

**Meeting of the Cabinet - 23<sup>rd</sup> November 2006**

**Director of Law and Property and Director of Finance**

**Dudley Town Centre Regeneration - Redevelopment of Dudley Civic Quadrant**

**Purpose of Report**

1. To give further consideration to a proposal for the comprehensive redevelopment of the Dudley Civic Quadrant site as a key part of the regeneration of Dudley Town Centre.

**Background**

2. At its meeting on the 13<sup>th</sup> September 2006 the Cabinet considered an initial report on a proposal for the redevelopment of the Dudley Civic Quadrant site i.e. the Council House and other civic buildings on the “island” bounded by Priory Road, Priory Street, St James’s Road and Ednam Road which in total is a 3-acre site.
3. The redevelopment of Dudley Town Centre is one of the Council’s key regeneration objectives. A number of development sites have been identified through the Area Development Framework.
4. For regeneration to happen it is recognised that the Council is a key player because of its financial and property resources and its statutory powers to acquire land.
5. The Council’s main office accommodation is spread in a number of buildings in and around the Civic Quadrant and at Cloughton, Tower Street and Mary Stevens Park. Every directorate is on split sites and there may be a number of smaller sites that should be considered for inclusion in a comprehensive redevelopment. The portfolio of properties has grown opportunistically over many decades with little strategic thought or direction, leading to operational inefficiencies and, in some cases, working environments which are less than satisfactory.
6. The proposal for the Dudley Civic Quadrant has been submitted by BV Strategies Ltd (BVS) who have developed an “in-sourcing” model and associated “4e” procurement methodology .

## BVS

7. The “in-sourcing” model and “4e” methodology were designed for use by the private sector wishing to select and offer its skills and resources to local authorities in support of the use of public resources. This is a fundamentally different approach to the more traditional “out-sourcing” model whereby a local authority hands its resources (and much of its control) over to the private sector.
8. The “4e” methodology consists of 4 phases: Explore (e1), Examine (e2). Evaluate (e3) and Engage (e4).
9. BVS has established a collection of specialist companies who collectively can contribute high quality skills, resources and experience in areas such as finance, human resource, property, law and information technology. This network is known as the PSP Network Companies.
10. Briefly the “4e” methodology is:-
  - e1 – Explore the possibility of a development opportunity;
  - e2 – Examine the viability of the project by setting up a Special Purpose Vehicle to develop a business plan and a programme plan;
  - e.3 – Evaluate the companies that will deliver the project;
  - e4 – Engage a network of companies to create a Joint Venture to implement the agreed programme.
11. Earlier this year BVS considered whether Dudley would be a suitable local authority for their model. BVS responded positively and undertook the “e1” (Explore) phase at no cost to the Council. The outcome (which was reported informally to the 3 political groups in July 2006) ascertained the viability of the Dudley Civic Quadrant proposal including a preliminary design and investment appraisal. The use of the PSP Network Companies has resulted in a proposed programme with the following overall parameters; -
  - Civic Quadrant – initial investment proposal for design, build and fit-out of a new facility including retention of the facades of our historic buildings and incorporating state of the art energy management measures;
  - Disposal Proposal – initial proposal in relation to unlocking the value of Council buildings effected through development of the Civic Quadrant site;
  - Flexible Working – initial consideration of potential efficiencies (based upon case studies) taking account of the additional value that could arise from the Council having more modern office accommodation (compared with efficiency gains that could be generated through existing accommodation);
  - Regeneration Proposal – in the context of the potential inclusion of other public agencies’ use of the Civic Quadrant site through initial discussions with members of the Community Partnership.

## Proposed Programme

12. Broadly the Programme is based on the following: -.
- total investment of £80m plus;
  - 2,600 square metres of retail space;
  - 6,500 square metres of residential development to produce 100 2-bedroom apartments;
  - office accommodation for 1,600 Council staff;
  - underground car parking for 750 vehicles.
13. It must be emphasised that the above are initial proposals which must be fully tested in the “e2” (Examine) stage during which they will almost certainly change to some extent. Specifically the proposals will be judged against a number of Success Criteria of which further details are given below.

