

Subject:	Shoreham Harbour Regeneration		
Date of Meeting:	17 September 2009		
Report of:	Director of Culture & Enterprise		
Contact Officer:	Name:	David Fleming	Tel: 29-2700
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Key Decision:	Yes	Forward Plan No: CAB11908	
Wards Affected:	Hangleton & Knoll; South Portslade; Wish		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 In September 2007 Policy & Resources Committee agreed to work collaboratively with the proposed project partners and neighbouring authorities in developing new regeneration proposals and a Joint Area Action Plan (JAAP) for the Shoreham Harbour area. In June 2008 the Cabinet Member Meeting for Enterprise, Employment & Major Projects approved the terms of reference for, and appointed, appropriate representatives to sit on a Joint Member Steering Group. In January 2009, the Environment Cabinet Member Meeting approved the Shoreham Harbour Interim Planning Guidance produced with Adur District Council (ADC) and West Sussex County Council (WSCC). This was prior to the production of the JAAP to guide the regeneration proposals for the wider Shoreham Harbour area.
- 1.2 The changing funding position presents some short term challenges to the project. As a result, a review is underway which will focus on how Growth Point funding, and funding contributions from SEEDA and the Homes & Communities Agency (HCA), can be utilised to ensure continued progress and to safeguard the substantial investment in the JAAP already made.
- 1.3 The development of the JAAP for Shoreham Harbour is now well advanced, but key issues remain to be resolved including transport, flood risk, land reclamation, and economic development. Continued investment in these issues will support the Core Strategies of BHCC and ADC and ensure the project is well positioned for longer term funding.
- 1.4 The purpose of this report is therefore to provide and update on Shoreham Harbour Regeneration. Essentially, the same report went to WSCC's Cabinet Briefing Meeting on 21 July and ADC's Full Cabinet on 23 July 2009.

2. RECOMMENDATIONS:

- 2.1 That Cabinet notes the progress of the project.
- 2.2 That Cabinet reaffirms the council's commitment to the production together with Adur District Council and West Sussex County Council of a Joint Area Action Plan

for Shoreham Harbour that will test the capacity of the harbour area and provide the planning framework to guide delivery over the next 20-30 years.

- 2.3 That Cabinet endorses the approach to investment in the key work strands subject to short term cashflow issues being resolved and an overall project review.
- 2.4 That Cabinet agrees in principle to establish a Joint Committee with ADC and WSCC to steer the project forward subject to terms of reference being agreed at a future Cabinet meeting.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 The regeneration of Shoreham Harbour has long been an objective of the three local authorities: BHCC, ADC and WSCC and the Shoreham Port Authority (SPA). This desire has been driven by an underperforming coastal economy, worsening deprivation, the need for port modernisation, underutilised land in and around the port, and the challenge of finding strategic land for housing and economic growth given the physical and environmental constraints of the sub-region. In 2006 a reappraisal of the project concluded that a much larger scheme of *up to* 10,000 homes and 8000 jobs may prove viable. A statutory Joint Area Action Plan (JAAP) was proposed as the instrument for testing the proposals.

3.2 The emerging JAAP sets out the following ambitions:

- A sustainable balance of housing and employment uses.
- A place making approach which respects the distinct character of local areas and creates a new community with a strong sense of place.
- Ensuring that the development embraces and addresses the needs of the existing community, and integrates with it.
- Exemplary environmental standards to ensure that the development complements the area, improves local infrastructure, and does not create congestion and strain on existing infrastructure.
- Appropriate 'urban' density levels that facilitate a financially viable scheme and provide the critical mass for the ongoing maintenance of local services and businesses.
- Provision of suitable commercial accommodation aligned with a robust economic development strategy.
- Consolidation of the port into a central core utilising reclaimed land and releasing existing port land, while retaining wharf capacity to meet the requirements of the minerals and waste planning authorities.
- Maintenance of public access to Southwick beach.
- Adoption of a comprehensive approach to flood risk management.
- High level of accessibility to key services by sustainable modes.

Funding and delivery

3.3 Over the last two years significant progress has been made on the technical work, the JAAP, and the development of a strong partnership made up of the local authorities, SPA and key government agencies.

