



Derby City Council

COUNCIL CABINET
18 March 2015

ITEM 16

Report of the Cabinet Member for Planning,
Environment and Regeneration

Infinity Park Derby: Progress report and approval of associated works

SUMMARY

- 1.1 The purpose of this report is to provide an update on the progress of Infinity Park Derby and to seek approval to progress a further tranche of associated infrastructure works.
- 1.2 Infinity Park Derby has been a strategic aspiration for over 25 years; through the Council's leadership this aspiration is now being delivered. Planning consent has been obtained, contracts have been entered into, and the core infrastructure works are progressing on site.
- 1.3 There was insufficient funding available to support the full scope of infrastructure works considered desirable when the current scheme was developed. Funding is now available (subject to due diligence and final funding agreements) for further infrastructure works from both the Local Growth Fund and the private sector.
- 1.4 The works will require planning consents, land transfers, the procurement of consultancy services and works contracts together with the appropriate funding agreements.
- 1.5 Infinity Park Derby will extend to 113 ha and will eventually accommodate 4,500 jobs. The first building on site will be the Innovation Centre, currently under construction.

RECOMMENDATION

- 2.1 To note the progress in delivering Infinity Park Derby (para 4.10 refers).
- 2.2 To approve the development and delivery of a further tranche of infrastructure works associated with Infinity Park Derby (para 4.11 refers) subject to the approval of Local Growth Fund funding and appropriate private sector contributions.
- 2.3 In order to pursue the above works, to delegate to the Acting Chief Executive in consultation with the Lead Member for Planning, Environment and Regeneration the:
- a. preparation and submission of applications for statutory planning and other consents necessary (para 4.13 refers);
 - b. development and completion of all the necessary land agreements (para 4.16 refers);
 - c. design, development and procurement of the identified services and works (para 4.17 refers);
 - d. development and completion of all funding agreements and other contractual arrangements, including the amendment of the existing Infrastructure Delivery Agreement, necessary to deliver the identified works (para 4.18 refers);
 - e. assessment that the contractual arrangements are state aid compliant.
 - f. Delegate to the Corporate Property Officer (the Acting Strategic Director for Neighbourhoods) to approve the terms and conditions of all Land transactions needed and as described herein, in relation to this matter.

REASONS FOR RECOMMENDATION

- 3.1 Recommendation 2.1
Infinity Park Derby was approved by Cabinet on the 17th October 2012. Following a protracted period of development and negotiation, contracts have now been entered into and works are progressing. It is therefore a good time to provide a progress report for Cabinet.
- 3.2 Recommendations 2.2 & 2.3
There was insufficient funding available at the time Infinity Park Derby was originally developed to support the full scope of the infrastructure works considered necessary to deliver the objectives of Infinity Park Derby. As a result the infrastructure works were limited to works considered to be absolutely essential only. Funding is now available to support additional works (subject to due diligence and final grant approval) and therefore approval is now sought to progress these 'associated works'.



Derby City Council

COUNCIL CABINET 18 March 2015

Report of the Acting Chief Executive

SUPPORTING INFORMATION

Background

- 4.1 Infinity Park Derby has been a Council and partner strategic aspiration for over 25 years. Through the Council's leadership this commitment is now being delivered.
- 4.2 The infrastructure works link Chellaston with Sinfyn and provide an effective route to the A50. This will both facilitate the development of Infinity Park Derby and provide a significant reduction in congestion around the Chellaston residential area. Infinity Park Derby extends to 113 ha gross (68 ha net) and, subject to Planning consent, will create 156,200 sq metres of development providing around 4,500 jobs over 15years (and up to 8,000 jobs when a second phase of development is taken into account).
- 4.3 Infinity Park Derby will provide a high quality business park aimed at both high-tech businesses and general business needs. An indicative masterplan is given in appendix 2.
- 4.4 Cabinet approved the development of Infinity Park Derby (previously known as Global Technology Cluster) on 17/10/12 with the approval being amended at Cabinet on the 16/7/14 and at Full Council on the 23/7/14.
- 4.5 Infinity Park Derby has been pursued by a partnership including the landowners, Rolls-Royce and Harpur Crewe and the developers – incorporated into Infinity Park Derby LLP (comprising Wilson Bowden Developments Ltd and Cedar House Infinity Park LLP (itself a partnership between Cedar House Investments and Peveril Securities).

