

## **Strategic Development Partner – Procurement**

### **Purpose**

- 1.1 To brief Cabinet on proposals for the Council to develop a long-term partnership with an appropriately qualified strategic development partner to enable regeneration of key sites in the city centre.
- 1.2 To seek approval to initiate a formal procurement process to select and appoint a preferred partner.
- 1.3 To set out the financial and legal considerations associated with the proposed approach.

### **Recommendation(s)**

- 2.1 To approve the initiation of a procurement process to select and appoint a strategic development partner as set out below in paragraphs 4.9 - 4.12.
- 2.2 To delegate authority to the Strategic Director of Communities and Place, following consultation with the Strategic Director of Corporate Resources, the Cabinet Member for Regeneration, Decarbonisation, Strategic Planning and Transport and the Cabinet Member for Digital, Finance and Culture, to finalise (1) the scope and requirements (including financial parameters) of the various stages of the procurement process and (2) all relevant contractual and legal matters to facilitate appointment of the preferred partner, subject to there being no financial implications outside the MTFP.

### **Reason(s)**

- 3.1 To accelerate the pace and scale of regeneration of key flagship areas of the city centre, evolving our approach from a series of projects to a more coherent programme, aligned with market demand and deliverability, all at a time when the Council's own resources and capacity are constrained.
- 3.2 To fully leverage the regeneration potential of a number of Derby City Council-owned sites and to deliver and demonstrate optimum public value.
- 3.3 To enable the application in Derby city centre of the extensive innovation, insight and experience of a strong private sector delivery partner, bringing best practice from other comparable regeneration schemes nationally.

## Supporting information

### Background

- 4.1 Derby is a city of economic significance, the city region representing an economy of around £15bn, a key UK centre of excellence in advanced manufacturing and one of the UK's most central and connected cities – by rail, road and air. We are home to the primary UK sites of global industrial players including Rolls Royce (aerospace, nuclear, submarines), Alstom (the UK's largest train manufacturing facility) and Toyota (UK car assembly plant). We are also a key centre for technological innovation - Derby's high-technology patent registration rates are significantly higher than the UK average.
- 4.2 However, our city centre does not currently reflect our economic status, and we are embarking on an exciting journey of transformation and repurposing of the city centre, and capitalising on a number of converging agendas:
- Devolution – a £1.14bn devolution deal has been agreed with Government for the Derby/Derbyshire/Nottingham/Nottinghamshire region, with a Mayoral Combined Authority to be established in 2024;
  - HS2 East status for Derby rail station – with an associated HS2 Growth Strategy for the East Midlands and a key focus on the commercial and residential development potential around the station area;
  - Place pilots – Derby has been selected by the Cabinet Office as one of 5 locations nationally to pilot a refreshed place-based approach to rationalisation of the public estate – this could assist in aggregating public sector workspace requirements and refocusing this in the city centre;
  - Nuclear sector growth – the combination of Rolls Royce's Derby-based nuclear capabilities, the new Nuclear Advanced Manufacturing Research Centre (opening in 2023) and the new Nuclear Skills Academy (opened September 2022) means that Derby is the focus of national attention in relation to a sector of national significance.
- 4.3 We are currently developing a new Vision for our city centre incorporating a more sustainable mix of uses including culture, retail, living, workspace and learning (see <https://letstalk.derby.gov.uk/city-centre-vision>). We also recognise the need for higher quality public realm and green/blue infrastructure across the city centre.
- 4.4 Several major projects are already under way, with funding accessed, among others, from Future High Streets Fund, D2N2 LEP and Homes England. These include:
- Derby Museum of Making - a unique museum, showcasing 300 years of innovation, design and manufacturing in Derby, within the Grade 2 listed Silk Mill. Opened 2021 after a £17M transformation, led by Derby Museums Trust, funded by Arts Council England, the National Lottery Heritage Fund, D2N2 LEP and Derby City Council;
  - Becketwell – a flagship regeneration project currently delivering a Grainger plc funded 259 apartment scheme, new 3500 capacity performance venue and public square;

- University of Derby City Centre Campus – the University has recently published its new and ambitious masterplan for the campus to the north of the city centre, including as an initial phase a new state of the art Business School;
- Castleward – development of a 800 home new urban village, being delivered by Compendium Living in partnership with the City Council and Homes England;
- Market Hall - £36m transformation of this 19<sup>th</sup> century listed indoor market to an artisan food & drink leisure destination.

But this is only the start, and despite the financial constraints of the City Council we are determined to explore ways of maintaining momentum around the delivery of our city centre regeneration priorities.