- 3.4 Financial support for the project has, until now, come from SEEDA alongside substantial staff and in-kind contributions from the local authorities and partner agencies. In 2007 SEEDA approved a £2.95 million of funding to progress all of the studies and technical work required to progress the JAAP. Some of this has been channelled through the local authority with ADC acting as the 'Accountable Body'. Some has been channelled directly by SEEDA to consultants. In September 2008, Shoreham Harbour was granted provisional Growth Point status, which led to an award of £3.23 million from government. (However, following recent re-profiling and reprioritisation across budgets in order to fund the Government's Housing Pledge – Building Britain's Future, Shoreham Harbour's provisional allocation for 2010/11 has been cut by £800,000 making the total award £2.53m). The HCA, in December 2008, agreed to match SEEDA's contribution with a further £2.95 million. Whilst only some of the SEEDA funding has been released and spent to date, it was on the basis of this *overall* funding package that the JAAP Team was established and a series of studies commissioned.
- 3.5 In March 2009 SEEDA announced a major review of their operations following a £50 million budget cut. Initially SEEDA has indicated that the impact of this will be that, with immediate effect, no further funding will be made available to the local authority beyond the £1.007m already released. In parallel, the HCA has faced funding constraints and has not been able to confirm any of the £2.95 million it had earmarked for the project. Against this backdrop the local authority leaders met in April and agreed to continue to progress the JAAP and explore options for a Special Purpose Vehicle to drive delivery of the project (see para.6.5 below).
- 3.6 Following a series of discussions and meeting throughout May and June 2009, SEEDA and the HCA have indicated that they may be able to provide some immediate additional revenue support. In parallel, the local authorities are investigating the extent to which the Growth Point funding, awarded to the three authorities mainly as capital, can be used to complete the JAAP and associated work. However, these funding sources *are not yet* available to support on-going revenue requirements and the usual strict rules defining the use of capital funding do not favour the kind of works needing to be undertaken without the guarantee of a capital asset being produced with a reasonable time frame.
- 3.7 The effective withdrawal of SEEDA as the main funding agency, and the emergence of Growth Point as the main current funding source, has created the conditions for a greater leadership role for the local authorities. Over the past two years a strong partnership of the local authorities and partner agencies has developed, and this continues to provide the basis of a new structure that will now take the project forward. However, in recognition of the short term cash flow issues and the longer term change in funding structure, a review process is underway and further expenditure by ADC, as the Accountable Body, is temporarily on hold. What is likely to emerge from this review is a new project management structure, budget, and procurement strategy that will reflect this new position and put the local authorities in greater control of the project. The local authorities will continue to work closely with the key partners, particularly the HCA as a long term funding partner, and the Port Authority as a primary landowner.
- 3.8 Following a meeting of the leadership of the three local authorities on 9 July, a

letter was sent to the Secretary of State for Communities & Local Government setting out the local authority position and commenting upon the stance taken by SEEDA and HCA in particular. A copy of this letter is attached as Appendix One to this report.

Joint Area Action Plan

- 3.9 The three authorities are committed to producing a JAAP that will test the capacity of the harbour area, and provide the planning framework to guide delivery over the next 20-30 years. The JAAP together with proposed amendments to policy DA7 (the Shoreham Harbour Area) is referred to in the recently published proposed amendments to the Core Strategy, which is due to go to full Council for approval in November 2009. It is recognised that the harbour is an area of change and that over this period development will take place with or without a planning framework. The JAAP will provide the framework to enable development to come forward that meets local expectations and delivers the required infrastructure. Without a robust planning framework, it is likely that development will come forward in a more piecemeal fashion and is unlikely to deliver the local benefits and strategic investment that are required.
- 3.10 A progress report on the JAAP was formally presented to the local authorities in March 2009, and the development of the JAAP is now well advanced with many of the studies complete and the need to test the robustness of the evidence base underpinning the JAAP. A public consultation is being planned for October 2009 but in the light of the funding issues, the timetable for the JAAP is being kept under review and is subject to change. However, what is already clear is that there are a small number of key issues that require continued investment. These are transport, flood risk management, land reclamation, economic development, and progress to establish a Special Purpose Vehicle. These issues are so fundamental to the project that further delay on these key work strands pose serious risks to the soundness of the BHCC and ADC Core Strategies and ultimately the JAAP. Continued investment in these will not only support the planning policy but will potentially unlock longer-term funding sources.

Key work strands

- 3.11 Transport
A new regime has been established for the transport work. This puts WSCC and BHCC, as the highways authorities, in greater control of the strategy. A key element of the strategy is the production of a business case for a new Coastal Transport System which brings together the WSCC Coastal Expressway and the former BHCC Rapid Transit System proposals into a new combined project. The development of this business case, alongside the overall transport strategy, is critical for ensuring that existing allocations of £23 million in the Regional Transport Board budgets are safeguarded and that a Community Infrastructure Fund 2 bid worth £5 million approved by Ministers on behalf of the Department for Communities & Local Government and the Department for Transport on 4 August 2009 can be successfully delivered. Critical to this is the commitment of WSCC and BHCC to fund this work and submit this business case by December 2009. It is proposed that some of the Growth Point funding be channelled into supporting this work. The finance officers from the three local authorities are currently

discussing this in detail.

