

FALKIRK COUNCIL

Subject: THE HELIX
Meeting: FALKIRK COUNCIL
Date: 20 JUNE 2012
Author: CHIEF EXECUTIVE

1. INTRODUCTION

- 1.1 Members will recall the terms of previous reports to council meetings, held on 23 January and 14 March 2012 respectively, in relation to proposed revised governance arrangements in respect of delivery of the Helix project. Following consideration of the terms of the reports, Members agreed in principle to the implementation of the revised governance model, attached as Appendix 1, for ease of reference, and to receive further reports on progress of the work with a view to considering final approval in due course. This would allow the Helix Trust to be wound up and the responsibility for the work strands within the project to transfer back to the main funding partners viz Falkirk Council and British Waterways Scotland (now Scottish Canals). The partners would then commission Falkirk Council to oversee delivery of the capital elements of the project with Falkirk Community Trust picking up delivery of the people and enterprise work packages.
- 1.2 This report describes progress since the matter was last considered by Members and recommends actions to allow the transition to be concluded. It also gives an update on progress of the project.

2 TRANSITION PROGRESS

- 2.1 Since Members last met as a full council, a number of work strands associated with the transition programme have been further progressed. This work involves contributions from the primary funding partners, Falkirk Council and British Waterways Scotland, together with Central Scotland Forest Trust (CSFT) as a subsidiary (non funding) partner, the Big Lottery Fund and Falkirk Community Trust. In addition the Helix Trust has been heavily involved in the preparation for handover and the wind up of the Trust itself.
- 2.2 The work strands have largely followed the following headings:
- (a) Revising of project documentation
 - (b) Staff transfer activities
 - (c) Other asset transfer
 - (d) Approvals

2.3 Project Documentation

- 2.3.1 The existing project documentation comprises a Joint Working and Funding Agreement between Falkirk Council and The Helix Trust. This, in turn, refers to the other regulating paperwork comprising the Helix Trust Business Plan and the Partnership Agreement between Falkirk Council and British Waterways Board, the latter of which includes the BIG Lottery terms and conditions, a funding overview of the project, a governance strategy (previously produced to Members as part of the 23 January report), a land acquisition strategy, the project cost plan and relevant site plans.
- 2.3.2 As noted there are a number of parties involved but discussions are progressing well in relation to the required suite of documentation and amendments to the existing project documentation. The relationship of the primary partners (Falkirk Council and Scottish Canals) will remain largely unchanged with the revisions proposed to be made to the Project Agreement reflecting the change in circumstances occasioned by the passage of time and development of the project on site. This is also the case with the Helix Trust Business Plan which has been periodically updated since its first iteration of April 2009. Those elements of the business plan which remain relevant will be incorporated into the new arrangements to regulate relationships amongst parties viz Scottish Canals (SC), Falkirk Council (FC) and Falkirk Community Trust (FCT). The elements of the plan relating to delivery arrangements pertaining to Helix Trust are clearly set to be superseded by the new governance arrangements and are, accordingly, no longer applicable. Conversely the sections relating to future delivery milestones and monitoring and evaluation thereof are key elements of the documentation being concluded relating to the requirements to be placed on FCT for the services it will provide to the partners following it assuming the role previously intended for the Helix Futures Trust. Further, there is a section relating to transition arrangements which is being used as a guide for the work being undertaken.
- 2.3.3 While acknowledging that BIG Lottery Fund (BLF) final approval is required, it is proposed that the BLF terms and conditions will be replicated as part of the new arrangements with the existing contract between BLF and the Council being varied only to the extent of recognition of the alterations to the governance arrangements, the closer involvement of the partners and the introduction of FCT into the delivery matrix. Finally, the financial allocations previously outlined in the Helix Trust paperwork will be updated to reflect the spend profiles experienced to date following the tender processes including tender awards, effected on behalf of Falkirk Council, and the implementation of the people and enterprise work streams to date.
- 2.3.4 The commissioning of the future operation of the project by FC from FCT will be effected by a supplementary agreement to the existing Funding and Transfer Agreements between the parties which were approved by Members at the meeting of the full council which took place on 22 June 2011. These documents (the existing agreements) are in an appropriate form to properly regulate the provision of the services by FCT to FC (on behalf of both partners) and will be able to be varied by means of the supplementary agreement to accommodate the additional activities. This document will include the operating plan, (including

those parts of the Helix business plan which relate to future people and enterprise activity referred to in paragraph 2.3.2) and a service specification, (including, with appropriate linkage to the lease/licence structure that will be put in place between FC and FCT and SC and FCT, maintenance details for the relevant project infrastructure in the form of an asset management plan). These documents are due to be completed in early course and follow existing arrangements for similar facilities within the Council portfolio. Repair and maintenance of the canal infrastructure is not to be transferred to FCT but will remain the responsibility of SC as the statutory body in this regard and the organisation with the relevant skill set to best meet the obligations.

