

# Extraordinary Cabinet

18 March 2013

**Present:** Mrs L Arkley (Elected Mayor) (in the Chair),  
Councillors E Hodson, D Lilly, P Mason and Mrs JA Wallace

## **CAB233/03/13 Apologies**

Apologies were received from Councillors LJ Miller and GC Westwater.

## **CAB234/03/13 Declarations of Interest**

There were no declarations of interest made.

## **CAB235/03/13 Developer Partner for Jupiter PaRC @ Swans (Wallsend Ward)**

Further to the Cabinet meeting held on 12 December 2011 (Minute CAB112/12/11 refers) consideration was given to a report which gave an update on progress of the redevelopment of the Jupiter Parc @ Swans site; detailed the procurement process undertaken and the outcome of the evaluation and the "Final Solutions" received in the procurement of a preferred developer partner for Jupiter PaRC @ Swans; requested consideration of the options available as detailed in the report, together with the evaluation report; and sought approval of the necessary amendments to the Joint Venture agreement with the Homes and Communities Agency.

The regeneration of the former Swan Hunter site, now known as Jupiter PaRC @ Swans, was one of the highest priorities for North Tyneside Council in order to stimulate growth and rebalance the local economy. The Council had 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 was for utility connections, new and improved access, quay edge repairs and dredging.

The site had 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 River Tyne North Bank (RTNB) being included in the overall North East Advanced Manufacturing and Low Carbon Enterprise Zone (NEEZ). This was consistent with the priority the North East Local Enterprise Partnership (NELEP) had 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 were 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 was only available to businesses that located into a NEEZ site before 1 April 2015.

In addition, the business rate growth income generated by all the NEEZ sites was retained by the NELEP for a period of 25 years for re-investment in the local economy. The NELEP had 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 were being aligned with the NEEZ and applications for funding from these sources were being prioritised.

NEEZ designation of the 3 North Bank sites therefore provided a significant opportunity to stimulate further interest in the River Tyne. All 3 sites were 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 made 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 had agreed a protocol for handling inward investment enquiries with both UKTI and the local authority partners, which gave the NELEP and the local authorities access to information on business enquiries received nationally.

Procurement of a developer partner for Jupiter PaRC @ Swans would assist in the delivery of the NEEZ as well as the delivery of the utility provision to the site on the Authority's behalf and the refurbishment of parts of the existing buildings, which was subject to a current funding bid for ERDF.

The Project had 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 was through the Project Team reporting to a Project Board chaired by the Project Sponsors and the Chief Executive. The Project Team comprised of representatives from Regeneration, Finance, Commercial Services and Legal Services together with property input from the Technical Package provider Capita Symonds.

Jupiter PaRC was 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 was bringing forward plans for essential new and improved infrastructure rapidly, which were programmed to begin in early 2013 and would take around 2 years to complete.

Bids for external funding towards these costs had 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 would provide 50% of the funding and must be fully spent by June 2015. The match funding had been secured through the HCA and GPF.

The proposed capital funding mix for the £13.560m site infrastructure works was:

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

The three current primary projects were:

- Site improvements and new infrastructure required to bring the site up to a viable condition for construction of new business accommodation to commence;

- Construction of new business accommodation on the site;
- Refurbishment of part of the existing Swan Hunter buildings to accommodate a Business Incubation Centre and Research and Development facility.

An additional ERDF bid had been submitted for £2.250m of ERDF capital, matched by the Council's Targeted Capital Fund 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 would 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 would 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 was envisaged that the preferred developer for the Jupiter PaRC site would also carry out the refurbishment works should the ERDF bid be successful. This separate ERDF bid had been reported to Cabinet most recently on 11 March 2013 (Minute CAB223/03/13 refers).

The site was already of considerable interest to existing local companies, as well as new companies looking for a riverside site. It had also become clear during discussions with businesses that while some would wish to invest in new buildings themselves, a significant number had indicated that they wished to rent accommodation, freeing up their capital for investment in plant and machinery.

An outline masterplan had therefore been prepared that showed 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 showed how known local business growth could be accommodated, while ensuring the potential of the overall site could 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 remained a 'live' document and continued to be adjusted to take account of new business interests as they arose.

Consideration had been given to how new manufacturing units could be provided to support new businesses who wished to rent accommodation on the Jupiter PaRC @ Swans site. It had been 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.

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

Details of the procurement process were set out in the report.

