

Cabinet – 9 February 2022

Willenhall Framework Plan

Portfolio: Councillor Andrew, Regeneration

Related portfolios: N/A

Service: Regeneration, Housing and Economy

Wards: Willenhall South, Short Heath

Key decision: Yes

Forward plan: Yes

1. Aim

- 1.1 To seek Cabinet support for the Willenhall Framework Plan and further approvals to support delivery of new homes in the area and act as a catalyst for further investment.

2. Summary

- 2.1 Willenhall has been identified as an area for strategic intervention in the borough. Cabinet has previously agreed to support a targeted programme of activity; the planned opening of the new railway station and promotion of the Walsall to Wolverhampton Inclusive Growth Corridor as a priority for housing delivery provides a real opportunity to enhance Willenhall as a place that people aspire to live, work and spend leisure time.
- 2.2 At its meeting on 10 February 2021 Cabinet was advised that:
 - a Stage 1 Baseline Review had been completed for a defined area in Willenhall
 - its key recommendations were the development of a framework plan to guide future development
 - the Moat Street/Villiers Street site provided an early opportunity for the Council to take some immediate and positive action to secure the delivery of housing.
- 2.3 Cabinet noted the recommendation to prepare a framework plan and authorised negotiations with the landowners and occupiers for the Moat Street/Villiers Street site, noting that a future report would set out details of proposed acquisitions, any budgetary requirements and any need for the use of the Council's compulsory purchase powers.
- 2.4 The report sets out the work that has subsequently been undertaken to produce the Willenhall Framework Plan, advises on the outcome of landowner and occupier negotiations and makes recommendations to progress the delivery of Phase 1 comprising the Moat Street/Villiers Street site ("**Phase 1**").

- 2.5 This report requires a key decision as the recommendations require significant expenditure by the Council (in excess of £500,000).

3. Recommendations

Note: Following consideration of the confidential information in the private session of the agenda, the Cabinet will be recommended to:

- 3.1 That Cabinet supports the Willenhall Framework Plan attached as **Appendix A** as a 10-year vision for housing growth and place making in the area.
- 3.2 That Cabinet approves further work to develop the Willenhall Framework Plan into a Supplementary Planning Document noting that adoption of any Supplementary Planning Document would be subject to a future Cabinet report.
- 3.3 That Cabinet approves the use of Compulsory Purchase Powers in-principle for the Moat Street/Villiers Street site (Phase 1) as shown on Plan EPMS 4960 (**Appendix B**) where land cannot be acquired by agreement within a reasonable timeframe, noting that approval to make any compulsory purchase order would be subject to a future Cabinet report.
- 3.4 That Cabinet delegates authority to the Executive Director for Resources and Transformation, in consultation with the Portfolio Holder for Regeneration to amend the red-line boundary of the Site as indicated on Plan EPMS 4960 following further title investigations in respect of the Moat Street/Villiers Street site (Phase 1).
- 3.5 That Cabinet delegates authority to the Executive Director for Resources and Transformation, to appoint land referencing agents to carry out a land referencing exercise to identify all owners, tenants and occupiers and others with a legal interest in the Moat Street/Villiers Street site (Phase 1) and which may be included in any future compulsory purchase order and/or become eligible for compensation.
- 3.6 The Cabinet note that reasonable attempts will be made to acquire the various land interests of owners, tenants and occupiers and others with a legal interest in the Site by agreement.
- 3.7 That Cabinet agrees that subject to reasonable attempts being made to assemble the Moat Street/Villiers Street site (Phase 1) by agreement/private treaty approval is given to undertake all required due diligence and preparatory work and a detailed report in relation to the proposed compulsory purchase order and setting out detailed justification, the draft Order documents and a Statement of Reasons will be presented to a future Cabinet meeting prior to the making of any compulsory purchase order.
- 3.8 That Cabinet approves the outline business case for the Moat Street/Villiers Street site (Phase 1) and the associated budget to support land assembly.
- 3.9 That Cabinet approve the property acquisitions required to deliver the Moat Street/Villiers Street site up to the value of the land acquisition budget, and delegate the agreement of the terms of each of the acquisitions to the Executive

Director for Resources and Transformation in consultation with the Portfolio Holder for Regeneration.