- 2.3.5 As noted, in addition, lease and licence documents will be completed to regulate FCT occupation of the project infrastructure to allow it to effect delivery of the services, all in line with the existing arrangements between FC and FCT. This will complete the suite of documents, save for those referred to in paragraphs 2.4.1 and 2.5.1 which will effect the relationship amongst the parties shown in Appendix 1 referred to.

2.4 Staff Transfer

- 2.4.1 There are eight staff employed by the Helix Trust. All have fixed term provision included in their respective employment contracts to reflect the nature of the project. Having taken specialist advice, the relevant processes in terms of the TUPE regulations are currently being completed with the destination employers, where relevant, being either FC or FCT. All Helix Trust staff currently work closely with those colleagues from FC and FCT who are engaged in Helix related activity, and so integration into the destination employers' respective structures should not be problematic and disruption to project progress kept to a minimum. The transfers will be managed between demitting and receiving employers by means of transfer agreements being prepared by the Helix Trust's legal advisers in their role acting for the demitting employer. The agreements will be similar in form to the document used when FCT was established and approved by Members at their meeting on 22 June 2011.

2.5 Other Assets

- 2.5.1 The Helix Trust holds little by way of assets in its own right. It was agreed at the outset of the project that the primary property assets would be vest in either SC or FC, with standard securities granted as appropriate to BLF to secure their investment in the project. As previously stated, occupation of the project infrastructure by FCT to undertake the commissioned services will be regulated by means of leases or licences in the same way as other council owned assets. Where the current arrangement is between HT and a third party and is regulated by licence arrangements, FCT will be substituted at the appropriate time. These arrangements will be effected by means of new leases/licences if none currently is in place or by assignation of the tenant/licensee interest to FCT where they currently exist.
- 2.5.2 However, in relation to those few assets held by the HT, an asset register has been compiled and its contents will be the subject matter of transfer agreements between HT and FC/FCT as appropriate. Included in the register are a number of corporeal (including the Kelpie maquettes) and incorporeal (eg contracts)

assets. It is anticipated that the maquettes might have significant future value and arrangement for any disposal after transfer will be specifically addressed within the transfer agreement. It is important to note that, as part of the terms and conditions of the BLF grant, the partners have agreed to reinvest any additional unbudgeted income into the project which will be the case for all income and will be of value to offset financial commitments of all relevant parties.

- 2.5.3 These arrangements will also address the disaggregation of the project budgets included in the Helix Trust Business Plan referred to above.

2.6 Approvals

- 2.6.1 Each of the participating organisations requires to complete its own approvals process to the extent of its respective interest in the project. It is intended that the reports of 23rd January, 14th March and this one, together with the decisions of Members on their cumulative recommendations will complete that of Falkirk Council. Each constituent partner has a transition plan which includes the requirement to obtain the necessary internal approvals. From our perspective, there is clearly a need to properly follow our own approvals process and to oversee that our partners have properly followed theirs.
- 2.6.2 In addition, there is a requirement to obtain consent, to the extent of their interest in the transition process from the Office of the Scottish Charities Regulator (OSCR). This requirement sits with HT, insofar as it will be a winding up as a charitable body and transferring the assets it holds elsewhere, and with FCT whose charitable objects require to be slightly varied to allow it to undertake all of the people and enterprise activities included in the specification. However, the Council, to the extent of its interest in FCT requires also to consent to this minor alteration before OSCR can be approached. This is reflected in the recommendations contained in para 6.
- 2.6.3 Likewise, and as noted above, final sign off by BLF to the proposals requires to be provided in due course.

3. PROJECT PROGRESS

- 3.1 In May, members of the Helix Trust team and the client partners met with BLF Scotland's committee members, including the Chairperson for a site visit and a presentation on Helix progress. The team received very positive feedback from the BIG Lottery Team on the day, in particular, around community projects and employment opportunities within the capital works, advising that they will investigate whether additional funding can be made available to support Helix related community projects. A particular area of focus for BLF is the Helix team's planned development of volunteers and Helix community champions to take editorial ownership of the Community and Volunteer section of the new website. BLF's Scottish Director viewed the '*Helix Community Editors*' incorporation into the new website as highly innovative.

