


## THE CABINET

## AGENDA

**Extraordinary Meeting to be held in the Civic Centre (Committee Room No. 1) on Thursday 4 December 2014 at 12.30 p.m.**

### Part I

ITEM		PAGE
1.	Receipt of Declarations of Interest (if any)	
2.	Apologies for Absence	
3.	 <b>A19 Ultra Low Carbon Vehicle Enterprise Zone – Appropriation of Land at Hillthorn Farm / Enterprise Zone Site 3 and project update</b>	1
	Report of the Deputy Chief Executive (copy herewith).	

 **Denotes Key Decision.**

**\* Denotes Regulation 10 Notice issues – item which is a key decision which is not included in the 28 Day Notice of Key Decisions.**

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Civic Centre  
SUNDERLAND

25 November 2014

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## CABINET MEETING – 4 DECEMBER 2014

### EXECUTIVE SUMMARY SHEET – PART I

**Title of Report:**

**A19 Ultra Low Carbon Vehicle Enterprise Zone-**

**Appropriation of land at Hillthorn Farm / Enterprise Zone Site 3 and project update**

**Author(s):**

Deputy Chief Executive

**Purpose of Report:**

To seek approval to proceed with the necessary actions required to enable the redevelopment, delivery and disposal of the Council-owned key economic development site at Hillthorn Farm as identified edged red on the Plan attached at Appendix C to this report ("the Site") and to appropriate the Site for planning purposes in order to facilitate the redevelopment of the Site.

**Description of Decision:**

**Cabinet is recommended to:**

1. Note the progress made to date in respect of the development proposals for the Site.
2. Reaffirm that the Deputy Chief Executive is authorised to take all necessary action to bring forward the delivery of this key economic development Site through the procurement of all necessary infrastructure and enabling works for the Site.
3. To agree that the Site is no longer required for the purpose for which it is currently held by the Council, namely as investment land;
4. Authorise the appropriation of the Site for planning purposes pursuant s.122 (1) of the Local Government Act 1972 (within the meaning of Section 246 of the Town and Country Planning Act 1990 ("the Act")).
5. Authorise the Deputy Chief Executive to dispose of the Site on a best consideration basis and upon terms and in such phases to be determined by the Deputy Chief Executive in agreement with the Leader and Cabinet Secretary.
6. Authorise the Deputy Chief Executive and the Head of Law and Governance to take all necessary action in order to implement the above.
7. To provide support to the newly formed North East Automotive Alliance (NEAA) by way of revenue support contributions of £100,000 in this financial year and a further £100,000 in 2015/2016 and to recommend to Full Council that the Chief Executive be appointed as the Council's representative on the Board of the NEAA.

**Suggested reason(s) for Decision:**

- (i) On 12<sup>th</sup> February 2014, Cabinet agreed that the Site should be brought forward as quickly as possible as a Council-owned key development site in a strategic location partly within the A19 EZ which given its size could facilitate the further expansion of low carbon automotive and advanced manufacturing sectors within the local area and promote substantial economic, social and environmental benefits to the City.
- (ii) There is clear and urgent occupier demand to carry out significant economic development on the Site. However, as it currently stands the Site is not ready for private sector investment given the scale and cost of the enabling infrastructure that is required for the Site. Therefore at this stage there is a significant need for public-sector intervention in this Council-owned Site to deliver the requisite enabling infrastructure before private sector development on the Site will become viable.
- (iii) The Site is no longer required for the purpose for which it is currently held by the Council, namely investment purposes. The farm tenancy has been surrendered by the former tenant and the Site is currently vacant. There is limited demand on the Council for such agricultural land and the size of the Site is also limiting for sustainable agricultural use.
- (iv) The delivery of the Site is required in order to secure the further expansion and growth of low carbon automotive and advanced manufacturing sectors within the local area and to meet clear occupant demand for large development sites. In particular a significant potential first occupant has already been identified.
- (v) The appropriation of the Site for planning purposes would facilitate the development of the Site through enabling infrastructure (including the new spine road) and thereafter potential substantial economic development on the Site. The development of the Site would lead to significant private sector investment and the creation of new jobs. Therefore there would be substantial economic, social and environmental benefits to Washington and the City in the delivery of this Site including improved local infrastructure and significant private sector investment and physical regeneration.
- (vi) In relation to the proposals in respect of NEAA the purpose of NEAA is to provide one voice to raise the profile and promote the automotive industry in the region, lobby, and support its continued growth within the North East. Provision of financial support will help increase the chances of its success and will enable the Alliance to seek additional funds, including from the European Regional Development Fund (ERDF). In consideration for its funding, the Council will be entitled to be represented on the Board of Directors of NEAA and to actively participate in the development of the NEAA for the benefit of the City.

**Is the decision consistent with the Budget/Policy Framework? Yes**

**If not, Council approval is required to change the Budget/Policy Framework**

**Alternative options**

Not to proceed with the development and delivery of the Site would be to the detriment of the economic regeneration of the local area and the City.

The scale and cost of the requisite infrastructure works for the Site make it uneconomic for private sector investors and developers to fund and hence the economic regeneration benefits to the City set out in the report would not be achieved.

