

North Tyneside Council

Report to Cabinet

Date: 18 March 2013

ITEM 3

Title: Developer Partner
for Jupiter PaRC @
Swans

Portfolio(s): Elected Mayor

Cabinet Member(s): Mrs Linda Arkley

Report from Directorate: Chief Executive's Office

Report Author: Graham Haywood
Chief Executive

Tel: 643 2001

Wards affected: Wallsend

PART 1

1.1 Purpose:

At its meeting on 12th December 2011 Cabinet approved and granted delegated authority to authorise the Head of Regeneration, Development and Regulatory Services, in consultation with the Strategic Director of Finance and Resources, the Head of Legal, Governance and Commercial Services and the Elected Mayor, to undertake a procurement exercise for the purpose of the appointment of a developer partner to assist the Authority with the delivery of the Enterprise Zone on the former Swan Hunter site now known as Jupiter PaRC @ Swans (the "Project"). An officer project team (the "Project Team") was set up to undertake the procurement, of the preferred developer partner.

The purpose of this report is to:

- (a) Update Cabinet on progress on the redevelopment of the Jupiter PaRC Swans site;
- (b) Inform Cabinet of the "Final Solutions" received in the procurement of a preferred developer partner for Jupiter PaRC @ Swans;
- (c) Inform Cabinet of the procurement process undertaken and the outcome of the evaluation;
- (d) Request Cabinet consider the options available as detailed in this report and consider the evaluation report; and
- (e) Seek Cabinet's agreement to the necessary amendments to the Joint Venture agreement with the Homes and Communities Agency.

1.2 Recommendations:

It is recommended that Cabinet:

- (1) Note the progress of the Jupiter PaRC @ Swans preferred developer procurement to date as set out in this report;
- (2) Consider the options available and approve the Project Team's recommendation as detailed in the evaluation report;
- (3) Authorise the Head of Law and Governance in consultation with the Elected Mayor, Strategic Director of Finance and Resources, the Head of Business and Economic Development and the Client Manager Property to either progress matters with the identified Preferred Bidder and negotiate and agree the terms of the Development Agreement or to issue the bidders with an invitation to negotiate to progress the procurement through a negotiated procedure in accordance with the outcome of the evaluation report;
- (4) Agree to the use of the Authority's general power of competence under section 1 of the Localism Act 2011 to enable the Authority to proceed to dispose of the land identified in the plan at Jupiter PaRC @ Swans in accordance with this report, and delegate authority to the Head of Business, Economic Development to progress the disposal of the land at Jupiter PaRC @ Swans as required to enable the delivery of the project in consultation with the Elected Mayor, Head of Law and Governance, Strategic Director of Finance and Resources and the Client Manager Property;
- (5) Authorise the Head of Law and Governance in consultation with the Elected Mayor, Strategic Director of Finance and Resources, the Head of Business and Economic Development to negotiate and agree any necessary amendments to the Joint Venture Agreement with the Homes and Communities Agency; and
- (6) Agree to receive a further report in the summer updating Cabinet as to the progress of the development at Jupiter PaRC @ Swans.

1.3 Forward Plan:

This report appears on the Forward Plan for the period 27 February to 31 May 2013

1.4 Council Plan and Policy Framework

The report supports the Council Priority 5:

"Work in Partnership to realise the full potential of the North Bank of the Tyne Regeneration" in the Council Plan 2012/15.

The report also supports the Sustainable Community Strategy 2010-13

Priority 1 – Regeneration and contributes to Priority 3, Best Start in Life.

1.5 Information:

1.5.1 Background Information

The River Tyne is already one of Europe's leading locations for the sub-sea, oil and gas, offshore advanced manufacturing and renewable energy sectors and there are significant growth opportunities, particularly arising from the UK's offshore wind programme, a key part of achieving Government targets for energy consumption from renewable sources. The pace of progress with the economic regeneration of the River Tyne North Bank (RTNB) is therefore rapidly accelerating.

