

## Sandwell Metropolitan Borough Council Statement of Decisions made at a meeting of the Executive on Wednesday, 9 February 2022

Published:

The following decisions were made by the Executive at its meeting on **Wednesday, 9 February 2022**. These decisions will come into force on **17/02/2022**. A decision by the Executive may be called-in (in accordance with Part 4 – Scrutiny Procedure Rules of the Council's Constitution) by **16/02/2022**. Should you have any queries about any decision that has been made, contact should be made in the first instance to Democratic Services at [democratic\\_services@sandwell.gov.uk](mailto:democratic_services@sandwell.gov.uk). Any declaration of interest made by any member of the Executive is shown below.

	Item	Reason for Decision:	Alternative options:	Lead officer:
5	<p><b>West Bromwich Interim Planning Statement (IPS) and West Bromwich Masterplan (Masterplan)</b></p> <p>Resolved:</p> <p>1.1. That Cabinet note the outcome of the public consultation and the response to the representations received.</p> <p>1.2 That Cabinet approve the West Bromwich Interim Planning Statement and West Bromwich Masterplan.</p>	<p>Following public consultation, approval of the West Bromwich Interim Planning Statement (IPS) and associated West Bromwich Masterplan (the Masterplan) will provide the Council with an updated framework to guide the further regeneration of West Bromwich which is the borough's Strategic Centre. The documents will bridge the gap between the current statutory Local Plan document, the 2012 West Bromwich Area Action Plan, and its replacement expected to be adopted in 2024.</p> <p>The documents are non-statutory and non-binding. They do not formally replace the existing development plan allocations in the WBAAP/SAD DPD which remain extant.</p> <p>This report responds to minute 36/20 of the Cabinet meeting held on 5th Feb 2020 which required a report to Cabinet on the outcome of Public Consultation on the IPS and Masterplan.</p>	<p>The alternative to endorsing this Interim Planning Statement and Masterplan is that the existing development planning framework as set out in the West Bromwich Area Action plan becomes increasingly out of date. This will diminish the prospects of securing investment and development for the continued regeneration of West Bromwich.</p> <p>It is considered that not providing an IPS and Masterplan would mean the gap between the existing Local Plan and WBAAP, and the revised version - after 2024 at the earliest - would be too great. Following endorsement, the IPS and Masterplan will form a material planning consideration that can fill in this gap.</p> <p>The Masterplan aims to provide business confidence in a number of intervention areas/zones (development sites) whilst also providing a clear, deliverable vision for West Bromwich Centre.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
6	<p><b>Re-commissioning Sandwell Adult Drug and Alcohol Treatment Services</b></p> <p>Resolved that:</p> <p>1.1. The recommendation to re-commission Adult Drug and Alcohol Treatment Services ensuring future delivery of support for Sandwell residents, be approved.</p> <p>1.2. The Director of Public Health be authorised to commence a procurement process for the provision of Adult Drug and Alcohol Treatment Services to commence 1 February 2023 for a period of 3 years with the option to extend for up to a further 2 years.</p> <p>1.3 Further to recommendation 1.2, the Director of Public Health be authorised to include any future Drug Strategy monies awarded from National Government into the contract value to enable delivery of the 2021 Drug Strategy ambitions towards delivering a world class treatment system.</p> <p>1.4 The Director of Public Health be authorised to award a contract and enter into a contract with the successful bidder, on terms to be agreed by the Director of Public Health, for the provision of Adult Drug and Alcohol Treatment Services to commence on 1 February 2023 for a period of 3 years to 31 January 2026 with the option to extend up to a further 2 years (until 31st January 2028).</p> <p>1.5 That an exemption to rule 8.7 of the Procurement and Contract Procedure Rules 2018/19 be made to allow a contract to be awarded to a successful tenderer in the event that the required minimum number of tenders are not received.</p> <p>1.6 The Director of Public Health, in consultation with the Cabinet Member for Adults, Social Care and Health, be authorised to make variations to the Contract up to a maximum of 10% of the Contract value, should they be necessitated.</p> <p>1.7 The Director of Law and Governance be authorised to execute any documentation necessary to give effect to the proposals set out in 1.1 – 1.6 above for the provision of Adult Drug and Alcohol Treatment Services.</p>	<p>The report seeks approval to the procurement of Adult Drug and Alcohol Treatment Services. This will ensure that support for Sandwell residents continues to be available beyond the currently commissioned service which is due to end 31st January 2023.</p>	<p>Do not approve the procurement of Adult Drug and Alcohol Service provision beyond 31st January 2023. This will impact health outcomes (not just of substance misusers themselves but the health of others through secondary harms) and further exacerbate health inequalities for our most disadvantaged groups within the borough. This would be inadvisable given the impact across the wider health and criminal justice system due to substance misuse.</p>	<p>Page 3 of 13</p>

