

REPORT TO: WEST OF ENGLAND COMBINED AUTHORITY COMMITTEE

DATE: 26 JANUARY 2024

REPORT TITLE: BRISTOL TEMPLE QUARTER REGENERATION PROGRAMME

RESPONSIBLE OFFICER: DAVID GIBSON, STRATEGIC DIRECTOR OF INFRASTRUCTURE

AUTHOR: KAREN MERCER, BTQ DELIVERY DIRECTOR

<u>Key Decision</u>	Yes
----------------------------	-----

Purpose of Report

The report seeks approval to participate in the Joint Delivery Vehicle (JDV) being created to drive forward the comprehensive regeneration of the Bristol Temple Quarter (BTQ) regeneration area. It explains the proposed JDV governance arrangements, including the inclusion of representatives from the Unitary Authorities on the JDV Strategic Steering Board to ensure all partners are involved and informed. It explains the proposed JDV operational arrangements, including how land assembly will be achieved, and seeks authorisation for the West of England Mayoral Combined Authority (MCA) or Unitary Authorities to provide “corporate core” support services to the JDV and operating capital by way of a loan facility. It explains that the JDV will procure a Development Partner to build out Phase 1 and plan for the delivery of Phase 2, seeking approval to progress the Outline Business Plan and Delivery Strategy for Phase 2.

Recommendation

That Committee:

- 1) Notes the inclusion of representatives from the Unitary Authorities (to be appointed by each Unitary Authority) on the JDV Strategic Steering Board (Appendix 2) to ensure all partners are involved and informed.
- 2) Authorises the establishment of the Joint Delivery Vehicle (JDV) in line with the principles set out in this report and authorises the Strategic Director of Infrastructure in consultation with the Strategic Director of Resources and Director of Legal and Governance to finalise the arrangements for the JDV and to take such steps as are reasonably necessary to ensure the establishment and efficient and effective operation of the JDV including entering into the Members’ Agreement (paragraphs 2.1 to 2.33);

- 3) Authorises the Strategic Director of Infrastructure, in consultation with the Strategic Director of Resources to approve the BTQ Business Plan, in consultation with Members of the JDV Strategic Steering Board, prior to establishment of the JDV (paragraphs 2.13-2.14);
- 4) Authorises the Strategic Director of Resources to provide corporate core support services (including HR, finance and procurement) through either the West of England Mayoral Combined Authority or Unitary Authorities (subject to agreement) to the JDV on such terms as the Strategic Director of Resources shall decide (to include reimbursement of reasonable costs), and provided always that there is no adverse impact on the West of England Mayoral Combined Authority's ability to deliver its wider programmes (paragraph 2.38);
- 5) Authorises the Chief Executive to decide JDV Reserved Matters functions on behalf of the West of England Mayoral Combined Authority;
- 6) Notes that the JDV will procure a Private Sector Development Partner (PSP) to deliver Phase 1 and support the development of the Strategic Outline Business Case and delivery strategy for St Philip's Marsh (Phase 2), delegating to the Strategic Director of Infrastructure authority to approve (following the West of England Mayoral Combined Authority's internal due diligence and governance processes) the procurement strategy, including evaluation criteria and contracting principles which will provide the framework against which the JDV procure and contract the Development Partner (paragraphs 2.45-2.48);
- 7) Notes that JDV once established will directly procure consultants to provide strategic advice to the JDV and to facilitate delivery of the programme;
- 8) Delegates to the Strategic Director of Infrastructure in consultation with the Director of Legal and Governance and the Strategic Director of Resources authority to agree Delivery Plans for the Infrastructure works as listed in the Grant Funding Agreement dated 20 April 2023 and to enter into (and/or amend) all agreements (including the Collaboration Agreement and the Grant Funding Agreement) as may be necessary to ensure delivery within approved budgets and risk appetite;
- 9) Authorises the Strategic Director of Infrastructure to make the balance of the Bristol City Council (BCC) and West of England Mayoral Combined Authority Grant Funding (previously secured from the Investment Fund) as set out in paragraphs 2.40-2.41 available to the JDV following its set up following BCC approval on 7 November 2023;
- 10) Authorises the allocation of £6.5m from the existing headroom available within the Investment Fund to make a loan facility available to the JDV, on such terms as the Strategic Director of Resources shall decide (to include

the accrual of interest) and for JDV to progress the Phase 2 masterplan and Outline Business Case by 2026 to deliver the next stage of the BTQ Programme; and to delegate to the Strategic Director of Resources to consider and approve the Feasibility and Development Funding Application and to put in place the necessary arrangements to consolidate existing Investment Fund awards and make those funds available to the JDV (paragraphs 2.42-2.43).

Reasons for recommendation

To put in place an effective single entity delivery vehicle in order to consolidate public sector land and to contract with a private sector development partner (PSP) to drive forward the comprehensive regeneration of BTQ and secure a development partner to provide the housing and workspace outputs of the Grant Funding Agreement and secure the wider regional benefits.

Voting arrangements

In order to be carried, a decision on this matter requires a majority of the members present and voting, such majority is to include the Metro Mayor. Each member present may cast one vote. If a vote is tied the decision is not carried. There is no casting vote. Co-opted members are not entitled to vote.

Publication Requirements

- This report is for publication. There are confidential appendices exempt from publication in accordance with Article 3, Schedule 12A Local Government Act 1972 (information relating to the financial or business affairs of any particular person, including the authority holding the information).
- Article 5, Schedule 12A Local Government Act 1972 (information in respect of which a claim to legal professional privilege could be maintained in legal proceedings).

Executive Summary

Summary

- 1.1. The Bristol Temple Quarter Regeneration Programme (BTQ Programme) is a large regeneration scheme that aims to regenerate 130 acres of land in central Bristol. The BTQ Programme will offer Bristol and the West of England significant benefits including through job creation, housebuilding, and a significant boost to the regional economy.
- 1.2. Bringing the BTQ Programme forward requires the cooperation of four key partners: the West of England Mayoral Combined Authority, Bristol City Council, Homes England, and Network Rail (the BTQ Partners). The BTQ Partners have

worked closely on the BTQ Programme since early 2021 and the signing of a collaboration agreement in 2023 saw this partnership formalised. Grant funding totalling £94.7m was secured by the West of England Mayoral Combined Authority in 2022 to fund Phase 1 infrastructure works and was agreed by the West of England Mayoral Combined Authority Committee on 14 October 2022.

- 1.3. This collaboration agreement anticipated the need for the BTQ Programme to be delivered through a Joint Development Vehicle (JDV), which will be owned by the BTQ Partners equally. As set out in paragraphs 2.1 and 2.8 of this report, the creation of the JDV reflects the BTQ Partners' recognition that a more formal vehicle was needed to secure and accelerate BTQ and that no one partner has the capacity or capability to deliver BTQ individually. Additionally it provides a single entity to deliver the programme and contract with the market.
- 1.4. The JDV will be responsible for (amongst other things) the development and overall management of the BTQ Programme, which will include the procurement of the private sector development partner that will deliver the scheme across its two phases in line with business plans approved by the BTQ Partners. This report seeks the approval of the MCA to participate in the JDV, the associated legal documentation and the first business plan on or before the incorporation of the JDV in addition to its role as accountable body for the Grant Funding provided by Homes England. This reflects the MCA's leadership role and the importance of BTQ across the region.

Options and form of JDV

- 1.5. This report summarises the type of delivery routes considered by the BTQ Partners and concludes that the public sponsored entity route is the most appropriate. The report further considers the most appropriate type of entity. External legal and tax advice has advised that the most suitable type of entity is the limited liability partnership (LLP), which is marginally preferred due to tax considerations. as set out in Section 9.

Governance in the JDV

- 1.6. The governance arrangements for the JDV will be finalised by the BTQ Partners prior to JDV incorporation, but they will be based on principles contained in Appendix 2 to this report (adjusted to meet the legal requirements of limited liability partnerships). Underpinning the governance regime is operational independence of the JDV, which will be legally separate from each BTQ Partner, but each BTQ Partner will be able to appoint a representative to the JDV management board to ensure their interests are protected. Each representative will have an equal say in decisions of the JDV. Most operational decisions will be made by the JDV management board, but certain key decisions will be reserved for decision by each of the BTQ Partners. This report seeks approval for such decisions to be made for the MCA by the Chief Executive.

