

Cabinet Meeting on Wednesday 15 December 2021

Chatterley Valley West - Project Update



Cllr Philip White, Deputy Leader and Cabinet Member for Economy and Skills said,

“This is a once-in-a-generation opportunity to unlock a major parcel of disused industrial land, close to strategic transport links and provide the opportunity for existing businesses to expand and for new ones to invest in Staffordshire.

The County Council has a proven track record of working in partnership to successfully develop commercial sites which provide jobs and growth in their area, and I am sure Chatterley Valley West will be the same.”

Report Summary:

Creating the right conditions for Economic Growth is a top priority for Staffordshire County Council and is a key foundation for sustaining our future services.

This proposal sets out how Staffordshire County Council’s investment can unlock significant employment land opportunity in an area of recognised socio-economic need.

The proposals in this paper will unlock a 43-hectare (gross) employment site which could generate around 1,700 jobs (depending on the nature of the end users), Gross Value-Added Benefits of £67 million per annum and £60 million of private sector investment

The Chatterley Valley proposals are a good example of our strong track record of working in partnership and our approach to enhanced two tier working with our partners, in this case, Newcastle-under-Lyme Borough Council and the developer Harworth Group.

Staffordshire County Council’s investment will help to create the right conditions for economic growth across the whole of Staffordshire, and will support high quality projects that produce more, better paid jobs for residents.

It is estimated that the full Chatterley Valley West side could deliver around 1.17 million square feet of new commercial business floor space. Industrial land of this scale and quality is particularly scarce across North Staffordshire and is therefore expected to attract strong market demand.

When the site is fully built out, and all payback is complete it could release total business rates of more than £2.5 million per annum. Until March 2041 these business rates will be wholly retained in the local area by the Stoke-on-Trent and Staffordshire Local Enterprise Partnership, given the Enterprise Zone designation of the site and can be invested in further projects to stimulate economic growth in the Newcastle-under-Lyme area.

Recommendations

I recommend that:

- a. Cabinet agrees to part fund the construction of the infrastructure to unlock the site, addressing the viability gap with the developer Harworth Group using prudential borrowing of up to £3.5 million on the basis of the most reasonable financial case scenario set out in this paper, noting that the payback of business rates, through the Enterprise Zone designation, will be secured against the development of a speculative building to be developed out by Harworth Group.
- b. That investment by Staffordshire County Council is conditional on agreeing a Business Rates agreement with the Stoke-on-Trent and Staffordshire Local Enterprise Partnership to secure payback of the investment at the earliest opportunity. The decision regarding the funding of the investment from future Enterprise Zone business rates is scheduled to be considered by the SSLEP Executive Board on 16th December 2021.
- c. Delegated authority is given to the Deputy Leader and Cabinet Member for Economy and Skills in consultation with the Directors for Economy, Infrastructure and Skills and Corporate Services to enter into relevant contractual arrangements pursuant to the delivery of the Chatterley Valley West Development Site.
- d. Cabinet delegates authority to the Director of Economy, Infrastructure & Skills to approve and agree the details of and enter into Section 278 highways works contracts required to bring forward the site noting that £3.682m of Kidsgrove Town Deal funding has been allocated to these works.

Local Members Interest
Cllr Graham Hutton - Bradwell, Porthill and Wolstanton Electoral Division

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Recommendations of the Deputy Leader and Cabinet Member for Economy and Skills

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- c. Delegated authority is given to the Deputy Leader and Cabinet Member for Economy and Skills in consultation with the Directors for Economy, Infrastructure and Skills and Corporate Services to enter into relevant contractual arrangements pursuant to the delivery of the Chatterley Valley West Development Site. The principle of the investment is scheduled to be considered the SSLEP Executive Board on 16th December 2021.
- d. Cabinet delegates authority to the Director of Economy, Infrastructure & Skills to approve and agree the details of and enter into Section 278 highways works contracts required to bring forward the site noting that £3.682m of Kidsgrove Town Deal funding has been allocated to these works.