It is clear that our river related industries continue to be important economic drivers and that many of the key components are already in place to develop a truly global centre of excellence in advanced manufacturing and engineering here on the River Tyne, delivering significant and sustainable economic benefits for the local, north east and national economies. It is essential, however, that the Council, the North East Local Enterprise Partnership (NELEP) and other key partners grasp the opportunities that these sectors currently provide.

The regeneration of the former Swan Hunter site now known as Jupiter PaRC @ Swans is one of the highest priorities for North Tyneside Council in order to stimulate growth and rebalance the local economy. The Council has been successful in attracting £13.6m of funding for essential infrastructure for this site from the European Regional Development Fund (ERDF- £6.8m), Growing Places Fund (GPF-£3.8m) and the Homes and Communities Agency (HCA-£3.0m). This is for utility connections, new and improved access, quay edge repairs and dredging.

The site has been successful in securing Enterprise Zone status along with part of the Port of Tyne site in North Tyneside and the adjacent Neptune Yard site in Newcastle, resulting in around 60 hectares of the RTNB being included in the overall North East Advanced Manufacturing and Low Carbon Enterprise Zone (NEEZ). This is consistent with the priority the NELEP has given to advanced manufacturing, renewable energy and the low carbon economy in its economic growth strategy and vision to create "Europe's premier location for low carbon, sustainable, knowledge based private sector led growth and jobs".

The main benefits of the NEEZ to businesses are either 5 years' business rate relief for individual businesses (as at Jupiter PaRC @ Swans site) or enhanced capital allowances against investment in plant and machinery (as at the Port of Tyne North Estate site); a simplified planning regime; and, superfast broadband. The 5 year business rate relief is only available to businesses that locate into a NEEZ site before 1 April 2015.

In addition, the business rate growth income generated by all the NEEZ sites is retained by the NELEP for a period of 25 years for re-investment in the local economy. The NELEP has agreed to prioritise the use of this business rate growth income by the local authorities to fund infrastructure investment on the NEEZ sites.

In view of the importance of the NEEZ to achieving the Government and NELEP objectives for private sector led growth, a number of national and local funding sources are being aligned with the NEEZ and applications for funding from these sources are being prioritised.

NEEZ designation of the 3 North Bank sites therefore provides a significant opportunity to stimulate further interest in the River Tyne. All 3 sites are already being actively marketed through UK Trade and Investment (UKTI) as well as by the individual site owners. In particular, proximity to the Dogger Bank Round 3 offshore wind zone clearly make the NEEZ sites ideal for manufacturing components for offshore wind turbines as well as their assembly and also as a base for longer term operations and maintenance services.

The NELEP has agreed a protocol for handling inward investment enquiries with both UKTI and the local authority partners, which gives the NELEP and the local authorities access to information on business enquiries received nationally.

In December 2011 Cabinet authorised the procurement of a developer partner for Jupiter PaRC @ Swans in order to assist in the delivery of the NEEZ as well as the delivery of the utility provision to the site on our behalf and the refurbishment of parts of the existing buildings, which is subject to a current funding bid for ERDF.

The Project has received high level leadership from the Interim Chief Executive, the Strategic Director of Finance and Resources, former Head of Regeneration Development and Regulatory Services and the Head of Business and Economic Development. Governance for the Project is through the Project Team reporting to a Project Board chaired by the Project Sponsors and the Chief Executive.

The Project Team is comprised of representatives from Regeneration, Finance, Commercial Services and Legal Services together with property input from the Technical Package provider Capita Symonds.

Jupiter PaRC Infrastructure Improvements

Jupiter PaRC is a highly complex regeneration scheme of a large site comprising a range of interlinked projects with varying requirements and opportunities for funding from other public and private sector partners.