If the Site is not appropriated for planning purposes, there will be less certainty to the development delivery process for the Site in order to meet the proposed first occupier's development timescales. There would be no ability to rely in future on the use of Section 237 of the Act (in the event planning permission is subsequently granted) to override any private third party interests in the Site that may otherwise restrict its development or the making by Council officers of an extinguishment order in respect of Washington Footpath 26 under Section 258 of the Act in advance of a planning application for the development of the Site.

If the Site is not disposed of, the employment land to meet demand in the medium term will not be delivered and the economic, social and environmental benefits to the City will not be achieved. The Council will also not receive an economic receipt and will incur holding costs in retaining the land.

Not to provide financial support to the North East Automotive Alliance will reduce the chances of the Alliance being successful in promoting the automotive sector in the North East. This financial support will allow the Alliance to seek additional funds for its activities (including match-funding opportunities), including from ERDF that otherwise may not be available.

**Impacts analysed;**

**Equality**

**Privacy**

**Sustainability**

**Crime and Disorder**

**Is this a "Key Decision" as defined in the Constitution?**

**Yes**

**Is it included in the 28 day Notice of Decisions?**

**Yes**

**Scrutiny Committee:**



**A19 ULTRA LOW CARBON VEHICLE ENTERPRISE ZONE-****APPROPRIATION OF LAND AT HILLTHORN FARM / ENTERPRISE ZONE SITE 3  
AND PROJECT UPDATE****REPORT OF THE DEPUTY CHIEF EXECUTIVE****1.0 Purpose of the Report**

- 1.1 To seek approval to proceed with the necessary actions required to enable the redevelopment, delivery and disposal of the Council-owned key economic development site at Hillthorn Farm as identified edged red on the Plan attached at Appendix C to this report ("the Site") and to appropriate the Site for planning purposes in order to facilitate the redevelopment of the Site.

**2.0 Description of Decision (Recommendations)**

- 2.1 Cabinet is recommended to:

- 1 Note the progress made to date in respect of the development proposals for the Site.
- 2 Reaffirm that the Deputy Chief Executive is authorised to take all necessary action to bring forward the delivery of this key economic development Site through the procurement of all necessary infrastructure and enabling works for the Site.
- 3 To agree that the Site is no longer required for the purpose for which it is currently held by the Council, namely as investment land;
- 4 Authorise the appropriation of the Site for planning purposes pursuant s.122(1) of the Local Government Act 1972 (within the meaning of Section 246 of the Town and Country Planning Act 1990 ("the Act"));
- 5 Authorise the Deputy Chief Executive to dispose of the Site on a best consideration basis and upon terms and in such phases to be determined by the Deputy Chief Executive in agreement with the Leader and Cabinet Secretary.
- 6 Authorise the Deputy Chief Executive and the Head of Law and Governance to take all necessary action in order to implement the above.
- 7 To provide support to the newly formed North East Automotive Alliance (NEAA) by way of revenue support contributions of £100,000 in this financial year and a further £100,000 in 2015/2016 and to recommend to Full Council that the Chief Executive be appointed as the Council's representative on the Board of the NEAA.

**3.0 Background**

- 3.1 The proposals set out in this report represent a significant investment in a Council-owned strategic employment site of 26 hectares situated (in part) within Sunderland's A19 Ultra Low Carbon Vehicle Enterprise Zone (A19 EZ).
- 3.2 In 2009, Nissan announced its intention to invest in a new facility to pioneer electric vehicle battery production, just as the Government announced that the UK's first Low Carbon Economic Area for Ultra Low Carbon Vehicles would be centred on Sunderland. The battery plant is now operational.

- 3.3 In October 2010 the Council adopted the Sunderland Economic Masterplan (EMP), a 15-year economic strategy for the city. Aim 2 of the EMP is to establish Sunderland as a leading UK city for low carbon technology and production and to support the wider region in developing a sustainable, low carbon economy.
- 3.4 Building upon the above successes, the Government announced plans to stimulate economic growth through a new wave of Enterprise Zones (EZ), one of which would be located in the North East Local Enterprise Partnership (NELEP) area. Following the submission of proposals from this Council, the format of the North East EZ was agreed between the NELEP and the Government in 2011. This was to focus on low carbon businesses within the NELEP area including a sizeable area of land around the Nissan's plant in Washington.
- 3.5 The Site is partly located within one of three designated EZ sites in Washington which form the A19 EZ. The key objective of the A19 EZ is to promote and secure the further expansion of low carbon automotive and advanced manufacturing sectors within the local area through the creation of 140,000m<sup>2</sup> of new economic development floorspace (across the 3 sites) and the creation of over 3,000 new jobs up to 2037.
- 3.6 There is also a current shortage of large sites available in the City of Sunderland that are capable of accommodating developments of the scale that are required to sustain further growth in the automotive sector. Presently the only allocated employment sites available that are able to house such large floorplate (10,000 m<sup>2</sup>) units in Sunderland are the three A19 EZ sites. It is therefore essential that the Site is brought forward and made available for development as quickly as possible in order to address this current undersupply of major economic development land and to meet the known demand for expansion in the automotive and advanced manufacturing sectors. Further details on the level of developer demand in respect of the Site are explained later in this report.
- 3.7 The Site is in full Council ownership but has previously been used for investment purposes and been subject to third party lettings. The Site was most recently let on the terms of a long term farm business tenancy however the Council negotiated a surrender of the tenancy and regained possession of the Site in March 2014.
- 3.8 On 12<sup>th</sup> February 2014, Cabinet agreed that the Site should be brought forward as quickly as possible as a key economic development site given its proximity to the Nissan's plant, its inclusion within the A19 EZ and the need to support economic development in the local area and in particular the expansion of the automotive and advanced manufacturing sectors. However, as it currently stands the Site is not prepared for private sector investment given the scale and cost of the enabling infrastructure that is required to make the site financially viable for development. There is a significant need for public-sector intervention to occur on the Site to deliver the requisite enabling infrastructure before private sector development on the Site will become viable. A number of services exist that need to be diverted on the Site to enable the creation of suitably-sized development plots and new site infrastructure such as roads and utilities will