Report of the Director for Economy, Infrastructure and Skills

Reasons for Recommendations:

1. More and better jobs mean more money in residents' pockets – the essential basis for better health, prosperity and connected communities that are able to act on locally important issues themselves.
2. **Creating the right conditions for economic growth continues to be a key priority for Staffordshire County Council**, directly contributing to our priority outcome for Staffordshire's people to be able to access more good jobs and feel the benefits of economic growth. Moreover, economic growth underpins all of our priority outcomes, helps to secure long term financial stability and is a key contributing factor in shaping the wider determinants of health.
3. Staffordshire County Council's support to this project through investment of £3.5 million will unlock a project which will see more than £60 million of direct private sector investment and has already secured £3.68 million of Government Town Deal funding. The development is expected to see the creation of around 1,670 jobs, and to generate Gross Value-Added outputs of around £67 million per annum when fully occupied.
4. Cabinet agreed to progress feasibility work connected with bringing forward the Chatterley Valley West site in the Cabinet Paper 'Investing in Staffordshire's Economy' in May 2016. The development of the site has been difficult for a number of reasons since that time, due to the difficult nature of development on the site (topography) and wider economic uncertainty over recent years.
5. Since 2018 the site's developers, Harworth Group has made concerted efforts to bring the site forward, successfully applying for planning permission for a revised scheme of earthworks on the site and undertaking substantial ecological and wider enabling works. This in itself represented a significant financial commitment.
6. Staffordshire County Council (SCC) and Newcastle-under-Lyme Borough (NBC) have continued to work closely with Harworth over the whole of this period and this paper sets out the latest position for bringing forward the Chatterley Valley West site as well as recommending how support from SCC can enable its delivery and realise the longer-term socio-economic benefits and outcomes associated with it.
7. Without targeted public sector support, the site is unviable due to the significant on and off-site infrastructure costs associated with bringing the land forward. Its challenging topography (falling a height of 50m from north to south) means that a significant cut and fill exercise is required to develop plateaux which would be suitable for end users.

Moreover, the narrow shape of the site and its former legacy of shallow mine working mean that it has significant development viability challenges.

8. The most recent development appraisal for the site identifies a total viability gap of £7.13m.
9. Through the Kidsgrove Town Deal, funding of £3.68m has been identified, leaving a net viability gap of some £3.447m to enable development to take place.
10. Due to Enterprise Zone (EZ) status of the site (which runs until March 2041), there is the opportunity for public sector organisations to use prudential borrowing, secured against future business rates income (which is wholly retained because of the EZ status) to invest in development projects related to the EZ. It is therefore recommended that SCC uses this financing model to unlock the development site.
11. Initial financial modelling has identified that any borrowing incurred by SCC would be paid back in a 'worst case' scenario by June 2040, using business rates solely secured against a speculative unit that Harworth Estates is prepared to commit to in return for SCC's investment. As additional security against SCC's proposed contribution, SCC would look to place a charge on a part of the Harworth development site
12. In a more reasonable case, which uses business rates receipts from a small unit scheme being proposed by NBC, the payback period is reduced to 2035 and in the event that the full site is developed out (up to a total floor space of 1.17 million square feet) through having a 'first call' on business rates to repay initial borrowing, the payback period could be reduced substantially.
13. In addition to the investment to plug the viability gap through prudential borrowing identified within this paper, a recommendation is also being made to approve the proposed use of a section 278 agreement between SCC and Harworth Group. This would allow for associated highways works to be undertaken through SCC's powers as the relevant highways authority and for relevant delegations to be made to the Director for Economy, Infrastructure and Skills to agree the details of these works.
14. In summary, investment through prudential borrowing by SCC, is directly addressing the market failure (where cost is greater than value) which has led to this site being dormant for such a long period of time and unlocks significant wider investment including £3.68m of Town Deal funding which has been allocated by NBC. Without SCC's investment the substantial private sector investment and subsequent socio-economic

benefits and outcomes associated with bringing the site forward would be lost.

