

FALKIRK COUNCIL

Subject: THE HELIX
Meeting: FALKIRK COUNCIL
Date: 23 JANUARY 2012
Author: CHIEF EXECUTIVE

1. INTRODUCTION

1.1 At its meeting on 11 March 2008, the Policy and Resources Committee was formally advised of the successful outcome of the funding bid to the Big Lottery Fund Living Landmarks Programme. Authority was granted by Members, at that time, to inter alia

- accept the offer of award from the BIG Lottery Fund (BLF) and retain the council's status as lead applicant within the bidding partnership;
- agree in principle to the development of the formal partnership agreement between the partners and
- agree to the formation of the Helix Trust (HT).

1.2 At a subsequent meeting, on 10 March 2009, members of the Policy and Resources Committee agreed to the various general terms of the partnership agreement with British Waterways Scotland (BWS) and granted authority to enter into it. They also agreed to there being a joint working agreement with the HT, which by then had been incorporated. The project governance structure was also reported to members at that time and is attached to this report, for reference, as Appendix1

1.3 In April 2009, the Council agreed to appoint Councillors Mahoney and Craig R Martin to the board of the HT. The current (council Member) board members are Councillors Gow and Craig R Martin whilst there is also a board place for an officer representative.

2. PROGRESS TO DATE

2.1 The objectives of the Helix project were described in the bid documentation as:

- To transform the physical fabric of the Helix site from an urban fringe landscape that is poor in quality and social value into a central and vibrant place of fun and delight with diverse habitats managed sustainably;
- To build a long term future that supports thriving communities, a sustainable economy and businesses and environmental stewardship delivered through participatory system of governance; and
- To position learning, community engagement and participation at the centre of place making to improve life chances, inspire confidence and creativity.

These objectives have underpinned the work undertaken by the Helix project team, both by officers employed directly by the HT and those of the partner organisations providing in kind support. This work has been overseen by the HT board which has met regularly since the Trust's establishment.

2.2 There are three strands to the work being undertaken to deliver the project viz; Place, People and Enterprise. Each of these themes has progressed well since project inception.

2.3 The Place element largely describes the capital works to be commissioned to transform the project site as described above. There are three principal elements to the capital works:

- the creation of a sustainable parkland and visitor attraction - linked by a new network of accessible pathways - on 300 hectares of land between Falkirk and Grangemouth;
- the development of a new eastern entrance to the Forth & Clyde Canal, which will address a number of barriers to navigation; and
- the development of public artworks and two iconic structures at the canal entrance (the Kelpies) which will act as symbols of pride for the local community and attract significant numbers of visitors to the area.

These elements are, in turn, divided into a number of work packages.

2.4 The council, as lead agency in the partnership and the organisation with which the BLF has its formal contract for delivery of the project, also acts as the procurement authority. Reports have been presented to the Policy and Resources Committee from time to time in relation to procurement of the various work packages. The most recent report related to the contract for the canal related capital elements of the project, the council, in its capacity as Planning Authority, having supported the application for planning consent at the October meeting of the Planning Committee.

2.5 The Helix South paths contract is nearing completion and has delivered 10km of new and upgraded footpaths across the southern half of the Helix site. The contract for the access road, which will run from the existing Etna Road roundabout to the site of the Kelpies is also on site with a completion date of July 2012. Procurement of the remaining three major contracts, viz the Kelpies, Central Park and Helix North is progressing well and they are due for site starts by Spring 2012.

2.6 The capital phase of the project is scheduled for completion in 2013 and is on track to meet this timetable.

2.7 The People and Enterprise activities are currently being progressed via a number of theme groups:

- Heritage Group
- Marketing and Communications Group
- Specific Project Groups
- Fundraising and Sponsorship

- Sports & Fitness Group
- Education Group

These groups comprise officers from BWS, Central Scotland Forest Trust (CSFT) and Falkirk Council (FC), as well as Falkirk Community Trust (FCT).

