



## **Middlesbrough Development Corporation Board**

**Date:** Wednesday 29<sup>th</sup> November 2023 at 2pm

**Venue:** Mandela Room, Middlesbrough Town Hall, Albert Road, Middlesbrough, TS1 2QJ

### **Membership:**

Mayor Ben Houchen (Tees Valley Mayor)

Paul Booth (Independent Member)

Mayor Chris Cooke (Middlesbrough Mayor)

Cllr Mieka Smiles (Independent Member)

Idrees Rashid (Independent Member)

Steve Turner (Independent Member)

### **Associate Membership:**

Julie Gilhespie (Group Chief Executive TVCA)

Clive Heaphy (Chief Executive, Middlesbrough Council)

### **Independent Advisor:**

Mark Webster (Chief Constable, Cleveland Police)

## AGENDA

- 1. Chairs Welcome & Apologies for Absence**
- 2. Declarations of Interest**  
Attached
- 3. Minutes of Previous Meeting**  
Attached
- 4. Chairs Update**  
Verbal
- 5. Chief Executives Update**  
Attached
- 6. Governance Update**  
Attached
- 7. Planning Update**  
Attached
- 8. Approval to Appoint Preferred Development Partner - Gresham**  
Attached  
*Under the terms of paragraph 3 of schedule 12a Local Government Act 1972, the annexes to this report are not for publication*
- 9. Confidential Investment Opportunity A**  
Attached  
*Under the terms of paragraph 3 of schedule 12a Local Government Act 1972, this report is not for publication*
- 10. Project Pipeline Update**  
Attached  
*Under the terms of paragraph 3 of schedule 12a Local Government Act 1972, this report is not for publication*
- 11. Date and Time of Next Meeting**  
Wednesday 24<sup>th</sup> January 2023 at 1pm  
Spencer Room, Middlesbrough Town Hall





## Middlesbrough Development Corporation Board

### Declaration Of Interest Procedure

1. The purpose of this note is to provide advice and guidance to all members of the Development Corporation Board and Audit & Governance Committee on the procedure for declaring interests. The procedure is set out in full in the Development Corporation's Constitution under the "Code of Conduct for Members" (Appendix II).

#### Personal Interests

2. The Code of Conduct sets out in full, the principles on the general conduct of members in their capacity at the Development Corporation. As a general principle, members should act impartially and should not use their position at the Development Corporation to further their personal or private interests.
3. There are two types of personal interests covered by the Constitution:
  - a. "disclosable pecuniary interests". In general, a disclosable pecuniary interest will involve any financial interests, such as paid employment or membership of a body, interests in contracts, or ownership of land or shares. Members have a pecuniary interest in a matter where there is a reasonable likelihood or expectation that the business to be considered will affect your well-being or financial position, or the well-being or financial position of the following persons:
    - i. a member of your family;
    - ii. any person with whom you have a close association;
    - iii. in relation to a) and b) above, their employer, any firm in which they are a partner, or a company of which they are a director;
    - iv. any person or body in whom persons described in a) and b) above have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
    - v. any body as described in paragraph 3 b) i) and ii) below.
  - b. Any other personal interests. You have a personal interest in any business of the Development Corporation where it relates to or is likely to affect:
    - i. any body of which you are a member (or in a position of general control or management) and to which you are appointed or nominated by the Development Corporation;
    - ii. any body which:
      - exercises functions of a public nature;
      - is directed to charitable purposes;
      - one of whose principle purposes includes influencing public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management).

## **Declarations of interest relating to the Councils' commercial role**

4. Financial relationships between the Development Corporation and individual councils do not in themselves create a conflict of interest for Council Leaders who are also Development Corporation Board members. Nor is it a conflict of interest if the Development Corporation supports activities within a council boundary. Nevertheless, there are specific circumstances where the Board may consider entering into direct contractual arrangements with a council, for example in relation to a particular commercial investment project, or in which that council is a co-funder. In these circumstances a non-pecuniary declaration of interest should be made by the Council Leader or their substitute.

## **Procedures for Declaring Interests**

5. In line with the Code of Conduct, members are required to adhere to the following procedures for declaring interests:

### **Register of Interests**

6. Each member is required to complete a register of interests form with their personal interests, within 28 days of their appointment to the Development Corporation. If no declaration is received from elected members within 28 days the matter may be referred to the Head of Paid Service of your local authority and Leader of the political group you represent on your council for action. If a Declaration is not submitted within an appropriate timescale you may be prevented from attending committee meetings. Details of any personal interests registered will be published on the Development Corporation's website, with the full register available at the Development Corporation's offices for public inspection. The form will be updated on an annual basis but it is the responsibility of each member to notify the Monitoring Officer of any changes to the register throughout the year. Notification of a change must be made to the Monitoring Officer within 28 days of becoming aware of that change.

