

3MG EXECUTIVE SUB BOARD

At a meeting of the 3MG Executive Sub Board on Thursday, 12 January 2012 in the The Board Room - Municipal Building, Widnes

Present: Councillors T. McInerney (Chairman), Nelson and Stockton

Apologies for Absence: None

Absence declared on Council business: None

Officers present: L. Derbyshire, B. Dodd, J. Hayes, S. McDonald, M. Reaney and W Rourke

ITEMS DEALT WITH UNDER POWERS AND DUTIES EXERCISABLE BY THE SUB-BOARD

Action

ESB4 MINUTES

The Minutes of the meeting held on 30 June 2011 were taken as a correct record and signed.

ESB5 REGIONAL GROWTH FUND (RGF) GRANT

The Board considered a report which sought authority to draw down the first instalment of grant funding following a legal agreement with the Government's Business, Innovation and Skills (BIS) Office for £9m Regional Growth Fund (RGF) grant.

The Board was advised that the Executive Board on 9 December 2004 (EXB162) adopted the Ditton Strategic Rail Freight Park Masterplan, now known as 3MG (the Mersey Multimodal Gateway). The Business Innovation and Skills office had offered a Regional Growth Fund allocation of £4.5m towards the remediation works to be carried out by the Stobart Group and £4.5m towards the provision of additional rail sidings to serve HBC Field and the wider 3MG area.

The Board was further advised that the Council had adopted the 3MG Masterplan in December 2004. The 3MG programme had been included in the Council's Corporate Plan, the Halton Partnership and Halton Borough Council

Urban Renewal Strategy and Action Plan, and supported the Council's Urban Renewal corporate priority. In addition, it was reported that the Regional Growth Fund grant funding was essential to facilitate the delivery of 3MG.

Furthermore, it was reported that the Business Innovation and Skills Office had offered £9m Regional Growth Funding to progress 3MG. These funds were offered on condition that the Council entered into an agreement.

The funding offer, however, placed the balance of risk with the Accountable Body, in this case Halton Borough Council (HBC). Although some of the risks had been negotiated away, the most prominent risks for the Council remained as follows:-

- The Council must comply fully with the offer letter which included external verification of the claims;
- There was a specific clawback provision which would require the council to repay grant if the job target was not met. However, in turn, Halton would also enter into a clawback agreement with The Stobart Group to underwrite and share the risk in the event that the jobs or investments did not materialise or was reduced; and
- The responsibility for State Aid compliance rested with HBC. For this reason Halton would take advice regarding the potential implications of European Commission rules and regulations and implement appropriate procedures to monitor the project as it developed.

In conclusion, it was reported that these risks were similar to those previously accepted by Members in connection with other projects such as the Widnes Waterfront.

RESOLVED: That

- (1) Authority be given to the Operational Director for Economy, Enterprise & Property to negotiate funding drawdown arrangements with the Office for Business, Innovation and Skills to make the first claim from a £9m grant to undertake land remediation of 100 acres of brown field land; and provide rail infrastructure to open up HBC Field in order to prepare the 3MG site for private sector occupation and

Operational Director – Economy, Enterprise & Property

development; and

- (2) The Council enters into a clawback arrangement with the Stobart Group to share the risk.

ESB6 MARSH BROOK

The Board considered a report which sought authority to enter into a contract with the Stobart Group in respect of the future flood risk management of Marsh Brook.

The Board was advised that the Council had been working in partnership with the Stobart Group since 2007 in order to bring forward development of 200 acres of brownfield land within Stobart's ownership. The development of this land was an integral part of the 3MG Masterplan and the aspiration to create up to 5000 new jobs at 3MG.

The Board was further advised that site development, comprising of a 528,000 sq ft distribution warehouse had been undertaken during 2009. Site preparation works had included the improvement of Marsh Brook, the realignment of the channel and the construction of a new outfall culvert to the River Mersey. The existing culvert, which was sited on land occupied by the Trans Pennine Trail and owned by the Council, had become blocked and as riparian owner, the Council had been responsible for its maintenance. However, to enable the Development to proceed, the culvert construction work had been planned to be undertaken and paid for by the Stobart Group.

It was reported that during the infrastructure design stage, the Stobart Group and their Consultants had liaised on their proposals to improve Marsh Brook with the Environment Agency (EA), who were the Regulatory Authority for such matters. However, due to the demanding time constraints in delivering the development, work had commenced prior to receiving formal Land Drainage Act Consent from the EA. Furthermore, unforeseen issues and difficult site conditions during construction necessitated amendments to the proposals that were originally submitted to the EA.

Furthermore, it was reported that in order to keep to the development programme, the Marsh Brook improvement works had been completed without EA Consent. These works subsequently proved to be not acceptable to the EA in terms of obstructing flow and maintaining a natural gradient

along the Brook.

As a consequence in March 2010 the EA served notice on Westlink Holdings (the registered land owners who were a subsidiary of the Stobart Group) to rectify the unconsented works. Unfortunately, matters had not been resolved and there was an ongoing legal dispute between the two parties.

In addition, it was reported that the Council had liaised with both parties, who were seeking to reach agreement, in an attempt to find an acceptable and amicable solution. The EA had indicated that they would be prepared to accept the current arrangement of Marsh Brook and would not proceed with their prosecution if an approved maintenance plan for Marsh Brook was put in place for a period of 30 years and the Council agreed to underwrite the flood management responsibility, which it would have a statutory obligation for from April 2012. Therefore, it was reported that the EA had agreed to cease the legal challenge.

It was reported that the Council guarantee would only be activated following default by Westlink and the Stobart Group, or their successors in title in respect of the flood risk management aspect of Marsh Brook. This agreement would be for 30 years and the Council would be paid in advance the estimated maintenance costs of £164,000. This money would be held by the Council on a reducing scale for the 30 years and a proportion of it would be refunded annually to the Stobart Group for every year the Council had not had to intervene and undertake the maintenance.

In conclusion, it was reported that it was imperative that the next phase of Stobart Park commenced at the earliest opportunity as job creation was key to the ongoing success of 3MG and resolving this existing dispute would pave the way for the next phase of the development.

RESOLVED: That Authority be given to the Operational Director for Legal & Democratic Services to enter into a legally binding contract with the Stobart Group and other interested parties in respect of future flood risk management of Marsh Brook.

Operational
Director – Legal &
Democratic
Services

MINUTES ISSUED: 12 JANUARY 2012

CALL IN: 19 JANUARY 2012

Any matter decided by the 3MG Executive Board may be called in no later than 19 January 2012

Meeting ended at 3.10 p.m.