

# RIBBLE VALLEY BOROUGH COUNCIL

## REPORT TO POLICY AND FINANCE COMMITTEE

Agenda Item No. 5

meeting date: TUESDAY 22 JANUARY 2019  
title: RE-DEVELOPMENT OF CLITHEROE MARKET SITE - UPDATE  
submitted by: DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING  
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### 1 PURPOSE

- 1.1 To receive an update on the market area re-development project and agree a way forward in respect of a development scheme for this site.
- 1.2 Relevance to the Council's ambitions and priorities:
- Community Objectives – To encourage economic development and sustain a strong and prosperous Ribble Valley.
  - Corporate Priorities – To continue to progress the re-development of the town centre and market site
  - Other Considerations – To ensure the Council is a well-managed and efficient authority.

### 2 BACKGROUND

- 2.1 Since 2014 discussions have been ongoing in respect of a scheme for the redevelopment of the Clitheroe Market Quarter Development.
- 2.2 On 1 December 2015, following a procurement process, Barnfield Construction Limited were selected as the preferred bidder to deliver their scheme submitted as part of the procurement process. The letter sent to Barnfield states that, following the mandatory 'standstill' period, assuming no challenge is received that Barnfield would be awarded the contract subject to the production and signing of the necessary development agreement.
- 2.3 Whilst no formal contract was awarded following the standstill period the Council have continued to work with Barnfield and as such it is likely that Barnfield would consider that they have been treated as having been **awarded** the contract. It is however important to note that **implementing** the contract requires the development agreement to be settled, completed and then overcome any external factors affecting conditionality before it becomes unconditional and development work commences.
- 2.4 In July 2016 a proposed scheme for the market development was subject to a public consultation exercise. Following this consultation the Market Development Working Group concluded that the scheme should be amended to respond to the comments received.
- 2.5 At Policy and Finance Committee on 19 June 2018 Members considered the amended scheme which saw a reduction in the scale of development and consideration of the level of leisure offer within the development and agreed the following actions:
1. Approve the scheme as now proposed in principle for it to move to the next stage;

2. Agree that Heads of Terms, a Development Agreement and Financial Appraisal be prepared based upon the scheme as now presented and reported back to this Committee for consideration; and
  3. Delegate to the Chief Executive, in consultation with the Chairman and Vice-Chairman of this Committee, a strategy for publicising the scheme as it develops.
- 2.6 At Policy and Finance Committee, on 25th September 2018, Members agreed that rather than progress with the actions agreed at the June Policy and Finance Committee a further report would be brought to a later Committee to advise Members on alternative ways forward for the redevelopment of this site.

### 3 PUBLIC PROCUREMENT

3.1 As Members will be aware the project has been subject to an extensive procurement process under the OJEU framework utilising the competitive dialogue approach to selecting a developer. This allows bidders to develop alternative proposals in response to a client's online requirements. Once the preferred bidder has been selected, there is an opportunity to clarify aspects of its final tender or confirm commitments contained in the final tender. However this is provided that this does not have the effect of modifying substantial aspects of the final tender and does not risk distorting competition or causing discrimination.

3.2 As noted above the current Barnfield scheme is reduced in respect of scale and end uses when compared to the final tender scheme submitted (which identified Barnfield as the preferred developer). In this case the Council need to be confident that the changes do not distort the competitive tender process or modify substantial aspects of the final tender. Case law has set out the three situations in which an amendment would be a material amendment leading to the requirement to procure a new contract. These are:

- It would have changed who bid or won the contract;
- It extends the scope considerably to encompass [services] not initially covered; or
- It changes the economic balance of the contract in favour of the contractor in a manner not provided for in the original contract.

3.3 The Council needs to ensure that it achieves best consideration as well as an affordable and viable financial appraisal to establish value for money in respect of this scheme, in accordance with Section 123(2) of the Local Government Act 1972. Members are advised that these matters will need to be fully considered when progressing any development scheme on the market site

### 4 FUTURE HIGH STREETS FUND

4.1 In December 2018 the Ministry of Housing, Communities and Local Government (MHCLG) published a call for expressions of interest to bid for part of the £675m Future High Streets Fund. This fund is intended to renew and reshape town centres and high streets in a way that improves experience, drives growth and ensures future sustainability.

