

## Cabinet

<b>Report Title</b>	West Bromwich Town Centre Regeneration Project Update – governance and procurement arrangements
<b>Date of Meeting</b>	Wednesday, 25 June 2025
<b>Report Author</b>	Mike Jones, Monitoring Officer and Assistant Director – Legal and Assurance
<b>Lead Officer</b>	Executive Director - Finance & Transformation
<b>Lead Cabinet Member(s)</b>	Cabinet Member for Regeneration & Infrastructure
<b>Why is this a key decision?</b>	To result in the Council incurring expenditure, the making of savings or the generation of income amounting to £1m or more.
<b>Wards Affected</b>	West Bromwich Central;
<b>Identify exempt information and exemption category</b>	Publicly Available
<b>Is the report urgent?</b>	No
<b>Reasons for urgency (only where applicable)</b>	N/A
<b>Appendices (if any)</b>	None

### 1. Executive Summary

- 1.1 This report provides an update on governance arrangements to ensure the sustainable delivery of the proposed regeneration project. Information is provided on the structure, resourcing and processes that will support the impactful delivery of the regeneration project. These proposed structures and processes will give the Council the ability to flex in line with capital and revenue demands, associated legal compliance and to be sufficiently agile to react to short term requests with complex eligibility requirements

### 2. Recommendations

For the reasons set out in the report, it is recommended that Cabinet:

- 2.1 Delegate authority to the Monitoring Officer and Assistant Director – Legal and Assurance in consultation with the Executive Director for Place and the Cabinet Member for Regeneration and Infrastructure to identify and implement an appropriate governance structure and monitoring arrangements for this project clearly setting out the role of Members and Officers in decision-making and use of statutory powers related to this and future regeneration projects.
- 2.2 Delegate authority to the Executive Director for Place and the Executive Director for Finance and Transformation in consultation with the Monitoring Officer and Assistant Director – Legal and Assurance to determine funding arrangements for ongoing work on the regeneration scheme including the commissioning of specialist services.

### **3. Proposals – Reasons for the recommendations**

- 3.1 A robust governance framework is essential to ensure oversight and decision-making is in place. Cabinet has, to date, received key decision milestones for this project. The project has continued to progress and has recently seen publication of its market engagement documents through a Pre-Market Engagement document (PME). This is a key milestone on the project's journey which will lead in due course to the appointment of a development partner.
- 3.2 This report provides delegation to officers to ensure the necessary governance and decision-making structures are put into place to support both this and similar future projects.

### **Land Acquisition and Disposal**

- 3.3 Following the identification and appointment of a development partner, and in parallel to the development of a robust business case, it will be necessary to identify all areas of land required to deliver the regeneration project and, following completion of all necessary title due diligence works to seek to acquire the land.
- 3.4 Whilst the Council will seek as far as possible to acquire land through negotiated process, on occasion it may be necessary for powers of compulsory purchase to be utilised.
- 3.5 The Council has various powers to acquire and dispose of land including under S123 of the Local Government Act 1972, The legislation requires land to be disposed of at market value. Where a disposal is for less than market value, the Secretary of State permission is required prior to the disposal takes effect.
- 3.6 The procurement of a development partner and the subsequent entering into of Partnering Agreements will need to show a compliant use of legal powers in a manner that can achieve wider reaching social value objectives that were shared with Cabinet in draft format in March 2025.
- 3.7 Delivery of the ambitions within the Masterplan will require a clear process of site assembly and acquisition. Whilst, the Council will seek to acquire interests by negotiation, it may be necessary to utilise Compulsory Purchase

Order (CPO) powers to acquire land interests. Should this be required, the governance processes for the project in parallel to the appointment of a development partner will allow a clear supporting business case to be developed. A business case is essential where CPOs are required to enable the regeneration to take place as it ensures that land acquisition through compulsory purchase is justified by a viable project that can deliver public benefits.

