

BIRMINGHAM CITY COUNCIL

CABINET MEETING TUESDAY, 8 NOVEMBER 2022

**MINUTES OF A MEETING OF THE CABINET COMMITTEE HELD ON
TUESDAY 8 NOVEMBER 2022 AT 1000 HOURS IN COMMITTEE
ROOMS 3&4, COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM, B1
1BB**

PRESENT: -

Councillor Liz Clements, Cabinet Member for Transport
Councillor John Cotton, Cabinet Member for Social Justice, Community Safety and Equalities
Councillor Brigid Jones, Deputy Leader of the City Council
Councillor Mariam Khan, Cabinet Member for Health and Social Care
Councillor Majid Mahmood, Cabinet Member for Environment
Councillor Karen McCarthy, Cabinet Member for Children, Young People and Families
Councillor Yvonne Mosquito, Cabinet Member for Finance and Resources
Councillor Sharon Thompson, Cabinet Member for Housing and Homelessness
Councillor Ian Ward, Leader of the City Council

ALSO PRESENT:-

Councillor Robert Alden, Leader of the Opposition (Conservative)
Councillor Jon Hunt, Leader of the Opposition (Liberal Democrat)
Councillor Ewan Mackey, Deputy Leader of the Opposition (Conservative)
Janie Berry, City Solicitor and Monitoring Officer
Professor Graeme Betts, Director Adult Social Care (DASS) (online)
Richard Brooks, Director, Strategy Equalities and Partnerships
Deborah Cadman, Chief Executive
Paul Clarke, Assistant Director (Programmes, Performance and Improvement)
Domenic De Bechi, PFI Contract Manager (online)
Susan Harrison, Director for Children and Families, BCC
Kevin Hicks, Assistant Director
Kathryn James, Assistant Director
Robert James, Strategic Director, City Operations
Paul Kitson, Strategic Director, Place, Prosperity and Sustainability
Paul Langford, Interim Director, Housing Management
Sara Pitt, Director of Finance (Deputy Section 151 Officer), Council Management Directorate
Steve Sandercock, Assistant Director, Procurement (online)
Ashley Skinner, Principal Surveyor (online)
Dr Justin Varney, Director of Public Health
Errol Wilson, Committee Services

NOTICE OF RECORDING/WEBCAST

16. The Chair welcomed attendees and advised, and the Committee noted, that this meeting will be webcast for live or subsequent broadcast via the Council's meeting You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXg6_5dnVnYlw) and that members of the press/public may record and take photographs except where there are confidential or exempt items.
-

APOLOGIES

17. Apologies for absence were submitted on behalf of Councillor Jayne Francis, Cabinet Member for Digital, Culture, Heritage and Tourism; Andy Couldrick, Chief Executive, Birmingham Children's Trust; Julie Griffin, Managing Director, Housing; Rebecca Hellard, Director, Council Management and Darren Hockaday, Interim Director, People Services.
-

DECLARATIONS OF INTERESTS

18. The Chair reminded Members that they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at the meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Any declarations will be recorded in the minutes of the meeting.

MINUTES

19. **RESOLVED:** -

The Minutes of the meeting held on 11 October 2022, having been previously circulated, were confirmed and signed by the Chair.

EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC

20. The Chair advised that the report at Agenda items 6, 8, 11 and 15 contained exempt appendices within the meaning of Section 100I of the Local Government Act 1972.

The Chair then enquired whether there were any matters that Members would like to raise on the exempt appendix that may affect the decision to be made or to ask for clarification on a point on the exempt appendix. appendices did not contain any exempt information within the meaning of Section 100I of the Local Government Act 1972.

As there were no matters that Members wished to raise in relation to the exempt appendices, the Chair advised that the public meeting would carry on to consider the recommendations.

ARDEN CROSS INTERCHANGE TRIANGLE DEVELOPMENT PARTNER APPOINTMENT

The Chair introduced the item and commented that Cabinet would no doubt recalled that Cabinet had agreed the report on the 18 May 2021 to approved agreements for the appointments of agents to market the Arden Cross site and to initiate a development partner selection process to select one or more entities to undertake that development.

The Chair added that further to the advice of Arden Cross Limited (ACL) appointed Property Consultant, Jones Lang LaSalle (JLL) for the procurement of a development partner for the site this was now being progressed and the recommendations of the JLL report was attached at Exempt Appendix 4 to the report.

The Chair then drew the attention of Cabinet to the information contained in the report highlighting the key points.

