

---

**Meeting:** Executive

**Date:** 18 March 2014

**Subject:** Promoter and Developer Framework

**Report of:** Cllr Maurice Jones, Executive Member for Corporate Resources

**Summary:** This report seeks approval to procure, establish and select from call-off framework for Promoters and Developers to secure ready access to support in taking forward a range of disposals, developments and regeneration projects.

---

Advising Officer: Deb Clarke, Director of Improvement and Corporate Services

Contact Officer: Andrew Gordon, Head of Estates

Public/Exempt: Public

Wards Affected: All

Function of: Executive

Key Decision Yes

Reason for urgency/  
exemption from call-in  
(if appropriate) Not applicable.

## CORPORATE IMPLICATIONS

### Council Priorities:

- Enhancing Central Bedfordshire – the framework will facilitate a range of regeneration and related opportunities envisaged in CBC corporate plans in addition to supporting the delivery of the strategic housing requirements as set out in the adopted Core Strategy.
- Promote Health and Wellbeing and protect the vulnerable – the project would bring forward land for development, potentially resulting in new medical centres, as well as affordable housing and a number of sites that could be used for extra care accommodation.
- Improved infrastructure – the promotion of large scale development will contribute towards the delivery of new infrastructure.
- Value for money - the framework will support identification of the best method of optimising value from the Council's assets and achieve best consideration in the disposal of these.

### Financial:

1. It is anticipated that the proposed method of delivery will facilitate acceleration in delivery of capital receipts.

2. Some disposals will be subject to the disaggregation agreement with Bedford Borough Council (BBC), whereby 37.5% of the net sale value may be payable to BBC.

**Legal:**

3. The legal implications of this proposal revolve around need to follow Official Journal of the European Union (OJEU) procurement route and the need for transparency in adoption of and implementation of selection criteria. The invitation and award will be on a non-exclusive basis so that the Council reserves the option to step outside the framework where it is not considered appropriate. The legal team has been engaged and will provide advice and guidance to ensure the Council's and OJEU procedures are followed.

**Risk Management:**

4. The following key risks have been identified:
  - a. The anticipated level of capital receipts will not be achieved. The levels of receipts will be dependent on market conditions and cost of infrastructure, levels of Section 106 etc. There is a further risk that the capital receipts will not be achieved within the MTFP period – the proposed method of delivery will optimise the potential level and timing of capital receipts.
  - b. Failure to obtain planning permission – engaging a promoter or developer partner will transfer the cost of pursuing a planning application to the promoter or developer.
  - c. Failure to secure a partner – informal soft market testing and market intelligence suggests the framework as proposed will be attractive to the market.
  - d. Legal challenge – legal and procurement advice will be sought to mitigate the potential of a legal challenge.
  - e. Slippage of timescales – following ratified decision, milestones will be included within the process which will help mitigate slippage. It should be noted that following publication of OJEU notice, the minimum period to award is 100 days.
  - f. Procedures not operated in a manner that demonstrates transparency, probity, and accountability – a full audit trail will be maintained throughout the process.
  - g. Failure to comply with relevant legislation – the Council's legal team will be engaged throughout the process.
  - h. Reputational risk – the chosen promoter or developer partner will be expected to engage stakeholders throughout the process to mitigate this potential risk. The Council will undertake selection of potential promoter and developer partners on the basis of appropriate values, attitudes and behaviours.
  - i. Poor value for money – the proposed method of delivery will optimise the level of capital receipts, whilst minimising expenditure and mitigating risk.
  - j. Under performance of chosen promoter or developer – tailored incentivisation mechanisms will be constructed for discrete projects.
  - k. Failure to deliver the Council's priorities – the Council will relinquish some control; there is reliance on other stakeholders and interested parties to achieve these.
5. The planning and execution of this project will be developed recognising these risks.

**Staffing (including Trades Unions):**

6. Not applicable.

### **Equalities/Human Rights:**

7. As part of the Council's procurement procedures, checks are made to ensure that contractors are compliant with equality legislation.

### **Community Safety:**

8. As part of the planning process the statutory standards for Community Safety will be met.

### **Sustainability:**

9. As part of the planning process for each discrete scheme or project, which uses the framework, there will be a requirement for an Environmental Assessment as well as other policy requirements to provide sustainable development.

### **Procurement:**

10. The Procurement team has been engaged and the Chief Procurement Officer will provide advice and guidance to ensure the Council's Procurement procedures are followed or that appropriate other action is taken to secure a partner.

### **Overview and Scrutiny:**

11. This matter has not been considered by Overview and Scrutiny.

### **RECOMMENDATION:**

#### **The Executive is asked to:**

- 1. approve the procurement of a promoter and developer framework to enable ready access to the necessary support for catalysing regeneration, delivering development and realising capital receipts. Individual schemes which may be delivered by the framework may be over £500k. All schemes are funded via the Council's agreed Capital Programme.**

*Reason for Recommendation: The capital cost and potential capital receipts to be achieved from use of this framework, is potentially greater than £500,000 and therefore requires Executive approval.*

### **Executive Summary**

12. In taking forward regeneration, development and land sales the Council has 3 main options:
- It can promote or develop itself.
  - It can appoint a promoter to take the project or scheme to secure planning.
  - It can sell to a developer who will take the scheme through planning and onto develop out.

This report is focused on providing a prepared and quality assured route to select promoters or developers, where the Council has determined not to develop itself.

13. The Council has, thus far, progressed projects and schemes with developers and promoters on an ad hoc basis. This can generate uncertainty in terms of both timelines and in qualitative outcomes.

14. Establishing a framework, such as that proposed will provide ready access to pre-qualified organisations which, because of selection criteria, will understand CBC drivers and complement CBC values, attitudes and behaviours.
15. There is no requirement to revert to the framework if the decision is made to progress with in-house resource, but it will represent a helpful available option.
16. The Framework will reserve to the Council the choice of the promoter or developer route enabling decisions to be taken on a case by case basis. The differences between the promoter and developer routes are subtle but significant:
  - a. A promoter typically would meet all costs of securing planning permission and possession of the land in full consultation with the Council. The promoter would be remunerated based on an agreed percentage of the value of the land disposal proceeds on disposal – this is normally between 10% - 15%. This gearing to value ensure motivation to maximise value. This cost would be deducted from the sale and therefore would not need to be funded by the Council.
  - b. A developer, on the other hand, is at risk for planning and infrastructure costs and the Council's reduced exposure and reduced engagement is reflected in the value it can secure from the land and the influence it has over how it is developed. Opting for a developer would, however, likely mean an early capital receipt and procurement issues can usually be avoided.
  - c. The degree of control and influence is an important consideration and whilst the Council would lose both with any approach other than self-delivery, diminution is less with the promoter route.
  - d. Importantly, the approach proposed would enable application of the approach such that the Council could utilise a sequential adoption, that is to say promotion to secure planning and a seamless move to a developer.

### **Conclusion and Next Steps**

17. It would be advantageous for the Council to increase its options as to how it realises assets, progresses developments and catalyses regeneration, recognising the need for a balanced approach specifically designed for each project. The recommendations set out in this Executive paper, if approved by the Council will, in consultation with Procurement and Legal, commence work to secure a framework of partners for promotion and development.

**Appendices:** None