- 3.8 Officers propose to manage the CPO risk element of this project by requiring detailed equality and viability assessments as part of the business case alongside matters more material to Best Value funding and costing considerations.
- 3.9 In the event that it is necessary for the Council to provide aid in the form of property acquisitions and disposals at less or more than market rates (as the case may be), this may amount to a reportable subsidy under the Subsidy Control Act 2022. A detailed subsidy advice review would be required to determine if a subsidy is/could be provided.
- 3.10 The legal powers related to the land transactions need to be identified and its use evaluated against subsidy control legislation. A robust governance framework is required to ensure compliance with multiple legislative regimes such that the Council is able to deliver a Best Value Regeneration Scheme. The proposals and approach to governance set out in this report achieve that objective and are designed to provide a robust assurance framework which will enable delivery of the West Bromwich Masterplan in accordance with previously approved timescales and milestones.

#### **4. Alternative Options Considered**

The following options have been considered:

- 4.1 **Option 1 – Proceed to Tender.** Existing cabinet decisions grant authority to tender and appoint a development partner to progress the project. Following any appointment, this report confirms requirements for a business case to then be prepared jointly between the Council and Development Partner to ensure all options for the compliant use of statutory powers are available. This option is preferred and is addressed through this report.
- 4.2 **Option 2 – Preparation of a Business Case prior to the Appointment of a Development Partner.** Whilst a business case will ultimately be required, it will be pre-emptive at this stage to prepare and would limit opportunities for engagement and input from a development partner and limit the potential for innovative bids from the market. This option was therefore dismissed.

#### **5. Consultation**

- 5.1 The project/programme is subject to ongoing internal consultation with key stakeholders from finance, legal, procurement and regeneration alongside lead Cabinet Members. Decision-making governance gateways require consultation on key project milestones, through delegation or Cabinet decision depending on the threshold of decision.

## **6. Financial Implications**

- 6.1 The Section 151 Officer and Executive Director – Finance and Transformation, Monitoring Officer and Assistant Director – Legal and Assurance and Executive Director for Place are jointly reviewing the project to ensure that a financially feasible regeneration scheme is in place with appropriate monitoring of the financial risk associated with the project.
- 6.2 Officers will aim to deliver additional resources for this project within existing budgets as set out in previous Cabinet reports.

## **7. Legal and Governance Implications**

- 7.1 The Council has the power to enter contracts with third parties pursuant to its functions as provided for s.1 Local Government (Contracts) Act 1997 in this case exercising relevant functions using its general power of competence under s.1 of the Localism Act 2011 together with its power to develop land under s.2 Local Authorities (Land) Act 1963. It may also rely on s.111 Local Government Act 1972 to the extent this facilitates or is conducive or is incidental to the exercise of its functions. In exercising its power under the 1963 Act the Council will have concluded that the development will benefit or improve the Council's local area.
- 7.2 The Council has an obligation to comply with s.123 Local Government Act 1972 to secure best consideration reasonably obtainable on any disposal. It is critical that valuations are secured across all sites recommended for disposal or development.
- 7.3 Competitive procurement activities will be undertaken in accordance with the requirements of the Procurement Act 2023 with the Council's Contracts and Procurement Procedure Rules and having regard to with s.149 Equalities Act 2010 (public sector equality duty) to ensure the Council's master planning and regeneration activities consider the impact of proposals on those having protected characteristics and other relevant environmental, social and crime and disorder impacts.
- 7.4 Once the Council has identified a suitable redevelopment partner to the upcoming procurement process, officers will work with the development partner to prepare a comprehensive business case to identify the next steps to progress the regeneration project.
- 7.5 It is important for the Council to be satisfied as to the terms upon which any selected development partner will contract and collaborate to work in partnership with the Council. Statutory guidance that accompanies the Subsidy Control Act 2022 states the use of a competitive public procurement process can lead to a legal assumption that no subsidy will have been granted as the Commercial Market Operator Principle will likely have been complied with. If so, then there is no Subsidy. Depending on any required financial contribution from the Council it may in due course be prudent to refer the matter to the Subsidy Advice Unit which is a department of the Competition and Markets Authority.
- 7.6 Preparation of a business case is a key requirement to set out the Council's overall regeneration delivery strategy. It is anticipated that site assembly and

land acquisition will, where possible, be achieved through negotiation. However, it may be necessary for the Council to use CPO powers.

