

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: **CABINET**
Report of: Corporate Director Economy
Date of Decision: 26th June 2018
SUBJECT: COMMONWEALTH GAMES VILLAGE AND THE WIDER PERRY BARR REGENERATION PROGRAMME - OUTLINE BUSINESS CASE
Key Decision: Yes
If not in the Forward Plan:
(please "X" box)
Relevant Cabinet Member(s) or Relevant Executive Member: Cllr Ian Ward, Leader; Cllr Brett O'Reilly, Cabinet Member for Finance & Resources, Cllr Waseem Zaffar, Cabinet Member for Transport and Environment, Cllr Mariam Khan, Learning, Culture & Physical Activity; Cllr Tahir Ali, Economy and Skills; Cllr Penny Holbrook, Housing and Neighbourhoods
Relevant O&S Chair:
Wards affected: Perry Barr, Aston, Lozells & East Handsworth

Relevant Forward Plan Ref: 004993/2018

Chief Executive approved

O&S Chair approved

1. Purpose of report:

- 1.1 This report sets out proposals for Birmingham to deliver a Commonwealth Games Village (the CGV) along with improved highways and transport infrastructure, to support the delivery of the 2022 Commonwealth Games. The development of the CGV will provide around 1400 new homes and create the opportunity to initiate a comprehensive regeneration of the Perry Barr area, providing an aspirational residential neighbourhood.
- 1.2 To deliver this the report seeks approval to the Outline Business Case in Appendix 1 and sets out the approach to funding, land acquisitions and procurement.
- 1.3 An accompanying Private Report contains confidential information on the award of contract for professional services.

2. Decision(s) recommended:

That Cabinet:

- 2.1 Approves the Outline Business Case (OBC) for the CGV and the wider Perry Barr Regeneration Programme, as set out in Appendix 1, at a total estimated cost of £523.3m.
- 2.2 Approves the tender strategy to deliver the highways infrastructure improvements using the Council's Highways and Infrastructure Framework Agreement required for the Commonwealth Games including SPRINT routes as outlined in Appendix 3, and delegates the award of contracts to the Leader and the Cabinet Members for Transport and the Environment and Finance and Resources, jointly with the Corporate Director Economy.
- 2.3 Approves the procurement strategy for the professional services for the acquisition of various properties within Perry Barr using the Crown Commercial Services Estate Professional Services Framework Agreement and delegates the award of the contract to the Corporate Director, Economy in conjunction with the Director of Commissioning and Procurement, the Corporate Director of Finance and Governance (or their delegate) and the City Solicitor (or their delegate).
- 2.4 Notes the intention to award a contract to the recommended supplier for the provision of

professional services for the ground investigation and remediation for the CGV sites by direct award using the Eastern Shires Purchasing Organisation Consultancy Services Framework Agreement. The confidential information related to the award of the contract is contained in the Private Report.