have to be provided. Therefore on the 12<sup>th</sup> February 2014 Cabinet approved the procurement and delivery of the necessary site infrastructure to enable the delivery of the Site as a key economic development opportunity.

3.9 Since the February Cabinet report, a masterplanning exercise has focused upon those elements which will bring the Site forward and make it available and ready for private sector development. This involves the Council leading on the delivery of the following:

- constructing the required internal spine road within the Site. The location of the proposed spine road is shown shaded blue on the plan included in Appendix A to this report. Whilst this internal spine road is required to service and open up the Site for development, it should also be noted that this spine road would also form the first phase of the Council's proposed multi-phase link road scheme from Nissan Way/Cherry Blossom Way (Phase 2 – shaded green), through the Site and linking into a proposed new alignment of the A1290 to the north of the Site (Phase 1B – shaded orange). The other proposed phases of this link road (namely Phase 1B and Phase 2) will be subject to separate reports to Cabinet at a later date. In the meantime, the detailed design for the Phase 1A spine road has been completed and the procurement process for the construction of the Phase 1A works which are required for the delivery of the Site is ongoing. A planning application is also to be submitted shortly for the Phase 1A highway works.
- ensuring the utility diversions are undertaken, to open up the development plots on the Site;
- providing new services / supplies to the Site (electricity/gas/water) to cater for new developments;

3.10 In terms of the potential built development on the Site, it is capable of accommodating new economic development floorspace of approximately 80,000m<sup>2</sup>, although there will be an amount of flexibility around this quantum, and the size of each unit, in order to be able to cater to each prospective occupiers' specific requirements. Depending upon the types of activities undertaken by the occupants, this scale of development could create at least 1000 jobs. The spine road within the Site has been designed in such a way to allow for such flexibility, with an emphasis towards catering for the large-floorplate type enquiries that are currently being received. An indicative site layout plan has been prepared and is attached at Appendix B to this report.

3.11 Already at this early stage in the process, such is the known demand for development sites in the area, a number of potential occupiers have now approached the Council, one of which is seeking to acquire one of the larger plots that are available on the Site. In terms of the prospective occupier's timescales and constraints, Council officers have been advised that in order to meet the potential occupier's demands, their new facility must be complete and operational no later than December 2015. The prospective occupier must be able to deliver the increased demands placed upon them by their customer base. Should the prospective occupier not be able to deliver within this timescale, the facility is very likely to be located elsewhere, which would not be as geographically advantageous to the company and would also be a substantial economic loss for the city.

## **4.0 Policy Position**

- 4.1 As explained above in 3.5, the northern part of the Site is already one of three designated A19 EZ sites in the Washington area, which were agreed between the North East Local Enterprise Partnership (NELEP) and the Government in 2011 for economic development. The three A19 EZ sites are-
- a site adjacent to the A1231 known as Turbine Business Park (EZ1)
  - a smaller area of land to the east next to Nissans test track, known as the Vehicle Test Centre site (EZ2) and
  - 10 Hectares of the 26 Hectare Council owned Hillthorn Farm which lies to the west of Nissan, adjacent to the Leamside railway line has been allocated as (EZ3). It is this site which is being considered in this report
- 4.2 The key objective of the A19 EZ sites is to build upon the success of the low carbon automotive and advanced manufacturing sectors and to promote and secure the further expansion of these sectors within the local area leading to substantial job creation and physical and economic development and investment in the city.
- 4.3 The development and delivery of the Site for these purposes is fully supported by the key policies of the Economic Masterplan, in particular Aim 2 which seeks to establish Sunderland as a leading UK city for low carbon technology and production.
- 4.4 In addition the Site has a long-standing allocation for economic development purposes as an industrial / business area for B1, B2 and B8 uses under saved Policy WA1.5 in the Council's Unitary Development Plan (UDP). Policy WA1.5 seeks to safeguard land (including the Site) for the future expansion of advanced manufacturing activities, given the key role played by Nissan in the local economy. Therefore the Council's development proposals for the Site are fully supported by the UDP.
- 4.5 This above land classification has been carried forward into the draft revised Core Strategy / Allocations DPD (Preferred Options August 2013). As such, even in the absence of the A19 EZ, from a local planning policy perspective the identified future land uses for the Site are of an industrial/business area nature and therefore, the development proposals for the Site are fully supported by both existing and emerging local planning policy. As explained in section 3.6, there is a shortage of sites available in Sunderland that are capable of accommodating developments of the scale that are required to sustain further growth in the automotive sector (10,000m<sup>2</sup> and over)
- 4.6 The Council's proposals for the Site are also fully supported by the National Planning Policy Framework (NPPF) (March 2012). In particular, the NPPF requires local planning authorities to support and encourage sustainable economic growth by ensuring that sufficient land is available in the right places, in accessible and sustainable locations and at the right time to support growth and innovation; and by identifying and co-ordinating development requirements, including the provision of infrastructure (Paragraph 7).