Background:

15. The Chatterley Valley West site is the most significant opportunity to bring forward employment land in the north of Staffordshire, offering 43 hectares (gross) of well located brownfield land adjacent to the A500 Trunk Road. It can accommodate 1.17 million square feet of employment floor space.
16. Due to the site's former legacy of shallow mine workings, access constraints and a challenging topography the site has not been brought forward to date by previous land owners, and hampering the opportunity to attract end users and the employment and wider socio-economic outcomes that they would offer.
17. Chatterley Valley West is situated within the designated Ceramic Valley Enterprise Zone (CVEZ) which enjoys Enterprise Zone (EZ) status until March 2041. It is the only site in the CVEZ to fall under the administrative boundary of Newcastle-under-Lyme and therefore offers a somewhat unique opportunity for local authority partners to use the financial freedoms and flexibilities that EZ status offers.
18. The opportunity to bring forward development on the site is now real, given that planning permission, a fully worked up development strategy and part of the funding package (£3.68m has already been allocated from the Kidsgrove Town Deal) to unlock the site are in place. Using prudential borrowing secured against the wholly retained future business rates receipts from the site, SCC has the opportunity to unlock substantial further investment into the site.

Planning Position

19. The wider Chatterley Valley site has been identified as a site for 'Premium Employment' uses since the mid 1990's when it was identified through the then 'Regional Planning Guidance' and the 'Staffordshire and Stoke-on-Trent Structure Plan'. It has been allocated for employment uses since that time through the saved policies of the Local Plan.
20. In September 2018 Harworth Group submitted a Hybrid planning application which sought outline planning for the principle of employment development on the site and for detailed planning permission in relation to earthworks and the access into the site. This planning application was approved subject to conditions by NBC in July 2019.

21. In June 2021, following revisions to make the earthworks package for the site more cost effective, a further planning application was submitted to NBC, and this was approved by NBC, subject to conditions in September 2021.
22. As such, the development now has the requisite planning consents required to implement the earthworks and servicing packages required. As is customary with large sites such as this, the detail of end users and resultant layout of buildings will be submitted for approval to NBC as 'Reserved Matters' planning applications.

Previous Cabinet Approvals

23. A report was taken to Cabinet in May 2016 titled 'Investing in Staffordshire's Economy'. That report set out SCC's intention to work with developers on two key brownfield employment sites, (Chatterley Valley West which is explored in detail in this paper and the Former Royal Ordnance Featherstone site in South Staffordshire, which is being brought forward by the developer Saint Francis Group) as well as contributing to the IC6 development at Keele (which is now complete and known as the Denise Coates Foundation building).
24. The focus for SCC since 2016 has been to work with both the Harworth Group and NBC to work up a practical and deliverable development strategy for the Chatterley Valley West site, with the public sector partners assisting Harworth where possible and continuing to identify relevant funding opportunities for the development of the site.
25. Working collaboratively, the requisite planning consents for development to commence have been secured and an allocation of £3.68 million grant funding from the Kidsgrove Town Deal has been earmarked to the project, with full Kidsgrove Town Deal Board approval and a funding agreement currently being negotiated with the Department for Levelling Up, Housing and Communities.
26. This paper sets out the current development strategy for the site and the high-level financial case for bringing the site forward using SCC investment of £3.45 million from prudential borrowing secured against future retained business rates receipts from the site.

Site History and Development Proposals:

27. The Chatterley Valley West employment site is a parcel of land situated between the A500 trunk road and the West Coast Mainline railway on the boundary of the administrative areas of Stoke-on-Trent and Newcastle-under-Lyme.