- 4.5 With this in mind, a new City Centre Programme Board has been formed to bring all key stakeholders together, including Homes England, the Environment Agency, Historic England and other relevant agencies. The Board has been established as a custodian of the City Centre Vision and to corral partner resources, energies and ideas to ensure efficient and effective delivery of city centre regeneration initiatives.

## Challenges

- 4.6 Even pre-COVID, most town and city centres were suffering a decline in footfall as consumer behaviour changed. The pandemic has accelerated these challenges, resulting in too much underutilised space, and a lack of vibrancy and activity to attract people into the centre. In addition, Derby's core city centre office market has diminished over the last 30 years, with the successful regeneration of Pride Park drawing demand away from the core. The overall result is that Derby City Centre is currently underperforming and is holding back the city from achieving its full potential.
- 4.7 As with all non-London locations in the UK, commercial viability of development of uses such as residential and commercial office space is a challenge and the City Council and other public sector partners acknowledge that intervention will often be required to enable scheme delivery.
- 4.8 As with local government across the UK, Derby City Council has constrained resources, both in terms of management capacity and financial capacity. Hence this proposal to secure a private sector partner, who can offer additional technical and management capacity, innovation and expertise, and financial resources, to work collaboratively with the City Council and its public sector partners.

## Aims

- 4.9 The key aims of the proposed strategic partnership with a regeneration delivery partner are:
- To accelerate the pace and scale of regeneration of key flagship areas of the city centre, evolving our approach from a series of projects to a more coherent programme, aligned with market demand and deliverability;
  - To fully leverage the regeneration potential of a number of Derby City Council-owned sites and to deliver and demonstrate optimum public value;
  - To enable the application in Derby city centre of the extensive innovation, insight and experience of a strong private sector delivery partner, bringing best

- practice from other comparable regeneration schemes nationally;
- To jointly explore alternative investment models to enable delivery, optimise the value of the Council's covenant strength and also manage the Council's exposure to risk in a transparent manner;
- To optimise investment in feasibility and working capital from the developer partner;
- To attract where appropriate other sources of public sector funding to support viability;
- To identify and facilitate, for specific uses, access to private development finance;
- To develop, based on a combination of success, trust and credibility, a mutually beneficial long-term relationship focused on Derby's economic regeneration.

## Requirements

4.10 Closely linked to the aims summarised above, Derby City Council has some key requirements of the selected delivery partner, in terms of services to be delivered and expertise to be applied, which include:

- To bring project development and delivery capacity to work alongside Derby City Council capacity;
- To appoint and lead multi-disciplinary feasibility analysis to determine the optimum scale, use mix and phasing for the identified sites;
- To provide working capital to enable funding of pre-development costs;
- To lead on the facilitation of development finance whether through the partner's own resources or those of a third party investor;
- To propose alternative investment models for different phases/uses, including where required the nature of public sector intervention required and the associated risk profile;
- To lead on market engagement to attract occupiers/operators to different phases/uses, where possible pre-development to reduce the development risk and increase viability;
- To assist Derby City Council in attracting other public sector funding support to underpin viability, if/when opportunities become available, from Central Government and other Government agencies – such as Homes England, East Midlands Combined Authority, etc – supporting the development of business cases and funding bids where appropriate;
- To support Derby City Council in accelerating site assembly/land acquisition to enable any DCC approved development, and where appropriate leading and funding such acquisitions;
- To demonstrate an open book approach to development appraisals, cost planning, contingencies, development profit, etc;
- To demonstrate a philosophy and transparent presentation of risk and opportunity sharing with the City Council;
- To appoint and manage of an appropriate supply chain encompassing professional disciplines (planning, architect, civil/structural engineer, M&E, cost consultancy), finance-related, construction, commercial property advisor/surveyor, etc;
- To participate in relevant governance facilitated by Derby City Council in relation to the city centre regeneration agenda, including the City Centre

Programme Management Board, and to assist where necessary Council officers in preparing decision reports for Cabinet and complying with any other Council internal governance processes;

- To support Derby City Council in relation to any necessary engagement and consultation with relevant stakeholders and local communities;
- To develop and deliver, in conjunction with the City Council, branding and promotion of any developments planned and delivered within the partnership.

4.11 Having evaluated a number of procurement and delivery model options, it is recommended that the Council uses the Pagabo Framework as a route to market for the procurement of a developer partner. The rationale for this recommendation is explored in paragraph 8.2 and the key procurement process milestones and timescales in paragraph 4.16.

