

CABINET



Report subject	Holes Bay, Poole (former power station site) acquisition strategy
Meeting date	12 July 2019
Status	Public
Executive summary	To inform the Cabinet that the current private-sector led development for the former power station site has stalled and recommend the Council pursue an alternative approach which could enable the acquisition of the site with support from Homes England and the Dorset Local Enterprise Partnership (DLEP).
Recommendations	<p>It is RECOMMENDED that Cabinet:</p> <ul style="list-style-type: none"> (a) Notes that progress in bringing the site (indicatively edged red on the plan attached at appendix 1) forward has stalled and supports an alternative approach which seeks to explore options for bringing this key brownfield site into public ownership. (b) Allocates a sum of £150,000 from Homes England capacity funding to develop a site acquisition strategy with specialist estates and legal advice. (c) Notes that the acquisition strategy will be presented to Council and that members will then be presented with the full business case for site acquisition including the use of Compulsory Purchase Order (CPO) powers as a contingency.
Reason for recommendations	To facilitate this key brownfield site to progress to deliver much needed housing and a new community in Poole, and seek to retain the external funding allocated for the site to address the significant adverse infrastructure costs.

Portfolio Holder(s):	Councillor Kieron Wilson, Portfolio Holder for Housing
Corporate Director	Kate Ryan (Corporate Director of Environment and Community)
Contributors	Lorraine Mealings, Director of Housing Julian McLaughlin, Director of Growth and Infrastructure Sarah Varley, Head of Estates
Wards	Hamworthy
Classification	For Decision

Background

1. Holes Bay (former power station site) is Bournemouth, Christchurch and Poole Council's largest housing regeneration opportunity. It is allocated in the Poole local plan to bring forward 850 homes and associated uses. Levels of unmet housing demand in Poole and across the wider area are very high, where housing demand outstrips supply.
2. The refreshed Poole Housing Strategy 2018-2020 identifies relevant priorities including to *"Increase the right supply of new homes to meet local needs, including affordable housing"* and *'Supporting area regeneration plans across the Borough of Poole'* The government has set out a new methodology for calculating Local Plan housing targets and as a result the Bournemouth, Christchurch and Poole (BCP) Council area will need to increase its housing delivery significantly to approximately 2,600 new homes every year. This will need a step change from current delivery levels to meet these new levels and is one of the key local housing challenges. Whilst the increased demand for housing will need to be considered in the BCP Local Plan, and this is scheduled to be adopted by no later than 2024, the current situation identified that within the area of BCP existing delivery of housing is falling below current needs.
3. The Power Station site is part of the strategic supply of housing in the Poole area and has remained undeveloped since the authority allocated this site for development over 20 years prior. The continued failure to deliver will add to the under delivery of housing and could result in a tilted balance being applied to the wider area of Poole eroding the character of Poole.
4. Delivery of the site is an integral part of wider plans to revitalise the Town Centre through regenerating land around Hamworthy Backwater Channel by providing new housing, commercial activities, public waterfront and spaces. In order to help unlock this significant area of brownfield land the Borough of Poole delivered the Twin Sails Bridge project by 2012. Following this an application was submitted by the joint landowners Gallaghers Estates and Lands Improvement Holdings in 2011 for 1,350 dwellings and commercial development (including a superstore). However, discussions during the application identified that the viability of the site is constrained by a range of exceptional costs such as ground conditions, contamination, removing the electric switching station, flood defences as well as resolving planning requirements relating to parking, traffic impact and scale, bulk and mass.

5. The decision about whether to remove electric switching station will need to be carefully considered. The outline application currently submitted by the landowners doesn't remove the switching station which does take up a reasonable portion of the site as well as being unattractive and could impact on values. Previous plan proposals however did look to remove the switching station which was estimated at a cost of £20 million.
6. As part of the Council's commitment to unlocking the site, the Council applied for the land to be designated as a Government Housing Zone, which was confirmed in March 2015. This focused on a joint approach with Homes England and the Dorset Local Enterprise Partnership (DLEP) working with the landowners; a joint venture between Land Improvement Holdings and Gallaghers Estates. Gallaghers Estates is now fully owned by London and Quadrant (L&Q).
7. Following an independent study of site viability, the case was made for gap funding. With Ministerial support for the site the Council successfully secured £5million Growth Deal 3 funding in 2015.

