

Part A

Report to: Cabinet
Date of meetings: 18 June 2012
Report of: Watford Health Campus Development Director
Title: Watford Health Campus programme update and proposed site assembly development

1.0 SUMMARY

- 1.1 This report informs Cabinet of the current status of the project including:
- progress on selecting a private sector partner for the Watford Health Campus Scheme;
 - funding bids to Local Enterprise Partnership Board and Department of Health.
- 1.2 It reviews the critical delivery timetable of the Campus Scheme in the context of the Croxley Rail Link.
- 1.3 Seeks Member approval to take forward preparation work for the CPO of land, rights and interests where agreement cannot be reached to acquire in order to implement the comprehensive regeneration of the Campus site.
- 1.4 Asks the Cabinet to authorise a review of the options and implications for a potential relocation of the allotment provision at the Farm Terrace allotment site at the Campus.

2.0 RECOMMENDATIONS

- 1 To note the progress made so far in the promotion by the Council and WHHT of the Watford Health Campus Redevelopment Scheme ("the Scheme") for which outline planning permission was granted on 15 July 2010 in respect of the land edged red on the attached plan ("the Land") and to welcome the allocation of £6m on behalf of the Hertfordshire Local Enterprise Partnership to the Scheme.
- 2 To note that the Council have progressed to the best and final offer stage in the selection of a private sector partner to deliver the Campus in joint venture with the Council.
- 3 To authorise the Council's Managing Director in consultation with the Portfolio Holder for Property, to select the preferred bidder following evaluation of bids in accordance with the published evaluation criteria, noting that proposed terms and conditions for financial closure will be subject to approval of Cabinet in the Autumn.
- 4 That, in order to facilitate an economically viable proposal which will further the economic, social and environmental well-being of this part of the Council's

administrative area in accordance with the emerging Development Plan, officers be authorised to acquire by agreement and make preparations for use of compulsory powers if required. Including consideration of such land and/or rights over land as shall be considered necessary for the carrying out of the Scheme. That land referencing take place and formal requisition notices (s.16s) to those with legal interests within the Campus area

- 5 That the Council appropriate for planning purposes all land in the Council's ownership forming part of the Land under the power contained in section 122 of the Local Government Act 1972
- 6 That officers report back to the Cabinet later this year on the legal procedures required to facilitate the progression of the Scheme, such report to consider the progress of negotiations with third parties and the implications of human rights legislation.
- 7 To welcome the wider Green Infrastructure improvements planned for the Campus and the wider area at Riverside Recreation Ground and Riverside Park.
- 8 To endorse an option appraisal assessment of Farm Terrace Allotments, including options for re location.

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Report approved by: Manny Lewis, Managing Director

3.0 Background and Development Partner Procurement

- 3.1 A report to Cabinet in June 2010, set out the process for the Council to take the lead on behalf of the Watford Health Campus partnership on the Campus project, including the procurement of a development partner and the acquisition of strategic sites within the Campus area.
- 3.2 Following advice from Nabarro, Drivers Jonas Deloitte and Grant Thornton, the Council decided to pursue the procurement of a development partner in order to set up a joint venture corporate vehicle in the form of a 'Local Asset Backed Vehicle' for the Campus site.
- 3.3 This procurement is being conducted under the Public Contracts Regulations 2006 using the negotiated procedure. Bidders have entered into a bidding process which will enable proposals to be put forward and negotiated in competition before the selection of a preferred bidder.
- 3.4 The procurement process commenced with an OJEU notice in July 2011 and PQQ process and consists of the following stages:

Stage 1: Invitation to Submit Outline Proposals (ISOP) which ran from October to November 2011. Five bidders took part at this stage. After evaluation of ISOP bids,

four bidders were invited to go forward to the next stage.

Stage 2: Invitation to Submit Detailed Proposals (ISDP) which ran from January to March 2012. The two highest scoring ISDP bidders, John Laing and Kier, were invited to go forward to the next stage.

Stage 3: Best and Final Offer (BAFO). We are currently at this stage which commenced on 11 May 2012 with submissions due on 10 July 2012. A number of negotiation meetings are in process with both bidders to assist them and improve their offers. A joint meeting of WHHT Board and WBC Portfolio Holders is being established to hear presentations from both bidders during the BAFO process.