- 3.10 That Cabinet approve the reallocation of £520,500 of the Town and District Centre and £40,516 of the Markets capital budgets to support land assembly as detailed in paragraph 4.36 of this report.
- 3.11 That Cabinet approves that the scope of the Feasibility and Options Appraisal Revenue Reserve for 2021/22 be extended to support delivery of the Moat Street/Villiers Street site (Phase 1).
- 3.12 That Cabinet notes that additional public sector funding to address the viability gap is estimated to be required to complete the scheme and that securing funding from partners such as West Midlands Combined Authority will be explored.
- 3.13 That Cabinet approve further work to identify a preferred development partner procurement route noting that approval of the procurement approach will be subject to a future Cabinet report.
- 3.14 That Cabinet endorses the draft Business Charter for Moat Street/Villiers Street attached as **Appendix D** setting out the initial support the Council can offer to businesses impacted by the proposals and notes that the draft Business Charter can be further developed through dialogue with those businesses.

4. Report detail - know

Context

4.1 Willenhall Framework Plan

Preparation of the Willenhall Framework Plan by Arcadis, acting as the Council's Strategic Advisor supported by Avison Young, and working closely with the Council's Development Team commenced following the Cabinet meeting on 10 February 2021 when the recommendation to produce such a plan was noted. On the basis, that the Framework Plan is intended to support future housing growth the Council was able to secure a funding contribution from Homes England towards the cost of the work. To help shape the Framework Plan a public engagement called 'Love Willenhall' was initially carried out to capture inputs from local residents, businesses and community groups. This ran from 14 February to 7 March 2021. When asked what things local people would change about Willenhall, respondents frequently mentioned better and more diverse retail, restoration or redevelopment of derelict buildings, better public transport, and reduced crime levels.

- 4.2 The preparation of the Willenhall Framework Plan is an essential first step to guide future housing development, economic growth and place making in Willenhall. It establishes a context for future local planning policy and planning applications. The Willenhall Framework Plan is attached as **Appendix A** and Cabinet support for the document is sought.

The Framework Plan sets out a 10-year vision for Willenhall, which provides an ambition for housing growth and healthy, prosperous communities. The vision is

that Willenhall will grow into a vibrant, connected and welcoming town with a strong sense of place, which celebrates its diverse communities and promotes safe, healthy and active lifestyles. Quality design and sustainable construction will move Willenhall towards a healthy, prosperous and sustainable future.

- 4.3 To achieve this vision the plan considers the opportunities and challenges that exist and identifies specific Areas of Opportunity within the wider Framework Plan boundary supported by strategies relating to Movement, Green Spaces and Place Making. The proposed interventions seek to maximise the benefits created by the new Willenhall railway station expected to open in 2023, which will see communities being far better connected to Birmingham, Wolverhampton and to opportunities across the wider region.
- 4.4 The area covered by the Willenhall Framework Plan has been identified to deliver comprehensive housing growth across the heart of the town. The Framework Plan aims to deliver around 500 high quality homes over the next 10 years. The housing delivered will include a mix of styles, types and tenures including specialist housing providing housing choice, which addresses local need and attracts people to remain in and relocate to Willenhall.
- 4.5 It is intended that this Framework Plan will be developed into a Supplementary Planning Document (SPD), which will support the interventions through planning policy. Whilst the Site Allocation Document will remain the foundation for the allocation of sites, the SPD will explain how the Council will apply its planning policies in respect of particular sites and how it will work with others to bring the identified sites forward. The provision of a narrative within the SPD will be useful in securing partnerships and seeking funding and a design code can help drive quality; also the SPD will be a material consideration in future planning decisions. The SPD will be subject to statutory public consultation with a range of stakeholders, agencies, residents and businesses in order to capture and consider all issues and options. On this basis, Cabinet approval is sought to commence the necessary work to progress towards an SPD noting that adoption will be subject to a future Cabinet decision.
- 4.6 The Framework Plan has carefully selected four Areas of Opportunity based on their current use as well as their ability to deliver the vision for Willenhall through comprehensive re-development. Proposed interventions in the Areas of Opportunity will begin to deliver structural change and economic growth in Willenhall. The Areas of Opportunity have been assessed against a series of criteria and are expected to incorporate new housing as well as green space, community facilities and improved walking and cycle routes creating a comprehensive approach to growth. As further investigation, work progresses the boundaries of these Areas of Opportunity may require minor revisions.
- 4.7 The four Areas of Opportunity are:
 1. **Moat Street/Villiers Street** – to the north of the district centre with a number of derelict buildings.
 2. **Pinson Road** – to the east of the district centre comprising a mix of residential, industrial and unused land.
 3. **Station Housing** – to the south of the district centre comprising land around the site of the new railway station.