DLEP Growth Deal 3 - Holes Bay project

8. The Outline Business Case and decision to accept the Growth Deal 3 DLEP funding was approved by the Borough of Poole Council in September 2017 and the DLEP Board in September 2017. This funding is for the period to March 2021 and the DLEP are held responsible by Government for delivery of their programme and budget within that period. There is no agreed mechanism for delay beyond this date and this funding is therefore at risk of being withdrawn from this project after this time.
9. The allocation of this funding in this case was a complex process due to the fact that the Borough of Poole was in effect passing the funding on to the joint venture partners to undertake the infrastructure works. This necessitated a funding agreement be entered into between the DLEP and the Council, and the Council and the landowners. There were also technical issues such as State Aid and VAT that both parties have had to seek advice and resolve.
10. Following approval of the Outline Business Case the next stage was to submit a Full Business Case which was developed by the landowners and approved by the DLEP Board in July 2018. The focus was the delivery of the Port Link Road and the Quay Wall (Phase1) which would unlock the delivery of housing. The outcomes also included a commitment to a serviced site for 125 homes. From this point onwards a series of issues were raised and proposals submitted by the landowners that sought to minimise their commercial risk and reduce obligations within the agreement.
11. Progress has been made with regards planning. The necessary consents are in place for the Construction of the Port Link Road and the Quay Wall permission was granted in April 2019. However, the current application for up to 850 new homes remains outstanding awaiting responses from the applicants.
12. Due to the timeframe for Growth Deal 3 officers became concerned that £5m funding would be lost if the DLEP considered the project undeliverable due to the delays in securing the landowners legal commitment to deliver the funded works. Efforts were made by Government, Homes England and the Council to secure this commitment however the landowners have now confirmed that they do not intend to proceed with the funding agreement with the Council and

the DLEP to secure the £5m infrastructure funding and deliver the works. The substantive reasons outlined relate to concerns with regards the overall site viability. At present it is unclear what action the landowners joint venture is going to take however progress with the Outline Planning application has stalled.

13. As a result of this the project, as outlined in the Full Business Case and approved by the DLEP Board, was reported to the DLEP Board on 28 May 2019 as a 'red' risk. The delivery of housing on this site is a key priority for the Council and therefore discussions have been taking place to seek an alternative approach which will utilise the allocated funding to support and enable the housing outcomes to be brought forwards and delivered on this site in line with the DLEP expectations.

Proposed Approach

14. This site has been in private sector ownership since the site was sold by RWE (a utilities company) at the end of 2002. Throughout this period the housing market has experienced both highs and lows, yet the site has not been brought forwards to delivery, and there has been a pattern of withdrawn or stalled planning applications. The Council has supported this site through substantial investment in infrastructure, primarily the Twin Sails Bridge, and through ongoing efforts to secure grant funding to support the overall viability. Despite this, the current landowner joint venture does not appear willing to move forwards even faced with the loss to their project of the £5m Growth Deal 3 infrastructure grant.
15. To prevent this site stalling further with the unacceptable implications given the need for housing in BCP it is now recommended that the Council takes an alternative approach and seeks to explore options for acquiring the site. As a major site it is recommended that an acquisition strategy is developed.
16. The preferred option would be to acquire the site with agreement from the landowners through negotiation; however, this may not be successful and therefore the Council should be planning to use its Compulsory Purchase Order (CPO) powers as a default position. This will involve the council preparing the necessary work to inform whether the council has adequate grounds and power to proceed with a successful CPO.
17. A key part of any CPO process is the development of "statement of reasons". There will also need to be a planning led housing needs report, outline masterplanning, valuation work and a financial strategy that underpins the proposed Council decision. All this initial work will form part of the "statement of reasons" document including a well-documented negotiation with the landowners towards agreement of a purchase price in a "no scheme world"
18. This project will become a major project within BCP and to facilitate the Council's intervention it will be necessary to secure additional internal capacity to lead the project as well as external expertise. Homes England has

