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City Council

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FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

COUNCIL

14th July 2016

Leicester Waterside Phase 1 – Update of Project and obtaining necessary approvals to proceed

Report of the Director of Planning, Transportation & Economic Development

1. PURPOSE OF REPORT

- 1.1 This report seeks to update Council members on the progress made on the Waterside Phase 1 project and to seek necessary consents to allow the project to proceed. The report outlines the decisions required in relation to project funding and the Council's commitment to fund expenditure in relation to land acquisition and the appointment of a development partner who will deliver infrastructure and new development. These decisions involve the approval of £3m from the Economic Action Plan and a further financial commitment estimated at some £21m. This £21m is the total underwriting value of the commitments that would be made by the Council through its use of Compulsory Purchase powers and through entering into a Development Agreement with the selected development partner. It should be noted that the figure identified is a requirement only in the event that the allocated Local Growth Fund is not made available in future years and if the sale of land does not result in a capital receipt.
- 1.2 The Capital Programme 2016/17 and 2017/18 approved by Council on 24th February 2016, reserves to Council any decision to commit in excess of £10m of corporate resources on a capital scheme.
- 1.3 This report therefore seeks Council approval to enter into these financial commitments, in order for the Waterside scheme to proceed. Approvals to allocate Economic Action Plan funds and to delegate the completion of a Development Agreement are also sought.

2. RECOMMENDATIONS

2.1 It is recommended that Council:-

- (a) Approves the addition of £3m to the Capital Programme, funded by resources set aside for the Economic Action Plan, this being the remaining balance of the Council's planned contribution to the Waterside Phase 1.
- (b) Approves the underwriting from corporate resources of the costs of the Compulsory Purchase Order and the proposed infrastructure works for Waterside Phase 1, estimated at £21m, in the event that Local Growth Fund monies and receipts from land sales are not confirmed in full or in part as expected.
- (c) Delegates authority to the City Mayor to enter into a Development Agreement with the selected developer for Waterside Phase 1, following the conclusion of the tender process and to add the necessary resources to the capital programme.

3. REPORT

Background Information

3.1 Overview Summary

- 3.1.1 In 2015, an allocation of £20m from the Local Growth Fund (LGF) was made by the Leicester & Leicestershire Enterprise Partnership (LLEP) to enable delivery of a Waterside Phase 1 scheme (see Appendix 1 for plan of the Phase 1 area). The proposed scheme will act as a catalyst to help meet the Council's regeneration aspirations for the Waterside area as a whole. The funding was granted over five financial years, commencing in April 2015 and finishing by March 2020.
- 3.1.2 In addition to the LGF funding, the Council has committed £5m over the same period through the Economic Action Plan. Land receipts of up to £10m are also anticipated, to create a total expected income for the scheme of £35m.
- 3.1.3 An internal project team, supported by technical specialists, has been established, and appropriate systems are in place to enable this project to be delivered. This ensures Council procedures, funding timescales, procurement rules and adherence to Council objectives are met and that the project has an appropriate governance structure in place.
- 3.1.4 Much progress has been made since April 2015, a summary of the current position is set out in 3.2 – 3.5 below. To move forward through the process of Compulsory Purchase and the selection of a development partner, Council is now required to commit expenditure in excess of the £10m threshold for which decisions are reserved to Council.
- 3.1.5 The requirement to approve funding at this stage is intended to demonstrate to an Inspector and to the Secretary of State, if a compulsory purchase order is required, the Council has taken a decision which enables it to underwrite the expenditure required to

deliver the development. Whilst the intention is to secure a development partner prior to any Inquiry, the nature of the scheme, which involves land assembly, site clearance, remediation and infrastructure to enable development, means that the Council through its own resources and LGF will need to provide gap funding and cash flow to enable a viable development to be delivered by the proposed development partner. Ultimately a land receipt will be received by the Council but this will be received in stages over the lifetime of the development.

