



**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE COUNCIL**

**WEDNESDAY 19TH JULY 2023, AT 6.00 P.M.**

**PARKSIDE SUITE - PARKSIDE**

**SUPPLEMENTARY DOCUMENTATION**

The attached papers were specified as "to follow" on the Agenda previously distributed relating to the above mentioned meeting.

14. **Recommendations from the Cabinet** (Pages 3 - 4)

To consider the recommendations from the meeting of the Cabinet held on 12<sup>th</sup> July 2023 (to follow).

NOTE: the appendices for the Establishment of a Housing Company report, which resulted in recommendations from Cabinet, have only been made available to Members and relevant Officers. Should Members wish to discuss the appendices in any detail when considering these recommendations, a decision will be required to exclude the public and press from the meeting on the grounds that exempt information is likely to be divulged, as defined in paragraph 3 of Schedule 12 (a) of Section 100 1 of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

Paragraph 3: Subject to the "public interest" test, information relating to the financial or business affairs of any particular person (including the authority holding that information).)

15. **Background Information on the recommendations from the Cabinet**

15d Establishment of a Housing Company (Pages 5 - 38)

NOTE: the appendices of this report have only been made available to Members and relevant Officers. Should Members wish to discuss the appendices in any detail, a decision will be required to exclude the public and press from the meeting on the grounds that exempt information is likely to be divulged, as defined in paragraph 3 of Schedule 12 (a) of Section 100 1 of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

Paragraph 3: Subject to the “public interest” test, information relating to the financial or business affairs of any particular person (including the authority holding that information).)

16. **To note the minutes of the meetings of the Cabinet held on 21st June 2023 and 12th July 2023** (Pages 39 - 60)

The minutes from the meeting held on 12<sup>th</sup> July 2023 have been published in this supplementary papers pack.

NOTE: Minute item 22/23 of the minutes of the Cabinet meeting held on 12<sup>th</sup> July 2023 contain exempt information, which has only been made available to Members and relevant Officers. Should Members wish to discuss this particular minute in any detail, a decision will be required to exclude the public and press from the meeting on the grounds that exempt information is likely to be divulged, as defined in paragraph 3 of Schedule 12 (a) of Section 100 1 of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

Paragraph 3: Subject to the “public interest” test, information relating to the financial or business affairs of any particular person (including the authority holding that information).)

20. **To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of item(s) of business containing exempt information:-**

**"RESOLVED:** that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item(s) of business on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraph of that part, in each case, being as set out below, and that it is in the public interest to do so:-

<u>Item No.</u>	<u>Paragraph(s)</u>
14	3
15	3
16	3

K. DICKS  
Chief Executive

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

17th July 2023

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## **Recommendations from the Cabinet Meeting that took place on 12<sup>th</sup> July 2023**

### **Worcestershire Housing Strategy 2021 – 2040**

**RECOMMENDED** that

- 1) The Worcestershire Housing Strategy 2021 – 2040 be adopted.
- 2) Officers be asked to develop a District Level Action Plan with consideration given to the proposals in this Strategy.

### **Approval to Spend**

**RECOMMENDED** that

- 1) The Key Decision threshold be raised to £200k. The logic being that revenue expenditure using GCloud, contract lengths could be up to 4 years. As such this was the existing £50k limit expanded to the full term of revenue contracts. This new threshold would apply to all classes of delegated decision.
- 2) On a quarterly basis a report “the Approval to Spend report” be provided to Cabinet which set out from the Procurement Pipeline those procurements that should be taking place over the next year. This report would be refreshed every quarter and could be converted once approved by Cabinet into the ongoing forward plan.
- 3) That as part of this report an analysis of spending be made of the past 3 years to identify spends with suppliers over the £200k limit to ensure this spending is converted to properly contracted expenditure and rogue expenditure be dealt with.

### **Draft Treasury Outturn Report 22/23**

**RECOMMENDED** that the Treasury Outturn position for 2022/23 be noted.

### **Establishment of a Housing Company**

**RECOMMENDED** that

- 1) a housing company limited by shares wholly owned by the Council be established.
- 2) by way of a formal loan agreement between the Council and the housing company and in compliance with the requirements of subsidy control (formerly State aid) the Council provide the housing company initial operating capital to the sum of £50,000.

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## BURCOT LANE HOUSING DEVELOPMENT MANAGEMENT OPTIONS - PRIVATE RENTED PROPERTIES

Relevant Portfolio Holder		Councillor Hotham Councillor Webb
Portfolio Holder Consulted		Yes
Relevant Head of Service		Michelle Howell, Head of Finance and Customer Services Claire Felton – Head of Legal, Democratic and Property Services
Report Author Peter Carpenter	Job Title: Interim S151 Officer Contact Pete Carpenter email: peter.carpenter@bromsgroveandredditch.gov.uk Contact Tel:	
Wards Affected		All
Ward Councillor(s) consulted		N/A
Relevant Strategic Purpose(s)		Work and financial independence Affordable and sustainable homes
Key Decision?		
This report contains exempt information as defined in Paragraph(s) 3 of Part I of Schedule 12A to the Local Government Act 1972, as amended		
If you have any questions about this report, please contact the report author in advance of the meeting.		

### 1. SUMMARY

- 1.1 This report follows the below reports in respect of the development of the site at Burcot Lane where the former Council House and Burcot Hostel were situated:
- Council Report 14.07.2021 – *Disposal of Affordable Housing Units at Burcot Lane*;
  - Council Report 20.01.2021 – *Disposal of Affordable Housing*;
  - Cabinet Report 06.08.2020 – *Next Steps, Finance and Operating Model*;
  - Cabinet Report 31.10.2018 – *Burcot Lane Report*;
  - Council Report 06.09.2017 – *Site Disposal Burcot Lane, Bromsgrove*.
- 1.2 This report provides an update on the development of the Burcot Lane site and the current status of the matter, and includes the recommendations detailed below to affirm the progress of the matter to date and effect next steps.
- 1.3 The report sets out the Council’s options for the management of the 37 private rented units of the Burcot Lane development in consideration of the potential financial returns to the Council, and the Council’s overarching housing strategy. The report:
- (i) sets out the strategic housing context;

- (ii) sets out and evaluates the options for the ownership / management of the 37 private rent units and management of the communal space on the site;
- (iii) includes a financial analysis of the options;
- (iv) sets out the recommended option and further considerations.

## **2. RECOMMENDATIONS**

2.1 Cabinet is recommended to resolve:

- (a) That the progress of the matter to date be noted and affirmed;
- (b) That a housing company limited by shares wholly owned by the Council is established;
- (c) That the 37 private rented units of the Burcot Lane development are long-leased from the Council to the housing company;
- (d) That by way of a formal loan agreement between the Council and the housing company and in compliance with the requirements of subsidy control (formerly State aid) the Council provide the housing company initial operating capital to the sum of £50,000;
- (e) To note that officers are continuing to work on provisions for the internal and external common areas of the 37 private rent properties and in respect of the wider Burcot Lane development. A managing agent will be required to undertake this role.

## **3. KEY ISSUES**

### **Background**

3.1 On 31 October 2018, Cabinet resolved:

- (a) that the indicative plans and projected financial outcomes for the development project be approved and that provided the minimum financial projections are maintained, authority be delegated to the Section 151 Officer to agree the final



details when these have been signed off by external advisors when appointed, and after consultation with the Group Leaders;

- (b) that agreement in principle is given to establishing a Housing Company to manage retained housing stock subject to the business case for the company being brought to Cabinet for approval;
- (c) that Officers proceed to implement the pre-development steps on the site, to include planning and building control applications, demolition of the existing building and the appointment of a Project Development Manager;
- (d) that further work be carried out to explore the options available to the housing company to allow it to act as a letting agent; and
- (e) that the housing company's overarching principle be to provide rental accommodation that is affordable for local people.