	Item	Reason for Decision:	Alternative options:	Lead officer:
7	<p><b>Appointment of an Executive Director to Sandwell Children's Trust Ltd</b></p> <p>Resolved that:</p> <p>The Cabinet, as the decision maker for the Council, in its capacity as sole owner of Sandwell Children's Trust (SCT):</p> <p>(a) note the completed sequence of events that were contractually required to appoint an executive director of Sandwell Children's Trust Ltd;</p> <p>(b) note and take into account in its decision-making, the response from the Secretary of State;</p> <p>(c) agree to the appointment of Teodora Bot, Director of Practice, Quality and Partnerships, as an executive director of Sandwell Children's Trust Ltd.</p>	<p>There are currently only two executive directors in place, one of which is the Chief Executive of the Trust. The appointment of Teodora Bot as the third executive director will bring the composition of Sandwell Children's Trust board into alignment with the Governance Side Agreement between the Council and DfE.</p> <p>The Council has written to the Secretary of State to consult with them prior to confirming its decision. At the time of writing this Cabinet report, Department for Education (DfE) officials have confirmed by email that the Parliamentary Under Secretary of State for Children and Families has approved the recommendation.</p> <p>Following the completion of the required process to consult the Secretary of State, and to take into account the response, the Cabinet is now recommended to agree the recommendations set out in this report.</p>	<p>The alternative option would be for the Director of Practice, Quality and Partnerships to not be appointed as a company director. However, this would mean the composition of the board of directors was other than that as set out in the Governance Side Agreement and Articles of Association.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
8	<p><b>Award a Contract for Highway Surfacing and Associated Works</b></p> <p>Resolved that:</p> <p>1.1 Sandwell MBC work in collaboration with Dudley MBC and Wolverhampton City Council with Dudley acting as the lead Authority to procure a contract for the provision of highway surfacing and associated works.</p> <p>1.2 the Director of Borough Economy be authorised to accept tenders and award the recommended collaborative contract for the provision of highway surfacing and associated works in support of Sandwell's annual planned highway maintenance programme, following a compliant competitive tender process.</p> <p>1.3 the Director of Law and Governance and Monitoring Officer be authorised to execute any documentation necessary to enable the recommended course of action.</p> <p>1.4 Any necessary exemptions to be made to the Procurement and Contract Procedure Rules to enable the recommended course of action referred to proceed.</p>	<p>To enable the effective completion of highway maintenance works a suite of contracts are in place covering different specialist methods of work. The current contract for highway surfacing and associated works is due to expire on 30th April 2022.</p> <p>The existing agreement was also a collaborative exercise with Dudley MBC acting as lead authority and has ensured Sandwell can fulfil its statutory obligations as Local Highway Authority for maintenance of the public highway network, while benefitting from economies of scale and reduced tendering costs.</p> <p>Subject to the required approvals, the new contract will be in place to allow seamless transition from the current framework.</p>	<p>There are no recommended affordable alternatives to enable effective and efficient highway surfacing and associated works.</p>	
9	<p><b>Revocation of Highway Improvement Lines - A41 Birmingham Road, West Bromwich</b></p> <p>Resolved that:</p> <p>the Cabinet agree to revoke the highway improvement lines at A41 Birmingham Road/Park Lane, West Bromwich which are more particularly identified in Drawing No. SP0290SE/J attached to the report as considered by Cabinet.</p>	<p>Following a review by both Sandwell and Birmingham Councils, the road widening scheme on the A41 between Park Lane and Island Road is no longer intended to be delivered. Therefore, the improvement lines which protect the land required for the scheme are no longer required.</p>	<p>The alternative course of action is to retain the improvement line. However, as the City Council no longer wishes to pursue road widening in this location, and Sandwell has no proposals of its own for the land affected, there is no justification to do so.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