28. The Chatterley Valley West site is wholly within the ownership of the Harworth Group, who purchased land additional to their original ownership from the Powell Family in August 2017.
29. The land is currently in the form of scrub/low value agricultural grazing land and has a significant historical use as mine and quarry workings. Towards the southern end of the site a former railhead once operated for the tipping and movement of coal on to the rail network.
30. These former uses are a key factor in the challenging viability of the site and alongside its narrow shape and topography, which falls approximately 50 metres from the north to the south, mean that there are significant earthworks implications for creating practical development plateaux for end users. The need to provide upfront significant off site infrastructure and access works is an additional challenge to the viability of the development site.
31. Harworth Group has significant experience in the remediation of challenging similar brownfield development sites, in particular those with former coal mining operations. The previous uses have been fully considered in preparing the earthworks and servicing strategy for the site and it is these works which have been consented in the most recent planning application to NBC.
32. The planning application is accompanied by a site masterplan of the potential development on site, focused around 4 development plots (Plots A, B, C and D) which total a net development area of 21.5 hectares (approximately 53 acres). This is attached at Appendix 2.
33. The site is capable of accommodating employment land floor space of up to 109,000m² (or 1.17 million square feet) which will be marketed with planning permission under use classes B2 (General Industrial), B8 (Distribution and Storage) and class E(g) (Office, Research and Development and Light Industrial processes) as well as a modest amount of ancillary development pursuant to servicing the businesses on the site.
34. The flexible approach to planning for the preparation of the development plateaux allows for the optimal marketing of the site to end users and will also help to ensure the site's longer term attractiveness for development.

Development Approach and Viability

35. The experience of our track record of bringing forward similar developments with developers across Staffordshire (such as the recent

Growth Deal intervention at Four Ashes Park) and directly in the case of the i54 Western Extension is that end user requirements are often time-critical and reliant on the evidence of land being readily available at the right time.

36. Mindful of this, Harworth Group has invested heavily over the past 3 years to de-risk and bring the Chatterley Valley West site to the position where, subject to securing funding, a start on site for physical works can commence in Spring 2022.
37. Harworth Group will assume the role of the master developer for the site, instructing all of the physical earthworks and servicing required to create the development plateaux required for plots A to D.
38. Harworth intend to dispose of serviced land at plot A to a specialist large industrial unit developer. This plot can accommodate a large unit of circa 500,000 square feet, which is beyond the floor space parameters of Harworth's usual development expertise.
39. Harworth intend to develop out buildings on behalf of end users on plots B, C and D either on a speculative or pre-let design and build freehold basis, or via a leasehold arrangement with willing lessees and thus would generate additional income from their longer-term interest in the site, beyond receipts from the serviced land.
40. Despite this approach to maximising development value, the development appraisal for the scheme has a total development cost that far exceeds the development value, generating a total viability gap of £7.13m. The scheme would not proceed without gap funding being provided and the significant employment and wider benefits that the scheme can offer would therefore be lost.
41. The total funding contribution requested from the public sector is therefore £7.13m, of which £3.68m has been allocated from the Kidsgrove Town Deal funding and £3.45m is to be earmarked from borrowing by SCC secured against future business rates generated from the site, forming the request of this Cabinet paper.
42. In high level terms, Harworth's development programme for the Chatterley Valley West site is set out below. With a funding package in place, Harworth will tender for works packages to start on site in Spring 2022, with the first development platforms being made available on Plot D by end of 2022. The full site, incorporating the larger development platforms is programmed to be made available by the end of 2024 with a working assumption that all floor space will be ultimately occupied on the site by Spring 2028.

Table 1 – high level development programme

Milestone	Date
Revised Earthworks Planning submitted	June 2021
Planning Approval obtained	Sept 2021
Town Deal Grant Approved	Approved – Funds expected to be made available to NBC by end 2021
SCC prudential borrowing Approved	Expected end 2021
Procurement of contractor completed	April 2022
Primary Civils Works	April 2022 – Dec 2024
Delivery of Plot D development platform	Dec 2022
Delivery of Plot C development platform	Dec 2024
Delivery of Plot A development platform	Aug 2024
Delivery of Plot B development platform	Dec 2024
First end users and occupiers in Plot D	Expected during 2024

Highways Works to Access Site

43. To facilitate access to the site, a new roundabout will be constructed on Peacock Hay Road, which connects directly to the A500 and A34 at the Talke Interchange. These works will be funded by the developer via a Section 278 Agreement (Highways Act 1980). To maintain control of significant works undertaken on the Highway network, SCC will enter into Contract with the successful Contractor.
44. As the works value will be greater than £2 million, this report seeks Cabinet approval to award a contract to undertake these works. The value of the works is subject to final agreement between the developer and Contractor.
45. Within the construction sector acquisitions, mergers and bankruptcy of the Principal Contractor is always a key risk to project completion. In Staffordshire these risks are initially minimised by:
- a. Payments only being made for completed works or goods received; and
 - b. Suitable business continuity arrangements being in place.
46. If the Principal Contractor ceased to operate during the construction of the works, then the site would be made safe until such time as construction progress could be continued by the appointment of an alternative Principal Contractor. The existing SCC Infrastructure+ arrangement with Amey LG Limited has the capacity and capability to deliver works of this nature.

