

**Cheltenham Borough Council**  
**Cabinet – 3 March 20120**  
**Cyber Central – Route to Market**

<b>Accountable member</b>	<b>Councillor Andrew McKinlay, Cabinet Member Development and Safety</b>
<b>Accountable officer</b>	<b>Tim Atkins – Managing Director Place and Growth</b>
<b>Ward(s) affected</b>	<b>All (site is in Hester’s Way and Springbank)</b>
<b>Key/Significant Decision</b>	<b>Yes</b>
<b>Executive summary</b>	<p>This report seeks authority for the Council to start its search for a development partner to bring forward the land acquired at West Cheltenham for development. The vision is for the site to deliver a campus that integrates high-tech workplaces with leading academic facilities, exemplar homes and leisure uses. The campus once fully developed will deliver over 7,000 new jobs across 2m sq ft of commercial space and up to 3,000 homes.</p> <p>Since acquiring the land, the Council has been engaged in an early exercise to identify, explore and review options for a range of legal and transactional delivery structures. This work has included identifying the key project objectives, understanding an acceptable level of risk and return (both delivery and development) and explored revenue vs capital receipt opportunities.</p> <p>In advance of the formal procurement process, the Council has been engaged in a series of soft market testing interviews relating to Cyber Central. These have sought feedback on the approach and procurement process from a range of key operators, investors and developers in the market. This feedback has been used in formulating the delivery strategy for the project as recommended below.</p> <p>A high level ambitious programme has been established in seeking a development partner. Assuming a start date in mid-April it is estimated that the Council will have selected a preferred bidder by late 2020/2021.</p> <p>As the vision requires a unique and high standard deliverable, the council seeks to retain a reasonable level of input in shaping this important extension to Cheltenham, this is supported by its investment in the land and further financial commitment to support housing delivery. The report proposes to follow an EU compliant competitive dialogue process to explore how the ambition and financial investment can be best utilised. This is a resource intensive process and carries a considerable level of risk, however, if the ambitious objectives set out the Council’s Place and Corporate strategies around growth and cyber excellence are to be achieved, we are advised this is the best route to market.</p>

**Recommendation That Cabinet:**

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- 1. Approves the procurement route to market as set out below:**
  - a. The Council seek a delivery partner with skills and experience of a Master Developer;**
  - b. The delivery partner is secured for all of the Council's ownership and it is intended there is no separation of the commercial and residential elements of the proposed scheme;**
  - c. The structure of the agreement is likely to be delivered through a Development Agreement or a Joint Venture, to be defined during dialogue with bidders;**
  - d. Due to the Council's objectives and need to retain a degree of control over the development, the opportunity will need to be procured following EU procurement rules and it is recommended the Competitive Dialogue procedure is followed; and**
  - e. Flexibility is built into the procurement and contract in order to allow for delivery over a lengthy time period, where there will be changes in policies, legislation and market conditions.**
- 2. Considers the draft timetable for procurement noting key stages and time allowed.**
- 3. Delegates authority to the Managing Director Place and Growth, in consultation with the Cabinet Member Development & Safety and Executive Director Finance and Assets to make key decisions through the dialogue and shortlisting stages of the procurement process. The final decision on the preferred bidder will be a decision of Cabinet prior to any contract close.**

**Financial implications**

This is as per the original Council report on 18 February 2019 and in line with the current budgets that have been previously approved. It is estimated that the cost of procuring a development partner will be in the region of £280,000; this includes property, legal and marketing fees.

Any future finance decisions in relation to land receipts or income following approval of the route to market will be subject to Cabinet and/or Council approval.

**Contact officer: [Andrew.knott@publicagroup.uk](mailto:Andrew.knott@publicagroup.uk), 01242 264 121**

<b>Legal implications</b>	<p>The Council's Contract Rules and the Public Contracts Regulations 2015 will need to be followed when carrying out the procurements referred to in the report. The Regulations must also be considered when developing land and as stated in the body of the report, the authority will seek advice and assistance from specialist advisors and lawyers.</p> <p><b>Contact officer: One Legal; <a href="mailto:onelegal@tewkesbury.gov.uk">onelegal@tewkesbury.gov.uk</a></b></p>
<b>HR implications (including learning and organisational development)</b>	<p>The Council have assembled a multidisciplinary highly skilled core team in delivering the proposals for Cyber Central. The capacity of the team will be kept under review to ensure the selection of a development partner can be fully resourced.</p> <p><b>Contact officer: <a href="mailto:clare.jones@cheltenham.gov.uk">clare.jones@cheltenham.gov.uk</a></b></p>
<b>Key risks</b>	<p>There are a number of risks associated with a programme of this ambition. All property and legal risks will be managed by our consultants, Avison Young and Trowers and Hamlins and reviewed regularly by officers.</p>
<b>Corporate and community plan Implications</b>	<p>The Cyber vision is a key priority of the Corporate Plan, in particular the objectives of making Cheltenham the Cyber capital of the UK and increasing the supply of housing to build resilient communities.</p>
<b>Environmental and climate change implications</b>	<p>The opportunity exists for this programme to become an exemplar for environmental and sustainable development across both the commercial and residential sectors. Any emerging developments will be governed by the Local Planning authority and must adhere to adopted and emerging policies encouraging sustainable development and promoting health, wellbeing and biodiversity.</p>
<b>Property/Asset Implications</b>	<p>The Council acquired land at West Cheltenham in 2019; this is now part of the Corporate Asset List. Ongoing management arrangements in relation to this land were reported to Cabinet in November 2019.</p> <p><b>Contact officer: <a href="mailto:Dominic.Stead@cheltenham.gov.uk">Dominic.Stead@cheltenham.gov.uk</a></b></p>