### **Declaration of Interests at Meetings**

7. The Development Corporation will include a standing item at the start of each statutory meeting for declaration of interests. Where members are aware that any of their personal interests are relevant to an item of business being considered at a meeting they are attending, they must declare that interest either during the standing item on the agenda, at the start of the consideration of the item of business, or when the interest becomes apparent, if later.
8. Where members consider that their interest could be considered by the public as so significant that it is likely to prejudice the members' judgement then they may not participate in any discussion and voting on the matter at the meeting, but may attend the meeting to make representations, answer questions or give evidence relating to the business, before it is discussed and voted upon.
9. If the interest is a disclosable pecuniary interest (as summarised in paragraph 3a) then the member must leave the meeting room during discussion and voting on the item of business, but may make representations, give evidence and answer questions before

leaving the meeting room. Failure to comply with the requirements in relation to disclosable pecuniary interests is a criminal offence.

### **Sensitive Information**

Members can seek the advice of the monitoring officer if they consider that the disclosure of their personal interests contains sensitive



## MIDDLESBROUGH DEVELOPMENT CORPORATION BOARD

20<sup>th</sup> September 2023 10am

Mandela Room, Middlesbrough Town Hall, Albert Road, Middlesbrough, TS1 2QJ

*These minutes are in draft form until approved at the next Board meeting and are therefore subject to amendments.*

*UNDER THE TERMS OF PARAGRAPH 3 OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 THESE MINUTES ARE CLASSED AS CONFIDENTIAL*

<b><u>ATTENDEES</u></b>	
<b><u>Members</u></b>	
Mayor Ben Houchen (Chair)	Tees Valley Mayor
Mayor Chris Cooke	Middlesbrough Mayor (Elected Member of Middlesbrough Council)
Idrees Rashid	Independent Member
Steve Turner	Independent Member
Paul Booth	Independent Member
<b><u>Associate Members</u></b>	
Julie Gilhespie	Associate Member
Clive Heaphy	Associate Member
<b><u>Officers in Attendance</u></b>	
Gary Macdonald	Group Director of Finance & Resources
Emma Simson	Interim Chief Legal Officer (Monitoring Officer)
Sarah Brackenborough	Head of Operations
Victoria Pescod	In House Lawyer
Charlie Kemp	Head of Creative Place
Nicola Dean	Governance & Scrutiny Officer
<b><u>Others in Attendance</u></b>	
Josh Woollard	Nathaniel Lichfield & Partners
<b><u>Apologies</u></b>	
Mark Webster	Independent Advisor
Mieka Smiles	Independent Member

<p><b>MDC 09/23</b></p>	<p><b>CHAIRS WELCOME &amp; APOLOGIES FOR ABSENCE</b></p> <p>The Chair welcomed Members to the Middlesbrough Development Corporation (MDC) Board meeting.</p> <p>Apologies for absence were submitted as detailed above.</p>
<p><b>MDC 10/23</b></p>	<p><b>DECLARATIONS OF INTEREST</b></p> <p>There were no interests declared.</p>
<p><b>MDC 11/23</b></p>	<p><b>MINUTES OF PREVIOUS MEETING</b></p> <p>The Minutes of the previous meeting of 19<sup>th</sup> July 2023 were reviewed and agreed as a true record.</p> <p>Middlesbrough Mayor, Chris Cooke, (CC) noted a comment on the way the Investment Proposal have at times been recorded in the minutes. It was noted that it would be preferable for more detail to be included in future record clearly the information provided to the Board. The Chair noted no decisions were taken in those areas but agreed a need to have all details recorded in the Minutes.</p> <p><b>RESOLVED</b> that:- the Minutes of the previous meeting of 19<sup>th</sup> July 2023 were agreed as a true record.</p>
<p><b>MDC 12/23</b></p>	<p><b>CHAIR'S UPDATE</b></p> <p>The Chair advised the Board he had nothing to update on, that was not covered in the rest of the agenda.</p> <p><b>RESOLVED</b> that:- the Board noted the Chair's update.</p>
<p><b>MDC 13/23</b></p>	<p><b>CHIEF EXECUTIVES UPDATE</b></p> <p>Julie Gilhespie, (JG), Group Chief Executive, provided an update on the Tees Valley Investment Zone. A Business Case was being co-developed with Government, with a series of Gateways to be met during the process of sign off. TVCA were working with Teesside University as co-signatory of the Investment Zone. The sector chosen as the focus of the Investment Zone was digital and technology, with identified clusters in Middlesbrough, Hartlepool and at the airport. The Chair explained that Government have been quite prescriptive about the outcomes of the Investment Zone.</p> <p>It was noted that formal sign off of the Tees Valley Investment Zone was expected at the Autumn Statement but that this was dependent on the conclusion of the independent review. The Board were advised that by the next meeting there should be more clarity.</p> <p><b>RESOLVED</b> that:- the Board noted the CEO Update.</p>

