
London Road Industrial Estate – Draft Development Brief

Committee considering report:	Executive on 3 September 2020
Portfolio Member:	Councillor Ross Mackinnon
Date Portfolio Member agreed report:	24 August 2020
Report Author:	Bill Bagnell
Forward Plan Ref:	EX3946

1 Purpose of the Report

- 1.1 For the Executive to consider the draft Development Brief as submitted by Avison Young and start the process to consult on the draft Development Brief in bringing forward regeneration on the London Road Industrial Estate (LRIE).

2 Recommendations

- 2.1 That the Executive approves publication of the draft Development Brief and resolves to launch public consultation on the draft Development Brief in order to bring forward regeneration on the London Road Industrial Estate (LRIE).

3 Implications and Impact Assessment

Implication	Commentary
Financial:	There are no immediate costs that the Executive is being asked to approve at this stage. The primary purpose of the report is to ask the Executive's permission to publish the Avison Young draft Development Brief and to initiate wider public consultation which will be managed by the Council. Consultant input will be limited to reflecting within the final Development Brief appropriate points raised via wider consultation. It is hoped to publish the Development Brief in its final form in November of this year. Republishing the Development Brief in November will be the point at which the Council considers the next technical steps to be taken in bringing forward regeneration. Those potential next steps will need to have set against them

	a clear scope of service and related costs which can be considered by the Executive in November this year.
Human Resource:	N/A
Legal:	N/A
Risk Management:	If the Executive are minded to take further steps in bringing forward regeneration on the LRIE after further consultation, a piece of work that could be undertaken is a soft marketing exercise to test continuing market interest in the LRIE. This process must be handled carefully so that it is not deemed to be an 'Expressions of Interest' process that could have procurement implications. Property Services will need to work closely with Legal Services. This issue will be considered in more detail in November and after wider public consultation.
Property:	N/A.
Policy:	<p>The Council has to be clear with regards its role as Property Owner and its role as the Local Planning Authority and the two should be clearly separate.</p> <p>The current Planning Policy for the London Road Industrial Estate has a general policy about supporting the opportunity for regeneration. The Local Plan Review to 2036 will have further policies protecting employment areas and encouraging economic growth. It also remains part of the corporate vision for Newbury and the Council.</p> <p>The work done on the draft Development Brief could then be submitted by the Council as landowner to the Local Planning Authority to support any detailed proposals for the estate, which the Local Planning Authority could use as evidence to support and justify any new policies in the Local Plan regarding the estate if the proposals were acceptable.</p>

	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		N/A
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		N/A
Environmental Impact:		X		The southern quarter of the London Road Industrial Estate is adjacent to open green space, the river and canal. Development should not compromise this area of good quality amenity space and should use it generally to enhance regeneration by maintaining and incorporating it within development proposals. It is probable that any outline application or individual applications will require a full Environmental Impact Assessment.
Health Impact:		X		N/A
ICT Impact:		X		N/A
Digital Services Impact:		X		N/A

Council Strategy Priorities:	X			To bring forward regeneration on the London Road Industrial Estate will be to realise a key strategic aim of the Council which has been publicly known since 2003
Core Business:	X			Wherever possible the Council should facilitate and help bring forward development that is in accordance with policy and helps create vibrant sustainable communities. Thoughtful regeneration of the LRIE will achieve that.
Data Impact:		X		N/A
Consultation and Engagement:	Internal: Property Services, Planning Policy & Legal Services External: To date LRIE leaseholders, tenants, sub-tenants (where they have agreed to engage) and Newbury Town Council			