4. **North Willenhall** – to the north of the district centre comprising industrial and unused land.

4.8 The Framework Plan acknowledges that significant investigation has already gone into Moat Street/Villiers Street where all the ownerships are known and engagement with owners has commenced. This Area of Opportunity has therefore, been identified as Phase 1 and the initial focus for the Council. This reaffirms the identified position following conclusion of the Baseline Review, which resulted in Cabinet approval on 10 February 2021 to commence negotiations with landowners and occupiers to understand the opportunity for land assembly.

4.9 The other Areas of Opportunity are still under investigation and further work is required to fully understand the level of opportunity. The boundaries of these areas may change and the Council will engage with owners and stakeholders in the areas before final decisions are taken.

4.10 It is acknowledged that the Areas of Opportunity contain existing businesses and therefore a draft Business Charter has been prepared setting out the Council's commitment to support businesses that may be impacted by any development proposals in Phase 1. The draft Business Charter is attached as **Appendix D** and Cabinet is requested to endorse this document.

4.11 The draft Business Charter offers the following means of support:

- dedicated officer engagement with impacted businesses
- assistance with relocation and advice on potential grant funding opportunities
- facilitating access to suitable partner organisations

4.12 Phase 1

The proposed approach to delivery of Phase 1 is that the Council acts as a facilitator by acquiring the identified land parcels to create a developable site for housing. The Council will obtain outline-planning approvals and then procure a partnership with a suitable private sector delivery organisation to deliver high quality housing and public realm. This partnership approach will allow the Council to retain significant control of the outcome whilst benefiting from the expertise and investment of a private developer.

4.13 This approach will assemble land currently in multiple ownerships and provide control over the delivery route, scheme and timescales. Based on work completed to date it is very unlikely that the numerous landowners will collectively work together to bring forward a comprehensive residential scheme. By acquiring and assembling the land under a single ownership, the project seeks to unlock Phase 1 for the future development of circa 133 new homes within Willenhall district centre. This activity is proposed to be led by the Council in the absence of alternative public sector funding sources at this time for this type of pre-development activity.

4.14 In acquiring the land, the Council will demonstrate a clear message to the market that the Council are committed to transformational change of the area and thus help to stimulate private investment and the ability to secure external funding. The Council will have partially de-risked the site for it to be of greater interest to private sector developer partners as part of the procurement process. The successful

delivery of Phase 1 will in turn become the catalyst for further intervention and market interest/ demand, with a greater potential for private sector-led delivery of future phases.

- 4.15 In view of the conclusions of the Baseline Review and the Cabinet approvals obtained on 10 February 2021 a significant amount of work has already been undertaken to progress the delivery of Phase 1 in line with this recommended approach.

4.16 Phase 1 land acquisition

Following the Cabinet meeting property advisors, Avison Young, were instructed to carry out initial negotiations with the freeholders and occupiers of the Phase 1 area. During March and April 2021 Avison Young sent 3 initial engagement letters to each interest; conducted 2 site visits to engage with owners and occupiers on 13th April and 29th April 2021; and made follow up phone calls to parties where phone numbers were available. Avison Young then issued a second stage letter in early January 2022 to seek engagement where this had not been possible to date and to advise all landowners of this Cabinet report. As a result of this work, Avison Young have been able to prepare and maintain a negotiation schedule that provides a clear programme for progressing negotiations to acquire sites through private treaty and highlights where compulsory purchase powers may be required.

- 4.17 The Council will continue to work towards successfully negotiating the acquisition of the required land interests but based on the engagement to date by Avison Young it would appear that there may be a need to utilise compulsory purchase powers in order to achieve timely delivery of the scheme. On this basis, Cabinet is requested to approve the use of compulsory purchase powers in-principle noting that any proposal to make a compulsory purchase order would be subject to a future Cabinet decision. Due diligence work to date has indicated that compulsory purchase powers under Section 226(1a) of the Town and Country Planning Act 1990 would be the most appropriate enabling powers but this will be explored further in parallel with landowner negotiations. In-principle approval will enable further work to be undertaken to address the requirements for compulsory purchase order.

- 4.18 In order to progress the required land acquisitions there is a need to establish a budget to fund purchase either by agreement or compulsory purchase. In view of this, an outline business case has been prepared. This business case seeks funding to enable acquisition of all land interests in Phase 1. It should be noted that the sum is based on initial property cost estimates from Avison Young, which assume that all properties will be purchased via compulsory purchase and therefore an allowance is included for disturbance and relocation costs. If the land can be purchased through negotiation the total cost to the Council is likely to be less as costs associated with managing compulsory purchase would not be incurred but it is prudent to assume the worst case scenario at this stage.