Stage 4: Selection of Preferred Bidder. This is programmed to take place over the summer 2012 following evaluation of the BAFO stage submissions.

- 3.5 Evaluation of bids is based on the "most economically advantageous" principle, with detailed selection criteria drawn up in conjunction with the Major Projects Board and agreed with the Portfolio Holder. A combination of Council officers, colleagues from WHHT and external advisors have been assisting in evaluating bids, and will continue to do so. Initial evaluations are reviewed for consistency in 'moderator' meetings and at ISOP and ISDP stages, recommendations taken to the Senior Management Group of the Campus, chaired by the Council's Managing Director with WHHT represented by their CEO. It is recommended that the Portfolio Holder for Property is invited to attend the moderator meetings for the evaluation of BAFO bids and that the MD has delegated power, in consultation with the Portfolio holder, to authorise the selection of the preferred bidder at the Campus SMG meeting that reviews the scores at BAFO stage.
- 3.6 Members are aware that the procurement of the private sector development partner will lead to the setting up of the Local Asset Backed Vehicle and that under the agreed arrangements, land will be transferred to this new body to undertake the redevelopment of the Campus. Therefore, it will be necessary for the land forming the Campus to be able to be developed without being subject to legal impediment, including third party property interests and other encumbrances.
- 4.0 Update on Funding
- 4.1 A Council sponsored bid to the Growing Places Fund for £6 million has been successful. The bid was submitted to the Local Enterprise Partnership Board on 12 April and terms and conditions are being negotiated. The £6m will need to be paid back as development takes place.
- 4.2 The Growing Places Fund is promoted by the Department of Transport and aims to enable targeted investment in pieces of infrastructure (e.g. transport, utilities and flood defences) which help to unlock development, allowing places to realise development values which can be recycled to provide a longer term solution to infrastructure provision.
- 4.3 Earlier this year WHHT secured £7 million from the Department of Health to support the construction of a new road and bridge in order to provide improved access to the Watford General Hospital site. In addition, WHHT secured a further £2.9 million for the

development of a Combined Heat and Power plant at their Watford site.

5.0 Delivery and Critical Path

5.1 Following the approval of the Croxley Rail Link (CRL) in December 2011, there is now a priority to deliver a bridge as well as the access road to the hospital across the proposed CRL railway line before significant construction of CRL takes place and it is essential the bridge is constructed prior to CRL becoming operational. Current discussions with CRL indicate that the Campus bridge and road will need to be delivered before January 2015.

5.2 It is anticipated that a detailed planning application would come forward for the road/bridge. A project plan has been developed and preliminary steps have been taken to take forward this critical piece of infrastructure. The expectation is that the appointed development partner we are appointing would take over/ support this activity towards the end of this year. We are unable to wait for the appoint to commence bridge and road delivery as:

- we want to meet the CRL timetable; and
- funding conditions on both the Growing Places Funding and Department of Health monies are time limited.

5.3 A critical element to delivering the bridge and road is access to land and site assembly which is considered below.

6.0 Revised masterplan

6.1 The outline planning permission for the Campus involved the relocation of the hospital down the slope of the site and with the significant costs of the Scheme's infrastructure being paid for through a PFI re-provided hospital. This is now not the case. WHHT, bidders and the Council have been reviewing how the Campus can be delivered with inclusion of a re-provided hospital in phases. Due to upfront infrastructure, the viability of the Scheme was under considerable pressure. This has been mitigated to a large extent by the funding awards described above; however, there are still areas where the original Scheme needs to be revised to ensure the Campus is deliverable.

7.0 Green Infrastructure

7.1 As bidders' revised masterplan proposals have been developed for the Campus, key components have been improving links with the existing areas of west Watford and developing proposals which would benefit existing communities. Bidders have been asked to consider Green Infrastructure and improvements to both Riverside Recreation Ground and Riverside Park. Costed proposals have been produced including enhanced cycle and pedestrian routes and a new 'wetlands' park. These plans will be consulted on and stakeholder groups will be asked to participate in developing these proposals. We believe that the proposals will go a long way in enhancing park and green space provided to current and future residents in West Watford.