- 4.7 The Site is now vacant following the recent termination of the agricultural tenancy that was granted in April 2004. Therefore the Site is no longer required for investment purposes and should be made available for economic development in accordance with the objectives of the A19 EZ, the Council's Economic Masterplan and both local and national planning policy.

## **5.0 Need and Justification**

- 5.1 As detailed in Section 3 above, the Site has been identified in order to deliver much needed economic development in the local area and to satisfy occupier demand. The Site benefits from vacant possession and the initial masterplanning exercise has been undertaken in respect of the provision of the requisite enabling infrastructure development and the layout of the Site.
- 5.2 As such, there is now a clear need to bring the Site forward for economic development as this will be of significant benefit to the city and the region's economy. As explained above, the Site has the potential to accommodate around 80,000m<sup>2</sup> of employment floorspace, which depending upon the types of activities undertaken could create at least 1000 jobs. Taking the opportunity to ensure that this Site is prepared and ready for potential occupiers as early as possible means a number of significant private sector investments should be secured relatively quickly, resulting in significant new job creation. Due to the nature of one of the potential occupier's business, there is a risk that should they not be able to deliver their building within their prescribed timescale there could be wider implications to the detriment of the automotive sector that is established in Washington. Projects may then have to locate elsewhere, which could result in inefficiencies in the supply-chain and further unnecessary traffic movements on the trunk road network. Furthermore, it is noteworthy that the project if delivered to the preferred timescales would also ensure there is a supply of attractive employment land to meet demand in the area in the medium term.
- 5.3 In the circumstances, now that the masterplanning for the Site has advanced to a stage which is detailed enough to enable the submission of a planning application for the infrastructure works and that there is also known occupier interest in the Site, it is recommended that the Site should be now be appropriated for planning purposes within the meaning of Section 246 of the Town and Country Planning Act 1990 in order to facilitate the physical and economic development of this EZ Site for the required expansion of the automotive and advanced manufacturing sectors in the City which would lead to substantial private sector investment and job creation within the City. The development of the Site is required to meet the clear known demand for major economic sites within the City.
- 5.4 The appropriation of the Site for planning purposes would also bring greater certainty to the development timetable process to ensure the timely delivery of the Site as a key development site by firstly through the provision of the essential enabling infrastructure works on the Site and thereafter to facilitate the delivery of significant economic development on the Site. This certainty is required in order to be able to meet the proposed first occupier's development timescales.
- 5.5 Should Members be minded to approve the appropriation of the Site for planning purposes, then in the event planning permission is granted for development on the Site, this would enable the Council and/or the developer to be able to rely on

the provisions of Section 237 of the Act in order to carry out the development and override any private third party rights that may otherwise restrict the development in consideration for the payment of compensation for the interference with any such rights. This power brings far greater certainty and speed to the development and delivery process.

- 5.6 In addition, the appropriation of the Site for planning purposes would also allow officers acting in accordance with the Council's delegation scheme to subsequently make an extinguishment order under Section 258 of the Act in respect of the public footpath (Washington Footpath 26) that currently runs across the Site, which connects a pedestrian level crossing on the unused Leamside Line adjacent to the former Hillthorn farmhouse to Washington Road.
- 5.7 This footpath would need to be extinguished to enable redevelopment of the Site as it crosses both the alignment of the proposed new internal spine road and the plots which it is intended to serve. A new alternative right of way is not required as a suitable alternative route already exists via the existing footpath situated to the west of the Leamside Railway Line linking the pedestrian level crossing to the recently improved footway in Washington Road. The proposed spine road will also make provision for both pedestrians and cyclists. The proposed extinguishment order would be authorised and made by Council officers under delegated powers in the event that Members are minded to agree to appropriate the Site for planning purposes. This extinguishment order could be made by officers prior to the submission of a planning application for the Site but would be subject to confirmation by the Secretary of State if it is opposed on highway grounds.

## **6.0 Enabling Powers for Appropriation**

- 6.1 "Appropriation of land for planning purposes" is defined by Section 246(1) (b) of the Act as meaning the appropriation of land for the same purposes for which land may be acquired by a local authority under Sections 226 and 227 of the Act. In other words, the appropriation is for the purpose of facilitating the carrying out of development, redevelopment or improvement on or in relation to the land and which is considered by the local authority is likely to contribute to the promotion or improvement of the economic well-being of the area, the social well-being of the area or the environmental well-being of the area, or which is required for a purpose which it is necessary to achieve in the interests of the proper planning of the area in which the land is situated.
- 6.2 The Council has a general power to appropriate its land pursuant to Section 122(1) of the Local Government Act 1972. In order to exercise this power the Council must conclude that the land is no longer required for the purpose for which it is held immediately before the appropriation. If the Council concludes that this is the case then it may appropriate the land for another purpose for which it is authorised to acquire land by agreement. In this case the Council is authorised to acquire land for planning purposes under Sections 226 and 227 of the Act for the purposes set out in Paragraph 6.1 above. Appropriation in this context means transferring the allocation of land from one purpose to another. It represents an effective means of reducing the risks inherent in any site development, as the process enables third parties who may have legitimate claims for issues such as loss of light or interference with rights of way to be

properly compensated, whilst avoiding the scheme being unnecessarily frustrated or delayed.