3.2 Subsequent to the meeting of 18 October 2018 the Council approved an increase in the Capital Programme of £8.072m to fund the associated costs of the demolition and development of the Burcot Lane site. Although works were originally going to be funded via a loan of £7.072m from the Public Works Loans Board they were in fact funded through internal working capital. An additional £1m was funded from the grant allocation. The allocation of the 3 year increase in the Capital Programme was as follows:

- 2018/19 £1.611m
- 2019/20 £2.065m
- 2020/21 £4.396m

3.3 Officers obtained advice from external solicitors as to the corporate structure and governance arrangements for a housing company, in accordance with which, a housing company would be established in the form of company limited by shares wholly owned by the Council. The housing company would be incorporated under bespoke articles of association with the company and the Council also entering into a bespoke governance agreement to provide for and regulate the relationship between them and set out the matters to be decided by the Council in its capacity as the company's shareholder.

3.4 The model for the development of the Burcot Lane site originally preferred envisaged a mixed tenure of residential units comprising:

- six market sale units to be sold by the Council;
- a long lease for each of the thirty-seven market rental to units to be sold to the housing company, with the Council retaining the freehold;
- eighteen affordable housing units to be sold by the Council to a registered provider – Bromsgrove District Housing Trust.

3.5 Funding was secured from the Homes England Accelerated Constructions Fund (the Funding Agreement) in respect of which an agreement was entered on 20 February 2020. However, due to the Covid-19 pandemic, the various milestones under the Funding Agreement have been revised and the preferred development model and associated returns and risks have been reassessed in consideration of the prevailing economic conditions.

3.6 Officers have continued to progress the Burcot Lane development project and consider other of the Council's potential housing development schemes in view of the effects of the Covid-19 pandemic, and more recently, significant increases to interest rates and the rate of inflation.

3.7 The Burcot Lane development model has been reviewed and the financial forecasts, costs and risks reassessed as part of analysis of the project undertaken by external consultants.

### **Current Position**

3.8 The Burcot Lane development is due to complete by the end of July 2023. The table below set out costs to date.

Scheme Costs		11,686,000
<b>Less</b>		
Homes England Grant		1,300,000
Green Grant		610,000
Sale of 6 Units		1,945,000
Sales of 18 Affordable units		2,100,000
<b>Total</b>		<b>5,955,000</b>
<b>Amount to Borrow</b>		<b>5,731,000</b>

3.9 Total costs for the Burcot Lane development are estimated at £11.7m. The Council has received grant funding totalling £1.91m.

3.10 To date the Council:

- (i) is currently progressing transfer of the 18 units of affordable housing to Bromsgrove District Housing Trust for a total of £2.1m;
- (ii) expects to sell on the private market the 6 units private sale housing for circa £2m.

3.11 This leaves the Council with 37 units of housing for private rent comprising:

- 27 one bedroom flats;
- 4 two bedroom flats;
- 6 houses (two or three bedroom).

There is £5.731m of debt associated with these 37 units. Council tax receipts on the completed scheme are estimated at £95k per annum, of which the Council would receive directly £12k per annum.

3.12 Cabinet is requested to note that the Council also owns land at Windsor Street, School Drive and the presently closed Churchfield Car Park all of which could be used for the delivery of housing. These sites have been evaluated as part of the Bromsgrove 2040 Plan. However, it is unlikely that these sites will be delivered within the next 3-4 years.

## The Strategic Housing Context

3.13 As part of their strategic leadership and place shaping activities, local authorities should be addressing the housing needs of all residents across all housing tenures. The below table shows the housing tenure breakdown within the district. This shows that owner occupation within the district is significantly higher than the regional and national averages impacting on both the amount of social housing and private rented housing.

	Owned	Social Rented	Private Rented	Owned (%)	Social Rented (%)	Private Rented (%)
Bromsgrove	32,452	4,417	4,395	78.7	10.7	10.7

West Midlands	1,545,293	443,332	440,869	63.6	18.2	18.1
England	14,605,016	4,005,663	4,825,406	62.3	17.1	20.6

- 3.14 It is important for the Council to work with partners to balance the current housing market. To increase the supply of affordable housing the Council works with Registered Providers to develop and procure affordable housing through their own development plans and affordable housing secured through planning policy. There is generally limited scope for the Council to increase properties in the private rented sector and as such the properties at Burcot Lane provide an important opportunity for the Council to bring some balance to the local housing market.
- 3.15 An emerging trend in the private rented sector is the increase in the number of tenancies that are being ended as landlords leave the sector or have to significantly increase rent due to increases in mortgage costs. This has resulted in limiting access to the private rented sector and increasing approaches for homelessness assistance. In the period September 2021 to September 2022 approaches for homelessness assistance have risen by 62% with the reason for homelessness being reported as the ending of an assured shorthold tenancy.
- 3.16 The Council is a member of the *Worcestershire Strategic Housing Partnership*, the plan of which was agreed 2017 with the strategy being reviewed and updated this summer (2023).
- 3.12 The vision of the Worcestershire Strategic Housing Partnership plan is:  
*to create the right home environment for Worcestershire residents that is essential to their health, wealth and wellbeing throughout life.*
- 3.13 The headline issues affecting Worcestershire are:
- welfare reform and changing legislation;
  - inadequate supply of housing including affordable housing;
  - supporting vulnerable groups and preventing homelessness;
  - poor condition and affordability in the private rented sector;
  - housing and Health.

3.14 The Burcot Lane development meets the original ideals and the priorities of the strategy by maximising the delivery of good quality housing of the right type and tenure by coordinating the activities of housing developers, providers and support agencies to meet existing and future housing need in a sustainable way. The Burcot Lane development has:

- built 61 new properties;
- leveraged significant grant funding to a high specification, including the Green Credentials, with a focus on the needs of the Bromsgrove district.
- focussed on enhancing the supply of properties available in the private rented sector;
- built properties designed and specified for rental in the private rented sector (i.e., the properties include white goods and floorings) which goes beyond what is routinely provided in social housing.

3.15 The Council has a number of options for bringing the 37 private rent units into use as detailed below.

### **Options for the Ownership / Management of the 37 Private Rent Units**

3.16 The Council obtained external legal advice from Trowers and Hamlins Solicitors on options for ownership/ management of the 37 units in May 2021 as to different delivery options. This was precipitated by increased interest costs in the last year. The advice is set out at Appendix A. The sections below summarise this advice:

#### **Option 1: Hold in the Council**

3.17 With this option:

- the Council can hold up to 199 units, without having to re-open its HRA;
- the Council would be letting secure tenancies under the Housing Act 1985. The Council is not able to grant assured tenancies (shorthold or otherwise);
- Right To Buy (RTB) would apply once the requisite qualifying period (3 years in any public sector tenancy) has been met by the tenant;
- Social Rents would need to be charged (50% of Open Market Rents).

#### **Option 2: Establish a Housing Company**

3.18 With this option the housing company could buy or lease the properties from the Council and:

- the company as a separate legal entity would be able to grant assured shorthold tenancies on market level rents which may provide a source of income to the Council and the properties would not be subject to statutory RTB.
- the company would be wholly owned by the Council in its capacity as the company's shareholder;
- the company would need a board of directors, and governance arrangements would need to provide for the Council's exercise of its shareholder role;
- the company would need financial support – start up capital from the Council;
- the company would contract with third party managing agents who manage the properties and common areas on a day-to-day basis;
- there would be set up costs and on-going costs for the company.