## **Key Selection Criteria**

4.12 Although a mini-competition stage is anticipated within the procurement process, below are listed some basic criteria for any potential partners to be shortlisted:

- Appropriate scale and quality of project development and delivery capacity, relevant to the nature of opportunities and sites offered by Derby city centre – encompassing mixed use developments including uses such as residential, hotels, workspace, leisure, culture;
- A strong and credible track record in place-making at scale, in locations comparable in economic terms to Derby, and in partnership with local authorities and other Government agencies – this should encompass locations where viability challenges have been overcome through innovative investment models alongside direct intervention by the public sector;
- Financial strength and access to appropriate financial resources – within own organisation or via third party sources – of a scale relevant to the nature of opportunity in Derby;
- A demonstrable appetite for sharing, with public sector partners, risk and opportunity through transformational urban regeneration schemes, and development of long term multiple opportunity partnerships.

## **Key Development Opportunities**

### **4.13 Cultural Heart of the City**

This is the primary regeneration and development opportunity around which we are seeking to collaborate with our selected partner.

The 'Cultural Heart of the City' is the term given to a prominent core city centre environment, centred around the Market Place, encompassing the revitalised Market Hall and the highly successful QUAD independent cinema, and close to the River Derwent and the Cathedral.

The area includes a number of significant development sites in the ownership of the City Council, including the former Assembly Rooms site (events venue which closed in 2014) and linked multistorey car park.

Bennetts Associates were commissioned by Derby City Council to develop a high

level masterplan for the Cultural Heart of the City area. This exercise explored the potential to create 5 active, connected and complementary public spaces, enhanced greening of key corridors and leveraging of the development potential of the sites available, which could include residential, hotel and office uses, plus active ground floor uses.

Through a partnership of the City Council, University of Derby and Derby Theatre, a primary option for the redeveloped Assembly Rooms site is the opportunity to relocate Derby Theatre, the nationally recognised learning theatre, from its current home in the Derbion Centre to a new, iconic state of the art theatre complex facing onto the Market Place. This could not only transform the city centre, but also act as a catalyst and anchor for further commercial development in the Cultural Heart area. A detailed feasibility study for the proposed theatre development has been progressed by a professional team appointed by the City Council, consisting of Bennetts Associates, Buro Happold and AECOM.

On 19 January 2023, it was announced by Government that the proposed new theatre project has been awarded £20M of Levelling Up Fund support. Clearly, any selected development partner for the wider Cultural Heart sites will need to ensure that these exciting proposals are integrated into any masterplan for the wider site development.

In addition, Avison Young have undertaken some initial viability analysis for the Cultural Heart sites, based on uses including offices and residential. We would anticipate the selected partner leading on feasibility analysis to determine the optimum mix, scale, phasing and investment models for comprehensive development of the Council owned sites within the Cultural Heart area.

#### **4.14 Northern Gateway**

This is an emerging development opportunity within the Cathedral Quarter, its northernmost boundary being adjacent to the ring road. The total area is around 1.6 Ha, with the most significant sites being in the City Council's ownership – Queens Leisure Centre (which closed in March 2022 and is now being decommissioned and prepared for demolition) and Chapel Street Multi-Storey Car Park (which is deemed to be at the end of its design life).

Partially within the city centre conservation area, and including some locally listed buildings, the area benefits from key cultural assets including the home of DEDA (a creative centre for dance and movement, backed by Arts Council England) and the Flowerpot public house, a well-established local live music venue.

Commissioned by Derby City Council, local architects and master planners Lathams have undertaken some initial options development analysis for the Northern Gateway area.

#### 4.15 **Bold Lane**

This is a vacant development site in the Cathedral Quarter and adjacent to the Sadler Gate Studios operated by Connect Derby (Derby City Council's managed workspace operation). The site is also opposite the Bold Lane Multi-Storey Car Park.

The site previously benefited from a detailed planning consent for a 4 storey office development, providing around 33,000 sq ft of floor space.

The Council has agreed the principle of leasing the site on a temporary 18 month basis to Down to Earth – a Community Interest Company supported by the Eden Project to further nature-based regeneration initiatives in the city. The site will be used for them to pilot their 'Electric Daisy' concept – a community events and growing space furthering their nature-based regeneration ambition and bringing footfall to the area. There is an understanding with Down to Earth that the Council is retaining the option of longer-term re-development of the site for commercial or residential use.

#### 4.16 **Next Steps**

Discussions with Pagabo framework managers have been ongoing, and work on our procurement brief is well advanced. Subject to Cabinet approval the next steps would be (see Appendix 1 for more detail of the proposed process):

Expression of Interest stage to establish interested parties	March 2023
Invitation to Tender issued	April 2023
Bids received	June 2023
Evaluation completed	July 2023
Recommendation for delegated approval	July 2023

### **Public/stakeholder engagement**

- 5.1 The proposed approach of procuring a strategic development partner as described above has been discussed extensively with key partner organisations through the City Centre Programme Management Board. Participating organisations on this Board include Homes England, Environment Agency, Historic England, Marketing Derby, London & Continental Railways, Severn Trent, D2N2 LEP, Arts Council England and East Midlands Development Company.
- 5.2 Further engagement will of course take place in relation to any specific development schemes proposed, through the formal planning process and other means.