8.0 Farm Terrace Allotments

8.1 As the Campus project is gearing up to delivery stage, it is necessary to consider the

future of the allotments and the opportunities and threats that the delivery of the Campus Scheme would pose.

- 8.2 The scheme has changed from that proposed in 2007. At that time infrastructure and delivery would start with the delivery of a new hospital. The proposal now is that the hospital will be re-provided in phases around its current site. The increase in demand at the Hospital has resulted in temporary facilities being built within their current site. The implications are that more land will be required for reconfiguration of uses and to provide flexibility in delivery of a viable scheme. Without inclusion of some of the allotment site, delivery would be very much more difficult and the end result far less advantageous from the perspective of providing a new quarter for this area of West Watford. Viability would be impacted. As Members are aware there are also pressures to provide other community assets such as a primary school. Utilising a significant proportion of the allotments will greatly assist to develop a viable and better masterplan
- 8.3 There would be costs associated with retaining the allotments at this location. For example, the allotments in this location would essentially be in situ during the phased delivery of the scheme, estimated over the next 15 years. Despite best endeavours they would be subjected to noise, dusts and changes to access routes.
- 8.4 The cost to the Scheme is in terms of the opportunity of achieving value by including this land for redevelopment. The benefits would also include delivery of a more coherent new quarter for west Watford and a comprehensive regeneration scheme. Against this we do recognise the interest of current allotment holders and a duty to balance their interests.
- 8.5 Following discussion with the Major Projects Board, it is recommended that the Council reviews options for the re-provision of the allotments. This is proposed to be carried out in conjunction with the allotment holders at Farm Terrace and, as proposed in the Allotment Review Cabinet report, on this agenda, through an Allotment Stakeholder Panel. If the allotments are to be relocated it is proposed that the allotment holders not only should obtain re-provision to far better standards, but that a capital sum, generated by the Campus Scheme, would be ear marked to support the upgrade of allotments in the borough.
- 8.6 In order to carry out a proper assessment, Cabinet are asked to endorse preparation and consultation on an option appraisal as set out below.
- 8.7 The options for the allotments to be considered would consist of:
- Do nothing to the allotment site, although changes in access arrangements will need to be made in view of the Campus Scheme;
 - 50% relocation of allotments, including consideration of relocated site(s)
 - 100% relocation, including consideration of relocated site(s)
- 8.8 This option appraisal would consider social, economic, financial and environmental factors. This proposed appraisal will also consider relocation sites.

9.0 Land Assembly

- 9.1 The 2010 Cabinet Report stated that a key component for project delivery was land

ownership. It further stated that the ownership lay within five ownerships and if rationalised could significantly streamline and fast track the project.

9.2 The two key ownerships to be rationalised were those of East of England Development Agency (EEDA) and Hertfordshire Partnership Foundation Trust (HPFT).

9.3 The Council successfully acquired EEDA's land in August 2011. HPFT continue to state that they do not see the need for their current site at Watford General Hospital. Negotiations with HPFT continue in order to acquire their site.

9.4 Council officers have commenced discussions with other land interests/tenants in the Campus area on potential relocations. It is the intention to secure possession of these sites by agreement, then in the absence of agreement by the use of CPO. If legally necessary, appropriate statutory compensation will be given. It is fully intended to assist, where possible, current occupiers and relocate to other suitable business premises.

10.0 Land Title Work

10.1 Officers have undertaken a thorough land title review of the Campus site. The vast majority of the site (over 95%) is in the ownership of either the Council or WHHT.

10.2 It is proposed that the Council's land is appropriated for planning purposes under section 122 of the Local Government Act 1972, in order to facilitate development.

10.3 The in depth analysis of the land title search has revealed that there are 215 encumbrances across the site which will require resolution. These have been further assessed for risk to delivery of the Scheme. Of the 215 encumbrances, only a small number are of high risk where at present the Council may not be able to resolve title through negotiation.

10.4 The Council has 14 tenanted sites/ plots within the Cardiff Road and former EEDA land. Of these 3 are Protected tenants with the remaining 11 on short term leases.

10.5 Details of major encumbrances and protected tenancies can be found in Appendix A (a Part B item). Consideration will be given to the potential costs of acquiring sites as well as any compensation due.

