



Belfast City Council

Report to:	Strategic Policy & Resources Committee
Subject:	Land Contamination, Gasworks Estate
Date:	21 May 2010
Reporting Officer:	Gerry Millar, Director of Property & Projects, Ext. 6217
Contact Officer:	

Relevant Background Information

Members will be aware that following closure of gas production in the City a major land remediation project of the Gasworks site was undertaken by Council in mid-1990's following initial decommissioning and removal of the gas production infrastructure by Department of Economic Development. Council's remediation involved the removal of a surface layer of contaminated material to be replaced with "clean" material. Council appointed Parkman as consultants to oversee this land remediation project to meet the required standard prescribed by Department of Environment (Guidance on the Assessment and Redevelopment of Contaminated Land) that would permit future commercial development on the former Gasworks site.

Following remediation and provision of road and service infrastructure by Council various plots were leased to the private sector for development. Appropriate development was subsequently undertaken in accordance with legal agreements which required the developer to secure appropriate planning and all other relevant statutory consents and approvals.

To date in excess of £150 million of private sector investment has been secured in development of the former Gasworks site. The last development to be completed (Ormeau Gasworks Ltd – Plot 6) received its planning consent in April 2006.

A number of subsequent planning applications in respect of the former Gasworks site made by Helm Housing (formerly BIH Housing Association Ltd) in September 2007 to extend an existing social housing scheme and Cusp Ltd for a new 169-bed hotel made in March 2008 have been severely delayed in the planning system as a result of intervention by Northern Ireland Environment Agency (NIEA) who are seeking clarification and assurances on environmental issues.

In particular NIEA are concerned with potential negative environmental effects of development upon a naturally occurring aquifer in bedrock located beneath the Gasworks site. It is understood that NIEA require detailed reports on identification, monitoring and management of potential pollution risks to this aquifer associated with construction/use of the respective developments.

The backdrop to NIEA's particular concerns are rooted in a recent European Directive on Environmental Liability and impending implementation of Part III of the Waste & Contaminated Land (Northern Ireland) Order 1997 which focus on prevention and remediation of environmental damage arising from the development of brownfield sites.

Members are reminded of the ongoing work to bring forward development of the Gasworks Northern Fringe and in this regard are presently seeking to secure outline planning permission. Planning Service require a detailed report on land contamination to be submitted as part of this outline application which has been undertaken.

Given the historical use of the Gasworks site the Council agreed to renewal of the environmental insurance policy (including the majority of the Northern Fringe lands) at its meeting of 17th January 2007 which is aimed at protecting Council should any subsequent claims arise from the previous contaminated condition of the remediated land.

However, given the NIEA recent interventions and the possibility they could include the Gasworks as a special site over which they take control if legislation is in place the Council's Environmental Protection Unit (EPU) have recommended that professional environmental advice is sought by Council in respect of ownership of the Gasworks as a brownfield development site. This work will identify a strategy for Council's current environmental management and future development of the site.

Key Issues

- Part III of the Waste & Contaminated Land (Northern Ireland) Order 1997 has yet to come into force in the Province but will be retrospective in its application. This is already impacting on current planning applications awaiting a decision and could have consequences for development already completed in the Gasworks Estate.
- The European Directive on Environmental Liability came into force in Northern Ireland in July 2009 which basically implements the "polluter pays principle" Subsequent legal case law in England tends to supports this assertion which could leave the Council liable to legal challenge in relation to statutory obligations arising from ownership and development of the Gasworks site.
- An underground body of water (aquifer) is contained in the Sherwood sandstone beneath the Gasworks site. This forms part of a much larger aquifer known as the Lagan Valley aquifer stretching from Lisburn to Belfast Lough. This aquifer is utilised as a naturally occurring sustainable supply of drinking water in, for example, Clare House. Potential contamination of this aquifer from the Gasworks site is of primary concern to NIEA when considering the current planning applications from Helm Housing and Cusp Ltd.
- The Council in 2006 endorsed Cusp's proposal to develop a second hotel within the Gasworks Estate. Council officers have met with NIEA, on behalf of Cusp Ltd, on a number of occasions in an attempt to progress this planning application towards a successful outcome.
- Helm's predicament of having already proceeded to construct a second phase of public sector sheltered dwelling scheme consisting of 14 new apartments have failed to secure the necessary planning permission which has resulted in this completed development remaining unoccupied. Part of the development is constructed on the former Gasworks land and acquired from Council in 2002.
- NIEA advise the Planning Service in relation to environmental issues arising from proposed development and whilst they have not yet made formal

recommendations on the Cusp and Helm Housing applications they have indicated that based on information, or perceived lack of information, provided thus far that they would recommend refusal of both schemes.

- Council's EPU have responsibility for human health issues and are statutory consultees in the planning process. In this regard EPU would recommend approval of both the Cusp Ltd and Helm Housing applications.
- RPA Consultants have undertaken a recent borehole survey on the Gasworks Northern Fringe and have provided Council with a land contamination report to be submitted as part of Council's outline planning application.
- In order that Council continue to manage and secure appropriate development of the Gasworks site a three stage approach is initially proposed by EPU as follows:
 1. To produce a Preliminary Risk Assessment inline with UK policy for the management of brownfield sites.
 2. To produce a legal review and opinion on the liabilities associated with the Gasworks site.
 3. To produce a strategy for the management and future development of the Gasworks site.
- In line with Council's Procurement Policy, tenders will be invited from suitably qualified professionally consultants with relative experience in the management and development of brownfield sites.

Resource Implications

Financial

It is estimated that the cost for the initial three phases of the work identified by EPU will be between £20-£30k and provision will be made from the Capital Programme approval for the Northern Fringe.

Council needs to be aware of liabilities in addressing obligations arising under the legislation governing ownership and development of brownfield sites, such as the Gasworks site.

Securing the financial potential of the Gasworks Northern Fringe is dependant on Planning Service granting the necessary planning permissions.

Human Resources

There are no additional human resource implications for Council over those already committed to working on this issue.

Asset and Other Implications

Correct identification and management of the risks associated with the statutory requirements arising from brownfield ownership and development is essential to maintain the development potential of the Gasworks Estate.

Realisation of the latent development potential of the Gasworks Northern Fringe will depend upon securing appropriate planning permissions.

Recommendations

It is recommended that the Committee agree to approve the commencement of a procurement exercise and that delegated authority is given to the Director of Property and Projects to award the contract in line with the evaluation criteria.

Decision Tracking

N/A

Key to Abbreviations

NIEA – Northern Ireland Environment Agency EPU – Environmental Protection Unit

Documents Attached

None