### **Option 3: Arrangement with a Registered Provider**

3.19 With this option:

- the Council could consider either a sale or lease to a Registered Provider. A sale would deprive the Council of the future benefit of the property but would generate a capital receipt and nomination rights could also be secured;
- a shorter-term lease arrangement with a not-for profit Registered Provider would mean the Registered Provider was in a position to let and manage the properties in accordance with its own housing management policies – subject to any specific agreement entered into between the Council and the Registered Provider;
- the statutory RTB would not arise as the landlord would be the Registered Provider even though the freehold was retained by the Council.

However, see below at paragraph 3.37.

### **Option 4: Lease Arrangement with Redditch Council**

3.20 This is similar to Option 3. The Council could consider granting a lease to Redditch Borough Council (RBC). With this option:

- RTB does not arise unless the landlord owns the freehold or has an interest sufficient to grant a lease in pursuance of the relevant part of the Housing Act 1985:
  - where the dwelling-house is a house, a term exceeding 21 years, or

- where the dwelling-house is a flat, a term of not less than 50 years, commencing, in either case, with the date on which the tenant's notice claiming to exercise the right to buy is served.
- As such, provided that RBC's leasehold term does not meet these requirements RTB would not arise.

## **Option 5: Dispose of the Properties on the Open Market**

3.21 With this option:

- The Council can seek to maximize the capital value of the properties by disposing of them to the highest bidder through a market (competitive) sale;
- The freehold of the block of 27 flats which are included in the 37 private rent units would also need to be sold to remove any ongoing liability on the Council as the freeholder.

## **Financial Evaluation of Options**

3.22 There are 5 options to evaluate financially. To manage the properties, either through a company set up for the purpose or through a Registered Provider or via the Council, a number of functions need to be delivered. Detailed financial analysis is set out in Appendix B.

### **Option 1: Hold in the Council**

3.23 As the Council will have under 200 housing units the Council can hold the 37 units without having an HRA, the properties would have to be let at social rent levels. However, over time, tenants may be able to purchase the properties which would reduce the number available for utilisation in the private rented sector which is a key aim of the Council and the *Worcestershire Strategic Housing Partnership*, and would impact on the financial viability of the remaining units.

3.24 For completeness, the following assumptions summarise the background for this option for the Council. These are:

- Income would need to be at social rent levels, not private rent levels, thereby reducing the financial return to the Council;
- As the Council does not currently have the facility to manage these units a managing agent would need to be engaged;

- There will be the cost of maintenance to the units and common area;
- There is the requirement to repay the capital build costs over a period of time (capital and interest);
- It is assumed that the contract management of the managing agent contract would be managed by the Council's strategic housing team.

3.25 The financial analysis indicates that the Council holding the 37 units is not a viable option.

## **Option 2: Establish a Housing Company**

3.26 The major differences between the Council managing the stock in-house and managing the stock through a 100% owned housing company are the overheads of the Company and the transfer of the assets to the Company and the tenure and rent levels able to be used.

3.27 As the Council does not presently have a 'housing company' it would need to set up the company and put in place arrangements for its governance. Appendix C sets out the tasks that the company would need to undertake over and above just managing the 37 private rent units. Additionally, it is unlikely that the Council has the in-house resource to deliver the functions of a company which as such will need to be brought in.

3.28 The major differences between a housing company and the Council holding the 37 private rent units are:

- The company could let the properties at private rent levels (rather than social rent levels);
- Capital charges – the transfer of the 37 units to a housing company would need to be compliant with 'subsidy control' requirements (formerly (State aid));
- The Council has the option to lease or sell the 37 units to the company;
- Other costs will be similar to that incurred under Option 1.

3.29 Financial analysis shows that establishing and utilising a company may provide a source of income to the Council.

## **Option 3: Arrangement with a Registered Provider**

3.30 An arrangement with a Registered Provider could comprise a leasing arrangement or a straight sale of the 37 units (see further Option 5 below). Financial analysis shows that leasing charges in the range £171,00 - £286,00 taken against estimated income would



lead to surpluses of £109,600 to £120,160 at the base scenario with 10% management charges. However, an arrangement with a Registered Provider would be subject to negotiation with the Registered Provider. The 37 units are of a very high specification and the Burcot Lane development is situated in a good location so this Option 3 could be an attractive solution. Financial analysis further shows that while the sale of the 37 private rent units to a Registered Provider is not viable due to capital costs, a long-lease arrangement might be acceptable to both the Council and a Registered Provider. However, see further below at paragraph 3.37.

#### **Option 4: Lease Arrangement with Redditch Council**

- 3.31 This arrangement would be similar to that of Option 3 but would involve different rent levels and types of tenancy.

#### **Option 5 – Disposal on the Open Market**

- 3.32 An outright sale of the 37 private rent units on the open market is a further option for consideration. The Council need to ensure that such a sale would cover its incurred capital costs of £5,731,000, and consideration would need to be given to the transfer / ownership of the common areas.

#### **Options Summary**

- 3.33 In considering the results of the financial analysis at Appendix B and the Council's housing strategy in light of the *Worcestershire Strategic Housing Partnership* plan, the Options detailed above can be summarised as follows:

#### **Option 1: Hold in the Council**

- 3.34 Financially, at Social Rent levels, Option 1 is not viable. The limitations of this due to the restrictions on the type of tenancies on which the Council could let the 37 units would mean they would not be available for use in the private rented market as originally intended.

#### **Option 2: Establish a Housing Company**

- 3.35 Selling or leasing the 37 units to a company established and owned by the Council would provide the most flexibility to the Council in terms of how the units were let and managed. The properties would remain in the private rented sector as originally intended and may provide a source of income to the Council. Given the current interest rates and the

prevailing economic conditions, the company's purchase of the properties from the Council is unviable and as such the Council would long-lease the properties to the company. However, the company would not have the internal resources to manage and operate the properties and common areas on a day to day basis and as such would need to procure management agent(s) for the purpose. Leasing rates in the range of 3-5% are considered viable and would ensure that the Council is covering its existing debt provided that the terms on which the company was able to engage a managing agent are competitive. Appendix D details further analysis which considers the 'roll-in' to the rent of the costs of utilities provision.

### **Option 3: Arrangement with a Registered Provider**

- 3.36 Like a transfer to a company, this option ensures that the 37 units would remain within the private rented sector as intended. With an outright sale of the units to a Registered Provider the Council would however lose control over the properties, and there would be more flexibility over assignment rights under a lease arrangement. A Registered Provider would have the resource and experience to manage and operate the properties, the 37 of which would be marginal to the volume of Registered Provider's overall housing stock. Either the sale or the lease of the 37 units to a Registered Provider would be subject to negotiations and agreement between the Council and the Registered Provider. The preferred option would be for the Council to enter a lease arrangement with a Registered Provider rather than the outright sale of the properties.
- 3.37 Initial discussions have taken place with a third party Registered Provider to ascertain the market for either leasing the units or acting as a managing agent. However, it is understood that many Registered Providers do not presently manage private rental properties and reservations would include, concerns over the mixed tenure of the properties comprising the Burcot Lane development, current interest rates and economic conditions, and changes in rental market. In view of these discussions, officers consider that a managing agent will be required to manage the 37 units and the communal areas of the site more generally.

### **Option 4: Lease Arrangement with Redditch Council**

- 3.38 In its capacity as a housing authority RBC will be required to let the 37 units at market rent levels which would impact on the financial returns to the Council. Redditch Borough Council has a HRA and the in-house resource to operate and manage the properties on

a day-to-day basis, and at 37 the number of properties would be marginal to the volume of RBC's housing stock. However, another local authority being responsible for properties owned by the Council and the arrangements between them would require careful consideration. Financially, costs under this option would be the same as those under Option 3.