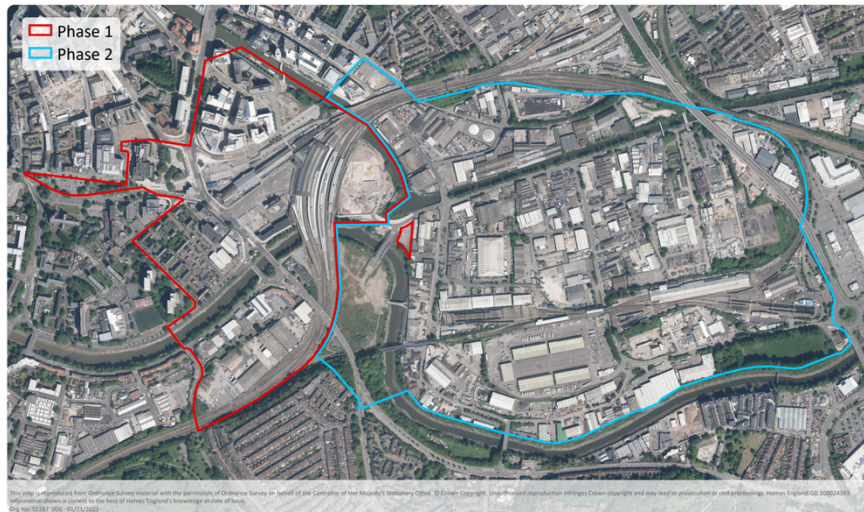
Operational and commercial matters

- 1.7. Key operational and commercial features of the proposed JDV model include:
- Investment into the JDV for the West of England Mayoral Combined Authority will be through operational funding of £6.5m for working capital purposes. This is different from Bristol City Council, Homes England, and Network Rail, each of which will be investing land interests. Each BTQ Partner's investment will be recognised by the issue by the JDV of loan notes.
 - It is proposed to explore whether the West of England Mayoral Combined Authority or Unitary Authorities provide core support functions to the JDV, including HR, finance and procurement support, with the terms to be finalised between the West of England Mayoral Combined Authority and the BTQ Partners provided always that there is no adverse impact on the Mayoral Combined Authority's ability to deliver its wider programmes.
 - The JDV will be a contracting authority subject to public procurement. JDV will run a public procurement process to select the private sector developer for the scheme. The West of England Mayoral Combined Authority will have a role in finalising the procurement strategy and contracting principles.
- 1.8. The main body of this report explores the above areas in greater detail.

Programme Overview

- 1.9. The Bristol Temple Quarter Regeneration Programme is one of the largest regeneration opportunities in the UK. It covers 130 hectares of land in central Bristol with the potential to create 22,000 jobs, 10,000 homes and an annual economic boost of £1.6 billion across the region. The BTQ Programme will also deliver integrated flood defences, local employment and skills opportunities, new open spaces and a network of green infrastructure increasing biodiversity and enabling low-carbon travel.

Bristol Temple Quarter



- 1.10. These benefits will support residents and businesses across the West of England. Local people will take up many of the 22,000 new jobs, with the site less than 20 minutes from Keynsham, Oldfield Park and Filton Abbey Wood stations. The new station entrances will transform local and national connectivity for those living and working in Bristol, while a 15-year construction pipeline will provide a suite of immediate jobs for local workers.
- 1.11. A major innovation hub at Temple Quarter will create exciting opportunities for growth in surrounding places and help connect innovation centres like the South Gloucestershire Tech Arc and Bath City Centre into a more cohesive and interdependent regional innovation ecosystem, supporting regional knowledge creation and economic development. Connections have already been made linking the University of Bristol (given its construction of the University's main academic building on Cattle Market Road is rapidly advancing), Legal and General (in respect of the Temple Island scheme which includes residential, office and conference facilities), alongside the Brabazon scheme. Once set up, the BTQ Joint Delivery Vehicle will focus on further collaboration to optimise the benefits for the region. The scheme's benefits are set out further in Appendix 1.
- 1.12. As the Committee is aware, the MCA secured £94.7m Homes England investment in 2022. The Grant Agreement between the MCA and Homes England was signed on 12 April 2022 and amended on 20 April 2023.
- 1.13. Since then, the programme has made substantial progress in establishing the Joint Delivery Team and commencing works on the Eastern Entrance to Temple Meads Station. A summary of progress is set out below:
- On the new Eastern Entrance, the MCA entered into an Implementation Agreement with Network Rail on 27 September 2023 and construction has now started. Completion is forecast for Spring 2025, with the entrance opening alongside the University of Bristol's new Enterprise Campus in 2026.

- The design development and the proposed delivery plans for the Southern Gateway Multi Modal Transport Hub and improvements to the Northern Entrance are advancing. Both projects have completed the RIBA Stage 2 design stage. RIBA Stage 3 is due to commence in late Spring 2024, subject to approvals.
 - The Joint Delivery Team through the MCA on behalf of the JDV Partners has procured a masterplanning team to provide high-level principles for change across Temple Quarter area. This is exploring how connectivity in, out and through Temple Quarter could be improved, while creating a framework for how the future development of the area could come forward. The team has also appointed a placemaking consultant to what good placemaking looks like in the Temple Quarter and wider city-regional context.
 - Work is also underway to advance the Inclusive Growth Strategy for Temple Quarter. This will provide a coherent narrative to inform parallel work on the masterplan and place strategy, ensuring that local residents, employment opportunities, and community integration are at the heart of the development.
- 1.14. To deliver the GFA infrastructure projects alongside securing the housing and commercial development as specified in the BTQ Grant Funding Agreement and vision for the wider area, it is now necessary to put in place more formal arrangements between the JDV public sector partners and ensure that the right governance framework and resources are in place to deliver the programme. This includes securing a private sector development partner to work alongside the JDV and deliver a mixed-use development that secures the region's inclusive growth, sustainability and placemaking ambitions.
- 1.15. This report explains that the JDV will be responsible for developing and managing the overall programme to secure the comprehensive regeneration of BTQ on behalf of the JDV Partners, including project managing the infrastructure works around Bristol Temple Meads station, assembling the land and procuring the private sector development partner that will be responsible for delivering the commercial and residential units. The governance and working arrangements for JDV alongside the matters / future decisions reserved to the JDV Partners set out in this report will be incorporated into a Member Agreement. The Legal Advice Note prepared by the MCA's Legal Advisors is attached as Exempt Appendix 5.
- 1.16. Once the JDV is established following the Committee approval, it will enter into the land option agreements with each of the Partners and then procure the Private Sector Partner (PSP).
- 1.17. This report also sets out that the BTQ Partners will be committing either land within their ownership and/or cash into the JDV. BCC, Homes England and Network Rail all own land across the TQ area and will be making their land available to the JDV (through a Land Option agreement), which will then be able to make that land available to the private sector partner (through granting a long

leasehold interest) for development in due course. This will be subject to JDV ensuring that there is a deliverable and viable scheme that meets the JDV Partners' ambitions. The JDV will enter into a contractual arrangement with the PSP to deliver the place in line with the vision and masterplan approved by the JDV Partners as set out in paragraphs 2.45 to 2.48 of this report.

- 1.18. The finance implications associated with the JDV are set out in paragraphs 8.1-8.9 of this report and in Appendix 4.
- 1.19. The MCA is proposing to contribute £6.5m in the form of a loan facility and will focus on undertaking the development of the Strategic Outline Business Case and subsequent Outline Business Case to secure the delivery of substantial homes and employment opportunities in Phase 2. It covers the required masterplanning work, feasibility work, legal and technical professional teams, additional resourcing required within the JDV. It also includes a small contingency to mitigate the risk should a guarantee be required. It is proposed that £6.5m is allocated from the headroom within the Investment Fund. The principal of the loan notes will be repaid prior to any accrued interest / coupon and once any accrued interest / coupon has been paid, any residual profits (noting that profits from Phase 1 are anticipated to be reinvested into Phase 2) will then be apportioned to the JDV Partners in line with their investment. It is anticipated that this will take place at the end of Phase 2 (but earlier at the end of Phase 1, if Phase 2 does not go ahead) in line with the ambition set in the draft Reinvestment Strategy included within the Grant Funding Agreement.
- 1.20. Land and cash into the JDV will be treated equally for investment purposes. Investment into BTQ will be recognised through the issue of loan notes to each JDV Partner equivalent to the value invested as explained in paragraph 2.26 of this report. All loan notes will be interest / coupon bearing.
- 1.21. The JDV will provide quarterly formal reporting to the JDV Partners through the Quarterly Report to Members and to the Strategic Steering Board on a quarterly basis. A Member and/or Officer representative from each of the Unitary Authorities are invited to join the Strategic Steering Board to ensure that they are involved in and informed of the progression of the scheme.