- 3.1.6 The £21m figure identified as requiring underwriting from the Council is split between the balance of LGF funding (£10.8m) and the anticipated land receipt. The funding relating to land receipt is essentially cash flow (subject of course to the receipt being confirmed at a suitable level in the Development Agreement). At the point the Council enters the Development Agreement it will contractually commit to funding the infrastructure works, which is up to £12m, however the agreement will also commit the developer to a minimum land receipt payment. This receipt will be received on a phased basis based on the completion of development phases. The infrastructure works themselves will take up to two years to complete and are unlikely to commence before 2017/18 and payments will also be made on a phased basis as works are completed. The LGF balance is approved on annual basis with approvals for 2017/18, 2018/19 and 2019/20 based on the following breakdown £4.1m, £3.2m and £3.5m respectively.
- 3.1.7 It is anticipated that a CPO will be formally made in late August/September at a point when the Council has sufficient certainty of the likely land receipt and therefore the actual risk is primarily expected to relate to the annual draw down of LGF. This is allocated and the risk of the Government withdrawing this allocation is considered low.

3.2 Planning Position

- 3.2.1 The Council has had a long term ambition to regenerate the Waterside area of Leicester. It was first identified as a potential development site in the 2002 Local Plan. Its status as a regeneration site has since been strengthened by various formal planning documents. The Waterside area as a whole is identified on the attached plan (Appendix 2)
- 3.2.2 The planning Core Strategy Policy CS4 (adopted July 2014) identifies the Waterside area as a key intervention area within the Strategic Regeneration Area (SRA), with policy CS1 stating that 54% of all new residential development within the Leicester City administrative area is to be within the SRA. As well as a key location for new housing it is also the focus for physical change to provide “*the impetus for economic, environmental and social investment and [to] provide benefits from existing communities*”. To achieve these ambitions CS Policy 4 requires new development within the SRA to be comprehensive and coordinated.
- 3.2.3 In order to build on the core strategy and planning policies stretching back to 2002 the Council adopted a Waterside SPD (Supplementary Planning Document) in August 2015 which provides more detailed guidance on the Council’s planning proposals for the Waterside area.
- 3.2.4 The adopted SPD provided the context for the outline planning application (20151587) for the Waterside Phase 1 Scheme which was granted consent on 10th December 2015.

This consent allows for up to 500 residential units, up to 5,500 sq.m of Commercial office space and up to 1,000 sq.m retail along with ancillary highway works, green infrastructure and matters relating to scale and layout.

3.2.5 There is adopted planning policy, supplemented by an adopted SPD and an outline planning consent. It is therefore considered that there is no planning impediment to bring the scheme forward.

3.3 Land Assembly and Compulsory Purchase Order (CPO)

3.3.1 Since the approval of LGF funding in April 2015 for the Waterside Phase 1 scheme, land assembly by agreement has been actively undertaken.

3.3.2 The Council is now in control of over 70% of the site and several further acquisitions are subject to detailed discussion (Appendix 3 shows the land required for Phase 1 and the current Council freehold ownership). In order to ensure that the Council can obtain vacant possession of the site in a timely fashion and to ensure that any potential third party interests are acquired, it is very likely however that Compulsory Purchase Powers will need to be used.

3.3.3 A key decision taken on 18th April 2016 resolves to declare and subsequently make a Compulsory Purchase Order (CPO). This report is included as a background paper and provides more detail on the compulsory purchase timescales and procedures for this project. Legal and other specialist advice is being taken throughout the course of the CPO.

3.3.4 The resolution to make a CPO will be followed by the formal making of the Order which will be subject to:

- The Council ensuring that all reasonable steps have been taken to acquire the required interests in the land by agreement.
- A resolution by Full Council to secure the necessary funding to carry out the CPO for property interests and rights acquisitions and associated compensation claims and the subsequent infrastructure works (the principal subject of this report).
- The Council ensuring that satisfactory progress is achieved with a developer to undertake the scheme.

3.4 Developer Procurement

3.4.1. The Council has twin-tracked land acquisition by agreement and the selection of a development partner. After taking legal and specialist consultancy advice, the Council is using a pre-procured panel to obtain a development partner. The Homes and Communities Agency (HCA) DPP2 panel was chosen, as it contains most large developers capable of delivering the scheme. It is also widely understood by the development industry and complies with UK and European legislation.

3.4.2 The Council is currently in the process of choosing a developer partner. Tender submissions were received on the 18th May 2016. The assessment of the submissions

is currently being undertaken, it is anticipated that a preferred development partner will be selected by early August. The developer procurement process sets out the Council's vision and what is expected of the developer. It also makes clear there are monies available for the developer to undertake the contract to demolish, remediate and install new infrastructure on the site.