(See document No. 1)

A brief discussion ensued. Following discussions by Cabinet, it was

21. **RESOLVED: -**

That Cabinet:-

- (a) Approved the appointment of a development partner for the Arden Cross Interchange Triangle Site as detailed in the Exempt Appendix 3 to the report;
- (b) Approved ACL reverting to the under bidders in the event of failure to complete and proceed to completion;

Cabinet Committee – 8 November 2022

- (c) Approved the proposed terms and completion of the Commercial Terms of the Development Agreement by ACL as set out in Exempt Appendix 5 to the report;
- (d) Authorised the Leader of the Council in conjunction with the Strategic Director of Council Management and Strategic Director Place, Prosperity and Sustainability to agree final terms and Development Agreement (DA) to be entered into by ACL;
- (e) Noted ACL's revenue budget for 2022/23 and approved Birmingham City Council's (BCC) contribution as per the terms of the ACL Shareholders Agreement, identified at Exempt Appendix 7 to the report;
- (f) Authorised the City Solicitor (or their delegate) to negotiate, execute and complete all relevant documentation required to give effect to the above recommendation; and
- (g) Authorised the Assistant Director of Investment and Valuation or nominated appointee (Head of Property and Valuation) to carry out preparatory work and enter into any relevant negotiations involving the Council.

CORPORATE PLAN 2022-2026: MONITORING AND REPORTING PERFORMANCE AND DELIVERY

Councillor Brigid Jones, Deputy Leader of the City Council introduced the item and drew the attention of Committee to the information contained in the report highlighting the key points.

(See document No. 2)

An extensive discussion by the Cabinet Members and Members of the Oppositions then ensued. Following discussions it was

22. RESOLVED: -

That Cabinet:-

- (i) Agreed the draft Corporate Performance and Delivery Plan as the basis for performance and delivery reporting to Cabinet; and
- (ii) Noted the intention to commence the new performance and delivery reporting to Cabinet from December 2022.

HIGHWAY MAINTENANCE AND MANAGEMENT PFI CONTRACT

Councillor Liz Clements, Cabinet Member for Transport introduced the item and drew the attention of Cabinet to the information contained in the report highlighting the key points.

(See document No. 3)

Following discussions by Cabinet, it was

23. RESOLVED: -

That Cabinet:

- (i) Noted:-
 - (a) the submission to Department for Transport (DfT) of an update Outline Business Case (UOBC) contained in Appendix A to the report (Exempt Information); and
 - (b) the updated position in this report regarding progress with delivering capital investment works and procurement of the long-term replacement subcontract;
- (ii) In respect of the Specified Licence service:-
 - (a) approved that the service is to be entirely delivered by the Council, as described in paragraphs 3.14 to 3.17;
 - (b) accepted the implications for the transfer of staff under the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2014, as set out in paragraph 7.5; and
 - (c) authorised the City Solicitor (or their delegate) to negotiate and complete all necessary documentation to give effect to the above recommendation;
- (iii) In respect of the A34 / A45 Carriageway works, noted:-
 - (a) the Council entering into a Memorandum of Understanding with the West Midlands Combined Authority, formalised in accordance with the Council's Procurement and Governance Rules paragraph 4.59 vii for negotiation without competition of the carriageway works on the A34 / A45 as part of SPRINT, that was undertaken during the period May 2022 to July 2022, as described in paragraphs 3.18 to 3.19, 4.2 and 7.4.2 to 7.4.6 of this report; and
 - (b) that a breach of Part D2 of the Procurement and Contract Governance Rules in Part D of the Constitution will be recorded.
- (i) Noted the allocation of up to £5m of the Financial Resilience Reserve (FRR) as detailed in the month 5 Financial Monitoring Report on this Cabinet Agenda is used to fund the costs of the Cost-of-Living Emergency;

Cabinet Committee – 8 November 2022

- (ii) Noted the approval of the delegation of expenditure on the Cost-of-Living Emergency, as set out in in the Month 5 financial monitoring report on this Cabinet agenda, to the Director of Strategy, Equality and Partnerships and the Section 151 officer, in consultation with the appropriate Cabinet Members;
 - (iii) Approved the delegation of procurement decisions to the Director of Strategy, Equality and Partnerships and the Section 151 officer, in consultation with the Assistant Director of Corporate Procurement and the appropriate Cabinet Members;
 - (iv) Approved the creation of a Cost-of-Living Strategic Response Group chaired by the Director of Strategy, Equality and Partnerships which will oversee the Cost-of-Living delivery workstreams including the responding to addressing immediate priority actions; and
 - (v) Noted that progress updates will be presented to future Cabinet Meetings.
-

ACCEPTANCE OF SEND COMMISSIONER'S RECOMMENDATIONS

Councillor Karen McCarthy, Cabinet Member for Children, Young People and Families introduced the item and drew the attention of Cabinet to the information contained in the report highlighting the key points.

