

Classification	Item No.
Part A	

Meeting:	The Cabinet
Meeting date:	26 May 2021
Title of report:	East Lancashire Paper Mill site
Report by:	Councillor Eamonn O’ Brien, Cabinet Member for Finance and Growth, and Councillor Clare Cummins, Cabinet Member for Housing Services
Decision Type:	Key Decision
Ward(s) to which report relates	Radcliffe East

EXECUTIVE SUMMARY

East Lancashire Paper Mill is the single largest brownfield housing site in Bury District. The Council bought their element of the site over 13 years ago. It has lain derelict since demolition and clearance. There have been several attempts to bring the site forward for much needed housing.

Building upon recent works to de-risk the site, this report sets out a clear and transparent process to bring the site forward, working in partnership with Homes England and delivered through a formal Collaboration Agreement.

Recommendation(s)

1. The Cabinet note progress made by the Council to bring the site forward for housing.
2. The Cabinet provides approval to enter into the Collaboration Agreement (Heads of Terms set out in Appendix A in Part B) with Homes England and delegates the finalisation of the Agreement and any further approvals to the Chief Executive, Section 151 and Monitoring Officers.
3. The Cabinet agrees the delivery strategy as set out within the Collaboration Agreement and outlined in section 4.2 of this report, including transfer of the Councils land comprising two sites at Rectory Lane and Tower Farm to Homes England and the procurement of a development partner through their Delivery Partner Panel.
4. Note the potential for a capital receipt for the Council’s land and the increased council income generated by new homes on the site.

Reasons for the decision:

East Lancashire Paper Mill is the largest brownfield housing site in Bury District and sits within the regeneration programme in Radcliffe. This is a long-term vacant site and has considerable abnormal costs that have historically presented a viability challenge in the context of housing development.

Several attempts in the past by previous owners to bring the site forward have failed. A new collaborative approach will ensure that the procurement of a developer and the delivery of much needed homes will ensure the site is comprehensively developed to the highest environmental and social standard.

KEY CONSIDERATIONS

1. Background

- 1.1 The derelict East Lancashire Paper Mill site is the largest brownfield housing site in the district and sits as a significant opportunity within the Radcliffe regeneration programme. It presents an opportunity to deliver much needed new homes set within well designed open space and simultaneously delivers improved sports facilities.
- 1.2 The site is part owned by Homes England and part owned by the Council. The Council's ownership comprises two parcels of land, one off Rectory Lane and one at Tower Farm.
- 1.3 The site has several complexities, namely major flood risk and abnormal issues requiring significant flood mitigation, land modelling and open space work, which are intrinsically linked across the two separate site ownerships. The Council's land asset at Tower Farm is also required for the cricket ground relocation.
- 1.4 Given the site's complexities, it has previously been recognised that the comprehensive redevelopment of the site as a whole to achieve its full potential was the way forward. The site was previously master planned and subject to an outline planning application working jointly with Homes England.
- 1.5 Homes England is the Government's lead agency in the delivery of housing across the country, are also owners of land at East Lancashire Paper Mill and are well placed to formally collaborate with the Council. Homes England have significantly more experience and resources to actively engage with the market and financial tools available to tackle any abnormal costs associated with development of the site.
- 1.6 Working in partnership with Homes England and entering into a formal collaboration agreement, also provides the Council with the ability to tap into Homes England's considerable skills, experience, resource and financial toolkit.

2. MARKET OVERVIEW & HOUSEBUILDER INTEREST

- 2.1 2.2 Significant interest was shown in the site when the Council and Homes England undertook a soft market testing with developers to assess market appetite over 18 months ago. The Council has subsequently been contacted by several good quality housebuilders recently with serious interest in obtaining the land at East Lancashire Paper Mill for housing development, delivering affordable low carbon housing.
- 2.3 However, East Lancashire Paper Mill has considerable viability issues. The situation presents as a window of opportunity to seize upon the premium values demonstrated by the surrounding marketplace, higher house prices than recently recognised and tap into pent up demand for new homes in the area. This is a key element in unlocking the viability of the site.
- 2.4 The most efficient way of bringing the site forward is through Homes England's Delivery Partner Panel. The Panel (DDP3) comprises thirty-three major developers and house builders. This procurement route will openly market the site, attract interest and demonstrate best value.

3. PROGRESS TO DATE

- 3.1 The Council has a brownfield first policy on all housing development across the district.