<p><b>MDC 14/23</b></p>	<p><b>UPDATE ON PLANNING SERVICES FOR MIDDLESBROUGH DEVELOPMENT CORPORATION</b></p> <p>The Board were updated on the delivery of planning services by MDC since planning powers were transferred on 1st June 2023.</p> <p>Idrees Rashid, (IR) sought clarification on the timeframe for planning decisions coming to Board. Josh Woollard (JW), Lichfields, provided a summary of the process and the Scheme of Delegation, along with the types of items that may come to Board. It was explained to be difficult to determine the quantity that would be received, although it was confirmed that there were 2 scheduled for the next Board.</p> <p>Paul Booth, (PB), gave praise for the Planning training delivered to Members and asked the slides from the session be provided. JW confirmed he would arrange this in advance of the next meeting. It was confirmed that most Members had undertaken training with one Member outstanding and it was noted that this was scheduled to take place before the next meeting.</p> <p>CC queried the process with an emerging Local Plan and an old one still in existence, as Middlesbrough Council are in the process of updating the Local Plan. JW explained that the existing Local Plan should be given the weight and the emerging Plan will supersede that once it has been through a consultation process, so long as there are no significant objections.</p> <p>The Chair sought clarification on the MDC Masterplan and the emerging Local Plan. JW explained that MDC was working with Middlesbrough Council (MBC) on policies specifically related to MDC areas to go into the Local Plan. While MDC has adopted the Masterplan, it was explained to be a material consideration rather than an adopted document, and the Local Plan should still be accorded with.</p> <p>CC asked how confident Board could be that the £1m a year costs of the planning function could be met. JG clarified that a prudent budget had been set, based on advice received, and it was expected that planning fees over time would contribute to the costs. It was also expected that additional capacity for planning could be secured through the Investment Zone. The Chair confirmed the figure was a budget item to make sure that a prudent estimate is being projected in the budget.</p> <p><b>RESOLVED</b> that:- Board noted the update.</p>
<p><b>MDC 15/23</b></p>	<p><b>APPOINTMENT OF HEAD OF PLANNING &amp; PLANNING SCHEME OF DELEGATION</b></p>

	<p>Members were provided with a Report seeking confirmation of the appointment of the Head of Planning of MDC and the arrangements for the day to day delivery of the planning service.</p> <p>PB queried the consultation and communication process for planning applications and where responsibility for transparency and publication sat. The Chair confirmed that MDC had that responsibility now. JG added that there are links on the planning applications section of the MDC webpage and the Middlesbrough Council webpage to ensure that any interested parties are aware of planning applications on both sites.</p> <p><b>RESOLVED that:</b> Board approved the appointment of Helen Kemp as the Head of Planning for MDC; Board approved the Scheme of Delegation; Board confirmed the appointment of Lichfields to deliver the day-to-day planning services for MDC.</p>
<p><b>MDC 16/23</b></p>	<p><b>MIDDLESBROUGH DEVELOPMENT CORPORATION DRAFT DESIGN CODE</b></p> <p>Board approval was sought for the DRAFT MDC Design Code for a period of public consultation and Members were invited to provide feedback.</p> <p>Steve Turner, (ST), noted it was positive to see the inclusion of ‘secure by design’ as it provides further assurance that this is important to be adhered to and that the Police have that voice within MDC.</p> <p>It was confirmed that the consultation period would be 21<sup>st</sup> September to 15<sup>th</sup> October 2023 and subject to consultation, the Design Code would be brought back to the next Board meeting.</p> <p><b>RESOLVED that:</b> Board approved the publication of the draft MDC Design Code for the period of consultation.</p>
	<p><i>THE CHAIR PROPOSED A MOTION TO EXCLUDE THE PRESS &amp; PUBLIC FROM THE FOLLOWING CONFIDENTIAL ITEM UNDER THE TERMS OF PARAGRAPH 3 OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972</i></p> <p><i>This was agreed by ST and seconded by PB.</i></p>
<p><b>MDC 17/23</b></p>	<p><b>OPT IN TO PSAA FOR EXTERNAL SERVICES</b></p> <p>Board received a report providing options for future External Audit services to cover the period 2023-24 to 2027-28 financial statements.</p>