- 4.19 The budget for land assembly is included within the Council's capital programme, which is part of the budget plan being reported separately to Cabinet on 9 February 2022. This will be funded from the allocation set aside for equity investment in 2022/23 and 2023/24. An outline business case has been prepared using the Green Book 5 Case model, to consider delivery options and support the case for

investment. This business case was subject to detailed review by the Council's Strategic Investment Board Funding Sub-Group at its meeting on 7 December 2021 and then by the Strategic Investment Board on 14 December 2021 who confirmed agreement for the document to be presented to Cabinet as a basis for investment.

- 4.20 The Economic Case within the outline business case contains an Options Appraisal that considers alternatives to the proposed option of intervening to acquire and assemble land and developer procurement. The most notable alternative that is assessed is that rather than procure a developer the Council would set up a Local Housing Company/Wholly Owned Company to direct deliver the housing scheme and hold/maintain the affordable housing as landlord. While this approach has certain advantages in respect of the ability to retain control over the delivery programme and the built assets, establishing a vehicle can take up to 2 years and there is substantial capital investment required for direct development while the Council's risk profile would increase significantly. The net present cost for this option was only marginally lower than procuring a development partner, and was higher if the discount rate was adjusted to reflect the significantly higher level of risk. On this basis, outline business case concludes that the proposed option is the preferred option.

4.21 Phase 1 outline planning application

The preparation of an outline planning application for the Phase 1 opportunity area has been progressed on behalf of the Council by Arcadis. The planning application has been informed by pre-application consultation with the Local Planning Authority (LPA) and technical assessments/ supporting reports required for an outline submission. It is proposed that the outline application will be submitted to the LPA for determination subject to Cabinet approval of the outline business case for the project. Securing outline consent will demonstrate scheme deliverability required for land acquisitions, particularly for a compulsory purchase case if required. Consent will also de-risk the scheme for the preferred developer.

4.22 Phase 1 development partner procurement

The proposed delivery approach requires the procurement of a developer partner. Cabinet approval is sought to undertake further work to develop draft heads of terms and identify a suitable procurement route with the outcome of this work, along with a full business case, to be considered by Cabinet at a future meeting.

- 4.23 This work will explore procurement of a partner for Phase 1 only as well as the potential ability to extend any appointment to later phases at the discretion of the Council. It will also consider the ability to utilise a suitable framework, as this will help to speed up the process. If it is decided that existing frameworks are unable to suitably fulfil the specific requirements of this project then the creation of a Walsall framework will also be considered. To inform this work Arcadis has already produced a Delivery Options report, which considers two options:

1. *Walsall Council as Master Developer*

The Council take responsibility for facilitating delivery and guiding the development of each phase. The approach provides the Council with control over what is delivered, when and by who. It allows a large degree of flexibility,

which ensures the most suitable approach is taken for each individual phase. As a minimum the Council would acquire land (a phase) to create a development parcel and secure an outline planning approval for that phase. At that point, there are several options for delivery, which could include de-risking the site further through advanced demolition and site remediation prior to disposal or procuring a developer partner.

2. *Walsall Council in Joint Venture Partnership*

The Council is responsible for the assembly of land for development and in parallel would procure a development partner to lead the planning application process and with the expertise to deliver housing across all phases of the project.

The conclusion of this work was that it is possible that either of the options could be suitable to deliver the new housing in Willenhall. However, the Master Developer approach is recommended, as this option is likely to be the fastest and least risky route to commencement of delivery. It also provides flexibility to address specific challenges on each phase. This is also supported by the outcome of the Economic Case within the Business Case.

Council Corporate Plan priorities

4.24 The Council's Corporate Plan (2021-2022) focuses on five priorities. One of these priorities - Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion is relevant to this report. In particular, the acquisition of land parcels and property that will enable sites to be brought forward for housing delivery and the development of a framework plan for the Willenhall area will contribute towards the specific 2021-22 outcomes identified for the overall priority:

- Housing meeting all peoples' needs, is affordable, safe and warm.
- People are proud of their vibrant town, districts and communities.