Key Considerations

The need for a Joint Delivery Vehicle

- 2.1 The establishment of the JDV formalises the already long-standing working arrangements in place under the MoU signed between the JDV Partners in February 2021 and builds on the progress made in securing the grant funding for the Phase 1 infrastructure works and commencement of the delivery works this year.
- 2.2 The report to this Committee in October 2022 confirmed "*the intention of the parties to procure a joint venture development partner to take forward the delivery*

of homes and commercial floor space, which will have the effect of further mitigating any residual risk remaining with the four principal partners. In addition, the partners will also be looking at the potential option of setting up a public sector sponsored company. Both exercises will be the subject of further reports to the Committee.”

- 2.3 This reflected the BTQ Partners’ recognition that a more formal and resilient partnership vehicle and governance structure was needed to secure and accelerate BTQ. No one partner has the capacity or capability to deliver BTQ individually. The JDV will combine the leadership, capabilities, expertise and assets of the JDV Partners into a vehicle that can drive forward long-term regeneration. It is proposed to *‘be the central body responsible for overseeing/co-ordinating critical infrastructure, enabling projects and to have control of the land assembly of the public sector land interests to enable development in line with the business plan’*.
- 2.4 The subsequent BTQ Strategic Board held in January 2022 confirmed that the JDV should be established by the end of 2023 to maintain momentum and avoid delay to the delivery of housing in the region. Bristol City Council’s Cabinet confirmed approval in November last year.
- 2.5 The Collaboration Agreement, signed by the MCA earlier this year, committed it to exploring potential joint venture working arrangements and a development partner to facilitate the delivery of the BTQ Programme.
- 2.6 The creation of a public sector sponsored company will build upon the principles of the MoU and the Collaboration Agreement. This structure will provide capacity to bring forward delivery in BTQ, will add credibility to the project, and will provide a single entity to engage with the private sector. It will also enable a phased approach to delivery vehicle implementation, recognising that the form of the delivery vehicle may alter over the course of the BTQ Programme.
- 2.7 The JDV will:
 - provide one public sector voice to drive comprehensive regeneration across BTQ;
 - enable a comprehensive approach to infrastructure delivery across Phases 1 and 2;
 - combines public sector skills, expertise and capacity of the four partners together, improving efficiency and potential value for money for public sector.
 - enable the pooling and equalisation of land;
 - ensure that the market has to only interact and contract with a single entity;
 - enable delegated decision-making authority to a specialist team/vehicle acting in the best interests of all the partners.
- 2.8 It will address current issues where we are experiencing difficulties, particularly in relation to project management and joined up processes, where inevitably the different internal management and approval processes across the organisations

is causing unintentional delay, as well as providing the JDV Partners greater certainty on delivery. It will also allow better project management and risk management oversight by a dedicated Board focused on BTQ and therefore more effective reporting to the Partner organisations.

Key principles for the JDV

- 2.9 The West of England Mayoral Combined Authority, Bristol City Council (BCC), Homes England (HE) and Network Rail (“NR”) will enter into a joint venture agreement (the “JV Agreement”) in relation to the JDV. Together, these parties are the “JDV Partners”.
- 2.10 The JDV will continue for the duration of the BTQ Programme to fulfil the JDV Business Plan. It is estimated that the works will likely take 15 years, although if this time frame is protracted, the JDV will continue for as long as necessary.
- 2.11 The legal form of the JDV will be a Limited Liability Partnership. Each of the JDV Partners will have equal member interest in the JDV.
- 2.12 The objective of the JDV is to create a sustainable, genuinely mixed-use place that works for the city-region as a place to live, work and spend time, providing much needed affordable housing and employment opportunities, with sustainability at its core, providing for people living and working in the neighbourhood and across the region.
- 2.13 The JDV will be responsible for:
- establishing the Business Plan for Phase 1 and Phase 2, including vision, objectives, programme, governance, and strategies relating to funding, land assembly, infrastructure, planning, affordable housing, social value, employment and skills, environment, engagement, procurement, and operations;
 - the development and management of the overall programme for the BTQ Project (with the protocols and arrangements underpinning the relationship between the JDV and the JDV Partners to be detailed in the JV Agreement or separate agreements);
 - securing access to the development areas in Phases 1 and 2, based on land pooling agreements with the partners and a land assembly strategy;
 - procuring a Private Sector Development Partner (PSP) to develop a viable delivery programme to achieve the comprehensive development of the scheme, including delivery and management of the Phase 1 and Phase 2 business plans and access to capital funding for Phase 2;
 - managing the funding and delivering the enabling infrastructure for Phase 1;
 - seeking the use of statutory powers (where appropriate) to assemble the wider land interests in Phases 1 and 2 and/or effect statutory appropriation of rights/covenants on land to “cleanse” development sites; and

- establishing the approach to delivery for Phase 2 and seeking additional funding for Phase 2.

2.14 The JDV will work to an agreed Business Plan. The initial Business Plan will be agreed by each of the JDV Partners prior to the JDV being formally established. Approval is sought to authorise the Strategic Director for Infrastructure to approve the initial JDV Business Plan. Following approval of the initial JDV Business Plan, material variations will thereafter require each JDV Partner's approval – i.e. as it is updated following (i) selection of the PSP (ii) approval of the Outline Business Case for Phase 2 and (iii) any issues arising from an actual or potential failure to meet identified targets. The JDV will be required to comply with the JDV Business Plan and its activities will be in pursuit of the agreed Vision and Objectives contained therein.

2.15 A key rationale for the JDV is to be able to recycle capital and receipts from Phase 1 throughout the entire investment period to achieve the JDV objectives, including bringing forward unviable sites in Phase 2.

2.16 The JDV Partners intend to establish the JDV in February 2024 and commence the procurement process to select the PSP thereafter. The expectation is that each JDV Partner will participate in the JDV as a Member and (where they hold land) will commit their Phase 1 land assets as identified to the JDV to enable the JDV to run the procurement process for the PSP.

2.17 The JDV will initially be funded via Investment Funding and Infrastructure Grant.

JDV Governance

2.18 The current JDV governance proposals are summarised in Appendix 2. These will continue to be negotiated with partners and approved by the Director of Legal Services in the final legal documentation to be developed to reflect those terms and in the initial JDV Business Plan.

JDV Workstreams and Liabilities

2.19 The JDV will principally provide project management services to facilitate comprehensive regeneration in line with the activities set out in Appendix 3. It will not take on any capital or development risk unless otherwise agreed by the JDV Partners. A separate note attached at Appendix 4 provides further detail on the JDV liabilities and future commercial matters.

JDV Land Consolidation and Economic Contributions / Returns – Phase 1 & 2

2.20 To ensure the comprehensive regeneration of the BTQ area, the JDV Partners have agreed to pool their land holdings. Whilst it is noted that the MCA does not own land, this section outlines the future arrangements given that consolidation of land is critical to delivery.