3.12 Flood Risk Management

The local authorities are working closely with the Environment Agency to resolve flood risk issues. A formal Memorandum of Understanding has been signed by the partners to set out how the process will work. This document is an expression of the commitment by all partners and gives greater certainty to what is a key element of the project. Further work to prove the case on flood risk is required to make credible the Core Strategies and JAAP, and to cement Environment Agency support for the project.

3.13 Port Masterplanning, Land Reclamation and Harbour Revision

Port consolidation into a central area utilising reclaimed land is a key component of this project. The early resolution of the layout options for the port, and initial work on the Harbour Revision Order that will facilitate port reconfiguration is now considered to be of fundamental importance. This work will not only support the spatial planning for the area but will help to ensure continued port commitment to the project, without which the project aspirations cannot be achieved.

3.14 Economic Development

This project was conceived as a job creation and business growth project of sub-regional significance. Further work is required to produce an economic development strategy for the sub-region, and to develop inward investment strategies that will ensure employment, skills and enterprise growth is achieved.

3.15 Special Purpose Vehicle (SPV)

Alongside these work strands, the authorities have previously agreed to explore the options for the establishment of a Special Purpose Vehicle. This element remains crucial to the overall delivery of the project and in the current climate would send out a clear message to other partners about commitment to the project. If agreed, an SPV would also help to facilitate more binding commitments from the HCA and potentially other funding agencies including the Environment Agency. Detailed discussions need to take place with SPA, and there needs to be greater involvement of the local authorities than previously has been the case and a clear understanding of the long term commitment of the HCA and SEEDA. A brief is being prepared by the Partners' lawyers to invite solicitors' firms with the appropriate knowledge and experience to develop and deliver clear guidance to the Partners on the options for governance of the project in the short, medium and long term and to assist with the drafting of appropriate documentation in respect of the preferred option. Cabinet will in due course need to decide what their preferred option is. This piece of work will be undertaken at no direct cost to the council.

3.16 Establishment of Local Authority Joint Committee

Members of all three local authorities have been attending the Shoreham Harbour Joint Member Steering Group since its establishment in August 2008. It has been suggested by the Leaders that a more formal arrangement by a Joint Committee be established to improve and strengthen decision making and to steer the project forward. This will provide the authorities an opportunity to review the membership of the Joint Committee before confirming their nominations. This would be an important step in the process to develop a suitable SPV. Cabinet is asked to

support this proposal. As with other Joint Committees, e.g. Shoreham Airport, the Committee will not have the ability to commit council resources without referral back to the individual authorities' Cabinet meetings unless it is expressly provided for in the terms of reference.

4. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 4.1 The initial funding streams would have ensured that the project was adequately funded until completion of the JAAP and beyond. However, since the project has commenced, the prospects for public expenditure have deteriorated and the commitment to the funding streams by our partners has substantially reduced.

Original funding streams

	<i>Revenue</i>	<i>Capital</i>	<i>Total</i>
	<i>£'000</i>	<i>£'000</i>	<i>£'000</i>
SEEDA	2,950	0	2,950
DCLG - Growth point status	97	3,135	3,232
HCA	2,950	0	2,950
Total funding	5,997	3,135	9,132

Revised funding streams

	<i>Revenue</i>	<i>Capital</i>	<i>Total</i>
	<i>£'000</i>	<i>£'000</i>	<i>£'000</i>
SEEDA (own consultants)	1,943		1,943
SEEDA (Adur JAAP team)	1,007		1,007
DCLG – 2009/10	97	1,162	1,259
DCLG – Additional grant awarded	100		100
DCLG – 2010/11	129	1,043	1,172
HCA			0
Total funding	3,276	2,205	5,481

Spend to date

	<i>Revenue</i>	<i>Capital</i>	<i>Total</i>
	<i>£'000</i>	<i>£'000</i>	<i>£'000</i>
2008/09 SEEDA (consultants)	1,943		£1,943
2008/09	784	0	784
2009/10 to date	367	0	367
	3,094	0	3,094