4 Executive Summary

- 4.1 The regeneration of the London Road Industrial Estate (LRIE) has been a publicly known Council aspiration since publication of the 2003 Newbury Vision. It has remained a fixed item within all subsequent publications of the Newbury Vision.
- 4.2 Between 2011 and 2015 the Council, working with independent property consultants and internal and external solicitors, commissioned a feasibility study and ran a formal selection process to secure a development partner and then entered into contract with that development partner.
- 4.3 Between 2015 and 2018 court action was brought against the Council which was ultimately lost and by that the agreement entered into by the Council and chosen development partner collapsed.
- 4.4 Despite setbacks the Council in 2019 reiterated its commitment to redeveloping the LRIE and to that end set in train a tender process to secure consultants to produce an up to date development brief which would inform the Council whether redevelopment of the LRIE remained feasible. This report presents the new development brief in draft form and which demonstrates that regeneration of the LRIE remains a viable proposition.
- 4.5 The Avison Young draft development brief considers key issues such as planning policy, the current economic climate, different delivery options and issues of viability generally.
- 4.6 The draft development brief demonstrates regeneration remains a practical proposition. Once the draft development brief has been approved by the Executive for public

consultation, the Council can then proceed with meaningful engagement with wider stakeholders including businesses and wider community. This will be a key step in bringing forward regeneration. At this stage Avison Young's input will be limited to reflecting where appropriate consultation points within the final Development Brief.

5 Supporting Information

Introduction

- 5.1 In 2018 the Council learnt it had lost a Court of Appeal action, as a result of which a development agreement between St.Modwen Plc and the Council to redevelop the London Road Industrial Estate (LRIE) fell away.
- 5.2 Despite this substantial setback, the Council reconfirmed in early 2019 its continued commitment to regenerate the London Road Industrial Estate, a publicly known aspiration since 2003, and where the Council declared it would seek consultants to produce a new development appraisal in order to once again review the possibility of the Council bringing forward regeneration on the LRIE. That process and background to it is set out below.

Background

- 5.3 In 2010 the Council appointed Strutt & Parker to produce the London Road Industrial Estate (LRIE) Strategic Feasibility Study (SFS). The document was designed to demonstrate whether redevelopment was a practical proposition and if so, how might it be delivered and where the Council had little appetite for risk. The SFS was a document produced for the Council as a landowner and where the focus was commercial as opposed to a document being driven by Planning Policy.
- 5.4 The SFS was published in 2011 and demonstrated the LRIE could be redeveloped to the Council's financial benefit and set out how the Council might deliver development without exposing itself to risk. The SFS proposed, as a means of bringing forward regeneration, that the Council ideally enter into a development agreement with a single developer of national size and financial strength that would undertake a full land assembly exercise and where the Council's control would be as much by that as landowner as it would as local planning authority.
- 5.5 In 2012 Strutt & Parker carried out a soft marketing exercise to test developer interest in the LRIE and where the development opportunity was advertised in nationally appropriate journals. That exercise proved positive and where it was decided by the Council to run a formal selection process to see if an appropriate development partner could be secured.
- 5.6 After an extensive selection process involving cross party membership, the Council had by 2013 secured St.Modwen as its development partner, subject to contract. During 2014 heads of terms and the subsequent development agreement were negotiated and agreed. That process was overseen by Strutt & Parker and where the Council used external specialist legal advice to determine the contract terms and conditions. LRIE Development Agreement was presented to the Executive in Nov 2014 and where permission was sought to formally enter into the development agreement subject to any outstanding contract terms and where the CEO, S151 Officer and the Head of Legal

Services had delegated authority to agree any remaining terms provided those outstanding issues did not effect the key terms of the agreement.

