



Meeting of the Cabinet

**Thursday, 1st April, 2021 at 6.00pm
on Microsoft Teams**

[Click on this Link to Access the Meeting](#)

Agenda - Public Session (Meeting open to the public and press)

1. Welcome to this virtual meeting.

The proceedings will take place live on the Internet. The meeting will be recorded for future viewing.

It will assist the conduct of business if participants speak when invited.

All participants should mute their microphones and turn off the video feed when they are not speaking.

Members of the public are welcome to view the proceedings but should not make contributions at this meeting unless invited to do so.

Please remember to unmute your microphone and switch on your video feed when it is your turn to speak. Speak clearly and slowly into your microphone.

Anyone wishing to speak should indicate using the 'raise your hand' button and I will invite people to speak at the appropriate time. The 'raise your hand' icon should also be used for assent should voting be required.

I ask for everyone's patience with the use of the technology and I apologise in advance if we experience any unforeseen difficulties which we shall try to resolve expediently.

2. Apologies for absence
3. To receive any declarations of interest under the Members' Code of Conduct
4. [To confirm and sign the minutes of the meeting held on 15th March, 2021 as a correct record](#)



5. [Regeneration of Portersfield Site](#)
6. To report on any issues arising from Scrutiny Committees
7. To consider any questions from Members to the Leader where two clear days' notice has been given to the Monitoring Officer (Cabinet Procedure Rule 2.5)

Distribution:

Members of the Cabinet:

Councillor P Harley (Leader – Chair)

Councillor D Vickers (Deputy Leader – Vice-Chair)

Councillors N Barlow, R Buttery, S Clark, I Kettle, A Lees, S Phipps, K Shakespeare and L Taylor

Opposition Group Members nominated to attend meetings of the Cabinet:

All Shadow Cabinet Members are invited to attend Cabinet meetings (to speak but not vote)



Chief Executive

Dated: 24th March, 2021

Please note the following:

- This meeting will be held virtually by using Microsoft Teams. The meeting will be held live via the Internet link.
- This is a formal meeting and it will assist the conduct of business if participants speak only when invited by the Chair.
- The Chair reserves the right to adjourn the meeting, as necessary, if there is any disruption or technical issues.
- All participants should mute their microphones and video feed when they are not speaking.
- Please remember to unmute your microphone and switch on your video feed when it is your turn to speak. Speak clearly and slowly into your microphone.
- Members of the public can view the proceedings by clicking on the link provided on the agenda.

- The Council reserves the right to record meetings. Recording/reporting is only permitted during the public session of the meeting.
- Information about the Council and our meetings can be viewed on the website www.dudley.gov.uk
- Any agendas containing reports with exempt information should be treated as private and confidential. It is your responsibility to ensure that information containing private and personal data is kept safe and secure at all times. Confidential papers should be securely disposed of. If you choose to retain the documents you should ensure that the information is securely stored and destroyed within six months.
- Elected Members can submit apologies by contacting Democratic Services. Contact Democratic Services by Telephone 01384 815238 or E-mail Democratic.Services@dudley.gov.uk

Minutes of the Cabinet

Monday, 15th March, 2021 at 6.00 pm
Microsoft Teams Meeting

Present:

Cabinet Members

Councillor P Harley (Leader - Chair)
Councillor D Vickers (Deputy Leader – Vice-Chair)
Councillors N Barlow, S Clark, I Kettle, A Lees, S Phipps, K Shakespeare and L Taylor.

Opposition Group Members Nominated to attend the Cabinet

Councillors K Ahmed, S Ali, C Barnett, C Bayton, K Casey, J Foster, P Lowe and S Ridney

Officers

K O’Keefe – Chief Executive, M Williams – Acting Deputy Chief Executive, C Driscoll – Director of Children’s Services, M Bowsher – Director of Adult Social Care, H Martin – Director of Regeneration and Enterprise, I Newman – Director of Finance and Legal, P Davies – Director of Housing and Community Services, K Wright – Director of Public Health and Wellbeing, G Dean – Acting Director of Public Realm, M Farooq – Lead for Law and Governance (Monitoring Officer), N Lissimore – Principal Engineer, J Cunningham – Project Lead - Midland Metro, K Arnold – Communications and Public Affairs Officer, S Griffiths – Democratic Services Manager and M Johal – Senior Democratic Services Officer

Representatives of the External Auditor (Grant Thornton) – R Percival and T Tobin

Observer

Councillor I Bevan

50 **Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors R Buttery, J Martin and Q Zada.



