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|  | Executive 1st November 2017 | Agenda Item No. 11 |
| Title | Europa Way - Update | |
| For further information about this report please contact | Chris Elliott, Chief Executive telephone: 01926 456003 e-mail: chris.elliott@warwickdc.gov.uk | |
| Wards of the District directly affected | Myton and Heathcote, Whitnash, Bishops Tachbrook | |
| Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006? | No. | |
| Date and meeting when issue was last considered and relevant minute number | Council and Executive on 12/4/17 Executive minute number 129 (non-confidential) & 130 (confidential) | |
| Background Papers | Local Plan, Submission draft and modifications; Planning Application (W/14/1076); Planning Application (W/14/0967); Report to Executive in October 2014 re Council Housing Programme; Report to Executive in November 2014 re Sports and Leisure Review. Reports to Executive/Council in January and March 2015 and April 2017 | |

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| Contrary to the policy framework: | Yes/No |
| Contrary to the budgetary framework: | Yes/No |
| Key Decision? | Yes/No |
| Included within the Forward Plan? (If yes include reference number) | Yes/No 898 |
| Equality Impact Assessment Undertaken | Yes/No (If No state why below) |
| An Equality Impact Assessment (EIA) will be produced as part of the delivery options appraisal. | |

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| Officer/Councillor Approval | | |
| Officer Approval | Date | Name |
| Chief Executive/Deputy Chief Executive | 5/10/17 | Chris Elliott |
| Head of Service | 5/10/17 | N/A |
| CMT | 5/10/17 | Chris Elliott; Bill Hunt; Andrew Jones |
| Section 151 Officer | 5/10/17 | Mike Snow |
| Monitoring Officer | 5/10/17 | Andrew Jones |
| Finance | 5/10/17 | Mike Snow |
| Portfolio Holder(s) | 11/10/17 | Cllr Phillips – Housing & Property |
| Consultation & Community Engagement | | |

The Local Plan proposals have been subject to several public consultations and related planning applications that have been submitted have also been subject to public consultation. The proposals set out in this Report have been discussed on a confidential commercial basis with several agencies, but especially with Warwickshire County Council (WCC) and Leamington Football Club (LFC).

Final Decision?

No

Suggested next steps (if not final decision please set out below)

A further report on the outcome of the market testing will be brought by the end of March 2018.

1. **Summary**

- 1.1 This report updates Members on the progress to acquire and develop land at Europa Way for a community stadium and enabling development following the report approved by Executive and Council on 12th April 2017. It updates Members on the progress towards acquiring the land, advises of revisions to the programme moving forward and seeks approval for some changes to how the project is progressed.

2. **Recommendations**

That Executive: -

- 2.1 Notes the progress against the recommendations already approved by Council and Executive at their meetings on 12th April 2017 (Council minute number 94 and Executive minute number 129) regarding the progression of the Strategic Opportunity Proposal at Europa Way.
- 2.2 Resolves that the £190,000 allocated in Executive Minute 129 (12th April 2017) be made available immediately to progress various elements of the project as set out in the report.
- 2.3 Notes the revisions to the Project Plan contained in paragraph 3.20 of this report and further notes that a report will now be brought back to Council by the end of March 2018 on the results of the market testing and proposing how the next stage of the project will be delivered.
- 2.4 Resolves that the Council enter into a Memorandum of Understanding (MOU) on terms acceptable to the Chief Executive in consultation with the Section 151 officer, the Leader of the Council and the Portfolio Holder for Housing Services and Finance.

3. **Reasons for the Recommendation**

- 3.1 In April 2017, Council agreed to progress a major project to acquire and develop land at Europa Way for a community stadium. The report proposed that: -
- a) the Council purchases land from Warwickshire County Council (WCC) to develop a new community stadium and associated commercial enabling development
 - b) Leamington Football Club (LFC) will relocate to the new community stadium and the Council will purchase LFC's current site for use as a Gypsy and Traveller site
 - c) the Council undertakes a development options appraisal to confirm the feasibility of the community stadium development and produces a project delivery plan.
- 3.2 Also as reported in April, the land at Europa Way to be acquired by the Council is part of a larger area currently owned by WCC. The remainder of this land (to the east of the proposed spine road) is proposed to be purchased by Waterloo Housing Group (WHG).
- 3.3 The report was considered by both Council and Executive. The recommendations (all supported) are set out in full in **Appendix 1**. In summary, Council / Executive agreed to: -

- Purchase land at Europa Way for a community stadium together with enabling development (“the Stadium site”),
- Enter into an agreement with Leamington Football Club (LFC) to purchase LFC’s existing site at Harbury Lane.
- Make £60,000 available to cover legal, professional and planning costs in acquiring the Stadium site.
- Make £190,000 available to fund various work required to progress the delivery of the stadium site including undertaking a delivery options appraisal, securing legal advice and resourcing the management of the project once the purchase of the land was completed.
- Give authority to the Chief Executive, in consultation with the Housing and Property Services Portfolio Holder, to agree with WHG how the two parties will co-operate with each other to deliver their respective developments.
- Explore other potential opportunities in association with the development including for an education/sports hub and a football training facility.