Risk management

4.25 Risk: The current draft Black Country Plan (DBCP) stage is at Regulation 18 stage and the next stage of consultation is the 'Pre-Submission', which is not anticipated for consultation until in August – September 2022. In relation to employment land, a key proposed change from the Black Country Core Strategy and Walsall Site Allocations Document is to amend the designation from a 'Consider for Release' employment site under policy 'DEL 2' to proposed policy EMP4 which classifies these designations as Other Employment Sites. This emerging policy would provide the flexibility, which enables retention as employment land but also allows these sites to come forward for residential uses if a number of criteria are met. These criteria are similar to the DEL2 requirements for example a need to demonstrate the site is no longer viable for employment use and to ensuring relocation of any businesses displaced in a satisfactory manner.

Mitigation: The Council acknowledges that further review is needed on the application of policy criteria set out in existing and emerging planning policy, specifically relating to the redevelopment of poor quality industrial land for housing.

Further work will be undertaken to determine potential impacts on the delivery and approach to achieving the regeneration aspirations of the Framework Plan.

- 4.26 Risk: The Council will make every effort to acquire third party land and land interests in Phase 1 through by private treaty. Negotiations will be led by the Council's property sub-consultant, Avison Young in line with best practise and external legal guidance from Bevan Brittan. However, landowners, occupiers and affected parties may not be willing to sell and dispose of their interests.

Mitigation: In these circumstances, the Council will need to consider whether the making of a compulsory purchase order will be necessary to assemble the relevant land interests. In the event it is necessary to make a compulsory purchase order the processes undertaken by Avison Young (supported by Bevan Brittan) to acquire land to date and hereafter will be in accordance with best practise and guidance as set out in the Department for Levelling Up, Housing and Communities Guidance on Compulsory Purchase process and the Crichel Down Rules (July 2019) ((the "Guidance"). The Guidance sets out the framework for the making of compulsory purchase orders and explains in detail the matters the Secretary of State will consider when determining whether an Order should be confirmed. Avison Young and the Council will ensure that reasonable efforts to acquire by negotiation have been carried out and clear and chronological evidence of the negotiation procedures with landowners and occupiers by the Council can be demonstrated to support any future compulsory purchase case if required. The costs for acquiring land will also be in accordance with the statutory compensation code and have been factored into the financial assessment (e.g. statutory loss payments and disturbance costs and professional fees), together with the legal costs for a preparing and making a compulsory purchase order.

- 4.27 Risk: Avison Young have completed due diligence and estimated acquisition costs for all the land interests in Phase 1 based on market knowledge and compulsory purchase requirements. This has informed the basis of initial dialogue with landowners. There is a low risk that the final costs for acquisitions exceed the current estimate and the funding ask. If costs were to exceed current acquisition cost estimates, there would be insufficient Council funds to complete the acquisitions and land assembly, which would impact on delivery and Council reputation.

Mitigation: The funding sought in this business case for Phase 1 land acquisitions is based on current estimates of the worst case acquisition cost prepared by Avison Young and includes associated expenditure i.e. land value, legal and property agent fees, losses and disturbance costs. The land assembly costs will be kept under review as discussion take place with affected parties. Securing funding for the worst-case cost scenario (plus contingency) should provide sufficient headroom to mitigate for any certifiable cost increase during the land assembly process.

- 4.28 Risk: If the Council is unable to acquire land by private treaty within a reasonable timeframe, it will need to consider exercising its compulsory purchase powers. The compulsory purchase process may elongate the delivery programme, which could impact on developer interest and/ or securing additional gap funding from external partners (e.g. WMCA), especially where funding is tied to spend and delivery of

outputs within a set timeframe. The latter would impact on overall deliverability of the scheme.

Mitigation: The possibility of a compulsory purchase process and public inquiry being required to acquire land has been built into the Phase 1 delivery programme. The procurement of a preferred developer and funding application(s) for gap funding will be undertaken in parallel with the compulsory purchase process. This will ensure that the worst-case (and best-case) timescales for delivery are robust and clear to developers/ partners from the outset as part of the developer procurement and funding processes. The delivery programme will continue to be reviewed periodically through the project and any delays communicated at the earliest possible opportunity.

- 4.29 Risk: The land assembly for Phase 1, where buildings are currently occupied/operational, may require existing businesses to relocate or, in the worst-case, cease trading. This will cause disruption, uncertainty and stress for businesses and employees. Any unavoidable loss of businesses and jobs will impact on the local community and economic prosperity and, in turn, the Council's reputation.

Mitigation: In planning policy, the Phase 1 site has a mix of two housing site allocations and recommendations for the release of employment to housing across three sites, along with saved residential development policies in part. Part of the site already benefits from planning consents for residential development. The redevelopment of Phase 1 therefore requires a comprehensive scheme as set out in the Framework Plan. Piecemeal residential development with 'consider for release' employment areas remaining is unlikely to be supported in planning terms, particularly due to design and environmental factors of adjoining uses.