## Examine (“e2”) Stage

14. BVS are now seeking formal confirmation from the Council of the Council’s interest in the Programme and to the role of BVS as facilitator before we proceed to the next and more detailed Examine stage.
15. The Examine stage would deliver the following outputs:-
- an overall Programme Plan for the implementation of the Dudley Civic Quadrant;
  - an agreed detailed Business Case confirming the initial financial evaluation and clearly identifying and quantifying efficiencies;
  - a Legal Framework encompassing a procurement process and a joint venture structure;
  - a detailed Financial Model demonstrating the additional value and affordability of the overall Programme;
  - a proposal in respect of the appointment of a Supply Chain to undertake construction of the Dudley Civic Quadrant and delivery of the associated efficiency Programme.

16. Some of the key activities in this phase will include: -
- the development of an initial Programme Plan for “e2”;
  - agreeing roles and responsibilities;
  - establishing a Joint Programme Board;
  - agreeing a consultation and communication strategy.
17. When this matter was considered by the Cabinet on the 13<sup>th</sup> September 2006 it was resolved that:-
- i) the scheme be supported in principle;
  - ii) the proposed Success Criteria be supported in principle;
  - iii) there be a further report to the Cabinet on the detailed wording of the Success Criteria;
  - iv) the final decision on proceeding with the “e2” (Examine) stage of the scheme be taken by full Council.

#### Success Criteria

18. During the last 2 months officers have been negotiating with BVS on an agreement for the Examine stage including:-
- a clarification of the Success Criteria;
  - liability for abortive fees incurred if all of the Success Criteria are met but the Council unilaterally decides not to proceed with the project;
  - ownership of the Intellectual Property Rights of the project.
19. Also during this period BVS has been seeking to engage a commercial partner to provide funding for the Examine stage and beyond. When appointed the funder would be a shareholder with BVS in its wholly owned subsidiary, Public Sector PLC, which would be the Special Purpose Vehicle referred to in paragraph 10.
20. The proposed Success Criteria are set out in Appendix 1.
21. In addition to specifying the Success Criteria Appendix 1 identifies the matters which must be taken into account and the party or parties who will determine whether the Success Criteria are met. The latter is subject to a procedure for resolving disputes in the event of any disagreement.
22. Success Criteria 5 is that the project continues to be a priority for capital investment. As this is entirely within the control of the Council and cannot be influenced by the other parties, it is proposed that the Council be recommended to make this commitment at its meeting on the 4<sup>th</sup> December 2006 and thereby sign off this

criterion. Alternatively, if the Council chose to delay confirming this commitment and later changed its mind on this project being a priority, the Council would be faced with liability for abortive fees as described in paragraph 25 below.

23. In order to minimise risk and costs, the signing-off of the Success Criteria will be in two phases. First, Phase 1 will address the following key Success Criteria within a period of four months:-

- 2 – Provides an acceptable solution to the Council's accommodation needs;
- 3 – Offers good value for money;
- 4 – Is affordable;
- 7 – Can be procured/delivered within an acceptable legal framework and timescale.

If the parties sign off the above Success Criteria, Phase 2 will examine the remaining Success Criteria.

24. The initial evaluation of the Success Criteria will be undertaken by a Joint Corporate Steering Board comprising 4 representatives from the Council and 4 from BVS/Public Sector PLC. who will submit a recommendation to the parties.

#### Fees

25. During the Examine stage a considerable amount of professional fees will be incurred by or through Public Sector PLC as the Special Purpose Vehicle for this project. If this project proceeds to implementation, such fees will be a part of the total project cost in the normal way. If the scheme does not proceed because one or more of the Success Criteria have not been met, the Council will have no liability for such fees. However, if the Success Criteria for Phase 1 are met in full but the Council unilaterally decides not to proceed, the Council will have liability to pay such abortive fees up to a cap of £500,000 for fees incurred in Phase 1, referred to in paragraph 23.

26. At this stage it is not possible to provide a reliable estimate for the fees generated in Phase 2 and beyond. Accordingly, at the conclusion of Phase 1, if the Phase 1 Success Criteria have been met, there will be a further report to the Cabinet that will then consider whether or not to proceed to Phase 2. If the Council does decide to continue with Phase 2, it will also have to make a firm commitment to complete the whole project unless the remaining Success Criteria are subsequently not met.

27. In view of the above the Council and BVS/Public Sector PLC recognise the importance of controlling expenditure and, therefore, it is recommended that all work to be commissioned within the Examine stage be approved by the Joint Corporate Steering Group to ensure that it is both necessary and cost effective.