## **Option 5 – Disposal on the Open Market**

- 3.39 The Council has a capital cost to cover of £5,731,000 but an outright sale of the 37 private rent units would need to consider provision for the transfer, management and upkeep of the common areas. Present sale estimates are in the region of £5.8m. The most likely avenue for an outright sale would be an arrangement with a Registered Provider, however, as detailed at paragraph 3.37 above, this option is considered unlikely.
- 3.40 There is the requirement to sell the freehold of the block of flats comprising 27 of the private rent units to a single vendor otherwise the Council will remain responsible for the maintenance, health & safety, and other regulatory compliance requirements of the internal and external common areas of the block.
- 3.41 An outright sale of the 37 units would provide the Council with a capital receipt, but the loss of potential income generated through the rental of the properties, and the Council would also lose control over the properties and their use.

## **The Recommended Option – Establishing a Housing Company**

- 3.42 In the likelihood that Option 3 is no longer viable, the recommended option for the management and operation of the 37 private rent units is via a long-lease of the properties to a housing company wholly owned and established by the Council for the purpose. As set out above, under such an arrangement the properties would remain available to let in the private rental sector as originally intended, would remain assets over which the Council maintained ultimate control through its retention of the freehold, and may generate income for the Council. A housing company would also provide flexibility as to tenancies, and potentially could also be used in the facilitation of future Council housing projects included in the Bromsgrove 2040 Vision such as Windsor Street, School Drive and Churchfield Car Park. The Council would also retain an option to sell the freehold of the properties to the company at a future date were economic conditions favourable.

- 3.43 Establishing a housing company to which the Council would long-lease the 37 private rent units requires the consideration and effecting of a number of matters which as yet include those detailed below.
- 3.44 A Board Meeting would need to be held within two days of the Council decision if the decision is taken to set up a Housing Company.

## **The Company Aims and Objectives**

- To bring high quality housing to Bromsgrove to balance the housing market in the district which has a deficit in the private rented sector when compared to national indicators.
- The provision of high quality energy efficient housing available in the private rented sector (which enables the company to be utilised for developments in the wider Bromsgrove 2040 Vision).
- The company has been set up to meet the Councils objective of “finding Somewhere to live” and as such will target and prioritise residents of Bromsgrove but not exclusively;
- The Companies overall aspiration is to bring high quality housing to Bromsgrove to balance the housing market in the district which has a deficit in the Private Rental Sector when compared to national indicators.

## **The Company’s Corporate Form**

- The company will be a private company limited by shares incorporated under the Companies Act 2006;
- The Council will be the company’s sole owner and shareholder;
- Once incorporated the company will be a legal entity in its own right and distinct from the Council.

## **The Company’s Governance Arrangements**

- Bespoke Articles of Association;
- Bespoke Shareholders Agreement;
- The Council to exercise its ‘shareholder function’ via a Shareholder Committee established as a sub-committee of the Cabinet.
- The Shareholder Agreement will include ‘reserved matters’ for determination by the Shareholder Committee;

- The Shareholder Agreement will provide for the company's reporting to the Shareholder Committee and its overview of the company, and for the Shareholder Committee's reporting to and scrutiny by the wider Council;
- Officers are working with external solicitors in the preparation of the Articles of Association and Shareholder Agreement which have been subject to consideration by the Council's Fourth Tier Working Group and are approaching finalisation;
- The company will be subject to Part V of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order 1995.

## **The Company's Board**

- The Directors comprising the Board are responsible for the day-to-day management of the company;
- The Directors owe fiduciary, common law and statutory duties to the company and thereunder must always act in the best interests of the company;
- The Board to comprise the Deputy 151 Officer, a Director of Housing/ Director of Regeneration, and up to 2 external, independent non-executive directors with sector expertise and experience;
- The Director of Housing Services will be the nominal Chief Executive of the Company;
- The Board to meet monthly.

## **Financing and Resourcing the Company**

- The company will require its own bank account.
- The Council will provide the company with the necessary start-up funding and working capital via a formal loan agreement;
- In its formative years at least, the company will not have any employees;
- The Council to provide 'back office' support services to the company on a full cost recovery basis via service level agreements;
- The company will need to enter into arrangements with a third party managing agent who will undertake the day-to-day operation and management of the properties (and common areas);

## **The Company's Allocations Policy**

- The most appropriate way forward is considered to be the company having a sliding scale process that is time restricted in that priority is given to those able to afford it and with a connection to the district through residency, (with exceptions for those who have special circumstances such as Armed Forces member or those fleeing Domestic Abuse) employment or close relatives living in the district. This restriction would then fall away after a short timeframe to anyone who can afford it;
- In regard to the other options under consideration the more restrictions being placed on a sale agreement the greater the impact on value. For instance if the Council were to sell all the properties on the open market, the Council is able to decide who it sells to however by restricting who can purchase it could mean that the Council is not able to show best consideration. By limiting the numbers of potential buyers this could result in properties being unsold.

## **The Council's Allocations Policy**

- The Council's current allocations policy is administered by BDHT;
- Depending on the allocations policy and the type of tenant, insurance assumptions could change. This is factored within the Landlord maintenance costs.

## **Income Assumptions**

- Presently there is a lack of properties in the private rented sector;
- It is expected that the 37 private rent units will be sought after;
- A vacancy factor has been factored into the financial analysis for the establishing of the company.

## **Exit Strategy**

- An exit strategy will be required in respect of the 37 private rent units on the termination of the long-lease of the properties from the Council to the company or on the occasion of other events;
- The exit strategy will need to be provided for in the agreement under which the Council long-leases the 37 private rent units to the company;
- The exit strategy will also need to provide for the internal and external common areas of the block of 27 flats and those of the wider Burcot Lane development.

## **The Company's Consideration for the Lease of the Properties**

- The company will issue additional shares at a premium to the council in consideration of the Council granting it a long-lease of the 37 private rent properties.

## **The Long-Lease of the Properties to the Company**

- An agreement will be required between the Council and the Company which provides for the long-lease of the properties;
- The agreement will need to provide for such arrangements are determined with regard to the internal and external common parts in respect of the properties;
- The agreement will need to provide for the exit strategy.

3.45 Those matters set out above under paragraph 3.43 are anticipated to be subject to further reports to Cabinet for information and / or additional resolutions.

## **4. Legal Implications**

4.1 The legal implications of Options 1-5 are included above at section 3 and Appendix A.

4.2 The Council is unable to directly let the 37 private rent properties to the private rent market at private rent levels, and where the Council is seeking to generate income from the letting the properties, (albeit income generation may not be the dominant purpose), the Council may be considered to be acting for commercial purposes, in which case it can only act through a company.

4.3 The Council's power to establish a company is provided by the General Power of Competence under sections 1 and 4 of the Localism Act 2011 and other enabling legislation which also provide the Council with powers to provide funding, guarantees and other forms of security, and to enter into such legal agreements as may be necessary to effect the matters set out above in respect of the Options 1-5.

4.4 Any financial support to the company for privately let residential property would be caught by Sections 24 and 25, Local Government Act 1988 and require Secretary of State consent. There is a General Consent in place and Anthony Collins Solicitors consider that Consent C (General Consent, 2010) is sufficient to cover financial assistance to local housing companies by their owning authorities.

- 4.5 The Council's power to lease the 37 private rent properties to the company is provided under section 123 of the Local Government Act 1972 provided that the consideration for the disposal is the best that can reasonably be obtained.
- 4.6 As well as its general fiduciary duty in exercising its powers the Council must always have regard to its duty under section 3 of the Local Government Act 1999 to secure best value which requires consideration of all relevant social, economic and environmental matters. The Council does not have a statutory duty to develop or provide accommodation for let on the private rented market but the social, economic and environmental matters are set out in this report and inform the Council's wider housing strategy.
- 4.7 Any financial support provided by the Council to the company must satisfy the requirements of subsidy control (formerly State aid) and must otherwise be subject to a formal loan agreement between the Council and the company.
- 4.8 The above are executive functions and are for Cabinet's determination in accordance with the Council's Constitution.
- 4.9 The company will be a legal entity in its own right separate to, and distinct from, the Council.