3.4.3 Specialist legal advice has been obtained resulting in detailed assessments of how the agreement with the developer should be structured. A draft Development Agreement was included as part of the tender process, which sets out the contract which would be entered into by the successful developer. This Development Agreement sets out the contractual obligations for undertaking both the infrastructure works and the development itself.

3.4.4. The cost of the infrastructure works to be undertaken is likely to be in the region of £12m and the Council will be entering into a Development Agreement, which is a contractual obligation, to ensure delivery. As any decision to commit corporate resources exceeding £10m is reserved to Council, the Council is asked to formally delegate authority to the City Mayor to enter into an agreement.

3.4.5 As a fall back option, if a satisfactory development agreement could not be completed, the Council could potentially consider delivering the scheme itself. This would involve the Council procuring the infrastructure works directly and disposing of serviced development plots. It should be noted that this is not the Council's preferred option.

3.5 Costs and Funding

3.5.1 The Waterside development is a major regeneration scheme with an expected gross total cost of some £35m over the 5 year period 2015-2020.

3.5.2 The principal costs are:

- Land and buildings acquisition (estimated at £20m)
- Infrastructure (estimated at £12m)
- Fees, support costs and contingency (estimated at £3m)

3.5.3 The expected sources of funding are:

- £20m is expected from the Government's Local Growth Fund (LGF) via the LLEP, of which £9.2m has already been secured for 2015/16 and 2016/17. The risk of the remaining £10.8m not being received over the course of the next three years is considered low.
- £5m of Council resources through the Economic Action Plan (EAP). £2m has already been formally confirmed and the addition of the remaining £3m to the Capital Programme is a recommendation of this report.
- £10m is expected to come mainly from the disposal of land and buildings, however land values can vary and hence the actual receipt could be higher or lower.

- 3.5.4 Assuming that Council approves the additional £3m EAP resources, the remaining funding expected but not yet formally confirmed is £10.8m LGF and £10m from land disposal, a total of £20.8m. This is rounded up to £21m for the purposes of this report.
- 3.5.5 To ensure that the Council is able to demonstrate the necessary resources are in place to proceed with the CPO and the subsequent Development Agreement, the Council needs to underwrite the unconfirmed funding of £21m prior to making the order and entering the Development Agreement. It is imperative that the Inspector, and confirming Government Minister, is satisfied at a CPO public Inquiry that the Council has in place the necessary funding and the ability to deliver the proposed scheme.

4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

4.1. Financial Implications

- 4.1.1 As described in the report, the Waterside Phase 1 development is a major regeneration scheme estimated to cost approximately £35m over a 5 year period. Of this, £11.2m has already been secured, comprising of LGF £9.2m and £2m of Council resources via the EAP. Assuming that Council approves the remaining £3m of EAP funding, the secured funding is £14.2m. Hence, £20.8m of funding is not yet formally secured, comprising of LGF £10.8m and £10m from sale of land and buildings (rounded up to £21m for this report).
- 4.1.2 The Local Growth Fund financing (which is not dependent on EU funding), of which £10.8m is not yet formally secured, is confirmed annually by the Government. The expected funding in future years is £4.1m in 2017/18, £3.2m in 2018/19 and £3.5m in 2019/20. Whilst this funding is not guaranteed, and could be withdrawn, this possibility can be regarded as a low risk (though high impact upon the Council's finances), particularly as the LLEP and the Waterside scheme in particular are regarded as progressing well.
- 4.1.3 The overall budget assumes capital receipts from land sales of some £10m. Of this, £2m relates to the two new offices currently under construction at Friars Mill, for which demand seems to be good and thus relatively low risk. The remaining £8m relates to the rest of the Waterside development. At the time of writing, officers are seeking detailed clarifications on the bids received, nonetheless, a budget of £8m is considered to be a reasonable estimate of the likely capital receipt.
- 4.1.4 However, it should be noted that following the Brexit referendum, there is currently uncertainty as to how that will affect property development with property company valuations having declined recently. Consequently there may be a greater risk of the progress of the development being slowed down and also possibly that the Council ultimately doesn't secure the level of capital receipts envisaged.
- 4.1.5 The remaining £3m EAP funding has long been intended to be used towards the Waterside development in the years 2017-2020. This can be financed from resources set aside for the Economic Action Plan and Council is asked to add the £3m to the capital programme.