10.6 Given the number and type of encumbrances, it is proposed (as a precaution) to prepare for the compulsory purchase of land and interests where agreement to acquire these interests or land cannot be reached.

10.7 The Map at Appendix B shows the outline area of a possible Watford Health Campus Compulsory Purchase Order. Discussions are on going with WHHT to investigate the encumbrances on their land and their treatment. All necessary land and rights within this red line boundary will be assessed to develop appropriate CPO schedules and a CPO map in accordance with Regulations.

10.8 The Council after a competitive tender exercise have procured the services of Nabarro to help with the acquisition of land and interests as well as advising on the compulsory purchase of land and land interests if required.

- 10.9 Negotiations with all third party interests will continue with the hope that acquisition can take place through negotiation.
- 11.0 Potential Compulsory Purchase Order (CPO)
- 11.1 The purpose of this CPO would be the delivery of the Scheme and ensuring that clean title to land can be transferred to the LABV (or nominee for the LABV) in a timely manner, free of encumbrances which will prevent development. It will also ensure site assembly in a timely manner, particularly important for the delivery of the bridge and road noted above.
- 11.2 The proposed sites to be acquired form part of the area designated in the Watford Council's emerging Core Strategy at the Watford Health Campus area (policy SPA3).
- 11.3 The Scheme benefits from an outline planning approval (07/00958/OUTM) decision letter issued on 15 July 2010.
- 11.4 The statutory authority for Compulsory Acquisition is contained within Part IX of the Town and Country Planning Act 1990. Section 226 of the Act empowers local authorities, on being authorised by the Secretary of State, to acquire land compulsorily if they think that the acquisition will facilitate the carrying out of development, redevelopment or improvement of the land. The Scheme would contribute to the promotion of the environmental, social and economic well being of the Council's area, in accordance with section 226.
- 11.5 The Acquiring Authority (Watford BC) will need to provide information on the resource implications of both acquiring the land and implementing the Scheme.
- 11.6 Circular 06/04, Compulsory Purchase, requires that, in making the Order, the Council will need to demonstrate that there is a compelling case in the public interest. The Circular also states that the compulsory purchase of the land and interests is intended as a last resort in the event that attempts to acquire by agreement have failed.
- 11.7 The first stage of Compulsory Acquisition proceedings requires the investigation of land ownership details and establishing all those with an interest in, or right to occupy, the land (termed land referencing). As part of their commission, Nabarro have commenced a land referencing exercise which will supplement the work carried out by the Council's Legal and Property sections. In particular, if Members approve, they will be issuing formal requisition notices (s.16s) to those with legal interests within the Campus area.
- 11.8 A schedule of interests to be included in any Order will be prepared. This list will be continuously updated to reflect the Council's negotiations to acquire interest by agreement. In addition a detailed CPO Map will be produced showing all interests. For the present the Map at Appendix B shows the outline area where land/ interests will be acquired.
- 11.9 Once this information, based on the land referencing and title search has been developed into a CPO schedule and Map a report will be presented to Cabinet for their approval to proceed and issue the Watford Health Campus CPO.

11.10 We are therefore recommending that negotiations proceed with landowners' interests on the site and further preparation is undertaken to proceed with CPO, with a future report to be made to Cabinet on progress and seeking an approval to proceed to issue the Watford Health Campus CPO if appropriate.

12.0 **IMPLICATIONS**

12.1 **Financial**

The following cost of acquisition of interests implications should be noted:

- the acquisition of HPFT land;
- protected Tenancies;
- removal of restricted covenants; and
- rights over land.

12.2 Funding in the current budget allocation for the WHC supplemented by WHHT and GPF is, we believe, sufficient for the above.

12.3 Appendix A will be developed further to preparing cost estimates, including compensation claims to achieve clean title. This means that the interest acquired should be no worse off in financial terms after the acquisition than they were before. Likewise they should not be any better off.

12.4 Please note that because the effects of the CPO on the value of a property are ignored when assessing compensation, it is necessary to value the land on the basis of its open market value without any increase or decrease attributed to the Scheme.