	<b>RESOLVED</b> that: Board approved the recommendations within the report.
<b>MDC 18/23</b>	<b>INVESTMENT PROPOSAL A</b> <b>RESOLVED that:</b> Board noted the update.
<b>MDC 19/23</b>	<b>INVESTMENT PROPOSAL B</b> <b>RESOLVED that:</b> Board noted the update.
	<b>DATE OF NEXT MEETING:</b> Wednesday 25 <sup>th</sup> October at 1pm <span style="float: right;">Venue TBC</span>



## AGENDA ITEM 5

### REPORT TO THE MIDDLESBROUGH DEVELOPMENT CORPORATION BOARD

29<sup>TH</sup> NOVEMBER 2023

### REPORT OF CHIEF EXECUTIVE

#### CHIEF EXECUTIVE'S UPDATE

##### SUMMARY

This report provides an update to the Board on key activity not covered elsewhere on the agenda.

##### RECOMMENDATIONS

It is recommended that the Middlesbrough Development Corporation Board note the update.

##### DETAIL

###### Independent Review

1. On 7 June, it was announced that Angie Ridgwell, Chief Executive of Lancashire County Council had been appointed to lead a review into Teesworks following allegations about the organisation being made by the press and in the Commons.
2. The investigation commenced at the beginning of June, with the panel reviewing TVCA's oversight of STDC and the Teesworks Joint Venture, including consideration of specific allegations made in relation to the Joint Venture, of corruption, illegality and wrongdoing. It is also looking at governance and financial management, reflecting the Government's existing approach to external assurance reviews.
3. In total we have provided more than 700 documents to the panel and have answered more than 185 questions. We understand that the independent review panel's report has now been postponed until mid-December 2023.

## Tees Valley Investment Zone (TVIZ)

4. The government published the Investment Zones (IZ) policy prospectus on 15th March 2023. Tees Valley Combined Authority has been identified as one of eight areas (in England) to work with government to co-develop proposals for a Tees Valley Investment Zone (TVIZ).
5. The TVIZ has been proposed by the Tees Valley Mayor and is being developed by TVCA. TVCA is working closely with Teesside University (as significant research institution/co-signatory) on the Tees Valley Investment Zone.
6. IZ's are aimed at catalysing a small number of high potential clusters in areas in need of levelling up to boost productivity and growth. They will support the development and growth of clusters in order to increase local innovation capacity, attract investment and strengthen the private sector.
7. The total funding available to each IZ is £80m over 5 years (commencing April 2024), with an expectation of 60% match coming from private sector, third sector and local government. This funding can be used flexibly, including a five year tax offer. Places can also receive 100% of the business rates growth in designated sites above an agreed baseline for 25 years.
8. TVCA and TU are currently working with the Department for Levelling Up, Homes and Communities to co-develop the Tees Valley IZ. This is structured around a series of 'gateways' broadly covering vision, sector and economic geography, interventions, governance and delivery.
9. The TVIZ is focused on digital and technology as our priority sector, with identified high growth clusters in Middlesbrough, Hartlepool and Teesside International Airport.
10. TVCA is seeking fully flexible spend of the £80m funding plus Business Rate Retention for dedicated sites. Retained Business Rates will be over and above the £80m. Interventions are being developed from the full policy menu which includes infrastructure, skills, business support, planning and R&D.
11. Co-development of the TVIZ with government continues to move at pace and we are broadly in line with other areas in terms of progress against the 'gateways'. However due to the ongoing Independent Review into Teesworks government is not in a position to make formal decisions or announcements on the TVIZ until this has concluded.

## Forward Plan

12. The Middlesbrough Development Corporation Board currently has scheduled meetings in the diary each month up to and including May 2024. Where a planning application decision is required, there is also provision for the Planning Board to meet, as and when required, according to the same monthly schedule. MDC is working on a medium-term financial plan and budget, and this will come before the end of the financial year.



13. The Board should note that the Tees Valley Mayoral Election takes place in May 2024 and as is standard procedure for all public bodies, the pre-election period will commence during March 2024 (actual date to be confirmed) and ends the day after polling day on 2 May.
14. The basic principle of the pre-election period is not to undertake any activity which could call into question the political impartiality of officers or could give rise to the criticism that MDC/Combined Authority resources are being used for party political purposes.
15. Normal business of MDC can continue over the pre-election period and therefore MDC Board can continue to meet to make routine decisions. It is expected that the MDC Planning Board will continue to meet as normal during the pre-election period, as required, to ensure that routine planning applications can be considered.
16. The Monitoring Officer will issue more detailed guidance to MDC Board members on the pre-election period in due course.

