

# EXECUTIVE COMMITTEE

11th March 2014

## JOINT PROPERTY VEHICLE

Relevant Portfolio Holder	Councillor John Fisher
Portfolio Holder Consulted	Yes
Relevant Head of Service	Jayne Pickering Director Finance and Resources
Wards Affected	All Wards
Ward Councillor Consulted	None Specific
Key Decision	

### 1. SUMMARY OF PROPOSALS

- 1.1 This report sets out the outcome of the Full Business Case (FBC) in relation to the establishment of a Joint Property Vehicle (JPV) for the delivery of improved and more efficient property and asset management services to a number of public sector partners across the West Midlands. Members are asked to consider being a partner within the new arrangement, nominate its representative to the Board and Shareholder group and delegate authority to officers to implement the decision and complete the actions and documentation required to do so.

### 2. RECOMMENDATIONS

The Executive Committee is asked to:

- 2.1 **Consider the Worcestershire Capital and Asset Partnership Full Business Case for a Joint Property Initiative for the development of a joint Estates function across public sector organisations across the Worcestershire region, (attached at Appendix 1)**

and RESOLVE:

- 2.2 **that the Council participates in establishing a Joint Property Vehicle company limited by shares;**
- 2.3 **that The Director of Finance and Resources, currently representing the Council on the Shadow Shareholder Group, represent the Council on the Board of the Company;**
- 2.4 **that two member representatives and their substitutes be appointed to the Shareholder Meetings; and**

# **EXECUTIVE COMMITTEE**

11th March 2014

- 2.5 Delegate to the Director of Finance and the Head of Legal, Equalities and Democratic Services, authority to take the measures required to implement the decision at 2.2 and complete any necessary documentation relating to it.**

## **3. KEY ISSUES**

- 3.1 Redditch Borough Council entered into a shared service arrangement with Worcestershire County Council for the delivery of property management services in June 2010 with a three year service level agreement, which has since been extended on an annual basis. Therefore all property related services are currently provided by the County Council and the Borough does not employ any staff directly in relation to estates and maintenance management functions as well as services for risk and asset and design.
- 3.2 Over the last 18 months Public Sector bodies within the West Midlands have been looking at ways to radically examine how property management could be best achieved across the public sector family to reduce costs, enhance the value of the estate to the community and to provide a catalyst for regeneration.
- 3.3 Various options were considered and agreement was reached at all interested public sector bodies in early 2014 that the Outline Business Case to support the delivery of a Joint Property Vehicle would be developed to a Full Business Case. This was approved by Redditch in March 2014. Unfortunately due to governance issues the Worcestershire Health and Care NHS Trust had to withdraw from the proposed arrangement however Herefordshire County Council decided to join the partnership in the development of the Full Business Case (FBC). The partners who are currently involved in the proposed JPV are:
- Redditch Borough Council
  - Worcester City Council
  - Worcestershire County Council
  - Hereford and Worcestershire Fire Services
  - Warwickshire Police
  - West Mercia Police
  - Herefordshire County Council
- 3.4 In developing the FBC it has become apparent that the management of public sector estates could be transformed by public bodies breaking out of individual silos and collectively managing the portfolio of their properties across the sector, rather than each body only servicing its own properties. The JPV will consider not only the needs of individual

## **EXECUTIVE COMMITTEE**

11th March 2014

properties but also how assets are used across the public sector family to maximise their benefit.

- 3.5 The vision of the Joint Property Vehicle is “ To be a national leader for innovation and outstanding commitment to customer and community service, whilst delivering maximum value to the public sector estate”. This will clearly support a number of strategic purposes that have been identified by the Council including; help me run a successful business, provide good things for me to see, do and visit and keep my place safe and looking good. It is anticipated that the strategic management of assets has the potential for large scale regeneration of a locality. This would provide a catalyst for economic growth and increase employment opportunities in an area. The locality approach is a framework that is being developed in Redditch and is already in place for some direct service delivery. It is anticipated that the Joint Property Vehicle will serve to enhance this work and provide greater benefit and regeneration across the Borough.
- 3.6 The FBC proposes that the JPV would be an arms-length Company limited by shares, wholly owned and governed by the participating public sector partners. It suggests equal partnership between the partners. It would formalise joint working, making it sustainable for the future, driving rationalisation, service transformation, regeneration, growth and efficiencies. The governance is explored further in the legal implications.
- 3.7 These proposals relate only to the management of the Council’s properties and does not affect their ownership, which will remain with the Council. Any decisions about properties (eg whether to declare surplus / sell ) will continue to be made by members in the way they are now. Neither do the proposals not affect the Council’s housing stock, which is separately managed and accounted for.

### **Financial Implications**

- 3.8 A number of financial benefits are estimated within the FBC to be realised for the Council should we join the Joint Property Vehicle. This will be achieved through greater economies of scale, the provision of a more streamlined, focused, resilient workforce and finally rationalisation of property.
- 3.9 The Council will have access to a wider scope of professional services than through the current shared service arrangements for a reduced overall cost. The Council will have equal voting rights and therefore an influence over decision making to shape the future of the joint estate.

## **EXECUTIVE COMMITTEE**

11th March 2014

The Council does not benefit from any voting and its associated benefits within the current arrangement.