A draft Business Charter sets out the support that the Council can provide to affected businesses. The Council's Employment Growth Team in particular will engage businesses at the earliest opportunity to explore opportunities for relocation and expansion within the local area and borough.

As part of the cost for the Phase 1 land acquisitions, assumptions for commercial disturbance, occupier loss and professional fees have been calculated by Avison Young and included in the total figure.

- 4.30 Risk: The Walsall Site Allocation Document (SAD) provides the planning policy framework for the Willenhall area. However, a number of land parcels are allocated and safeguarded for Local Quality Industry under Policy IND4 of the SAD but will be considered for release for other uses, subject to the appropriate justification being made. The planning case and ability to bring forward the 'consider for release' sites for residential development requires strengthening to support future planning decisions and any potential compulsory purchase process, which may otherwise not be granted and confirmed respectively.

Mitigation: Preparation of the Framework Plan will set out the vision and aims for the area. The plan will form the basis of a Supplementary Planning Document (SPD) that will act as a design guide to set the principles of development for the area and explain how planning policies will be applied; strengthening the existing

planning police framework. Subject to due process and approval, the SPD will be adopted and will be a material consideration in future planning decisions.

In parallel, the decision has been taken by the Council to accelerate the intervention required for Phase 1, with the preparation of an outline planning application. The application will be submitted post-Cabinet approval to progress the land acquisitions and will be determined following the planning statutory consultation process.

- 4.31 Risk: In line with the preferred delivery approach (i.e. master developer), the Council will need to procure a developer to deliver the end residential scheme and Phase 1 indirect outputs once the land has been assembled. If compulsory purchase powers are required to be exercised, the procurement of a preferred developer partner will also need to be sufficiently advanced at the point of making any compulsory purchase order and evidenced at an inquiry to demonstrate deliverability. There is a risk that a preferred developer is not selected due to lack of developer interest or unacceptable contractual terms.

Mitigation: A procurement strategy will be prepared prior to commencement of a procurement process. This will assess and set out the preferred procurement route, including project objectives, programme and risk appraisal. This will ensure that clear project detail and contractual expectations are carried forward into the procurement documentation and provide clarity to developers to inform their tender response.

Soft market testing has already been carried out with developers and housing providers about the project, which has shown that there is interest from the market, subject to terms. The feedback from the market testing will also help inform the drafting of the procurement strategy and documentation. Whilst not securing a developer is a very low risk based on the market intelligence, in the event this occurs, the Council would still own a land asset which could be retained (for a temporary use e.g. public space) until there is a change in the market.

Financial implications

- 4.32 Options appraisal and value for money

An outline business case was prepared using the Green Book 5 Case model, and the Economic Case includes an option appraisal to determine the optimal value for money and support the case for investment.

- 4.33 The appraisal considered the following options:
Option 1: Council land assembly and procure developer
Option 2: As Option 1 but a reduced scheme with existing operational businesses/occupied properties remaining
Option 3: Council acts as developer and hold/maintain the affordable housing element as landlord
Option 4: Council acts as developer based on 133 homes but 100% commercial rents

Option 2 was discounted from a planning perspective, it was unlikely to attract developer interest and social and environmental regeneration benefits would not be achieved to the same scale as a comprehensive scheme.

Option 4 was discounted due to the present market demand and attractiveness for private rentals in Walsall being very limited, hence significant risk that the income forecast in the appraisal using commercial rents not being realised. The demand and need evidence does not support a 100% PRS scheme in isolation and does not align with the regeneration aspirations for the area.

4.34 The appraisal has forecast that the preferred option would create a net present cost to the public sector (after quantifying benefits and costs), rather than value. However, the investment is considered appropriate on the basis the intervention will secure real and lasting regeneration with the Willenhall area, which can act as a catalyst for further investment. In addition to providing much needed new homes the intervention will also secure other unquantified benefits such as enhancing the townscape and local environment, reducing health and safety risks and anti-social behaviour associated with derelict buildings, and increasing footfall in the district centre through an increase in the residential population within walking distance.

4.35 Viability gap

This report seeks to approve the budget for the land assembly cost associated with Phase 1 only, but there are wider financial implications to complete the scheme and secure the outputs. A development appraisal completed by Arcadis identified a viability gap, arising due to abnormal costs (i.e. demolition, ground conditions, environmental).