- 2.21 Each JDV Partner will agree with the JDV option arrangements for parcels of land within their ownership so that the land will come under the effective control of the JDV and then be drawn down for infrastructure or development across the BTQ Programme.
- 2.22 There will be differing levels of conditionality for each of those option agreements depending on use, timing and location of land. There will be land valuations undertaken shortly before entering into the option agreements.
- 2.23 The valuation for the purposes of the option agreement will determine the value of each JDV Partner's land contribution to the scheme and will be used to determine their share in economic returns. It will also be used for demonstrating best consideration under Section 123(1) Local Government Act 1972. The methodology for valuation has been agreed and Deloitte has commenced the required RICS Red Book open market valuations. The date for valuation is 31 December 2023, and the land options are expected to be completed following JDV set up.
- 2.24 JDV will undertake a further valuation at the point of draw down to assess open market value at that time prior to drawdown of land by the PSP. Any uplift in value will be considered as residual profits and will be distributed between the JDV Partners as set out later in this report,
- 2.25 By agreeing to create the JDV, the JDV Partners are agreeing to put in place options over its Phase 1 land in favour of the JDV and which would allow the JDV to control the relevant land (subject to meeting certain agreed conditions). The land option will allow the JDV to call for a long leasehold interest (which will be passed to the PSP). A second option is being considered to be used thereafter to allow the JDV to call for the freehold reversion – this will ensure an agreed long term estate management and stewardship strategy can be implemented across the project to maintain a high-quality place for the long term. In respect of Phase 2 the anticipation is that land within public sector ownership and not required for operational purposes will follow the same approach as Phase 1 land and be committed to the scheme upon approval of the Phase 2 Outline Business Case. Further approvals will be sought from the JDV Partners to put the Phase 2 land into the JDV.
- 2.26 Each JDV Partner will be issued with loan notes in respect of their contributions to the JDV at the point that those contributions are made (i.e. land transferred/funding advanced). The loan notes in respect of land contributions will be issued to the value of the December 2023 land valuation carried out by Deloitte plus interest accrued to the land draw down date. Once loan notes are issued, they will be interest bearing with such interest being rolled up until they are repaid. The JDV Partners will have the option to fund further acquisitions within the regeneration area to ensure the delivery of the BTQ Programme and

adjustments will be made to reflect that investment.

- 2.27 The JDV Partners have agreed in principle that all proceeds of sale from the Phase 1 sites are reinvested into strategic infrastructure, including flood defence, land purchase and/or equity investments to ensure comprehensive regeneration of Phase 2 (in line with the draft Reinvestment Strategy attached to the Grant Funding and Collaboration Agreements). The Phase 1 receipts will be held by the JDV until reinvested into Phase 2. All land contributions (plus other contributions i.e. future operational grant funding being made available by the MCA) will all be used to calculate JDV Partner's ultimate return profile at the end of the scheme (noting that this is subject to the terms of the Grant Funding Agreement which regulates what happens in the event that Phase 2 does not proceed). This profile will be reported to JDV Partners on a quarterly basis.
- 2.28 As set out in the Reinvestment Strategy, it is noted that BCC is being asked to consider making additional contributions towards the BTQ Programme, including Community Infrastructure Levy, S106 Agreement and additional business rates.
- 2.29 In respect of Phase 2, the JDV will develop an Outline Business Case and Delivery Strategy with the support of the PSP to continue the comprehensive regeneration of BTQ area. To help facilitate this, the JDV will utilise the capital receipts from Phase 1 where required to unlock development, focusing on strategic infrastructure that supports the delivery of flood infrastructure, creating long term jobs opportunities and delivering tangible community benefit alongside land assembly.

Exit

- 2.30 Each JDV Partner will have the right to exit the JDV and not to participate in Phase 2.
- 2.31 It is envisaged that the Outline Business Case for Phase 2 will come forward for approval prior to Phase 1 having been delivered. Consequently, a JDV Partner who wishes to exit the JDV will be required to provide a statement of its intent not to participate in Phase 2 at the point that the Outline Business Case for Phase 2 comes forward for approval. Any exiting JDV Partner will be entitled to (but not required to) remain a JDV Member and be involved in Phase 1 decisions, it will not be entitled to be involved in any Phase 2 decisions, including approval of the Outline Business Case for Phase 2. Having given its statement of intent to exit, the relevant Member shall be required to exit the JDV once Phase 1 has been delivered.
- 2.32 If a JDV Partner gives notice of its intent to exit, (i) interest will cease to accrue on its Phase 1 investment (i.e. loan notes); (ii) it will not partake in profits from Phase 1 or Phase 2 (where Phase 2 goes ahead); and (iii) it will not be repaid its loan notes until the end of Phase 2 (where Phase 2 goes ahead). There will be no distribution of receipts at the end of Phase 1 where Phase 2 is going ahead, with any distributions following completion of the programme.

- 2.33 Should Phase 2 not proceed, the Phase 1 capital receipts will be paid back to the individual partners in accordance with the Reinvestment Strategy.

JDV – Operational Funding and Resourcing

- 2.34 The JDV will need to be adequately funded so that it can deliver the JDV workstreams and administer the JDV including company secretarial/accounting functions alongside other resources – e.g. people/staff, office space, HR/ core support services.
- 2.35 It is proposed that HR, finance and procurement support services will be provided by the MCA to the JDV on behalf of the JDV Partners subject to agreeing an appropriate protocol and reasonable costs.
- 2.36 The Operational Staffing Structure for the JDV will be agreed by the JDV Partners at the outset (this will be attached to the JDV Agreement or will form part of the JDV Business Plan) and the JDV will engage staff in line with the Operational Staffing Structure. Certain changes are reserved back to the JDV Partners as a Reserved Matter.
- 2.37 It is envisaged that the JDV will employ staff in line with the Operational Staffing Structure and that JDV Partners will have the ability to second staff to the JDV. The application of TUPE in respect of individuals currently engaged on the BTQ Programme is under review through the fortnightly JDV operational ready meeting in place between the MCA and BCC. Any TUPE activity is likely to be post-JDV set up.
- 2.38 This report seeks approval for the MCA to explore providing HR, finance and procurement support services to the JDV, and subject to agreeing reimbursement of reasonable costs with the JDV, authorises the Strategic Director of Resources to enter and agree the necessary arrangements providing that this support will not have an adverse impact on the MCA's ability to deliver its wider programmes.
- 2.39 In relation to operational funding, the Infrastructure Grant Funding Agreement provided by Homes England and Investment Funding provided by the MCA funds the existing team and will resource additional posts within the Joint Delivery Team to deliver the Phase 1 Infrastructure Items.
- 2.40 Investment Funding totalling £6.863m was awarded to BCC to fund and resource the Joint Delivery Team to deliver the Phase 1 Infrastructure Items to 2026/27, reflecting the period over which the GFA funding must be spent. An element of this award has been retained by the MCA to meet the required internal support services and external professional advice. This is currently being regularised through a Change Request which is seeking to consolidate existing funds to enable more efficient and transparent financial management. BCC has approved that the balance of their Investment Funding (currently circa £4m) is made

available to the JDV following its set up to enable it to operate effectively and efficiently.

- 2.41 It is proposed that the balance of the Investment Funding retained by the MCA is also made directly available to the JDV following its set up to enable it to operate effectively and efficiently. Protocols will be put in place between the JDV and Partner organisations to document future working arrangements and cost recovery for project and support services being provided by the JDV Partner organisations.
- 2.42 The report to this Committee in October 2022 recognised that further funding would need to be confirmed by 2026. A funding request for £6.5m is being sought from the Mayoral Combined Authority Investment Fund to enable it to develop the strategic outline business case for Phase 2 alongside ensuring that the JDV is adequately resourced to deliver the Business Plan across the BTQ regeneration area and meet its obligations. This will be treated as a loan rather than a grant as set out in paragraphs 1.19-1.20 above.
- 2.43 A Feasibility and Development Funding Application is under preparation which will confirm the details of the allocation for which the approval is delegated to the Strategic Director of Resources. As and when the Funding Application is approved by the MCA, this additional funding will be treated as a funding advance alongside the land contributions by the other JDV Partners and the MCA will be issued with a loan note as set out in JDV Land Consolidation and Economic Contributions / Returns – Phases 1 & 2 section above.
- 2.44 A cashflow model is being developed by the existing Joint Delivery Team and MCA.

Procurement of Private Sector Development Partner

- 2.45 Following the Committee's approval last October, the JDV Partners have been working with strategic property advisors Deloitte to prepare the proposition to the market to secure the PSP. To help inform that proposition and the procurement strategy, the existing Joint Delivery Team and Deloitte is undertaking pre-market engagement. The first round was undertaken over Summer 2023 and a further process is underway and will complete in January 2024. This process demonstrated that there is significant market interest in the BTQ development opportunity; including an appetite to work with the JDV Partners beyond Phase 1 to secure the ambition for BTQ.
- 2.46 To deliver on the vision and objectives for BTQ, it is currently intended to procure a master developer who can provide comprehensive regeneration and placemaking capability to support the JDV in delivering the ambition. It is anticipated the delivery partner for Phase 1 will be contracted via a Development Agreement, with the potential for this to evolve into a Joint Venture (JV) for Phase 2 subject to further JDV Partner approvals. For Phase 1, the delivery partner will take on delivery responsibility following appointment after a

procurement process. For Phase 2, the delivery partner is likely to provide development advice until the scheme is sufficiently progressed for it to take on delivery, subject to further approvals.