- 4.6 The infrastructure works include a new 2.4Km link road ('T12' in the Local Plan), associated flood alleviation and drainage works together with gas, water and electricity utilities. The works include improvements to the cycle network and to the ecology of the area.
- 4.7 Infinity Park Derby provides nearly 4.7ha of land for the Innovation Hub, the first phase of which houses the Innovation Centre.
- 4.8 The works to date have been funded through a cocktail of funding including: Regional Growth Funding (with the Council as the accountable body), Council borrowing and developer funding (part of which is supported by a Council loan to be repaid by the developer as the site is developed out).

- 4.9 There was insufficient funding available at the time Infinity Park Derby was originally developed to support the full scope of the infrastructure works considered necessary to deliver the objectives of Infinity Park Derby. As a result the infrastructure works were limited to works considered to be absolutely essential only. Funding is now available for additional works from the D2N2 Local Growth Fund supplemented by funding from the private sector (subject to due diligence and funding agreements).

Progress

- 4.10 The following progress has been made in delivering Infinity Park Derby (IPD) following Cabinet approval on the 17/10/12:

- The RGF grant agreement was confirmed on the 1/11/12.
- Detailed Planning consent was agreed by Planning Committee for the core infrastructure works on the 22/8/13.
- The developer obtained a 'refresh' of their outline planning consent for the business park (formerly known as Chellaston Business Park) on the 3/2/14.
- The developer partners formed a Joint Venture, Infinity Park Derby LLP, the eventual make up of which is: Wilson Bowden Developments Ltd and Cedar House (Infinity Park) Ltd. Arc Capital provide a guarantee to the latter.
- Following very lengthy and protracted negotiations, the Infrastructure Delivery Agreement, land transfers and other associated agreements were entered into on the 16/9/14.
- The Council entered into a construction contract with Balfour Beatty the following day (appointed through the Midlands Highways Alliance Framework). The contract has been let by and is being managed by DCC's Highways and Engineering Division.
- Works commenced on the 6/10/14 and are progressing satisfactorily at the time of writing. The works are due to be completed in November 2015.
- Works have commenced on the Council's Innovation Centre on the 13/10/14 which will be the first building on site. This facility is funded predominantly from external grants (RGF and ERDF) plus an interest free loan from the University of Derby and Council borrowing.
- Under the auspices of the Infinity Park Derby Steering Group (involving all partners and chaired by the DCC Chief Executive), a Marketing Sub-group has been set up chaired by the Developer. The Developer has appointed Jones Lang Lasalle and local agents Salloways as joint agents together with the locally based marketing company Origination, to prepare a marketing strategy for the business park and to market the site.
- A considerable amount of informal marketing of the site has taken place and there is already a noticeable market interest in the site. The formal marketing launch for the site will be determined with the IPD partners.
- A ground breaking ceremony for IPD, led by the Leader and marked by the installation of a commemorative plaque, took place on the 4/12/14. A similar ceremony for the Innovation Centre took place on the 18/2/15.
- In the Chancellor's Autumn Statement Infinity Park Derby was awarded Enterprise Zone status with effect from 1st April 2015. This means that tax incentives and business rates discounts are available to qualifying end users. Additionally the Government's UK Trade & Industry department will assist in the marketing of the site

Infinity Park Derby further works ('associated works')

4.11 Subject to due diligence and final grant agreements, funding is now available for the following works. For the purposes of this report these are described as 'associated works'. The approximate location of those works is identified on the plan at appendix 3. The works are:

- a) *Extensions to the North and South 'spur roads'* which stem from the round-about at the centre of Infinity Park Derby. These are extensions to the public highway which will provide access to the Innovation Hub site and, eventually, will form the connection point for the proposed new link road to Wragley Way and the A50 in line with the emerging Core Strategy.
- b) *Flood alleviation works* comprising:
 - The creation of a flood alleviation area providing amelioration to the flood issues arising from the Highways works (ie: the spur road extensions).
 - The realignment of Meadow Brook including the ecological and public amenity enhancements and a cycle way The brook runs through the centre of the park (note the attached indicative masterplan assumes the relocation of this Brook).
 - Note the above works must be done in tandem with the Highways works to satisfy Environment Agency requirements.
- c) *Provision of high speed broadband* to the park in order to provide a 'best in class' provision.
- d) *Improvements to Holmleigh Way.* This will smooth the alignment of Holmleigh Way, improve the barrier with the adjoining residents and generally enhance the quality of the entrance to Infinity Park Derby.
- e) *Re-alignment of Victory Road.* This will help address the predicted 'rat running' issues arising along Victory Road from the opening of the new 'T12' spine road. It will involve the re-alignment of Victory Road around the outside of the Rolls-Royce facility on Moor Lane. These works will help Rolls-Royce create a high quality and pedestrian friendly campus (and Rolls-Royce will contribute towards the cost of these works accordingly).
- f) *Innovation Hub ph2.* These works involve the installation of drainage, utilities and a site access road plus ancillary items. The cost of these works will be 100% recouped by the Council as and when end-users have been found for this land, which remains in Rolls-Royce ownership. These arrangements are embodied in a Marketing

Services Agreement between the Council and Rolls-Royce (approved at Cabinet 11/9/14).

- 4.12 The works will require Planning consents, land transfers, the procurement of some consultancy services and works contracts together with funding agreements. The following sections provide further detail on these requirements.

Delivery of associated works – Planning

- 4.13 All of the associated works (with the probable exception of the broadband works) will require Planning permission and other consents which will be submitted by the Council or its consultants. Officers are considering how best to package these applications. However, it is likely that there will be one or more applications covering the spur road extensions and the flood alleviation works together with separate applications for the realignment of Victory Road and for the Innovation Hub works. The extent of the works proposed to Holmleigh Way will determine whether or not a planning application is necessary for these works.
- 4.14 A lead planning consultant(s) will be appointed to prepare, submit and pursue all planning applications (see 4.17). Rolls-Royce have engaged consultants, at their risk, to prepare the documentation for the Victory Road planning application.
- 4.15 In addition to the above, under the terms of the existing Infrastructure Delivery Agreement, officers are preparing an 'IPD outline planning application'. This will supplant the existing Chellaston Business Park application and reflect more closely the indicative masterplan incorporated within the Infrastructure Delivery Agreement. A lead planning consultant, Aecom, has been appointed (through the ESPO 664 Consultancy Services Framework) in order to prepare, submit and pursue this application.

Delivery of associated works – Land transfers

- 4.16 The following land agreements will be required:
- Spur Road extensions - land comprising the extent of the public highway will be transferred (from Rolls-Royce) to the Council prior to the start of works. An appropriate amendment or deed of variation to the existing Infrastructure Delivery Agreement will be required. It is proposed that this land will be transferred for Highways purposes at a nominal cost.
 - Flood alleviations works – We will need the agreement of the landowner to do flood amelioration works for the benefit of the Highway works and for the works to realign etc Meadow Brook. This again will need an amendment or a deed of variation to the existing Infrastructure Delivery Agreement.

- Holmleigh Way - a small area of land is likely to be required. This is currently owned by a sister company to the developer and again it is proposed that this is transferred to the Council for the benefit of the Highway works at a nominal cost. This will be subject to a direct agreement with the landowner as the land falls outside the boundary of the Infrastructure Delivery Agreement.
- Victory Road – land comprising the line of the road will be transferred (from Rolls-Royce) to the Council, for the benefit of the Highways works, under a direct agreement with Rolls-Royce. Again this will be at a nominal cost.
- Required due diligence remains to be undertaken, and the terms and condition of any Land transactions will be negotiated by the Head of Strategic Asset Management and Estates.