The Authority is bringing forward plans for essential new and improved infrastructure rapidly, including dredging of the quay berths, repair and strengthening of the quay walls, ground reinforcing behind the quay walls (to allow for the weight of products fabricated on the site for load out onto vessels), new electricity and water supplies to the whole site, upgrading of the eastern access road, upgrading of the western access road along Benton Way (including replacing the existing weak bridge over the former riverside branch railway) and new internal access roads. The infrastructure works are programmed to begin in early 2013 and will take around 2 years to complete.

Bids for external funding towards these costs have already been successful with a stage 2 approval for £6.800m ERDF funding (£6.780m capital, £0.020m revenue to support a Monitoring Officer post), which will provide 50% of the funding and must be fully spent by June 2015. The match funding is secured through the HCA and GPF.

The proposed capital funding mix for the £13.560m site infrastructure works is as follows:

Funder	Capital £m
ERDF	6.780
HCA	3.000
NELEP	3.780
Total	13.560

There are 3 current primary projects.

1. The site improvements and new infrastructure required to bring the site up to a viable condition for construction of new business accommodation to commence;
2. The construction of new business accommodation on the site;
3. The refurbishment of part of the existing Swan Hunter buildings to accommodate a Business Incubation Centre and Research and Development facility.

The funding detailed above relates to the infrastructure works and site improvements included in point 1, while the procurement for a developer partner is part of point 2.

Business Incubation Centre and Research and Development Centre

An additional ERDF bid has been submitted for £2.250m of ERDF capital, matched by the Council's Targeted Capital Fund. This will be used to refurbish the existing buildings at the former Swan Hunter site, creating a business incubation facility, SME accommodation and research and development facilities.

These complementary facilities will provide an opportunity for new start up micro and small businesses aligned with the objectives of the RTNB regeneration strategy and the North East Enterprise Zone, to be supported during their key early stages, including support for innovation, research and development. This will provide an important source of new local businesses to support the growth of the River Tyne as an international hub for advanced manufacturing and renewables engineering into the future. It is envisaged that the preferred developer for the Jupiter PaRC site will also carry out the refurbishment works should the ERDF bid be successful. This separate ERDF bid has been reported to Cabinet most recently on 11th March 2013.

1.5.2 Procurement of a developer partner

The site is already of considerable interest to existing local companies who may require space to grow their business, as well as new companies looking for a riverside site. It has also become clear during discussions with businesses that while some will wish to invest in new buildings themselves, a significant number have indicated that they wish to rent accommodation, freeing up their capital for investment in plant and machinery.

An outline masterplan has therefore been prepared that shows the site has the potential to accommodate up to 50,000 square metres of new manufacturing and office space, either built by the preferred developer or directly by new businesses. The masterplan shows how known local business growth can be accommodated, while ensuring the potential of the overall site can be maximised for new businesses. Accommodating existing business growth must, however, be carefully evaluated to avoid displacement or 'boundary hopping' by businesses looking to benefit from the NEEZ status without actually growing their business. The masterplan remains a 'live' document and continues to be adjusted to take account of new business interests as they arise.

Consideration was given to how new manufacturing units could be provided to support new businesses who wish to rent accommodation on the Jupiter PaRC @ Swans site. It was concluded that the preferred option would be to appoint a developer partner, who would enter into a development agreement with the Council to build manufacturing units to match business needs. The developer partner could also take the lead on undertaking some of the required infrastructure works and/or the refurbishment of the existing Swan Hunter office buildings and take responsibility for the day to day operation of the public quay. This would also provide a more substantial critical mass of development for the developer and greater value for money for the Council, as well as a more responsive approach to satisfying emerging demand than undertaking speculative development at higher risk and therefore cost.

Due to the scale of development envisaged, the appointment of the developer partner must be procured through an EU compliant process. At its meeting in December 2011, Cabinet authorised the Head of Regeneration, Development and Regulatory Services to pursue the procurement exercise to appoint a developer partner to maximise the development, employment and training opportunities on the Jupiter PaRC @ Swans site. Cabinet agreed to receive a further report to approve the appointment of the preferred bidder including all relevant legal, financial and/or other implications arising from the procurement process.