¹ Compensation payable for the compulsory acquisition of an interest in land is based on the 'equivalence principle' (i.e. that the owner should be paid neither less nor more than their loss). The value of land taken is the amount which it might be expected to realise if sold on the open market by a willing seller (Land Compensation Act 1961, section 5, rule 2), disregarding any effect on value of the scheme of the acquiring authority (known as the 'no scheme' principle)

also offered to support this project through their land assembly team who would bring expertise around the CPO process.

19. As work progresses and feasibility options are understood the site boundaries may change should the CPO progress. The proposed boundary will be confirmed in the next report to Council.
20. Should the site be brought into public ownership then the delivery model to bring the site forwards to development will need to be considered. These options and the associated procurement implications will need to be scoped out through the acquisition strategy.

Consultation

21. As a Housing Zone recognised by Government this site has had a partnership approach with the landowners, Homes England, Dorset LEP and previously the Borough of Poole. This Housing Zone delivery team has been primarily focused on ensuring an effective response to the planning process, the securing of the DLEP grant funding and management of this allocation from the DLEP to the Council and on to the landowner.
22. Since the landowners made clear they did not intend to complete this process, discussions have taken place with Homes England and the Dorset LEP which has provided assurances to the Council that this site remains a priority in terms of housing delivery for BCP Council, and indeed the wider region.
23. The landowners have undertaken consultation on their outline planning application (link below) however, this application is not currently progressing.
https://boppa.poole.gov.uk/online-applications/applicationDetails.do?keyVal=_POOLE_DCAPR_251306&activeTab=summary
24. The Cabinet Member for Housing has been briefed and the current ward councillors are supportive of the proposed approach.

Alternative Options

25. There are several options for this site, however the critical issue is that, at present, the site's current landowners do not want to develop the site. Therefore, the proposed approach set out above seeks to resolve landownership issues to ensure that this site can be brought forward for development.
26. An alternative option that has been considered but discounted is: -
Option B : Leave the site to come forward according to the landowner timings
27. This option would involve continued engagement with the landowners but it would recognise that the consequence of their current position as stated to the Council, would be that the development will not secure outline planning, the infrastructure works will not be undertaken and therefore the grant funding towards these works will be lost to the site. As the site has marginal viability then without this Government funding it is difficult to see how the site will be a viable proposal for the landowners to bring forwards in the foreseeable future.
28. The implications of this site being stalled are considerable for BCP Council as outlined previously. Delivery on the site is currently included within the Council's 5 year land supply, which is critical to maintain in terms of retaining

local decision making for planning applications. To lose this site from the 5 year supply by doing nothing would be detrimental to the council and its ability to keep control of planning decisions. The opportunity to bring forward much needed new homes for the area would be lost.

Summary of financial implications

29. The initial financial implications of this report are focused on the development of an acquisition strategy. The Council had previously secured Homes England capacity funding to support costs associated with bringing forwards the Housing Zone project. There is £150k remaining that was intended to support the Council's response to the planning application. As this application has stalled Cabinet is being asked to approve a different approach to bring the site forwards. We would therefore recommend that the capacity funding is used to support the development of an acquisition strategy.
30. The acquisitions strategy will then provide a routemap and timetable for Council to consider as well as a detailed breakdown of the costs that will be incurred in seeking to acquire the site and supporting a potential CPO. Members should be aware that we may commence this work and then have an outcome from the landowners themselves or via negotiations which could make some of the work started / commissioned potentially abortive. At present the only other option would be to leave the site as outlined above.