Procurement of the associated works

4.17 The procurement strategy is set out in the table below.

Work Package	Procurement
(a) Spur road extensions	Negotiated variation to the existing contract with Balfour Beatty subject to this proving to be value for money and the value of the works not comprising a material change to the original contract for works. Failing this the works will be tendered.
(b) Flood alleviation works	EU compliant tender process for the works.
(c) High Speed Broadband	EU compliant tender process.
(d) Holmleigh Way enhancements	<p>DCC's developer partners (para 4.5 above) have, at their cost, engaged consultants (BWB) to prepare a scheme and all works necessary to submit a validated planning application.</p> <p>DCC Highways will progress the detailed design and will procure and manage the construction works through an EU compliant process.</p> <p>Given existing staff resource constraints, DCC Highways propose to engage external consultants, through an EU compliant framework, to do this work.</p>

(e) Victory Road re-alignment	<p>Rolls-Royce, at their cost, has engaged consultants (Aecom) to prepare a scheme and all works necessary to submit a validated planning application.</p> <p>DCC Highways will progress the design beyond that required for the planning application and will procure and manage the works through an EU compliant process.</p> <p>Given existing staff resource constraints, DCC Highways propose to engage external consultants, through an EU compliant framework, to do this work</p>
(f) Innovation Hub Ph2	<p>Negotiated variation to the existing contract with GF Tomlinson subject to this proving to be value for money and the value of the works not comprising a material change to the original contract works. Failing this works to be tendered.</p>

Funding of the associated works

4.18 Bids have been submitted for funding from the LEP administered Local Growth Fund round 1 to fund these works. Our bid was approved as part of the “Growth Deal” for D2N2 announced by government in July 2014. This approval is subject to due diligence and final approval from the government funding departments of DfT and DCLG. The total sum provisionally approved is £6.65m, the indicative breakdown of this is set out below:

	£k	
a) Highway spur road extensions	750	2015/16
b) Flood alleviation works	775	2015/16
c) High speed broadband	375	2015/16
d) Holmleigh Way enhancements	2200	2016/17
e) Victory Road re-alignment	2000	2017/18
f) Innovation Hub ph2	<u>550</u>	2015/16
<i>Total:</i>	<i>6650</i>	

4.19 It is currently envisaged that the Growth Fund will meet all of the costs of the works on each of the above schemes with the exception of the realignment of Victory Road. This is currently estimated to be in the region of £4.2 - £4.5m. Rolls-Royce have agreed in principle to fund the difference between the available Growth Funding and the cost of the scheme (given that they benefit significantly from the scheme). The level of the Rolls-Royce contribution will be determined by an assessment of the direct benefit of the scheme to Rolls-Royce noting that the Growth Fund contribution is currently capped at £2m.

4.20 There is no direct Council capital contribution to these works.

- 4.21 We will, however, have to fund the up-front design and development costs of the above schemes given that the LEP have indicated that they will want a full planning consent, detailed scheme design and a contractor in place before they will enter into a final funding agreement. It is therefore necessary to pursue the above works at our risk, ie: if the proposed Growth Fund funding was withdrawn for any reason prior to entering into the final funding agreement all costs incurred at that point would potentially be wasted. This is described as ‘aborted cost risk’. In the event that the scheme(s) were aborted expenditure to date would be treated as revenue spend not capital (under accounting regulations).
- 4.22 It is proposed to use the ‘Accelerated development / IPD and IC risk provision’ line within the Regeneration Capital Plan to fund all up-front design and development costs with the exception of the two items in para 4.23 below. Once the Growth Fund funding is finally secured we have been advised that we can claim our up-front costs against our Growth Fund allocation.
- 4.23 In order to mitigate the Council’s risk exposure, we have agreed with our partners to share the aborted cost risk in the following:
- Holmleigh Way scheme – Our developer partners will take this risk up to the point the planning application is submitted, ie: they will fund BWB consultants to prepare a validated planning application.
 - Victory Road scheme – Rolls-Royce will take this risk up to the point that the planning application is determined, ie: they will fund Aecom to prepare and pursue a planning application up to determination.
- 4.24 The above approach has been agreed with the Head of Highways and Engineering and the Head of Procurement.

