

Extraordinary Council



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Suffolk Business Park/Eastern Relief Road, Bury St Edmunds: Update	
Report No:	COU/SE/15/033	
Report to and date:	Extraordinary Council	17 November 2015
Portfolio holder:	Cllr John Griffiths Leader of the Council Tel: 01284 757001 Email: john.griffiths@stedsbc.gov.uk	
Lead officer:	Steven Wood Head of Planning and Growth Tel: 01284 757306 Email: steven.wood@westsuffolk.gov.uk	
Purpose of report:	To provide an update with regard to the Eastern Relief Road and Suffolk Business Park project since the last report COU.SE.15.016 dated 25 March 2015 was presented to Cabinet and Council.	
Recommendations:	<p>It is <u>RECOMMENDED</u> that:</p> <p>(1) the Council grants £3 million towards the construction cost of the Eastern Relief Road, as detailed in Section 2 of Report No: COU/SE/15/033; and</p> <p>(2) subject to the satisfaction of the Section 151 and Monitoring Officers, delegated authority be given to the Head of Planning and Growth, in consultation with the Leader of the Council, to enter into an agreement (or agreements) with; the landowners and Highway Authorities to enable the construction of the Eastern Relief Road; and relevant landowners to enable the development of Suffolk Business Park. Such delegations to include agreements in relation to such Council owned land and any land acquisition as necessary so that it secures the optimum benefit and return.</p>	

Key Decision: (Check the appropriate box and delete all those that do not apply.)	<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/> The decisions require full Council approval.		
Consultation:	Report COU.SE.15.016 refers to general consultation with regard to the development of the Eastern Relief Road (ERR) and Suffolk Business Park. With regard to this report and its recommendations consultation has been undertaken with Suffolk County Council (SCC), the land owners and advisors.		
Alternative option(s):	The alternative option considered was to withdraw funding from the ERR and commit the £3m to another growth initiative. This option was discounted for two reasons, firstly because the funding for the ERR would be lost and the ERR would not be constructed any time soon. This would result in a lost opportunity to create jobs and homes for our communities. Secondly, our relationship with the Local Enterprise Partnership (LEP) would be significantly damaged and could affect the ability for St Edmundsbury Borough Council (SEBC) (and potentially Forest Heath District Council) securing funding in future.		
Implications:			
<i>Are there any financial implications? If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • As detailed in the report		
<i>Are there any staffing implications? If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • Time and resources of existing staff to enable the project to progress		
<i>Are there any ICT implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •		
<i>Are there any legal and/or policy implications? If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • As detailed in the report		
<i>Are there any equality implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
That the ERR is not completed	Low	SCC is letting the contract for the construction of the ERR through its Framework agreement. Prior to awarding the contract SCC will test the ability	Low

		of the construction companies to deliver.	
That the funding for the ERR from SCC or the LEP is re-allocated	Medium	SEBC commit its £3m funding and dedicate its land to SCC. SEBC keeps communicating progress with the LEP. SEBC continues to pursue CPO action to provide certainty of timescale and delivery.	Low
SEBC is challenged on a point of law	Medium	SEBC has appointed consultants including external lawyers to ensure that the opportunities for challenge are mitigated. There is a risk that SEBC will be challenged however, the risk of that challenge(s) being successful is low.	Low
SEBC does not receive the best consideration for its land or the Growth Area Initiatives Fund	Low	SEBC has appointed consultants including GVA Grimley and Gardner & Theobald to provide advice regarding the best use of public money and publicly owned land.	Low
SEBC does not have the ability to control how its land is used.	Low	SEBC is able to exercise its powers as Local Planning Authority to ensure that the land is used for the purpose intended in the Vision 2031 documents.	Low
Ward(s) affected:	All Wards		
Background papers: <i>(all background papers are to be published on the website and a link included)</i>	<p>Reports:</p> <p>F97 to Cabinet: 2 September 2014 F120 to Council: 23 September 2014 CAB.SE.15.016 and CAB.SE.15.017 to Cabinet and Council 24 February 2015. CAB.SE.15.021 and CAB.SE.15.022 to Cabinet 24 March 2015 COU.SE.15.015; and COU.SE.15.016; to Council 25 March 2015</p> <p>Suffolk Business Park Masterplan dated June 2010. CPO Equality Impact Assessment Screening Opinion</p>		
Documents attached:	None		

Key issues and reasons for recommendation(s)