- 5.7 During 2015 the LRIE Development Agreement was signed, but triggered a legal challenge brought against the Council by a party to one of the unsuccessful bids to be the Council's development partner. That challenge eventually resulted in the Council fighting an action in the High Court on five grounds, which it won in all cases, and where the challenging party successfully sought leave to go to the Appeal Court and where subsequently in 2018 the Council lost on the one ground allowed to be heard in the Court of Appeal. By that process the agreement with St.Modwen fell away.
- 5.8 In early 2019 the Council reconfirmed its commitment to regenerate the LRIE and as a result drew up a detailed scope of service in order to competitively tender the services of a consultancy firm to produce an up to date Development Brief, again a document to be drafted for the Council as a landowner but also where landowner needs are set in the present context of national and local planning policy thereby fully setting out the challenges of redevelopment and where policy and commercial realities will not always neatly align.
- 5.9 During October and November 2019 a competitive tender process was run via Crown Commercial Services, a framework upon which sits consultancy practices of regional and national size with the ability and experience to review the development options on a complex land holding such as the London Road Industrial Estate. Using a project board pre-agreed detailed scope of service, the tender process required consultants to comment on different delivery mechanisms on the understanding the Council has not made any decisions on how it might proceed and on what basis of risk if any. The selection process was run on scoring technical submissions and answers to pre-published questions with declared scores and weighting and where the overall weighting of scores was split 60% in favour of technical answers and 40% in favour of fee quotations.
- 5.10 Tenders went out to all 12 consultants on the Crown Commercial Services Framework 'Estates Professional Services' and where, prior to posting tender documents on the framework, all consultancies were individually contacted by the Council to express the Council's hope that individual consultancy firms would respond. Two consultancy practices returned tenders and where Avison Young put in a strong tender bid over Carter Jonas. Avison Young became the Council's preferred bidder in December 2019 and were formally appointed in January 2020.

Summary of Avison Young Draft Development Brief

- 5.11 The draft Development Brief is a document created for the Council as a landowner and where commercial outcomes, based on improved income and / or capital receipts, are as important as good quality regeneration if redevelopment proceeds in the years ahead. The brief has no formal status as a planning document but nonetheless puts forward proposals that are fully set out in the context of both local and national planning policy and where environmental constraints are likewise fully analysed.
- 5.12 Similarly the draft brief is set out in the context of the economy both locally and nationally and where some key factors have to be acknowledged; that residential elements of development will have to support redevelopment of land for employment uses and

especially in the context of any office build for which there is low demand and pre-lets unlikely to be secured.

- 5.13 The draft brief offers two masterplan approaches; a 'Baseline Masterplan' which presumes a progressive plot by plot development where to an extent plots will act as stand-alone developments; and a 'Comprehensive Masterplan' that is holistic and where all elements are interrelated thereby maximising the efficient use of available development land. The Comprehensive Plan has potential to deliver greater financial returns than the Baseline Plan. However, the Comprehensive Plan is far more challenging to deliver, and the financial and other risks associated with a major land assembly exercise under the Comprehensive Plan option are far greater than those posed by delivering under the Baseline Plan
- 5.14 In terms of delivery the Baseline Masterplan assumes a high level of on-going co-operation between the Council as land owner and leaseholders and where, working with leaseholders, the Council and / or its partners drives redevelopment acting where possible in unison with leaseholders. The Comprehensive Masterplan assumes redevelopment via a land assembly which involves taking back control of existing leases and creating effectively a clear site for the most efficient use of land as development progresses. This would be a large, highly complex and financially risky undertaking for the Council and where, if minded to undertake the challenge, the Council has neither the resource nor expertise to undertake it alone. Delivery would have to be in collaboration with a major development partner; self-delivery of the Comprehensive Masterplan is not practical.
- 5.15 In terms of risk and reward the brief summarises the different development delivery mechanisms ranging from the simplest option with the least risk and reward - straight asset disposal and allow new owners to deliver change - to the most challenging option with the greatest potential financial return but the greatest corresponding financial risk if undertaken via self-delivery as set out in para 5.15 above. There are also intermediate options involving joint venture partnerships based on redevelopment on a plot by plot basis or a comprehensive land assembly and where the Council, according to its appetite for risk, can share to a greater or lesser extent the rewards and risks in bringing forward development, either with a single over-arching partner or a number of partners.
- 5.16 In terms of viability the brief looks at potential financial returns based on residential, office, light industrial and or retail and considers the trigger points at which viability becomes marginal. Both masterplan options will be financially reliant on residential development on a proportion of land which is currently protected employment. Until the LRIE is formally adopted as a site for residential lead mixed use development, proposals as they stand are not fully aligned with current policy. This is not unexpected. Looking to future housing targets, the number of residential units proposed in the Baseline Masterplan is better aligned with future planning policy than the numbers quoted in the Comprehensive Masterplan.
- 5.17 The Draft Development Brief summarises the fundamental differences between the Baseline Masterplan and Comprehensive Masterplan:
- a) Baseline Masterplan

