

Time 4.30 pm **Public Meeting?** YES **Type of meeting** Executive

Venue Committee Room 3 - Civic Centre, St Peter's Square, Wolverhampton WV1 1SH

Membership

Chair Cllr Steve Evans (Lab)

Labour

Cllr Obaida Ahmed
Cllr Paula Brookfield
Cllr Chris Burden
Cllr Craig Collingswood
Cllr Jacqui Coogan
Cllr Bhupinder Gakhal
Cllr Jasbir Jaspal
Cllr Louise Miles
Cllr Stephen Simkins

Quorum for this meeting is three voting members.

Information for the Public

If you have any queries about this meeting, please contact the Democratic Services team:

Contact Dereck Francis, Democratic Services
Tel/Email 01902 555835 or dereck.francis@wolverhampton.gov.uk
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Wolverhampton WV1 1RL

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Some items are discussed in private because of their confidential or commercial nature. These reports are not available to the public.

Agenda

Part 1 – items open to the press and public

Item No. *Title*

MEETING BUSINESS ITEMS

- 1 **Apologies for absence**
- 2 **Declarations of interest**
- 3 **Minutes of the previous meeting** (Pages 5 - 12)
[To approve the minutes of the previous meeting as a correct record]

DECISION ITEMS (AMBER - DELEGATED TO THE CABINET (RESOURCES) PANEL)

- 4 **Procurement - Award of Contracts for Works, Goods and Services** (Pages 13 - 18)
[To approve the award of contracts for works, goods and services]
- 5 **Acquisition of Privately Owned Empty Property by Agreement or Compulsory Purchase: 2 Beechwood Drive, Wolverhampton, WV6 8NN** (Pages 19 - 28)
[To approve the acquisition of privately owned empty property by agreement or compulsory purchase]
- 6 **Transforming the Chubb Cinema to Boost City Centre Vibrancy** (Pages 29 - 50)
[To seek approval to enter into a 30 year full repairing lease agreement with a new cinema operator to transform the Chubb Cinema to boost City Centre Vibrancy]
- 7 **Exclusion of press and public**
[To pass the following resolution:

That in accordance with Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business as they involve the likely disclosure of exempt information on the grounds shown below]

Part 2 - exempt items, closed to press and public

- 8 **Procurement - Award of Contracts for Works, Goods and Services** (Pages 51 - 70)
[To approve the award of contracts for works, goods and services]
- Information relating to the financial or business affairs of any particular person (including the authority holding that information) Para (3)

9

Transforming the Chubb Cinema to Boost City Centre Vibrancy (Pages 71 - 92)

[To seek approval to enter into a 30 year full repairing lease agreement with a new cinema operator to transform the Chubb Cinema to boost City Centre Vibrancy]

Information relating to the financial or business affairs of any particular person (including the authority holding that information) Para (3)

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CITY OF WOLVERHAMPTON COUNCIL	Cabinet (Resources) Panel Minutes - 15 November 2023
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Attendance

Members of the Cabinet (Resources) Panel

Cllr Obaida Ahmed
Cllr Chris Burden
Cllr Craig Collingswood
Cllr Jacqui Coogan
Cllr Bhupinder Gakhal
Cllr Jasbir Jaspal
Cllr Louise Miles
Cllr Stephen Simkins

Employees

Tim Johnson	Chief Executive
Mark Taylor	Deputy Chief Executive
John Denley	Director of Public Health
Alison Hinds	Director of Children's Services
Charlotte Johns	Director of Strategy
Richard Lawrence	Director of Regeneration
Claire Nye	Director of Finance
David Pattison	Chief Operating Officer
John Roseblade	Director of Resident Services
Becky Wilkinson	Director of Adult Social Care
Jaswinder Kaur	Democratic Services and Systems Manager
Dereck Francis	Democratic Services Officer

Part 1 – items open to the press and public

Item No. *Title*

- 1 **Election of a Chair for the meeting**
In the absence of the Chair (Councillor Steve Evans), it was moved, seconded and agreed, that Councillor Louise Miles be elected Chair for the duration of the meeting.
- 2 **Apologies for absence**
Apologies for absence were submitted on behalf of Councillors Paula Brookfield and Steve Evans.
- 3 **Declarations of interest**
Councillor Louise Miles declared a non-pecuniary interest in items 6 and 10 (Well Connected Communities – A454 City East Gateway Phase 1 & 2 Property Acquisitions) insofar as she is a Councillor for East Park Ward.