Key programme dates

- 4.26 A detailed programme of works is currently being developed, to meet the LEP grant funding requirements which are:

a) Highway spur road extensions	2015/16
b) Flood alleviation works	2015/16
c) High speed broadband	2015/16
d) Enhancements to Holmleigh Way	2016/17
e) Victory Road re-alignment	2017/18
f) Innovation Hub ph2 plateau	2015/16

Project management

- 4.27 This project is led by the Regeneration Department. An IPD Steering Group, comprising the Council and our private sector partners exists to oversee the development of IPD. A Council/ Rolls-Royce liaison group oversees the relationship between the city council and Rolls-Royce (in relation to all of

Rolls-Royce's Derby interests). The commercial negotiations with all 3rd parties will be led by the Regeneration Department.

4.28 An internal IPD Delivery Board exists to oversee the Council's interests in relation to IPD and the related sites. This is led by the Regeneration department and comprises officers from Highways & Engineering, Finance, Legal, Estates & Asset Management, Procurement, together with a Planning liaison officer.

OTHER OPTIONS CONSIDERED

5.1 If the opportunity of using the currently available Growth Funding is missed it is considered unlikely that there will be any alternative public or private sector funding sources for these works for many years. To do nothing would miss the opportunity help accelerate the development of Infinity Park Derby and to address the consequent issues arising from the opening of 'T12'.

This report has been approved by the following officers:

Legal officer	Emily Feenan
Financial officer	Martyn Marples
Human Resources officer	n/a
Service Director(s)	Richard Williams, Director of Regeneration
Other(s)	Greg Jennings, Head of Regeneration Projects Alan Smith, Head of Economic Regeneration Dave Bartram, Head of Highways and Engineering Ray Poxon, Head of Procurement Steve Sprason, Acting Head of Estates and Asset Management

For more information contact:	Greg Jennings 01332 641617 greg.jennings@derby.gov.uk Dave Marshall 01332 642062 david.marshall@derby.gov.uk
Background papers:	Global Technology Cluster, report to Cabinet 17/10/12. Innovation Centre, report to Cabinet 11/8/13.
List of appendices:	Appendix 1 – Implications Appendix 2 – Infinity Park Derby, indicative masterplan Appendix 3 – Locations of the proposed works

[GJ/ W Drive/ IPD/ Cabinet report March 2015 (draft 5)

IMPLICATIONS

Financial and Value for Money

- 1.1 The proposed works will be funded through the LEP Growth Fund supplemented, in the case of Victory Road, by a private sector contribution (Rolls-Royce). The Growth Fund allocations have been approved by the LEP Board in principle, subject to due diligence and are part of the “Growth Deal” between the government and the LEP. The Growth Fund allocations will where appropriate be added into the Regeneration Capital Programme.
- 1.2 If the LEP funding is not confirmed the schemes, in the absence of alternative external funding, will not proceed.
- 1.3 Council funding, however, is necessary to fund the up-front costs of developing the schemes at risk (until Growth Funding is confirmed). It is proposed to use the ‘match funding/ contingency’ line within the Regeneration Capital Programme to fund this work. Note in the event that the scheme(s) are aborted, costs incurred up to that point will potentially be wasted and will need to be treated as revenue under the accountancy regulations (see also aborted cost risk below).

Legal

PROCUREMENT

- 2.1 To the extent the Council is responsible for procuring the necessary works procedures compliant with Procurement Regulations will be followed. In respect of the highway spur road extensions, it is anticipated that it will be possible to include the works by way of a variation to the existing Balfour Beatty contract, subject always to ensuring both value for money and that the increase in value does not amount to a material change to the existing contract.

STATE AID

General:

- 2.2 Once the value of each of the associated works schemes has been established, a final review of any State Aid implications will need to be undertaken; however, an initial assessment of each of the schemes in respect of State Aid has been undertaken.

Highway Spur Road Extensions and Flood Alleviation Works

- 2.3 It is anticipated that the cost of the extensions can be met from existing private sector contributions to the IPD scheme and therefore State Aid implications do not arise. The current view is that flood alleviation works as a result of other infrastructure works by the Council will not amount to State Aid.