For the reasons stated in this report, it is considered as follows:

- (i) the Site is no longer required for the purpose for which it is currently held by the Council, namely investment purposes. The farm tenancy has been surrendered by the former tenant and the Site is currently vacant. There is limited demand on the Council for such agricultural land and the size of the Site is also limiting for sustainable agricultural use.
- (ii) part of the Site is within the designated A19 EZ and is a key economic development site in the Council's ownership. The delivery of the Site is required in order to secure the further expansion and growth of low carbon automotive and advanced manufacturing sectors within the local area and to meet clear occupant demand for large development sites. In particular a significant potential first occupant has already been identified.
- (iii) the appropriation of the Site for planning purposes would facilitate the development of the Site through enabling infrastructure (including the new spine road) and thereafter potential substantial economic development on the Site. The development of the Site would lead to significant private sector investment and the creation of new jobs; therefore there would be substantial economic, social and environmental benefits to Washington and the City in the delivery of this Site including improved local infrastructure and significant private sector investment and physical regeneration.

6.3 Accordingly, in view of the above, the Council is entitled to appropriate the Site for planning purposes pursuant to Section 122(1) of the Local Government Act 1972 (within the meaning of Section 246 of the Act).

6.4 In order to use these powers, consideration has to be given to Section 6 of the Human Rights Act 1998, which prohibits public authorities from acting in a way which is incompatible with the European Convention of Human Rights ("ECHR").

6.5 The appropriation of the Site for planning purposes may impact upon two ECHR rights, in particular given the subsequent impact of Section 237 (in the event planning permission is subsequently granted for the Site) and potentially Section 258 of the Act (if an extinguishment order in respect of Washington Footpath 26 is made by officers under delegated powers following a decision by Cabinet to appropriate the Site and then confirmed). Article 1 of the First Protocol contains the right to peaceful enjoyment of one's possessions and the right not to be deprived of one's possessions. This right can be interfered with in the public interest and subject to the conditions provided for by law. That interference is only justified if the fair balance of the factors, which comprise a proportionate interference, is in favour of the public interest against the private interests to be acquired. Article 6 of the ECHR contains the right to a fair and public hearing by an impartial tribunal.

## Article 1

Whilst persons may be deprived of their rights these rights will be interfered with in accordance with the law. This would be achieved in the public interest as required by Article 1 of the First Protocol. The public benefits arising from the development are set out earlier in this report in sections 3, 5 and 6.2. It is therefore considered that the use of appropriation for planning purposes and the potential future reliance upon the powers under section 237 (in the event planning permission was granted for the Site) of the Act will strike a fair balance between the public interest in the implementation of the development and those private rights which will be affected by the future use of the power under Section 237.

In respect of a potential extinguishment order in respect of Washington Footpath 26 under Section 258, a suitable alternative route already exists via the existing footpath situated to the west of the Leamside Railway Line linking the pedestrian level crossing to the recently improved footway in Washington Road. The proposed spine road will also make provision for both pedestrians and cyclists.

## Article 6

In the case of the potential future use of s.237 (in the event planning permission for the Site was to be granted), any affected persons would be entitled to compensation proportionate to any losses that they have incurred. In this case, any compensation would be based on the diminution in value between the relevant land which has the benefit of the rights and without the rights in place, in accordance with the Compulsory Purchase Compensation Code which has been held to be compliant with Article 6.

In the case of a potential extinguishment order under Section 258, any affected third parties would have the right to object to the order and to be heard by the Secretary of State as part of the confirmation process for such an order. The Secretary of State's confirmation process has been held to be compliant with Article 6.

- 6.8 Section 233 of the Act provides that the Council may subsequently dispose of land that has been appropriated by the Council for planning purposes in such manner and subject to such conditions as appear to them expedient in order:-
- a) to secure the best use of that or other land and any buildings or works which have been, or are to be erected, constructed or carried out on it (whether by themselves or another person), or
  - b) to secure the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of the area of the authority
- 6.9 The consideration received by the Council for all disposals of land that has been appropriated for planning purposes must accord with the provisions of section 233 of the Act and be "the best that can reasonably be obtained". Accordingly in the event the Site is appropriated, any subsequent disposal of the Site or any part to potential occupier(s) will be on a best consideration basis upon terms to be agreed by the Deputy Chief Executive in agreement with the Leader and Cabinet Secretary in accordance with Sections 123 of the Local Government Act 1972 and 233 of the Act