Potential Outputs and Outcomes

47. The economic impacts of the Chatterley Valley West project are significant. At this point in time, it is not possible to estimate the exact nature and number of jobs that will be present on the site once it is fully occupied so assumptions have been made using floor space job density estimates and experience from previous developments. However, in summary they are:

- a. Estimated circa 1670 jobs
- b. Estimated Gross Value Added Benefits of up to £67 million
- c. Direct private sector investment of more than £60 million

Estimated Costs and Funding

48. As highlighted above viability gap funding of circa £7.13m is required for the delivery of a viable development scheme.

49. As a key part of the interventions for the Kidsgrove Town Deal, NBC has been successful in securing £3.682m of Town Deal funding, which has been allocated to the project by the Kidsgrove Town Board and is due to be received by NBC by the end of December 2021.

50. Nevertheless, a viability gap of £3.447m is still evident and it is the intention that this gap funding will be secured by SCC using its prudential borrowing powers to borrow against future business rates receipts from the site, which are wholly retained locally (by the Stoke-on-Trent and Staffordshire Local Enterprise Partnership given that the Chatterley Valley West site is within a designated Enterprise Zone - The Ceramic Valley Enterprise Zone).

51. A business rates agreement will be required between, SCC and the Stoke-on-Trent and Staffordshire Local Enterprise Partnership to formalise the relevant payback mechanism that SCC would wish to enter into. Similar agreements have been successfully taken forward in the past for the i54 development. Assuming Cabinet approval, a recommendation for the SSLEP to make a decision to use the retained business rates from the site is due to be taken to the SSLEP Executive Board on 16th December 2021.

52. In line with the constitutional arrangements of the Ceramic Valley Enterprise Zone, all retained business rates received in Newcastle-under-Lyme will remain within the district and can be used to first pay back any debts associated with prudential borrowing undertaken by the relevant local authorities (in this case SCC).

53. There is agreement at officer level that the first call on business rates should be used to repay prudential borrowing associated with the viability gap funding (£3.447m) required to unlock the development site.

Reasonable Financial Case

54. As a 'most reasonable case' assumption, business rates income from the initial circa 70,000 square feet speculative unit on plot D to be developed by Harworth and a small business units scheme that NBC are currently investigating have been modelled to establish their impact on the overall project payback.

55. For the purposes of the modelling, the Harworth speculative building has business rates receipts estimated as £0.206m per annum which will occur first in the 2024/25 financial year. The business rates per annum from the proposed Newcastle-under-Lyme Borough Council small business units plot are estimated as £0.176m per annum and are assumed to occur first in the 2025/26 financial year.

56. The table below demonstrates that the business rates achieved from these two plots will clear the deficit associated with the borrowing to unlock the site within 14 years, and thereafter will start producing returns that could be used against investment in other priorities identified for the Chatterley Valley West site or wider within the Newcastle-under-Lyme area.

Table 2 – estimated impact on finances

Chatterley Valley EZ - Viability gap	Years														
	Total	21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34	34/35
	£m														
Capital expenditure - Viability gap	3.45	3.45													
Business rates income - Harworths	-5.62				-0.21	-0.21	-0.21	-0.22	-0.22	-0.23	-0.23	-0.24	-0.24	-0.25	-0.25
Business rates income - NuLBC	-4.55					-0.18	-0.18	-0.18	-0.19	-0.19	-0.19	-0.20	-0.20	-0.21	-0.21
Interest charge	0.76	0.09	0.09	0.09	0.09	0.08	0.07	0.06	0.06	0.05	0.04	0.03	0.02	0.01	0.00
Annual surplus / (deficit)	-5.96	3.53	0.09	0.09	-0.12	-0.31	-0.32	-0.34	-0.35	-0.37	-0.39	-0.41	-0.43	-0.45	-0.46
Cumulative surplus / (deficit)	-4.99	3.53	3.62	3.71	3.59	3.29	2.97	2.63	2.27	1.90	1.51	1.10	0.68	0.23	-0.23