## **FINANCIAL IMPLICATIONS**

17. This report is an update for information only therefore no direct financial implications.

## **LEGAL IMPLICATIONS**

18. This update is for information only therefore there are no direct legal implications.

## **RISK ASSESSMENT**

19. This update is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

## **CONSULTATION & COMMUNICATION**

20. This update is for information only therefore no further consultation and communication is necessary.

## **EQUALITY & DIVERSITY**

21. This update is for information only therefore it does not impact on groups of people with protected characteristics.

Name of Contact Officer: Julie Gilhespie  
Post Title: Group Chief Executive Officer  
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*Under the terms of paragraphs 1 & 2 of schedule 12a of the Local Government Act 1972, the appendix to this report is not for publication*

## AGENDA ITEM 6

### REPORT TO THE MIDDLESBROUGH DEVELOPMENT CORPORATION BOARD

29<sup>TH</sup> NOVEMBER 2023

### REPORT OF THE ACTING CHIEF LEGAL OFFICER (MONITORING OFFICER)

## GOVERNANCE UPDATE - AUDIT

### SUMMARY

This report is divided into three sections, dealing with the following:

1. an update on, and approval in respect of proposals in relation to the Development Corporation's Audit & Governance Committee;
2. approval of and recommendation to Cabinet of the proposed appointments to the Development Corporation's Audit & Governance Committee; and
3. an update to the Board in respect of the Development Corporation's appointment of Auditors.

### RECOMMENDATIONS

It is recommended that the Middlesbrough Development Corporation Board:

- (i) approves the revised proposal to recruit up to five Independent Members to the Development Corporation's Audit & Governance Committee;
- (ii) approves and recommends that Cabinet ratifies the appointment, to the Development Corporation's Audit & Governance Committee, of the independent member referred to in the Appendix; and
- (iii) notes the position of the Development Corporation in respect of appointment of Auditors.

## DETAIL

1. The Middlesbrough Development Corporation (MDC) was established by Order on 27 February 2023.
2. The membership of the Board of MDC was ratified by Cabinet on 28th October, 2022.
3. The MDC Constitution was approved by MDC on 22 March 2023.
4. At its meeting on 20 September 2023 the MDC Board approved the recommendation to recruit five independent members to its Audit & Governance Committee.

## AUDIT & GOVERNANCE COMMITTEE MAKE UP

5. A recruitment campaign was commenced to seek independent members for the Development Corporation's Audit & Governance Committee. Following a sifting of the applications, suitable candidates were interviewed by Tees Valley Combined Authority Group Director for Finance & Resources and Tees Valley Combined Authority Group Financial Controller.
6. Of those interviewed, subject to the approval of the Board at this meeting and ratification by Cabinet, an appointment was offered to one candidate, the details of which are included in the Appendix. That appointment is considered further in this Report.
7. Members will understand the need to ensure that those appointed to the Development Corporation's Audit & Governance Committee possess the most suitable mix of skills and experience.
8. Following the initial recruitment campaign, there was only one suitable applicant for independent Membership of the Audit & Governance Committee. It is therefore acknowledged that it is likely to prove challenging in the short term to recruit five independent Members to the Audit & Governance Committee, as agreed by the Board at its meeting on 20 September 2023.
9. It is therefore proposed that the Board approves the appointment of up to 5 independent Members to the Development Corporation Audit Committee, enabling the Audit Committee to be formed with the one independent member detailed in this report and the TVCA Audit Committee Middlesbrough Council Member appointed by the Board and approved by Cabinet.
10. The recruitment campaign for Audit & Governance Committee Members will continue in order to attract additional Independent Members, and regular updates will be provided to the Board.

## AUDIT & GOVERNANCE COMMITTEE – APPOINTMENT

11. As detailed above, following a recruitment campaign, the Board is asked to approve the appointment of the one Independent Member, the details of which are contained within the Appendix to this Report, to the Development Corporation Audit & Governance Committee.