On receipt of the final submission the Project Team had carried out the final evaluation by applying the contract award criteria detailed in the Invitation to Submit Final Solutions (ISFS), with further tender clarifications raised on areas of ambiguity. In line with the project/procurement governance arrangements referred to in the report, the evaluation of the Final Solutions process had been reported to the Project Board. This final evaluation process had resulted in the production of the evaluation report and recommendations for Cabinet's consideration.

The acquisition of the site was assisted by Single Programme funding from ONE NE, and was subject to a Joint Venture Agreement (JVA) that was now administered through the HCA. The JVA contained a number of requirements regulating how the Council could use or dispose of the site, how income was managed and the apportionment of value arising from site disposal(s), which was currently 70/30 in favour of the HCA (based upon the original pro rata contribution towards the site acquisition cost). However, the current JVA did 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 was required. The HCA could 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 indicated 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 would be discussed with the HCA on a case by case basis.

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

(N.B. Resolution and Reason for Decision detailed at Minute CAB237/03/12)

### **CAB236/03/13      Exclusion Resolution**

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test as defined in Part 2 of Schedule 12A of the Act, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act.

### **CAB237/03/13      Developer Partner for Jupiter PaRC @ Swans (Wallsend Ward)**

(See also Minute CAB235/03/13)

Cabinet considered a supplementary report which contained additional information to the report at Minute CAB235/03/13). The Authority had received final solutions on 13 March 2013, the solutions had been evaluated by the Project Team and scores moderated by the Project Board. A summary of the bids received was detailed in the report.

Cabinet considered the following decision options:

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 would include 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 would also mean the remaining Bidder would be advised they have not been appointed as Preferred Bidder and could not be appointed as "Reserve Bidder" as they had not submitted a compliant bid.

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

Option 3 – abort the current OJEU procedure and the Project Team be instructed to search for other or new potential developer(s) by issuing a new/revised OJEU notice and requesting new expressions of interest.

Option 4 – abort the procurement process in its entirety and receive a further report detailing alternative options for the Jupiter Parc @ Swans site.

Cabinet were advised that the Group Leaders had been issued with a copy of the draft report and invited to submit comments or queries to Cabinet prior to this meeting. Councillor N J Huscroft had submitted an email listing several concerns, queries and comments. The email was circulated and discussed. The Elected Mayor requested that a formal response be sent to Councillor N J Huscroft following the meeting.

Cabinet Members then asked questions on the report, which were responded to appropriately.

**Resolved** that (1) the progress of the Jupiter Parc @ Swans preferred developer procurement to date, be noted;

(2) approval be given to the Project Team's recommendation to appoint Bidder One, whose final solutions were identified as representing the most economically advantageous tender in the tender evaluation process, as the Authority's 'Preferred Bidder' and to progress the procurement of the Developer Partner to the preferred bidder stage and not to appoint the reserve bidder;

(3) the Head of Law and Governance in consultation with the Elected Mayor, Strategic Director of Finance and Resources and the Head of Business Economic Development be authorised to agree and finalise the development agreement with the Preferred Bidder subject to all matters in the Preferred Bidder letter being satisfactorily addressed;

(4) the Client Manager Property in consultation with the Elected Mayor, the Head of Business and Economic Development, the Strategic Director of Finance and Resources and the Head of Law and Governance, be authorised to complete negotiations and to dispose of the site as identified at Appendix 2 at a potential undervalue and obtain the Secretary of State's approval if required by the General Disposal Consent (England) 2003;

(5) the Client Manager Property, be authorised to deal with all ancillary matters consistent with recommendations (3) and (4) above;

(6) 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, be authorised to negotiate and agree any necessary amendments to the Joint Venture Agreement with the Homes and Communities Agency; and

(7) an update report be submitted to Cabinet in the summer detailing the progress of the development at Jupiter PaRC @ Swans.

(Reason for decision - to appoint the bidder identified in the evaluation report as the Authority's "Preferred Bidder" for the development and undertake final adjustments in relation to the contract documentation.

Bidder One provides a scheme which most closely matches the Regeneration Brief which requested that bidders look to maximise the sites' potential and job creation opportunities in order to help re-balance the local and regional economy. It requires the partner to actively market the site with the Council and its partners bringing an underused riverside asset back into economic prosperity within the exceptionally constrained timeframes available.

To enable the Preferred Bidder to work with the Council to develop their scheme within the constrained timescales available in relation to the grant funding available and the Enterprise Zone incentives.)

**CAB238/03/13      Date and Time of Next Meeting**

6.00 pm on Monday 8 April 2013.

**Minutes published on Monday 18 March 2013.**

**The effective date for implementation of decisions contained within these Minutes (unless called in by 3 Non-Executive Members for consideration by the Overview and Scrutiny Committee) is 26 March 2013.**