57. Once provision has been made to repay this borrowing, subsequent business rate income could therefore be used for investment into other proposals, first and foremost centred on potential end uses at the Chatterley Valley West development site.

Best financial case

58. As more plots become occupied on the wider development site, the payback period will come forward and using very broad financial modelling parameters, the total business rates income from the site over the lifetime of the Enterprise Zone could be in the region of £40 million, meaning that the SCC investment being proposed in this Cabinet paper

could release significant future opportunities for funding wider economic growth in the Newcastle-Under-Lyme area.

59. The potential business rates if the whole site were to be occupied would be in the region of £3m per year and the payback under a scenario of full site occupation would be around 2029.
60. In a scenario where Plot A were to be developed and occupied, alongside the Harworth Plot D and the proposed small business units this would bring forward the payback period to 2035, leaving 6 more years of the Enterprise Zone whereby c. £19m business rates could be generated and reinvested.

Worst financial case

61. In a financial modelling scenario, which excludes the proposed small units scheme being promoted by Newcastle-under-Lyme Borough Council, and only uses the rates underwritten by Harworth Group, the business rate income would clear the debt and associated borrowing costs in 2041. This would represent the 'worst case' scenario. Albeit this scenario is unlikely, especially given that Harworth will be incentivised to maximise business rates generating development on the site as a consequence of their own significant investment in the site and because NBC are also progressing their small business units scheme.
62. The public sector partners are finalising the details of the governance approvals related to the funding strategy which are:
- a. **Grant contributions from the Kidsgrove Town Deal £3.68m** – approved by Department for Levelling Up, Housing and Communities. Funding is expected to be deposited with NBC by the end of 2021.
 - b. **Viability gap funding contribution of £3.447m from Staffordshire County Council** using retained EZ business rates income – SCC Cabinet approval being sought through this report.
 - c. **Approval to use EZ retained business rates for viability gap funding** - approved by CVEZ Project Board on 13th October 2021. Further approval required by SSLEP Executive Board scheduled on 16th December 2021 (following recommendation for approval by SSLEP Strategic Programme Management Group – SPMG (held 29th November 2021)).
63. In summary, the financial investment proposed by SCC is a strong and affordable financial case. The combined public sector investment (from Town Deal Funding and SCC funding - £7.13 million) equates to an

investment of around £4,300 per anticipated job. Moreover, SCC's investment will help to unlock the site, and the subsequent potential private sector investment and opportunity that it will offer. The investment will also provide future funding opportunity for potential projects on the Chatterley Valley site as well as to other potential projects in the Newcastle-under-Lyme area.

Key Risks and Mitigations

64. Some of the key risks associated with the project, and the suggested approach towards mitigating these risks are likely to include:
65. **Opposition or objection to the scheme** - The scheme submitted in the recent planning application has been well received. As a longstanding employment site, that is not immediately adjacent to residential communities the project should not generate local objection.
66. **Attractiveness of site to end users** – Marketing advice provided by commercial property experts Jones Lang LaSalle on behalf of Harworth has confirmed that there is a strong demand for employment land of this quality and size and a shortage of competitor sites across the wider area. There is interest in Plot D from the ceramic company Lucideon and the business case for a scheme of small business units is being developed by NBC.
67. **Project cost and time over runs** – As with all civil engineering projects there are potential risks related to over runs on the project costs and timescale which are often associated with unforeseen events. All such risks will sit with Harworth Group.
68. **Changes to Government Business Rates policy** – As the site is included within a designated Enterprise Zone until 2041 with associated legislation underpinning the zone, the security of receipt of future business rates from the site is strong and should provide SCC with the confidence to commit to the gap funding.
69. **Security of income to payback borrowing and service debt incurred** – as a key mechanism within any funding agreement between SCC and Harworth Group, Harworth will commit to the speculative construction of a 70,000 square foot business unit which will act both as an income stream to ensure payback and as a statement of the 'intent' to develop the wider Chatterley Valley West site, and therefore in the 'pump priming' of the development of the site.
70. **Overall affordability of the project** – the project relies on a combination of funding from both the Kidsgrove Town Deal (£3.68

