



Business Overview and Scrutiny Committee – Special Meeting – Call-in

Date: Wednesday, 7 December 2016

Time: 4.00 pm

Venue: Committee Room 1 - Wallasey Town Hall

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AGENDA

- 1. APOLOGIES FOR ABSENCE**
- 2. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST / PARTY WHIP**

Members are asked to consider whether they have any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

Members are reminded that they should also declare whether they are subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

- 3. CALL-IN OF CABINET MINUTES 55 AND 61 - HOYLAKE GOLF RESORT (Pages 1 - 14)**

Attached to the agenda are:

- Call-in procedure (Page 1)
- Call-in form (Page 3)
- Cabinet report of 7 November, 2016 (Pages 5 – 11)
- Cabinet minutes 55 and 61 (Pages 13 – 14)

4. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 1)

5. EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PRESS AND PUBLIC

The public may be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information.

RECOMMENDED – That in accordance with section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 3 of Part 1 of Schedule 12A (as amended) to that Act. The public interest test has been applied and favours exclusion.

6. CALL-IN OF CABINET MINUTES 55 AND 61 - EXEMPT APPENDICES (Pages 15 - 136)

Exempt appendices in respect of the Hoylake Golf Resort report.
Exempt by virtue of paragraph 3 as they contain commercially sensitive information.

7. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 2)

CALL IN PROCEDURE

Chair's opening remarks (5 minutes)

The Chair will open the special Committee meeting convened to consider the Call-In and set out the procedure as follows:

Explanation of the call in by the lead signatory (5 minutes)

The Chair will invite the lead signatory to set out the reasons for the Call-In. Members of the Committee will be invited to ask the lead signatory questions.

Overview and explanation of the decision taken by the relevant Cabinet Member (5 minutes)

The Chair will invite the Cabinet Member to explain the reasons for the decision. Members of the Committee will be invited to ask the Cabinet Member questions.

Evidence from call in witnesses

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement (not to exceed 5 minutes) if they wish, prior to questions from Members of the Committee. (Running order of witnesses – List of witnesses to be confirmed)

Evidence from decision-taker's witnesses

The Chair will invite the following witnesses to come forward. Witnesses may read out a written statement if they wish (not to exceed 5 minutes), prior to questions from Members of the Committee. (Running order of witnesses – List of witnesses to be confirmed)

Summary of the lead signatory (5 minutes)

The Chair will invite the lead signatory to summarise the key points of evidence given in support of their case.

Summary of the decision-taker (5 minutes)

The Chair will invite the decision-taker to summarise the key points of evidence given in support of the initial decision.

Committee Debate

The Chair will invite comments, observations and discussion from members of the Committee.

Committee Decision

The Committee having considered the evidence and debate may:-

- Refer the decision back to the Cabinet Member setting out in writing the nature of its concerns.
- Refer the matter to the Council. Such a referral should only be made where the Overview and Scrutiny believes that the decision is outside the policy framework or contrary to or not wholly in accordance with the budget. The procedures set out in those rules must be followed prior to any such referral.
- Uphold the decision - If the Overview and Scrutiny Committee agrees with the initial decision the relevant Senior Officer may implement it without delay.

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CALL-IN

Decision of Cabinet to be called in:

Date of meeting	Monday 7 th November 2016
Minute number	Cabinet Minutes 55 and 61
Subject	Hoylake Golf Resort

Reason(s) for call-in:

The signatories to this Call-in are deeply concerned that, by agreeing to the confidential Framework Development Agreement ('FDA'), the Council is effectively committing to a 'done-deal', with no clear exit strategy should the proposal prove not to be viable or financially and environmentally sustainable.

We are also disappointed that this project has never been subject to full debate by Council, so that other issues such as the impact of traffic, wildlife, flora and fauna, and effects on Wirral's Green Belt can be fully explored; together with the alleged economic benefits to local people and to Wirral as a whole.

We believe signing the FDA renders any further consultation, prior to a formal planning application, as meaningless, contrary to the Council Leader's reassurance to local residents and all other interested parties that 'we will be continuing to consult and talk to people who live in Wirral, to make sure that we all move forward as partners in delivering these plans.'