- 2.5 Delegates to the Corporate Director, Economy in conjunction with the Director of Commissioning and Procurement, the Corporate Director of Finance and Governance (or their delegate) and the City Solicitor (or their delegate), authority to commence the procurement activity and award of contract to undertake the specialist demolition and remediation works for sites within the plan at Appendix 2a, through appropriate public sector framework agreements or an OJEU process.
- 2.6 Authorises the Corporate Director, Economy to approve Stopping Up Orders and Traffic Regulation Orders as necessary for the implementation of the recommendations in this report.
- 2.7 Delegates approval of the Full Business Cases and the authorities necessary to deliver the projects contained within the OBC, subject to the conditions of grant being satisfied and acceptable to BCC and the relevant funding providers confirming the budget allocations, to the Leader and the Cabinet Member for Finance and Resources, jointly with the Corporate Director, Economy and the Chief Finance Officer.
- 2.8 Authorise the Corporate Director, Economy to submit applications for grant funding from Homes England for the delivery of affordable housing within the CGV and in the event of the affordable housing being disposed of other Registered Social Landlords (RSLs) for the Council to enter into a Deed of adherence with these RSLs to ensure the grant conditions associated with the delivery of this affordable housing are passed on to these organisations.
- 2.9 Delegates authority to the Corporate Director, Economy, jointly with the Chief Finance Officer, to bid for and to accept future funding relating to CGV and the wider Perry Barr Regeneration Programme as necessary.
- 2.10 Authorises the Corporate Director, Economy to negotiate the acquisition of all interests in land outlined on the plan at Appendix 2a (which shows the maximum potential extent) in advance of, and alongside, the making of a Compulsory Purchase Order(s) (CPO) and where appropriate, to pay statutory home loss, basic loss and negotiate disturbance compensation to all qualifying owners and tenants.
- 2.11 Authorises the making of CPO(s) under section 226(1)(a) of the Town & Country Planning Act 1990; sections 239, 240 and 250 of the Highways Act 1980; appropriation under Section 203 of the Housing and Planning Act 2016; and where necessary, the acquisition of new rights under Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 to secure the acquisition of the land identified at Appendix 2.
- 2.12 Authorises the City Solicitor to draft and submit for confirmation an Order in accordance with Section 14 and Section 125 of the Highways Act 1980 (or other such similar Orders as may be required) to support the CPO(s).
- 2.13 Authorises the City Solicitor to take all necessary steps, including the execution of documents as required, to secure the making, confirmation and implementation of the CPO(s), as well as the publication and service of all necessary notices, including High Court Enforcement Officer Notices.
- 2.14 Instructs the City Solicitor to confirm the CPO(s), if granted power to do so by the Secretary of State.

- 2.15 Accepts the £20.075m funding from the West Midlands Combined Authority's (WMCA) Brownfield Land and Property Development Fund (BLPDF) to contribute to the funding of the regeneration programme as set out within this OBC, of the WMCA grant £1,325,454 will be transferred to Homes England to fund the demolition works which we have jointly procured.
- 2.16 Note that further to the Cabinet approval of March 2018, the contract for the development of the residential element for the CGV is being tendered as a single contract through an OJEU process. In the event that a single contractor is not selected to undertake the development of the village, to delegate to the Corporate Director, Economy in conjunction with the Director of Commissioning and Procurement, the Corporate Director of Finance and Governance (or their delegate) and the City Solicitor (or their delegate) authority to commence the procurement activity for a one or more contractors through appropriate public sector framework agreements or a OJEU process. The award of the subsequent contracts will be reported to Cabinet in due course.
- 2.17 Notes that the West Midland Combined Authority's bid for Housing Infrastructure Funding (HIF), which includes £158.5m of funding for the regeneration of Perry Barr, has been approved by Government to move to Full Business Case as a part of the Government's HIF appraisal approach.
- 2.18 Instructs the City Solicitor to negotiate, execute and complete all necessary further documents required to give effect to the recommendations in this report.

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3. Consultation

3.1 Internal

- 3.1.1 The Leader and Cabinet Members for Transport & Environment and Homes & Neighbourhoods, support the report being presented to Cabinet for an executive decision. Relevant Ward Councillors have been consulted and responses are attached in Appendix 5.
- 3.1.2 Officers from Planning, Highways, Transportation and Connectivity, Housing, Procurement, Birmingham Property Services, Legal Services and Finance have been involved in the preparation of this report.
- 3.1.3 The Commonwealth Games Federation have been briefed on this report.