4 **Minutes of the previous meeting**

Resolved:

That the minutes of the previous meeting held on 18 October 2023 be approved as a correct record and signed by the Chair.

5 **Procurement - Award of Contracts for Works, Goods and Services**

Councillor Louise Miles presented the report seeking delegated authority to Cabinet Members in consultation with Directors to approve the award of contracts once the evaluation process was complete. She drew attention to opportunities outlined in the report for local suppliers supporting the Wolverhampton Pound and also for local businesses to avail themselves and take the opportunities to obtain contracts and help the Council with its key work in the city.

Resolved:

1. That authority be delegated to the Cabinet Member for Governance and Equalities, in consultation with the Deputy Director of Assets, to approve the award of a contract for the Demolition of Lawnswood Campus when the evaluation process is complete.
2. That authority be delegated to the Cabinet Member for Governance and Equalities, in consultation with the Deputy Director of Assets, to approve the award of a contract for removal, storage and furniture supply when the evaluation process is complete.
3. That authority be delegated to the Cabinet Member for Environment and Climate Change, in consultation with the Director of Resident Services, to approve the award of a contract for the Supply of Seven Crew Cab Tippers when the evaluation process is complete.
4. That authority be delegated to the Deputy Leader: City Housing, in consultation with the Director of Resident Services, to approve the award of a contract for Single Homeless Persons Accommodation when the evaluation process is complete.
5. That authority be delegated to the Cabinet Member for Adults and Wellbeing, in consultation with the Director of Adult Social Care to approve the award of the contract(s) for advocacy services when the evaluation process is complete.
6. That authority be delegated to the Cabinet Member for Adults and Wellbeing, in consultation with the Director of Public Health, to approve the award of a contract for Lifestyle Service Delivery when the evaluation process is complete.
7. That authority be delegated to the Cabinet Member for Adults and Wellbeing, in consultation with the Director of Public Health, to approve the award of a contract for the supply of Nicotine Replacement Therapy when the evaluation process is complete.

8. That authority be delegated to the Cabinet Member for Adults and Wellbeing, in consultation with the Director of Public Health, to approve the award of a contract for the Lifestyle Service Tier 2 weight management app when the evaluation process is complete.
9. That authority be delegated to the Cabinet Member for Adults and Wellbeing, in consultation with the Director of Public Health, to approve the award of two contracts for the Tier 2 weight management group support to two providers when the evaluation process is complete.
10. That authority be delegated to the Cabinet Member for Adults and Wellbeing, in consultation with the Service Director for Adult Social Care, to approve the award of the contract for Telecare Mobile Response Service for three years, with an option to extend up to two years once the evaluation process is complete.

6 **Wolverhampton Energy from Waste Contract Amendment**

Councillor Craig Collingswood presented the report on a proposal for all current council staff at the Energy from Waste (EfW) Plant to be TUPE (Transfer of Undertakings Protection of Employment) transferred from the Council to North Midlands Operations Limited (NMOL) the Council's current Management Contractors for the plant. The TUPE transfer would streamline the management to the EfW Plant and allow NMOL to discharge their responsibilities for its operation in a more controlled and efficient manner. It also removed the potential for a two tier workforce where staff are managed under different terms and conditions.

Resolved:

1. That the TUPE (Transfer of Undertakings Protection of Employment) transfer of all council staff at the Energy from Waste Plant to North Midlands Operations Limited (NMOL) be approved.
2. That authority be delegated to the Cabinet Member for Environment and Climate Change in consultation with the Director of Resident Services to agree the final variation terms to incorporate the TUPE transfer, and other minor contract variations as set out in the report.

7 **Well Connected Communities - A454 City East Gateway Phase 1 & 2 Property Acquisitions**

Further to the update at the previous meeting on 18 October 2023, Councillor Craig Collingswood presented the report outlining the need for land to be acquired in part or in their entirety and either by negotiation or use of Compulsory Purchase Order powers, to enable delivery of the A454 City East Gateway Phase 1 & 2 scheme. The scheme would contribute towards achieving the Council's strategic outcomes around climate emergency, increase active travel and public transport use and unblock sites for development. As the report contained sensitive property and financial information, the details of evaluations and financial implications were included in an exempt report on the agenda.