This works on the basis of existing LRIE plots, where regeneration can be brought forward working with existing leaseholders and as a result the Council is unlikely to have to exercise its powers of compulsory purchase and will not, during redevelopment, require proposals to move substantial amounts of already identified below ground services which would, along with other matters, represent a large avoidable development cost. This approach allows the Council, by whatever chosen partnership or not, to tackle redevelopment in relatively easy packages and where one development plot is not necessarily dependent on another. However, this approach will not maximise the efficient use of developable land and where financial returns, risk aside, will not be as great as a comprehensive redevelopment. Finally the Baseline Masterplan approach is still likely to require an estate wide Environmental Impact Assessment, a piece of expensive work that will have to be conducted under the Comprehensive Masterplan approach.

b) Comprehensive Masterplan

This works on the basis that, where possible, existing leases are bought out and where necessary existing businesses are relocated or more likely extinguished. This approach would allow the existing road network within the estate to be moved and which in turn would allow for the most efficient use of development land. However, this approach is most likely to cause the Council to exercise its powers of compulsory purchase and where that process will be long, challenging and outcomes not guaranteed.

5.18 Both masterplan options take note of existing third party planning applications within the LRIE redline where the Council is freeholder. Current third party proposals on both sites do not interfere with or limit the Council's ability to redevelop the rest of the estate and where the 'grain' of proposals are largely sympathetic to those set out in the development brief; in principle the Council as a landowner has no objections to current proposals being built out and where that can only happen after successful negotiations between leaseholders and the Council as freeholder. In effect the third party development proposals are potential early examples of plot delivery as set out in the Baseline Masterplan approach, but where the leaseholder has put forward a planning application as opposed to the Council.

Proposals

5.19 That the Executive approves publication of the draft Development Brief.

5.20 That the Executive launches public consultation on the draft Development Brief in order to bring forward regeneration on the London Road Industrial Estate (LRIE) and which should include key stakeholders such as the Local Enterprise Partnership, Chamber of Commerce and Newbury Business Improvement District.

6 Other options considered

6.1 The Council should sell its freehold interest in the LRIE. Existing ground rents are fixed at a good yield and where ground rents are paid to the Council by the leaseholder regardless of occupational rents received by leaseholders. Any capital receipt could be

invested in assets generating similar returns but would only maintain existing income levels and at the same time remove the Council's ability to bring forward regeneration on this run down part of Newbury. Moreover new owners might sit on existing LRIE freeholds, leaving the estate to further deteriorate and where the Council's control would be limited to that of planning authority.

- 6.2 To note the contents of the Avison Young draft Development Brief and for the Council to decide not to initiate and drive forward regeneration on the LRIE, leave the estate as it is and deal with change if and when it happens in the years ahead. This approach is likely to be overtaken by events where the Council has to engage and negotiate with leaseholders who will progressively bring forward their own schemes on Council freehold land in the same way FDL and NWN already have. It is preferable for the Council to be in control of events rather than react to them.

7 Conclusions

- 7.1 The Council has a new draft Development Brief that confirms regeneration of the LRIE remains a viable proposition. The process will be long, challenging and potentially risky depending on whether the Council considers any element of self-delivery. Nonetheless bringing forward regeneration is within the Council's capability.
- 7.2 The draft Development Brief sets out a number of delivery options that represent different balances between financial risk and reward and corresponding levels of control. This level of information should give the Council confidence to now present the draft Development Brief to the public for comment and where the aim should be to appropriately acknowledge feedback on the draft Development Brief and publish it in its final form later in the year. At that point the Council can review matters again and consider in detail the next technical steps to be taken should the Council decide to proceed further in the process of bringing forward regeneration on the LRIE.
- 7.3 The Council can choose to do nothing and leave the estate in its present state and rely on existing ground rents for the foreseeable future. However, this would be to turn its back on a long held Council aspiration, where the estate will further deteriorate and in the context of a Council that is already well informed about what it might seek from its earlier experience in the abortive process to secure St.Modwen as a development partner.
- 7.4 On the basis that doing nothing or selling the Council's freehold interest are unacceptable options, the Council will be acting reasonably if it approves publication of the draft Avison Young Development Brief for public consultation and where appropriate reflect comments in a final version of the Development Brief to be published later in the year.