## **5. Financial Implications**

- 5.1 The financial implications of Options 1-5 are included above at section 3 and Appendix B.

## **6. Strategic Purpose Implications**

### **Relevant Strategic Purpose**

- 6.1 The Council's Strategic Purposes are included in the Council's current Corporate Plan and guide the Council's approach to budget making ensuring a focus on issues and what is most important for the district and local communities. The specific Strategic Purposes of this transaction are the delivery of affordable and sustainable homes.

### **Climate Change Implications**

- 6.2 The green thread runs through the Council plan and the specification of the properties built fulfils this requirement. This includes risks linked to activities and actions that link to our climate.

## **7. Other Implications**



## **Customer / Equalities and Diversity Implications**

- 7.1 There are no direct equalities implications arising as a result of this report.

## **Operational Implications**

- 7.2 Operational implications are addressed above and in the appendices to this report. The options are for the Council to lease the 37 private rent properties of the Burcot Lane development either to company established for the purpose and owned by the Council, or under an arrangement with a Registered Provider. The operational implications of these options are set out above and in the appendices to this report.

## **8. RISK MANAGEMENT**

- 8.1 The financial stability and sustainability of the Council is a core underlying theme of the Council's Risk Management Strategy. In terms of this transaction there are the following specific risks:

- Timescales – there is a requirement to have a decision on the management and operation of the 37 private rent properties ahead of completion of the Burcot Lane development which is expected at the end of July 2023. To facilitate this timeframe this report intended to go to Cabinet on the 12 July 2023 and Council on 19 July 2023 should Option 2 (establishing a housing company) be the Cabinet's preferred option. Security – this transaction will assist with the progression of security arrangements for the properties subsequent to completion;
- Financial Risk – as set out in section 3 the scheme is marginal in terms of financial viability. Only the high rent, low agency costs options work in either scenario set out in section 3. If the final outcome is worse than this there will be reputational risk from a loss making;
- The Council has a limited maintenance budget for the 37 properties in the assumptions made for the options set out in this report. A maintenance budget will also need to include incidental costs such as buildings insurance. As the 37 private rent units are new, significant maintenance should not be required during the initial years, but a maintenance budget will need to include adequate provision for future maintenance costs;
- There is also a risk for the Council if the units remain empty which will be reputational and could result in future Bromsgrove 2040 developments having limited backing.

## 9. **APPENDENCES**

Appendix A – Exempt

Appendix B – Exempt

Appendix C – Exempt

Appendix D – Exempt

## **AUTHOR OF REPORT**

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## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE CABINET**

**WEDNESDAY 12TH JULY 2023, AT 6.00 P.M.**

PRESENT: Councillors K.J. May (Leader), S. J. Baxter, S. R. Colella,  
C.A. Hotham, C. B. Taylor and S. A. Webb

Observers: Councillor P. M. McDonald and Councillor S.T. Nock

Officers: Mrs. S. Hanley, Mr P. Carpenter, Ms M. Howell,  
Mr O. Paparega, Mr. M. Bough and Mrs J. Gresham

10/23 **TO RECEIVE APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor P. Whittaker.

11/23 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

12/23 **TO CONFIRM THE ACCURACY OF THE MINUTES OF THE MEETING  
OF THE CABINET HELD ON 21ST JUNE 2023**

The minutes from the Cabinet meeting that took place on 21<sup>st</sup> June were submitted for Members' consideration.

**RESOLVED** that the minutes from the Cabinet meeting held on 21<sup>st</sup> June be approved as a true and accurate record.

13/23 **MINUTES OF THE MEETING OF THE OVERVIEW AND SCRUTINY  
BOARD HELD ON 6TH JUNE 2023**

The Chairman of the Overview and Scrutiny Board provided Members with a verbal update in respect of the previous Board meeting.

In doing so, it was highlighted that there had been a presentation provided by the Centre for Governance and Scrutiny (CfGS) regarding the Governance Systems Task Group, which had been established as a result of a Motion considered at the Annual Council meeting held on 24<sup>th</sup> May 2023. The presentation included information on the options for potential models of future governance and timelines for implementation.

Members were informed that the dates of the first meeting for the Task Group had been agreed and the first meeting was due to take place on 21<sup>st</sup> July 2023. The Chairman of the Board explained that the Group would look at the implications of implementing a new governance system within the Council and whether a move to a Committee system or hybrid version would result in a good governance system that would deliver for Members and residents in the future. Costs and capacity within the Council would be considered carefully as part of the review and the final report would be considered at an extraordinary meeting of the Council in September 2023. It was noted that the date for this meeting was still to be determined.

Members asked several questions during consideration of this item. These were as follows:

- Involvement of the Local Government Association (LGA) in the Governance Systems Task Group – it was confirmed that the LGA had requested that the CfGS provide support for the review and informed Members that Ms C. Buckley, a Senior Governance Consultant from CfGS, had presented at the Board meeting. It was confirmed that this support would be available throughout the investigation, and it was planned that Ms. Buckley would be in attendance for some if not all of the meetings.
- Culture within the Council – It was noted that a change in governance structures would not necessarily cease any underlying tensions experienced at the Council and that it was important to recognise that work needed to be undertaken in order to improve this area. Members stated that historically there had been issues in this area and this had been one of the catalysts for looking at potential changes. It was noted that any new governance structure would need to work locally and be agreed by all parties.
- Implementation of a new governance system – Some Members felt that due to the scale of the change, it was important to start the process of implementing a new governance system that ran parallel to the review. This could include looking at resourcing and the impact on the Medium Term Financial Plan (MTFP). Members felt that this would be pre-emptive and could not be initiated until the recommendations had been made by the Task Group undertaking the review. Cabinet was informed that the process of the review once it had been completed would be that the report be considered at the Overview and Scrutiny Board, then at Cabinet, then by Full Council before the recommendations be

considered at future meetings of the Constitution Review Working Group (CRWG). It was anticipated that the implementation of any changes would take at least six months and that the CRWG had already looked at some areas of the Council's Constitution which may require changes in the future.

Members queried whether the six weeks' timeline for such a large review would be adequate. However, the Chairman of the Overview and Scrutiny Board explained that it was important Members kept focussed during the meetings and adhered to the Terms of Reference. Although Cabinet Members recognised that they were not able to be involved in the Task Group, they requested whether it would be possible to review the Terms of Reference of the Group. Councillor McDonald confirmed that this would be possible.

The Leader thanked the Board, Members of the Task Group and Officers for undertaking this investigation.

**RESOLVED** that the minutes from the Overview and Scrutiny Board meeting held on 6<sup>th</sup> June be noted.

14/23

## **BROMSGROVE 2040 VISION**

The Head of North Worcestershire Economic Development and Regeneration (NWEDR) presented the report in respect of the Bromsgrove 2040 Vision. In doing so the following was highlighted for Members' attention:

- This was a Town Development Strategy in order to strengthen vitality within the Town.
- Five major unused or underused sites had been identified to attract people to the Town Centre.
- The strategy sought to identify how people moved in and out of the Town Centre, including the use of the railway station. Members were informed that a review of planned public realm interventions would be undertaken to improve connections across the town centre, with the intention to create an improved sense of continuity and cohesion.
- It was hoped that the strategy would encourage different uses of the Town Centre, other than retail, to increase vibrancy and footfall.

Following consideration of the report, Members felt that the wording of the recommendation was appropriate and that to 'endorse' this vision 'in principle' reflected that the strategy was one part of a bigger picture.

Some Members raised that historically there had been issues experienced within connectivity from the railway station and that there was not adequate parking within the Town Centre. It was suggested that if the car parks identified within the report were to be used for other activities as suggested this would further impact on the availability of car parking spaces. It was confirmed that work would be undertaken in order to look at schemes, such as the bus request scheme already in place within the Town. It was important that these kind of schemes were increased in order to provide better connectivity.