4.2 The competition for the fund will take place over two phases:

4.2.1 Phase 1 is this light-touch process calling for Expressions of Interest by 22 March 2019.

- 4.2.2 During Phase 2 the shortlisted places will develop their strategic vision and full business cases. Places successful in moving to Phase 2 will receive capacity funding to support this. Based on the strength and merits of the final business cases, a decision will be made on which projects will receive capital funding and any further revenue funding.
- 4.3 The Fund will contribute up to a maximum of £25 million to each successful place however MHCLG are expecting to see a range of project sizes coming forward in the region of £5-10 million per town centre.
- 4.4 MHCLG are seeking proposals that cover high streets or town centres with high levels of social and economic activity, that contain a variety of uses and functions and that act as important service centres for extensive catchment populations.
- 4.5 Given the control local authorities have over the strategic levers that will be necessary to bring forward the types of projects this Fund is designed for, MHCLG have stated that local authorities are best-placed to bid for the funding and develop and deliver proposals.
- 4.6 Whilst town centre areas that are not facing significant challenges will not be eligible for the fund it is considered that Clitheroe Town Centre does have its own specific challenges. The Town Centre experiences retail spend leakage outside of the Borough and the market has seen a decrease in footfall within recent years with an increase in vacant stalls. Clitheroe has a unique offer of independent stores which could be enhanced to improve the visitor experience demonstrating that the Authority is 'future-proofing' the town centre to enable its continued success. As such there is an opportunity to submit an expression of interest for this fund.
- 4.7 A Town Centre Masterplan was developed for Clitheroe however this is nine years old now. This plan and vision for the Town Centre can be revisited to support a bid to the fund. This will enable consideration of new developments and improvements in respect of the wider Town Centre rather than individual elements of the Town Centre.

## 5 OPTIONS

- 5.1 The Council is committed to bringing forward a scheme for the redevelopment of the market area but this needs to be done in the context of delivering the right development for the Town Centre. Given the Council's ambitions for Clitheroe Town Centre and the announcement of the Future High Street Fund there are other options for delivering the Council's vision for the wider Clitheroe Town Centre.
- 5.2 In this regard Members are asked to consider the following options:
- 5.2.1 Continue working with Barnfield Construction on the market site as the identified preferred bidder based upon the original procurement exercise (subject to full consideration of any changes to the tendered scheme).
- 5.2.2 Terminate the original procurement exercise and work up an expression of interest for the Future High Streets Fund based upon developing a vision for the wider Town Centre with the market site forming one element of wider improvements to the Town Centre.

## 6 RISK ASSESSMENT

- 6.1 The approval of this report may have the following implications:

- Resources – no formal contract was awarded to Barnfield Construction however work has undertaken with Barnfield since December 2015 with associated costs. Additionally the Council have incurred costs in respect of the procurement exercise and re-procuring the development would incur further costs to the Council.
- Technical, Environmental and Legal – Competition for the Future High Street Fund is likely to be high and the Council may not be successful in the first round of bids (a second round is expected but not until 2020 at the earliest). The work undertaken on submitting the Expression of Interest however will look at refreshing the vision for the wider Town Centre enabling consideration of the right type of development/ improvements to the wider Town Centre rather than the individual market site.
- The suggested options will delay the redevelopment of the market site and consideration of the maintenance of the market will need to be considered. At present maintenance has been reactive rather than identified investment and further delays would impact on the traders decisions about their business investment.
- Political – The Council has made a commitment to bring forward a scheme for the redevelopment of the market area however this needs to be in the context of what is appropriate for the wider Town Centre
- Reputation –terminating the procurement exercise could reduce the Council's credibility and may result in less bidders seeking to take part on future Council procurements.
- Equality & Diversity – None.

## **7 RECOMMENDED THAT COMMITTEE**

- 7.1 Decide which of the following options would meet Members aspirations for Clitheroe Town Centre:
- 7.1.1 Continue working with Barnfield Construction on the market site as the identified preferred bidder based upon the original procurement exercise.
- 7.1.2 Terminate the original procurement exercise and work up an expression of interest for the Future High Streets Fund.

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