## APPOINTMENT OF AUDITORS

12. At its meeting on 20 September 2023 the MDC Board approved the proposal to opt into Public Service Audit Appointment's (PSAA) Appointing Person scheme under the Local Audit (Appointing Person) Regulations 2015. This means that PSAA has the responsibility to appoint an auditor to both organisations.
13. PSAA ran a competition using its dynamic purchasing system (DPS) to seek an auditor. In parallel PSAA undertook a separate DPS competition to find an auditor for another body in a different part of the country.
14. PSAA did not receive any bids to either competition. PSAA suggested that the ongoing discussions to find a solution to address the audit backlog are creating uncertainty amongst the audit firms, which may have been a factor as to why they did not bid.
15. PSAA met with officers of TVCA on behalf of the Development Corporation on 8 November, in order to provide an update and explain their next steps.
16. PSAA will seek to appoint an auditor from the six firms with a PSAA 2022 audit services contract. They will meet with all firms to explore whether they are able to take on the audits; approaching firms in a logical best fit order.
17. If the approach to the firms is unsuccessful, then ultimately PSAA must notify the Secretary of State (SoS). PSAA has committed to inform officers before they notify the SoS. The SoS has the power to direct an audit appointment. This process is covered by s12 of the Local Audit and Accountability Act 2014.
18. PSAA stated that if their discussions identified a firm that was potentially willing to take on the audit subject to knowing the detail of the backlog solution, that they would pause for a few weeks and then reapproach the firms before notifying the SoS.
19. The likelihood of the requirement to notify the SoS is expected to be remote. TVCA officers will liaise with External audit firms that audit other companies within the TVCA group, to request if the scope can be widened to include the MDC and Hartlepool Development Corporation.

## 20. FINANCIAL IMPLICATIONS

21. The tendering for External Audit services has a risk in respect of fees due to the significant market instability in the Local Government External Audit market as

detained in the Redmond Review. The MDC requires capacity and capability to manage the scope and complexity of activities that it intends to conduct.

22. The delay in appointment of an External auditor should have limited financial impact on the MDC has no external debt and therefore would not be in breach of financial covenants.
23. The delay in appointment of an External Auditor and full Audit and Governance committee has been considered from a financial perspective. The MDC has extensive key financial controls in place to mitigate the risk of material misstatement. Segregation of duties and system controls exist across the financial process.
24. The group External Auditor will be required to perform substantive testing as part of their standard consolidation work. While testing will be to a higher threshold it will partially mitigate the risk.

## LEGAL IMPLICATIONS

25. The proposed make-up of the Audit and Governance Committee in order for it to be formed is compliant with legislation and all other requirements.
26. There are no legal implications of not having an appointed Auditor at this moment in time, but this will be continually reviewed and any risks reported to the Board.

## RISK ASSESSMENT

27. Tees Valley Combined Authority has adopted a group approach to managing risk which is aligned to ISO and Orange Book standards. This approach has been used to successfully identify, manage, and monitor risks across the Group risk portfolios.
28. The risk management framework uses a suite of standard tools and techniques which deliver the effective and efficient management of risk, supported by the implementation of an automated platform, enabling real time reporting to be used in key decision making, driving accountability and delivery of action plans.
29. To date, a Risk Register has been documented to monitor the development and delivery of the Development Corporation.

## CONSULTATION & COMMUNICATION

30. This report furthers previous reports to the Board in relation to Audit & Governance matters.

## EQUALITY & DIVERSITY

31. No impact on equality and diversity is expected as a consequence of the information contained in or the decisions sought pursuant to this report.

**Name of Contact Officer:** Emma Simson  
**Post Title:** Acting Chief Legal Officer (Monitoring Officer)  
**Telephone Number:** 01325 792600  
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## AGENDA ITEM 7

### REPORT TO THE MIDDLESBROUGH DEVELOPMENT CORPORATION BOARD

29<sup>TH</sup> NOVEMBER 2023

### REPORT OF THE HEAD OF PLANNING

## PLANNING UPDATE

### SUMMARY

Responsibility for the determination of planning applications within the Middlesbrough Development Corporation boundary lies with the Middlesbrough Development Corporation. In a transitional arrangement, planning functions were initially delivered by Middlesbrough Council, these have since transferred under the responsibility of the MDC appointed Head of Planning with functional delivery provided by Lichfields.

In accordance with the approved Scheme of Delegation, two planning applications are to be determined by the Middlesbrough Development Corporation Board and several applications have been determined by the Head of Planning through delegated authority.

### RECOMMENDATIONS

It is recommended that the Middlesbrough Development Corporation Board note the updated position of planning service delivery and the status of planning applications submitted for consideration.