51 **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct in respect of any matter to be considered at this meeting.

52 **Minutes**

Resolved

That the minutes of the meeting held on 11th February, 2021 be approved as a correct record and signed.

53 **Capital Programme Monitoring**

A joint report of the Chief Executive and Director of Finance and Legal was considered on the implementation of and proposed amendments to the Capital Programme.

Arising from the presentation of the report, a Member referred to the Very Light Rail (VLR) project and remarked on his support to the development at Cinder Bank. It was further commented that a suggestion had been made to Officers concerning the old station on New Road in that it should be brought back into use and reopened as part of the VLR project together with the platform at Cinder Bank given the historic value to Dudley. In responding the Leader welcomed the comments made and alluded to interest that had already been generated for the project. It was further commented that the ticket office at Cinder Bank junction was still intact and this could be reused, however the Leader undertook to raise the matter at the next VLR Board meeting.

Resolved

That the Council be recommended:

- (1) That progress with the 2020/21 Capital Programme, as set out in Appendix A to the report, be noted.
- (2) That the Brierley Hill and Himley Road Homes for Sale projects be approved and included in the Capital Programme, as set out in paragraph 6 of the report.
- (3) That the Highways Maintenance allocation be noted and that the associated expenditure, together with expenditure to be funded from any subsequent annual allocations, be included in the Capital Programme, as set out in paragraph 7 of the report.



- (4) That those elements of the Brierley Hill Future High Streets project not already included in the Capital Programme be approved and included in the Capital Programme and that the Director of Regeneration and Enterprise and the Director of Housing and Community Services, as appropriate, be authorised to enter into all legal and funding agreements to ensure successful delivery of the project, as set out in paragraph 8 of the report.
- (5) That, subject to completion of the necessary funding agreement, the expenditure on the Dudley Interchange Highway Improvements be approved and included in the Capital Programme, as set out in paragraph 9 of the report.
- (6) That the Very Light Rail (VLR) Halt project be approved and included in the Capital Programme, as set out in paragraph 10 of the report.
- (7) That the Public Sector Decarbonisation project be approved and included in the Capital Programme, as set out in paragraph 11 of the report.

54 **Black Country Transport Hub Collaboration Agreement**

The Cabinet considered a report on the Black Country Transport Hub Collaboration Agreement.

Arising from the presentation of the report, various concerns were raised and questions asked about the Agreement, particularly in relation to the lack of openness and transparency, the agreement would automatically renew each year, legality of financial implications, insufficient details about the new Team together with associated responsibilities of the Lead and Local Authorities as well as there being no opportunity for Elected Members to influence or represent their views. Questions were responded to and the Acting Director for Public Realm confirmed that the Council's Human Resources and Legal Services had reviewed and had an input into the agreement.

Comments were made on the omission of scrutiny in the agreement and representations were made on the need to ensure there was an appropriate formal scrutiny process given the amount of funding and finance involved. The Leader suggested that the work of the individual Local Enterprise Partnership could be incorporated into the Council's own scrutiny programme with an open invitation to external partners.

Resolved

- (1) That authority be delegated to the Director of Regeneration and Enterprise, following consultation with the Cabinet Member for Regeneration and Enterprise, to authorise the sealing of the Collaboration Agreement for the Black Country Transport Hub, as set out in Appendix A to the report, and to authorise the sealing or signing of any associated contracts, deeds or other related documents to give full effect to the work of the Black Country Transport Team.
- (2) That the financial implications of the Team, as set out in the Finance Section of the report, be approved and the Director of Finance and Legal (Section 151 Officer) be authorised to create appropriate budgets for transport funds as and when they are awarded to the Black Country Transport Team.

55 Annual Audit Letter 2019/20

A joint report of the Chief Executive and the Director of Finance and Legal was submitted on the External Auditor's Annual Audit Letter for 2019/20. Mr R Percival addressed the meeting on behalf of the External Auditor (Grant Thornton).

Resolved

That the views of the Auditor be noted.

56 Towns Fund – Update on Progress

The Cabinet considered a report of the Director of Regeneration and Enterprise providing an update on the Towns Fund and the development of a Higher Education (HE) building on Castle Hill in partnership with Dudley College with the University of Worcester as the HE provider.

Resolved

- (1) That the Council enter into a conditional agreement with Dudley College before receiving confirmation of funding to agree the formal structure of the relationship between the Council and the College to inform the type and terms of the Concession Agreement with the University for operation of the Higher Education Centre.