3.2 Capital Works Progress

- 3.2.1 The project has now successfully procured all the major capital works tendering exercises within project budget with phased completion of each of the major elements commencing in summer 2013 and concluding in the same year.
- 3.2.2 The new access road at Etna Road, including the first of the carpark areas, is due for completion in August 2012. The project team are looking at the opportunity to open the road and the car park to create access onto the new towpaths which will allow the public to view the construction progress of Central Park, the Canal Hub and the Kelpies. Canal works have commenced with the initial works focus on the site set up and initial earthworks. Major civil engineering works on the new M9 tunnel will commence from 11th June. The M9 will be subject to phased traffic management for the duration of these works. The public realm contractor is now appointed and also due to commence on site on 11th June. Works will initially start on the Central Park area and will progress to the new Canal Hub. Central Park will be the first major element of the Helix to be completed and opened to the public in summer 2013. The Kelpie contractor is now appointed and has commenced the offsite works. The onsite works are due to start in January 2013 with the planned completion in summer 2013.
- 3.2.3 The ILM Training Scheme being delivered in partnership with the Council's Employment Training Unit & CSFT in Helix North has continued to progress with an additional 5 trainees now in place taking the total to 16 trainees and 2 Team Leaders. The project team are currently looking at the opportunity to increase this squad and the duration of the training scheme to up to 12 months. The Abbotshaugh Sentinel procurement is due to be completed in July 2012 with the expectation that works will commence in August and target a completion date of October 2012. As part of these works, the existing Helen Coffey sun clock will be refurbished. The planned Mumrills Sentinel continues to progress with concept designs in place following meetings with key stakeholder groups including the Antonine Wall Group. The group, which is very positive on the ambition and vision of this proposal and its potential to create a benchmark for the future Antonine Wall A&I Strategy. Further meetings will take place with key community groups, schools, and the community council within the Lower Braes areas

3.3 People & Enterprise Works Progress

Marketing & PR

- 3.3.1 The announcement of contract awards for both the Canal & Kelpies has received a high level of interest from all sectors of the Scottish press featuring in all the major publications. The team are currently working on an opportunity to exhibit a set of the Kelpie maquettes in Chicago at one of the largest outdoor sculpture event in the world. The maquettes are currently the only possible non-American exhibition out of 60 pieces to be featured at this event. The team are working with Creative Scotland, Visit Scotland & Events Scotland to help sponsor the logistical costs involved. This proposal has the potential to help internationalise the Helix Project, create enhanced partnerships with Creative Scotland & Visit Scotland. In addition to the interest shown by the aforementioned organisations,

Scottish Government have been in touch to ascertain where they can support the proposal within the context of ‘*Scotland’s Winning Years*’

Enterprise

3.3.2 Tourism

Travel Trade: Helix were represented at VisitScotland’s EXPO 2012 at the Royal Highland Centre, Ingliston, Edinburgh on 25-26 April. The fact that there were two sets of Kelpies on display – one at the airport roundabout, the other adorning the Helix stand in the main hall – proved a popular talking point and attracted lots of positive attention from UK and international attendees.

3.3.3 Social Enterprise Zone

A meeting was held with representatives from The Social Enterprise Academy and CVS Falkirk to plan the launch of this project. Some early work has been undertaken by CVS submitting a paper to the local Community Planning Partnership and this will be enhanced with a Helix brand emphasis. Discussions are also underway on funding for the project. The next meeting will pull together all of the parties to launch the first phase of a social enterprise platform in the Falkirk Area.

3.3.4 Education and Enterprise

After a proposal was submitted by the Helix, Braes High School has agreed to run a pilot social enterprise bespoke course. This project will form part of the senior pupils’ curriculum for 2012/13 and 6 periods per week have been allocated along with 2 teachers. The pupils will undertake the National Progression Award in Enterprise and Employability at SCQF level.

3.3.5 Dawson Bike Club

This project is supporting Dawson Bike Club, through a partnership, in the delivery of a social enterprise model which will provide affordable recycled bikes to the local community, carry out maintenance and repair services for local people and local business and carrying out guided tours on the Helix sites.

People Projects

3.3.7 Beekeeping

Fifteen Helix trained beekeepers are now established on two sites, one with 8 hives at the Falkirk Wheel and one with 2 hives on private land in Maddiston. The beekeepers are now a new established Helix group who will receive support for the first two years from our partnership with Kelvin Valley Honey. After this initial period there is the potential for the group to develop Helix Honey through a social enterprise model.

3.3.8 Meet the Species

The first of four Meet the Species events have taken place at Westquarter Glen, hosted by the Westquarter Wildlife Group and at the River Carron, with pupils from neighbouring schools, hosted by the Communities Along the Carron Association. Both events featured a range of environmental partners as well as fun activities. Identified species will be reported as part of the Cultural Olympiad. Further events are planned for Abbotshaugh Community woodland and at Jupiter Urban Wildlife Centre.

