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## **Meeting of the Cabinet – 17<sup>th</sup> December 2020**

### **Report of the Director of Regeneration and Enterprise**

#### **Towns Fund – Update on Progress**

##### **Purpose**

1. This report proposes that the Council enters into a Memorandum of Understanding with Dudley College which sets out the principles of a partnership framework to work together on a project to develop Dudley by submitting a Stage 1 bid to the Secretary of State under the Towns Fund Programme.

##### **Recommendations**

2. It is recommended the Council enters into a Memorandum of Understanding with Dudley College to cover the initial bid period and to set out the broad principles of what will be required from partners in the event that the bid is successful. If the bid is successful the Council will consider the following next steps:-
  1. Using its CPO powers to acquire, either by negotiation or compulsion, all the necessary plots of land and legal interests, subject to all of the necessary tests being met and the costs of both the CPO itself and the acquisition monies being fully funded and drawn down from the bid monies.
  2. Obtaining valuations of all of the land currently owned by the Council and ensuring that Section 123 Local Government Act 1972 being met in respect of the proposed disposal.
  3. Alternatively, in respect of 2 above that the Council will consider the General Disposal Consent being met to provide that any undervalue contributes to the achievement of the promotion or improvement of economic well being, promotion or improvement of social well being or the promotion or improvement of environmental well being for the whole or any part of its area or of all or any persons resident in the area and the value of the undervalue is £2,000,000 or less.
  4. That all the necessary land and property assembly and disposal transactions are negotiated and agreed by the Council. The options for the disposal of the substantive site are either a freehold land disposal or a long term lease being granted. When all parties reach an agreement on the best



way forward, the Council enters into all the necessary agreements/legal documentation to facilitate the delivery of the scheme within the successful bid.

It is also recommended that delegated Authority is granted to the Director of Regeneration and Enterprise to submit the Stage 1 Towns Fund Bid and accompanying Town Investment Programme, once endorsed by the Towns Fund Board at its January 2021 meeting.

### **Background**

3. Dudley Town Centre was one of 100 centres invited by Government to bid for the £3.6billion Towns Fund aimed at driving investment and to seek long term economic and productivity growth through investment in connectivity, land use, skills and enterprise infrastructure.

Initial capacity funding of £173,029 has been provided by Government to assist with the development of proposals, run business and wider community engagement events and provide technical expertise for business case development. The work required to develop the bid to stage 1 submission is estimated to more than the allocated funds. Some of these costs may be recoverable from the main project costs, if and when, the bid is successful. However, until that point the costs will need to be covered by existing revenue budgets.

All Towns Fund areas were provided the opportunity to accept £1m Accelerator Fund to kick start the activity. This fund is in addition to the main bid pot (of up to £25m) and must be spent by March 2021; our allocation will be spent on public realm improvements to link the Castle Hill area to the Town Centre.

Towns are expected to develop a well-evidenced Town Investment Plan (TIP), which sets out a clear understanding of the area, focusing on its assets, opportunities and challenges. The amount of investment from the Towns Fund will be determined based on the strength of the Towns Investment Plan amongst other relevant factors.

The Plan is a locally owned document and will not require sign off by Government, however it will form the basis of deal negotiation and inform the amount of investment agreed through the Towns Fund. The Plan should explicitly set out how the Towns Fund is being used to crowd-in other local and private investment. It should also articulate how the interventions are driving economic regeneration and delivering value for money.

The TIP will include a number of town centre projects, however the largest currently unfunded scheme is the development of the Higher Education Institute



(HEI) – a health sciences facility delivered in partnership with University of Worcester. The projects within the TIP have been subject to a prioritisation exercise (as defined by Government Guidance) and this project has been ranked number 1 and will form the substantive ask of the bid for funding.

### **Memorandum of Understanding**

4. During lockdown Dudley College have signalled their intent with securing the HEI partner, University of Worcester and have worked with the council to develop the TIP bid submission and to progress discussions on the potential design of the facility.

The Council now wishes to enter into a Memorandum of Understanding with Dudley College as both parties agree there is considerable benefit to be gained from the redevelopment of the former Hippodrome site in Dudley Town Centre as part of the University Park at Castle Hill. The HEI building will make a positive contribution to the economic vitality of the town centre (through job creation, increased skills in a critical specialism, increased turnover and in the future through student accommodation and more residents in the town) which will bring with it significant improvements in terms the provision of associated infrastructure and providing catalyst of pedestrian movements to the town centre (Dudley Interchange and Student accommodation) whilst supporting local businesses.