1. Background

- 1.1 The development of Suffolk Business Park and the construction of the Eastern Relief Road (ERR) has been a long established aspiration of SEBC and as such is enshrined in policy. Most recently the Vision 2031 documents confirm the allocation of residential, commercial land leisure/community uses along with the ERR and upgrade of junction 45 of the A14 Trunk Road. In June 2010 the Masterplan for the extension to Suffolk Business Park was adopted.
- 1.2 Planning permission was granted for the Eastern Relief Road (ERR) in 2014. The ERR will link Moreton Hall/Suffolk Business Park to Junction 45 of the A14 Trunk Road (Rookery Crossroads).
- 1.3 The ERR will open up 68 hectares of employment land; land for 500 homes; a secondary school site; leisure and community opportunities; and motorist facilities associated with the A14. This land is within the parish of Rougham. Over a 20 to 25 year period the employment land has the potential to generate 14,000 jobs and approximately £275 million worth of inward investment into West Suffolk. At present, there is a significant shortage of employment land in Bury St Edmunds for companies that wish to expand or relocate. The land for 500 new dwellings (including affordable homes) on Moreton Hall is one of the five strategic housing allocations for Bury St Edmunds.
- 1.4 The 68 hectare extension to Suffolk Business Park is in three ownerships. Taylor Wimpey UK Ltd owns approximately 35 hectares (88 acres) of the western section of the site (closest to Moreton Hall); Rougham Estate owns approximately 21 hectares (54 acres) on the eastern side of the site (adjoining Rougham Industrial Estate on two sides); and St Edmundsbury Borough Council owns a strip of land close to the western edge of the site.
- 1.5 Members have already approved a contribution of up to £3m of Growth Area Initiatives Funding towards the construction of the road; made an allocation of £4.6m to provide a loan agreement for electricity infrastructure; and to the principle of entering into a development agreement with the adjacent landowners to bring forward Suffolk Business Park in order to realise a return on that investment.
- 1.6 The principle of the decisions set out in para 1.5 above still exist however there is a need to update the delegation given to Officers to enable the objectives to be achieved in line with the current timetable.

2. Eastern Relief Road

Background to the ERR

- 2.1 It is clear that the ERR will bring extensive benefits to Bury St Edmunds and its residents and the wider West Suffolk area. SEBC has spent many years looking to bridge the funding gap for the road as evidenced by the applications for Regional Growth Fund; Pinch Point funding; Growing Places Fund and the consideration of other innovative sources of funding including Tax Incremental Financing.

- 2.2 One of the lessons learnt from attempts at securing Government funding under various schemes was that applications were undermined because the ERR was some time from delivery due to the fact it didn't have planning permission and had not been designed in detail.
- 2.3 In recognition of this, SEBC entered into a loan agreement to fund the ERR design and enable a planning application to be made. The resulting planning permission provided evidence that the ERR could be delivered. As a result of this, New Anglia Local Enterprise Partnership (the LEP) and its Local Transport Body were convinced that the scheme was worthy of funding. SEBC and later SCC were able to provide the assurance that local funding of £5m (from SEBC and SCC) would be provided for the ERR. As a consequence the LEP agreed to the grant of £10m (in total) to complete the required £15m pot.
- 2.4 It is important to note that SEBC was given the £3m contribution from Growth Area Initiatives Funding from the Government. The purpose of this funding was to unlock growth. This is precisely what SEBC has started to use this funding for – by providing the loan for the design and planning work. It is appropriate therefore to continue to use it to see the growth of Bury St Edmunds.
- 2.5 The LEP is required to demonstrate “Deliverable Consequences” for its funding i.e. that there will ultimately be new jobs and homes as a result of the ERR being built. Further, it is important that SEBC is able to continue to show that the ERR will be built as soon as possible to ensure that the LEP funding is not re-allocated to another project. To guarantee delivery of the required land SEBC has committed to Compulsorily Purchase the land if needed and this provides an important insurance policy for each of the funding partners. The Compulsory Purchase Order (CPO) provides a backstop that gives the funders reassurance that the development will go ahead.
- 2.6 The CPO is considered to be complimentary action that is assisting, and will continue to assist, in bringing the ERR and Suffolk Business Park forward. The CPO is however separate from the matters being dealt with in this report.

Current situation

- 2.7 Reports F97 (Cabinet 2 September 2014) and F120 (Full Council 23 September 2014) set out the case for an investment of £3m in the ERR and as a result of this investment, SEBC should look to receive land; or a share of the development profits; or some of both. The report made it clear that the opportunity to invest would be subject to appropriate legal and financial due diligence.
- 2.8 As a result of the due diligence it is now clear that there are significant legal issues for SEBC in relation to the potential of a long term financial investment opportunity as a result of contributing £3m into the construction of the road. Therefore SEBC is being asked to consider making a grant contribution to the construction of the ERR with no return.
- 2.9 Although there is no longer a financial investment opportunity relating to the ERR there are many reasons for SEBC to dedicate its land and to use the Growth Area Initiative Funding for the ERR. The provision of land and funding

towards infrastructure improvements such as the ERR can be seen as the ordinary business of a local authority. In this case, the ERR is intended to benefit the population of Bury St Edmunds generally. The road will provide alternative road access for people wishing to travel towards Ipswich on the A14. Currently, the A14 can be accessed via Junction 44 which is almost always at "peak time" capacity and regular experiences queues and delays. Further, the ERR provides access to new developable land for the new secondary school, leisure opportunities, the Rougham Airfield/Showground, new dwellings as well as the employment land.

