicitor are delegated to approve the final form of the application and use of the required compulsory purchase order powers and the decisions about the extent of the land or rights over land to be acquired provided that these are necessary for the purposes of delivering Western Growth Corridor and are within the area identified on the plan (Appendix A).
- 8.5 That the progress to date and the activities outlined in the report to further progress the scheme are supported.

Is this a key decision? Yes

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? Five
 Appendix A – Wider development red line plan
 Appendix B – Draft Order Plan
 Appendix C – Draft Statement of Reasons
 Appendix D – Draft Order
 Appendix E – Location plan of Tritton Road bridges

List of Background Papers: None

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