The Parties therefore intend this agreement to set out how information will be shared with a view to developing a new gateway building to the centre of Dudley approaching the town from Castle Gate.

The key elements of the Memorandum of Understanding are as follows

- To set out the roles and commitments of both parties in preparing and submitting the TIP on time. This is required to give assurance to the University of Worcester that the college and Council are committed to the Towns Fund bid and will undertake the work required for the application. This will then enable the college and university to sign up to the Collaboration Agreement between the two parties to ensure the commitment of the university to the project.
- To set out the broad principles of the application and future events, specifically:
  1. For the TIP and Towns Fund submission – the MoU between the Council and the College and a Collaboration Agreement between the College and University of Worcester.
  2. After application but before receiving confirmation of funding - agree formal structure of the relationship between the Council and College. This will inform the type and terms of the Concession Agreement with the University for operation of the HEI Centre.



3. After confirmation of funding - formal legal agreement entered into between Council and College and a Concession Agreement entered into with the University. The contracting party with the University will be subject to the agreement reached between the Council and College but at this time it is anticipated that the Concession Agreement will be between the College and University.
- To agree to cover the feasibility costs for the development of the TIP by procuring against and administering the feasibility funds as per the schedule agreed at Board.
  - To reimburse of costs from the Council to the College in respect of the College additional legal costs during Stage 1 (capped at £18,690 and covered by reallocated feasibility funds).
  - To agree the procurement in respect of Stage 1 of this project.
  - The term of the Memorandum of Understanding is for a period of 12 months from the date of signing and can be terminated by either party.

## **Land Matters**

On approval of the Memorandum of Understanding the Council will work with the College and any other interested parties to undertake due diligence of their proposals before bringing appropriate recommendations through Council governance.

The land once assembled will be in the full ownership of Dudley Council. The site will need to be cleared, remediated and utilities provided before the scheme can be built out. The costs of this preparatory work should be borne by the grant fund(s). There are a number of disposal options available. These include:-

- freehold disposal of the land only
- freehold disposal of the land and new building constructed using the grant
- longlease hold disposal of the land only with agreement to underlease to the HEI
- longleasehold disposal of the land and newly constructed building using the grant with an underlease for occupation to the HEI
- The recommended option at this stage is for a long leasehold disposal of the land and newly constructed HEI building, using the grant monies, and an underlease to the HEI.

## **Finance**

5. At this stage, the Financial implications of this report are limited to the allocation of the £173,026 capacity funding which was received by the Council during November 2019 and the £1m Accelerator Fund. However, given the advanced nature of the project and the need for detail to be developed in advance of the bid, there is a projected overspend on the bid development (feasibility) funding. This overspend



will be funded by revenue resources held by the Directorate of Regeneration Enterprise.

There will be costs incurred to take the bid from Stage 1 to Stage 2 if successful; and we are in discussions with the Towns Hub Co-ordinator as whether or not funds will be available to further develop the bid. In any event it is likely that partners will have to fund, or forward fund, some elements. Should this be the case a further report will be provided for approval to progress.

Should the bid be successful at Stage 1 the Council and partners will be invited to progress to Stage 2 and negotiation over the heads of terms.

The current estimated total project cost is in the region of £35 million. Future phases of development such as land acquisition, demolition, design and construction will need to be funded via the Towns Fund allocation of circa £25m and further grant funding applications to the Local Enterprise Partnership (LEP), West Midlands Combined Authority (WMCA) or other funding bodies as appropriate. An Expression of Interest application to the WMCA is in the process of being submitted.

The project can only progress once funding is confirmed

6. Section 111 of the Local Government Act 1972 provides the Council with power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate or is conducive or incidental to, the discharge of any of their functions.

Pursuant to Section 1 of the Localism Act 2011 a Local Authority has a general power of competence to do anything that individuals generally may do.

Section 123 Local Government Act 1972 provides that the Council receives best consideration in respect of disposals of land.

### **Equality Impact**

7. There will be no negative impact on people with protected characteristics as a result of this report. The development of the Town Investment Plan will be undertaken with full regard to the requirement for equality impact assessment.

The development of a Town Investment plan will have beneficial impacts on local children and young people who will benefit from investment into economic development and skills training in Dudley. Children and young people will be consulted as part of development of proposals and their involvement sought in the process.



The Council's Equality and Diversity policies will be applied throughout the delivery of this project.

8. No equality impacts have been identified.
9. There are no no specific impacts that will affect children / young people.