2.47 The procurement process is anticipated to be launched in 2024. A Prior Information Notice was issued on 13 December 2023. Procurement will be led by the JDV. The evaluation criteria and the contracting strategy/principles for the PSP will be based on the vision and objectives of BTQ (as included in the JDV Business Plan) and the exact composition of the evaluation panels will depend upon the finalised evaluation methodology. The draft strategy was reviewed by the MCA's internal Commercial Board on 13 December 2023.

2.48 It is anticipated that the evaluation panels will be selected to ensure those with the most relevant experience will be appointed across the JDV Partners. The contracting principles for the PSP will be approved separately by the JDV Partners and need to be followed by the JDV unless otherwise agreed by all JDV Partners.

Alternative Options Considered

3.1 A number of different delivery options have been considered by the BTQ Strategic Board and JDV Partners over the last three years.

- Business as Usual
- Strategic Partnership (public sector land and private sector)
- Corporate JV (public and private)
- Local Authority Sponsored Company (BCC)
- Public Sector Sponsored Company (multiple public sector)
- Separate Development Company
- Urban Development Company (central govt led)
- Urban Development Company (locally led)
- Mayoral Development Corporation
- New Town Development Corporation (Central or local led)

3.2 These options have been appraised against the Green Book's five critical success factors; strategic fit, achievability, supplier capacity and capability, affordability and value for money. The Public Sector Sponsored Company emerges from this long list as the preferred option in which the JDV Partners form a bespoke public sector sponsored company for BTQ, This is considered the best option to meet the Programme's strategic objectives, particularly as it can be created quickly, ensuring that the benefits of BTQ can be realised, has local democratic accountability, with representation from both the MCA and BCC, would be publicly owned, and could evolve into a different vehicle in the future.

3.3 Whilst an Urban Development Company (locally led) and Mayoral Development Corporation are not considered appropriate at this time due to the time taken to establish, these could be a vehicle that the current option evolves into in the future subject to further approvals.

- 3.4 The Public Sector Sponsored Company was noted as being the preferred option in the BTQ Strategic Board meeting in January 2023 and reconfirmed at the BTQ Strategic Board in October 2023.

Consultation and Engagement

- 4.1 Consultation has taken place with a range of stakeholders, including with the Unitary Authorities of the MCA. As a BTQ Partner, extensive briefings have taken place with BCC at an officer and political level, including with the council's Chief Executive and the Mayor of Bristol, and the Growth and Regeneration Scrutiny Committee on 28 September 2023. Bristol Ward Councillors have also been offered a briefing on proposals for Temple Quarter and briefings have taken place in October 2023 prior to taking it through their own political decision making. The proposals in this paper were presented to the Local Enterprise Partnership Board on Friday 29 September 2023.
- 4.2 Senior officers, including S151 officers, at Bath and North East Somerset (BANES) and South Gloucestershire councils, as well as North Somerset Council, were invited to a briefing on proposals within this report held on 12 October 2023. A further meeting was held on 26 October 2023.
- 4.3 A follow-up session took place on Tuesday 31 October 2023 to further review the detail of the proposals.
- 4.4 On 8 November 2023 a briefing on the paper took place at the fortnightly UA CEOs' meeting. On 10 November 2023 the Temple Quarter team briefed the UA leaders at a bespoke online meeting.
- 4.5 At each session, the offer of a one-to-one or follow-up meeting at attendees' convenience was made.
- 4.6 This report and its appendices have been available to the Unitary Authorities and amendments made in light of comments received.

Key Risks

- 5.1 The key risks are as follows. It should be read in conjunction with Additional Finance Note and Legal and Tax advice appended to this report:
- 5.2 *Existing GFA Risks:* The report of the MCA on 14 October 2022 at paragraph 4.1 ([Item 8 - TQ.pdf \(modern.gov.co.uk\)](#)) sets out the risks to the MCA associated with the £94.7m GFA grant from HE. It explains that the Mayoral Combined Authority is accountable for all cost overruns and for flowing down the grant terms including the delivery of housing and commercial outputs. The Grant Agreement placed a reasonable endeavours obligation on the MCA to secure the housing and commercial outputs. To mitigate these risks, the MCA adopted a strategy

which involved negotiating an overarching Collaboration Agreement with BCC, NR and HE and flow down Agreements with BCC and NR, which seek to establish a limit of liability for initial works and a no blame 'step away' clause in the last instance (if the infrastructure outputs under the GFA cannot be delivered within the funding envelope).

- 5.3 The overarching Collaboration Agreement is now in place. It was signed in April 2023 and sets out the process for producing a delivery plan for each Infrastructure Item in return for payment of delivery plan costs. Each Delivery Plan will set out the party who will be responsible for delivering each element of the Infrastructure Item, detailed costs, any land assembly arrangements and a risk allocation.
- 5.4 When a Delivery Plan is agreed between the parties, the relevant party will then be responsible for the delivery of the agreed element of the Infrastructure Item pursuant to a Flowdown Agreement and grant offer letter. At this point any cost overrun, unless agreed otherwise will rest with the delivery partner. Under the Collaboration Agreement the parties agree to work together to mitigate and manage any cost increases and cost overruns. The MCA, BCC and NR also agree to share programme delivery risk i.e., the risk arising prior to agreement of the Delivery Plans.
- 5.5 If a Delivery Plan is not agreed between the parties or the Infrastructure Item(s) cannot be delivered for the agreed sum, then the modified Flowdown Agreement will not be agreed, the programme does not progress, and the parties will not proceed with the Infrastructure Item and no party is liable to incur any further costs. The Collaboration Agreement also contains a commitment to explore potential joint venture working arrangements and a joint delivery partner to aid delivery of the programme.
- 5.6 The Collaboration Agreement alongside the GFA (as amended) was signed on 30 April 2023.
- 5.7 The establishment of the JDV to specifically project manage the delivery of the programme and to procure a development partner to secure the comprehensive regeneration of BTQ to deliver the housing and commercial outputs helps mitigate the risks that the MCA currently holds.
- 5.8 *Alignment & Approvals:* The Partners not fully aligned on JDV objectives, priorities and timescales. There is the risk that Partners do not secure approval to join the JDV, funding and future delivery workstreams. Partners do not effectively manage their dual roles/priorities in BTQ – e.g. BCC as LA and planning authority, HE as funder and landowner. Mitigations in place are follows:
 - Partners have signed the MoU, Collaboration Agreement, Grant Funding Agreement and Reinvestment Strategy which commits and sets out a way of working and approach to BTQ. The JDV agreement builds upon the principles established in those agreements;
 - Fortnightly partner workshops are in place to review objectives and progress

the JDV agreements and will continue post set up through the BTQ Programme Board;

- JDV Terms established to incentivise partner engagement and involvement;
- Programme Director appointed to work with, support and co-ordinate all four partners;
- Strategic Board established to bring together strategic place and partner leadership;
- JDV will agree a protocols arrangement with each partner to establish working relationships going forward;
- JDV to continue liaising closely with BCC Strategic Planning team during preparation of BTQ proposals and masterplan, and through LP progress to adoption;
- JDV to continue liaising with Homes England grant funding teams.

5.9 *Timescales not met:* Approvals not secured in time to meet the JDV set-up. And activities are not sufficiently progressed to enable Private Sector Partner procurement to commence in February 2024. Mitigations in place are follows:

- Approval milestones have been established for all partners to achieve the timescales required.
- BCC has secured a November 2023 approval.
- JDT and advisors have established a week-by-week programme of activity to meet the milestones.
- Programme Director to establish a mitigation plan should timescales slip.

5.10 *Production of accurate financial information in a timely manner during the programme.*

- The JDT is establishing the project management office and in the process of appointing a Head of Finance.
- Financial reporting is on a monthly basis.
- Monthly meetings are held within the JDT and JDV Partners.