## 1. Background

- 1.1** West Cheltenham is a strategic Joint Core Strategy (JCS) allocation that allows for the delivery of around 1,100 homes and approximately 45 hectares of employment land focussed upon a cyber technology uses. Comprehensive delivery of the wider area could see up to 3,000 residential units and could create more than 7,000 high quality jobs for Cheltenham and the county along with thousands of homes as part of a high quality integrated development.
- 1.2** In July 2018 the Council approved funds towards the creation of a multi-disciplinary team to consider how to maximise the economic and social benefit for Cheltenham and the wider region by realising the growth of the cyber industry and develop plans for growth across the residential and commercial property sectors. In September 2018 the Council produced the Cyber Central Vision, illustrating the extent to which the location could be a positive catalyst for change in the region through the promotion of a new community that combines world class cyber business and academic facilities, exemplar housing and state of the art amenity and leisure facilities in a highly accessible and environmentally sustainable location.
- 1.3** In November 2018 the Council commenced negotiations regarding the purchase of a significant

landholding within the allocated land at West Cheltenham. In February 2019 Council approved a budget allocation for land acquisition. In May 2019, it was approved that the Council could proceed with the acquisition for development of up to 112 acres of land allocated for employment and residential uses at West Cheltenham for £37,500,000. The Council exchanged contracts on the purchase of this land in June 2019 with the deal completing on 22nd August 2019.

- 1.4 Since acquiring the land at West Cheltenham the Council have been working with commercial property advisors, Avison Young, to consider delivery options in bringing forward the land at Cyber Central for development. To inform these options it has been important to understand the cost, value and viability drivers of the emerging planning framework, the emerging infrastructure elements and to undertake a qualitative and quantitative analysis of the Council's key objectives.
- 1.5 A full analysis of the key elements of the scheme has been prepared including understanding the market and target audience, a review of procurement options, assessment of infrastructure needs and consideration of timescales.
- 1.6 A full report detailing the delivery options and assessment is attached at Appendix 2.

## **2. Reasons for recommendations**

- 2.1 Procurement of a delivery partner has been considered in the context of public procurement 'rules' that are set out in the Public Contracts Regulations 2015 (the Regulations). These make it clear that works, services or supply contracts with a value above the specified financial thresholds must be competitively procured using a Regulations compliant tender process.
- 2.2 In following the Regulations, the principal procurement procedures are:
  - a. Open Procedure;
  - b. Restricted Procedure (run independently or by the Council utilising Homes England's DPP);
  - c. Competitive Dialogue; and
  - d. Competitive Procedure with Negotiation.
- 2.3 The most appropriate way forward is to use the Competitive Dialogue procedure.
- 2.4 In following the dialogue approach flexibility can be built into the procurement and contract in order to allow for delivery over a lengthy time period, where there will be changes in policies, legislation and market conditions. It also allows the council to fully explore options for retaining elements of control and how the considerable investment the council could be used to maximise the qualitative aspects of this scheme. For example seeking a longer period on return on investment so higher design standards are achieved.
- 2.5 In identifying the preferred route to market, it is first important to understand the Council's key strategic objectives in delivering development at West Cheltenham.
  - 2.5.1 Growth Agenda – as part of the Council's growth agenda to deliver at the earliest opportunity, a cyber park providing the opportunity to deliver cyber tech/security with high value employment opportunities and associated supporting industries to West Cheltenham. This is set out in the Place Strategy, it is also a priority objective of the Corporate Plan;
  - 2.5.2 Cyber Tech Capital of UK – to proactively manage and promote the cyber park so that it becomes recognised as the cyber tech capital of the UK;
  - 2.5.3 Mixed use and Mixed tenure – to achieve a true mixed use and mixed tenure (minimum of 40% affordable housing) community;





#### 4. Proposed Procurement Programme and Risk

4.1 Working with Avison Young, the Council have developed a draft timetable to highlight the key stages of the procurement process and when these are programmed to start. The table below sets out the timeline and critical stages.