- 3.10 The Council currently spends over £322k with Worcester County Council on staffing costs relating to estate and asset management support and advice. In addition there are approximately £1.8m of costs associated with the energy costs and repairs and maintenance of the buildings. It is estimated that a cumulative saving of over £2.4m could be realised which would reduce the base budget by £365k over the same period. This is dependent on a number of assumptions including improved procurement and negotiation of contracts savings together with potential income that could be generated from assets in the future. There is a longer term aim to review the assets held by the Council to ensure they are giving maximum benefit to our community and therefore it is estimated that some savings could be realised from future rationalisation of the number of assets we use. In addition there is an aim to release capital receipts across all partners during the 10 years of which a proportion would be attributable to Redditch.
- 3.11 For the first year there will be implementation costs that may have to be met from partner Councils, depending on the level of external funding that is secured. For Redditch Borough Council it is proposed that the estimated additional costs of approximately £43k be offset by the savings generated in the following year.

### **Legal Implications**

- 3.12 The FBC provides that the legal framework for the proposed JPV is for the public sector partners to establish a trading company, limited by shares, wholly owned by them. Such a company will be “Teckal compliant”, which is explained below.
- 3.13 EU Regulations [currently the Public Contract Regulations 2006] governing public procurement, require public bodies to only award contracts over a certain value to a 3<sup>rd</sup> party (which the company would be) after an open competitive procurement process has been undertaken.
- 3.14 The “Teckal” case established that a public service contract let to a 3<sup>rd</sup> party entity will not have to go through the procurement procedure where the 3<sup>rd</sup> party is wholly-owned by the public authority and the local authority exercises control over the entity which is similar to that which it exercises over its own departments and the entity carries out the essential part of its activities with the controlling local authority (or authorities). These requirements are called the “control and function

## **EXECUTIVE COMMITTEE**

11th March 2014

tests". So, as a "Teckal complaint company, the proposed JPV governance proposal means that no procurement exercise will be required for the participating authorities to have their services delivered though the proposed company limited by shares.

- 3.15 A new EU procurement Directive provides that at least 80% of the activity of the company must be for its public sector owners. This is the level required to satisfy the "function" test. Any "open market" activity would have to be restricted to 20% of the company activity (ie turnover). Formerly, the level of external activity was 10%.
- 3.16 To develop the business case from outline to "Full", a group of legal officers representing the partner public authorities, along with an external legal advisor, met on a regular basis to examine the governance options for the JPV. The Localism Act 2011 provides that where authorities do things for a commercial purpose they are only permitted to do them through a limited company. Accordingly, given that the JPV is likely to carry out commercial activities, particularly to external parties, the FBC proposal is for a company limited by shares, wholly owned by the partner organisations as shareholders with an equal share in the company. Redditch Borough Council would have an equal shareholding in the JPV despite having a low number of assets and running cost.
- 3.17 A shareholder Member agreement will detail how the company will be formed and include details such appointments, entry and termination arrangements and reserved matters.
- 3.18 A Service Level Agreement which details how the company will provide the service to shareholders and include details such as pricing, customer service and performance management, including indemnity arrangements. This document and the Member Shareholder agreement referred to at 3.17 were developed by the legal and finance officer groups, (with the support of the external legal advisor) with RBC managers representing the Council identifying the needs of our organisation. The provisions are agreed before inclusion is approved.
- 3.19 The JPV would supersede the current Administrative Collaboration Agreement Relating to the provision of Property Services, between Worcestershire County Council, Worcester City Council and Redditch Borough Council, which has been in place since 2011.
- 3.20 There are no TUPE transfer implications for the Council as all staff within the property service are currently employed by Worcestershire County Council.

## **EXECUTIVE COMMITTEE**

11th March 2014

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- 3.21 Certain tasks such as procuring support services for the company will need to be in place by the time the company is formed so a delegation is sought for the Director of Finance and Resources, who represents the Council on the Shadow Shareholder Group, to progress the project implementation in the run up to the formation of the company.

### **Service/Operational Implications**

- 3.20 It is the aim of the partnership that by removing layers and duplication of management a JPV would deliver a streamlined property management organisation.
- 3.21 Other service benefits include:
- Access to a larger property team, co-owned by the Council with greater resources available and flexibility to respond to urgent issues
  - The JPV will develop closer working relationships with the LEPs and Economic Development teams to ensure regeneration is planned and actioned, with public sector assets being used as catalysts to development
  - Access to an energy management team to control the carbon footprint and to provide advice and support on environmental improvements
  - Redditch will benefit from being the subject of one of the first locality reviews whereby all public sector assets within the locality will be considered to ensure maximum benefit is being delivered to the community and opportunities for regeneration will be explored.
  - A single comprehensive data set will drive strategic planning and decision making with accurate information about the estate and its performance
- 3.22 If approved next steps will see the Shareholder Group and Delivery/Implementation Team taking the project forward including the formation of the limited company. It is proposed to appoint a Chief Operating Officer to act as Managing Director of the company, to procure support services and identify and lease premises to accommodate the company.
- 3.23 The intention for the company to Go Live on 1 April 2015 and to be fully operational in September 2015.

# **EXECUTIVE COMMITTEE**

11th March 2014

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

- 3.24 Joint use of public sector buildings can provide easier access to services and improved customer service.
- 3.25 The approach could support the work of the Locality teams by increased co- location of services.
- 3.36 There are no specific equality or diversity issues.

## **4. RISK MANAGEMENT**

A full risk assessment has been completed and is attached at Appendix 2. The key risks are:

- a) Savings are not delivered
- b) Service deteriorates
- c) Partners not fairly represented
- d) Service interruption during transition
- e) Lack of ability to respond to changes in partners' requirements
- f) Lack of ability to respond to legislative changes
- g) Deterioration of partners' reputation

## **5. APPENDICES**

Appendix 1 - Joint Property Vehicle Full Business Case  
Appendix 2 – Risk Register

## **6. BACKGROUND PAPERS**

Appendices to Full Business Case held by legal and financial services.

## **AUTHOR OF REPORT**

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**EXECUTIVE  
COMMITTEE**

11th March 2014

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