### DETAIL

1. A transition agreement was reached with Middlesbrough Council, whereby it temporarily delivered the planning function on behalf of the Middlesbrough Development Corporation.
2. Delivery of planning service functions relating to town and country planning and development control within the Middlesbrough Development Corporation area is now overseen by the Head of Planning with operational services delivered through Lichfields.

3. Since the transition period ended there have been two planning applications submitted which require determination by the Middlesbrough Development Corporation Board, as required by the approved Scheme of Delegation. A further 27 planning matters have been dealt with through delegated authority including 4 applications withdrawn; 20 approved and 1 refused. Full details are provided to the Middlesbrough Development Corporation Planning Board.
4. Local planning authorities in England are required to submit quarterly returns to central government to provide summary information relating to the number and status of planning and related applications in each quarter. Access to complete this process for the Middlesbrough Development Corporation was provided in October 2023 and future quarterly returns will be submitted as required.
5. The Head of Planning has received one communication relating to planning enforcement during the period since the transition and the matter is currently being investigated.

**FINANCIAL IMPLICATIONS (you must have this section signed off by the Finance Director )**

6. There are no financial implications.

**LEGAL IMPLICATIONS**

7. Planning Powers were conferred on to MDC on 1 June 2023 giving MDC the power to determine planning applications within the redline boundary.

**RISK ASSESSMENT**

8. This subject matter of this report is categorised as low risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

**CONSULTATION & COMMUNICATION**

9. The subject of this report is a matter for MDC Board information only therefore no additional consultation and communication has been undertaken.

**EQUALITY & DIVERSITY**

10. This report does not impact on groups of people with protected characteristics.

**Name of Contact Officer:** Helen Kemp  
**Post Title:** Business Support Director & Head of Planning  
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*Under the terms of paragraph 3 of schedule 12a Local Government Act 1972, the annexes to this report are not for publication*

AGENDA ITEM 8

REPORT TO THE MIDDLESBROUGH DEVELOPMENT CORPORATION BOARD

29<sup>TH</sup> NOVEMBER 2023

REPORT OF CHIEF EXECUTIVE

## GRESHAM UPDATE – APPOINTMENT OF PREFERRED BIDDER

### SUMMARY

Following an open, competitive dialogue procurement process, Tarras Park Properties Limited has achieved preferred bidder status based on their mixed-use C£120m redevelopment proposal for the Gresham Focus Area.

The dialogue process has enabled the developer's expertise, from delivering other projects to shape the various structures and mechanisms, that would best suit the programme's requirements to achieve its objectives.

Negotiations to reduce the developers fee levy, and developers profit, have concluded. With a reduction agreed to both the management fee and developers profit, better value for money has been achieved.

### RECOMMENDATIONS

It is recommended that the Middlesbrough Development Corporation Board:

- i. Appoints Tarras Park Properties Limited (TPPL), as lead development partner with iMpeC Developments Limited providing development management services; and
- ii. Delegates to the Group Chief Executive, Director of Finance & Resources and Monitoring officer to enter into a Development Agreement with TPPL in accordance with the procurement process, in order to deliver the identified project at Gresham.

1. At the board meeting on 30<sup>th</sup> January 2023 the Board approved the Middlesbrough Development Corporation Masterplan. In the Masterplan Gresham is named as a Focus Area, described as a key project to be progressed in the short term to bring forward a new mixed-use development for the town, supporting the growth of the university and creating local facilities for the existing community.
2. At the board meeting on 22<sup>nd</sup> March 2023, the board was advised that a full public procurement would commence to seek a private sector development partner.
3. The Competitive Dialogue Procurement Process has concluded with the selection of Tarras Park Properties Limited as the preferred development partner. This formal procurement complied with Public Contract Regulations 2015 and listed the opportunity via the Proactis portal and contracts finder as an open procurement using the competitive dialogue process.
4. The Invitation to Tender set out the opportunity to provide a solution to deliver a “high-quality mixed-use scheme which will deliver professional living and student accommodation which moves away from the traditional town centre terraced housing offer, a secure multistorey car park, business incubation space, leisure facilities and improved pedestrian and green linkages to the Teesside University campus”.
5. The competitive dialogue process provided feedback to and from the bidder. This dialogue has shaped the various structures and mechanisms that best suit the programme’s requirements to achieve its objectives. This ensures the MDC benefits from the expertise from the bidder which brings a strong track record of delivery of projects at this scale.
6. Development Manager iMpeC Real Estate Ltd has led the proposal in conjunction with Buccleuch Properties and Costorphine and Wright. Tarras Park Properties Limited (TPPL) is a subsidiary of the Buccleuch Property Group and will be lead body the MDC contracts with. iMpeC is a subcontractor to TPPL and provides Development Management Services.
7. On acceptance of the preferred bid, negotiation of the development fee and construction profit structure progressed, which has improved value for money to the MDC.
8. The indicative proposal in response to the invitation to tender is provided in Appendix 2. This is an indication only of what could be delivered and may not illustrate what will be delivered. The first stage is to develop a site wide masterplan, from which a delivery programme will be developed. The programme will be delivered in phases, at each phase the optimum funding route will be sought and presented for decision by the Board. This first stage will be funded by MDC. After this stage, the developer will develop funding packages in conjunction with MDC for each phase.