12.5 As a matter of general principle all costs associated with undertaking a CPO will be met by the acquiring authority. These would include:

- time spent by Council staff and consultants in progressing the CPO and land referencing;
- legal costs of the Council (including any time spent by external Counsel and Legal services);
- other relevant CPO related costs, including all costs, fees and expenses relating to any public inquiry in respect of the CPO;
- payment to include costs and disturbance payments to all affected landowners, lessees or tenants which arise from the CPO and are a natural and reasonable consequence of the property being acquired; and
- compensation payments for any statutory nuisance, severance, injurious affection, interference with, disposal or acquisition of rights or interests, which flow as a consequence of the Scheme.

The Council have appointed Lambeth Smith Hampton to work with Campus and WBC Property staff on compensation and negotiations with beneficiaries.

12.6 The Head of Strategic Finance comments that the financial evaluation of the "Health Campus Project" is extremely complex with its financial viability seriously affected by the areas of community use (negative values) that are being factored in. The need to evaluate options around the Farm Terrace allotments is crucial if the scheme is to prove financially positive to all parties.

Further, the Council, at its meeting on 21st March 2012 approved the facility for up to £10m to be borrowed from external sources. The £10m was anticipated to comprise £3m of Growing Places funding; and a £7m contribution from the Hospital Trust (which would only be paid back if the scheme did not achieve WHHT objectives). Since 21st March, the Local Enterprise Partnership had invited the Council to bid for a further £3m of Growing Places funding and this would be an extremely useful source of intermediate finance in meeting a number of the issues detailed at paragraph 12.1 as well as some up front infrastructure and council costs associated with delivery of this comprehensive project. Should all three sources of funding materialise during 2012/2013 then Council would need to approve an increase in its previously approved borrowing ceiling. At this point in time, the timing of the second tranche of Growing Places funding is not known.

13.0 **Legal Issues** (Monitoring Officer)

It is important to comply with the Human Rights Act 1998, in general and with Article 8 of the European Convention on Human Rights, and Article 1 of the First Protocol to this Convention in particular.

Article 8 provides:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the Convention's First Protocol provides:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

The case law of the European Court of Human Rights shows that these articles do not forbid compulsory purchase of homes and other property. Rather, in deciding whether to exercise compulsory purchase powers, it is necessary to consider Article 8(2) in the case of homes (which include not only dwellings, but also professional offices) and the public interest and other factors mentioned in First Protocol Article 1 in the case of all property.

Nabarro will be working in consultation with the Council's Head of Legal Services on acquisition and CPO matters.

- 13.1 If the CPO resolution is made, this will be recorded in the Local Land Charges Register and disclosed on searches.

13.2 The Head of Legal and Property Services comments that the legal implications are contained within the body of the report. The Council has employed Nabarro as its legal advisers on the procurement of the development partner and on advising on the appropriate vehicle to support this development project.

14.0 **Equalities**

14.1 Monitoring is taking place on businesses affected by the Council’s plan to acquire site. Further assessment may be required if CPO is pursued and the level of objections raised.

15.0 **Potential Risks**

Potential Risk	Likelihood	Impact	Overall score
Delay in procuring PSP, including agreement on financial closure with preferred bidder	1	5	5
Delivery of access bridge and road	2	4	8
Loss of Growing Places/ WHHT funding	2	4	8
Delay in acquisition through negotiations	3	2	6
CPO procedures not correctly followed	1	5	5
Cost of acquiring interests increasing	2	4	8
<i>Those risks scoring 9 or above are considered significant and will need specific attention in project management. They will also be added to the service’s Risk Register.</i>			

16.0 **Sustainability**

16.1 Watford Health Campus Scheme has been assessed against sustainability criteria as highlighted in its Environmental Impact Assessment. It was found to be a sustainable Scheme.

Appendices

- Appendix A: list of major title encumbrances, including Protected tenancies in Watford Health Campus area (exempt information is contained in Appendix A is not for publication. The exempt information is under the following category (identified in amended schedule 12A of the Local Government Act 1972; and section (3) information relating to the financial or business affairs of any particular persons including the authority holding the information).
- Appendix B: Outline of area to be considered for CPO - will be on display at the meeting.

Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

- Report to Cabinet 7 June 2010