- 7.7 CPO's allow local authorities to acquire land for various public purposes including land for regeneration. There is however a strict process to be followed which includes identifying the *need* to acquire the land and a clear argument for the land that needs to be acquired. A CPO will require Secretary of State approval to ensure that it is in the public interest and that the local authority has taken reasonable steps to negotiate with landowners before resorting to a CPO. The business case to be prepared with the development partner will form a critical element of being able to prepare properly for the CPO.
- 7.8 Where the Council seeks to use specific powers, for example s.123 of the Local Government Act 1972, these specific powers and their requirements for use, take precedence over the general power of competence.

## **8. Risks**

- 8.1 The next stages as recommended would commit the Council to allocating resource and officer time to progressing the delivery plan for regeneration in West Bromwich Centre through the formal procurement process. It does not commit the Council to any site-specific development risk at this stage.
- 8.2 Specific development strategies and any direct site intervention, including arrangements for site assembly, will be considered on a case-by-case basis and brought back to Cabinet for consideration as needed. By moving forward with a firm commitment to delivery and clear robust governance arrangements to ensure delivery, these risks can be mitigated.
- 8.3 The financial arrangements for the delivery of the regeneration scheme are yet to be confirmed. To this end, it will be advisable for delegated officers to review financing to ensure that appropriate funding streams/loans/grant funding are earmarked for this regeneration scheme.

## **9. Equality and Diversity Implications (including the public sector equality duty)**

- 9.1 An Equality and Diversity Impact Assessment (EIA) was undertaken during the Masterplanning process. This EIA will be updated as is necessary.

## **10. Other Relevant Implications**

- 10.1 In light of a large number of development projects that are envisaged the Council may wish to consider setting up a bespoke framework for professional services that may be required by officers for this and other regeneration projects.
- 10.2 The framework will allow officers to have a compliant way of commissioning professional services from Providers who have been vetted by the Council.

## **11. Background Documents**

- Minute Number 20/22 – Cabinet, 9 March 2022: West Bromwich Interim Planning Statement and West Bromwich Masterplan

- Minute Number 40/23 - Cabinet, 15 March 2023: Use of Compulsory Purchase Order Powers to enable strategic acquisitions in West Bromwich Town Centre
- Minute Number 34/25 – Cabinet, 12 March 2025: West Bromwich Masterplan Delivery Partner Procurement

## 12. How does this deliver the objectives of the Strategic Themes?

This report will support the delivery of the following Strategic Themes:-

- **Growing up in Sandwell** - Offering high-quality and affordable housing in West Bromwich town centre, with its local schools, leisure facilities and public transport links, will help offer children and young people the best start in life.
- **Living in Sandwell** – The Masterplan includes objectives to deliver up to 1350 new homes in this key strategic centre, focussed on key transport nodes. These will provide low-energy and sustainable apartments and will underpin Sandwell's commitment to build housing to meet the needs of its residents. The provision of high quality and affordable housing meets fundamental human needs for residents of all ages, enabling people to live better, longer and healthier lives. The regeneration of these key sites will provide much needed and high-quality new affordable housing will reinvigorate the wider town centre and provide the confidence to drive additional inward private sector investment in the town.
- **Thriving Economy in Sandwell** - New high-quality space for people to live, work and spend leisure time, focussed on sustainable transport links, will drive a truly sustainable town centre economy and arrest the decline of the high street. Delivering regeneration at scale and at pace close to key public transport nodes will encourage travel by sustainable means and will support usage and viability of the public transport network.

**Relevance Check****Budget Reduction/Service Area:****Service Lead****Date:**

In what ways does this Budget reduction have an impact on an outward facing service? How will the service feel different to your customers or potential customers?

N/A

If not, how does it impact on staff e.g. redundancies, pay grades, working conditions? Why are you confident that these staff changes will not affect the service that you provide?

N/A

Is a Customer Impact Assessment needed? No