3.4 Since April, progress has been made in respect of some of the matters that were reported and agreed. The remainder of this section considers this in more detail.

A) Purchase of the land from Warwickshire County Council

3.5 Negotiations to purchase of the land for the stadium and enabling development have been undertaken and Heads of Terms for the acquisition have been agreed with WCC. These are attached as (private and confidential) **Appendix 2**.

3.6 In offering to purchase the land, the Council set out some terms and conditions that would need to be satisfied (set out in confidential appendix 2 of the April report). Good progress is being made on these and this is set out in (private and confidential) **Appendix 3** to this report.

3.7 Regarding the adjacent land purchase by WHG, it has become apparent since officers reported in April that the process for WHG to acquire its part of the site will take longer than anticipated owing to the need for WHG to meet OJEU procurement requirements. Good progress is being made by WHG in this respect. An OJEU notice (Official Journal of the European Union - the publication in which all tenders from the public sector above a certain financial threshold according to EU legislation must be published) has been published and WHG is currently undertaking a procurement process which it is confident will result in being able to enter into a contract with a developer by mid-February 2018. Furthermore, on legal advice, the County Council published a VEAT notice prior to the procurement commencing. (A VEAT (Voluntary Ex-Ante Transparency) Notice is a means of advertising the intention to let a contract without opening it up to formal competition.) This has added a further stage to the overall timetable for the procurement.

3.8 Consequently, the two purchases are yet to be completed but all parties are aiming to complete purchases by mid-February 2018. This will have a marginal impact upon the payment schedule set out in (private and confidential) Appendix 2 to the April report. Furthermore, this slippage in the purchase will have an impact on the programme moving forward. This is considered in more detail below.

B) Planning issues

- 3.9 The current planning permission on the land includes a Section 106 agreement. This agreement needs to be varied to reflect the new ownership arrangements. The Planning Committee agreed to a variation to the existing S106 at its meeting on 10th October 2017. This version would apply if the sale does not proceed as planned. The Planning Committee is expected to consider a similar revised S106 for the scenario where the sale does proceed at its next meeting in November 2017.
- 3.10 Furthermore, as was reported in April, a Section 73 planning application to amend the position of the highway access point onto Gallows Hill was needed following the advice of the County Highways Authority that the two junctions proposed to serve land north and south of Gallows Hill need to be aligned to create a traffic-lighted crossroads. Planning applications necessary to achieve this alignment have since been submitted and approved.

C) LFC matters

- 3.11 In April 2017, Council resolved that the Council enters into an agreement to conditionally purchase from LFC its existing site at Harbury Lane. This was to be subject to LFC's shareholders endorsing the principles at an EGM. On 31st May, at an EGM of LFC, shareholders voted overwhelmingly for the directors to continue discussions with the Council.
- 3.12 Regarding the conditional contract to purchase the Harbury Lane land, since the April meeting the Council has received legal advice to the effect that, whilst a conditional contract is an important step towards delivering the stadium and the Council acquiring the Harbury Lane site, given that there are a number of matters still to be resolved, it would be preferable at this stage to agree a Memorandum of Understanding (MOU) with LFC. This would not be legally binding on either party but would establish the agreed principles on which both parties will operate and would require both parties, at the appropriate point, to seek to agree a conditional contract. This MOU would follow in more detail the same partnership principles agreed by Members in April (see confidential Appendix 5 to that report). Good progress has been made on such an MoU with only one issue remaining to resolve. It is therefore proposed that delegated authority is given to the Chief Executive, Monitoring Officer and Section 151 Officer, in consultation with the Leader of the Council and the Portfolio Holders for Housing Services and Finance to agree this MOU.