### **Human Resources/Organisational Development**

10. There may be an impact on the Council's ability to service the Town Fund Board and associated Governance arrangements which will be considered during the allocation of capacity funding

### **Commercial/Procurement**

11. All procurement will comply with DMBC's Contract Standing Orders (which are fully compliant with Public Sector and OJEU procurement rules and guidelines) and all funders requirements.

There are no direct commercial implications associated with this report.

However, the development of Investment Plans and their subsequent implementation may well provide opportunities for local businesses in future.

### **Health, Wellbeing and Safety**

12. The Proposals have the potential to increase the employment and skills of Dudley residents, which are important determinants of health and wellbeing. Action will be taken to support Dudley residents to take up these opportunities, in line with the aspirations of the Forging a Future for All Vision.
13. The development of Town s Fund proposals will assist to make the local economy more robust while providing higher skills training to local people, increasing the potential to access higher paid work and assisting to make local communities more resilient.
14. This decision has not been identified as having any negative health, wellbeing and safety implications.



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**Appendices**

Appendix A - Flowchart

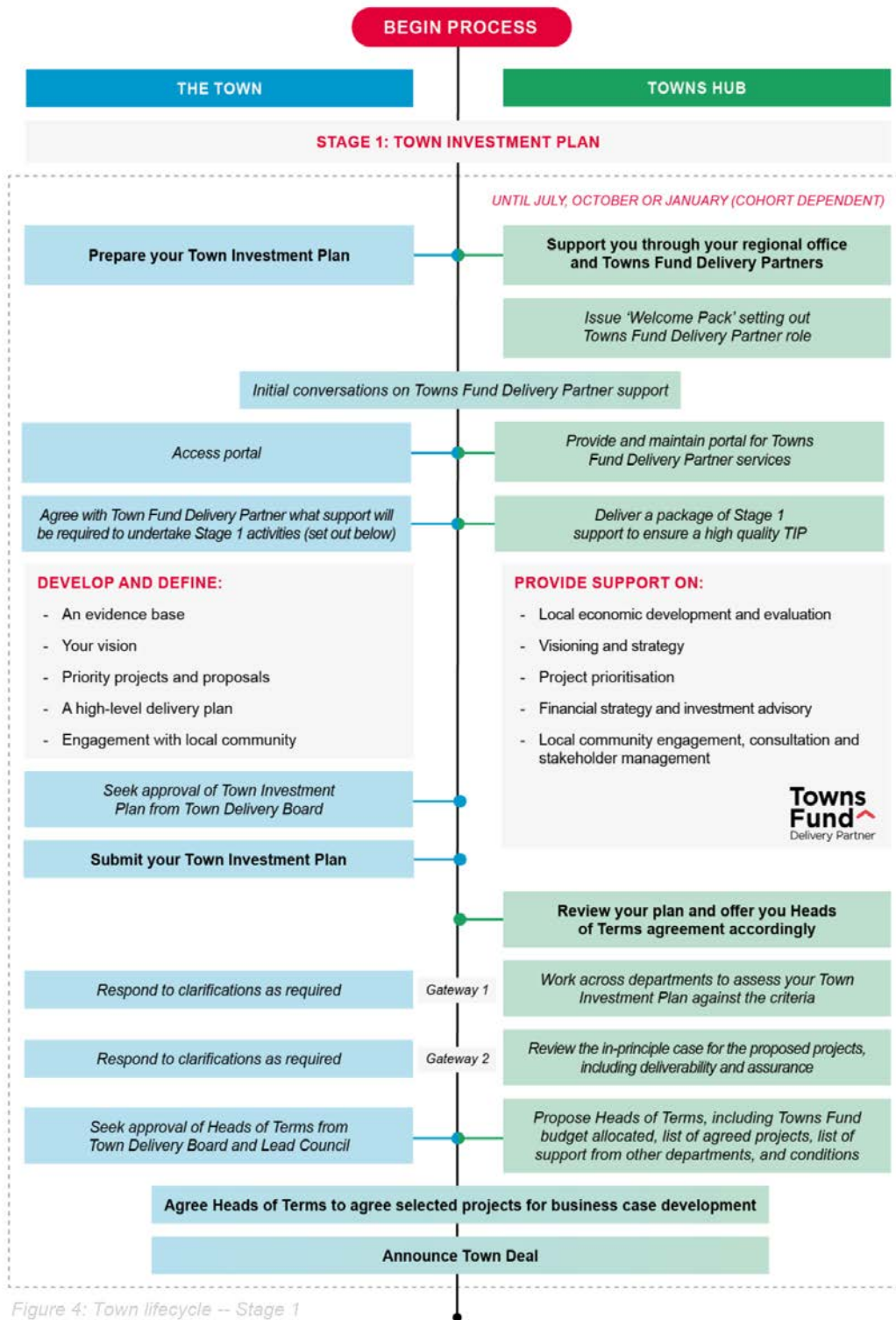
**List of Background Documents**

[Towns Fund Prospectus](#)