Furthermore, to date £237,000 of Council Taxpayers' hard-earned cash has been spent. To commit an additional £595,969, with the potential for further escalating costs, at a time when vital council services and jobs are being reduced, suggests that the Cabinet's priorities are misplaced, while exposing the Council to further risk

We believe that a matter as important as this should be looked at in greater depth and detail in order to ensure adequate safeguards are in place to protect the Council Taxpayers of Wirral

Called in by:

Councillors:

Chris Blakeley
Bruce Berry
Eddie Boulton
David Burgess-Joyce
David Elderton
Gerry Ellis
John Hale
Paul Hayes
Andrew Hodson

Kathy Hodson
Ian Lewis
Tracey Pilgrim
Cherry Povall
Lesley Rennie
Les Rowlands
Adam Sykes
Geoffrey Watt
Steve Williams

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COUNCILLOR PHIL DAVIES
LEADER OF THE COUNCIL

CABINET
7 November 2016

HOYLAKE GOLF RESORT

Councillor Phil Davies, Leader of the Council - Strategic Economic Development, Finance and Devolution, said:

‘Hoylake Golf Resort promises to be an iconic international project bringing new jobs, prosperity and tourists to Wirral, boosting our economy and visitor numbers. Tourism is an important part of our growth plan, and supports our pledges around a vibrant economy and jobs.

This report will take our plans nearer reality by consulting a range of commercial, technical and legal experts who can help us draw up a blueprint and a process for moving forward. I would like to reassure residents and all other interested parties that we will be continuing to consult and talk to people who live in Wirral, to make sure that we are all move forward as partners in delivering these plans.’

REPORT SUMMARY

Following the selection of the Nicklaus Joint Venture Group (NJVG) as the Council’s Preferred Development Partner detailed discussions have taken place to conclude a Development Agreement to take the Hoylake Golf Resort project forward to the Funding and Viability stage. This report updates Members on progress, outlining an indicative timetable for moving forward and seeks Cabinet approval to sign the Framework Development Agreement and formally close the Competitive Dialogue Procurement process. It also requests approval of an additional fee and works budget of £595,969 to allow essential expertise to be retained to advise the Council on a range of commercial, technical and legal aspects of the proposed development. The previous fee budget of £237,000 has been expended. It is also necessary to undertake geotechnical investigations of the Council owned former landfill site at

Greenbank Road to ensure that it can be safely used for a golf course. The total cost of these investigations including specialist supervision and the ground work itself is £252,469 and is included in the total reported above (£595,969). Members are asked to endorse the Council entering into the Framework Development Agreement (FDA). The signing of the Agreement will allow the NJVG to work up a comprehensive Funding Strategy for future Council approval that it is envisaged will trigger the preparation of a full planning application.

The Hoylake Golf Resort project supports the business category of the 2020 pledges and in particular the priority to create a vibrant tourism economy. It also links to the priorities to increase inward investment and create greater job opportunities in Wirral. The report is of greatest relevance to the Hoylake and Meols ward but the wider economic impacts will have implications for all wards. The subject of this report is a key decision for the Council.

Further detail of the Framework Development Agreement provisions is appended together with an assessment of the implications of signing the FDA and the protection measures in place to protect the Council. This appendix is exempt from publication under Schedule 12A of the Local Government Act 1972 due to the commercial sensitivities of that information.

RECOMMENDATION/S

- That Member's authorise the signing of the Framework Development Agreement under the terms reported and the formal closing of the Competitive Dialogue procurement process.
- Members agree that the land required for the purposes of the golf resort be appropriated for planning purposes under Section 237 Town and Country Planning Act 1990. Any objections received following public notice of the intended appropriation and disposals shall be considered by the Assistant Chief Executive.
- That Members agree to a new fee and site investigation works budget of £595,969 to take the project forward as set out in this report.
- Members agree to undertake a geo-technical Site Investigation of the former landfill site at Greenbank Road owned by the Council and the necessary works to ensure the land is suitable for use as a golf resort.
- That once the Funding Strategy has been submitted by the NJVG and assessed by the Council, a further report will come to Cabinet.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To ensure the Hoylake Golf Resort project progresses and that the project has sufficient financial and consultant resource to protect the Council's position and facilitate the appropriation of land for planning purposes.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 A range of development options were presented as part of the competitive dialogue process but the solution presented by the Nicklaus Joint Venture Group (NJVG) was rigorously tested and selected as the preferred option. A preliminary public consultation exercise designed to raise awareness of the golf resort concept was undertaken in November / December 2015 and the result of this was made available on the Council's web site. The feedback gained will be considered further and will inform the development of the proposals by the NJVG.