D) Project timetable

- 3.13 In April 2017 the Executive agreed to make £190,000 available from the Community Projects Reserve, once the purchase of the land had been completed, to: -
- Procure consultants/agents to undertake a delivery options appraisal of the community stadium and its associated enabling developments
 - Commission advice regarding taxation, financial and legal structures
 - Cover the cost of legal advice to support this stage of work
 - Procure a resource for project management
- 3.14 That report also set out a project plan. This can be summarised as follows.

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| Phase 1 (estimate 4 months) | Complete purchase of Stadium Site from WCC. |
| Phase 2 (estimate 12 months) | Undertake a Delivery Options Appraisal to: - <ul style="list-style-type: none"> • Identify whether there are developers in the market that are interested delivering the whole scheme or just certain parts of the scheme. • Estimate the value of the enabling development and whether that is likely to cover the costs of any development. • Produce high level site master plan, capital budget and cash flow. (RIBA Stage 1) |
| Phase 3 (estimate 12 months) | Select developer(s) and develop designs. Obtain planning consents for (a) community stadium and enabling development and (b) a Gypsy and Traveller site at the Harbury Lane Site. (RIBA Stages 2 & 3) |
| Phase 4 (estimate 12 months) | The Council and LFC develop a detailed stadium specification. The Council completes contracts with developers and LFC. Procure contractor(s) for any development being undertaken by the Council. (RIBA Stage 4) |
| Phase 5 (estimate 18 months) | Construction and fit out of the community stadium. The Council agrees handover and occupation rights. (RIBA Stage 5 to 7) Complete purchase of the Harbury Lane site. |

3.15 As set out earlier in this report, phase 1 has taken longer than anticipated, and it is expected that it will take 10 months (from April 2017 to February 2018) to complete the purchase. However, also as outlined earlier, officers consider that much work has been successfully completed which - taken together - significantly reduces the risk that the purchase will not go ahead. These include (a) the Council agreeing Heads of Terms and taking steps to resolve the pre-contract conditions, (b) WHG making good progress with its procurement process and (C) LFC receiving formal support from shareholders to continue discussions with the Council.

3.16 Given this, and the Council's desire to maintain momentum on this project, it is therefore requested that Executive releases the £190,000 to support phase 2 now. This will enable progress to be made in advance of a formal completion of the purchase of the land on various matters which would otherwise be delayed. These relate to: -

- starting the appointment procedure for a project resource. Based on the officer time required to take the project to this stage, it is considered that a full-time Project Manager (on a fixed term contract) will need to be appointed. It may take up to three months to get somebody in post in this role. Initially, this post will be created for two years whilst phases 2 and 3 are undertaken.
- Undertaking the "market testing" as set out in 3.17-19 below.
- Undertaking other technical and legal work to support a future procurement process to secure a development partner.

- 3.17 Officers have also been taking further legal and procurement advice on how to procure a developer(s) to deliver the project. The advice provided indicates that the most useful course of action would be to first carry out a market testing event. It is envisaged that this initial market testing event would enable the Council to test some assumptions and options with a view to establishing what the most appropriate option for structuring this development may be.
- 3.18 The market testing event would be open to all potential developers to attend and would involve a brief overview of what the intended project will entail as well as targeted one-to-one sessions for attendees to share ideas and views confidentially with the Council without compromising their position in any subsequent tender exercise.
- 3.19 It is anticipated that such an event could be held in January/February 2018 with a view to informing the Council's decision on how to proceed with this project thereafter. In the meantime, officers will in parallel explore with the LLP whether there are any potential options that it could offer as an alternative based on the same assumptions and options that officers will be testing through the market testing event. It is anticipated that officers will be able to report back on the feedback of these enquiries and the market testing event in March 2018, with a recommendation as to how to further proceed with the project.
- 3.20 In accordance with this advice, officers are now proposing a modified timetable to that summarised in para 3.14 above. This would see stage 2 carried out as follows: -

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| Phase 2 A (estimate 4 months) | Undertake market testing exercise AND explore development options with WDC's LLP partner Report outcome of this to Executive and seek approval for |
| Phase 2B (estimate 8 months) | <ul style="list-style-type: none"> • Undertake procurement exercise in accordance with intelligence from the market testing • Undertake those parts of a Delivery Options Appraisal (as previously identified) as are required to enable the Council to make an informed decision. This will also be informed by the market testing and the procurement route chosen and may to include production of a high-level site master plan, capital budget and cash flow. (RIBA Stage 1) |

- 3.21 Members are asked to note that whilst the figure of £190,000 as previously agreed will more than cover the costs of phase 2A, further resources may be required to complete phase 2B and the procurement of a partner. A further progress report will be brought back to Executive in March 2018.