## Intellectual Property Rights

28. The “4e” model and methodology is protected by intellectual property rights, e.g. copyright. As the Council will be playing a significant role in developing this model within a local authority context, it is reasonable for the Council to have a share of these intellectual property rights from which it would benefit financially when the model is used for other developments. This is an extremely complex area of law and will be the subject of further discussions with BVS/Public Sector PLC as we proceed through the Examine stage.

## Conclusion

29. There is a huge number of issues to be addressed during the Examine phase of the project including financial viability, planning and the involvement of other public sector partners. However, this is a unique opportunity for the Council to generate a significant investment in Dudley Town Centre in support of the Area Development Framework, make a number of efficiencies in its operational practices and energy management, and improve its office accommodation.
30. It is proposed, therefore, that the Cabinet recommend to the Council that we enter into an Agreement with BVS/Public Sector PLC to proceed to the Examine stage.

## Finance

31. This project is likely to involve total capital investment in the order of £80m, of which about £50m would come from a combination of borrowing, the sale of Council assets or the transfer of Council owned land and buildings to the Special Purpose Vehicle. Therefore, it has significant financial implications, the details of which will need to be considered as part of the Examine phase (see paragraph 15).
32. The proposed Success Criteria set out in Appendix 1 include value for money and affordability. It is important to recognise that, although it should be possible to make significant efficiency savings and gains, there may well be increased revenue costs which will need to be considered in the context of the Council’s future years Budgets and Medium Term Financial Plans. Experience elsewhere shows it has sometime not been possible to finalise major projects of this type and scale because of affordability issues.
33. Paragraph 25 highlights the potential risk of having to meet significant abortive fee costs. At the present time, there is no specific budget provision for these costs, which would therefore, become a cost on the Council’s limited reserves.

## Law

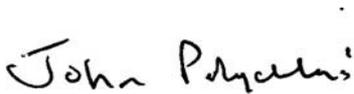
34. Section 2 of the Local Government Act 2000 enables the Council to do any thing which it considers is likely to achieve the promotion or improvement of the economic, social or environmental wellbeing of its area.

## Equality Impact

35. The Dudley Civic Quadrant will be fully compliant with the Disability Discrimination Act and the project will be consistent with the Council's policies on equality and diversity.
36. Children and young people will be consulted on the proposals during the Examine phase.

**Recommendation**

37. It is recommended that the Council be recommended to:-
1. Approve the Success Criteria set out in Appendix 1 of this report and confirm that this project is and will remain a priority for the Council for capital investment;
  2. Note the liability for fees for Phase 1 referred to in paragraph 25 of this report;
  3. Authorise the Director of Law and Property, in consultation with the Director of Finance, to negotiate, agree and enter into an Agreement with BV Strategies Ltd and Public Sector PLC for the Examine phase including any requirement for the payment of fees;
  4. Authorise the Director of Law and Property, in consultation with the Leader, to appoint the Council's representatives on the Joint Corporate Steering Board referred to in paragraph 24 of this report;
  5. Note that there will be a further report at the conclusion of Phase 1, as referred to in paragraph 26 of this report;
  6. Request the Director of Law and Property and the Director of Finance to keep the 3 Group Leaders informed of the progress of this project.



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J Polychronakis  
**Director of Law and Property**

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M Williams  
**Director of Finance**

Contact Officer: John Polychronakis.  
Telephone: 01384 (81)5300  
Email: john.polychronakis@dudley.gov.uk

**List of Background Papers**

Nil

## APPENDIX 1

<b>The Success Criteria</b>	<b>Matters which the parties agree that PSP shall have regard to</b>	<b>Party or parties to determine whether Success Criteria are met</b>
<p><b>1. CONSISTENT WITH COUNCIL PLAN PRIORITIES</b> - and does not conflict with other policies, plans and initiatives.</p>	<p><b>Plans, policies:</b> The planned priorities are the relevant priorities contained in the current Corporate Plan, the current Community Strategy, the current Area Development Framework and the current Black Country study (the Choices Consultation Report).</p>	<p><u>Council and PSP and a suitable expert.</u></p>
<p><b>2. PROVIDES AN ACCEPTABLE SOLUTION TO THE COUNCIL'S ACCOMMODATION NEEDS</b> - and meets the brief for what we need.</p>	<p><b>Acceptable solution:</b> The design of the Project will be such that it provides practical and deliverable proposals in accordance with Council Policies[, Custom and Practice] and Legislative Requirements for (subject to PSP confirmation of the assumptions upon which the initial investment appraisal in the Presentation Document was based and subject to refinement during the e2 phase) a mixed scheme development to be defined, comprising offices, retail and residential uses.</p>	<p>Council and PSP</p>
<p><b>3. OFFERS GOOD VALUE FOR MONEY</b> - compared to existing quality and costs, and produces worthwhile and acceptable efficiency savings.</p>	<p><b>VFM:</b> Value for money will be demonstrated through comparison of the project business case with (a) the Council's existing budgets, accommodation and services and (b) an appropriate public sector comparator. This must include the demonstration of best value considerations or any land and property disposals in the context of their wider regeneration benefits.</p>	<p>Council, PSP and an expert appointed by the parties [Note: principles regarding the appointment and role of the expert to be included in this Agreement including whether expert will be final determiner.</p>
<p><b>4. IS AFFORDABLE</b> - in the context of the Council's Budgets</p>	<p><b>Affordability:</b> The quantification of affordable is that the additional annual cost (including</p>	<p>Council</p>