The Notice in the Official Journal of the European Union was placed on 20 July 2012 with a closing date of 13 August 2012. Pre-qualifying Questionnaires (PQQ's) received by the closing date have been evaluated to select a shortlist of developers that will take part in the competitive dialogue process.

The proposed development will result in the Authority entering into a development agreement. This will impose obligations on the developer to undertake works in accordance with the regeneration brief and agreed specification for works. The developer will also be granted a long lease over the development area which will be a disposal of the area. The value of the disposal is assessed during the evaluation of the final bids received through the procurement process. A disposal at a value less than the marked value must be agreed by Cabinet (and the Secretary of State depending on the extent of the shortfall). The extent of any shortfall is identified in the evaluation report submitted for consideration by Cabinet.

1.5.3 The Procurement Regime- Introduction

As the value of the services and works provided under the development agreement will exceed the relevant EU threshold over the lifetime of the contract the development was advertised in the Official Journal of the European Union ("OJEU") and a competitive dialogue process undertaken.

The Authority is permitted to provide such a procedure to take place in stages in order to reduce the number of solutions to be discussed during the competitive dialogue process. This is achieved by applying the award criteria specified in the OJEU notice. In doing so, the Council seeks to ensure that the number of economic operators to be invited to participate at the final stage is sufficient to secure genuine competition.

1.5.4 The Developer Procurement

The procurement process has progressed through the following stages:

Stage	Date/time
Submission of completed PQQs	13 August 2012 (noon)
Notification of result of PQQ evaluation and issue of Invitation to Participate in Dialogue and Submit Outline Solution	August 2012
Issue of Invitation to Participate in Dialogue	17 December 2012
1 st Dialogue Meeting with Bidders	17 December 2012
2 nd Dialogue Meeting with bidders	14 January 2013
3 rd Dialogue Meeting with bidders	21 January 2013
Invitation to Participate in Dialogue Submission Date	28 January 2013
Date for issue of Invitation to Continue in Dialogue and Submit Detailed Solution	4 February 2013
ITCD-ISDS Dialogue Meetings	February 2013
Expected date for submission of Detailed Solution	28 February 2013 (3pm)
Clarifications	4-5 March 2013
Feedback meeting	6 March 2013
Close of Dialogue	7 March 2013
Issue of Invitation to Tender	8 March 2013
Date for submission of Final Tender	12 March 2013
Evaluation and clarification	12-15 March 2013
Date for Cabinet decision to appoint preferred developer	18 March 2013

The EU procurement process to appoint a preferred developer to construct new manufacturing buildings on the site commenced at a successful Open Day in June 2012. Approximately 60 representatives from potential developers and agents attended to receive presentations from the Elected Mayor, the NELEP, North Tyneside and Newcastle City Councils (who own the adjacent Neptune Yard) and the HCA. A workshop held on the day with the attendees assisted in shaping the development brief to ensure it provided the best opportunity for the market to respond.

In June 2012 an OJEU notice was placed and five expressions of interest were received from third party organisations. All five parties who responded to the OJEU notice were sent a Pre Qualification Questionnaire (PQQ) and applications were received and evaluated for the development from four organisations with one of those bidders being de-selected at the PQQ stage. One further organisation withdrew from the process. In December 2012 in accordance with the authority granted by Cabinet on 12th December 2011, two remaining bidders proceeded to the next stage of dialogue, (Invitation to Participate in Dialogue – and Submit Outline Solutions (“ITPD-ISOS”)).