## **7.0 Impacts of the proposals**

- 7.1 The purposes and objectives for which the Site may be appropriated for planning purposes are set out in Paragraph 6.1 above. The public benefits of the development proposals for the Site far outweigh any private loss to third parties.
- 7.2 As already explained in the report, it is considered that the appropriation of the Site for planning purposes is justified due to the significant benefits to the local area and the City that would be generated by the redevelopment of the Site for new economic development through public and private investment, physical regeneration and new jobs. The Council's initial highway and infrastructure development forming the initial phase will then facilitate the proposed property and economic development by the private sector.
- 7.3 As a result of the proposed appropriation of the Site and its subsequent development, there is the potential for private rights of way that may have been acquired over the Site to be interfered with if planning permission is later granted for development on the Site. However, at the current time the Council is not aware of any third party private rights that would restrict the development of the Site. Nevertheless, provided that land has been appropriated for planning purposes, and in the event planning permission is subsequently granted for development on the Site, Section 237 of the Act provides that the erection or construction of any building or work by the Council (or by a person deriving title under them) on the land or the use of such land will be authorised, notwithstanding that it involves interference with an interest or right or breach of a restriction as to the use of land, provided the development is carried out in accordance with planning permission. The effect of the section would be to override any private rights annexed to the land for the benefit of other land if work is carried out in accordance with such planning permission. Where section 237 applies, any claimant's remedy for interference with his or her rights will be for compensation only. The amount of compensation payable is based on the loss in value of a claimant's land as a consequence of the interference with their rights or breach of covenant. The use of such powers for overreaching any private interests which may exist on the Council's title is legitimate, provided that the statutory process with regard to appropriation is undertaken.

## **8.0 Procurement of a Works Contractor**

- 8.1 In order to maximise the available external funds that have been secured for the highway and infrastructure works to enable the development of the Site, and given the level of public funds involved, the procurement process to appoint a contractor to carry out the Phase 1A highway works will be undertaken in accordance with European Public Procurement Rules. It is currently proposed that an Invitation to Tender (ITT) will be issued to the shortlisted contractors and subject to planning permission for the works being granted, a contract being awarded for the highway and infrastructure works to commence on the Site in spring 2015. The estimated cost of the Site infrastructure works award is approximately £3,000,000 and Cabinet previously approved the funding of these works in February 2014.

## **9.0 Placing of Orders with Utility Companies**

- 9.1 The development of the Site also involves liaison with service / utility providers regarding the diversion of their apparatus, the majority of whom have now submitted quotations to undertake the relevant works that are necessary to enable the delivery of the Site for development purposes. Orders now need to be placed so that these can be coordinated with the highway works and construction works associated with the Site. The approximate estimated costs of the new supplies to the site are £600,000 and the diversions £3.3 million.

## **10.0 Disposal of the Site**

- 10.1 As mentioned above, a prospective occupier is in discussions with the Council, seeking to acquire one of the larger plots available on the Site. Should matters progress positively, it is hoped that terms can be provisionally agreed before the end of this calendar year. Subject to planning permission being granted, it would be then be the occupier's intention to construct their new building (approximately 35,000m<sup>2</sup>) throughout the course of 2015, completing by the year end. A development of this scale would be beneficial to the Council. In addition to the significant public benefits referred to above that would arise from new economic development on the Site such a disposal would generate a significant capital receipt to the Council and the generation of a substantial amount of business rates that would be payable. Sections 123 of the Local Government Act 1972 and (in the case of land appropriated for planning purposes) 233 of the Act authorise the Council to dispose of land for best consideration. Any disposals will be on a best consideration basis and as such it is recommended that the Deputy Chief Executive is authorised to dispose upon terms to be agreed with the Leader and Cabinet Secretary.

## **11.0 North East Automotive Alliance**

- 11.1 It is recognised that the automotive sector plays an important role in the city's economy and that the development of this Site, and the future plans for the International Advanced Manufacturing Park (IAMP), are vital to the ongoing growth of the automotive sector in the city. It is therefore acknowledged that there is a need for the Council to continue to support the development of this sector. As such it is proposed that the Council will support the newly formed North East Automotive Alliance (NEMA), which will be located in Sunderland, by way of revenue contributions of £100,000 this financial year 2014/2015 and a further £100,000 in 2015/2016. NEMA will provide the North East with one voice to raise the profile of and promote the North East automotive industry, lobby, and support its continued growth. In consideration for its funding, the Council will be entitled to be represented on the Board of Directors of NEAA and to actively participate in the development of the NEAA for the benefit of the City. This funding contribution shall be funded from specific earmarked reserves.



## **12.0 Resource Implications**

12.1 The total project costs for the highway and infrastructure works on the Site are estimated to be in the region of £7.5m, detailed as follows:

• Site Investigations	£200,000
• Utilities	£3,900,000
• Highways Infrastructure	£2,950,000
• Other Costs and Contingency	£450,000

Funding is in place for this phase of the works, including contributions from the European Regional Development Fund and Growing Places Fund. An allocation from the Local Growth Fund, towards the highway works for this and later phases is subject to final approval.

12.2 The above are part an estimated £21m programme of infrastructure works to develop key employment sites within and adjacent to the North East Enterprise Zone. The proposed works are in the Council's capital programme and there are no financial impediments to the proposals being delivered. The contribution to NEMA of £200,000 is to be funded from specific earmarked reserves.

## **13.0 Potential impediments to the delivery of the Site**

13.1 Consideration has been given to any potential impediment to the delivery of the development of the Site and how these can be addressed in order to achieve delivery. These are set out below:-

13.2 Ecological- Survey work has identified the wildlife constraints of the Site and mitigation measures will be developed and addressed as part of the planning application process to seek to avoid any potential impact upon any species present. As such, it is considered that there are no ecological impediments that could prevent the delivery of the development of the Site.

