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Title of meeting: Cabinet / Full Council

Date of meeting: 5 March 2024 / 19 March 2024

Subject: Tipner West & Horsea Island East Regeneration

Report by: Tom Southall, Assistant Director Economy Planning & Transport

Cabinet Member: The Leader - Councillor Steve Pitt

Wards affected: ALL

Key decision: Yes

Full Council decision: Yes

1. Purpose of report

- 1.1 This report updates members on the progress with the regeneration plans for Tipner West and seeks specific approvals to enable the Tipner West development team to continue working up a masterplan for submission later this year.

2. Recommendations

It is recommended that the Cabinet;

- 2.1 Approve the revised Overarching Project Objective as set out in this report, appendix A.
- 2.2 Confirm the 7 principles as set out in this report, appendix B.
- 2.3 Note the update from the project team in relation to actions taken and planned.
- 2.4 Refer the report to Full Council to note.

3. Background

- 3.1 The regeneration of Tipner West has been a longstanding ambition of the City Council to provide a flagship gateway and make most efficient use of brownfield land within the city's tight administrative boundaries. The site has been recognised as a pivotal site to support the growth of the marine cluster within the Solent. This was recognised in the Southampton and Portsmouth City Deal signed in 2013.



- 3.2 Development options for the site have indicated that there could be an adverse impact on internationally designated sites such as the Portsmouth Harbour SPA. In order to enable delivery of any plan or project that might have such an impact, the proposals must go through a rigorous process of ensuring that there are no alternative solutions to meet the objective that the project is aimed to achieve (known as the Overarching Objective), that the project needs to be undertaken for imperative reasons of overriding public interest and that any impact to the international site can be compensated for.
- 3.3 In order to inform the final selection of a proposed scheme, the Tipner West development team are reviewing the manner in which the proposed allocation at Tipner could be delivered. This process will ensure that the regulatory requirements for a project that might have an impact on internationally designated sites have been fully interrogated to ensure that a robust application can be made for consenting a deliverable solution for Tipner West.
- 3.4 Further to the update provided to Cabinet and Council in December 2023, the Tipner West development team have progressed the following work packages concurrent between the two previously identified land use options for delivering the proposed allocation for Tipner West;

Package	Scope	Update
1	Ground Levels	<ul style="list-style-type: none"> Flood and coastal modelling methodologies issued to regulators (Environment Agency, Natural England, Marine Management Organisation and Coastal Partners) on 1 February. Updating the flood and coastal models to complete baseline model
	Remediation Strategy	<ul style="list-style-type: none"> Remediation strategy technical note issued to internal team. Identifies further ground investigation works to be undertaken as part of next steps.
	SUDS and Foul drainage strategy	<ul style="list-style-type: none"> Technical note being prepared.
	Listed Building Scope of Works	<ul style="list-style-type: none"> Condition surveys for four listed structures on site completed and costed to bring structures back into a 'good condition'. Note this is not a condition that enables them to be occupied for marine employment uses. Outline design proposals for 'shell and core fit-out' prepared for conversion of buildings into appropriate new uses within marine employment area. Design for the levels and retaining walls around listed structures with regulator for agreement. External discussions with heritage team to be progressed – Heritage Statement to be issued for further discussion.

	Edge Treatment for Option 9 & 14 and accessibility to coastal edge	<ul style="list-style-type: none"> Workshops held with project team to identify proposed solution. Sections and plans being produced to show rock armour solution to western and southern edges. Designed to reduce costs and minimise disturbance of adjacent habitats in order to minimise need for compensation. Marine employment area, located to north will require vertical 4m quay wall design.
2	Marine Employment Layout & standalone financial model	<ul style="list-style-type: none"> Design intent reviewed and alternative layout prepared to enable further technical work on levels and sea defences. Assessment of infrastructure for revised option ongoing.
3	Dredged Channel Design	<ul style="list-style-type: none"> Workshops held to determine marine employment requirements. Dredged channel design being refined to reduce overall area of dredging. Will be targeted pockets of deep water. This will not affect access to deep water, however should make savings. Technical note to be issued.
4	Off-site compensation	<ul style="list-style-type: none"> Shortlist of 10 priority sites identified. Sites identified through desktop ecological, engineering and landownership appraisals. Landowner engagement and surveys to be commenced
5	Energy Strategy	<ul style="list-style-type: none"> Presented on sea water heat pump strategy. Energy Centre containing Sea Water Heat Pumps refined - reviewing existing assumptions and further input from specialist suppliers obtained with a view to reducing costs. Costing exercise underway.
6	HRA - Overarching Objective	<ul style="list-style-type: none"> As appendix A
	HRA - Secondary/Sub Objectives	<ul style="list-style-type: none"> Ongoing following overarching objective confirmation.
	HRA - Alternatives	<ul style="list-style-type: none"> Alternative solutions for delivering the overarching objective. As set out in flow chart in appendix C
	HRA - IROPI	<ul style="list-style-type: none"> Draft report being prepared. Will flow from 'Alternatives' work above.
	HRA - Compensation Approach	<ul style="list-style-type: none"> As per off-site compensation comments above, package 4.