- 4.1.6 The Council is therefore being asked to underwrite from corporate resources the £21m expected from LGF and land sales, to provide assurance at a CPO Public Inquiry that the necessary resources are in place for the Phase 1 scheme to proceed.
- 4.1.7 Should a shortfall on LGF or land sales materialise in the future, the Council would need to decide how the necessary replacement finance would be funded. One option would be prudential borrowing. In the worst case scenario, if the Council borrowed all of the £21m, the annual cost over a 25 year period at an annuity rate of 4.5% would be £1.4m p.a. This is however considered to be a highly unlikely eventuality. A shortfall of say £5m would result in repayments of £340k p.a.
- 4.1.8 Although it will be several years until the area is fully developed, the Council could expect to receive greater income in the form of council tax, business rates and new homes bonus than it does currently.

Alison Greenhill, Director of Finance, ext. 37 4001

4.2 Legal Implications

- 4.2.1. As explained in Paragraph 1.2 under the Council's capital programme, any decision to commit corporate resources in excess of £10m is to be determined by Council. Accordingly a decision of Council is required both in order to comply with the Programme in respect of the financial commitment sought, and in order for the Council to proceed with the decision of the City Mayor to progress the making of the CPO and the wider Waterside project.
- 4.2.2. The position concerning the funding commitments is set out in the Financial Implications. In respect of the proposed Compulsory Purchase Order and wider development, detailed advice is contained in the report to the City Mayor leading to the decision of the 18th April 2016. With regard to funding issues, in order for the Council to promote an Order it is required to satisfy the confirming minister there are sufficient resources available to both proceed with land and property acquisitions, and in respect of resources being available in respect of the development proceeding following confirmation, as the Council will need to demonstrate there is a reasonable prospect of the development proceeding.

John McIvor, Principal Lawyer, ext. 37-1409

4.3 Equalities Implications

- 4.3.1 There are two sets of equalities implications to consider. The first is in regard to the impact of the proposed CPO and Waterside development proposal for those businesses currently on the site. At present there are a small number of owner occupied businesses with freehold or long leasehold interests. There are also businesses occupying under short-term licences (with no security of tenure). Our Public Sector Equality Duty as set out in the Equality Act 2010, requires us to consider the impacts of our proposals on those affected, identification of the protected characteristics affected, and where there

are negative impacts, any mitigating actions that would remove or reduce those negative impacts.

- 4.3.2 The adverse impacts of the proposed CPO are potential loss of the businesses and jobs on the proposed site that have yet to reach agreement to leave the site with the Council. The main protected characteristics of business owners and their workforce are sex and race (virtually all are male and come from Asian, White British and East European ethnic backgrounds). There are some mitigating actions already in place. The project team is working with businesses to enable them to relocate elsewhere and maintain their business. The CPO process for business owners is highly regulated and prescriptive to ensure a fair outcome for them in terms of compensation for their loss arising from the CPO.
- 4.3.3 The second set of equalities implications arises from the proposed redevelopment of the site as set out in paragraphs 3.2.2 and 3.2.4. These will bring positive benefits to the city as a whole: much needed housing, commercial and retail space, and enhanced access to the natural waterside environment. These development opportunities will address our following Public Sector Equality Duty aims: **Elimination of discrimination** – it is anticipated that the demographic profile of those benefiting from the proposed housing and commercial/retail space (homes and jobs) will reflect the diverse population of the city covering all protected characteristics. **Promotion of equality of opportunity** – the housing and employment opportunities as set out in the city's 4.3.4 strategic planning priorities will expand opportunities and outcomes available locally. **Fostering good relations between different groups of people** – by expanding commercial and particularly retail space, as well as enhancing the local waterside environment, people from across the city will be encouraged to use these shared spaces, providing more opportunities for different people to mix and participate together in community life.

Irene Kszyk, Corporate Equalities Lead, ext. 374147.

4.4 Climate Change Implications

- 4.4.1 Regeneration of the Waterside area will result in the replacement of numerous old industrial and commercial buildings with new residential and workspace buildings built to modern environmental standards. The regeneration will also provide considerable transport infrastructure improvements. Both of these will help to reduce city-wide carbon dioxide emissions and promote progress towards the council's target to reduce emissions to 50% of the 1990 level by 2025/26.