3.0 BACKGROUND INFORMATION

- 3.1 Members will recall a report to Cabinet 20th July 2015 seeking to appoint the Nicklaus Joint Venture Group (NJVG) as the Council's preferred development partner and the outcome of the negotiations to date. The benefits to Wirral of a world class golf resort are many particularly viewed within the wider context of England's Golf Coast which links Royal Liverpool, Royal Birkdale and Royal Lytham into an attractive and highly marketable offer for international and UK based visitors. The addition of a new Nicklaus signature course, hotel and a links course academy lifts the existing offer onto a significantly more attractive level. England's Golf Coast currently lacks a quality hotel on site and the clustering of venues in close proximity together with the links academy will be unique in England. The involvement of international trading names on the golf and hotel fronts will have an immediate positive economic impact creating interest and demand in the area. The NJVG are currently exploring very strong interest from the Celtic Manor Hotel Group which if realised would be a major bonus to an already high profile offer. It would be very difficult to attract bigger names in the golf industry than that of Jack Nicklaus and Celtic Manor.

4.0 FRAMEWORK DEVELOPMENT AGREEMENT

- 4.1 The Framework Development Agreement is the key to moving forward as it will commit the NJVG to funding the preparation of a planning application and all of the associated studies required to support an application of this size and complexity. The Framework Development Agreement is now ready to be entered into by the NJVG and the Council subject to Members approval. The agreement covers how both parties will move forward and all aspects normally associated with agreements of this nature. A summary of the Framework Development Agreement is attached as a confidential appendix to this report.
- 4.2 The resource required to take the project forward to the Funding Strategy stage is as follows.

Heading	Estimated Budget
Former Landfill Site Study and Works	£200,000
Remediation Management and Supervision of Works	£52,469
Sub Total	£252,469
Commercial and Legal Support	
AECOM	£200,000
Legal Fees	£143,500
Total	£595,969

- 4.3 This fee budget represents just over 0.3% of the overall potential development value of the resort (£190m). The benefits to the Council and the wider economy from the completed scheme include increased Business Rates and Council Tax receipts. In respect of the fees the Council has negotiated with the NJVG that, subject to planning permission being approved, NJVG will meet the full cost of the AECOM (Architecture, Engineering, Consulting, Operations and Maintenance) fees (£200,000) and make a contribution of 50% towards the cost of the Site Investigation works equal to a sum of £100,000. Therefore in the event of the scheme securing planning permission the Council support would be £295,969. The planning application in itself will generate a large fee income that would offset the costs associated with determining the application. This would cover the cost of the support from the Merseyside Environmental Advisory Service, Natural England and the Environment Agency which is estimated to be in the region of £40,000.

5.0 APPROPRIATION OF LAND

- 5.1 The land area proposed for the golf resort is predominately agricultural and leisure related land uses within Wirral's Greenbelt. The proposal is for the NJVG to seek planning permission for the golf resort development which, if approved, will change the use of the land to a mixture of hotel, golf courses with associated clubhouse (and other golf related uses), residential and a new access road. The existing land uses are no longer required for the purpose for which it is currently appropriated. For the proper planning of the area approval is requested to appropriate the land shown on the attached plan for planning purposes under section 237 Town and Country Planning Act 1990. Appropriation occurs where the Council hold land for one particular purpose but wishes to declare it will hold the land for a different purpose in the future. By this method the Council is able to clarify the designation of the land in question. Without prejudice to the decision of Members regarding the merits of the planning application this action will also facilitate the carrying out of development which will significantly contribute to the economic well-being of the area.
- 5.2 Section 122 of the Local Government Act 1972 requires the Council to advertise the intention to appropriate open space for two successive weeks in a newspaper circulating in the area. Section 123 of the Local Government Act requires the Council to similarly advertise any proposed disposal of open space land. Any objections need to be notified to the Council for consideration prior to such appropriation or disposal. Approval is requested, subject to there being no objections to approve the appropriation and disposal of the land under the terms set out in the Development Agreement. It is also requested that this decision is delegated to the relevant Portfolio holder who shall then have the authority to determine the appropriation and disposal.

6.0 FINANCIAL IMPLICATIONS

- 6.1 The previously agreed allocation of £237,000 has been spent and an additional allocation of £596,000 is required for the reasons set out in this report. This is to be met from the Business Rates Reserve.
- 6.2 This commitment would be reduced to £296,000 if the scheme progresses and planning approval is obtained. There would be a large fee for the planning application which would also meet the £40,000 required to cover the cost of support from Merseyside Environmental Advisory Service, Natural England and the Environment Agency during the planning process.