13.3 Physical – As explained in the report, the Site until recently has been used as agricultural land, and as such, the Site is open in character and is free from any built development. Survey work carried out has identified a number of utilities on the Site that require diversion and the various statutory undertakers are currently developing proposals to be able to carry out these enabling works. The funding of these works is included in the approved budget in Paragraph 12.1.

13.4 Financial – As set out in Section 12 above, there is budget provision to fund the necessary infrastructure works by the Council on the Site to enable its subsequent development.

13.7 Planning- There is clear local and national policy support for the economic development of the Site and for the reasons set out in section 4 above and at this stage there are no apparent grounds as to why planning permission would not be forthcoming for the infrastructure works on the Site and for the subsequent development of the Site in the manner and for the uses as described in this report.

## **14.0 Sustainability Considerations**

- 14.1 To date the master-planning and design work undertaken in relation to the proposed development of the Site has taken into account all relevant sustainability considerations from an economic and environmental perspective. In addition, the sustainability of the development proposals for the Site will be fully assessed through the forthcoming planning application processes.

## **15.0 Timescales**

- 15.1 A work programme has been developed, in order to determine the timescales associated with delivering the proposals for the Site in the event Cabinet is minded to approve the recommendations in this report. Some of the key milestones are set out below:-

- November 2014 EIA Screening Request
- December 2014 Potential Extinguishment Order for Footpath 26  
Planning Application Submission  
Utilities Orders Placed
- February 2015 Determination of Planning Application
- March 2015 Appointment of a contractor
- April 2015 (Subject to grant of planning permission) Construction commences
- December 2015 Construction complete

## **16.0 Equalities Impact Assessment**

- 16.1 An Equalities Impact Assessment has been undertaken in respect of the proposals for the Site. This full assessment is included as a background paper to this report and a copy is available for review by Cabinet Members through Governance Services.
- 16.2 In summary the proposals for the Site are considered to have a neutral impact upon any individuals or groups with protected characteristics and communities of interest within the City.

## **17.0 Reasons for Decision:**

- (i) On 12<sup>th</sup> February 2014, Cabinet agreed that the Site should be brought forward as quickly as possible as a Council-owned key development site in a strategic location partly within the A19 EZ which given its size could facilitate the further expansion of low carbon automotive and advanced manufacturing sectors within the local area and promote substantial economic, social and environmental benefits to the City.
- (ii) There is clear and urgent occupier demand to carry out significant economic development on the Site. However, as it currently stands the Site is not ready for private sector investment given the scale and cost of the enabling infrastructure that is required for the Site. Therefore at this stage there is a significant need for

public-sector intervention in this Council-owned Site to deliver the requisite enabling infrastructure before private sector development on the Site will become viable.

- (iii) the Site is no longer required for the purpose for which it is currently held by the Council, namely investment purposes. The farm tenancy has been surrendered by the former tenant and the Site is currently vacant. There is limited demand on the Council for such agricultural land and the size of the Site is also limiting for sustainable agricultural use.
- (iv) the delivery of the Site is required in order to secure the further expansion and growth of low carbon automotive and advanced manufacturing sectors within the local area and to meet clear occupant demand for large development sites. In particular a significant potential first occupant has already been identified.
- (v) the appropriation of the Site for planning purposes would facilitate the development of the Site through enabling infrastructure (including the new spine road) and thereafter potential substantial economic development on the Site. The development of the Site would lead to significant private sector investment and the creation of new jobs; therefore there would be substantial economic, social and environmental benefits to Washington and the City in the delivery of this Site including improved local infrastructure and significant private sector investment and physical regeneration.
- (vi) In relation to the proposals in respect of NEAA the purpose of NEAA is to provide one voice to raise the profile and promote the automotive industry in the region, lobby, and support its continued growth within the North East. Provision of financial support will help increase the chances of its success and will enable the Alliance to seek additional funds, including from the European Regional Development Fund (ERDF). In consideration for its funding, the Council will be entitled to be represented on the Board of Directors of NEAA and to actively participate in the development of the NEAA for the benefit of the City.

## **18.0 Alternative options**

- 18.1 Not to proceed with the development and delivery of the Site would be to the detriment of the economic regeneration of the local area and the City.
- 18.2 The scale and cost of the requisite infrastructure works for the Site make it uneconomic for private sector investors and developers to fund and hence the economic regeneration benefits to the City set out in the report would not be achieved.
- 18.3 If the Site is not appropriated for planning purposes, there will be less certainty to the development delivery process for the Site in order to meet the proposed first occupier's development timescales. There would be no ability to rely in future on the use of Section 237 of the Act (in the event planning permission is subsequently granted) to override any private third party interests in the Site that

may otherwise restrict its development or the making by Council officers of an extinguishment order in respect of Washington Footpath 26 under Section 258 of the Act in advance of a planning application for the development of the Site.