7	Public Engagement	<ul style="list-style-type: none"> Public engagement will take place throughout 2024 to inform the development of a site masterplan to support a future planning submission later this year. This includes a relaunch of the project website with an updated narrative and background information in Spring and later supported by a series of workshops in May /June to explore the development implications and considerations
8	Transport Strategy	<ul style="list-style-type: none"> Transport note being prepared. Stakeholders aware that updated strategy imminent.
	M275 Junction	<ul style="list-style-type: none"> To be reviewed subject to level changes.
9	Surveys	<ul style="list-style-type: none"> Coastal surveys now completed. Geophysical surveys / GI ongoing with PCC team. Potential requirement for further SI at JHP site which is now in PCC freehold to determine contamination levels. Instruction and access to undertake off-site compensation surveys to be agreed as above.

- 3.5 Engagement with Central Government to discuss the City Deal outputs is on-going and DLUHC have confirmed their desire to have a number of different government departments in the conversation to endeavour to broker progress. DLUHC are therefore co-ordinating with other government colleagues with a view to arranging a face-to-face meeting. As a result of this it is too early to report any fixed outcome(s) from this workstream.
- 3.6 Since the report (of the same name) in October 2023 which set out a draft Overarching Project Objective the development team have continued work to develop a robust Overarching Project Objective.
- 3.7 An Overarching Project Objective is required to enable alternative solutions and options to be robustly and lawfully assessed through the Habitats Regulations Assessment under the Conservation of Habitats and Species Regulations 2017 and to comply with the Town and Country Planning (Environmental Impact Assessment (EIA)) Regulations 2017, the Transport and Works Act 1992 and the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006.
- 3.8 The development team has concluded its considerations of the most appropriate and robust Overarching Project Objective at this time, and this is set out in appendix A to this report. The revised Objective is less prescriptive and better capable of facilitating a full and fair assessment of potential alternative solutions and options. This has resulted in the removal of the final sentence in relation to nature focussed placemaking, which cannot be objectively tested. This does however, remain in the Principles for any scheme to have regard to.



- 3.9 The Council's seven principles (appendix B), set at the meeting in October 2023 have been re-considered for consistency against the newly formed Overarching Project Objective. These principles remain unchanged from the October 2023 meeting.

4. Reasons for recommendations

- 4.1 The Cabinet is asked to approve the revised Overarching Project Objective set out in appendix A as a precursor to the next phases of work.
- 4.2 The 'sifting process' and formal report, applying this Overarching Project Objective through the Habitats Regulations Assessment will now be undertaken. The outcome of the process will be reported back to a future meeting of Cabinet (May / June).
- 4.3 As part of the 'sifting process' Cabinet is asked to re-confirm the Council's seven principles (appendix B). These principles were agreed by Cabinet and Council in October 2023 and remain unchanged. These principles have been used amongst other matters to inform the Overarching Project Objective and will be referred to within the formal sifting report. It is good practice to re-consider these factors (seven Council principles) alongside this review of the Overarching Project Objective.

5. Integrated impact assessment

- 5.1 As part of the master planning and public consultation work, a full integrated impact assessment will be undertaken and will form part of the planning application.

6. Legal implications

- 6.1 The recommendations contained in this report constitute a key decision because of the decision likely to be significant in term of its effects on communities living or working in an area comprising more than one ward within Portsmouth City. A decision relating to the recommendations falls within the remit of the Cabinet as the Executive of the City Council, but the Cabinet may continue to refer the report to the Full Council for information only.
- 6.2 Any development option at the Tipner West and Horsea Island East site taken forward must be in line with the relevant conditions of the City Deal Grant and the proposed revised principles include that requirement.
- 6.3 As referred to in the main body of the report, the principles and the overarching objective have a crucial role for Tipner West and Horsea Island East scheme in terms of undertaking masterplan optioneering and completing relevant assessments.
- 6.4 One of the key assessments that will be required is an 'appropriate assessment' (also known as a 'Habitat Regulations Assessment') pursuant to Regulation 63 of the



Conservation of Species and Habitats Regulations 2017 ("the 2017 Regulations") to establish whether the proposed development is "likely to have a significant effect" on the international nature conservation designations around the Tipner West and Horsea Island East area, on the basis that the Portsmouth Harbour Special Protection Area is a 'European site' and a 'European marine site' under the 2017 Regulations.