Highspeed Broadband

- 2.4 The Council intends to use the exemptions set out in GBER 2014 which apply to aid for broadband infrastructures to avoid the granting of illegal aid in respect of the highspeed broadband scheme.

Enhancements to Holmleigh Way

- 2.5 The Council's position is that the enhancements to Holmleigh Way are not illegal State Aid for the same reasons that the construction of T12 does not amount to illegal State Aid i.e. the improvements are capable of classification as open access public realm infrastructure. The Council's purpose for undertaking the works is for genuine public benefit reasons and not being undertaken with the aim of benefitting adjacent landowners or developers. Any ancillary works benefitting adjacent land owners/developers will be paid for by such land owners/developers at market rates and in accordance with usual market conditions, otherwise the land owners/developers could be receiving illegal state aid.

Victory Road Re-alignment

- 2.6 Whilst the Council believes that the re-alignment of Victory Road does have genuine public benefit reasons, i.e. to address the potential "rat-run" implications of T12, to address any potential issues with this argument, it is intended that the re-alignment will be funded in part by a substantial contribution from Rolls Royce in recognition of the benefits that would be received by Rolls Royce as a result of this work being undertaken.

Innovation Hub phase 2 enabling works

- 2.7 The proposed works will be subject to a State Aid assessment.

Personnel

- 3.1 Not applicable

IT

- 4.1 Not applicable

Equalities Impact

- 5.1 Not applicable

Health and Safety

- 6.1 Highways and Engineering Services will be responsible for the health and safety aspects of all works on site.

Environmental Sustainability

- 7.1 Sustainability assessments will be carried out as required to support the planning applications.

Property and Asset Management

- 8.1 Implications are generally included within the main body of the report. The proposal involves what appear to be a number of relatively minor land acquisitions that it is intended will be purchased by agreement. Due diligence into land ownership remains to be undertaken, the terms and conditions of any transactions will in due course be conducted by the Head of Strategic Asset Management and Estates.
- 8.2 For a public infrastructure works contract of this nature there is at least a prospect that the subsequent use of the works will give rise to claims under part 1 of the Land Compensation Act 1973, Estimates of possible compensation levels can be provided and prudently the Council will make financial cover in that regard. To ensure that any claims in due course can be addressed robustly pre and post scheme noise surveys should be undertaken.

Risk Management

- 9.1 *Aborted cost risk.* The LEP requires that all schemes are fully designed, with a detailed implementable consent in place and a contractor procured (albeit not appointed) prior to a final funding agreement being entered into. Officers have sought to successfully mitigate this risk by sharing it with our private sector partners (para 4.17 refers). Nevertheless, the cost of getting to the point required by the LEP is significant and is currently estimated to be up to a maximum of £500k in a worst case scenario. If the funding is withdrawn, for any reason, the costs incurred up to that point will potentially be wasted. Whilst most grant funding regimes require applicants to take a degree of aborted cost risk the LEP has taken an unusually extreme interpretation of this risk.
- 9.2 In the event that aborted costs are incurred these would be treated as revenue spend not capital under accounting regulations. This risk needs to be taken into account in the corporate revenue risk contingency. Note that this risk exists for all LEP Growth Funded schemes not just for the IPD schemes.
- 9.3 *Cost over-run risk.* Once contracts are in place the Council, not the LEP, are responsible for contract cost over-run risks (as is the case in most grant funding regimes). The form of contract with the company procured to construct these schemes will transfer some of the risk off the Council. However, it is proposed to identify an appropriate contingency within the 'match funding/ contingency' line of the Regeneration Capital Programme to cover any remaining risk.

Corporate objectives and priorities for change

- 10.1 This Programme will contribute towards creating for the people of Derby:
- An inspiring start in life by improving educational attainment
 - An inspiring working life by improving skills and creating jobs
 - An inspiring place to live by improving inner city areas

INDICATIVE SITE MASTERPLAN

**INFRASTRUCTURE PLAN (SHOWING THE APPROXIMATE LOCATION OF THE
'ASSOCIATED WORKS').**