In accordance with the ITPD-ISOS requirements Outline Solutions were received and reviewed. Formal feedback was provided to bidders however submissions were not formally evaluated. Key areas were identified including consideration of the regeneration brief, financial risks to the Authority and the robustness of the financial offering. The contracting structure was developed together with commitments bidders were offering to the Authority in terms local, social and economic benefits. The term of the lease was also discussed with bidders. The lease granted will be a disposal for the purposes of assessing whether the land is disposed of at a value less than market value and the term of the lease may vary depending on the bidder and the requirements of any funder.

The Project Team continued the competitive dialogue process to Detailed Solution stage with the two bidders. At Detailed Solution stage the bidders developed their respective bespoke solutions and a response to the drafting/contents of the suite of legal contract documentation reflecting their respective commercial positions and approaches. The two bidders' Detailed Solutions received were then evaluated by the respective evaluation teams by applying the criteria of the most economically advantageous as tender award criteria with such sub-criteria and weighting as described in the Invitation to Submit Detailed Solutions ("ITSDS") and in line with the ITSDS Evaluation Strategy and timetable.

The evaluation process of the detailed solutions was carried out during March 2013 following receipt of the Detailed Solutions from both bidders. When evaluated by the Project Team and the moderation panel, detailed feedback was provided to the bidders prior to close of dialogue and invitation to submit final solution.

1.5.5 The Final Tender Submission

The Detailed Solution stage has been followed by the Invitation to Submit Final Solutions (ISFS) requiring the bidders to amend their earlier solutions to reflect the further dialogue undertaken. This enables submissions of final solutions from each bidder. The Final Solutions received are again evaluated by the respective evaluation teams, by applying the criteria of the 'most economically advantageous' as tender award criteria with such sub-criteria and weighting as described in the ISFS and in line with the ITSDS Evaluation Strategy and timetable. The evaluation report details the submissions.

The ISFS is a formal request for the Bidders' written confirmation of their positions reached through the competitive dialogue process, with the incorporation of all issues subject to clarification raised in the competitive dialogue period included in the final offers made by the Bidders. Analysis of the submissions made by appropriate members of the Project Team will confirm whether all points have been correctly incorporated.

On receipt of the final submission on Tuesday 12 March 2013 the Project Team will carry out the final evaluation by applying the contract award criteria detailed in the ISFS, with further tender clarifications raised on areas of ambiguity. In line with the project/procurement governance arrangements referred to above, the evaluation of the Final Solutions process will be reported to the Project Board. This final evaluation process will result in the production of the evaluation report and appropriate detailed recommendations to Cabinet at the meeting on 18 March 2013.

As the Final Solutions have not yet been received there is a risk that the Final Solutions may be unacceptable to the Authority. If this shall be the case, the Authority may, in accordance with regulation 17 of the Public Contracts Regulations 2006 move to a negotiated procedure. This will allow further dialogue with bidders and a re-submission of bids to ensure that an acceptable solution is received. The evaluation report will address this and make appropriate recommendations if required.

1.5.6 Joint Venture

The acquisition of the site was assisted by Single Programme funding from ONE NE, and is subject to a Joint Venture Agreement (JVA) that is now administered through the HCA. The JVA contains a number of requirements regulating how the Council can use or dispose of the site, how income is managed and the apportionment of value arising from site disposal(s), which is currently 70/30 in favour of the HCA (based upon the original pro rata contribution towards the site acquisition cost). However, the current JVA does allow the Council to recover its normal site holding and management costs and to use up to £0.500m per annum of site income in accordance with the objectives of the JVA before any pro rata division of value is required. The HCA can also approve the use by the Council of income over the £0.500m limit within the RTNB area in accordance with the objectives of the JVA. Regular discussions with the HCA indicate strong support for the Council's current actions in bringing forward the development of the site and using income to both facilitate temporary uses as well as the long term sustainable use of the site. Recycling of income over the £0.500m limit will be discussed with the HCA on a case by case basis.