Remainder in 2009/10 budget	53	1,162	1,215
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- 4.2 Expenditure to date has been covered by the funding received. There is likely to be sufficient left in the budget to fund the residual items of expenditure at this time. Going forward, there are still a number of work streams that need to be completed prior to the JAAP being finalised which is now our prime objective.
- 4.3 One of the key issues currently facing the partnership is that the majority of the funding remaining is for capital purposes only. However, whilst our funder will allow us to use this funding to complete the JAAP, it is unclear how much of the remaining expenditure, if any, meets the definition of capital allowed in the legislation.
- 4.4 Work is currently underway to identify what key tasks remain and how much of this can be legitimately capitalised. In addition, officers are investigating the option of capitalisation direction which would enable the Councils to capitalise revenue expenditure. However, these directions are difficult to obtain. They are normally only granted where a local authority is placed in an unavoidable situation. The process is a fairly lengthy one; there is a 'two gate' process:
- Gate 1: Those meeting the policy criteria for capitalisation will initially receive confirmation of that fact in a "minded to" letter. Confirmation of whether the council has passed Gate 1 is normally received within 15 working days of submitting a request.
 - Gate 2: The second stage is when all applications which pass the Gate 1 stage will be considered simultaneously to determine the actual amounts which may be capitalised by each authority.

The council will not get confirmation until 29 January 2010 of the amount that it will be allowed to capitalise.

- 4.5 The issue regarding the funding of the remaining work streams requires urgent resolution if the project is to maintain momentum. Officers will pursue a capitalise direction and, in the interim, work will continue to identify the quantum of work that is required to complete the JAAP.
- 4.6 Consultations are taking place between the finance officers of the three councils to examine ways in which the capital could be used to best effect, particularly on issues such as transportation.
- 4.7 Based upon original projections of funding required to complete the JAAP process and Shoreham Port related work, there is a significant shortfall in the funding streams currently identified. The current review will identify the medium to longer term issues and so determine the way forward in the future.

Finance Officer consulted: James Hengeveld

Date: 12/08/09

Legal Implications:

- 4.8 The Council together with ADC and WSCC has power under Section 102 of the Local Government Act 1972 to appoint a joint committee of those authorities and Section 20 of the Local Government Act 2000 allows for the creation of a joint

committee for the discharge of functions under executive arrangements.

- 4.9 It is possible for the Partners to form an SPV pursuant to Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000.
- 4.10 The legal advice referred to at paragraph 3.15 above will include consideration of Joint Committees, a Joint Planning Committee, Limited Liability Partnerships and Joint Venture Companies. Pending the Partners' decision on the appropriate way forward it is proposed that the three councils establish a Joint Committee.

Lawyer consulted:

Bob Bruce

Date: 17/08/09

Equalities Implications:

- 4.11 Major Projects & Regeneration are in the process of developing a bespoke Equalities Impact Assessment process that fits within the agreed corporate process but which better reflects the nature and decision making arrangements of major projects managed by the city council. Development of this process has and will continue to involve the Corporate Equalities Team. An Equalities Impact Assessment for Shoreham Harbour Regeneration will need to be prepared in conjunction with our project partners.

Sustainability Implications:

- 4.12 A key priority for this project is the long term sustainable regeneration of the Shoreham Harbour area, including transport, buildings and infrastructure. The project will also address key considerations arising from the impact of climate change, including the potential risks from flooding and the opportunities arising from sustainable energy sources.

Crime & Disorder Implications:

- 4.13 Crime & Disorder Implications will be considered throughout the development of the Joint Area Action Plan.

Risk & Opportunity Management Implications:

- 4.14 A risk register is maintained and regularly updated. This is reported through to the Project Delivery Group meeting as a standing item.

Corporate / Citywide Implications:

- 4.15 The outcome of the production of the Joint Area Action Plan leading to Shoreham Harbour Regeneration is very significant in terms of the council's overall reputation to sustain, improve and create healthy and prosperous communities.

5. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 5.1 The proposal to establish a Joint Committee reflects the greater leadership role now being undertaken by the local authorities. The project management

arrangements, budget management and procurement strategy will also need to reflect this new position. The structure will be kept under review and alternative arrangements may well be necessary in future.

6. REASONS FOR REPORT RECOMMENDATIONS

- 6.1 The changing funding position and the need for a greater leadership role for the local authorities has necessitated the establishment of a Joint Committee with Adur District Council and West Sussex County Council to steer the project forward.

SUPPORTING DOCUMENTATION

Appendices:

1. Letter to the Secretary of State for Communities & Local Government from the Leaders of Brighton & Hove City Council, Adur District Council and West Sussex County Council.
2. Response from the Secretary of State for Communities & Local Government.

Documents in Members' Rooms

None

Background Documents

None