Further grant funding will likely need to be sought by the preferred developer (as grant recipient and with support from the Council) through the preparation of a future business case(s) to external partners for gap funding.

As a pipeline project, there is an informed awareness of Willenhall Phase 1 project by WMCA/BC LEP/Homes England.

4.36 Budgets and affordability

Existing but uncommitted regeneration budgets totalling £561,016 are proposed to be reallocated to contribute to this project, as follows:

Town and District Centre	£520,500
Markets	£ 40,516

The remaining budget for land assembly is included within the Council's capital programme (together with the revenue implications of borrowing i.e. MRP and interest), which is part of the budget plan being reported separately to Cabinet on 9 February 2022. This will be funded from the allocation set aside for equity investment in 2022/23 and 2023/24.

Council funding is that of a last resort, as at this time and for land assembly costs alternative public sector funding is not available. Without public funding for land assembly intervention, the private sector will not invest and deliver housing.

4.37 Revenue costs

Revenue costs are also required to fund the procurement process to secure a development partner, and site security post acquisition. Existing revenue reserves to the value of £450,000 are available within Regeneration, leaving a £760,000 requirement. This can be funded from existing capital investment revenue reserves.

Costs to develop the Supplementary Planning Document

Recommendation 3.2 seeks to approve further work to develop the Willenhall Framework Plan into a Supplementary Planning Document (SPD) noting that adoption of any SPD would be subject to a future Cabinet report. Preparation of a SPD is expected to cost £25,000 and can be funded from the Enterprise Zone Pipeline Development Grant.

Legal implications

- 4.38 In agreement with Legal Services, external legal support has been procured from Bevan Brittan to support land assembly.
- 4.39 Although the Council has compulsory purchase powers pursuant to section 17 Housing Act 1985 relating to the delivery of housing, given the regeneration objectives of the proposed development of the Phase 1 it is likely that the most appropriate powers will be those contained in section 226(1)(a) of the Town and Country Planning Act 1990. The making of a compulsory purchase order under S.226 (1) (a) of the Town and Country Planning Act 1990, section 13 of the Local Government (Miscellaneous Provisions) Act 1976 and the Acquisition of Land Act 1981 is a function which Cabinet may exercise, in accordance with the provisions of the Council's Constitution.
- 4.40 Section 226 of the Town and Country Planning Act 1990 enables a local authority to exercise its compulsory purchase powers:
- (i) If it considers that acquiring the land in question will facilitate the carrying out of development, redevelopment, or improvement on, or in relation to, the land being acquired (s.226(1)(a)); and
 - (ii) Provided that it considers that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of its area (s.226(1A)).
- 4.41 The Council would therefore need to be satisfied that both of these elements are satisfied prior to the making of any Order. If as a result of discussions with owners, tenants and occupiers and others with a legal interest in Phase 1 it should transpire that discussions to acquire their interests are not likely to be concluded within a reasonable timescale and the need for a compulsory purchase order is likely a further report will be brought to Cabinet to seek authority to authorise the making of a compulsory purchase order and to negotiate with owners, tenants and

occupiers on that basis and to prepare the necessary compulsory purchase order documents. The requirements set out in the Guidance that must be satisfied before the making of any Order include evidence of meaningful negotiations, the wellbeing benefits of the proposed scheme, a planning policy framework, a consideration of the alternatives to the proposed development, viability and funding and the deliverability of the proposed scheme and human rights implications. Planning permission or the ability to secure a positive planning approval and the availability of financial resources to enable the delivery of the scheme are key to satisfying the deliverability test.

- 4.42 Under section 122(1) of the Local Government Act 1972 the Council can appropriate land within its ownership for any purpose for which it is authorised to acquire land by agreement, and where that land is no longer required for the purpose for which it is held. If the Council appropriates land for planning purposes it can, by virtue of section 203 Housing & Planning Act 2016 (HPA) (subject to the satisfaction of various criteria) in relation to that land carry out building or maintenance work or use the land in contravention of a private right or interest. The potential need for authority to appropriate the Council's land interests in Phase 1 to planning purposes will be considered prior to any subsequent report.

Procurement Implications/Social Value

- 4.43 The recommended delivery approach for Phase 1 requires the procurement of a developer partner. Further work is proposed to identify the most suitable procurement route to achieve the Council's objectives and the outcome will be reported to a future Cabinet meeting.

Property implications

- 4.44 The successful acquisition of Phase 1 interests will result in the Council being liable for maintenance and management of additional land and property until such time that the Phase 1 delivery commences. The outline business case includes an allowance for holding costs and site security hoardings in the interim.