3.2 Over the last few years, the Council and Homes England have worked jointly to put in place the building blocks to secure its redevelopment. A joint Project Team was established and dedicated officers have worked extensively to de-risk the site over the last 12 months and establish a delivery strategy for the project. Progress to date is as follows:

- The Council & Homes England have developed a comprehensive masterplan for the site and secured an outline planning consent in December 2018 for up to 400 new homes with the cricket ground relocated on the site. This planning consent has been supported by various technical studies. A Planning strategy to address some of the planning conditions is now being pursued.
- Investigated the delivery options and the legal arrangements of a delivery strategy between the Council and Homes England for the site's future delivery.
- Investigated the mechanics of procuring a developer via the Homes England Delivery Partner Panel (DPP3) and undertook a soft market testing (SMT) exercise with developers to ascertain their views and market appetite. There was a high level of interest from the developers who participated.
- A de-risking exercise for the site has been advanced involving the commission of a range of survey / technical / legal pieces of work to address a number of issues and developer concerns arising from the SMT exercise. Cabinet gave approval in May 2020 to progress these various pieces of work (which were jointly procured with Homes England) and agreed a £120,000 budget within the Council's Capital Programme for the project
- Consideration to the mix of tenures and how the project can deliver affordable housing has been explored. Through the planning strategy and the evaluation criteria for the selection of the developer, affordable housing will be incentivised.
- Homes England launched their 'Island Site' off Cock Clod Street to the market in November 2020. Homes England have leasehold interests in this small infill site, which has the potential for circa 20-25 affordable/ Private Rented Sector (PRS) units. It represents an early win for delivery of a new housing development on the site and a preferred RP developer has been selected by Homes England to develop this small site.

The project is complex and there are several key issues which have now been resolved; it is now timely to progress with the next stage to accelerate its delivery.

4. THE PROPOSAL

4.1 The proposal comprises two elements representing the next stage of this project:

- Agreement on the Procurement and Delivery Strategy.
- Entering into an Agreement between the Council and Homes England to transfer the land into single ownership (to expedite development and make the site more attractive to developers), with the future net capital receipt being shared by apportionment of current land ownership.

4.2 The Delivery Strategy

4.21 Various delivery options have been investigated and considered by the parties. The delivery option which is considered to represent the most efficient and timely route to achieve the comprehensive redevelopment of the site is based on the following principles:

- a. The Council agrees to work collaboratively with Homes England to procure a lead developer to comprehensively re-develop the site as a single lot.
- b. A Collaboration Agreement between the parties be entered into.
- c. The disposal route be through Homes England's OJEU compliant delivery framework (DPP3 or equivalent) and an Evaluation Criteria for the developer selection will be jointly agreed upon.

- d. A legal structure for the disposal of the land be agreed, based on an appointed developer entering into a Tripartite Agreement for Lease for the whole site which incorporates both Homes England & Bury Council's land interests. Bury Council transfers its site to Homes England once the conditions precedent in the Agreement for Lease have been satisfied and at the point the building lease between Homes England and the developer is granted.
- e. Inter party governance arrangements be established which could take the form of a Joint Project Group that reviews progress and strategic issues with the Project Team.
- f. An Equalisation Rate for the appropriation of proceeds/capital receipts, is based on the ratio of the parties' respective land ownership within the site.

4.22 Inter-party governance arrangements would give Bury as joint land-owner involvement in all strategic decisions including the setting of bid criteria, appraisal of bids, subsequent pre-contractual alterations to the developer's proposals, etc. Day-to day project management decisions would be delegated to Homes England giving the developer a single point of contact. After the transfer of Bury Council's freehold, the Council will have no further involvement in the project, other than as a local planning authority.

4.3 Collaboration Agreement

4.31 A formal collaboration agreement sets out the parameters of both parties contribution – time, role and financial – alongside an agreed programme to bring a site forward for disposal and development. Homes England are the principal housing agency of central government in England and have extensive resources to enable the development of this site and by working collaboratively together via a legally binding agreement a developer will be procured for the whole site following a step by step process, whilst ensuring price and quality considerations.

4.32 The Council has appointed specialist legal advisers, Shoosmiths, to advise on the legal aspects of the Collaboration Agreement and the land disposal structure.

4.33. The Council shall not be legally bound to proceed with the Collaboration Agreement unless and until a formal written signed/sealed agreement is entered into.