7.0 LEGAL

- 7.1 The Framework Development Agreement sets out all the legal parameters relating to the project. An Executive Summary Report is provided in the exempt appendix. Whilst the Development Agreement sets out the roles and responsibilities of the Council and the NJVG in moving the project forward the Council retains at its absolute discretion the ability to withdraw from the project should the Funding Strategy not prove to be acceptable to the Council.
- 7.2 It is necessary that the land be formally appropriated for planning purposes and that the required notices under s122 of the Local Government Act 1972 be served. Also a notice for the disposal of open space with regards to land within the project area be served under s123 of the Local Government Act 1972.
- 7.3 The final bid was evaluated against four criteria (as set out in the invitation to Tender). These were:
- Meeting the Council's vision;
 - The projects deliverability;
 - The projects commercial viability and;
 - The commercial terms offered to the council by the NJVG.
- 7.4 The scoring criteria was outlined in the tender documentation and ranged from zero to five, where zero indicated an unacceptable response from the JV with five being excellent. Three was the mid-range score and this indicated that the submission was relevant and acceptable and the response addressed a broad understanding of the Council's requirements.
- 7.5 The bid was evaluated against the criteria by officers of the Council and members of the retained consultancy team. The scores were moderated across the team and weighted relevant to their importance to the project.
- 7.6 Following completion of the scoring exercise the NJVG's final submission is considered 'relevant and acceptable and addresses a broad understanding of the Council's requirements' in all four of the evaluation criteria, with a score of at least three being recorded for each category.

8.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 8.1 The project will continue to be delivered by the Council's Regeneration Team with external specialist support as outlined in this report.

9.0 RELEVANT RISKS

- 9.1 The risks associated with this project and the proposed measures to mitigate risks were reported at Cabinet 20th July 2015. The retention of specialist commercial and legal advice will protect the Council's position and identify key stages within the project at which the Council can re-evaluate the project against the Council's objectives. The Funding Strategy will present financial issues that will require further detailed assessment by the Council. These will be reported to a future Cabinet.
- 9.2 The works to manage the former landfill site will reduce the risk to the Council posed by the existence of the site in relation to possible liability for environmental impairment. These works will have the benefit of additional insurance and the professional indemnity insurance provided by the consultant Engineers.

10.0 PLANNING IMPLICATIONS

- 10.1 The facilities associated with the proposed Golf Resort would be located within the Green Belt (subject to Policy GB2 of the Council's adopted Unitary Development Plan), and within an Area Requiring Landscape Renewal (Policy LAN1, Policy LA3 and Proposal LA4 refer).
- 10.2 The developers must seek to prove that the proposal is of particular significance and importance to merit the "very special circumstances" criteria necessary for building on Green Belt land. This principle is a fundamental policy consideration that must be made to the satisfaction of the Local Planning Authority and is in addition to all of the other planning considerations relating to developments of this nature. The planning application seeking permission must be robust in order to address all concerns and will be considered on its merits in due course.
- 10.3 The National Planning Policy Framework (NPPF) will be an important material consideration alongside the emerging Core Strategy Local Plan. The Proposed Submission Draft Core Strategy Local Plan for Wirral was published in December 2012 and seeks to preserve and enhance the openness and rural character of the Rural Area, subject to national Green Belt controls. The final Core Strategy Local Plan is expected to be published in 2017 before being submitted to the Secretary of State for public examination. The Hoylake Community Planning Forum (Hoylake Vision) submitted their proposed Neighbourhood Development Plan to the Council for publicity and independent examination in September 2015. The draft Neighbourhood Plan and the comments received were submitted to an independent Examiner, who recommended in April 2016 that the plan should proceed to a local referendum, subject to a number of modifications. The local referendum on the Neighbourhood Development Plan for Hoylake, as modified following independent examination, will take place on 1st December 2016.
- 10.4 While a golf course could potentially be consistent with Green Belt policy set out in the NPPF and the Unitary Development Plan (UDP), any new built facilities associated

with the Golf Resort and enabling housing development would, in all likelihood, be classed as 'inappropriate development', which is by definition, considered harmful to the Green Belt and should not be approved, except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. The intention to approve inappropriate development must be referred to the Secretary of State before planning permission can be granted. Any planning application for the golf resort project would also need to be supported by a range of other assessments including:

- Environmental Impact Assessment (subject to screening)
- Traffic Impact Assessment/Transport Assessment
- Flood Risk Assessment
- Habitats Regulations Assessment (subject to screening)
- A Design and Access Statement
- A Planning and Regeneration Statement

11.0 ENGAGEMENT / CONSULTATION

- 11.1 An informal consultation exercise was undertaken in November/December 2015. This was to introduce the golf resort concept and was designed to impart basic information regarding the principal scheme elements and the understanding as to how the golf resort could work and how it could be accessed by vehicles and relate to the surrounding land uses. The outcome of this was publicised on the Council's web site. Further informal consultation will follow once additional survey work has been undertaken and designs have been formulated into a planning application by the NJVG. When the planning application is submitted there will be additional statutory consultation undertaken.