10	<p><b>Smethwick to Birmingham Area Framework and Grove Lane Masterplan</b></p> <p>Resolved:</p> <p>1.1 That Cabinet consider the results of the consultation undertaken on the Smethwick to Birmingham Area Framework and Grove Lane Masterplan during October to December 2021 as set out in the Consultation Report.</p> <p>1.2 That Cabinet approve the Area Framework and Grove Lane Masterplan as amended, and for both documents to be treated as a material consideration in the determination of future planning applications.</p>	<p>The Draft Smethwick to Birmingham Area Framework and Grove Lane Masterplan were presented to Cabinet in June 2021 for consultation. However, prior to consultation being undertaken, amendments were requested from Birmingham City Council in the capacity of our joint partner for this project. Following this revision, both documents were presented to Cabinet again on 29 September 2021 for authority to consult. It was also recommended that a further report be presented to Cabinet with the results of the consultation in due course. Consultation is now complete and both documents have been amended to take into account relevant amendments. This report requests that both documents are approved to assist with guiding decisions on future development proposals in the area.</p>	<p>Alternative option is not progressing with the Masterplan for the Grove Lane area, which may lead to unconnected, piecemeal development that would lack cohesiveness and not provide for connectivity to the wider area and the creation of new, related communities.</p> <p>Similarly, not progressing with the Corridor Area Framework may lead to the corridor not achieving the vision set out by the respective local authorities and partner agencies for the regeneration transformation this area could achieve.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
11	<p><b>Sandwell Valley Urban Bike Park Project</b></p> <p>Resolved:</p> <p>That approval be given to create a series of cycle trails within Sandwell Valley, close to the Swan Pool area and on neighbouring land within Birmingham (The former Hill Top Golf Course).</p> <p>1.2 That the Director of Borough Economy in consultation with the Section 151 Officer be authorised to:</p> <ul style="list-style-type: none"> <li>• Prepare the necessary Tendering documentation.</li> <li>• Procure, in accordance with the public procurement rules, the Council's procurement and financial regulations a contractor(s) to develop, on behalf of the Council, the proposed scheme; to enter into or execute under seal any financial agreement(s) as may be deemed necessary in relation to the scheme.</li> <li>• Accept Grant funding from both Sport England (£400,000) and Birmingham City Council (£100,000) on terms and conditions to be agreed by the Director of Borough Economy in consultation with Legal services.</li> <li>• Commit match funding of £100,000 towards the project.</li> </ul>	<p>The creation of new cycle trails will help to increase visitor numbers to Sandwell Valley and make it a popular destination for cyclists within the region. The facility will be a 'Legacy' from the 2022 Commonwealth Games and encourage people to visit the area and provide many health benefits.</p> <p>The recommendations above will allow the project to be delivered in line with the project plan which has been submitted to, and agreed, by both Sport England and Birmingham City Council.</p> <p>By authorising the Director of Borough Economy to oversee the implementation of recommendations will remove the need for further reports and use of Cabinet time.</p>	<p>No alternative options have been considered for this project, however as the scheme will be delivered on a 'design and build' basis, the final designs can be altered to fit with on-site factors such as environmental / ecological matters.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
