

REPORT TITLE: NORTH WHITELEY DEVELOPMENT FORUM PROGRESS
REPORT AND UPDATE

11 JULY 2018

REPORT OF PORTFOLIO HOLDER: Cllr Caroline Brook; Portfolio Holder for Built
Environment

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WARD(S): WHITELEY AND SHEDFIELD

PURPOSE

The purpose of the report is to update the Forum on the status of issues relating to the North Whiteley Major Development Area. In particular it addresses progress on the completion of the Section 106 agreement and the issue of the outline planning consent for the development. The Forum will be updated on the programme of highway works both to serve the new development and for the general improvement of access to Whiteley.

RECOMMENDATIONS:

1. That the content of the report be noted.
2. That the Forum notes the further discussion Hampshire County Council in relation to cycleway lighting in response to concerns raised by Curdridge Parish Council

IMPLICATIONS:

1 COUNCIL STRATEGY OUTCOME

- 1.1 The provision of 3,500 houses at North Whiteley is a key Local Plan policy and will help the Council to deliver quality housing options. It will support economic growth in the south of the District in accordance with Council Strategy objectives.

2 FINANCIAL IMPLICATIONS

- 2.1 The Council will receive various financial contributions arising from the development and by way of New Homes Bonus. The triggers for the payment of financial contributions are set out in the Section 106 agreement.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 There are no legal issues arising from the report itself. Some important information regarding the legal issues associated with the planning consent is contained in the report.

4 WORKFORCE IMPLICATIONS

- 4.1 None.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 The City Council or the parish council for the area will eventually receive various assets transferred under the terms of the Section 106 agreements.

6 CONSULTATION AND COMMUNICATION

- 6.1 Good communication and the provision of timely information to local residents and businesses is a joint responsibility of the various public bodies involved and the development consortium. The Forum itself plays an important role in this process. As the development progresses the appointment of the Implementation Officer is a proven mechanism to ensure that information is available locally to help maintain awareness of the progress of the development.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 The report itself has no environmental implications. An important matter in relation to the assessment of the environmental impacts of the development is addressed in the body of the report.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 None.

9 RISK MANAGEMENT

Risk	Mitigation	Opportunities
<i>Property</i> <i>None</i>		
<i>Community Support</i> If communication and information provision to local residents and businesses is poor there could be an impact on community activities, the development timetable and reputation for those involved.	Regular Forum meetings to be held Good communication by the development consortium Appointment of Implementation Officer Close working liaison with parish councils and ward Members.	
<i>Timescales</i> If the development does not progress in a timely fashion the Council's ability to demonstrate a five year land supply will be comprised. It is important that works on adjoining parts of the highway network be coordinated and this requires maintaining a strong focus on achieving target dates.	The Council has limited control over the timetable for development which will be largely a commercial matter for the developer. The appointment of an Implementation Officer will help to reduce the scope for delays which might occur as a result of planning process and communication issues. Good dialogue between HCC,WCC, WTC and the consortium will help ensure project milestones are coordinated and achieved.	
<i>Project capacity</i> <i>None</i>		
<i>Financial / VfM</i> <i>None</i>		
<i>Legal</i> If the implications of the recent ECJ judgement are not properly taken into account then the issue of planning consent could be challenged causing further delay and uncertainty.	Take appropriate legal advice and ensure as far as possible that no basis for challenge exists.	
<i>Innovation</i> <i>None</i>		
<i>Reputation</i> <i>None</i>		

10 SUPPORTING INFORMATION:

10.1 Background

10.2 The North Whiteley development will consist of 3,500 dwellings, 2 primary schools, a secondary school and other supporting infrastructure, including major highway works. It will integrate with the existing residential, commercial and employment development. The site itself is effectively under the control of a consortium of three housebuilders (Crest, Taylor Wimpey and Bovis) and one landowner. It is wholly contained in the Winchester City Council area. A resolution to grant planning permission for the development was made by the City Council's Planning Committee on the 12th October 2015. The grant of permission was, as is always the case for major development, subject to the completion of a Section 106 agreement which is a contract between the developer of the site and the two local authorities (Winchester and Hampshire) to secure the delivery of the infrastructure requirements as put before the Committee. After long delays for a number of reasons the Section 106 agreement has been signed by all parties and is ready to exchange subject to resolution of the matter explained below.

10.3 ECJ Judgement and Issue of Decision Notice

10.4 In April 2018 the European Court of Justice (ECJ) issued the decision on a case arising from a proposed development in the Republic of Ireland. The effect of this is to overturn a decision by the UK courts in 2008 which established the basis on which all relevant UK planning applications have been assessed for their environmental impact on protected sites. In simple terms, the ECJ decision means that measures proposed to mitigate the impact of a development cannot be taken into account by the local planning authority until after the environmental impacts are assessed by the planning authority. This overrides the position taken in the UK since 2008 which is that any mitigation proposed (provided it is suitably specific and deliverable) can be taken into account before deciding whether there is any need for an assessment to take place. The judgement does not mean that previous planning decisions failed to provide suitable mitigation, but rather that the mechanism used in assessing the applications is not the one which the UK courts had determined.

10.5 This decision by the ECJ has caused some surprise and confusion across the country as it has been widely considered as good practice to incorporate habitat mitigation into the project development process, not to see such measures as a separate 'bolt on' only to be added afterwards.

10.6 Because the decision notice for North Whiteley has not yet been issued it has been caught by the ECJ judgement. The 2015 planning application was not given what is known formally as an 'Appropriate Assessment' of its environmental impacts because the mitigation measures it includes were deemed sufficient to ensure that no harmful impact arose and therefore that no Appropriate Assessment was needed. The ECJ judgement means that an

Appropriate Assessment must be commissioned in order to form part of the evidence base before a decision notice can be issued.

- 10.7 An Appropriate Assessment has now been commissioned based on the material supplied for the planning application. This is expected to be complete by the end of July to the necessary standard of detail and comprehensiveness.
- 10.8 This delay in issuing a decision notice could have an impact on the timetable for preparatory works on the development. Everything possible is being done to avoid this, but there is a narrow window for those works. A further update will be given at the meeting.
- 10.9 Update on Key Infrastructure Issues
- 10.10 As discussed at the last Forum meeting, the complex highways issues on the M27, J9 and in and around Whiteley are of great concern to local residents and businesses. Regular meetings have been held between Whiteley Town Council, the County Council, the City Council and consortium representatives to coordinate these works. The Highways Agency has also been consulting recently on its 'Smart Motorway' project for the M27 which is also likely to have an impact on traffic flows whilst it is carried out.
- 10.11 Representatives from the County Council and consortium will be present at the meeting and will give an update on the latest project management issues.
- 10.12 Timetable and Delivery
- 10.13 Until the recent legal issue described above intervened, the timetable for the development commencing on site remained as set out in the previous report NWDF7. That timetable is now at risk as a result of the need to complete an Appropriate Assessment but it is not possible at the time of writing the report to be sure about how much impact this might have. More information will be available to be presented orally at the meeting.
- 10.14 Lighting of B3051 Cycleway – Curdridge Parish Council concerns
- Curdridge Parish Council remains concerned that the cycleway to be provided running alongside the B3051 from the new Whiteley Way junction to Kings Corner where the B3051 meets the A3345 will be lit to ensure safety and encourage after dark usage and has asked to raise the matter once again at the meeting of the Forum.
- 11 OTHER OPTIONS CONSIDERED AND REJECTED
- 11.1 There are no other options to be considered.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

NWDF5 – 17 November 2017

Other Background Documents:-

None