It is proposed that the JVA is amended to incorporate all income from the site incorporating disposals and income generated from licences. It is also proposed that the JVA is extended to cover any potential disposal of the site after the ERDF clawback period.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1: Appoint the bidder identified in the evaluation report as the Council's "Preferred Bidder" for the development and undertake final adjustments in relation to the contract documentation. This includes resolution of all outstanding points as identified in the Preferred Bidder Letter of Appointment prior to entering into a formal development agreement with the preferred bidder.

This also means the remaining Bidder will be advised they have not been appointed as Preferred Bidder and no further contract development will be undertaken with them unless the development agreement cannot be finalised with the Preferred Bidder. The remaining Bidder will be appointed as "Reserve Bidder" and further contract development will be undertaken with them should commercial and financial close not be achieved with the Preferred Bidder. Alternatively if as a result of the evaluation of the second bidder it is not appropriate to appoint a reserve bidder, Cabinet may decline to appoint a reserve bidder. The recommended option is set out in the evaluation report.

Option 2: Defer the decision to appoint the preferred bidder and specify any additional actions Cabinet requires the Project Team to undertake prior to Cabinet's approval of the selection of Preferred Bidder including whether the procurement shall proceed to a negotiated procedure. Any such recommendation is set out in the evaluation report.

Option 3: Cabinet could instruct the Project Team to abort the current OJEU procedure and to search for other or new potential developer by issuing a new/revised OJEU notice and requesting new expressions of interest.

Option 4: Cabinet can decide to abort the procurement process in its entirety and receive a further report detailing alternative options for the Jupiter PaRC @ Swans site.

1.7 Reasons for recommended option:

The recommended option and detailed reasons for the recommended option is set out in the evaluation report.

1.8 Appendices:

Appendix 1: Evaluation report (to follow).

1.9 Contact officers:

Francis Lowes, Senior Manager, Regeneration, tel. (0191) 643 6421
Kate Lovelock, Project Manager, Regeneration, tel (0191) 643 6426
Vicki Dixon, Senior Manager, Financial Strategy and Planning, tel (0191) 643 5723
Alison Campbell, Finance Business Manager, tel (0191) 643 7038
David Anderson, Principal Accountant, tel (0191) 643 5722
Sarah Heslop, Commercial Team Manager, Legal Services, tel (0191) 643 5456
Andrew Gate, Senior Manager, Commercial Services Team, tel (0191) 643 6450
Andrew Lowe, Principal Procurement & Commissioning Officer, tel (0191) 643 5651

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- a. River Tyne North Bank Strategic Development Framework Plan
http://www.northtyneside.gov.uk/pls/portal/NTC_PSCM.PSCM_Web.download?p_ID=516659
- b. Cabinet report of 12 December 2011 River Tyne North Bank: Local Development Order Arrangements and Learning Village Phase 2
http://www.northtyneside.gov.uk/pls/portal/NTC_PSCM.PSCM_Web.download?p_ID=531094
- c. Cabinet report of 12 November 2012 River Tyne North Bank Update
http://www.northtyneside.gov.uk/pls/portal/NTC_PSCM.PSCM_Web.download?p_ID=539615

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources Financial Plan

The following spend is included in the 2013-15 Financial Plan and the 2013/14 Budget.

The Capital Plan includes spend as below (including the 2012/13 element):

Project	Title	2012/13 £000	2013/14 £000	2014/15 £000	2015/16 £000	2016- 23 £000	Total £000
DV046	Swan Hunters Redevelopment	1,768*	7,387	4,684	0	0	13,840

*This included an additional £0.280m HCA funding for site investigations. This is separate to the infrastructure works funding, giving a total of £13.560 for those works.

This is funded is as follows:

Source	Amount £000
Council Contribution (and Growing Places Funding)	3,780
Homes & Communities Agency	3,000
European Regional Development Fund	6,780
	13,560
Additional £0.280m HCA funding for site investigations	280
	13,840

The current proposal includes £0.040m revenue costs for a Monitoring Officer. This post is being part funded through ERDF, with the Council contribution being met from existing budgets.