The key principles of the agreement are:

- Define the shared objectives of the Project
- Establish the basis on which costs incurred are borne by the parties.
- Establish the basis on which capital receipts will be shared between the two parties.
- Document the roles and responsibilities of the parties.
- How the Project will be delivered embodying the key elements of the delivery strategy

5. THE PROVISIONAL PROGRAMME

- 5.1 There are various pieces of preliminary work (relating to planning, public open space management/ cricket club arrangements, SI finalisation work etc) that are currently being progressed in preparation for bringing the site to market. These are expected to be in place within the next few months.
- 5.2 It is proposed that subject to the agreement of the new collaborative approach that the marketing of the site through Homes England's DPP framework begins in the summer 2021. This would commence with an invitation for developers to submit Expressions of Interest to develop the site.

The provisional timescales are:

- Preliminary work underway; to be completed by July 2021

- Invitations for Expression of Interest from developers – Q3 2021
- Marketing the site via Invitation to Tender – Q4 2021
- Evaluation and Clarification process – Q4 2021
- Select Preferred Developer – Q1 2022
- Enter into contracts with preferred developer – Early 2022
- Building commencement date 2022/23

6. FINANCIAL CONSIDERATIONS

Principle delivery strategy

- 6.1 The delivery strategy will ensure that the site is brought forward for housing by the jointly selected developer. This will be in the form of an Agreement to Lease and a building lease with freehold reversion after practical completion. To enable this to be entered into, Bury Councils freehold interest will be transferred at the point of the lease being granted to the developer.
- 6.2 The Council will dispose of its land for a nominal amount (one pound) to Homes England as part of the Agreement, but under the forward disposal arrangements the Council will receive a land consideration based on the Council's Equalisation Rate of the capital receipt for the whole site less allowable deductions.

Costs

- 6.3 The Council will seek to recoup costs incurred on the project from the consideration paid by the successful developer upon grant of the building lease and any subsequent payments made throughout the period to practical completion and overage payment.

Anticipated costs of the Council to be covered by the future land payments, include:

- the de-risking /preliminary pre development and land management costs of the ELPM Project incurred by the Council as agreed at Cabinet in May 2020,
- the legal costs associated with the Collaboration Agreement and procurement/ land disposal aspects and
- the capitalisation of time related salary costs of the Growth Manager and Assistant Director (Regeneration)

Capital receipt

- 6.4 In terms of the potential future capital receipt the Council may receive as part of the forward disposal arrangements, the amount is uncertain.
- 6.5 JLL were appointed by Homes England and the Council to provide development advice on the project, undertake development appraisals and were tasked with scenario testing various development proposals. The scenario sensitive analysis modelling showed a varying range of land values (and potential capital receipt) depending upon whether construction costs and property values increased/ decreased.

7. OTHER OPTIONS CONSIDERED AND REJECTED

- 7.1 Other options have been considered. The options have been considered in relation to risk, likelihood of development in the short to medium term and best value for the Council. These are:
- Do nothing; The site is in the five-year housing supply and forms some of the infrastructure land (and enabling development) for the wider site. To Do nothing would mean the sites are not developed and the new homes are not built. The site is a liability to Bury Council and a maintenance budget would be required to hold the site. Do nothing is not an option politically or financially.
 - The Council brings its own site to the market independently of Homes England; there is no collaboration with Homes England. The two sites are intrinsically linked and cannot be developed to their full potential in isolation, taking into account site constraints, the cricket club and flood risk. This option has been pursued previously by the Council and it was deemed unviable.
 - The Council acquires Homes England owned land (if they are agreeable to sell) and brings the whole site to market. Homes England have not given consent to do this and their value expectation would likely fail the best value test.
 - Homes England acquires the Council owned site and pursues its own disposal / development approach with no collaboration with the council relating to the site cricket ground relocation. This is more complicated will result in further delay without any obvious additional benefits.

The do-nothing option will continue to see the ELPM site remain derelict and undeveloped. It could result in the planning consent expiring and the opportunity to comprehensively develop the site and deliver much needed new homes in the borough being unrealised. One of the priority projects to redevelop the ELPM site for housing set out in the Radcliffe SRF will be unfulfilled.

Community impact/links with Community Strategy

The community will benefit from this derelict site being disposed of to a developer and transformed/redeveloped for new housing, open space and new sports facilities that is of benefit to the local community.

Equality Impact and considerations:

This proposal does not adversely affect equality.

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) *advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services.