	<i>and Medium Term Financial Plans.</i>	<i>any loss of income from asset disposals and any incidental or indirect costs associated with the Project.) of developing the Project to be borne by the Council is “cost” neutral in the context of the Council’s revenue budget and financial plans. That is the additional revenue cost is offset by a combination of first, substitution savings (savings in the cost of existing accommodation provision); and second, efficiency savings (cash) based on an agreed programme of change with reference to individual services and an agreed calculation of the “people” impact of the change programme. All savings to be net of any costs required to effect such savings.</i>	
5.	<b>CONTINUES TO BE A PRIORITY FOR CAPITAL INVESTMENT</b> - compared to other developments e.g. Archives, New Children's Homes(s), etc.	<b>Priority for investment:</b> In order for e2, e3 and e4 to proceed the Council would commit to sustaining the priority for capital investment and associated revenue costs in the Project over its life.	Council
6.	<b>MAKES A POSITIVE CONTRIBUTION TO THE REGENERATION OF THE TOWN CENTRE</b> - as measured by the number of jobs/retained/created, increased Town Centre trade etc.	<b>Regeneration and positive contribution:</b> The success of the criterion will be measured against the existing King Sturge regeneration model which currently shows a positive contribution for the _Project. The criterion will be met if the final development appraisal also makes a positive contribution.	Council and PSP
7.	<b>CAN BE PROCURED/ DELIVERED WITHIN AN ACCEPTABLE LEGAL FRAMEWORK AND TIMESCALE,</b>	<b>Legal framework and timescale:</b> The legal framework must demonstrate that the Project can be undertaken within the Council’s vires and with the aim of avoiding a successful challenge. It must also provide an acceptable joint venture	Council and PSP and a legal expert (e.g. the Bar Panel).

	<i>including the requirements of Partner Organisations.</i>	<i>structure for the overall implementation of the Project. An acceptable timetable for implementation of the project will be demonstrated in the Project Plan which will be developed and agreed with the Council during e2.</i>	
8.	<b>THAT "PUBLIC SECTOR PLC" IS CONSIDERED TO BE A REPUTABLE PARTNER.</b>	<b>Reputable Partner:</b> <i>Public Sector Plc will be reputable if it demonstrates its skills, expertise and resources in undertaking and completing a project of this kind (including drawing together participating Network members, funders and supply chain appropriate to a project of this kind).</i>	<i>Council</i>
9.	<b>DOES NOT PUT AT RISK THE COUNCIL'S ASSETS</b> - <i>whatever vehicle is chosen to deliver a solution must ensure adequate safeguards to protect the Council.</i>	<b>Risk to assets:</b> <i>An agreed risk management plan will be developed during e2 demonstrating the means by which the Council's assets will be protected. It must also be demonstrated that the project does not adversely affect the Council's financial standing, including, but not exclusively, any increased liability for taxation or reduced flexibility to raise capital or other funding for its other projects.</i>	<i>Council and PSP</i>
10	<b>CONTRIBUTES TO THE DEVELOPMENT OF CORPORATE AND PARTNERSHIP WORKING</b> - <i>an important element in the way the Council wishes to do business.</i>	<b>Corporate and Partnership working:</b> <i>The criterion will be demonstrated through the setting up and operation of the JCSB. Wider participation with other public sector organisations and voluntary Sector will have been demonstrated following consultation with potential partners during the e2 phase.</i>	<i>Council and PSP</i>