12	<p><b>Council new build homes on land at Beever Road, Tipton</b></p> <p>Resolved that:</p> <p>1.1 Approval be given to make an application to the Secretary of State to appropriate the site for housing purposes and develop approximately 0.783 hectares of land at Beever Road, Tipton with new affordable rent council housing, as shown for identification purposes only at Appendix 1 and subject to the Secretary of State's consent.</p> <p>1.2 That the Director of Finance be authorised to allocate adequate resources from the Council's Housing Revenue Account to deliver the scheme and to utilise grant funding offered by Homes England, under the extended Homes England Strategic Partnership 1 Programme 2016 to 2021, to assist with the delivery of the project.</p> <p>1.3 That the Director of Regeneration and Growth in consultation with the Director of Finance and subject to confirmation of the funding rules applicable, be authorised to submit an application for funding to the West Midlands Combined Authority and in the event funding is successful, the Director of Regeneration and Growth in consultation with the Director of Finance and the Director of Housing be authorised to accept the funding and execute under seal any financial agreement in relation to the West Midlands Combined Authority grant on terms and conditions to be agreed by the Director of Finance;</p> <p>1.4 Approval be given to authorise the steps necessary for the delivery of the proposed project, including:</p> <p>a) subject to 1.2 above, the Director of Regeneration and Growth in consultation with the Director of Finance and the Director of Housing be authorised to prepare tendering documentation and subsequently procure, in accordance with any statutory regulations and the Council's Procurement and Financial Regulations and if so chosen as a procurement route any appropriate requirements of the Homes England Delivery Partner Dynamic Purchasing System (DPS) framework, a contractor/contractors as described in g) below to develop, on behalf of the Council, the proposed housing scheme; to enter into or execute under seal any financial agreement in relation to the Homes England grant on terms and conditions to be agreed by the Director of Finance;</p> <p>b) subject to a) above, the Director of Law and Governance and Monitoring Officer be authorised to enter into or execute under seal any documentation in relation to award of the contract</p>	<p>Following the introduction of greater flexibilities for local authorities the Council is able to develop this site with circa 18 homes, as part of the new strategic approach to provide more and better housing in the borough.</p> <p>This project will deliver 18 new Council-owned affordable rented properties on a council-owned site including 10 bungalows and 8 apartments are 2 flats and 2 bungalows that are being built to M(4)3 full wheelchair compliant standard for people with specific needs.</p>	<p>Option A – Dispose of the Site on the Open Market: If this option is pursued it could result in the disposal of the land for market sale units only. Owing to very difficult ground conditions (the levels and the ground remediation) the site is unlikely to provide commercial developers with the profit margins they require. Planning policy HOU3 where consideration must be given to the provision of up to 25% affordable housing on site is very likely to be challenged on viability grounds. This option would also offer nil contribution to the Council's new build programme.</p> <p>Option B – Work in partnership with a Registered Provider Partner with the assistance of Homes England to build new affordable homes for rent: This would give the Council nomination rights to the new properties but would not increase the Council owned housing stock or replace properties lost through RTB and would result in the disposal of a council owned asset (land) that could be used for this purpose. As with option A above the high build costs and viability issues may render this site less attractive to Registered Providers.</p> <p>Option C – Leave the site undeveloped: There are ongoing maintenance costs to the Council around litter picking, grounds maintenance and ongoing maintenance and liability for</p>	<p>Page 8 of 13</p>

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13	<p><b>Award of Contracts for Horticultural Products and Tools</b></p> <p>Resolved:</p> <p>1.1 That, the provision of Horticultural Products and Tools be awarded to the following organisations, at a cost of £475,000 from the period April 2022 to March 2026:</p> <table><tr><th>Lot No.</th><th>Description</th></tr><tr><td>Lot 1</td><td>Aggregates &amp; Turf</td></tr><tr><td>Lot 2</td><td>Feeds, Seeds and Chemicals</td></tr><tr><td>Lot 3a</td><td>Herbicides</td></tr><tr><td>Lot 3b</td><td>Herbicides - Premixed</td></tr><tr><td>Lot 4</td><td>Spraying Equipment</td></tr><tr><td>Lot 5</td><td>Tools &amp; Equipment</td></tr></table> <p>1.2 That in connection with 1.1 above, the Director – Law and Governance and Monitoring Officer be authorised to enter into appropriate contracts with these organisations.</p>	Lot No.	Description	Lot 1	Aggregates & Turf	Lot 2	Feeds, Seeds and Chemicals	Lot 3a	Herbicides	Lot 3b	Herbicides - Premixed	Lot 4	Spraying Equipment	Lot 5	Tools & Equipment	<p>Sandwell MBC have a responsibility to maintain a broad range of green spaces and communal areas across the Borough, including Parks and Sandwell Valley, Cemeteries/Crematoria, Housing Estates, Industrial Estates, Corporate and Highways Land, etc.