Resolved:

1. That the Director of Resident Services be authorised to enter into negotiations for property acquisitions, operating within the financial parameters set out in the report.
2. That authority be delegated to the Cabinet Member for Environment and Climate Change in consultation with the Director of Resident Services to negotiate final terms for the acquisition of the properties identified in Appendix 2 (of the exempt report) within the financial parameters proposed and once budgetary approval has been secured.
3. That the Chief Operating Officer be authorised to:
 - a. Engage in the Compulsory Purchase Order (CPO) process if acquisitions by negotiation are unsuccessful.
 - b. Approve the appropriation of Council assets required to deliver the scheme to the transportation portfolio subject to securing funding and budgetary approval for the scheme.
4. That it be noted that a report from 2 April 2019 approved on-going discussions with interested parties and potentially affected landowners.
5. That it be noted that in making the property acquisition offers, these would operate within the financial parameters guided by the property valuation exercise. If the financial parameters are exceeded, the matter would be brought to the Cabinet (Resources) Panel for final approval.
6. That it be noted that approval to enter into and the commencement of negotiations places liability on the Council for legal costs incurred by impacted property owners. Such costs would be covered by the major scheme funding from the Department for Transport (DfT). However, if needed, development funding for the City Region Sustainable Transport Settlement (CRSTS) could be used.
7. That it be noted that the intention is to acquire by CPO under Section 226 of the Town and Country Planning Act 1990 / Section 239 of the Highways Act 1980 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976, if negotiations to acquire are unsuccessful. If the pursuit of CPO powers is followed, a further report would be brought to the Cabinet (Resources) Panel.

7a

5-11 Gough Avenue, Wednesfield - Property Condition and Future Options

Councillor Stephen Simkins presented the report on proposals to alleviate issues at two void structurally defective properties at 5 to 11 Gough Avenue, Wednesfield. The four three bedroomed terrace properties built in 1954 were of a Smith non-traditional construction design which were designated defective under the Housing Defects (Smith (BSC) Prefabricated Dwellings Destination 1986. During void property inspections it was noted the floors on both the ground and first floor of number 11 had significantly settled, pitching towards the party wall adjoining the adjacent property 9 Gough Avenue. It was also falling towards the rear elevation. A property inspection at 9 Gough Avenue discovered this also showed signs of severe

settlement towards the same party wall. The structural defects at the two properties were uneconomical to repair due to the construction of Smith properties and demolition of just two of the four terraced properties was not possible.

Resolved:

1. That the rehousing of the tenant at 7 Gough Avenue and award priority status Band One to assist with rehousing timescales be approved.
2. That statutory Home Loss compensation and Disturbance payments be awarded to the tenants of 7 and 9 Gough Avenue in line with Land Compensation Act 1973 and agree to pay 25% in advance, once alternative suitable accommodation is offered and accepted, if required.
3. That negotiations be entered into to acquire the privately owned property at 5 Gough Avenue.
4. That authority be delegated to the Deputy Leader: City Housing in consultation with the Director of Resident Services to agree the expenditure on the purchase of 5 Gough Avenue.
5. That the council owned properties at 7, 9 and 11 Gough Avenue be declared surplus to requirements.
6. That the demolition of 5, 7, 9 and 11 Gough Avenue when 5 Gough Avenue is within council ownership be approved.
7. That the findings on the structural condition and ground investigation report for 9 and 11 Gough Avenue, Wednesfield be noted.

8 **Exclusion of press and public**

Resolved:

That in accordance with Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the remaining items of business as they involve the likely disclosure of exempt information relating to the financial or business affairs of any particular person (including the authority holding that information).

Part 2 - exempt items, closed to press and public

The Chair reported that as stated previously the meeting was in confidential session as the information included in the reports could, if released into the public domain, prejudice the financial position of the Council or its partners. As such all present are under a legal duty of confidentiality and must not disclose any confidential information - to do so would not only be a breach of the Council's codes (for councillors and employees) but also a breach of the legal duty of confidentiality.

9 **Procurement - Award of Contracts for Works, Goods and Services**

Councillor Louise Miles presented, for approval, the exempt report on the award of contracts for works, goods and services. The report also included exemptions to Contract Procedure Rules approved by the Head of Procurement and the Director of Finance from 1 to 30 September 2023.