(See document No. 4)

Following discussions by Cabinet, it was

24. RESOLVED: -

That Cabinet:-

- (i) Noted the Council's acceptance of the recommendations made by the SEND Commissioner in his report dated February 2022; and
 - (ii) Noted the action plan, updated in August 2022, that sets out how the recommendations will be addressed.
-

FINANCIAL MONITORING REPORT 2022/23 QUARTER 2 (UP TO 30 SEPTEMBER 2022)

Councillor Yvonne Mosquito, Cabinet Member for Finance and Resources presented the item and drew the attention of Cabinet to the information contained in the report.

(See document No. 5)

Following discussions by Cabinet, it was

25. RESOLVED: -

That Cabinet:-

- (i) Approved an increase in the Capital Budget for 2022/23 of £29.0m as set out in paragraph 4.7 resulting in a revised capital budget of £723.4m;
- (ii) Noted that the Council faces a number of challenges in 2022/23. However, the Council is in a strong robust position with strong financial control processes in place. Reserves are healthy and within recommended limits; and
- (iii) Noted the Treasury Management and Investment Portfolio Reports that are included in Appendix A at Annex 2 and 3 to the report.

DIGITAL STRATEGY 2022-25 – TECHNOLOGY ROADMAP

In the absence of Councillor Jayne Francis, Cabinet Member for Digital, Culture, Heritage and Tourism, Councillor Yvonne Mosquito, Cabinet Member for Finance and Resources presented the item and drew the attention of Cabinet to the information contained in the report.

(See document No. 6)

Following discussions by Cabinet, it was

26. RESOLVED: -

That Cabinet:-

- (i) Endorse the enterprise architecture approach, the associated technology roadmap and platform+agile approach (Appendices A & B) to the report;
- (ii) Endorse the establishment of a governance framework which includes a single Technical Design Authority to approve all new technology procurements and ensure that we have first looked at the re-use of existing solutions, platforms, or capabilities before considering new investments (Appendix C) to the report.
- (iii) Approved the planned procurement for the Microsoft 365 E5 enterprise licence and Microsoft Azure cloud platform subscription services to meet planned demand over the next three years (Appendix D & E) to the report; and
- (iv) Delegated authority to the Director, Digital & Customer Services in consultation with the Strategic Director, Council Management, the Assistant Director, Procurement, the City Solicitor and Monitoring Officer (or their delegates) to implement all necessary agreements.

HOUSING REPAIRS, MAINTENANCE AND INVESTMENT 2024

Councillor Sharon Thompson, Cabinet Member for Housing and Homelessness presented the item and drew the attention of Cabinet to the information contained in the report.

(See document No. 7)

Following discussions by Cabinet, it was

27. RESOLVED: -

That Cabinet:-

- (i) Approved commencement of the procurement for Responsive Repair & Maintenance Services, Gas Servicing and Capital Improvement Work Programmes (as including Major Housing Repairs, Maintenance and Investment 2024 Adaptations to Council Housing Stock) regarding the Council's housing stock in all areas of Birmingham as detailed in this report subject to approval of the Procurement Strategy;
- (ii) Delegated authority to the Strategic Director for City Housing, in conjunction with the Assistant Director Corporate Procurement (or their delegate), the Strategic Director of Council Management (or their delegate), and the City Solicitor (or their delegate) and in consultation with the Cabinet Member for Finance and Resources and the Cabinet Member for Housing and Homelessness, to approve the procurement strategy;
- (iii) Authorised the Strategic Director of City Housing in conjunction with the Assistant Director Corporate Procurement (or their delegate), the Strategic Director of Council Management (or their delegate), and the City Solicitor (or their delegate) to award the contract to the successful bidder(s);
- (iv) Delegated authority to the Strategic Director for City Housing, in conjunction with the Assistant Director Corporate Procurement (or their delegate), the Cabinet Member for Housing and Homelessness, the Strategic Director of Council Management (or their delegate), and the City Solicitor (or their delegate) to take up the option to extend the contract for one period of five years subject to satisfactory performance and the achievement of contractual cost and prescribed Key Performance Indicators, or not take up an option to extend and to re-procure any contract(s) as necessary;
- (v) Authorised the Strategic Director of City Housing in conjunction with the Assistant Director Corporate Procurement (or their delegate), the Strategic Director of Council Management (or their delegate), and the City Solicitor (or their delegate) to activate the contingency plan (as set out at Section 6.4 to the report) if a delay in the procurement puts at risk the new contracts being in place from the 1st April 2024 to comply

Cabinet Committee – 8 November 2022

with the statutory obligation to carry out the repairs and maintenance of its housing stock;

- (vi) Delegated authority to the Strategic Director for City Housing, in conjunction with the Assistant Director Corporate Procurement (or their delegate), the Strategic Director of Council Management (or their delegate), and the City Solicitor (or their delegate) to review depot usage with consideration for disposal, with the capital receipts ringfenced to the Housing Revenue Account for housing investment, any request for disposal/ringfencing will be submitted to Cabinet for approval; and
- (vii) Authorised the City Solicitor to execute and complete any documents to give effect to the above.