3.2 External

- 3.2.1 Opportunities for the regeneration at Perry Barr are set out in the Birmingham Development Plan and Aston, Newtown and Lozells Area Action Plan, both of which were subject to extensive consultation.
- 3.2.2 Significant local stakeholders have been consulted on proposals for the CGV, infrastructure enhancements, and the approach to land acquisitions required to facilitate this. This includes Network Rail, Transport for West Midlands (TfWM), the owners of One Stop Shopping Centre, the Education and Skills Funding Agency, Homes England, Birmingham City University and Holford Drive Community Sports Hub. The West Midlands Combined Authority (WMCA) has been consulted on the proposals for Perry Barr and is supportive. The Commonwealth Games Federation Partnership (CGFP) has been engaged during the Village design process and is pleased with the progress that is being made.
- 3.2.3 A meeting of the Perry Barr Ward Committee was held on 15th February 2018 to discuss the emerging proposals for the CGV and Stadium. A Residents Consultation Group has been established. Ongoing consultation with this group and all other affected parties will take place as part of the projects set out here, and the interventions necessary to deliver the projects, including that required as part of the CPO process.
- 3.2.4 As part of the preparation of the planning application for the residential element of the CGV an exhibition was held on 4th June 2017 for local residents, businesses and stakeholders. This exhibition also provided some details of the wider regeneration proposals for the area.
- 3.2.5 The freeholders and leaseholders of properties which could be directly affected by acquisitions have been contacted and invited to an information session. Engagement with these parties will continue as the Council seeks to secure acquisitions by voluntary negotiation.
- ### **4. Compliance Issues**
- 4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?**
- 4.1.1 The proposals set out in this report will support the delivery of the Council Plan and Budget 2018+. They will support the delivery of the ambition set out in the adopted Birmingham Development Plan (BDP), as well as the Aston Newtown Lozells Area Action Plan (AAP), Birmingham Connected, and the City's role as Host City for the 2022 Commonwealth Games.
- 4.1.2 Children – new homes will be developed which will provide a safe, warm, sustainable and connected home in which our children can thrive;
- 4.1.3 Housing - the Council is committed to the development of enough high quality new homes to meet the needs of a growing city, and the proposals within this report seek to accelerate housing growth in the city;
- 4.1.4 Jobs and Skills – development activity will help to create jobs and support supply chain industries, supporting the local economy;
- 4.1.5 Health – the links between health and housing are well recognized. New high quality homes will enhance the health benefits to residents.

4.1.6 Birmingham Business Charter for Social Responsibility (BBC4SR).

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of contracts let to support delivery of the proposals set out in this report.

Tenderers will be required to submit an action plan with their tender that will be evaluated in accordance with the evaluation criteria as stated in Appendix 3 and the action plans of the successful tenderers will be implemented and monitored during the contract period.

4.2 Financial Implications (How will decisions be carried out within existing finances and Resources?)

- 4.2.1** The financial implications of the CGV and supporting infrastructure are included in the Outline Business Case at Appendix 1. This identifies total indicative costs of £523.3m, including £3.9m of revenue costs, to be funded from a combination of grants, contributions and sale proceeds from disposal of land and buildings. Some elements will need to be funded from prudential borrowing in the first instance (estimated at £279.5m), with interest on this borrowing to be capitalised. It is anticipated that all borrowing and capitalised interest can be repaid through capital receipts generated by the scheme.
- 4.2.2** An indicative budget of £55.6m has been allowed to carry out the acquisitions of private interests and site preparation necessary to deliver these projects. This will be delivered as a part of the overall proposals as set out in the Outline Business Case which includes funding from West Midland Combined Authority's (WMCA) Brownfield Land and Development Fund (BLPDF) and Government Housing Infrastructure Fund (HIF).
- 4.2.3** In respect of the WMCA BLPDF, the gross £20.075m requires the Council to pay £0.1m to Finance Birmingham in monitoring fees, so the maximum sum that the Council can utilise is £19.975m. Funding is constrained to the acquisition of third party interests in order to move forward the regeneration of Perry Barr.
- 4.2.4** The WMCA grant is paid against claims made retrospectively by the Council for specific land assembly and site preparation works, with grant claims required to be supported by red book valuations. As project costs in the grant application were based on early estimates, the funding conditions permit variations on what the grant can pay for at its discretion. The Council will be required to share any receipts from the subsequent sale of the CGV following completion of the Games with the WMCA and Homes England once its Borrowing costs have been repaid. The current financial model underpinning the OBC suggests that it is unlikely that any such share of receipts will be material.
- 4.2.5** £1,325,454 of the WMCA grant will be transferred to Homes England to fund the demolition works we have jointly procured.
- 4.2.6** It should be noted that delivery of the CGV is predicated on the allocation of HIF funding from Government. In the event that the HIF grant is not forthcoming, the contract for the development of the residential element of the CGV will not be awarded, and alternative arrangements will be put in place to accommodate athletes during the Commonwealth Games 2022.

