

Executive

24 November 2016

Report of the Director of Economy and Place

Portfolio of the Executive Member for Finance and Performance and Executive Member for Economic Development & Community Engagement

York Central – Third Party Acquisitions

Summary

1. York Central is a 72 hectare (ha) area of land adjacent to the railway station and is one of the largest brownfield sites in northern England. It provides a huge opportunity for regeneration providing new homes and Grade A commercial office space. The site is identified in the Local Plan for residential development of up to 1,500 dwellings and 80,000 sqm floor space of high quality grade A office.
2. Work has been ongoing throughout the year to acquire two third party properties on the York Central site in order to comprehensively assemble all the strategically important parts of the site under the ownership of the York Central Partners - City of York Council (CYC), Network Rail (NR), The Homes and Communities Agency (HCA) and The National Railway Museum (NRM).
3. This report sets out proposal to purchase the Unipart site to the rear of the railway station which is critical to the delivery of the whole scheme, sitting as it does between the rear entrance to the station and the proposed public square in front of the NRM.

Recommendations

4. Executive is asked :
 - i. To delegate to the Corporate Director of Economy and Place in consultation with the Corporate Director of Customer and Corporate Services and the Leader, the authority to agree the final purchase price

of the Unipart site following a negotiated acquisition and in advance of any potential initiation of a Compulsory Purchase Order.

- ii. To delegate to the Corporate Director of Economy and Place in consultation with the Corporate Director of Customer and Corporate Services the Leader to share the purchase cost of the Unipart site with the HCA on the basis set out in confidential Annex 2.
- iii. To delegate to the Corporate Director of Economy and Place in consultation with the Corporate Director of Customer and Corporate Services and the Leader the authority to agree the application and terms for a further loan from the Leeds City Region Local Enterprise Partnership (LCR LEP) Local Growth Fund (LGF) to part fund the purchase as set out in confidential Annex 2.
- iv. To agree that the LEP loans be considered as an element of the £10m budget approved to York Central and therefore the remaining balance of the Unipart acquisition be charged against this CYC approved budget prior to the finalisation of the York Central partnership agreement and funding strategy.

Reason:- To enable timely progress on the York Central project.

Background

5. The successful delivery of York Central is dependent on the provision of a new site access and improved linkages and public realm areas between the wider city and new west entrance to the station to serve the site. Due to its location, the Unipart site is critical to delivery of these components of the scheme and therefore the subsequent development programme of York Central.
6. City of York Council are leading the land assembly strategy for York Central, to acquire third party land holdings needed to develop the site. Executive have already agreed to make every effort to do this through a negotiated sale before using the council's statutory powers of compulsory purchase ('Compulsory Purchase Order' or 'CPO').
7. In December 2015, Executive instructed officers to undertake direct purchase negotiations with the land owners of two third party sites on York Central. The purchase of land off Leeman Road has recently completed and the land is now in the ownership of City of York Council.
8. The Unipart site is shown at Annex 1. Unipart Rail have a number of facilities across the country. Their York factory maintains and produces railway signalling equipment and despite its close proximity to the

station, it's goods are shipped by road. Negotiations have been undertaken with Unipart Rail to enable them to remain within the York boundaries to ensure the retention of a respected employer in the city. It should be noted that the purchase of the site, be that following a negotiated process or through a CPO, will result in a purchase value above the simple market value of the current site due to the need to reprovide the facility elsewhere.

9. City of York Council have commissioned support and advice for the negotiations from Deloitte and Turner and Townsend. The negotiations have been based upon the compensation code set out in the CPO legislation but without actually invoking the legislation. This has provided a transparent mechanism for both parties to calculate both land value and compensation/disturbance payments. On that basis, the final settlement mirrors the likely outcome of a formal CPO but without either party incurring the additional expense of extensive legal advice and the inevitable delay and uncertainty over the final settlement that this would bring.
10. The compensation code establishes a base value for the land in a no-scheme world and then calculates a compensation value for the displaced land owner and the cost of reproviding any specialised facilities that they operate, which could not be reasonably provided in a standard replacement facility. These costs were initially developed by Unipart on the basis of proposals for a replacement factory within the York area. These were then reviewed and challenged by cost consultants Turner Townsend. This has resulted in a formal offer to Unipart which is set out at Confidential Annex 2. This is commercial and in confidence as the amount paid to Unipart will impact upon their negotiating position with other landowners to acquire land and construct an alternative facility in York.
11. The freehold for the site will transfer to CYC but in the short term Unipart will require a sale and leaseback of the facility until 2019 to ensure they can operate effectively whilst they are developing out their new facility. The proposed draft Heads of Terms for the sale and leaseback agreement is attached as Confidential Annex 3.
12. These Heads of Terms are now being developed into a formal sale and leaseback contract which will then be considered by the Unipart board. At this point the Director of Place in consultation with the leader need delegation from Executive to agree the final details of the purchase.