QUARTERLY ASSURANCE UPDATE (PERIOD 3 – JUNE 2022 TO END OF SEPTEMBER 2022) PROCUREMENT AND CONTRACT GOVERNANCE RULES

Councillor Yvonne Mosquito, Cabinet Member for Finance and Resources presented the item and drew the attention of Cabinet to the information contained in the report.

(See document No. 8)

Following discussions by Cabinet, it was

28. RESOLVED: -

That Cabinet noted the report and accompanying information.

SOCIAL HOUSING DECARBONISATION FUND WAVE 2 – APPROVAL TO BID AND APPROVAL TO SPEND

Councillor Sharon Thompson, Cabinet Member for Housing and Homelessness introduced the item and drew the attention of Cabinet to the information contained in the report highlighting the key points.

(See document No. 9)

Following discussions by Cabinet, it was

29. RESOLVED: -

That Cabinet:-

- (i) Approved, subject to due diligence in relation to affordability of the confirmed total costs, and not exposing risks to the HRA for financial resilience, delegating to the S151 Officer, in consultation with the relevant Cabinet Members (The Leader, Cabinet Member for Housing

Cabinet Committee – 8 November 2022

and Homelessness and Cabinet Member for Finance and Resources) the following:

- (a) an application for SHDF Wave 2 funding of up to £23.3m;
- (b) the use of HRA revenue to fund additional Capital borrowing up to £99.0m as required, in addition to existing planned investment, making up the required match funding of £129.3m;
- (ii) Delegated authority to the Strategic Director of City Housing to receive any awarded grant and take decisions as required regarding the identification of appropriate areas for delivery and profiling and tenure split of grant monies based on the proposals submitted to the Department of Business, Energy and Industrial Strategy (BEIS);
- (iii) Delegated Authority to Strategic Director City Housing in conjunction with the Director of Council Management (or their delegate) to make further bids to SHDF or related government grant funding for the delivery of retro fit interventions; and
- (iv) Authorised the City Solicitor (or delegate) to negotiate, execute and complete all necessary legal documentation to give effect to the above recommendations.

KEY DECISION PLANNED PROCUREMENT ACTIVITIES (NOVEMBER 2022 – JANUARY 2023) AND QUARTERLY CONTRACT AWARDS (APRIL – JUNE 2022)

Councillor Yvonne Mosquito, Cabinet Member for Finance and Resources introduced the item and drew the attention of Cabinet to the information contained in the report.

(See document No. 10)

Councillor Robert Alden, Leader of the Opposition (Conservative) referred to the planned procurement for both remediation and clearance as well as highway improvements at the Bordesley Park (former Wheels site), and commented that the report to Cabinet on the 28 June 2022, which gave authority for the potential disposal of the site to a developer, stated that “The sale of the subject property will remove remediation (the site is a former landfill site) and financial risks and ongoing management liability from the Council. The successful tenderer has the resources and experience to deliver the development of the site and will bear the associated risks going forward”.

Paul Kitson, Strategic Director, Place, Prosperity and Sustainability undertook to investigate the issue and respond directly to Councillor Alden outside the meeting.

Following discussions by Cabinet, it was

30. **RESOLVED: -**

That Cabinet:-

- (i) Approved the planned procurement activities as set out in Appendix 1 to the report and approved Chief Officer delegations, set out in the Constitution, for the subsequent decisions around procurement strategy;
- (ii) Noted the contract award decisions made under Chief Officers delegation during the period April 2022 – June 2022 as detailed in Appendix 4 to the report.

KEY DECISION PLANNED PROCUREMENT ACTIVITIES (DECEMBER 2022 – FEBRUARY 2023)

Councillor Yvonne Mosquito, Cabinet Member for Finance and Resources introduced the item and drew the attention of Cabinet to the information contained in the report.

(See document No. 10)

It was

31. RESOLVED: -

That Cabinet approved the planned procurement activities as set out in Appendix 1 to the report and approved Chief Officer delegations, set out in the Constitution, for the subsequent decisions around procurement strategy.

OTHER URGENT BUSINESS

32. No item of urgent business was raised.

The meeting ended at 1142 hours.

.....
CHAIRPERSON