E) Other matters

- 3.22 Education links. Officers have been in discussions with Warwickshire College about opportunities for the College to be involved in the conferencing offer and possible teaching facilities at the new stadium. These discussions are ongoing with staff from the College.
- 3.23 Myton Schools links. Officers continue to keep Myton School up to date with progress and remain open to the possibility of Myton School being more involved in the project.

- 3.24 Health links. There is interest from the South Warwickshire Foundation Trust and CCG to invest in healthcare in this area and this is being discussed separately with the Council.
- 3.25 Athletics Track. Officers are discussing with WCC officer's options which may enable an athletics track to be relocated on adjoining land to the proposed stadium which is scheduled for education use.

4. **Policy Framework**

Fit for the Future (FFF)

- 4.1 The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects. This report shows the way forward for implementing a significant part of one of the Council's Key projects.
- 4.2 The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

| FFF Strands | | |
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| People | Services | Money |
| External | | |
| Health, Homes, Communities | Green, Clean, Safe | Infrastructure, Enterprise, Employment |
| <u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities | <u>Intended outcomes:</u> Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB | <u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/productivity of local economy Increased employment and income levels |
| Impacts of Proposal | | |
| Supporting the delivery of new homes, and especially new affordable homes. Supporting the delivery of community and sporting facilities (new community stadium, community and health facilities). | Provision of new open spaces to serve new communities. | Opportunity to provide new commercial and other employment opportunities as part of development of this area. Delivery of key infrastructure (roads, schools, health facilities) in this part of the district. |
| Internal | | |
| Effective Staff | Maintain or Improve Services | Firm Financial Footing over the Longer Term |

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| <u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours | <u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services | <u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money |
| Impacts of Proposal | | |
| The project could give rise to significant opportunities for Council staff to develop skills around entrepreneurship and partnership working with the private sector, community bodies and other public-sector bodies. | Opportunities to improve the delivery of sports and recreation facilities in conjunction with the development of the new community stadium. | The impact will depend on the next stages of the project plan. It may be that it can be demonstrated that enabling development can fund the new stadium leaving the Council only covering the cost of land purchase. The scheme if successful will create a significant asset. |

Supporting Strategies

- 4.3 Each strand of the FFF Strategy has several supporting strategies and the relevant ones for this proposal are explained here.
- 4.4 The recently adopted Local Plan for Warwick District provides the statutory framework for determining planning applications. The proposal broadly accords with the Plan as adopted, however it should be noted that the location of the stadium is further north within the site than proposed in the Plan. The proposals within this project for delivering a community stadium are considered the most likely way in which this policy in the Local Plan can be delivered.
- 4.5 The development of housing here fully accords with the prospectus issued by the Council in May 2012 'Garden Towns, Villages, and Suburbs: a prospectus for Warwick District Council'.
- 4.6 The Council approved a new Housing Strategy in 2017. The strategy also includes aims to provide for the identified needs of gypsies and travellers and to use to best effect the new financial freedoms to build Council housing.

Changes to Existing Policies

- 4.7 There is nothing in this report which seeks to change existing Council policies.

Impact Assessments

- 4.8 An Equality Impact Assessment (EIA) will be produced as part of the delivery options appraisal.

5. Budgetary Framework

- 5.1 There was a full assessment of the budgetary implications of this project in the April report. Nothing in this report changes that budgetary advice. As noted above, there will be change to the payment date to WCC for the land at Europa Way, but this is still being made in the 2017/18 financial year.
- 5.2 Although the report requests that £190,000 to deliver phase 2A is made available in advance of the Council formally acquiring the land, it is not anticipated that more than £15,000 of this will be required before the land purchase is completed.

6. Risks

- 6.1 There was a detailed assessment of risk in the April report. The only new risk in this report relates to the recommendation to release £190,000 for supporting phase 2 of the delivery of the project in advance of the completion of the purchase. It is possible that should, for whatever reason, the purchase not be completed some of the expenditure will be abortive with costs that cannot be recovered. For the reasons set out earlier in this report, officers consider that this is unlikely. In any event, in procuring further advice on development options, the Council will ensure that appropriate break clauses are included in contracts to allow these to be swiftly terminated should the purchase be abandoned.

7. Alternative Option(s) considered

- 7.1 There was an assessment of alternative options in the April report.
- 7.2 In terms of new matters raised by this report, it would be possible for members not to agree to advance the £190,000 to progress phase 2 until the purchase of the land has been completed. However, for the reasons set out above, this is not supported.