Summary of legal implications

31. There are significant legal implications arising from the proposed approach which will need to be addressed within the acquisition strategy. A further report will be forthcoming once the preparation has taken place and it is understood what powers we should use, and we have established adequate grounds.
32. There are elements of the site that, should the Council secure ownership, would require further legal agreements. For the Port Link Road given the intrinsic links with the adjoining site, Inland Homes, a separate developer agreement would be needed with Inland Homes to ensure that the Port Link Road is built up-to their respective land ownership boundaries and that the new adopted surface is continuous.
33. Officers are also aware of the need for agreements with the Marine Management Organisation and the Crown Estate with regards the impact of works on the Harbour.

Summary of human resources implications

34. The implications of this new approach will have a resource implication on the project as the Council will be pursuing the ownership of this major site. This will require estates, planning, housing and legal capacity and external specialist CPO advice.
35. The Housing service will lead the project however it is anticipated that the skills and capacity to take forwards the planning and delivery of a CPO proposal of this scale and complexity will also require additional external capacity and technical expertise. We will seek opportunities to gain support for this project from Homes England and also to recognise that the structure of a future delivery vehicle may also provide some elements of this expertise through an external partner.

Summary of environmental impact

36. Whilst a planning application of this scale and complexity will be required to be supported by an Environmental Impact Assessment and for the Authority to undertake an Appropriate Assessment, any such assessment is only relevant to the plan or project that is proposed and is of relevance upon implementation. In the absence of any firm proposal to develop the land there remains ecological issues both on the site and surrounding, as well as areas of contamination that are uncontrolled. Any acquisition of this site will need to take these into account

Summary of public health implications

37. Bringing this major brownfield site into public ownership will support the ultimate creation of a sustainable good quality housing development that benefits the current and new community and brings many benefits to the residents and the wider area.

Summary of equality implications

38. An equality impact assessment has been carried out based on the proposals of this report and there are no protected groups that will be disadvantaged as result should the decision be approved. Further EINA work will be carried out as part of the CPO preparation work.

Summary of risk assessment

39. The following key risks have been identified alongside mitigating actions:

	Nature of risk	Control measure
1	It is not possible to acquire the site by agreement and CPO powers may need to be exercised to bring the site forwards	The Council will exhaust all possible options to acquire by agreement prior to making an order
2	If the council fails to adequately demonstrate a need that overrides the rights of the landowner to pursue a CPO	Council need to provide a robust planning led housing needs report
3	Skills and capacity are not available given the scale and complexity of the development	Further work will be undertaken with Homes England on resourcing for this project however to deliver the largest housing project across BCP will require additional resource.
4	Due to programme timeline and the need for funding to be spent by March 21 the DLEP GD3 £5m funding could be reallocated causing funding/viability challenges	Close working with Homes England, Department for Business, Energy & Industrial Strategy (BEIS), the Dorset Local Enterprise partnership (DLEP) and BCP Council will minimise this risk.
5	Abortive costs if for example the landowners do undertake to bring the site forwards and successfully challenge the CPO or if the CPO application rejected by the Secretary of State	An order will only be made if the Council is confident it has a strong case. Project gateways will provide a check prior to further costs being incurred.

	Nature of risk	Control measure
6	Market changes impacting budget and/or viability of the scheme	This will need to be monitored with partners and advice sought when appropriate.
7	Objections to the CPO will increase the costs to the Council and delay the delivery timetable	This needs to be monitored and it should be assumed there is a high likelihood an inquiry may be required.
8	The Council may acquire the site and then due to market/viability it may not be possible to deliver the site leading to reputational damage, costs and an ongoing liability.	Assurance will be sought prior to any acquisition or CPO that a delivery mechanism is in place that will bring the site forwards promptly with a policy compliant development.

Background papers

BoP Council Report:

Financial & Legal Arrangements for the Holes Bay Site (Former Power Station Site)
26th September 2017

Appendices

Appendix 1 – Holes Bay site map