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>

**Please note: Approval of a cabinet report is paused when the ‘Equality/Diversity implications’ section is left blank and approval will only be considered when this section is completed.*

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
<p>Opportunity Delivery of much needed housing on the largest brownfield site in the district.</p>	<p>Requirement to enter formal relationship with the governments lead agency for housing delivery and the majority landowner on the site.</p> <p>Entering into a collaboration agreement sets out the process and timeframe for bringing the site to market.</p>
<p>Risk A recession could lead to little/ no interest from housebuilders for the site to lower land values and receipts</p>	<p>The site won’t be sold to HE if there is not a developer committed to enter into a lease. It is anticipated the sale of the land will be simultaneous with the lease entered into so the site should be developed. If the site later stalls, Homes England have contingency measures in place to ensure delivery and if the Building Lease is forfeited a mechanism will be explored to allow land to be transferred back. This remains a risk, albeit a small one. The Council/ Homes England may wish to remarket the site disposal to a wider audience or through a different route.</p>
<p>Risk Uncertain future housing market could lead to lower overall land value/receipts</p>	<p>Sensitivity analysis has been undertaken by JLL and currently shows a conservative / slightly pessimistic position. If house sales values rise by 10%, the capital receipt due rises by 25%. If the Council takes the view that the site is sold for £1 and is redeveloped with up to 400 homes on it, the risk of not getting further receipts is not there. It is then an additional bonus if there is a land receipt after all site costs have been taken into account.</p>

<p>Risk Internal approvals by Homes England and Bury Council within reasonable timescales not achieved</p>	<p>The site is identified as a priority in the Radcliffe SRF and the Council's Five Year Land supply for housing. The political and financial drivers are there to deliver the site as soon as practical and meet the HE timescales.</p>
<p>Risk Downturn in marketplace slows the delivery of homes and the repayment of the land to the Council</p>	<p>Ensure that any collaboration agreement is entered into in a timely manner to ensure tender process positioned to capture demand. Council to ensure control measures are in place to take interest back with Homes England in the event that the developer fails to deliver.</p>

Consultation:

Key Council officers have been consulted on the proposed property asset disposal as part of the delivery' strategy for the ELPM site.

The Cabinet Committee for Radcliffe SRF has also been updated on the ELPM project.

Any future development will be subject to a public consultation as part of any planning submission.

Legal Implications:

The collaboration is a legal mechanism to formalise the agreement with Homes England to bring forward the site for development. The agreement provides that Homes England will issue a tender for development; the collaboration agreement sets out that the tender will meet the Parties shared objectives for the project. The collaboration agreement details the basis for the collaboration, the costs of the project, the basis on which proceeds will be shared and the responsibilities of the Parties. Once entered into the collaboration agreement is binding.

There are several stages to the development process and detailed legal advice will be required at each stage. Following the procurement process the Council will look to enter into a tripartite lease agreement with Homes England and the chosen Developer. At the point, the lease arrangements are satisfied the land will be transferred to Homes England.

Updating reports will be made to Cabinet.

Financial Implications:

This is an opportunity for the Council to progress the development of Brownfield site that will lead to housing development within the Borough and is clearly aligned to the Council's housing strategy. In addition to the wider economic benefits there is an opportunity to generate one-off income from a capital receipts as part of the forward disposal arrangements and also recurring income through council tax. Council tax growth income of £1m has been factored into the Council's medium term financial strategy for future years and this will contribute towards achieving the target.

There are likely to be some costs associated with developing the arrangement. Some of these have already been funded through an initial allocation of £120k previously agreed by Cabinet. Additional costs of £50k are anticipated and it is proposed that these be met from corporate reserves. The approval process for these will be in line with the Council's reserves strategy.

In taking forward the collaboration the Council is required to contribute land at a nominal rate and in doing so forego any immediate capital receipt that could be generated from the sale of the land. It is however considered to be beneficial to enter into the agreement as the potential for income from a future capital receipt and from council tax income in the longer term should outweigh the receipt foregone, although the timing of any income received cannot be determined with any certainty at this point in time. A further

benefit of the approach is that the Council is not required to provide funding for build costs which means there are no borrowing requirements as a result of the proposal and the risk to the Council is therefore reduced as a result of the approach. The procurement route proposed enables the Council to demonstrate an approach that offers best value.

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Background papers:

ELPM Site – Report to Cabinet, May 2020

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
ELPM	East Lancashire Paper Mill
Homes England's DDP	Homes England's Delivery Partner Panel
HE	Homes England
SMT	Soft market testing (SMT)
SRF	Strategic Regeneration Framework
PRS	Private Rented Sector
JLL	Jones Lang Lasalle

APPENDIX

Illustrative Masterplan indicating Council land ownership

Appendix A: Site Plan showing land ownership