</p> <p>Maintenance of these areas requires the use of products, materials, tools and equipment – some of which are of a specialist nature.</p> <p>The total expenditure over the four-year life of these Contracts is estimated to be £475,000.</p>	<p>Do nothing. The current contracts for Horticultural Products and Tools have lapsed, therefore in order to meet the Procurement Rules, the Council would need to go out for quotation/tender for individual items as and when they are required. This would result in numerous mini procurement exercises being carried out, which would be inefficient, likely to lead to breaches of the procurement procedures and is unlikely to be financially beneficial to the Council.</p>	
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Lot 2	Feeds, Seeds and Chemicals																	
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14	<p><b>High Needs Block Funding Allocation</b></p> <p>Approval was sought to authorise the Director of Children and Education to distribute High Needs Block (HNB) grant funding allocated by central government to meet the needs of children and young people with additional needs, including special educational needs for the period 1 April 2022 to 21 March 2023.</p>	<p>Every year the Council agrees with the Schools’ Forum the local formulae through which the money is then distributed to schools and early years settings. The Council is also responsible for distributing the high needs funding to meet the needs of children and young people with additional needs, including special educational needs. This is also done in consultation with the Schools’ Forum.</p>	<p>A range of alternative proposals were considered during the stakeholder engagement and consultation process, before the final proposals were submitted to the Schools’ Forum for approval on 8 November and on 3 December 2021.</p>															

	Item	Reason for Decision:	Alternative options:	Lead officer:
15	<p><b>Action Taken on a Matter of Urgency - Uplift of Hourly Rate - Domiciliary Care Costing Model</b></p> <p>Resolved:</p> <p>That, the urgent action taken by the Leader of the Council be noted, in relation to giving approval to an addition to the costing model used to calculate the domiciliary care hourly rate to include the increase to National Insurance Contributions from April 2022 and to uplift the hourly rate of the updated costing model for existing domiciliary care framework contracts and for the new domiciliary care agreements that are to be procured for service delivery from 1 September 2022, be noted.</p>	<p>The matter was urgent and could not be delayed until the next Cabinet meeting as procurement timescales were prohibitive to enable a report to Cabinet and legislative change requiring an increase to National Insurance Contributions was required from 6 April 2022.</p> <p>The action taken was in accordance with the scope of authority of the Leader of the Council.</p>	<p>There is an option to do nothing and leave the model as it is, however it is likely that if it is not agreed, there is a risk to the ability of the Council to discharge its statutory obligations as a result of:</p> <ul style="list-style-type: none"> <li>• Services becoming unviable and a lack of sufficient depth in supply;</li> <li>• Providers handing contracts back;</li> <li>• Recruitment challenges already experienced in the sector, increasing;</li> <li>• Inability to discharge individuals from hospital when they are medically optimised, creating pressure in the wider health and social care system;</li> <li>• Increased discharges to bed-based provision due to the lack of depth in supply of domiciliary care;</li> <li>• Failure to properly take account of Care Act responsibilities around market shaping and market sustainability;</li> <li>• Inability of Brokerage Teams to source packages of care;</li> <li>• Reduction in quality and increased safeguarding issues, with providers potentially cutting corners due to a challenging hourly rate.</li> </ul>	

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	Item	Reason for Decision:	Alternative options:	Lead officer:
17	<p><b>Sandwell Leisure Trust Business Plan 2021-24</b></p> <p>Resolved:</p> <p>1.1 That the business plan presented by Sandwell Leisure Trust (SLT) for 2021-2024 (as set out at appendix 1) in accordance with the Management and Funding Agreement dated 31<sup>st</sup> March 2004 ("hereinafter "the Agreement") be refused.</p> <p>1.2 That the Director of Borough Economy be given authority to:</p> <p>a) formally notify SLT that the Council resolved not to approve SLT's Business Plan for 2021-2024 (as set out at appendix 1) and does not agree the unitary payments requested by SLT for the years 2022/23 and 2023/24 (as set out at appendix 2).</p> <p>b) serve reasonable notice of termination of the Agreement upon SLT due to the Council and SLT being unable to agree a business plan and unitary payment for the years 2021-2024 pursuant to clause 41.18.</p> <p>c) bring a further report to Cabinet detailing a full Options Appraisal of future leisure service provision/delivery options.</p> <p>d) negotiate and agree with SLT such arrangements as are deemed appropriate and/or necessary, in consultation with the Cabinet Member for Culture and Tourism, to enable effective leisure service provision during the notice period under paragraph 1.2(b) above.</p> <p>e) procure and appoint of an interim leisure provider, in consultation with the Cabinet Member for Culture and Tourism, in the event that SLT disputes the and walks away from the Agreement.</p> <p>1.3 That the Director of Law and Governance &amp; Monitoring Officer and Director of Borough Economy be authorised to negotiate, agree and execute any agreements, notices and/or documents necessary to give effect to paragraph 1.2(a) – (e) above.</p>	<p>Resolving matters related to the Sandwell Leisure Trust Business Plan 2021-2024 will ensure the sustainable delivery of leisure services in Sandwell, providing local people with local opportunities to be active, contributing to health and well-being.</p> <p>Appointed leisure consultants have supported the consideration of the Business Plan produced by Sandwell Leisure Trust, and this review has identified significant issues which have not yet been resolved, with the result that the Business Plan is not recommended for adoption.</p>	<p>To extend the negotiation period. This is not recommended as a considerable period of negotiation has already been undertaken. This has been informed by a robust review by a consultant, it is not good business practice to deliver services without an agreed and robust business plan in place.</p> <p>To accept the Business Plan. This is not recommended for the reasons set out above.</p> <p>Future alternative delivery arrangements shall be progressed, in the event of termination, and a full Options Appraisal Report presented to cabinet.</p>	

	Item	Reason for Decision:	Alternative options:	Lead officer:
18	<p><b>Sandwell Community Dementia Support Service</b></p> <p>Resolved:</p> <p>1.1 That approval was given to authorise the Director for Adult Social Care to directly award a contract for the community dementia support service to a provider nominated by a group consisting of the delivery partners of the current service.</p> <p>1.2 That in connection with 1.1 above, the Director for Adult Social Care be authorised to award the contract for twelve months duration with the flexibility to extend this by three months in the event of unplanned and unforeseeable delays to the procurement process running in parallel to the period of the directly awarded contract.</p> <p>1.3 That the Director of Adult Social Care be authorised to award the contract to a yet to be determined organisation for a Community Dementia Support Service.</p> <p>1.4 That the Director - Law and Governance and Monitoring Officer, or their designated representative, be authorised to execute any documents necessary to give effect to 1.1-1.3 above for the provision of a Community Dementia Support Service.</p> <p>1.5 That a further report be submitted to Cabinet on approval for another procurement process to be undertaken following the confirmation of funding from the Joint Partnership Board in June 2022.</p>	<p>Cabinet approval was obtained in October 2020 to develop a Sandwell community dementia support service and formally go out to tender to secure a suitable provider. The Council endorsed the enactment report in July 2021 and the new service went live on the 16 August 2021.</p> <p>There are nine providers in the collaborative, seven of whom have employed dementia advisers or specialist roles directly on a two-year fixed term contract. This poses a significant financial and operational risk for the members of the provider collaborative.</p> <p>On 6 December 2021 the Council received a termination letter from the lead provider stating that they were terminating the Contract with immediate effect.</p> <p>In consideration of these fact and to ensure continued service delivery, the option is sought to Directly Award a contract to an existing delivery partner whilst a formal procurement exercise is undertaken to implement the future service.</p>	<p>An options appraisal was considered to deem the best course of action for the Council. It was agreed to Directly Award a contract for the community dementia support service to a provider nominated by a group consisting of the delivery partners of the current service.</p>	