Financial Scope of the Project

Once the Developer Partner is appointed, the development of the project will take place in phases. In each phase, a part of the site will be released to the Developer Partner, and there will be a time limit to develop that phase.

The income and expenditure associated with the management of this site is currently included in the general fund budget, and is monitored as part of the Authority's normal financial management process. Any variations to the budget are reported as part of the bi-monthly monitoring reports to Cabinet.

As each phase is progressed, the financial implications of that phase, as well as the overall financial position of the project will be considered and updated, and any additional financial implications to the Council that cannot be contained within existing budgets will be reported to Cabinet/Council as required for decision, before any expenditure is committed.

Procurement Costs

The procurement exercise has been undertaken by an in-house cross-departmental team. Costs have therefore been met through existing revenue budgets.

External advice was required in order to gain additional legal opinion in relation to the Article 55 implications of the development of the quay. Article 55 deals with income generated in ERDF funded projects. The cost for this external advice was £2,400 (including VAT), and was met from existing budgets.

2.2 Legal

2.2.1 Legal Powers

The Council has authority under the general power of competence contained in the Localism Act 2011 and the incidental power under section 111 of the Local Government Act 1972 to enter into the proposed long term contractual arrangements in relation to the Jupiter PaRC @ Swans project. Section 111 gives the Council the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. This combined with the power under section 1 of the Localism Act 2011 as described below, empowers the Council's participation in the project.

The provisions of the Local Government Act 1972 – General Disposal Consent (England) 2003, give Local Authorities the power to dispose of land at less than best consideration where it is felt that the disposal will contribute to the promotion or improvement of the economic, social or environmental well being of the area. The general consent is subject to the proviso that the 'undervalue' must be less than £2,000,000, or, if more (as here), the Secretary of State's consent will be required for the disposal. Any disposal at less than full market value will require Cabinet's approval to exercise the Council's power of competence under the Localism Act 2011.

In exercising this power the Council must be satisfied that participation in the development project as proposed for the purpose of delivering the regeneration of the Site will contribute towards the economic, social or environmental well being of North Tyneside. The scope of the development for the Jupiter PaRC @ Swans project is considered that execution of the project is likely to achieve the promotion of all of the well being objectives.

The procurement of the developer partner is subject to the EU and UK Procurement Rules as detailed in the main body of the report.

2.2.2 Disposal of Site

Pursuant to Section 123 of the Local Government Act 1972 (as amended), the Council has the power to dispose of land it no longer requires at best consideration reasonably obtainable with specific Secretary of State consent. The land in question has previously been declared surplus to facilitate the regeneration of the Jupiter PaRC Site a third party developer as the Council is unable to undertake such development itself.

There may be state aid implications arising from the disposal of the Site below market value if the amount offered in the bid has not been agreed through a competitive process market based on pre-determined objective criteria, or the conditions of the general public interest exemption cannot be satisfied. These implications will be considered in further detail during the preferred bidder stage and any further legal implications arising will be set out in the future report to Cabinet.

2.2.3 Procurement Rules

The procurement undertaken in respect of the Jupiter PaRC @Swans project is subject to the EU and UK Procurement Rules and other applicable legislation (including but not limited to the Localism Act 2011 and Local Government Act 1972)).

Article 29 of the EU Procurement Directive 2004 and Regulation 18 (22) and (23) of the Public Contracts Regulation 2006 allow the Council to provide for the procedure to take place in successive stages in order to reduce the number of solutions to be discussed during the competitive dialogue stage by applying the award criteria specified in the OJEU/contract notice or the descriptive document. In doing so, the Council is required to ensure that the number of economic operators to be invited to participate at the final stage is sufficient to ensure genuine competition to the extent that there is a sufficient number of economic operators to do so. The Council is satisfied that the bidders who have submitted bids are of sufficient number to ensure genuine competition and that there has been genuine competition throughout the process.

