

**REPORT TO:** 3MG Sub-Board

**DATE:** 12<sup>th</sup> January 2012

**REPORTING OFFICER:** Operational Director – Economy,  
Enterprise & Property

**PORTFOLIO:** Leader

**SUBJECT:** Marsh Brook

**WARDS:** Ditton and Riverside

## **1.0 PURPOSE OF THE REPORT**

**1.1** The purpose of this report is to seek authority to enter into a contract with the Stobart Group in respect of future flood risk management of Marsh Brook.

## **2.0 RECOMMENDATION: That**

**2.1 Authority is given to the Operational Director for Legal & Democratic Services to enter into a legally binding contract with the Stobart Group in respect of future flood risk management of Marsh Brook.**

## **3.0 SUPPORTING INFORMATION**

- 3.1** The Executive Board on 9<sup>th</sup> December 2004 (EXB162) adopted the Ditton Strategic Rail Freight Park Masterplan, now known as 3MG (the Mersey Multimodal Gateway).
- 3.2** The Council has 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 is an integral part of the 3MG Masterplan and the aspiration to create up to 5000 new jobs at 3MG.
- 3.3** Site development, comprising a 528,000 sq ft distribution warehouse was undertaken during 2009. Site preparation works included the improvement of Marsh Brook comprising a 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 was responsible for its maintenance. However, to enable the Development to proceed, the culvert construction work was planned to be undertaken and paid for by the Stobart Group.

- 3.4 During the infrastructure design stage, the Stobart Group and their Consultants liaised with the Environment Agency (EA), who are the Regulatory Authority for such matters, on their proposals to improve Marsh Brook. However, due to the demanding time constraints in delivering the development, work was 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.
- 3.5 In order to keep to the development programme, the Marsh Brook improvement works were 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.
- 3.6 The consequence is that in March 2010 the EA served notice on Westlink Holdings (the registered land owners who are a subsidiary of the Stobart Group) to rectify the un-consented works. Unfortunately, matters have not been resolved and there is an ongoing legal dispute between the two parties.
- 3.7 The Council has liaised with both parties, who are 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 of Marsh Brook, which it will have a statutory obligation for from April 2012, the EA has agreed to cease the legal challenge.
- 3.8 The Council guarantee would only be activated following default by Westlink and the Stobart Group, or their successors in title in respect the flood risk management aspect of Marsh Brook. This agreement would be for 30 years and the Council would be paid up front 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 has not had to intervene and undertake the maintenance.
- 3.9 It is imperative that the next phase of Stobart Park commences at the earliest opportunity as job creation is key to the ongoing success of 3MG, resolving this existing dispute will pave the way for the next phase of development.

#### **4.0 POLICY IMPLICATIONS**

- 4.1 The Council adopted the 3MG Masterplan in December 2004. The 3MG programme is included in the Council's Corporate Plan, the Halton Partnership and Halton Borough Council Urban Renewal Strategy and

Action Plan, and supports the Council's Urban Renewal corporate priority.

## **5.0 OTHER IMPLICATIONS**

5.1 The Council has given a commitment to work with external partners to maximise investment and job creation at 3MG.

## **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

### **6.1 Children and Young People in Halton**

None known.

### **6.2 Employment, learning and Skills in Halton**

Overall the 3MG programme will assist in providing job opportunities for local people and will go some way in addressing the level of unemployment in Halton. The next phases of development are estimated to create up to 2,717 new jobs.

### **6.3 A Healthy Halton**

The overall 3MG programme provides new walking and cycling routes as well as a bus service, which offer safe and affordable means of accessing key services and thereby can overcome many of the transport barriers often faced by people who do not own or have access to a car.

### **6.4 A Safer Halton**

The 3MG programme will provide much needed environmental improvements to the immediate areas.

### **6.5 Halton's Urban Renewal**

The 3MG programme is acting as a catalyst to attract developers and new businesses to the area by creating an attractive, well-accessed and serviced area, which provides a safe and attractive environment for employees and visitors.

## **7.0 RISK ANALYSIS**

7.1 There are risks to the Council in entering into the Contract with the Stobart Group. The Council will be taking on additional responsibilities in respect of Marsh Brook which don't exist at present. However, with the changes in flood risk management the Council will have a statutory responsibility from April 2012. The Council will have the financial resources to undertake the maintenance work if the need arises through the upfront payment.

## **8.0 EQUALITY AND DIVERSITY ISSUES**

Not applicable.

## **9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document</b>	<b>Place of Inspection</b>	<b>Contact Officer</b>
DSRFP Masterplan	Major Projects	Sally McDonald