The People and Enterprise highlights to date include:

- The Helix arranged for over 400 trees to be planted at the Little Kerse football fields in Grangemouth – one of many Helix-related stories covered by the local media. The trees, sourced jointly by the Helix and Link Group Ltd, were planted by Braes High pupils as part of their volunteer day
- Members of ‘Safer Langlees and Bainsford’ renovated the Celtic Circle in October 2011 as part of the planned programme of improvements in Abbotshaugh Community Woodland. The project was directed by artist Jephson Robb, designer of the planned Abbotshaugh Sentinel
- The Helix Art Gallery in the Dawson Community Centre was officially opened
- 350 local people attended a ‘Helix Through the Looking Glass’ event in Abbotshaugh woodlands, resulting in the formation of a new stewardship group
- The Helix is actively involved in the Paths for All partnership through Stepforth and Braveheart focussing on health walks in line with GP referral schemes
- The Helix Intermediate Labour Market programme welcomed its first recruits. Three apprentices were employed on six-month contracts with Land Engineering in Helix South. A further 12 apprentices began a one-year contract on the Helix site in September 2011 and are employed by CSFT.
- Plans to establish a social enterprise around developing a brand of Helix Honey were progressed with Kelvin Valley Honey. The latter will provide equipment and training to enable the Helix to set up beekeeping colonies in 2012
- For the second successive year the Helix took part in the ‘Bringing Business Experience to Education’ programme organised by Mind Vision. Presentations were given to local S5/S6 pupils who were then set Helix-related marketing and events challenges and asked to present their proposals
- Plans for Helix walking tours are being developed with Polmont Ramblers with a view to starting in spring 2012.

In addition, the capital contracts include the usual council requirements for the creation of local employment and training opportunities.

- 2.8 The above workstreams will continue to be developed and will include increased involvement with local schools, CVS and community groups together with the development of an events programme for implementation on completion of the capital works.

3. GOVERNANCE REVIEW BY THE HELIX TRUST

- 3.1 The governance structure shown at Appendix 1 has served the project well to date. However, the HT board has recognised that the economic landscape continues to be challenging. There is an ever present need for those overseeing the spending of public funds to be mindful of the climate within which they operate. This means the board need to continue to challenge means of operation to ensure the effective and efficient delivery of the project on behalf of the partners, including BLF. As a consequence, the HT board has undertaken a review of the governance arrangements and recently wrote to the primary project partners, BWS and the Council, to propose changes. A copy of this letter is attached as Appendix 2 to this report
- 3.2 Members are asked to consider the terms of this letter and take a view on the proposals contained therein.

4. IMPLICATIONS

- 4.1 The proposals would appear to have merit. Falkirk Community Trust (FCT) could provide a natural "home" for the Helix Futures Trust (HFT) activities which are anticipated in the Helix project governance document to be:-

- Generating funds and revenue activity;
- Promoting the continued success of the Helix;
- Further developing effective community engagement;
- Further developing a cultural and arts programme, educational, training and volunteer opportunities;
- Sustainable management and maintenance of the Helix assets;
- The appointment of staff.

Subject to a degree of amendment to the Articles of FCT, the activities sit well with the activities with which FCT is charged on behalf of the council.

FCT is already established and, by the time the bulk of the Helix project work required of it were to commence, it would have had a reasonable period of time to develop. Undertaking the Helix based work would give FCT an increased level of activity to support its operation and would remove the costs of establishing a similar body to oversee similar work within the Council area. The risk of HFT being unable to develop sufficient critical mass to be successful would also be eliminated.

- 4.2 Should Members be supportive of the proposals in principle, a potential future governance structure for the project is shown at Appendix 3 to this report.
- 4.3 In practical terms, this differs little from current operational arrangements.

- 4.4 The capital elements of the project plan are currently delivered with significant Council involvement. As described in para 2.4 above, all procurement is undertaken via the Council, which is the contract awarding body. In terms of the existing governance structure (Appendix1), the Director of Development Services and the Head of Roads and Design sit on the Capital sub committee which has a decision making, as well as a reporting and monitoring, role. The Helix Project Director has day to day contact with officers in Development Services on capital contract matters and the programme is being delivered, thus far, successfully in accordance with the current timescale and budget.
- 4.5 The proposed governance structure would not undermine these arrangements but be formally reflected in the new structure
- 4.6 The proposed structure at Appendix 3, retains at its heart the existing contractual safeguards that the funding partners require to fulfil their own respective obligations in relation to managing public funds. The new partnership agreement between BWS and FC would mirror the terms of that which exists at present whilst, as previously stated, BLF's contract is with the council and this would also be largely replicated in any new arrangement.
- 4.7 The work to be undertaken by FCT would be on terms to be agreed by all parties and, it is anticipated, could readily accommodate respective requirements of stakeholders including the absolute need to recognise the unique nature of the Helix project as a BLF Living Landmark and the clarity of identity that particular status demands.
- 4.8 As previously stated, there is broadly compatibility between the objectives and activities of FCT and the previously anticipated role of HFT. The fundamental principle of the living landmark that will be the Helix, being a community resource, underpins the entire project and must be absolutely guaranteed in any new arrangements. This ethos fits well within the FCT setting and can be embedded via a specification of services to be carried out by FCT.
- 4.9 In terms of financial implications, FC has a Joint Working and Funding Agreement with the HT to provide services required to successfully deliver the project. The overall budget for providing these services is circa £2.9m over a five year period. This is principally funded through the grant received from Big Lottery (circa £2m) and contributions from both the Council (£120k per annum) and BWS.