9. The timescale to provide the site wide masterplan is three months from appointment. An indicative start time for construction could be in 2025, with the delivery plan in the bid indicating construction phase taking approximately three years.
10. The board is recommended to appoint Tarras Park Properties Limited, as lead development partner with iMpeC Developments Limited providing development management services. The completed site wide masterplan will be brought back to this board for approval in Spring 2024.

## FINANCIAL IMPLICATIONS

11. The MDC has £10m allocated by TVCA Cabinet from the TVCA Investment Plan. In addition, a further sum is directly earmarked for Gresham from a HMG grant, in the region of c£5m.
12. From this allocation, up to £400,000 is required to be advanced this financial year to fund the first development stage, to create the site wide masterplan. This will be used to calculate viability and viability gaps for future phase. Each phase will be assessed for value for money.
13. Staffing will come from within TVCA resources but funded from the MDC funding allocations.

## LEGAL IMPLICATIONS

14. **Procurement:** The Competitive Dialogue Process to reach preferred bidder stage was carried out in accordance with the Public Contracts Regulations 2015, and overseen by officers from both the Legal and Governance Teams. Further the preferred bidder has experience of working with publicly funded regeneration schemes and understands the need to ensure compliance with procurement regulations throughout their subcontracting, where public funding is utilised.
15. **Legal Agreements:** It is proposed that the MDC will enter into a Pre-Construction Service Agreement with TPPL to cover the development of the site wide Masterplan phase, which will then lead into the longer-term Development Agreement. Both of these agreements will be in line with the parameters of the Competitive Dialogue process to ensure continued compliance with the Public Contracts Regulation 2015.
16. **Subsidy Control:** A subsidy arises where financial assistance:
  - (I) is given, directly or indirectly, from public resources by a public authority,
  - (II) confers an economic advantage on one or more enterprises,
  - (III) is specific, that is, is such that it benefits one or more enterprises over one or more other enterprises with respect to the production of goods or the provision of services, and
  - (IV) has, or is capable of having, an effect on:
    - a. competition or investment within the United Kingdom,
    - b. trade between the United Kingdom and a country or territory outside the United Kingdom, or

- c. investment as between the United Kingdom and a country or territory outside the United Kingdom.
17. The proposed development arrangement was procured via an open competitive dialogue procurement process in accordance with the Public Contracts Regulations 2015. The open nature of the process, means that the preferred bidder has not be placed at a selective advantage and therefore is not an unlawful subsidy.
18. The legal and procurement colleagues will continue to work on the project to ensure that it is compliant at all times with the Subsidy Control Act 2022.

## RISK ASSESSMENT

19. In line with TVCA Group policy, a project delivery risk register has been developed and will be reviewed regularly at MDC project meetings.
20. Significant risks to the MDC at this early stage of project development are around confirming land ownership and progressing with land assembly. The cost to assemble the land is not confirmed, there could also be an impact on the timescales for starting the project. The availability of land will impact on the layout and design of the scheme.
21. Unknown issues below the surface of the land could impact on the cost and timescales. The land surveys that take place as part of the site wide masterplan development will help mitigate this risk.
22. Clarification of social value indicators, their measurement and their capture present an opportunity, when clearly defined these can be used to maximise benefits from the investment.
23. The developer will also manage a construction development and delivery risk register.
24. The current average overall risk score is 9, which is categorised as medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

## CONSULTATION & COMMUNICATION

25. During the development of the MDC Masterplan, Arup carried out consultation with stakeholder consultation has taken place.
26. The bidder has also proactively carried out engagement with key stakeholders during the competitive dialogue process to inform their proposal.
27. TVCA Communications team have drafted press releases in preparation for sharing board decisions in the public domain.

## EQUALITY & DIVERSITY

28. It is not expected that the programme will have negative impacts on groups of people with protected characteristics. Included in the procurement is specific requirements to create positive impacts via social value towards addressing inequality, which will be proactively used to create additional benefits.

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