Louise Buckley
Senior Environmental Consultant – Climate Change Ext 37 2293

5. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph Within the Report	References
Equal Opportunities	Yes	4.3	
Policy	No		
Sustainable and Environmental	yes	4.4	
Crime and Disorder	No		
Human Rights Act	No		
Elderly/People on Low Income	No		
Corporate Parenting	No		

6. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

Waterside Supplementary Planning Document, City Mayor individual decision, 10th August 2015

Capital Programme Report 2016/17 and 2017/18, Council, 24th February 2016

Use of Compulsory Purchase Powers - Leicester Waterside Phase 1, City Mayor individual decision, 18th April 2016

7. CONSULTATIONS

None.

8. SUMMARY OF APPENDICES

Appendix 1 - Waterside Phase 1 Area

Appendix 2 - Map of whole Waterside SPD area

Appendix 3 - Area of Council Freehold Ownership

9. REPORT AUTHOR

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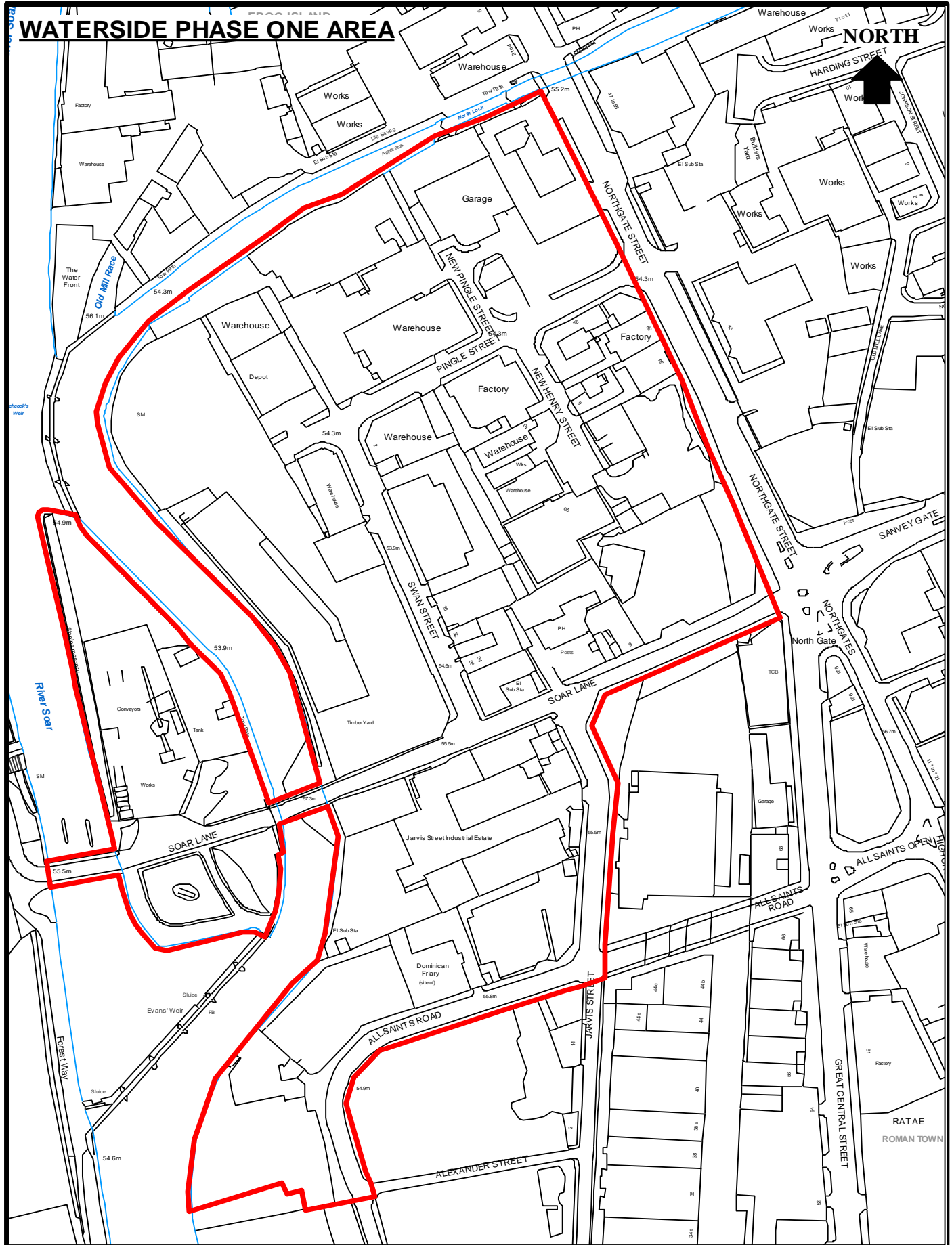
Senior Project Manager (Waterside)

