

RECORD OF EXECUTIVE DECISION

Tuesday, 21 April 2015

Decision No: (CAB 14/15 14626)

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	CABINET MEMBER FOR HOUSING AND SUSTAINABILITY
SUBJECT:	AUTHORITY TO SET UP A WHOLLY OWNED DEVELOPMENT COMPANY TO DELIVER CITY WIDE DEVELOPMENT
AUTHOR:	BARBARA COMPTON

THE DECISION

- (i) To delegate to the Director, Place to undertake the required work to set up a wholly owned Development Company to deliver city wide development, subject to the establishment of a sound Business Plan for the company.

REASONS FOR THE DECISION

- 1) The Council has ambitious plans for developments focused on the Very Important Projects and new pipeline of projects designed to deliver the aims and objectives of the City Centre Masterplan. This will deliver more jobs, homes and employment space to drive economic growth. The city's estate regeneration programme is designed to create successful communities to ensure everyone in the city will benefit from this economic growth. The creation of a DevCo would afford the Council new opportunities. One of these will be to increase the supply of new housing across the city.
- 2) The recommended option has the potential to utilise lower cost public funding and make an income for the General Fund through on-lending at a higher commercial rate to the DevCo. This arrangement would help to avoid any State Aid issues.

DETAILS OF ANY ALTERNATIVE OPTIONS

- 1) Do nothing; this would not enable the Council to take a more proactive role in development in the city.
- 2) The Council could set up a Joint Venture (JV) with a partner organisation whereby the Council contributes vacant land at nil cost through a development agreement. A partner would provide all professional fees and planning costs, secure funding and manage construction. Sales income would accrue to the JV and the Housing Revenue Account (HRA) would acquire homes at a figure

which leaves the JV with no costs after agreed profit is taken. This raises complex governance and control issues, e.g. voting rights, dividend arrangements, dispute resolution increasing set up and operating costs. In addition, profits on house sales would need to be shared.

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- 4) Alternatively, the Council has a joint venture limited liability partnership (LLP) with the private sector partner, BV Strategies Facilitated Limited (BVSF). BVSF is a joint venture formed in 1997 between the Winston and William Pears Groups. BVSF approaches local authorities with whom it considers it can partner on the basis of decisions made by the investor. It also operates in Dudley, Dorset, Southend and Bolton. This has been rejected as this would not have some of the advantages as outlined in paragraph 8.
- 5) The Council has an existing company which was incorporated in 1992 and has remained dormant since its incorporation. It is a company limited by guarantee and therefore has no shareholding. It has therefore been ruled out at this stage as its Articles of Association do not reflect the way the Council needs to construct the vehicle. If this company was to be used as a DevCo it will need, at least, alteration to its directors and name. External advice would be required as to whether the existing objects of the company would need to be changed and even whether a company without a shareholding is appropriate as a DevCo. As part of the options appraisal further legal advice will be sought to examine whether this company can possibly be used as the most appropriate vehicle. A primary reason for not doing so is that a new company could be created at a low cost with the name of our choice and directors of our choice. It would also have shareholding. External advice would be required to ensure the objects were appropriate for a DevCo.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

Recommendations from Overview and Scrutiny Management Committee held on 16 April 2015:

- (i) That in setting up the board for the DevCo consideration is given to include non-executive experts as advisers.
- (ii) That Cabinet ensures that during the development of the business case and in the establishment of the DevCo that its financing, planning processes and future development are transparent to both the public and Council; and
- (iii) That further information is provided on the HRA and general fund borrowing ability.

CONFLICTS OF INTEREST

None.

CONFIRMED AS A TRUE RECORD

We certify that the decision this document records was made in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and is a true and accurate record of that decision.

Date: 21 April 2015

Decision Maker:
The Cabinet

Proper Officer:
Judy Cordell

SCRUTINY

Note: This decision will come in to force at the expiry of 5 clear days (as set out in the Constitution) from the date of publication subject to any review under the Council's Scrutiny "Call-In" provisions.

Call-In Period

Date of Call-in *(if applicable) (this suspends implementation)*

Call-in Procedure completed *(if applicable)*

Call-in heard by *(if applicable)*

Results of Call-in *(if applicable)*