Stage	Timescales	Date
Cabinet Approval on strategy		March 2020
PIN Notice - needed for soft launch at MIPIM, gather expressions of interest		March 2020
OJEU Contract Notice	6 weeks (30-37 days)	Apr – May 2020
Selection Questionnaire (SQ) Returned		May 2020
Evaluation & Shortlisting from SQ (min 3 parties)	2 weeks	Jun 2020
Invitation to Participate in Dialogue (ITPD)		Jun 2020
Initial dialogue for ITPD	6 weeks	Jul 2020
Deadline & Evaluation for ITPD responses	2-4 weeks	Sept 2020
Invitation to Continue Dialogue (2-3 parties)		Sept 2020
Dialogue Secessions & Negotiation (assume 3)	6 weeks	Sept – Nov 2020
Invitation to Submit Final Tenders	4 weeks	Nov- Dec 2020
Receipt of Tenders		Dec 2020
Clarification & Evaluation of Tenders against award criteria	2-4 weeks	Dec-Jan 2021
CBC Internal approval process	2-4 weeks	Jan 2021

<b>Award Contract + 10 day standstill period</b>	<b>Jan 2021</b>
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- 4.2 The procurement process as recommended in this paper is a time consuming and resource heavy process for the Council. The Council have assembled a multidisciplinary highly skilled core team to participate in this procurement and will be advised by leading real estate consultants, Avison Young and lawyers from Trowers and Hamblins.
- 4.3 As the different stages progress it will discount the number of bidding parties, which can leave the council exposed to the risk of one (or more) of the parties withdrawing, limiting the degree of competition. However, in these circumstances the initial stages may have provided sufficient competition to enable the process to be concluded. With a procurement of this magnitude, there is also no guarantee that a partner will be selected due to economic and other abnormal controls. There is therefore a risk of substantial aborted professional and internal costs in the scenario a partner cannot be found.
- 4.4 In the event that a development partner is not selected following the completion of the procurement exercise, the Council can still consider alternative delivery mechanisms for the land it has acquired, however these offer less control than a Council led delivery approach. In the event of

## 5. How this initiative contributes to the Place Strategy & Corporate Plan

- 5.1 The Place Strategy sets out the ambition of wanting to make Cheltenham an even greater place for all; a place that is celebrated for its strong economy, its vibrant cultural offer and a place where our communities benefit from inclusive growth. It continues that Cheltenham is a place where everyone thrives, supported by a thriving economy, a thriving cultural offer and thriving communities.
- 5.2 The Corporate Plan seeks to attract cyber related businesses and secure Cheltenham’s position as a cyber and digital innovation hub for the UK. We will secure the investment needed to ensure successful delivery of the Cyber Park and supporting infrastructure, investing today to create the jobs for tomorrow. We will ensure that all our communities benefit from future investments by working with them to regenerate their neighbourhoods and improve their living, working, education and leisure facilities.

## 6. Consultation and feedback

- 6.1 Due to the confidential nature and the sensitivity relating to procurement procedures there has been no public consultation on the route to market as set out in this report.
- 6.2 This Council have however been transparent about its land investment, holding public and press events immediately following completion of the purchase.

## 7. Performance management – monitoring and review

- 7.1 The Senior Responsible Officer, the Managing Director of Place and Growth will monitor and review the project.

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<b>Appendices</b>	<ul style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Avison Young Delivery Options Report Part A, February 2020</li> </ul>

<b>Background information</b>	<ol style="list-style-type: none"><li>1. Report to Council, 23 July 2018</li><li>2. Report to Council, 18 February 2019</li><li>3. Report to Cabinet, 14 May 2019</li><li>4. Report to Cabinet, 5 November 2019</li></ol>
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The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Should there be significant delays to the procurement process, there is a significant risk that changes in economic profiling may deter developers/investors from partnering with the Council to deliver Cyber Central to the market	MD Place and Growth	01/09/2019	4	3	12	Accept	Ongoing risk assessment of procurement process –monthly assessment through 2020	December 2020	MD Place and Growth	
	Insufficient bidders qualify to progress the project due to the nature of the procurement route	MD Place & Growth	01/02/2020	4	3	12	Accept	Review progress as ongoing basis. Seek legal and property advice on fall back options.	June 2020	MD Place and Growth	
	If the Competitive Dialogue process does not result in the appointment of an appropriate development partner, there may considerable abortive costs.	MD Place & Growth	01/02/2020	3	3	9	Accept	This will remain an ongoing risk – and careful progress reviews are required – with ongoing assessment of alternatives as each stage progresses.	Jan 2021	MD Place & Growth	
<b>Explanatory notes</b>											
<b>Impact</b> – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)											
<b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6											

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

**Control** - Either: Reduce / Accept / Transfer to 3rd party / Close