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APPENDIX 1 – PHASE 1 AREA

WATERSIDE PHASE ONE AREA



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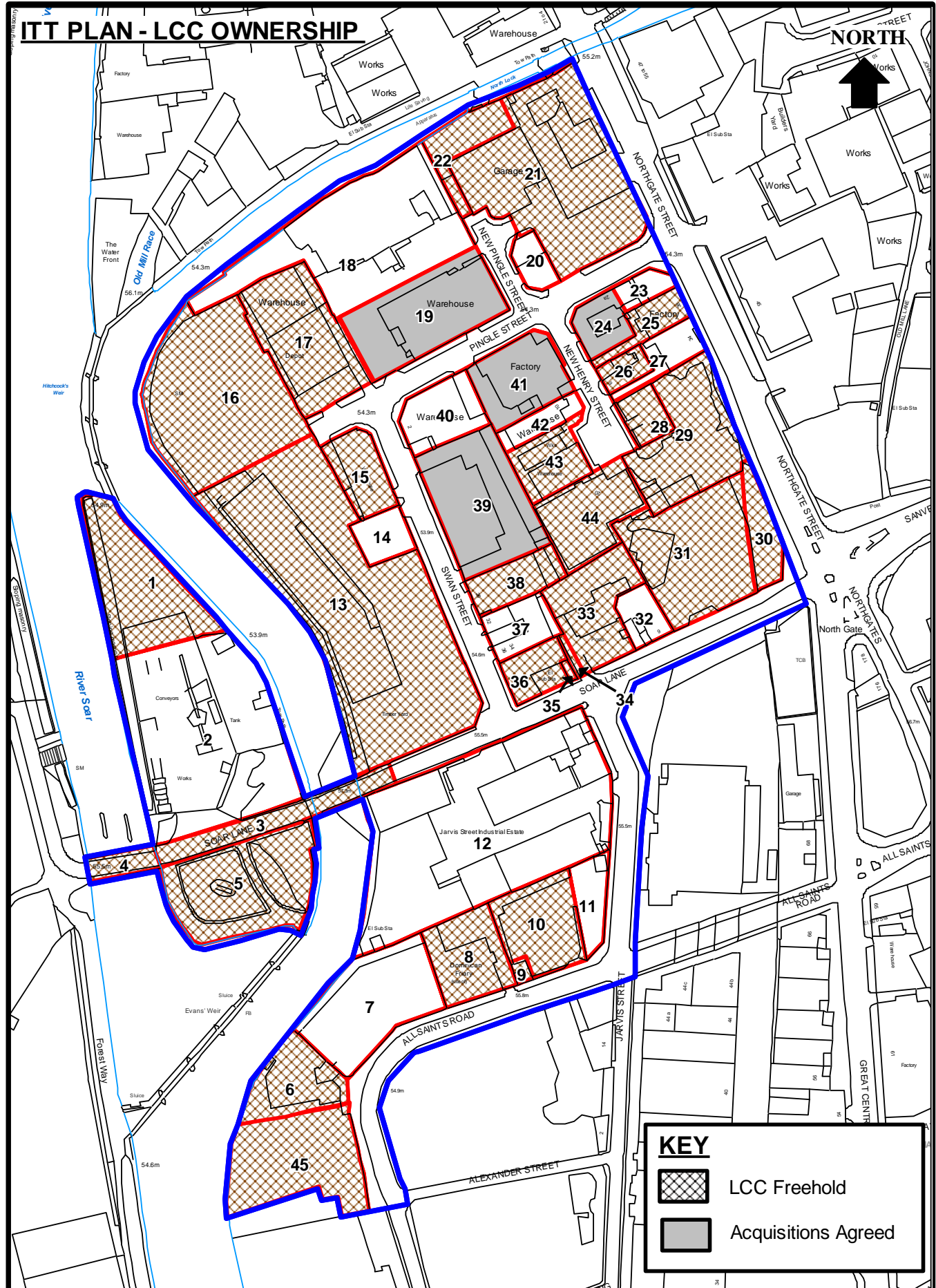
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DIRECTOR OF INVESTMENT
LEICESTER CITY COUNCIL

APPENDIX 2 – SPD AREA



APPENDIX 3 – LCC OWNERSHIP



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