5.11 *No Private Sector Partner secured:* Limited partner interest. Evaluation does not identify a suitable partner. Mitigations in place are follows:

- Specialist advisors appointed by JDT;
- Early Market Engagement undertaken, with a further round to be undertaken ahead of formal procurement process. There is a high level of interest in the programme at this stage;
- Masterplanning underway to establish the scale and form of opportunity for the private sector;
- Match-making event could put potential partners together to create suitable ventures;
- Land options will secure land for the private sector partner and further land assembly can ensure the size and mix of sites to attract a partner;
- There are alternative options that could be progressed should a master developer not be procured, including taking forward individual/grouped sites for development with partners to mitigate risk.

5.12 *Programme delivery - Phase 1:* BTQ does not meet its delivery plans. Phase 1

only partially completes. JDV does not achieve target grant funding spend or number of homes delivered. Mitigations in place are follows:

- Rigorous project management, governance and monitoring processes in place to manage performance and monitoring of sites and cost overruns;
- Project Management Office is being established for the JDV;
- Land options being placed on Phase 1 sites to ensure land available for drawdown for infrastructure and for delivery;
- Early market engagement has commenced to secure a private sector partner.

5.13 *Phase 2 does not Proceed:* JDV does not proceed to Phase 2. Challenges of Phase 2 are materially greater than Phase 1. Mitigations in place are follows:

- Robust due diligence on site viability and costs in Phase 1 and the development of the JDV Business Plan to bring forward sites in a way which will maximise reinvestment into Phase 2;
- Early master planning, funding strategy and outline business case to understand and secure funding required to unlock Phase 2 is to be undertaken during Phase 1 delivery;
- Early land assembly strategy to be put in place for Phase 2 to enable sites to be acquired;
- No-go provision for Phase 2 is established through Reinvestment Strategy and JDV Terms to enable JDV partners to collectively take decision on progressing to Phase 2.

5.14 *Market Volatility:* Costs exceed current budgets due to unforeseen cost inflation. Change in political cycles. Economic recession. Materials limited due to supply chain issues. Mitigations in place are follows:

- The partners, as public bodies that are focused on unlocking development and regeneration, operate through economic cycles;
- In addition to adopting a phased delivery approach, the JDV can look to contractual and delivery mechanisms to mitigate wider economic risk as far as is practicable;
- Due to abnormal level of cost inflation in recent years, it is anticipated that the infrastructure plan and GFA will need to be reviewed regularly;
- Potential requirement to undertake value engineering, or descoping activity to maintain delivery against BTQ objectives.

5.15 *Returns:* Risk of failing to deliver a return on the investment of the JV partners. Mitigations in place are follows:

- Robust due diligence on site viability and costs and development of financial strategy which is agreed and set out in Business Plan to bring forward sites in a way which maximise returns for JDV reinvestment;
- Loan note mechanism is being established to provide transparency on reinvestment and returns proportionate to each partner;
- Cashflow model and development financial models being developed to monitor funding and returns;

- Partners investment being used for a purpose that it has not agreed is protected by the Reserved Matters.
- 5.16 *Reputation*: Reputational risk if JDV does not achieve its objectives or triggers a default with PSP. Mitigations in place are follows:
- Clear and consistent communications and engagement plan across the JDV and its partners;
 - Clear monitoring of JDV activity with reputational matters and risks to be reported to the JDV Board.
- 5.17 *Governance*: Partners internal processes and procedures are not sufficient to protect the ability to control the quality of development, achieve policy objectives. Investment is used for a purpose which has not been agreed. Mitigations in place are follows:
- The JDV Member Agreement and Business Plan sets the parameters in which the JDV will operate. This will be approved by Partners at the outset.
 - Partners will nominate Board directors and will report to internal governance forums on a regular basis against key JDV objectives and KPIs.
 - Risk/Audit and Development/Investment Committees will be established to ensure oversight and scrutiny.
- 5.18 *Resourcing*: The risk that JDV partners are unable to sufficiently resource the project such that it hinders delivery of the JDV objectives.
- The JDV operational structure is being finalised. Once approved, the JDV will recruit into those posts to ensure sufficient resources in place to deliver the programme. In the meantime, JDV has following mitigations available:
 - Interim staffing in place through JDT – phased transition;
 - MCA or Unitary Authorities providing internal resources, including central functions such as legal and HR;
 - Potential to access Partner resources and expertise, as required;
 - Retain potential to appoint specialist advisers in the interim.
- 5.19 *Delivery*: JDV Partners do not agree GFA Delivery Plans for the infrastructure works by February 2025. Delay to the programme and potential loss of grant funding, putting phase 1 plans at risk / JDV does not secure additional funding to progress Phase 2. Mitigations in place:
- Partners continue to work closely.
 - JDV set up creates single body to drive forward plans against GFA Milestones.

Equality, Diversity and Inclusion Implications

- 6.1 BTQ will be an exemplar regeneration Programme that will provide numerous opportunities for local people, it will benefit those with protected characteristics under the Equality Act and the development will be accessible to all sectors of the community.

- 6.2 Some of the wards immediately surrounding BTQ have a high level of deprivation. There are existing disparities for people in Bristol based on their protected and other relevant characteristics which the programme will aim to mitigate where possible through the overall approach taken, including through the emerging Inclusive Growth Strategy and workstreams. Any potential impact of communities will be monitored and taken into considerations as each part of the programme is progressed.
- 6.3 The impact of the BTQ programme will become clearer as each individual workstream is progressed and adjusted accordingly. Previous engagement and consultation has identified issues that should be considered when the regeneration programme goes forward in order to benefit neighbouring communities through the programme. This feedback and feedback gathered through the ongoing engagement programme across the city-region will be used to help shape proposals through the life of the programme. The engagement programme will continue to work to ensure no groups are excluded due to disability, age, or other barriers, such as language, helping any who wish to give their feedback are able to do so.

Climate Change and Nature Recovery Implications

- 7.1 The West of England Mayoral Combined Authority is providing investment to unlock the delivery of a significant quantum of new homes, support new jobs and develop commercial and retail space all served by high quality public spaces in the heart of the city. The regeneration will reshape the area, constructing new buildings and infrastructure with long-lasting environmental impacts and opportunities. The regeneration can foster sustainable lifestyles through for example reduced car dependency, improved public transport, energy-efficient buildings, renewable and low carbon energy, local green jobs and biodiversity and nature enhancements. Combining flood defences with a network of green infrastructure and a well-connected community will help to improve local resilience against the impacts of climate change.
- 7.2 Bristol City Council, Bath and North East Somerset Council, South Gloucestershire Council and the MCA have all signed climate emergency declarations. Following these declarations, the West of England Climate and Ecological Strategy and Action Plan (CESAP) sets out the environmental priorities for the region. These are: net zero carbon by 2030, nature recovery and climate resilience.
- 7.3 The team establishing the JDV should integrate these regional CESAP environmental priorities into their work including as part of the:
- Key priority objectives in the Inclusive Growth principles embedded in the BTQ Vision / Objectives and Business Plan, helping to ensure it reflects these priorities throughout its work.
 - Skills set of the JDV Board and the emerging organisational structure. To ensure that the priorities inform all decision making, business cases and

delivery plans, and enable an appropriate balance between development and commercial decisions and environmental priorities, risks, and opportunities. These skill sets will also contribute to good stakeholder management, building a positive reputation, and demonstrating good governance.

- Evaluation criteria in the Development Partner procurement and contracts to ensure that the future partner shares the JDV's value and ambition in delivering an exemplar scheme with the environmental priorities, sustainability and social value at its core.

7.4 The MCA is reflecting the regional CESAP environmental priorities in its infrastructure work by requiring (subject to exception) the following:

- Carbon management plans and carbon accounting
- Environmental impact assessments (or non-statutory equivalents)
- Biodiversity net gain assessments and delivery of improvements of at least 10%
- Climate risk & vulnerability assessments, and integration of climate resilience measures into schemes

7.5 The JDV should, where these are within its influence and powers, ensure that its work and that of the PSP meets these new requirements including in the development of the masterplan. The JDV should also consider the potential budget requirements for these works and how they will be met as the development progresses including post construction monitoring and evaluation.

Financial Implications

8.1 The present estimate for establishing the JDV amounts to £424k, covering the essential professional service expenses needed for its formation. This is covered by existing Investment Fund allocations to the programme. The creation of the JDV is of paramount importance for the financial administration of the programme. By embracing an integrated approach within a single legal entity, it will facilitate enhanced financial oversight and contribute to the overall improvement of programme management.