Funding Proposal

13. With regards to funding the acquisition, it is intended to apportion the cost between City of York Council and the Homes and Communities Agency (HCA). The HCA are seeking Board approval in December 2016 to assist the Council with the cost of acquisition on the grounds that the Unipart site is critical to the delivery of site infrastructure. This funding commitment is set out in Confidential Annex 2.
14. In July 2016, the Council's Executive agreed to accept a loan agreement with LCR LEP for 2016/2017 Local Growth Funds (LGF). This funding is a loan to be repaid in full over a 10 year period at zero interest. The overall loan funding in the 2016/17 round was for £2.55m to fund land assembly and site preparation. Some of this funding (£1.08m) has been used to fund the acquisition of another parcel of land off Leeman Rd. It is proposed to use the remaining balance to part fund the acquisition of the Unipart site.
15. In addition we have undertaken further discussions with LCR LEP about making a further bid in January 2017 for the remaining purchase price on the same terms as the initial loan. Prior to any partnership agreement and ahead of any future funding decisions it is necessary for the council to guarantee the loan so at this stage is considered part of the original £10m CYC budget set aside for the project.
16. The advantage of using LCR LEP funding is that it reduces the early years costs to the scheme as there is no interest charged. It is anticipated that the full cost of the acquisition will be considered as an equity investment or a land holding in the calculation of the financial partnership agreement and as such that CYC will see this money returned to the public purse as the scheme is delivered in phases. There is of course the risk that the scheme does not go ahead and the site has been acquired at above market value which reflects the position of Unipart not being a 'willing seller'. There is therefore a risk that in a 'no scheme world' the site would not be worth what we paid for it. The risk of this will be borne by the investing partners, namely CYC and the HCA.
17. A decision on the purchase cannot be delayed until a partnership agreement is in place. The timing of acquisition is critical to the delivery of infrastructure to facilitate the scheme. Unipart also have operational risk associated with lead in times for contract orders and require certainty that they can continue to operate from a York facility.
18. The confidential Annex 2 contains a detailed breakdown of estimated acquisition costs and the funding proposal.

Consultation

19. Extensive commercial negotiations have been undertaken with the land owner and their advisors.

20. Council Plan

- i. The project will assist in the creation of a Prosperous City for All, and be a Council that listens to residents particularly by ensuring that :
- ii. Everyone who lives in the city can enjoy its unique heritage and range of activities.
- iii. Residents can access affordable homes while the greenbelt and unique character of the city is protected.
- iv. Visitors, businesses and residents are impressed with the quality of our city.
- v. Local businesses can thrive.
- vi. Efficient and affordable transport links enable residents and businesses to access key services and opportunities.
- vii. Environmental Sustainability underpins everything we do.
- viii. We are entrepreneurial, by making the most of commercial activities.
- ix. Engage with our communities, listening to their views and taking them into account.

Implications

Financial

21. In December 2013 Members agreed to earmark £10m towards the delivery of York Central. Currently £2.31m has been previously released to support technical work, the costs of professional advisors, land costs and site preparation works.
22. The table below shows the agreed allocations from the Council's initial £10m funding

	Capital £'000	Revenue £'000	Total £'000
Original Funding (Dec 13)	9,000	1,000	10,000
Initial allocation (Dec 13)		-500	-500
Project Team Costs (Dec 15)		-250	-250
Site Preparation Costs (Jul 16)	-550		-550
Land Purchase (Jul 16)	-1,013		-1,013
Land Purchase (Nov 16)	*		*
Current unallocated Balance	7,437	250	7,687

*The current unallocated balance excludes any required contribution to the commercial in confidence land purchase value (delegated to the Director of Economy and Place in consultation with the Leader to agree the final purchase price).