- 2.10 The contribution of £3m from the Government's Growth Area Initiative Fund has levered in a further £12m of public funding that would otherwise have been reallocated. Without these funds, there was little or no prospect of the ERR being delivered. It is important to ensure that this funding remains allocated to this project and is not re-allocated towards a competing scheme.
- 2.11 Members are being asked, therefore, to commit the £3m Growth Area Initiative Fund towards the construction costs for the ERR. The £3m will be allocated as a grant towards the ERR.

3. Land Ownership and Land Agreement

- 3.1 Members will recall that St Edmundsbury Borough Council owns a strip of land close to the western boundary of the commercial land.
- 3.2 Following the decision taken at Council on 24 February 2015 (COU/SE/15/001 (B) and CAB/SE/15/017 refer) officers have been working with Taylor Wimpey (adjoining land owner) on a Land Agreement which aims (in general terms) to deliver Suffolk Business Park.
- 3.3 Negotiations relating to the Land Agreement are continuing and it is anticipated that the final document will be ready to be completed by the end of the year.
- 3.4 The precise details of the land agreement are commercially sensitive between the two parties however in overview; the draft agreement seeks to provide a way forward for both parties to collaborate over the development of (part) of the business park; to provide a mechanism for infrastructure and other funding; and to provide a mechanism for payments relating to land acquisition.
- 3.5 SEBC has appointed Chartered Surveyors GVA Grimley to provide commercial advice alongside legal advice from Mills & Reeve in relation to the land agreement with Taylor Wimpey. GVA Grimley has advised the Council that the land agreement as currently drafted is in compliance with Section 123 of the Local Government Act 1972 (achieves Best Consideration). Further GVA Grimley has provided advice to ensure that SEBC will reach the best agreement regarding its land.
- 3.6 SEBC has commissioned Quantity Surveyors Gardner & Theobald to provide advice with regard to the likely cost of servicing the land (i.e. of providing infrastructure of roads, drainage, utilities etc.).
- 3.7 Gardner & Theobald advises that the costs of providing the infrastructure are

substantial and that the business park will almost certainly be developed in phases to limit the up-front nature of the costs. There is a risk that there will be a substantial delay before there is sufficient profit generated from sales on the business park to enable payments to the landowners (SEBC and Taylor Wimpey). Report No: CAB/SE/15/017 recommended the investment based on a return in line with the principles approved in the Medium Term Financial Strategy (MTFS). In light of the advice from Gardner & Theobald it is now considered unlikely that there will be a significant opportunity to share in future profits from the commercial land. The Land Agreement, however, will make provision for SEBC to benefit from a share of any potential profits from the development.

4. Electricity

- 4.1 Members will recall that they agreed to award Taylor Wimpey up to £4.6m loan to enable them to acquire sufficient electricity supply for the related developments. SEBC required the loan to be secured against land which Taylor Wimpey was unable to comply with. Therefore Taylor Wimpey has entered into the contract to provide the electricity infrastructure using its own funds. This means that SEBC is not exposed to risks regarding the repayment of the loan.

5. Finance/Budget/Resource Implications

- 5.1 Whilst it is the role of councils to “enable” development it nonetheless remains essential that any commitment of funding is subject to due diligence and accords with proper accounting principles. The Section 151 Officer and Monitoring Officer will have to be satisfied that the £3m grant is an appropriate use of public money.
- 5.2 As discussed at paragraph 2.8 above, Reports F97 (Cabinet 2 September 2014) and F120 (Full Council 23 September 2014) set out the case for an investment in the ERR. The reports stated that as a result of this investment, SEBC could receive land; or a share of the development profits; or some of both. It is now considered that investment in this way presents the risk of legal challenge and that funding must be by way of a grant with no financial return to SEBC.
- 5.3 With regard to the Land Agreement, the Section 151 Officer and Monitoring Officer, as advised by GVA Grimley, have to be satisfied that the agreement is an appropriate use of public money and the best deal available for SEBC. This report seeks authority for delegated authority to be given to the Head of Planning and Growth, in consultation with the Leader of the Council to enter into an agreement (or agreements) with the landowners and Highway Authorities to enable the construction of the Eastern Relief Road and development of Suffolk Business Park, such delegation to include agreements in relation to Council owned land and any land acquisition so that it secures the best possible benefit and return.
- 5.4 Through extensive negotiation and ensuring that SEBC complies with all of the relevant legislation, the Council is on course for realising its long held aspiration to develop the ERR and Suffolk Business Park to provide much needed employment land and affordable homes for our communities.