[Towns Fund Further Guidance June 2020](#)



# Appendix A – Process Flowchart





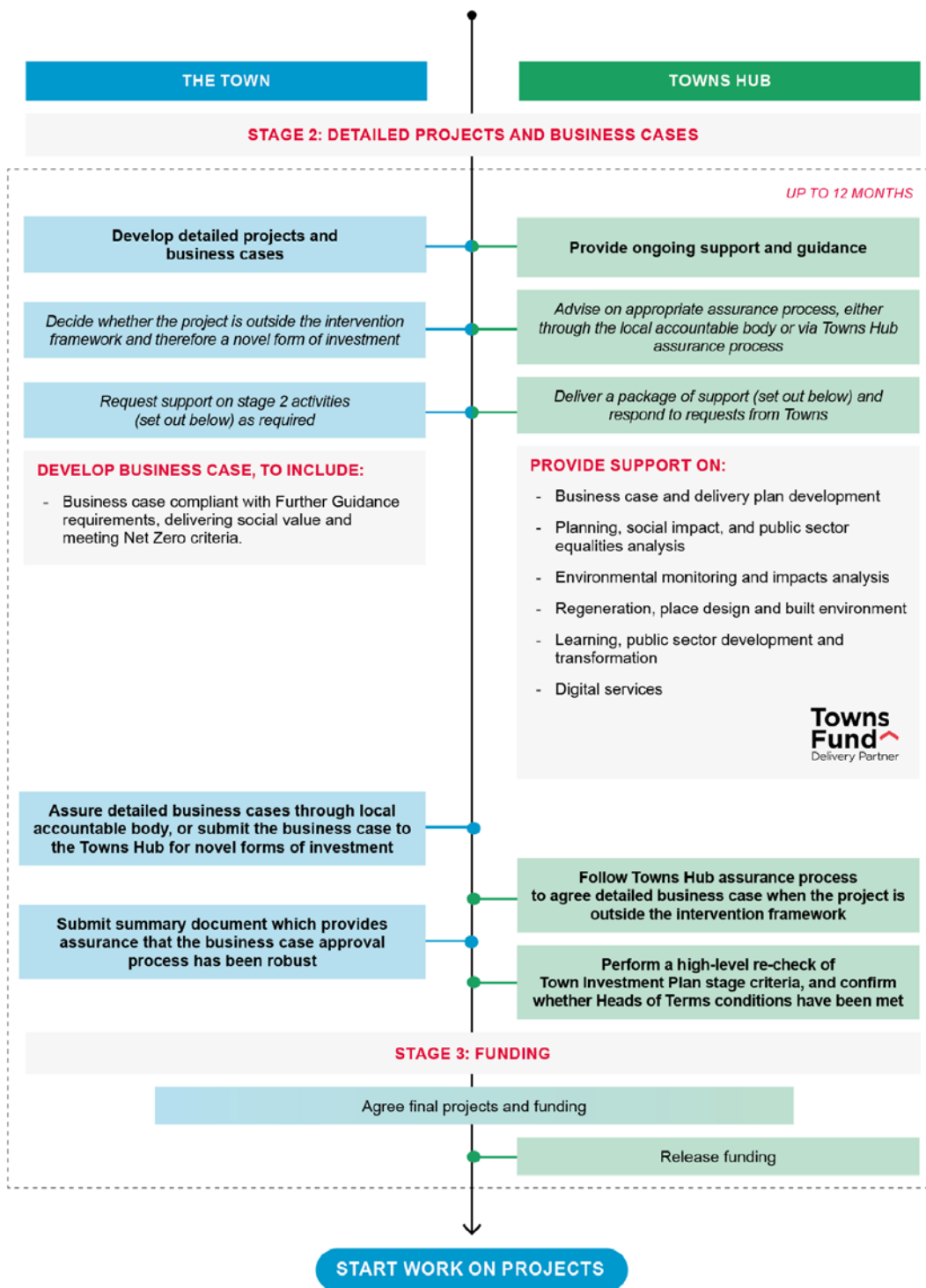


Figure 5: Town lifecycle -- Stage 2