There was a brief discussion regarding the future of the Stourbridge Road carpark however due to the ongoing Planning Application on this site it was not appropriate to comment on this further during this meeting.

Members were informed that this was an aspirational high level document with regards to the future of the Town Centre and that work would continue to secure future funding, including from the now disbanded Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) in order to build on the vision in the future.

At this point in the meeting, a typographical error was identified within the report, regarding the possibility of accessing funding from the GBSLEP. Members noted that within the report it stated that there was £78m worth of funding available, however it was confirmed that this should state as follows:

‘The Council must also assess how it will access over £1.5m of funding available through the now disbanded GBSLEP and possibly a further **£7.8m** of funding.’

Members were keen to understand whether the responses to the public consultation on the Market Hall site had been geographically spread across the whole of the District. Officers explained that there had been a variety of responses to the consultation and that the stakeholder and resident events had been very well attended. However, the detail of the number of responses from each Ward within the District was not available.

Cabinet felt it was important to keep residents engaged in this process and it was important to demonstrate successful projects when they were completed. In response to this Members queried the timescale of the vision, stating that it spanned across a long period of time. Some Members felt that it would not be ideal to identify a site for

redevelopment which would then be unused until later in the timeline of the vision. In addition to this it was raised that detail on whether the sites highlighted within the report had been identified for long, medium or short term development. Once again, it was reiterated that the vision was high level strategy, with the catalyst for the vision being the receipt of the £14.6 Levelling Up Funding and redevelopment of the Market Hall site.

**RESOLVED** that the Bromsgrove 2040 Strategy be endorsed in principle and that officers bring forward proposals for key development sites.

15/23

## **WORCESTERSHIRE HOUSING STRATEGY 2040**

The Cabinet Member for Health and Wellbeing and Strategic Housing presented the Worcestershire Housing Strategy 2040 for Members' consideration. The strategy set out a 20-year vision for the County and the significant decisions it would play in decisions for housing in the future.

Cabinet was informed that the strategy would be delivered through four priority areas. These were as follows:

- Economic Growth and Jobs
- Quality and Standards
- Health and Wellbeing
- Net Zero Carbon and Climate Change

The Cabinet Member for Health and Wellbeing and Strategic Housing thanked Mr. K. Dicks, Chief Executive Officer of Bromsgrove District Council, in his role as Chair of the Worcestershire Housing Strategy Board and for his hard work in producing such an important strategy for the future.

Following presentation of the report, Members expressed that this Housing Strategy was very much required and welcomed its implementation.

Some Members felt that there had been a missed opportunity in that there seemed to be no linkage to the Bromsgrove Strategic Transport Plan contained within the strategy. Members were informed that this was a County-wide document rather than specific to Bromsgrove and therefore that kind of detail was not included. It was further explained that there would be an opportunity to look further into a more specific areas of Housing and Transport within the District during the preparation

of the Council's Local Plan. In addition to this it was noted that the impact of the Covid-19 pandemic within the strategy had not been mentioned in a significant way.

Members queried whether the strategy covered both Social and Private Sector Housing. Officers confirmed that this was the case. Some Members raised queries in respect of the cost of retro fitting rental properties for elderly residents and those living in more rural areas of the District. It was confirmed that these issues would be more of a focus within the Bromsgrove District Plan and not in the Worcestershire wide strategy. Officers also stated that Central Government funding was available for retrofitting properties e.g. PUGS 2.

Further discussions regarding the Bromsgrove District Plan included the importance of bringing Members and residents along the journey when it was being pulled together later in the year.

The Burcot Lane Development was discussed, and Members commented on the high quality specification of the project. Some Members queried whether this would be the standard of any future Housing projects. It was reported that it was hoped that future projects would be of an equally high specification.

**RECOMMENDED** that

- 1) The Worcestershire Housing Strategy 2021 – 2040 be adopted.
- 2) Officers be asked to develop a District Level Action Plan with consideration given to the proposals in this Strategy.

16/23

## **CABINET APPOINTMENTS TO OUTSIDE BODIES**

The Cabinet Member for Finance and Enabling presented the Cabinet Appointments to Outside Bodies reports. In doing so, it was explained that it was a straightforward report and that the appointments and nominations for this municipal year had been awarded to the equivalent Cabinet Member who had held the role in the previous municipal year.

Two changes of note were that Councillor K. May had been appointed as substitute Member for the Worcestershire Local Enterprise Partnership and Worcestershire Local Transport Body for the forthcoming year. This role had previously been undertaken by Councillor H. Dyke from Wyre Forest.



**RESOLVED** that Cabinet nominates Members to outside bodies as detailed in Appendix 1 to the minutes.

17/23

## **CORPORATE PEER CHALLENGE ACTION PLAN**

The Deputy Chief Executive presented the report in respect of the Corporate Peer Challenge Action Plan and took the opportunity to thank all Members and Officers involved in the process. The following was also highlighted for Members' attention:

- The LGA carried out a Corporate Peer Challenge (CPC) as a result of a recommendation at the Full Council meeting held on 7<sup>th</sup> December 2022. The CPC had been undertaken in March 2023 and was considered a good opportunity to make any necessary improvements, following the issuing of the Section 24 Notice by the Council's auditors in October 2022. It was noted that this was not an inspection and any recommendations provided as a result of the CPC were given in the capacity as a critical friend to the Council.
- Although the CPC was initiated as a result of the recommendation agreed at the Council meeting held in December 2022, a separate Task Group had also been established to carry out a root and branch investigation, looking into the issuing of the Section 24 Notice. Therefore, the CPC had focussed specifically on the Corporate Governance within the Council.
- Five high-level themes were adopted for all LGA CPCs, and these provided the initial framework. The themes were as follows:
  - Local priorities and Outcomes.
  - Organisational and Place Leadership.
  - Governance and Culture.
  - Financial Planning and Management.
  - Capacity for Improvement.
- The composition of the CPC team comprised of colleagues from other District Councils and Advisors from the LGA.
- There had been 55 meetings across both Bromsgrove District and Redditch Borough Councils during the four day review and both Members and Officers had been involved in the meetings. At the end of the initial on-site activity there was a feedback session which took place on 10<sup>th</sup> March 2023 where Members of the Executive (Redditch), Cabinet (Bromsgrove), Group Leaders,

Corporate Management Team were invited to attend and presented with the findings of the CPC.

- There were six recommendations as a result of the CPC, and the Corporate Management Team (CMT) had provided a response in the form of a Council Action Plan for each Recommendation. Members were asked to look particularly at Recommendation 2 - The organisation should consider a governance review to improve decision-making and Recommendation 6 - Use engagement, shared values, and improved processes to create a positive democratic culture. These were considered significant in light of the current review being undertaken looking at the future governance model for the Council. The remaining recommendations were highlighted as follows:
  - Recommendation 1 - The Council needed to review its strategic priorities and realign resources accordingly.
  - Recommendation 3 – Embed the 2022-2026 Workforce Strategy and develop an action plan which needed to be implemented at pace.
  - Recommendation 4 – Agile working principles and policies needed to be implemented consistently.
  - Recommendation 5 - Ensure the Section 24 Notice and Interim Annual Audit Report recommendations were fully implemented.

Following the presentation of the report, the Leader invited the Chairman of the Overview and Scrutiny Board to comment on the report, having considered it at the Board meeting held on 6<sup>th</sup> June 2023. It was raised that some comments had been made during the Board's consideration of the report which included the slippages experienced within the Capital Programme and the lack of capacity at a Senior Officer level.

Some Members noted that Bromsgrove District Council was in a different position since the report was published as a result of the Local Elections held in May 2023 and that much of the requirements included had already been met.