8.2 Prior to the establishment of the JDV, it is imperative that all parties conduct thorough investigations into:

- The cashflow model for the JDV, which is currently in progress, with recent land valuations playing a crucial role in finalising this cashflow.
- A comprehensive and detailed breakdown of the £6.5 million additional requirement from the Investment Fund.

Both of these activities will be concluded by the end of February 2024 and be reviewed and agreed by the Strategic Director of Resources and the Strategic Director of Infrastructure.

8.3 Various options exist for providing the necessary resources for the JDV to

function (including HR, Finance, Procurement, and other support services), including potential resource allocation from the West of England Mayoral Combined Authority or through the Unitary Authorities, including North Somerset if appropriate. These options need thorough exploration, with due consideration of any relevant tax implications. These costs will be part of the additional £6.5 million request from the Investment Fund and must be clearly established before the JDV setup.

- 8.4 The £6.5 million allocation from the Investment Fund will be drawn from the current headroom and will focus on undertaking the development of the Strategic Outline Business Case and subsequent Outline Business Case to secure the delivery of substantial homes and employment opportunities in Phase 2. It covers the required masterplanning work, feasibility work, legal and technical professional teams, additional resourcing required within the JDV. It also includes a small contingency to mitigate the risk should a guarantee be required.
- 8.5 The £6.5m is a loan and will attract an appropriate rate of interest to be determined by the Strategic Director of Resources and the Strategic Director of Infrastructure. It is due to be paid back at the end of Phase 2, or earlier at the end of Phase 1 if Phase 2 does not proceed. This is currently anticipated in 2031. The JDV will be required to provide quarterly reporting to demonstrate that the loan is repayable and this forms one of the Business Plan targets.
- 8.6 In relation to the accounting treatment - returns are intended to be treated as profit-based, therefore likely to be Fair Value charged to the Profit and Loss account and therefore fair values will be required each year, which will involve either officer time or external costs. The loan will need to be included in the new Investment Management Practices (IMPs) for non-treasury investments in line with the CIPFA Treasury Management Code. Treatment will be in line with DLUHC guidance – ensuring that the loan meets the requirements of the Investment Strategy. This will be established through appropriate external advice considering the state aid legislation.
- 8.7 Presently, there are cost pressures affecting the elements required by the GFA to be delivered as part of the program. These pressures stem mainly from significant inflation since the GFA's approval, as well as some scope increases. Efforts such as value engineering and discussions with partners regarding scope changes and alternative funding sources are underway to ensure that the infrastructure can be delivered to maximise the development's benefits.
- 8.8 A summary of the tax accounting advice provided by PSTAX on the impact for the West of England Mayoral Combined Authority as indicated below:
- Overall, the LLP structure would offer the greater tax efficiency. This is mainly because of the Corporation Tax position, as the VAT and Stamp Duty Land Tax (SDLT) implications would not differ materially between a Company Limited by Shares (CLS) and a Limited Liability Partnership.

- VAT - If the JDV takes no interest in any land (i.e.: it does not exercise the options to purchase, but rather arranges the direct sale from the Landowner Partners to the PSP) it would not appear to be making any supplies of goods or services to entitle VAT registration or VAT recovery.
- SDLT – The JDV will have to consider SDLT if it pays consideration for either the grant of an option to purchase land, or on the exercise of such an option, however, the availability of sub-sale relief should mitigate the level of any liability.
- CT – A CLS would be subject to CT (at 25%) on any profits before distribution to the partners. An LLP does not pay CT, the liability rests instead with the individual members, on their distributed shares. Local authorities are exempt from CT so an LLP structure would avoid the potential for pre-distribution tax leakage.

8.9 JDV liabilities and details are set out in Appendix 4.

Legal Implications

- 9.1 Eversheds have been appointed to act on behalf of the JDV Partners to advise on the arrangements for the JDV and its establishment, and it is the intention that they will advise the JDV on the procurement of a Delivery Partner and drafting the associated legal documentation.
- 9.2 Sharpe Pritchard has been appointed to advise the Mayoral Combined Authority directly. Their report on the JDV is attached at Exempt Appendix 5
- 9.3 The legal form of the JDV will be a limited liability partnership (LLP). Company by Shares has also been considered. Whilst both are suitable structures for this type of regeneration Programme, but there is a preference among BTQ Partners for the LLP model.
- 9.4 The West of England Mayoral Combined Authority has instructed Sharpe Pritchard and PSTax to advise on the implications from a legal or tax perspective from adopting the LLP model. This advice is attached at Exempt Appendix 5. This confirms that there are no adverse implications, and that the LLP is marginally preferred due to tax considerations.
- 9.5 The recommendations in this report are in pursuance of the West of England Mayoral Combined Authority's Core Strategic Functions and objectives, as provided for in its Constitution.
- 9.6 Pursuant to Article 24 and Schedule 5 of the West of England Mayoral Combined Authority Order 2017 ("the Order"), the West of England Mayoral Combined Authority may rely on the general power of competence at section 1 Localism Act 2011 for the purpose of economic development and regeneration. The

general power of competence should only be used where no other specific power exists. The Authority may also therefore rely on the following powers, where appropriate to do so in the context of the programme objectives:

- Section 120 Local Government Act 1972 to buy land
- Section 226 - 241 Town and Country Planning Act 1990 to acquire, appropriate and develop land
- Section 17 Housing Act 1985 to acquire land for housing purposes
- Part 1 Housing and Regeneration Act 2008, to acquire land for housing and infrastructure.

9.7 Detailed legal advice on a project-by-project basis, including the undertaking of equalities impact assessments as necessary, will be necessary when seeking approval.

Human Resources Implications

10.1 The JDV is working with the West of England Mayoral Combined Authority and BCC in relation to establishing the future structure of the JDV. Once the structure is established, a full exercise will take place to understand how this structure will be populated. A range of options exist – from secondments through to potential TUPE arrangements, and the exact methods of appointment will be determined through this evaluation process and subsequent consultation with affected staff where appropriate.

10.2 An operational working group attended by both BCC and the West of England Mayoral Combined Authority is meeting fortnightly.

Commercial and Procurement

11.1 The commercial team have been involved along with external lawyers and professional advisors in the process throughout. Where necessary the content of the paper has been developed in consultation with the commercial team.

11.2 The creation of a JDV is a well-defined commercial practice to which the development market is very used to. As stated in the paper the JDV will come under the Procurement Regulations and will need to follow compliant routes to procure the development partner and other services.

11.3 The development partner procurement strategy has been approved by the West of England Mayoral Combined Authority Commercial board with risks and mitigations stated within that paper, those risks are about how to generate the most ambitious outcome and avoid the common errors of similar projects rather than risks of not concluding a successful outcome. The Commercial team has no further comments on this paper.

Appendices

- Appendix 1 – Regional Benefits – Metrodynamics Work
- Appendix 2 – JDV Governance
- Appendix 3 – JDV Remit
- Exempt Appendix 4 – Note on JDV Liabilities
- Exempt Appendix 5 – Legal Advice