- 18.4 If the Site is not disposed of, the employment land to meet demand in the medium term will not be delivered and the economic, social and environmental benefits to the City will not be achieved. The Council will also not receive an economic receipt and will incur holding costs in retaining the land.
- 18.5 Not to provide financial support to the North East Automotive Alliance will reduce the chances of the Alliance being successful in promoting the automotive sector in the North East. This financial support will allow the Alliance to seek additional funds for its activities (including match-funding opportunities), including from ERDF that otherwise may not be available.

## 19.0 **Appendices**

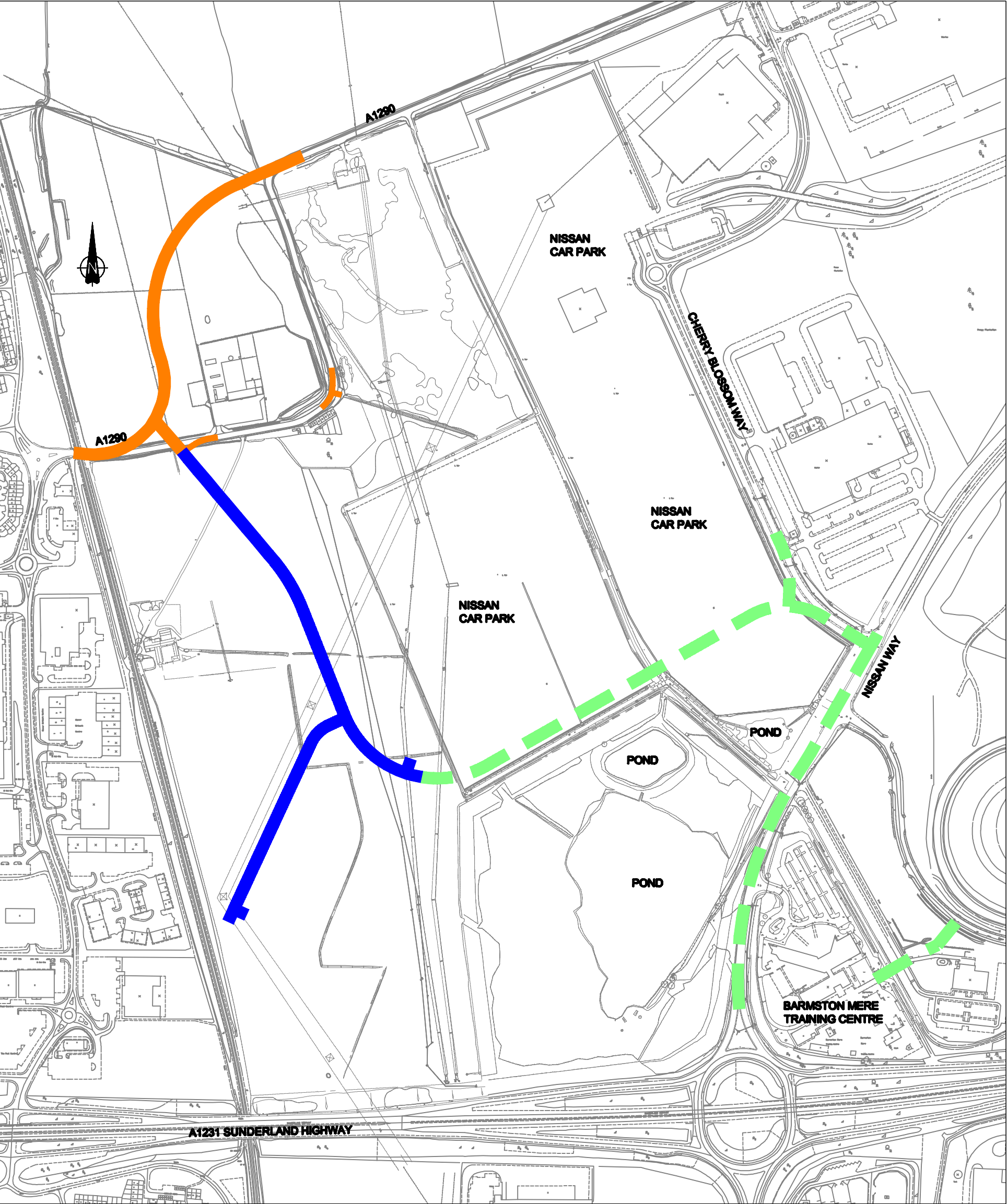
Appendix A- EZ Highway Infrastructure Improvements

Appendix B- Indicative Site layout

Appendix C- The Site

## **Background Papers**

Equalities Impact Assessment



**KEY**

- PHASE 1A
- PHASE 1B
- PHASE 2

**NOTES:**

PROVISIONAL ROUTE ONLY AND IS SUBJECT TO CHANGE.

Rev.	Date	Description	Drawn	App'd



**Sunderland City Council**

Office of the Chief Executive  
Civic Centre  
Sunderland  
SR2 7DN

<i>Project</i> HILLTHORN EZ DEVELOPMENT			
<i>Subject</i> PHASING LAYOUT			
<i>Drawn by</i>	P. Sedgwick	<i>Checked by</i>	R.J. Graham
<i>Date</i>	May 14	<i>Approved by</i>	R.J. Graham
<i>Drawing No.</i>	20 / NH030 / SK024		<i>Revision</i> P2



Hillthorn Farm, Washington.  
A19 Low Carbon Enterprise Zone.

APPENDIX B