2.2.4 Any further legal implications arising will be detailed in the report to be submitted to Cabinet following the conclusion of the preferred bidder stage

2.3 **Consultation/community engagement**

2.3.1 Internal Consultation

The regeneration of the former Swan Hunter site has been the subject of extensive internal consultation as part of the preparation of the River Tyne North Bank Strategic Development Framework. Officers from Regeneration, Economy and Employment, Financial Strategy and Planning, Legal, Governance and Commercial Services, Strategic Property and Planning have been involved extensively in developing the projects. Briefings have been provided to Elected Members, including meetings of the Economic Prosperity and Housing Sub-Committee.

2.3.2 External Consultation/Engagement

Extensive engagement has taken place with businesses, partners and the community regarding the future development of the Jupiter PaRC @Swans site on an individual basis as well as strategic groups such as the Riverside Business Forum. The Masterplan for the site has been displayed at a number of recent public events including Area Forum meetings.

Changes in the provision of funding for education providers mean that training requirements must be responsive to demand from businesses. Therefore, an Employers Forum was held on 24 November 2011 not only to inform businesses of the benefits of the Enterprise Zone designation but to obtain feedback regarding their training and skills needs in relation to the development of the Learning Village.

More recently a boat trip was organised in September 2012 for members of the North Tyneside Business Forum to provide a unique view of the River Tyne North Bank area, with presentations by land owners including the Council.

2.4 **Human rights**

There are no human rights implications directly arising from this report.

2.5 Equalities and diversity

Equality and Diversity issues have been fully considered and addressed as part of the ERDF application process. It is considered that the development will have a significant positive effect upon equality of access and opportunity to new jobs for residents of local communities.

2.6 Risk management

There are a number of potential significant risk factors associated with the development of the former Swan Hunter site.

The main risk is that by not undertaking the required investment in site infrastructure the subsequent development of the site for business accommodation will not be viable for the preferred developer or individual businesses. This would place the opportunity to use the benefits of the Enterprise Zone designation, including accessing external funding, at risk, which would significantly reduce or delay the creation of sustainable new businesses and job creation. The reputation of the Council in terms of delivering new business and jobs growth in these high growth areas would be adversely affected and this would also impact upon future funding by key funders.

2.7 Crime and disorder

The development of the former Swan Hunter site will have significant positive implications for crime and disorder. The size of the site means that there are currently opportunities for casual crime despite the provision of 24 hour site security.

The early re-use and development of the site and buildings will reduce the opportunities for crime by introducing a significant level of natural surveillance and new security systems, including CCTV.

2.8 Environment and sustainability

The environment and sustainability are at the heart of bringing back into productive use this brownfield site and by making best use of the investment and embodied energy in the existing buildings.

The site is located close to Wallsend Metro Station and Bus Interchange, making it highly accessible by public transport and is immediately alongside a major east-west cycleway, providing for healthy and low carbon alternative transport. The site is also close enough to our local riverside communities for a substantial number of employees to walk into work. Businesses requiring riverside access for the transport of products will be prioritised, reducing the number of vehicles using the adjacent roads.

The proposed re-use of the site and buildings is targeted at industries that will contribute towards long term environmental sustainability for the UK by providing support for the emerging renewable energy sector, particularly offshore wind power. Site infrastructure works will be undertaken with recycling of materials within the site boundary as a priority and new materials will be selected from sustainable sources.

All ERDF funded development must be to “BREEAM Very Good” standard. It is expected that similar standards of construction and sustainability would be targeted for non-ERDF funded development.

The overall scheme provides for the protection of features that have heritage value associated with the adjacent Segedunum/Hadrians Wall World Heritage site.

PART 3 - SIGN OFF

- Chief Executive

- Strategic Director(s)

- Mayor/Cabinet Member(s)

- Chief Finance Officer

- Monitoring Officer

- Strategic Manager, Policy and Partnerships