8 Appendices

- 8.1 Appendix A – Equality Impact Assessment – Stage One
- 8.2 Appendix B – Data Protection Impact Assessment – Stage Two
- 8.3 Appendix C – Avison Young Draft LRIE Development Brief

Background Papers:

None

Subject to Call-In:

Yes: X No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Wards affected: Victoria Ward

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Change History

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1			
2			

Appendix A

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- (1) 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; This includes the need to:**
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of 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, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Executive to make:	To note the contents of the Avison Young Development Brief and to consider what steps to take, if any, in further bringing forward regeneration on the London Road Industrial Estate.
Summary of relevant legislation:	N/A
Does the proposed decision conflict with any of the Council’s key strategy priorities?	No
Name of assessor:	Bill Bagnell
Date of assessment:	14 th July 2020

Is this a:		Is this:	
Policy	No	Proposed	Yes
Strategy	No	Already exists and is being reviewed	Yes
Function	No	Is changing	No
Service	No		

What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	To agree the next steps in bringing forward regeneration of the LRIE.
Objectives:	To secure again a partner or partners who will manage the regeneration of Council freehold assets on the LRIE and where necessary and in support of that process for the Council to exercise its powers of compulsory purchase.
Outcomes:	Provision of BREEAM Excellent residential accommodation, new fit for purpose office accommodation and / or employment spaces and retail opportunities.
Benefits:	Secure and enhanced LRIE income, town centre affordable housing, improved employment opportunities and generally raise the run down profile of an important town centre location.

Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.

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(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this
Age	None	
Disability	None	
Gender Reassignment	None	
Marriage and Civil Partnership	None	
Pregnancy and Maternity	None	
Race	None	
Religion or Belief	None	
Sex	None	
Sexual Orientation	None	
Further Comments relating to the item:		
Regenerating the LRIE through redevelopment will be of benefit to the wider Newbury community.		

Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	No
Please provide an explanation for your answer: Regenerating the LRIE through redevelopment will be of benefit to the wider Newbury community.	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	No
Please provide an explanation for your answer: Regenerating the LRIE through redevelopment will be of benefit to the wider Newbury community.	

If your answers to question 2 have identified potential adverse impacts and you have answered ‘yes’ to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area.

You will also need to refer to the Equality Impact Assessment guidance and Stage Two template.

Identify next steps as appropriate:	
Stage Two required	Not required
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	

Name: **Bill Bagnell**

Date: **14th July 2020**

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.

Appendix B

Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via dp@westberks.gov.uk

Directorate:	Resources
Service:	Finance & Property
Team:	Property Services
Lead Officer:	Bill Bagnell
Title of Project/System:	LRIE Redevelopment
Date of Assessment:	14 th July 2020

Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
<p>Will you be processing SENSITIVE or “special category” personal data?</p> <p><i>Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”</i></p>	<input type="checkbox"/>	X
<p>Will you be processing data on a large scale?</p> <p><i>Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both</i></p>	<input type="checkbox"/>	X
<p>Will your project or system have a “social media” dimension?</p> <p><i>Note – will it have an interactive element which allows users to communicate directly with one another?</i></p>	<input type="checkbox"/>	X
<p>Will any decisions be automated?</p> <p><i>Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?</i></p>	<input type="checkbox"/>	X

	Yes	No
Will your project/system involve CCTV or monitoring of an area accessible to the public?	<input type="checkbox"/>	X
Will you be using the data you collect to match or cross-reference against another existing set of data?	<input type="checkbox"/>	X
Will you be using any novel, or technologically advanced systems or processes?	<input type="checkbox"/>	X
<p>Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised</p>		

If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.