### **Other options**

- 6.1 Separate procurement of development partners for individual sites – this option has been dismissed as this would (1) be much more onerous in terms of management capacity required on behalf of the Council to take this approach and (2) this would not provide development partners with the potential for a long-term partnership with the Council, through which more significant capacity can be committed.

- 6.2 Disposal of Council owned sites – this may become an option for some sites once they are in a more development ready state (eg existing buildings demolished), but only after the strategic development partner and the Council have collectively assessed the development potential of each site.

## **Financial and value for money issues**

- 7.1 It should be noted that any specific development proposals associated with these arrangements, including proposed investment models and nature of any public sector intervention (by the City Council or other partners), will need to be subject to Cabinet approval and compliance with the City Council's PMO governance and financial procedure rules.
- 7.2 Any development programme or project proposals, including financial interventions by the Council or other public sector partners, will need to align with the Council's Medium Term Financial Plan (MTFP) which is to be approved in February 2023, and with the requirements of any secured external funding sources such as Levelling Up Fund.
- 7.3. As stated above, the key aims of this proposed approach include:
- To jointly explore alternative investment models to enable delivery, optimise the value of the Council's covenant strength and also manage the Council's exposure to financial risk in a transparent manner;
  - To optimise investment in feasibility and working capital from the developer partner
  - To attract where appropriate, if/when opportunities arise, other sources of public sector funding to support viability;
  - To identify and facilitate, for specific uses, access to private development finance.
- 7.4 It is anticipated that the selected partner will:
- Provide working capital to enable funding of pre-development costs;
  - Propose alternative investment models for different phases/uses, including where required the nature of public sector intervention required and the associated risk profile;
  - Assist Derby City Council, if/when opportunities arise, in attracting other public sector funding support to underpin viability, from Central Government and other Government agencies – such as Homes England, East Midlands County Combined Authority, etc – supporting the development of business cases and funding bids where appropriate;
  - Support Derby City Council in accelerating site assembly/land acquisition to enable approved development, and where appropriate leading and funding such acquisitions;
  - Demonstrate an open book approach to development appraisals, cost planning, contingencies, development profit, etc.
- 7.5 The proposed procurement framework - Pagabo (see below) - ensures that fees are fixed, are only payable when the project proceeds, and all fees can be built into the project costs.



- 7.6 The costs associated with progressing the selection and appointment of the strategic development partner will primarily relate to professional advice incorporating specialist property / development support (via Avison Young) and legal support to progress and conclude the partner appointment. These costs are currently estimated to be in the region of £50,000.

*[Budget sources to fund these costs are being explored, including a potential re-purposing of reserves allocated to the Becketwell Regeneration scheme, which would require Cabinet approval.]*

- 7.7 It is assumed based on soft market testing and consultation with the Pagabo team that early feasibility and development costs will be borne by the developer partner, thereby mitigating the risk of abortive costs requiring revenue funding from the Council.
- 7.8 There is currently no revenue budget or reserves provision in the MTFP to cover any feasibility or abortive costs associated with this procurement. On conclusion of the procurement exercise, if the preferred partner does require a cost sharing commitment from the Council, Cabinet approval would need to be sought before entering into the development agreement.

## Legal implications

- 8.1 The Council has given careful consideration to the procurement options available, especially to ensure that:
1. The proposed procurement route is public contract regulations compliant;
  2. The timeframes required are not onerous;
  3. The process does not require very significant internal Council resources to manage;
  4. The procurement route is attractive to the market and does not impede our ability to attract appropriate partners of quality and capability;
  5. Associated contractual arrangements allow, if appropriate, the partnership to consider regeneration of multiple sites in the city centre.
- 8.2 The table below sets out the various procurement routes considered and their merits or otherwise:

Procurement Route	Summary/Comments	Conclusion
Find a Tender Service (FTS) – Open Procedure	The default FTS threshold procedure that may be used by a contracting authority without any specific justification. A single stage procurement procedure. The opportunity is open to any organisation who may submit a tender within prescribed timescales. Tender documents need to set out the exact DCC requirements, including the legal form of contract and pricing structure Shortlisting of bidders is not	Not appropriate

	allowed. The procedure does not allow for negotiation with bidders DCC needs to be able to test and satisfy itself in relation to a bidder's track record and credentials.	
FTS – Restricted Procedure	Two stage procedure that may be used by a contracting authority without any specific justification. Allows issuing of a Prequalification Questionnaire. Only shortlisted bidders go forward to tender stage. At the tender stage, bidders will be issued with tender documents that set out the exact DCC requirements, including the legal form of contract and pricing structure. As with the Open procedure, the Restricted procedure does not allow for negotiation with bidders. Lengthy process. Would involve significant internal DCC resourcing.	Not appropriate
FTS – Competitive Procedure with Negotiation	Allows for an initial selection stage to shortlist potential bidders, this is then followed by one or more successive stages to develop proposals and reduce the number of tenders by applying the award criteria. Towards the end of the process, the remaining bidders must submit final tenders for evaluation and award of contract. Whilst this process allows for market engagement and negotiation following the selection stage to refine proposals, it does not allow for any negotiation in relation to the final tender. Use of this procedure requires justification by the contracting authority Again lengthy process and would involve significant internal DCC resourcing	Not appropriate
FTS – Competitive Dialogue Procedure	This is a three stage procedure comprising a selection stage to initially filter / shortlist potential bidders followed by a dialogue stage and finally a tender stage. The dialogue stage may be undertaken in a single or multiple phases, depending on a number of factors. The dialogue stage may also be used to reduce the number of solutions / bidders by applying the award criteria. Dialogue will continue until a solution or solutions capable of meeting the contracting authority's	Could be appropriate, but timescales and costs for bidders make this less attractive.

	needs is identified. Once agreeable solution determined, dialogue is closed and bidders submit final tenders. Once a preferred bidder is identified, the contracting authority may undertake negotiations with that preferred bidder to confirm financial commitments or other terms contained in the contract. Use of this procedure requires justification by the contracting authority. Requires very significant input by all parties, especially the preferred bidder. Costly process for bidders.	
Pagabo Framework	National Public Contracts Regulations 2015-compliant framework which encompasses developer led categories. Regional categorisation of developer partners based on nature of proposed arrangement and also lot size. Developers can be procured via direct award or via mini-competition. Process can be condensed to circa 3 months.	Appropriate
Homes England – Dynamic Purchasing System	Housing focused procurement framework, managed by Homes England and available for local authorities and other public bodies to use. Development partners to be procured through this framework are predominantly house builders (national and regional).	Not appropriate
Scape Construction Framework	National public sector procurement framework encompassing construction, consultancy and civil engineering related services (and of which Derby City Council is a shareholder).	This framework does not include developer-led services and is therefore not appropriate for this particular requirement.

8.3 At the time of writing, it is therefore proposed to use the Pagabo ‘developer led framework’ (see <https://www.pagabo.co.uk/frameworks/developer-led-framework>).

Key features of this procurement framework are as follows:

- Fully compliant with the Public Contracts Regulations 2015. Current framework available until April 2026
- Project value is unrestricted (although there are different project size ranges within the framework)
- Lots/categories for special purpose vehicles, single or multiple site development agreements or development management services

- Allows for a programme of work to be covered by an overarching agreement. Detailed contractual commitment to individual project delivery is subject to budget and gateway approval.
- Fees are fixed and only payable when the project proceeds (fees consist of lump sum per scheme paid at financial close and % of developer's pre-construction fee – all fees can be built into the project costs)
- Developers can be procured via direct award or via a mini-competition (single or 2 stage)
- Delivering social value outcomes is a key feature of the Pagabo frameworks – including work placements and apprenticeships generated
- Attractive to the market as minimises unnecessary bidding costs for potential partners.

## Climate implications

- 9.1 The regeneration of the city centre is a crucial element of the City's climate change agenda. By facilitating a more diverse and resilient mix of uses in the city centre, including city living, retail, culture/leisure, workspace and learning, we can reduce the need for significant travel and encourage more sustainable behaviours through walking and cycling and greater use of public transport.
- 9.2 Individual scheme designs for the proposed development sites will, of course, incorporate latest best practice in application of sustainable materials and energy management.

## Socio-Economic implications

- 10.1 The regeneration and repurposing of the city centre will ensure that it regains its status and role as a key driver of the city's economy and will create more employment, education and training opportunities for the citizens of Derby.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Emily Feenan – Director of Legal Services	26 January 2023
Finance	Alison Parkin – Director of Financial Services	26 January 2023
Service Director(s)	David Fletcher – Director of City Development & Growth	26 January 2023
Report sponsor	Rachel North – Strategic Director – Communities & Place	
Other(s)		

Background papers:	
List of appendices:	Appendix 1: Proposed procurement process