One area that was still to be addressed was the role of Cross Party Champions and it was agreed that this would be considered at the next Group Leaders Meeting.

**RESOLVED** that

1) the Local Government Association (LGA) Corporate Peer Challenge (CPC) Feedback report which took place in March 2023 be noted.

2) the Council's response and supporting action plans be endorsed.

18/23

## **APPROVALS TO SPEND REPORT**

The Interim Director of Finance presented the Approval to Spend report which set out the key implications of the new Procurement Bill, which needed to be enacted by 1st April 2024. It was reported that the Bill would ensure greater transparency to how Councils across the Country undertook their business.

Cabinet was informed that included within the report were the following areas:

- Key parts of the new Bill
- Transparency arrangements already in place at the Council
- Council procurement governance requirements
- An analysis of present procurements and comparison of limits against local Councils
- The proposed way forward.

The Interim Director of Finance explained that the Bill would reform the UK's public procurement regime, making it quicker, simpler, more transparent and better able to meet the UK's needs while remaining compliant with international obligations. It was noted that the majority of Councils across the Country were currently not compliant in this regard.

In addition to this, it was noted that it would introduce a new regime based on value for money, competition and objective criteria in decision-making. Furthermore, it would result in a simpler and more flexible, commercial system that better met the Country's needs. And would more effectively open up public procurement to new entrants such as small businesses and social enterprises so that they could compete for and win more public contracts.

Cabinet was informed that this was a large piece of work, however the Council had already begun to put measures in place which had resulted in the majority of the requirements under the new Bill already being met with only a few changes required for transparency purposes.

It was noted that the measures already in place included:

- No Compliance No Order which was implemented on the TechOne system on 1st April 2023. It was clarified that this would ensure that an order could not be raised unless linked to a contract or an identifiable procurement route.
- All new suppliers had to be approved by the procurement and payments teams.
- Monthly spending of over £500 was placed on the Councils Website.
- That the Council had an Electronic Purchasing Card (EPC) system for small expenditure.
- The contracts register was available to Officers, Members and the Public.
- The Procurement Team was available for monthly meetings with Heads of Service, which ensured they had visibility of what service departments were procuring to confirm contracts were set up to guarantee compliance to the 'No Compliance No Order' regime, as outlined above.
- Procurement training be provided to the teams on request.
- Monthly Accounts payable training delivered.
- A dedicated Procurement Teams page on the Bromsgrove District website.

The Interim Director of Finance reported that Part 6 of the Constitution set out the Scheme of Delegations, which, it was clarified set out what decisions could be delegated to Cabinet and individual Officers. The Council Constitution set out that from a financial basis a "Key Decision" was any item that had a combined financial spend (either as a single item or for the length of the contract) of £50,000. This, it was stated, included Revenue, Capital and S106 allocations.

Members were informed that Key Decisions needed to be on the Council's forward plan. Once this had happened Cabinet decisions were actioned via a Cabinet Report and decisions delegated to Officers actioned via an Officer Decision notice.

The Council's Procurement Pipeline, which was presently based on the Contracts Register, had been included in the report along with the initial "pipeline document". It was reported that the Procurement Pipeline provided a forward look of potential contracting opportunities and when existing contracts were due to expire. Officers clarified that the key task of the pipeline was to allow for proper planning of procurements to ensure the Council maximised its contracting opportunities.

It was clear from the data provided from the existing contracts register that the present £50k threshold for Key Decisions covered far too many projects as many contracts last for multiple years. In addition to this, the majority of Councils had traditionally set the key decision limit at the European Union Threshold level of £179k.

Further information on Key Decision limits in respect of other Councils in Worcestershire and the wider local area was provided as follows:

- Wyre Valley - £50k
- Worcester City – £164,176 in 2017, suggests not required in present structure.
- Birmingham – Capital £1m, Revenue £500k, Chief Officers £200k
- Solihull - £500k
- Wolverhampton - £250k

The national Contracts finder level was also reported as being set at £200k.

The Interim Director of Finance reported that this report was pre-scrutinised by the Finance and Budget Working Group on 7<sup>th</sup> July 2023.

The Cabinet Member for Finance and Enabling thanked the Interim Director of Finance for his detailed report and stated that it was a positive step in terms of transparency and would tighten the procurement process for the future.

Some Members queried whether this report would be considered at the Audit, Standards and Governance Committee and it was agreed that this could be arranged for the future.

The question of using a framework to procure a contract was queried, and concerns were raised that this could prevent the Council getting the best deal for services and goods procured. The Senior Solicitor clarified that this was not the case, and the use of a framework was a route to market that meant all suppliers had been evaluated by the framework provider, such as GCloud or ESPO and completed all necessary checks and balances prior to their services being procured by the Council.

The Leader invited the Chairman of the Overview and Scrutiny Board to comment on the report and he stated that it was disappointing that the Constitution of the Council had been breached by Officers. However, he

was satisfied that this was now being taken seriously and would be resolved.

Finally, the Cabinet Member for Finance and Enabling commented that although he agreed with the recommendations the use of the term 'rogue expenditure' could perhaps be modified for future reports as there was no evidence of impropriety in this area. He also thanked Mr. P. Carpenter and Ms. M. Howell for all their hard work in this area and for making progress to ensure that the Council's compliance was effective.

**RECOMMENDED** that

- 1) The Key Decision threshold be raised to £200k. The logic being that revenue expenditure using GCloud, contract lengths could be up to 4 years. As such this was the existing £50k limit expanded to the full term of revenue contracts. This new threshold would apply to all classes of delegated decision.
- 2) On a quarterly basis a report "the Approval to Spend report" be provided to Cabinet which set out from the Procurement Pipeline those procurements that should be taking place over the next year. This report would be refreshed every quarter and could be converted once approved by Cabinet into the ongoing forward plan.
- 3) That as part of this report an analysis of spending be made of the past 3 years to identify spends with suppliers over the £200k limit to ensure this spending is converted to properly contracted expenditure and rogue expenditure be dealt with.

19/23

**FINANCE RECOVERY PLAN - UPDATE**

The Interim Director of Finance presented the Finance Recovery Plan – Update for Members' consideration. The report set out the processes the Council had been following to rectify a deterioration in its financial position and processes due to the impact of the implementation of a new financial system in February 2021 during the Covid-19 pandemic period.

A Finance Recovery Programme was put in place from April 2022 to start to rectify the situation. This was reported at the Cabinet meeting that took place on 12<sup>th</sup> October 2022.

These issues built on comments from the External Auditors relating to 2019/20 accounts, which were only approved in the Autumn of 2021 and

the subsequent issuing of the Section 24 Recommendation on 31st October 2022 due to non-delivery of the 2020/21 Statement of Accounts. It was particularly noted at that time that significant issues within the working papers submitted to the External Auditors relating to the 2019/20 accounts had been highlighted.

Cabinet was informed that the Council continued to move forward with the rectification procedures and the following processes had already taken place or been implemented:

- As discussed earlier at this meeting, the CPC took place in March 2023 and was a joint review with Redditch Borough Council. The associated Action Plans included a Finance Action Plan which met the CPC's recommendations.
- The commissioning of a root and branch review by the Audit Task Group on how the Council arrived at the Section 24 Notice. The Task Group met a number of times in February and its findings were initially presented to Audit, Standards and Governance Committee on 9th March 2023. The outcome of this Task Group had been a number of recommendations which had been approved and implementation had commenced.
- The inclusion of a standing agenda item at each Audit, Standards and Governance Committee meeting which reviewed progress against these recommendations and national and local deadlines. Any exceptions or issues highlighted by Audit, Standards and Governance Committee would then be reported to Cabinet.