Resolved:

1. That the contract for Lawnswood Campus - Remedial Works be awarded to William Gough Ltd of Tudor House, Moseley Road, Bilston, West Midlands, WV14 6JD for a duration of four months from 20 November 2023 to 19 March 2024 for a total contract value of £394,000.
2. That the contract for Emotional Mental Health and Wellbeing Service with Base 25 of 29 - 31 Temple Street, Wolverhampton, WV2 4AN be varied for the period 1 April 2024 to 31 March 2026 with a variation value of £200,000.
3. That the contract for the Supply of 10 Electric Vehicles to Wolverhampton Homes be awarded to Ford Motor Company of Arterial Road, Laindon, Essex, England, SS15 6EE for a total contract value of £550,000.
4. That the contract for Lifestyle Service Delivery be awarded to Royal Wolverhampton NHS Trust of Wolverhampton Road, Wolverhampton, West Midlands, WV10 0QP for a duration of three years from 1 April 2024 to 31 March 2027 for a total contract value of up to £300,000.
5. That the exemptions to the Contract Procedure Rules approved by the Head of Procurement and Director of Finance from 1 to 30 September 2023 be noted.

10

Wolverhampton Energy from Waste Contract Amendment

Councillor Craig Collingswood presented an exempt version of the report Wolverhampton Energy from Waste Contract Amendment as discussed at item 6 above. The report included further details on the proposed TUPE (Transfer of Undertakings Protection of Employment) transfer of all council staff at the Energy from Waste Plant to North Midlands Operations Limited (NMOL).

Resolved:

1. That the TUPE (Transfer of Undertakings Protection of Employment) transfer of all council staff at the Energy from Waste Plant to North Midlands Operations Limited (NMOL) be approved.
2. That authority be delegated to the Cabinet Member for Environment and Climate Change in consultation with the Director of Resident Services to agree the final variation terms to incorporate the TUPE transfer, and other minor contract variations as set out in the report.

11

Well Connected Communities - A454 City East Gateway Phase 1 & 2 Property Acquisitions Report

Councillor Craig Collingswood presented an exempt version of the report Well Connected Communities - A454 City East Gateway Phase 1 & 2 Property Acquisition as discussed at item 7 above. The report included the financial details on the valuations of the properties to be acquired in part or in their entirety and either by negotiation or by use of Compulsory Purchase Order powers, in order to facilitate the design of the City East Gateway scheme.

Resolved:

1. That the Director of Resident Services be authorised to enter into negotiations for property acquisitions, operating within the financial parameters set out in this report.
2. That authority be delegated to the Cabinet Member for Environment and Climate Change in consultation with the Director of Resident Services to negotiate final terms for the acquisition of the properties identified in Appendix 2 to the report within the financial parameters proposed and once budgetary approval has been secured.
3. That the Chief Operating Officer be authorised to:
 - a. Engage in the Compulsory Purchase Order (CPO) process if acquisitions by negotiation are unsuccessful.
 - b. Approve the appropriation of Council assets required to deliver the scheme to the transportation portfolio subject to securing funding and budgetary approval for the scheme.
4. That it be noted that a report from 2 April 2019 approved on-going discussions with interested parties and potentially affected landowners.
5. That it be noted that in making the property acquisition offers, these would operate within the financial parameters guided by the property valuation exercise. If the financial parameters are exceeded, the matter would be brought to the Cabinet (Resources) Panel for final approval.
6. That it be noted that approval to enter into and the commencement of negotiations places liability on the Council for legal costs incurred by impacted property owners. Such costs would be covered by the major scheme funding from the Department for Transport (DfT). However, if needed, development funding for the City Region Sustainable Transport Settlement (CRSTS) could be used.
7. That it be noted that the intention is to acquire by CPO under Section 226 of the Town and Country Planning Act 1990 / Section 239 of the Highways Act 1980 and Section 13 of the Local Government (Miscellaneous Provisions) Act 1976, if negotiations to acquire are unsuccessful. If the pursuit of CPO powers is followed, a further report would be brought to the Cabinet (Resources) Panel.

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CITY OF WOLVERHAMPTON COUNCIL	Cabinet (Resources) Panel 13 December 2023
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Report title	Procurement – Award of Contracts for Works, Goods and Services	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Louise Miles Resources	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All Wards	
Accountable Director	Claire Nye, Director of Finance	
Originating service	Procurement	
Accountable employee	John Thompson	Head of Procurement
	Tel	01902 554503
	Email	John.thompson@wolverhampton.gov.uk
Report to be/has been considered by	Directorate Leadership Team	

Recommendation for decision:

The Cabinet (Resources) Panel is recommended to:

1. Delegate authority to the Cabinet Member for Environment and Climate Change, in consultation with the Director of Resident Services, to approve the award of a contract for the Supply of two Material Handlers and one Wheel Loader when the evaluation process is complete.