3.3.9 *Stewardship*

A new Helix stewardship group has been established in Langlees. Following their participation in a Helix Design Reference Group, the group has now formally 'adopted' a piece of the Abbotshaugh woodland. The Can Do group initially came together to discuss ways that their children's homework could be made more relevant to the community in which they live. As a result, the group identified the local community woodland as a space and place for both community and family learning.

3.3.10 *Helix Walking Tours*

A series of weekly Helix Walking Tours are now underway, led by our volunteer walk leaders. The tours leave from Laurieston Square and take in the Helix South paths through Mumrills, Beancross and Laurieston. Further walking tours will be designed and established in the north of the site in line with the capital works. This compliments our established bus and cycling tours.

3.3.11 *Cycling*

Plans are being finalised for the launch of Bike Week on Saturday 16th June, involving a wide range of cycling activities, fun workshops and a guest appearance by Mark Beaumont, world record holder, and the man who recently cycled the length of the Americas. Helix Cycling Tours are now taking place fortnightly involving varied routes throughout the site.

3.3.12 *Event Development Scheme*

The team have secured the services of UZ Arts and an additional £50K of funding from Creative Scotland to deliver a year long arts and events strategy with the working title 'Roofless'. 'Roofless' is a one year programme which will be run by Big In Falkirk organisers UZ Arts, and the Helix Project, who will work with professional artists, partners and local communities through a collaborative engagement process. The programme will see the appointment of artists to work with key community areas and groups to develop key themes and host a series of community focussed events that will culminate in 'Helix Day', a mass community participatory event to celebrate the opening of Central Park

4. **IMPLICATIONS**

4.1 **Financial**

As noted above, FC has a Joint Working and Funding Agreement with Helix Trust to provide services required to deliver the project. The overall budget to provide these services over a five year period to 2013 is circa £2.9m. This was principally funded through the grant received from Big Lottery (circa £1.9m) and contributions from both the Council (£120k per annum) and Scottish Canals.

To date the Trust has spent £1.5m. It is proposed the balance of £1.4m, less the cost of commitments and liabilities incurred by it prior to the company being dissolved, will be used to fund the people and enterprises work packages to be undertaken by FCT. There will also be a need to provide ongoing Council funding to operate and maintain the Helix site once it is fully operational. The

extent of the ongoing funding is currently being estimated and will be reported to Members in due course.

A financial summary of the capital project is detailed at Appendix 2. The current projected spend of £40.7m is marginally below the overall estimated budget of £41.1m. However Members will recall that the Council agreed to provide a guarantee of up to £3m to enable the project to be started whilst the Helix Trust made bids to other organisations for additional external funding. To date, the total external funding awards received total £0.9m. This leaves a potential funding shortfall of around £2m after taking into account the current projected underspend of £0.4m.

4.2 **Legal**

The legal implications relate to the legal processes and preparation and conclusion of the contractual, leasehold and project documentation detailed in paragraph 2.

4.3 **Personnel**

The personnel implications are included in para 2.4 above.

4.4 **Policy**

The Helix project contributes to a number of the Council's key policy areas including the promotion of healthy lifestyle, youth training opportunities, promoting the Falkirk area as a visitor destination and physical regeneration.

5. **CONCLUSION**

- 5.1 The transition work to implement the Council's previous in principle decision has been extensive and complex but is nearing completion with final drafting due to be concluded shortly. A number of partner working groups have been working successfully together to progress matters to satisfactory conclusion. Authority is being sought to allow the completion and execution of the relevant contract, leasehold and project documentation to complete the transition in short order to ensure a smooth changeover and minimise the risk of disruption to the project.

6. RECOMMENDATION

It is recommended that Members:

- 6.1 note the further progress made in relation to the Helix governance transition project and, subject to all necessary approvals and consents from the participating organisations, BLF and OSCR being obtained, authorise the Chief Executive or her nominee to make all necessary arrangements to conclude the exercise. This would include, in particular, the conclusion of all relevant contractual leasehold and project documentation, as referred to in this report and the authority to consent to the relevant adjustment to the charitable objects of FCT as referred to herein.
- 6.2 note the progress being made on the project as described in para 3 of this report.

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CHIEF EXECUTIVE

Date: 13th June, 2012

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LIST OF BACKGROUND PAPERS

1. Project files*

* Not for publication by virtue of Paragraphs 1, 8, 11 and 12 of Part 1 of Schedule 7a of the Local Government (Scotland) Act, 1973