4.3 Legal Implications

- 4.3.1 Section 1 of the Localism Act 2011 contains the City Council's general power of competence.
- 4.3.2 The power to voluntarily acquire, dispose, manage assets in land and property is contained in Sections 120 and 123 of the Local Government Act 1972. Under Section 111 of the Local Government Act 1972 the City Council may incur expenditure in relation to anything which is incidental to the discharge of its functions.
- 4.3.3 The Highways Act 1980 sets out the relevant powers for changes to existing highways and the adoption of new roads the Road Traffic Regulation Act 1984 contains the powers to make appropriate Traffic Regulation Orders and Section 247 of the Town and Country Planning Act 1990 to stop up highway.
- 4.3.4 The relevant legal powers for the making of a Planning CPO are contained in section 226(1) (a) Town and Country Planning Act 1990, and for the making of a Highways CPO are contained in Sections 239, 240 and 250 of the Highways Act 1980. Section 13 of the Local Government (Miscellaneous Provisions) Act 1976 is relevant in respect of acquiring new rights. Appendix 3 provides further justification for the use of compulsory purchase powers.
- 4.3.5 In considering whether to make a Compulsory Purchase Order, the rights of property owners under the Human Rights Act 1998 have been taken into account. Appendix 2c provides further information in this regard. It is considered that compulsory acquisition would not constitute an unlawful interference with any of these rights.

4.4 Public Sector Equality Duty

- 4.4.1 An Equalities Analysis Initial Assessment has been carried out and is attached as Appendix 4. This found that there was no requirement for a full assessment but this will be reviewed at FBC stage.

5. Relevant background/chronology of key events:

- 5.1 Birmingham was confirmed as Host City for the Commonwealth Games in December 2017 and as such is required to provide a CGV to accommodate around 6500 athletes and team officials during the Games.
- 5.2 The CGV Village, including the residential accommodation and sites for the temporary overlay (including office, medical, storage, dining hall, transport mall and ceremonial space), has to be handed over to the Organising Committee in January 2022 to allow sufficient preparation time for the Games.
- 5.3 An options appraisal for the location of the CGV was carried out during the bid process, with the former Birmingham City University campus and adjacent land at Perry Barr being identified as the most appropriate and deliverable location. Post Games the athletes accommodation will be converted to general needs housing, some of which will be retained by the Council, and some will be sold on for other tenures including affordable housing, private rent and owner occupation. An element of affordable housing will be included in the scheme; this will be determined as part of the planning application.
- 5.5 To ensure the success of the residential development, there is a need to enhance the infrastructure of the area making it a more attractive and efficient place to live and work. Proposals, to be implemented as a part of the development, are being developed for

highways redesign to improve pedestrian and cycle linkages, and improved transport connectivity, including a new bus interchange, redevelopment of the railway station, and the implementation of Sprint bus rapid transit. Details are presented in the Outline Business Case, Appendix 1. These will create a more connected Perry Barr, with strengthened public transport infrastructure, which will also help facilitate Games-time movement, with a large number of staff, athletes, and visitors passing through the area and onto other venues at Alexander Stadium, Villa Park and within the City Centre.