23. This leaves an unallocated balance of £7.7m (less the amount agreed within this report in the confidential annex). The overall financial strategy for York Central including infrastructure costs and Employment Zone funding opportunities is subject to future reports following the finalisation of the partnership agreement.

Human Resources (HR) – none

Equalities – none

Legal – In reaching an agreement for the purchase of this land the Council must have regard to its fiduciary responsibilities to local tax payers, must act within its general duties to act reasonably and must be aware of the need to avoid granting state aid to a private enterprise. The use of the valuation mechanism prescribed under the Compulsory Purchase Order legislation together with the taking of appropriate professional advice will ensure that the Council pays only a fair and reasonable sum and meets these obligations.

The short term leaseback to be granted to Unipart falls outside the scope of the duties in section 123 of the Local Government Act 1972 to achieve best consideration. However, the Council will need to ensure that the deal as a whole, including the value of this leaseback, does not involve the granting of any unlawful state aid.

Information Technology (IT) - There are no IT implications.

Crime and Disorder - none

Property – All property implications are covered in the report.

Risk Management

24. The Partnership Agreement between the public sector Partners is in development through the appointed advisor team of KPMG and Savills. As this is not a legally binding agreement at this stage, the acquisition of Unipart is a financial risk to the Council should the scheme fail to be delivered. However, the timing of acquisition is critical to the programme of the delivery of infrastructure to facilitate the scheme. Unipart also have operational risk associated with lead in times for contract orders

and require certainty that they can continue to operate from a York facility.

25. The primary risk is the potential breakdown of the delivery partnership between the partners with a consequent failure to unlock the site. This has been addressed by the establishment of a senior level Board and formalised via a Memorandum of Understanding and is being strengthened through the revised governance arrangements which are currently being developed. It is expected that these will be embedded within the terms of a proposed partnership agreement.
26. Failure to obtain the necessary regulatory approvals to dispose of land on the site for development or to clear operational railway uses from the site is another significant risk – this would prevent the development of the site in whole or part. Mitigation plans to date include the acquisition and extinguishment of long-term rail industry leases on the site by Network Rail and development of a strategy that identifies relocation sites for the rail uses. In addition, a rail land use strategy for York is being taken forward and it is believed this meets operator needs and Network Rail’s planned capacity improvement schemes. This issue is being mitigated by Network Rail prior to any infrastructure investment with a clear commitment under the proposed partnership agreement to remove rail uses from the site within a phasing plan to enable site development.
27. An obvious risk is of failure to secure planning permission – this is being mitigated by early involvement and consultation with CYC as local planning authority in the ongoing development plans and engagement of stakeholders and local communities as both concept stage and as detailed plans emerge.
28. There is a risk that the scheme may not attract development market interest or new occupiers. This risk has been mitigated by the proposed approach to infrastructure delivery, and further evidence gathering from our appointed advisors. In addition, the development of a delivery and marketing strategy and the award of EZ status will incentivise early business occupation.
29. There is a risk that CYC may not secure equity investment towards some of the costs of the enabling infrastructure. However, this will be mitigated by the EZ status and access to borrowing this brings. It will also be mitigated by early sign off of funding from HCA and a comprehensive gateway process for release of West Yorkshire Transport Funds (WYTF).

30. A full risk register has been developed by the project and will be regularly reviewed by the project board as the project progresses.

Contact Details

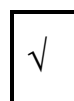
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Approved
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For further information please contact the author of the report

Background Papers:

Annexes

Annex 1 – Map of Unipart site
Confidential Annex 2 - Costs and Funding
Confidential Annex 3 – Draft Heads of Terms for sale and leaseback
agreement

List of Abbreviations

CYC - City of York Council
CPO – Compulsory Purchase Order
EZ – Enterprise Zone
HCA - Homes and Communities Agency
LCR LEP - Leeds City Region Local Economic Partnership
NRM - National Railway Museum
RGF – Regional Growth Fund

WYTF – West Yorkshire Transport Fund
YC - York Central