million) and from the gap funding which forms the basis of this Cabinet paper. The project is not affordable in the absence of either of these funding sources coming to fruition. The Town Deal funding has been secured and is expected to be received by NBC by the end of 2021. With a positive decision by SCC Cabinet to invest in the gap funding and the investment being identified by Harworth Group the project will be fully funded.

71. **Contractor default on highways works** – if the Principal Highways Contractor ceased to operate during the construction of the highways works, then the site would be made safe until such time as construction progress could be continued by the appointment of an alternative Principal Contractor. The existing SCC Infrastructure+ arrangement with Amey LG Limited has the capacity and capability to deliver works of this nature.

Legal Implications:

72. **Land issues** - Harworth owns all of the relevant land required to undertake the project and has provided detail of their ownership and associated land titles.
73. **Highways works** – the highways works are being undertaken through a Section 278 Major Works Agreement on the following basis:
- a. The works will be delivered under the NEC3: Engineering and Construction Contract Option A priced contract with activity schedule. This is consistent with other Section 278 works delivered in Staffordshire.
 - b. The Contract Data will be based on the templates developed by the Highways and Legal teams to deliver works of this nature.
 - c. The Section 278 legal agreement requires the developer to fund all costs associated with the delivery of the works. A Schedule of Costs will be prepared that includes all anticipated costs for works and associated fees. This sum will be transferred to the County Council simultaneously with the signing of the Section 278 agreement and prior to the letting of the works contract.
 - d. The County Council is afforded further protection against the developer defaulting on payments by the ability to place a legal charge on the development land.

e. The award of the contract is expected to be a direct award to the developer's preferred contractor and therefore is an exception to the County Council's internal procurement regulations.

74. **Subsidy control** – A legal opinion has been prepared by DLA Piper on behalf of Harworth Group and the public sector partners in connection with the investment from both the Towns Deal funding and the SCC investment proposed within this paper. The opinion concludes that the public sector investment appears to amount to a subsidy to Harworth in its entirety.

75. However, the public sector investment that does amount to a subsidy appears to be justifiable from a Subsidy Control perspective under the subsidy control provisions of the Trade Cooperation Agreement (TCA) and State Aid precedent (which can be used to interpret the TCA) and there are no "red flags" suggesting that the Subsidies would be unlawful under an eventual Subsidy Control Act.

76. A further analysis of the DLA Piper opinion by SCC's legal services unit concludes that the subsidy in this case would be lawful when considered against the 7 principles for a subsidy to be lawful. Furthermore, when the section 278 works (which will result in benefits to the public highway) are excluded from the overall subsidy being considered, the total subsidy amounts to circa 5% of overall costs and therefore deemed to be lawful in subsidy control terms.

Resource and Value For Money Implications

77. The financial considerations of the proposed investment are considered in further detail in the report above.

78. The highways works are funded by the developer via the Section 278 Agreement as described above.

Conclusions:

79. Staffordshire County Council continues to proactively plan for and identify the best opportunities to create the right conditions for increased employment in more and better jobs, improving the productivity and skills base of Staffordshire's economy.

80. Supporting the development of the Chatterley Valley West site, by way of gap funding to address the viability challenges associated with developing out the site will allow Harworth Group to undertake the site preparation and servicing works which will unlock this key development site, encourage more and better jobs for Staffordshire people and make

a significant contribution to the Staffordshire economy. In identifying these opportunities, Staffordshire County Council is acting as a true leader in the growth of the Staffordshire economy.

List of Appendices:

Appendix 1 – Site Location Plan

Appendix 2 – Indicative Site Masterplan

Contact Details

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