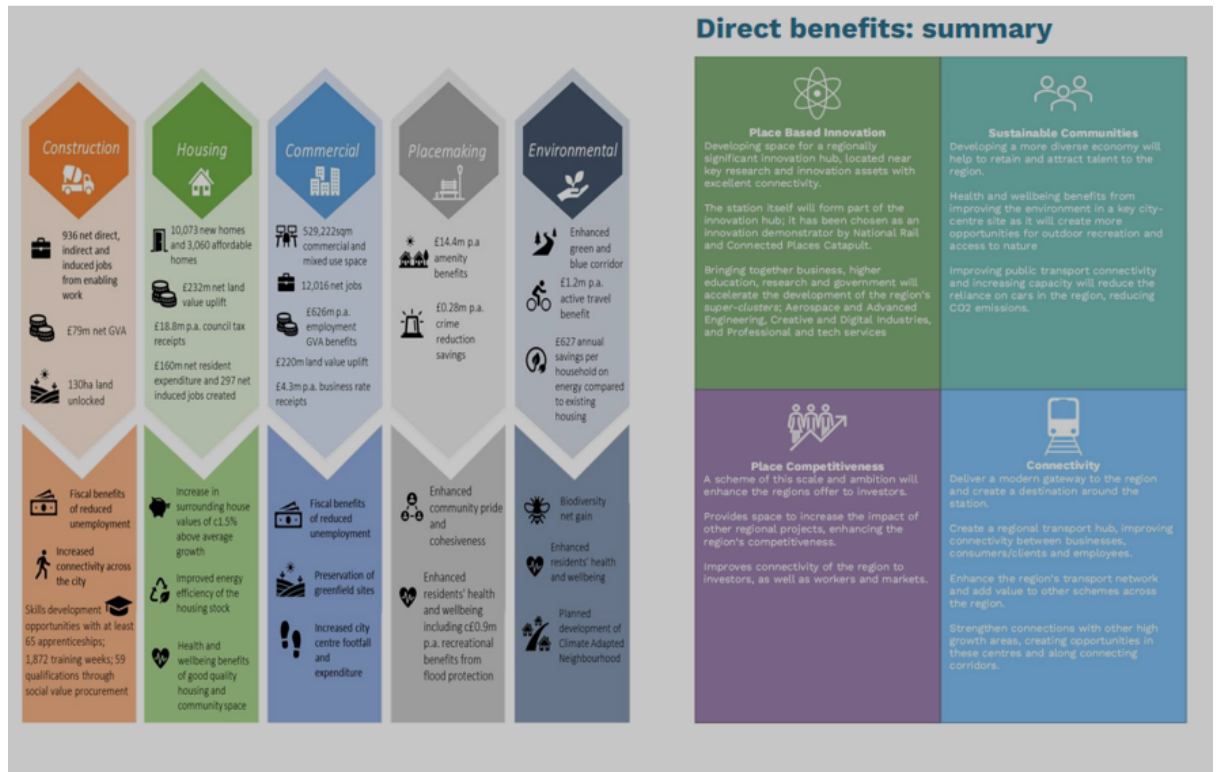
Background papers:

- West of England Mayoral Combined Authority Meeting, 14 October 2022 [Item 8 - TQ.pdf \(moderngov.co.uk\)](#)

West of England Mayoral Combined Authority Contact:

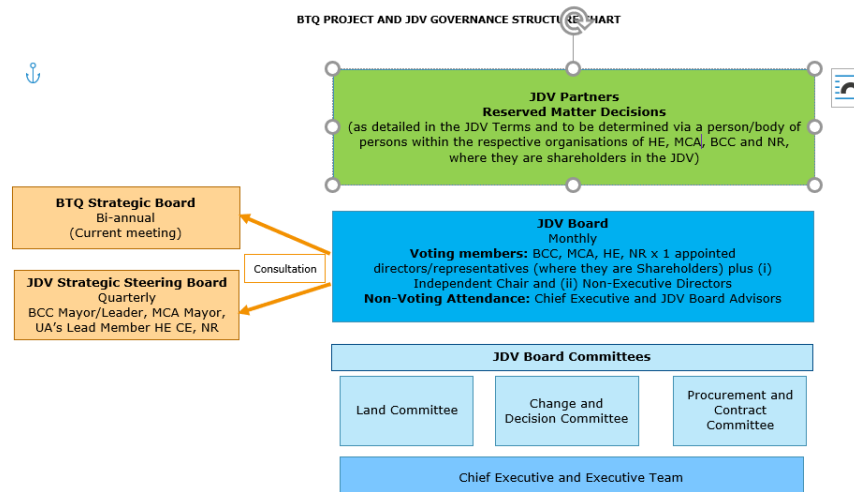
Report Author: Karen Mercer
Karen.Mercer@westofengland-ca.gov.uk

Appendix 1 – Regional Benefits – Metrodynamics Work



Appendix 2 – JDV Governance

1. The proposed JDV governance structure is as follows:



2. The proposed constitutional and voting arrangements are as follows:

- Each JDV Partner will appoint a Director to the Board;
- Each Director will have one vote each (i.e. equal voting);
- An Independent Chair will be appointed at the outset, and Non-Executive Directors will be appointed to bring additional expertise and scrutiny to the programme;
- The maximum number of appointees to the Board will be 9;
- Decisions will be made by majority voting with the intention that Independent Chair has a second/casting vote to avoid deadlock;
- A Director from each JDV Partner will be required to be in attendance for any meeting to be quorate with an inquorate meeting being adjourned to another day and the quorum at that meeting requiring a lesser number of JDV Partner directors;
- Where a JDV Director has a conflict, they will be excluded from voting on the relevant matter;
- There will be a list of reserved matters which will require unanimous /partner approval. It is intended that a representative function is established in each Partner so that such decisions can be approved speedily by the relevant Member/Partner (Noting that a Cabinet/relevant council committee decision may be required in the case of a reserved matter reaching key decision threshold). These will include, and not be limited to, the following:
 - i. the initial JDV Business Plan and any material variations to the JDV Business Plan;
 - ii. any updates to the JDV Business Plan which are not consistent with the Project Principles; and deviation from or variation to Project Principles.
 - iii. Appointment/removal of the Chair or Chief Executive.
 - iv. Expanding the JDV's business / JDV investing in another business

- or company [or forming subsidiary vehicles]
 - v. Entering into a joint venture, partnership or other profit sharing arrangement with a person [save for the PSP arrangements or where such arrangements are in line with the PSP Contracting Principles].
 - vi. Material variation to the Delivery Partner Evaluation Criteria.
 - vii. Entering into any transaction or arrangement outside of the ordinary course of business.
 - viii. Contractual expenditure of the JDV over a certain threshold.
 - ix. Admission of new partners to the JDV
 - x. External borrowing, encumbrances and related matters.
 - xi. Appointment of and change to auditors and accounting reference date.
 - xii. Approving and changing bank mandates.
 - xiii. Winding up the JDV.
 - xiv. Giving notice of termination of material arrangements.
3. In addition to the existing BTQ Strategic Board, a Steering Board will be established and held on a quarterly basis comprising representatives from the JDV Partners to provide a smaller focussed forum to advise on strategic matters and the delivery programme.
4. The JDV will provide a biannual progress update to Committee across all workstreams moving forward, via a designated client function which the West of England Mayoral Combined Authority will establish to support relations with the entity.

Appendix 3 - Joint Delivery Vehicle Remit

- 1) Project managing the delivery of the Phase 1 Infrastructure items in line with GFA and Collaboration Agreement;
- 2) The procurement, selection and entering into contractual arrangements with the strategic joint delivery partner. The JDV will contract with and be the on-going interface with the PSP in line with the requirements of the JDV Business Plan and will be responsible for
 - a. running the procurement process for the PSP including down selection, evaluation and PSP selection in accordance with the PSP Evaluation Criteria set out within the Procurement Strategy;
 - b. finalising the financial, legal, and operational terms with the PSP (and other commercial matters) in line with the PSP Contracting Principles to be approved as part of the Procurement Strategy;
 - c. approvals to be provided in relation to the PSP delivery obligations (e.g. approvals to extensions of time, approval of the PSP Business Plans developed for the scheme provided they are in line with the JDV Business Plan);
- 3) All land matters including land assembly, acquisitions, and management of

land within the regeneration area in accordance with JDV Business Plan. This includes drawdown of land/licences/freehold interests from the BTQ landowning partners pursuant to the option agreements that will be entered into between those partners and the JDV and assembling / acquiring land to deliver the programme. This will also include working with Partners to look at opportunities to activate the sites in advance of development to generate activity;

- 4) The development of a) the BTQ wide masterplan and b) Strategic Outline Business Case and delivery strategy that ensures the integration and comprehensive regeneration across both Phases 1 and Phase 2 in accordance with the Development Framework endorsed by BCC Cabinet in May 2023 and the Memorandum of Understanding signed by the JDV Partners in February 2021 alongside the emerging Local Plan. This will include an overarching land strategy; a comprehensive public transport and car parking strategy; waste strategy and flood resilience plan;
- 5) Developing and implementing the Inclusive Growth strategy that provides tangible benefits to Bristol and the region;
- 6) The JDV will manage and oversee the further investment into strategic infrastructure within Phase 2 from the Phase 1 receipts, working closely with the partners, in line with the JDV Business Plan approved by Committee and JDV Partners.