- (2) That, following confirmation of funding, a formal legal agreement be entered into between the Council and Dudley College together with a Concession Agreement entered into with the University of Worcester; the contracting party with the University to be subject to the agreement reached between the Council and the College but at this time it is anticipated that the Concession Agreement will be between the College and the University.
- (3) That the Director of Regeneration and Enterprise, following consultation with the Director of Finance and Legal, the Cabinet Member for Regeneration and Enterprise and the Cabinet Member for Finance and Legal, be authorised to negotiate and enter into an agreement with Dudley College.
- (4) That the Director of Regeneration and Enterprise be authorised to commence preparations for a Compulsory Purchase Order (CPO) should it be necessary.
- (5) That the Council be recommended:
 - (a) That spend incurred in preparing the Stage 2 Full Business Case submission be incurred at risk prior to the bid for additional capacity funding being approved, as set out in the report, and that any costs incurred over and above the additional capacity funding be funded by Dudley MBC and Dudley College revenue resources.
 - (b) That capital spend, including any site acquisition costs, be incurred at risk prior to funding being approved for the main Higher Education building scheme and that this spend, currently estimated to be £1,600,000, be included in the Council's Capital Programme.

57 **Review of Housing Allocations Policy**

The Cabinet considered a report on recommendations arising from the review of the Allocations Policy conducted by the cross-party Housing Allocations Working Group.

Resolved

- (1) That the Housing Allocations Policy be amended as follows:-



- That households with sufficient financial resources to rent in the private sector or purchase entry level accommodation to meet their needs be placed in a reserve band for social housing unless they also have care or support needs. The latest local income thresholds range from £22,393 for one bedroom to £71,929 for four bedrooms, and the limit on capital is £16,000.
 - That parents with shared care of children be recognised as households needing family sized accommodation.
 - That families with children be allowed to choose high rise flats if they wish.
 - That private tenants in homes that are prejudicial to health be given urgent priority for rehousing (Band 2).
 - That homes may be directly allocated to households where they have been purchased or built specifically to meet their needs.
 - That Looked After young people be able to apply for housing before they reach age 18.
 - That potential foster families be eligible for service tenancies.
 - That sole parents leaving prison be given urgent priority for rehousing.
 - That Council tenants only be given the need for releasing a family home if they have another housing need such as overcrowding.
 - That bands 5-7 be combined into a single reserve band, prioritised in date order, where offers will only be made if there are no suitable households in Bands 1-4.
- (2) That the Director of Housing and Community Services be authorised to implement the changes and communicate them to customers and stakeholders.
- (3) That consideration be given to making wider use of Flexible (Fixed Term) Tenancies in exceptional circumstances relating to certain tenancies, and that this be implemented through a Delegated Decision Sheet in due course.

58 **Scale of Fees and Expenses for Borough Council Elections**

A report of the Chief Executive was submitted on the scale of fees for Borough Council Elections.

Resolved

That the Scale of Fees and Expenses, as set out in the Appendix to the report, be approved with effect for all local elections held after 1st April, 2021.

59 **Exclusion of the Public and Press**

Resolved

That the public and press be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information relating to the financial or business affairs of any particular person (including the authority holding that information) as defined under Part I of Schedule 12A to the Local Government Act 1972, as amended.

60 **Regeneration of Portersfield Site**

The Cabinet considered a report of the Chief Executive providing an update on proposals for the redevelopment of the Portersfield site in Dudley Town Centre.

Resolved

- (1) That progress with the development proposals for the Portersfield site be noted.
 - (2) That the Council be recommended:-
 - (a) To fund detailed Ground Investigation Surveys across the Portersfield site at a cost of £105,000;
 - (b) To establish a budget of £150,000 per annum, for each of the next two years, to fund the Council's project management of the development and delivery of the Portersfield project.
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61 **G Dean – Acting Director of Public Realm**

The Leader referred to the impending retirement of Garry Dean (Acting Director of Public Realm) and Members wished him a long, healthy and happy retirement.

The meeting ended at 7.01 pm

LEADER OF THE COUNCIL



Meeting of the Cabinet – 1st April 2021

Report of the Chief Executive

Regeneration of Portersfield Site

Purpose

1. This report seeks approval to jointly promote a Planning Application with Avenbury (Dudley) Ltd towards the development of the Portersfield site and to fund the necessary costs relating to the development and submission of the Planning Application.

This builds upon the Memorandum of Understanding with Avenbury (Dudley) Ltd approved by Cabinet in July 2020 which set out the principles of a partnership framework to facilitate the regeneration of the site.