12.0 EQUALITY IMPLICATIONS

- 12.1 Impact review is attached – <http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010>

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APPENDICES

REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	20th July 2015

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CABINET

7 NOVEMBER 2016

55 HOYLAKE GOLF RESORT



Councillor Phil Davies, Leader of the Council - Strategic Economic Development, Finance and Devolution, said:

'Hoylake Golf Resort promises to be an iconic international project bringing new jobs, prosperity and tourists to Wirral, boosting our economy and visitor numbers. Tourism is an important part of our growth plan, and supports our pledges around a vibrant economy and jobs.'

'This report will take our plans nearer reality by consulting a range of commercial, technical and legal experts who can help us draw up a blueprint and a process for moving forward.'

'I would like to reassure residents and all other interested parties that we will be continuing to consult and talk to people who live in Wirral, to make sure that we are all move forward as partners in delivering these plans.'

Councillor George Davies introduced a report, in Councillor Phil Davies' absence that informed that following the selection of the Nicklaus Joint Venture Group (NJVG) as the Council's Preferred Development Partner, detailed discussions had taken place to conclude a Development Agreement to take the Hoylake Golf Resort project forward to the Funding and Viability stage.

The report provided an update for Members on progress, outlined an indicative timetable for moving forward and sought approval to sign the Framework Development Agreement and formally close the Competitive Dialogue Procurement process. It also requested approval of an additional fee and works budget of £595,969 to allow essential expertise to be retained to advise the Council on a range of commercial, technical and legal aspects of the proposed development. The previous fee budget of £237,000 had been expended. Members noted that it was also necessary to undertake geotechnical investigations of the Council's owned former landfill site at Greenbank Road to ensure that it could be safely used as a golf course. The total cost of these investigations, including specialist supervision and the ground work itself, was £252,469 and was included in the total reported above (£565,969). Members were asked to endorse the Council entering into the Framework Development Agreement (FDA). The signing of the Agreement would allow the NJVG to work up a comprehensive Funding Strategy for future Council approval that it was envisaged would trigger the preparation of a full planning application.

The Hoylake Golf Resort project supported the business category of the 2020 pledges and, in particular, the priority to create a vibrant tourism economy. It also linked to the Council's priorities to increase inward investment and create greater job opportunities in Wirral. The report was of greatest relevance to the Hoylake and Meols Ward but it was noted that the wider economic impacts would have implications for all wards.

Further detail of the Framework Development Agreement provisions was appended to the report together with an assessment of the implications of signing the FDA and the protection measures in place to protect the Council. This appendix was exempt from publication under Schedule 12A of the Local Government Act 1972 due to the commercial sensitivities of that information. (Minute No. 61 refers.)

Councillor Ann McLachlan informed that the Cabinet was under no illusions about the financial situation the Council was in. This money was being spent as a long term future investment and it was in accordance with the Council's pledges around homes, jobs and health and wellbeing. Wirral would be the only Council in the Country to have a Nicklaus Golf Course. The scheme had been well thought out and costed and the NJVG would have to show significant cost commitment. This was a most appropriate and right way forward with the scheme and it was an ambitious approach for the site.

RESOLVED: That

- (1) the signing of the Framework Development Agreement under the terms reported and the formal closing of the Competitive Dialogue procurement process be authorised;**
- (2) the decision on the appropriation of the land required for the purposes of the golf resort for planning purposes under Section 237 Town and Country Planning Act 1990 be deferred to a future meeting;**
- (3) a new fee and site investigation works budget of £595,969 to take the project forward as set out in the report be agreed;**
- (4) a geo-technical Site Investigation of the former landfill site as Greenbank Road owned by the Council be undertaken as well as the necessary works required to ensure that the land is suitable for use as a golf resort; and**
- (5) once the Funding Strategy has been submitted by the NJVG and assessed by the Council, a further report be presented to the Cabinet for consideration.**

61 HOYLAK GOLF RESORT - EXEMPT APPENDICES

RESOLVED:

That the content of the exempt appendices (reference report Agenda Item No. 4 – Hoylake Golf Resort - Minute No. 55) be noted.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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