Recommendation for noting:

The Cabinet (Resources) Panel is asked to note:

1. UK Procurement Legislative Changes.

1.0 Councillor Craig Collingswood, Cabinet Member for Environment and Climate Change

1.1 Delegated Authority to Award a Contract – Supply of Two Material Handlers and One Wheel Loader

Ref no:	CWC23178
Council Plan aim	Climate Conscious
Originating service	Fleet Services
Accountable officer	Beth Cooper, Transport and Fleet Manager Kaleem Raza, Project Manager
Leadership Team approval	8 September 2023
Accountable Lead Cabinet Member	Cllr Craig Collingswood, Cabinet Member for Environment and Climate Change
Date Lead Cabinet Member briefed	9 November 2023
Procurement advisor	Sean Hynes, Procurement Manager

1.2 Background

1.3 City of Wolverhampton Council (CWC) require replacement of the fleet of two wheeled materials handlers and one wheel loader operated by Waste Services at the Council's House Waste Recycling Centre (HWRC) sites located at Shaw Road and Anchor Lane and the Waste Transfer Station (WTS) located at Crown Street. The service is currently operating hired machines in their place, supplied at a total hire cost of £168,440 per annum.

1.4 The above machines are operated by Waste Services at the Council's House Waste Recycling Centre (HWRC) sites located at Shaw Road and Anchor Lane and the Waste Transfer Station (WTS) located at Crown Street, are currently hired. These new machines will be like for like replacements and more environmentally friendly than the older vehicles currently in service.

Proposed Contract Award	
Contract duration	One Off Purchases
Contract Commencement date	22 January 2024
Total value	£784,300

1.5 Procurement Process

- 1.6 The intended procurement procedure will be an open tender process in accordance with the Public Contract Regulations 2015 and the Council's Contract Procedure Rules. This route to market has been decided because it encourages a market wide response for specialist vehicles including local suppliers and supporting the Wolverhampton Pound.
- 1.7 The evaluation scoring balance will be based on Price (60%) and Quality (40%) which includes 5% Social Value and 5% Equality, Diversity and Inclusion (EDI). Any amendments to the procurement procedure will be reported in an Individual Executive Decision Notice (IEDN) to the relevant Cabinet Member in consultation with the relevant Director in accordance with the delegation within this report.
- 1.8 The evaluation team will comprise:

Name	Job Title
Elizabeth Hartle	Fleet and Transport Change Manager
Kaleem Raza	Project Manager
Lee Platt	Contracts and Disposals Manager
Kate Darlington	Operations Manager

1.9 Evaluation of alternative options

- 1.10 CWC could continue to maintain the wheel loader, which has exceeded its operational life. This would maintain a risk to service continuity as replacement parts for the current vehicle are both costly and difficult to obtain. The current vehicle also requires excessive maintenance and repairs, and these pose a significant risk to service provision.
- 1.11 CWC could operate 3 hired machines, however, this is not best value for money for the Council and replacing them with owned machines will avoid ongoing hire costs of £168,440 per annum.

1.12 Reason for decisions

- 1.13 The replacement of this ageing fleet ensures the Council can meet its statutory obligation and ensures that its fleet is operational and cost effective.

1.14 Financial Implications

- 1.15 The contract will be funded from existing approved Fleet Services vehicle replacement £4.3 million capital budget. Purchased replacements will avoid ongoing hire costs.

1.16 Legal implications

1.17 The procurement will be an above threshold procedure in accordance with the Public Contract Regulations 2015 and Council's Contract Procedure Rules.

1.18 Equalities implications

1.19 This procurement involves purchase of specialist machines to be used by Waste Services operatives to fulfil statutory duties throughout the year. Equality considerations will take place to ensure the machines are 'fit for purpose' and that they meet quality standards by arranging for the service area to engage in the specification process. Service manager and operatives will be involved in this process to ensure they had the opportunity to provide feedback and the machines proposed was not less favourable to the needs of operatives.

1.20 All other implications

1.21 There are no other implications arising from the recommendations of this report.

1.22 Recommendation

1.23 Cabinet (Resources) Panel is recommended to delegate authority to the Cabinet Member for Environment and Climate Change, in consultation with the Director of Resident Services, to approve the award of a contract for the Supply of two Material Handlers and one Wheel Loader when the evaluation process is complete.