Recommendations

2. That Cabinet:
 - Agree to promote a joint planning application with Avenbury(Dudley) Ltd for the development of the Portersfield siteThat Cabinet recommends that Council:
 - Agrees to fund the preparation and submission of the Planning Application at a cost of £420,000

Background

3. As we emerge from lockdown and the impact of the Covid 19 Pandemic it is vital that the Council continues to demonstrate its commitment to the regeneration of the Borough.

A prime example is the Council's developing partnership with Avenbury (Dudley) Ltd – the developers of the Portersfield site in Dudley Town Centre. During the initial lockdown the developers signalled their intent with the demolition of the Cavendish Building.



In July 2020 Cabinet approved that the Council enter into a Memorandum of Understanding (MOU) with Avenbury (Dudley) Ltd as both parties agreed there is considerable benefit to be gained from a comprehensive development in Dudley Town Centre which will make a positive contribution to the economic vitality of the town centre (through job creation, increased turnover and the beneficial use of a large area of land) which will bring with it significant environmental improvements in terms of its design, appearance and the provision of associated infrastructure.

Detailed discussions have continued with Avenbury (Dudley) Ltd since the signing of the MOU.

Avenbury are now proposing a development which comprises:

- 347 residential units for rent
- 200 student units
- Up to 10,000 sq ft of associated retail and leisure space
- A 38,000 sq ft Ice Rink Centre

The Council is undertaking due diligence into the means of delivering this ambitious development

A report will be brought to a future Cabinet meeting.

Avenbury (Dudley) Ltd submitted an outline planning application in April 2019 for a mixed use development of the Portersfield site, ref P18/0590. The application was approved by Development Control Committee subject to completion of a S106 agreement. Whilst they continue to work their way through the outstanding conditions with our Planning Officers, they are also conscious that a new planning application may be required to support the new proposals.

They have requested that the Council as a major landholder of the development site jointly promote a new planning application and that this application is pursued concurrently with officers due diligence of the overall proposal.

They have also proposed that as well as jointly promoting the Planning Application with them that the Council also provides the up-front funding to prepare and submit the Planning Application at an estimated cost of £420,000.

The Council has sought Leading Counsel opinion on both of these issues. Counsel concluded that

“ as the Council owns a significant part of the Land, the purpose is not to help a private landowner to redevelop one site and thereby avoid the need to implement a different planning permission to redevelop another site. The purpose is instead to secure the regeneration of the Land, which is a critical policy objective in the Area Action Plan. It is envisaged that the Council will ultimately own all of that Land. In



those circumstances, in my view it would be lawful, and not unusual, for the Council to be a joint applicant for planning permission together with the other major landowner, Avenbury.

It would also be lawful, in principle, for the Council enter into a funding arrangement with Avenbury whereby, as part of that arrangement, the Council provides the up-front funding to prepare and submit the application.”

It is therefore proposed that the Council jointly promotes the Planning Application for the regeneration of the Portersfield site with Avenbury(Dudley) Ltd and that the Council funds the cost of preparing and submitting the Planning Application

Finance

4. The details and financial impact of this ambitious development are still subject to due diligence. In the event that the project is considered to be viable, the total costs of the development, including planning costs, will count as capital expenditure. This will be the subject of future reports and will require Cabinet and Full Council approval. In the event that the Council are unable to proceed with the development, abortive planning costs would become an immediate charge to revenue.

Law

5. Section 111 of the Local Government Act 1972 provides the Council with power to do anything 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.

The MOU sets out the principles of a partnership framework to facilitate the comprehensive redevelopment of the Portersfield site in Dudley Town Centre, and can be terminated by either the Council or the Developer on notice. The MOU is intended to be in place until 2022 or until a formal legal agreement is in place.

The Council has taken extensive advice on the legal issues contained in this report so that it complies with the Council's requirements to adhere to the law



Equality Impact

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

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

Human Resources/Organisational Development

7. The proposals contained in this report will not impact on either the Council's current Human Resources or required future resources.

Commercial/Procurement

8. Any due diligence into the means of delivering the overall development of the Portersfield site should include robust public procurement advice to ensure that the Project is fully compliant with the rules laid down within Public Contracts Regulation 2015.

The proposals contained in this report do not have any Commercial implications, although any future development of the site requires commercial review

Health, Wellbeing and Safety

9. The Proposals contained in this report are consistent with the Council's policies on Health, Wellbeing and Safety.



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Kevin O'Keefe
Chief Executive

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