- 5.7 The City Council has limited ownership within the required land in Perry Barr, and acquisition of third party interests is therefore necessary to facilitate the delivery of the proposals. Detail of the extent of acquisitions required is provided in Appendix 2.
- 5.8 Cabinet has already (on 15 August 2017) agreed the principle of using CPO powers to facilitate the delivery of the CGV, and delegated to the Corporate Director, Economy, in consultation with the Leader, authority to voluntarily acquire land interests required to enable the delivery of the CGV.
- 5.9 The Council is already seeking to secure acquisition by voluntary negotiation where possible, but recognising the timescales involved may need to resort to CPO where necessary. As and when an Order is made efforts will continue to secure acquisition on a voluntary basis.
- 5.10 A CPO should only be made where there is a compelling case in the public interest, and that the scheme will bring about social, economic and environmental benefits. As well as the justification provided at Appendix 3, the City Council will prepare a Statement of Reasons which will provide the detailed justification in order to make the CPO(s). Options are currently being considered as to the most appropriate process to use to make the CPO(s), including powers under the Town and Country Planning Act 1990 and the Highways Act 1980.
- 5.11 Given the timetable to deliver the CGV and supporting infrastructure, it is necessary to start the CPO(s) process immediately, whilst also continuing voluntary negotiations on the sites. The timetable is expected to be:
 - June 2018 – CPO drafted, made and submitted
 - Winter 2018 – Public Local Inquiry
 - Spring 2019 – Order Confirmed
 - Autumn 2019 – Land vested with City Council
- 5.12 As set out in section 4.2 of this report and in the Outline Business Case, the funding package for the acquisitions includes WMCA and the Government's HIF Programme.
- 5.13 The WMCA approved £20.075m for acquisitions, demolition and remediation in Perry Barr from their BLPDF on 9th March 2018. The conditions of the grant are summarised in paragraphs 4.2.3 and 4.2.4 above.
- 5.14 It was also announced in the Spring Statement that the WMCA's Growth Areas HIF bid would be progressed to Full Business Case (FBC). This includes £158.5m for Perry Barr, some of which will be utilised for acquisitions. The FBC will be progressed over the summer with an announcement anticipated in autumn 2018.

5.15 A Procurement Strategy to support the delivery of the regeneration programme has been developed. This identifies the requirements for various services to be procured including: - professional services and contractors for the delivery of the highways infrastructure projects and professional advice for the acquisition of premises and land in Perry Barr. The details of the tender strategy and the procurement process to be followed are provided in Appendix 3.

6. Evaluation of alternative option(s):

- 6.1 Options to consider how Birmingham would manage the needs of the athletes and officials during the Games were considered as a part of the bid for the Games and this provided two main options: -
- 6.2 The preferred option of housing athletes and officials at a dedicated purpose built CGV. This has been well received by the CGF and formed a part of Birmingham's initial bid to the CGF for hosting the games. Alternative locations for the CGV were considered as part of the bid process, with Perry Barr identified as the preferred site. This would deliver an improved environment within the Perry Barr centre, generate further development opportunities and deliver future growth. It is anticipated that up to 1600 new homes can also be delivered across the wider area over the next 15 years. The development of the CGV is, however, as noted in 2.16 subject to the £158.5m HIF funding being made available by Government.
- 6.3 If the HIF funding was not made available, the development of the CGV would be scaled back significantly limiting the legacy opportunity. Existing, alternative accommodation would most likely be sought for athletes and officials at locations across the city.

7. Reasons for Decision(s):

- 7.1 Provision of the CGV and supporting infrastructure will not only ensure the success of the Commonwealth Games, but also provide a catalyst for the timely regeneration of the Perry Barr Centre.

Signatures	Date
Councillor Ian Ward Leader
Cllr Brett O'Reilly, Cabinet Member for Finance & Resources
Cllr Waseem Zaffar, Cabinet Member for Transport and Environment
Waheed Nazir Corporate Director, Economy

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List of Background Documents used to compile this Report:

Birmingham Development Plan
Aston, Newtown & Lozells Area Action Plan
Report to Cabinet 15th August 2017 – Commonwealth Games 2022
Report to Cabinet [date] – Housing Infrastructure Fund
Report to Cabinet 8th December 2017 – Commonwealth Games 2022
Report to Cabinet 27th March 2018 – Tender Strategy for the Development of the Residential Element for the CGV

List of Appendices accompanying this Report (if any):

- Appendix 1 Outline Business Case
- Appendix 2a Plan of maximum extent of acquisition
- Appendix 2b Justifications for Compulsory Purchase Order
- Appendix 2c Compulsory Purchase – The Human Rights Act 1998 and the European Convention of Human Rights
- Appendix 3 Procurement Strategy
- Appendix 4 Equality Analysis
- Appendix 5 Consultation responses