

PROJECT DOCUMENTATION

EXCEPTION REPORT

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Luneside East Regeneration Project

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Project/Programme Board: Asset Management Working Group

1. Background

General

The Council's Building Agreement (BA) of 2 November 2005 with Developer CTP Ltd/ Development Securities plc provides for a land transfer to this Developer after a successful full land assembly. Thereafter, the Developer is responsible for project delivery and takes all risks then ensuing. The Council secured ownership of most of the site after a successful Compulsory Purchase Order (CPO). A vital land deal with Network Rail which was necessarily outside of the CPO has, however, been subject to significant delays on the part of Network Rail. This finally completed on 11 November 2007.

Subject to registering land title, the Council will notify the Developer that it is ready to effect the land transfer (via a 999 year Licence). From this point (under the BA), the Developer has three months to secure its funding. To achieve this, the Developer must first contract with a housing partner to deliver the housing element.

The Council's Legal Service's Manager is pressing the Land Registry for issue of certificates to evidence the Council's land title. Council's The Project Manager is working closely with the Developer to try and facilitate the land transfer as soon as possible

Revised Budget

The project budget and forecasting has been revised to take into account several profiling issues. These changes include:-

Project Management by LCC

The project budget provides for project management to the end of 2008/09. The Council's project management role comes to an end with transfer of the site to the Developer but the Council will have continuing obligations to discharge under its Joint Funding Agreement with the NWDA / English Partnerships (16 Sept 2004) and under the BA with the Developer. These obligations relate to monitoring Developer performance to the Building Agreement in turn to assure the Council's compliance to the Funding Agreement.

This monitoring role will be substantial and will extend over a number of years. Administrative support is required for this. The budget increases relate only to the costs of providing this for the period beyond 2008-09.

Development Facilitation

This heading was previously identified incorrectly as a capital cost to the end of 2008/09. The revised budget now shows this correctly as a revenue cost. The budget relates to the procurement and retention of external professional services needed as part of work in developer monitoring including specialist services to scrutinise the developer account. It is clear that these services will be required over for a number of years and the budget increases relate to providing for this beyond 2008-09

Technical Fees – Estates

The Council has a responsibility to the Developer to maintain the site in a reasonable condition pending the site transfer. This is because buildings and materials at the site have a value and where possible are to be incorporated into the final development. The project budget provided for site management but is inadequate. This is because with the delay in the land transfer the Council is holding the site for longer than anticipated and also, is incurring ongoing costs at a level higher than anticipated. These higher ongoing costs relate principally to the costs of providing 24 hour manned site security, necessary to deter thefts and inappropriate activities.

Site transfer to the developer was previously programmed for the end of 2006-07 this is now scheduled for the end of the current quarter so the project budget is updated to reflect for the extended period of time for which the Council is responsible for the site. This period is however subject to continuing uncertainty.

Compensation settlements arising from land & building acquisitions

Notwithstanding the fact that the Council now owns the whole site there are quite a number of compensation settlements still to be agreed under the CPO Compensation Code. The revised land and building estimates provided by the Council's agents Keppie Massie earlier this year have now been built into the capital project budget along with profiling from Keppie Massie for the same. At this time Keppie Massie have said that while most compensation settlements should be completed by the end of 2008/09 it is possible that some may take significantly longer. The Statute of Limitations gives six years for the making of claims from the dates of the General Vesting Declarations (05/10/07 and 10/11/07 respectively).

2. Issue

1. That there is no further funding available from external bodies to cover for the cost increases identified above
2. That the timing of the required land transfer is uncertain, and therefore, the programme for the delivery of the redevelopment continues to be subject to significant uncertainty.
3. That there is risk of further cost increases. These may arise from:
 - Increased site management costs due to the land transfer being delayed even further and perhaps significantly further if, at worst case, the Developer fails to secure its funding and the Council.
 - Compensation settlements still outstanding outturning higher than estimated if any claims substantially over Council estimates are justified and / or upheld at lands Tribunal.
 - Failure to achieve scheme outputs to programme resulting in funding being clawed back from the Council

3. Consequences

Slippage in project delivery has consequences for the Council's regeneration strategy and ambitions, and for the reputation of the Council.

Any project costs in excess of the available external funding for the project will fall upon the Council to fund.

4. Available Options

There are no options available that might mitigate the increased costs incurred to date.

As regards risks of future cost increases, the Council has no ability to influence the outturn of compensation claims provided that these are properly justified by third parties. This said, should any such party progress what the Council considers to be an excess claim via the Lands Tribunal then the Council should robustly contest this.

Risk of funding clawback will be mitigated by a land transfer as soon as possible. Further, officers are also liaising with funders to explain the continuing delays and thereby minimise prospects of any funding clawback.

5. Recommendation

That the additional costs (£251K) be incorporated into the Capital Programme update.