The Interim Director of Finance explained that the timeline for next steps was as follows:

1. Closure of the Accounts for 2020/21 - the agreement of treatment of take on balances would now take place in early July 2023 as a significant amount of testing was still required by the External Auditors.
2. Provision of Draft 2020/21 Accounts to External Audit – This would take place in July 2023. This, however, was dependent on confirmation from the External Auditors that they had approved the Council's take-on balances work, as highlighted above. Members were informed that the External Auditors were having issues in how they need to test the transactional data due to their "normal" models not working on our data.
3. The commencement of the 2020/21 External Audit – July to September 2023 – this, it was explained, was an estimated date.
4. Sign Off of 20/21 Accounts - November 2023

5. Closure of Accounts for 2021/22 –planned to be signed off by May 2024
6. Closure of Accounts for 2022/23 - planned to be signed off by November 2024

It should be noted that at the recent LGA Conference it was highlighted that over 500 Council Audits relating to 2021/22 and before were still to be completed by the Auditors. This remained a significant issue for the sector.

In terms of the key financial returns, Members were informed that within the previous week the Capital Outturn Reports for 2020/21 and 2021/22 had been submitted. However, the key returns that had still not been delivered were the Revenue Outturn forms for 2020/21 and 2021/22 and the VAT returns. Although, it was confirmed that the Government now allowed these returns to be completed based on estimates, the level of uncertainty due to the Cash Receipting issues previously experienced meant these could not be completed until the External Auditors had signed off the Council's take on balances and the Council had provided the draft accounts to External Audit.

It was also noted that during the weekend of 8<sup>th</sup> – 9<sup>th</sup> July 2023, the Council had moved to the latest version of the TechOne System (23A) which would give improved functionality. As a result of this new version, a series of updated finance training would be rolled out to Officers.

In terms of Procurement, the following was highlighted:

- The new 'No Compliance No Order' process had been live for one month. Although some issues had been experienced with TechOne it was hoped that these would be resolved with the upgrade on the system.
- Many departments were now proactively getting quotations for lower value works. Currently, the predominant issue was concerned with training which, it was reported, was being resolved.
- The number of contracts in place was growing regularly and the Council was confident that this process was having a positive effect. Eventually, it was hoped that the Council would find itself in a position where the number of orders being processed was minimal.
- A spreadsheet was being collated for requests with no contracts and discussed with teams going forward.



During consideration of this report, Members queried why there seemed to be so many delays in the auditing of accounts nationally. It was confirmed that there were capacity issues being experienced in this sector. Particularly as there was not as much money available in the public sector as the private sector.

The potential increase of Audit fees was raised, and it was confirmed that this was likely in the future, potentially from £70k to £110k. However, it was confirmed that would be a possibility to challenge any increase in Audit fees as these had to be agreed by the Public Sector Audit Appointments (PSAA).

Members questioned what the outcome would be if the Statement of Accounts were not agreed by the External Auditors. It was reported that there could be a disclaimer provided on the accounts, however this was not ideal.

Reference was made in respect of Appendix 1, which contained the recommendations from the Audit Task Group. It was queried whether in future these could be presented in such a way that it would be easier to identify what recommendations had been implemented and those that were outstanding. Officers agreed to look in this for future reports.

**RESOLVED** that

- 1) Progress made on the financial recovery be noted including:
  - Delivery of the Statutory Accounts
  - Delivery of Statutory Financial Returns
  - Improvements in the Control Environment
- 2) The work still under way to move back to a best practice operation and the associated timetable for completion of this work, as contained in this report, be noted.

20/23

## **TREASURY OUTTURN REPORT 22/23**

The Interim Director of Finance presented the report in respect of the Council's draft outturn position on the Council's Capital and Treasury Management Strategies including all prudential indicators for 2022/23. Members were informed that there was a requirement for progress to be reported to Cabinet and then to Council.

The 2021 Prudential Code included a requirement for Local Authorities to provide a Capital Strategy, a summary document approved by full Council which covered capital expenditure and financing, treasury management and non-treasury investments. The Authority's Capital Strategy was approved by full Council on 27th June 2022 and was compliant with the Chartered Institute of Public Finance and Accountancy (CIPFA) requirements.

Further information included in the report was a summary of the fluctuating economic position for the year from the Council's Treasury Advisors ArlingClose.

Cabinet was informed that on 31st March 2023, the Authority had net borrowing of £2.5m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes was measured by the Capital Financing Requirement (CFR), while usable reserves and working capital were the underlying resources available for investment.

It was further reported that the Council was now making returns in the region of 4% for the balances it was investing in the short term (working capital) and that the Council presently did not have any long term debt and that the Capital Programme had been financed using working balances.

The remainder of the paper set out how the Council was complying with its prudential indicators.

**RECOMMENDED** that the Treasury Outturn position for 2022/23 be noted.

21/23

**TO CONSIDER, AND IF CONSIDERED APPROPRIATE, TO PASS THE FOLLOWING RESOLUTION TO EXCLUDE THE PUBLIC FROM THE MEETING DURING THE CONSIDERATION OF ITEM(S) OF BUSINESS CONTAINING EXEMPT INFORMATION:-**

**RESOLVED** that:

Under S100 A (4) of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matters on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12 of the said act, as amended.

Minute Item No. 22 – Establishment of a Housing Company

22/23

## **ESTABLISHMENT OF A HOUSING COMPANY**

The Portfolio Holder for Health and Wellbeing and Strategic Housing presented the report and in doing so highlighted the following:

- The report followed a number of reports presented to Cabinet on the Burcot Lane Housing Development Scheme at the Council's former offices. It was agreed that the Council would undertake the development of 61 dwellings at the site with the sale of 6 units on the open market and the sale of 18 units of affordable housing to Bromsgrove District Housing Trust. It was proposed that the remaining 37 units be provided as private rented accommodation. The details in respect of the options of the management of the remaining properties had been included within the report.
- The overarching aim of the development was for the Council to assist in balancing the housing market by providing high quality private rented housing which would also result in the Council having a long-term capital asset. The private rented sector in Bromsgrove was only 10.7% with the West Midlands having 21.4%. This provided further evidence that this form of tenure which played an important role in the housing market is lacking in Bromsgrove.
- This development was an important step for the Council to work to not only to increase numbers of privately rented properties but also worked towards improving standards within the sector. The creation of a Housing Company provided the framework to meet this ambition of the Council and to provide services that were appropriate to the management of private rented stock.

**RESOLVED** that:

- 1) That the progress of the matter to date be noted and affirmed
- 2) That the 37 private rented units of the Burcot Lane development be long-leased from the Council to the housing company
- 3) To note that officers continue to work on provisions for the internal and external common areas of the 37 private rent properties and in respect of the wider Burcot Lane development. A managing agent would be required to undertake this role.

**RECOMMENDED** that

- 4) a housing company limited by shares wholly owned by the Council be established.
- 5) by way of a formal loan agreement between the Council and the housing company and in compliance with the requirements of subsidy control (formerly State aid) the Council provide the housing company initial operating capital to the sum of £50,000.

(During the consideration of this item, Members discussed matters that necessitated the disclosure of exempt information. It was therefore agreed to move to exclude the press and public prior to any debate on the grounds that information would be revealed which related to the financial and business affairs of any particular person (including the authority holding that information)).

23/23

**TO CONSIDER ANY URGENT BUSINESS, DETAILS OF WHICH HAVE BEEN NOTIFIED TO THE HEAD OF LEGAL, DEMOCRATIC AND PROPERTY SERVICES PRIOR TO THE COMMENCEMENT OF THE MEETING AND WHICH THE CHAIRMAN, BY REASON OF SPECIAL CIRCUMSTANCES, CONSIDERS TO BE OF SO URGENT A NATURE THAT IT CANNOT WAIT UNTIL THE NEXT MEETING**

There was no urgent business on this occasion.

The meeting closed at 8.20 p.m.

Chairman

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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