Health and wellbeing implications

- 4.45 The acquisition of third party land should demonstrate that it is likely to contribute and facilitate economic, social and/or environmental well-being and this will be considered throughout the process, in particular if the Council needs to consider the use of its compulsory purchase powers. The Framework Plans considers the wellbeing benefits of the development and that proposals will contribute to the social, economic and environmental wellbeing of the area.
- 4.46 The outline planning application for the site will, once submitted, go through a detailed consultation process with statutory and non-statutory consultees, any health and wellbeing implications will be considered.

Staffing implications

- 4.47 To date this key strategic project has required significant input from staff within Regeneration, Housing and Economy alongside support from other areas of the Council as appropriate. Future delivery will require this work to continue and the

supporting role of staff within Finance, Legal and Development Management will be particularly important.

Reducing Inequalities

- 4.48 An Equalities Impact Assessment (EQIA) has been produced for the Willenhall Framework Plan. The EQIA will be reviewed and updated as proposals within the plan are developed.
- 4.49 The Willenhall Framework Plan will provide the framework to drive forward the regeneration of the area. It will set out the Council's aspiration to promote Willenhall as an area that is a sustainable place to live, work and spend leisure time and in turn contribute towards the Council's vision as outlined in the Corporate Plan (2021-2022): Inequalities are reduced and all potential is maximised. The delivery of new housing in particular will aim to diversify the type and tenure of homes available in the area so that the needs of the community can be met.

Climate Change

- 4.50 The project links to the Resilience and Adaptation theme of the Council's Climate Change Action Plan and the aim to align climate action with regeneration, construction and planning policy to enable economic prosperity and promotion of sustainability.

Consultation

- 4.51 Engagement with the local community took place prior to work commencing of the Willenhall Framework Plan in order to better understand key issues. Preparation of any future Supplementary Planning Document will be subject to a statutory consultation process. Any future planning applications within the Willenhall Framework Plan area will be subject to the statutory consultation process.

5. Decide

- 5.1 There are three options to consider: "do nothing"; wait for the private sector to deliver or the Council intervenes.
- 5.2 Do Nothing: The SAD sets the planning framework for Willenhall and the Borough. The Council could therefore choose to do nothing and wait for landowners to bring sites forward for development or to the market. However, this will not assist with meeting the Borough's housing targets or the wider regeneration of Willenhall, as Officers are aware that viability issues due to abnormal site costs, high land value expectations and fragmented ownership are known to hinder sites being brought forward.
- 5.3 Private Sector: Extensive market testing in Willenhall undertaken by the Council and the WMCA indicates that the private sector is interested in development opportunities; however, high land value expectations of landowners and an element of land banking together with viability issues are deterring the private sector from intervening. The market testing has also indicated that an element of de-risking by the public sector in terms of land assembly would however encourage the private sector to consider intervening to bring sites forward for development.

- 5.4 The Council Intervenes: Due diligence to date indicates that the public sector needs to de-risk sites for development with land assembly being critical. The Council, supported by the Willenhall Framework Plan, now needs to intervene to assemble sites for comprehensive development.

Intervention options for the Council are:

- a) Preferred approach – the Council intervenes to acquire and assemble land within Phase 1. The Council procures a developer who develops the site for housing either acting as Master Developer or through a Joint Venture Partnership.
 - b) Alternative approach – the Council sets up a Local Housing Company/Wholly Owned Company to direct deliver the housing scheme and hold/maintain the affordable housing as landlord.
- 5.5 It is recommended that the Council proceed with the preferred intervention approach.

6. Respond

- 6.1 Subject to Cabinet approval to the recommendations of this report the Council will seek to conclude negotiations for the acquisition of land within Phase 1 and submit the outline planning application for the proposed scheme to evidence deliverability. If acquisition by agreement is not possible then preparations for the compulsory purchase process will commence. In parallel work will be undertaken to identify the most suitable developer partner procurement route.

7. Review

- 7.1 Officers will continuously review progress against the work programme and update Cabinet on progress and request any further decisions at the appropriate time.

Background papers

Authors

Joel Maybury
Team Leader - Development
✉ joel.maybury@walsall.gov.uk

Simon Tranter
Head of Regeneration, Housing & Economy
✉ simon.tranter@walsall.gov.uk



Simon Neilson
Executive Director

31 January 2022



Councillor Andrew
Portfolio holder

31 January 2022