The proposal to wind up the HT and transfer responsibilities to FCT will incur additional expenditure, such as legal fees and employee costs as a result of a potential TUPE transfer. However it is anticipated at this stage that these costs can be accommodated by expected savings generated by the proposal, including reduced administration and overhead costs.

Overall the HT is currently operating within its budget and subject to any legal considerations it would be anticipated that the remaining budget to deliver the People and Enterprise aspects of the project can be directed towards FCT.

- 4.10 From a legal perspective, there are a number of matters to be considered and a good deal of work would be required in terms of stakeholder management, dialogue and successful completion of consent/approval processes with BLF, BWS, the boards of each trust and the Office of the Scottish Charities Regulator (OSCR), accompanied by appropriate amendment to key documentation, in order to achieve the proposed outcome.
- 4.11 In terms of the original bid document and the BLF terms and conditions, the governance strategy approved by BLF has, at its core, the HT and HFT. Any proposal to amend this governance strategy would require BLF approval and input into amending the grant terms and conditions to which the Council is the signatory.
- 4.12 The partnership agreement between FC and BWS would require to be amended to reflect the fact that HT and HFT would no longer be carrying out their roles in terms of the approved governance strategy. In particular, changes would be required to reflect the new governance arrangements, ongoing responsibility for capital phase delivery and future asset management including the canal hub, Kelpies, Central Park and the wider Helix environment. Issues such as intellectual property and the future development of the project area would potentially be covered in this work.
- 4.13 The HT would be dissolved and the board would need to formally take that process forward to a conclusion. The joint working and funding agreement between FC and HT would require to be terminated. Assignations or novations of any contracts or leases held by HT that would need to be taken on by the Council or FCT would require to be agreed with the relevant contractor or landlord. Although HFT is a registered company, it was not intended to be fully operational until 2013 when the capital aspect of the project would be anticipated to be completed. As a result, the dissolution of this company would be a relatively straightforward process.
- 4.14 The HT has a number of employees that would transfer to either the Council or FCT, as appropriate. That process will necessitate consultation and careful consideration of TUPE, structure and pension issues on the part of both the Council and FCT.
- 4.15 The FCT board would need to agree to the proposals and how they would be implemented including amendment to its Articles of Association and the agreements with the Council. Budget and staff requirements would need to be carefully worked through with any practical and risk issues understood and addressed.
- 4.16 OSCR would require to approve the winding up of HT and would also require to be satisfied that FCT would still meet all the charities tests following the assumption of the HT and HFT elements. It would be likely that the Articles of Association of the FCT would require amendment and approval of OSCR along with the amended FCT business plan.
- 4.17 Initial consideration has not uncovered any specific procurement issues but it is an area that would be monitored carefully throughout the process.

- 4.18 It would be anticipated that while the HT and HFT would be brought to an end, the structure and composition of the FCT board would not be amended. The non Falkirk Council HT members would require to be comfortable with that position at the time of the dissolution of HT and HFT.

5. THE WAY FORWARD

- 5.1 Should Members be inclined to support in principle the proposals coming from the HT board, a fair amount of work will have to be done to complete their implementation. Any such alterations would be subject to consultation with and /or the consent and agreement of our main project partner BWS, BLF and the boards of FCT and HT. Additionally OSCR will have requirements to be met in relation to both HT and FCT. There do however, seem to be advantages to the Council, without detriment to project delivery, in pursuing the proposals

6. RECOMMENDATIONS

6.1 It is recommended that Members:

- (a) confirm their agreement in principle to the proposals contained in Appendix 2 to this report, as supplemented by the terms of section 4 and Appendix 3 which include the dissolution of HT and the assumption by FC and FCT of the services to be delivered by HT and HFT;
- (b) subject to all necessary approvals and consents being agreed by the various stakeholders detailed at paragraph 5.1 above, authorise the Chief Executive or her nominee to take forward work required to implement these proposals and
- (c) instruct the Chief Executive to report back to the Full Council meeting in March for final approval of the detailed proposal for transition noting that, in the event that the work referred to at recommendation (b) above result in any significant changes being made to the proposals, such changes will be specifically drawn to the attention of Members.

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CHIEF EXECUTIVE

Date: 16 January 2012

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LIST OF BACKGROUND PAPERS