- 6.5 A plan or project which is likely to have a significant effect on a European site can only proceed if the appropriate assessment ascertains that the plan or project will not adversely affect the integrity of the European site.
- 6.6 Once an appropriate assessment has been undertaken, and the conclusion of the assessment indicates that the proposed scheme will have adverse effects or there is uncertainty over its effects, it can only be granted consent if certain derogation requirements under article 6(4) of the Habitats Directive 92/43/EEC (which is transposed by the 2017 Regulations) apply. The first one requires that there must be no feasible alternative solutions to the scheme which are less damaging to affected European sites. Guidance¹ makes it clear that any alternative solution must meet the original objective of the proposal. Therefore, there is a need for a designated overarching objective which will clearly state the core aims of the proposed scheme to ensure the assessment of alternatives is completed in a satisfactory and robust manner.
- 6.7 Having an overarching objective is also important in relation to satisfying Environmental Impact Assessment (EIA) requirements. For instance, there is a requirement in the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 at Rule 11(1)(d) to submit an environmental statement with the relevant application to include a "*description of reasonable alternatives studied by the applicant*". In addition, Rule 11(1)(f) requires the provision of "*any additional information specified in Schedule 1 relevant to the specific characteristics of the proposed works...*". Schedule 1 paragraph 2 refers to the reasonable alternatives and proceeds to require an environmental statement to include "*an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects*".
- 6.8 Therefore, without an overarching objective, there may be uncertainty around the process for identifying and assessing the "*reasonable alternatives*" (and final proposal for the scheme).
- 6.9 The principles set out in appendix B do not have the same legal 'status' as the project objectives from the perspective of Habitat Regulations Assessment and EIA requirements and therefore the legal framework and tests outlined above do not apply to them in the same manner. However, they do have an important role in terms of guiding the scheme development to ensure that the overarching objective is satisfied. The principles should therefore be referred to as part of the assessment process, and similarly to the overarching objective, need to be clear, logical, sound and reasonable in the circumstances.

¹ <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>



6.10 The revised overarching objective is set out in appendix A and the principles set out in appendix B.

7. Director of Finance's comments

7.1 The updates provided in this report form part of the ongoing work being undertaken to ultimately seek to identify a viable option to be included in the masterplan to be submitted later this year. Once the work has been completed it will enable the project team to provide a further update on the viability position of the two land use options.

7.2 The costs of the current workstreams are being funded from the release of the £7.7m tranche of City Deal funding that was previously approved by the City Council on 11 October 2022.

7.3 When a preferred option emerges a more detailed financial evaluation will be able to be undertaken as previously when considering a number of different options, more high-level modelling has had to be undertaken.

7.4 The viability gaps resulting from the wide of options previously considered and the current financial modelling will enable the project team to demonstrate to Government not only the latest viability position of the two land use options currently being considered but will also help inform Government's understanding of the financial challenges that the development has faced and make a case for further funding to close any viability gap.

7.5 As has been regularly reported in all Cabinet and Council updates, the ongoing viability modelling needs to minimise costs and the impact on the City Council finances and services to the public and this principle remains foremost for the Council as the project progresses.

7.6 Once completed, the results of the latest modelling and associated financial impact and risks will be reported back to Cabinet and full Council as appropriate.

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Signed by:

Appendices:

Appendix A - the Overarching Project Objective

Appendix B - the Council's 7 principles

Appendix C - the Alternatives Sifting Process



Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Full Council 11 th October 2022	Agenda for Full Council on Tuesday, 11th October, 2022, 2.00 pm Portsmouth City Council
Full Council 17 th October 2023	Agenda for Full Council on Tuesday, 17th October, 2023, 2.45 pm Portsmouth City Council
Full Council 12 th December 2023	Agenda for Full Council on Tuesday, 12th December, 2023, 2.10 pm Portsmouth City Council

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by:



Appendix A - Overarching Project Objective

Required to enable alternative options to be robustly assessed through the Habitats Regulations Assessment under the Conservation of Habitats and Species Regulations 2017 and to comply with the Town and Country Planning (Environmental Impact Assessment (EIA)) Regulations 2017, the Transport and Works Act 1992 and the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006.

"To create a marine employment hub in the Solent region with access to deep water, and of sufficient scale to enhance and expand the marine business cluster, along with critical infrastructure, and sufficient housing to help enable delivery of the development as well as support the growth in the marine workforce."



Appendix B - Council Principles²

1. Develop options that have regard to the Conservation Objectives of the SPA/Ramsar Sites in respect of their bird populations and other qualifying features, subject to the procedures set out within the Conservation of Habitats and Species Regulations 2017 (as amended) (The Habitats Regulations).
2. Deliver nature focused place making to contribute to Greening of the City, in line with the City Vision 2040, which achieves more than the statutory biodiversity requirement.
3. Provide a minimum of 814 homes and maximum of 1,250 homes & a minimum of 58,000 sqm of marine focussed employment space (Minimum affordable housing at 30%) alongside enabling infrastructure to satisfy the terms of City Deal
4. Maximise local job creation.
5. Minimise costs and impact on City Council finances & services to the public.
6. Seek to continue to work in partnership with Royal Society for the Protection of Bird (RSPB), Hampshire & Isle of Wight Wildlife Trust (HIWWT), Ministry of Defence and Historic England to develop proposals that are capable of satisfying the regulatory requirements of Natural England (NE), the Marine Management Organisation (MMO) and the Environment Agency (EA)
7. Minimise land reclamation to meet the principles listed above.

² As per October 2023 Council report

Appendix C - The alternative sifting process

Site Sifting Procedure