1.24 Schedule of background papers

1.25 None

2.0 UK Procurement Legislative Changes

- 2.1 The UK procurement regime is going through several changes, and the Government is set to overhaul procurement legislation in 2024. The two significant changes are the Procurement Act 2023 and The Provider Selection Regime. Cabinet (Resources) Panel are asked to note these changes in 2024 and further updates to reflect Contract Procedure Rules and operational activity will be presented in due course where appropriate.
- 2.2 The Procurement Bill, which will reform the existing Procurement Rules, received Royal Assent in October 2023 forming the Procurement Act 2023. In early 2024 secondary legislation will be laid to bring some elements of the Bill and the wider regime into effect. It is anticipated that a minimum of 6 months' notice prior to 'go-live', will be given which we will be October 2024. The existing legislation will apply until the new regime goes live and will also continue to apply to procurements started under the old rules.
- 2.3 The Provider Selection Regime (PSR) removes the procurement of health care services, when procured by relevant authorities from the scope of the Public Contracts Regulations 2015 (the PCR) and upcoming Procurement Act 2023. The PSR has been designed to give the relevant authorities to which it applies more flexibility in selecting providers for health care services. Under the regime, competitive tendering will be one tool for organisations to use when it is of benefit, alongside other routes that may be more proportionate, and which better enable the development of stable partnerships and the delivery of integrated care. The regime still requires relevant authorities to consider value for money as an important criterion, and to be transparent, fair, and proportionate in their decision-making. The requirement will have minimal impact for the Council as it will only be relevant to some Public Health contracts. It is anticipated to receive Royal Assent by January 1 2024.

3.0 Financial implications

3.1 All financial implications are included within the relevant section of the report.
[RP/27112023]

4.0 Legal implications

4.1 All legal implications are included within the relevant section of the report.
[SZ/30112023/P]

5.0 Equalities implications

5.1 The relevance to equalities and progress in terms of equality analysis will vary for each proposal included in this report. Accountable officers have and will ensure that evidence is collected and used to demonstrate compliance with CWC's legal obligations under the Equality Act 2010.

6.0 All other implications

6.1 All other implications are included within the relevant section of the report.

7.0 Schedule of background papers

7.1 All background papers are included within the relevant section of the report.

CITY OF WOLVERHAMPTON COUNCIL	Cabinet (Resources) Panel 13 December 2023
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Report title	Acquisition of Privately Owned Empty Property by Agreement or Compulsory Purchase: 2 Beechwood Drive, Wolverhampton, WV6 8NN	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Steve Evans Deputy Leader: City Housing	
Key decision	No	
In forward plan	Yes	
Wards affected	Tettenhall Wightwick	
Accountable Director	John Roseblade, Director of Resident Services	
Originating service	Private Sector Housing	
Accountable employee	Richard Long	Housing Improvement Officer
	Tel	01902 555705
	Email	Richard.long@wolverhampton.gov.uk
Report to be/has been considered by	Resident Services Leadership Team	7 November 2023

Recommendations for decision:

The Cabinet (Resources) Panel is recommended to:

1. Authorise the Director of Resident Services to negotiate terms for the acquisition of the property 2 Beechwood Drive, Wolverhampton, WV6 8NN, and, in default of that acquisition, give authority for a compulsory purchase order (CPO) to be made under Part II Section 17 Housing Act 1985 in respect of the property.
2. Approve expenditure for the potential acquisition of the property, with subsequent capital receipts being recycled within the Empty Property Strategy programme.
3. In the event that the property is improved and re-occupied to the satisfaction of the Director of Resident Services, authorise withdrawal of the property from the CPO.

4. Following any acquisition, authorise the Director of Resident Services to dispose of the property on the open market on condition that the property is refurbished and re-occupied within six or 12 months (as appropriate to the scale of the works).
5. Authorise the Chief Operating Officer to:
 - a. Take all reasonable steps as soon as it is reasonably practical to secure the making, confirmation and implementation of the CPO including the publication and service of all Notices and the presentation of the Council's case at any Public Inquiry.
 - b. Approve agreements with the owners of the property setting out the terms for the withdrawal of objections to the CPO, and/or making arrangements for re-housing or relocation of any occupiers.
 - c. Approve the making of a General Vesting Declaration (the property is brought into Council ownership via this process).
 - d. Approve the disposal of the whole and/ or parts of the property by auction, tender or private treaty.

1.0 Purpose

- 1.1 The purpose of this report is to request the Panel to authorise the acquisition of 2 Beechwood Drive, Wolverhampton, WV6 8NN. by negotiation or by the making of a Compulsory Purchase Order (CPO) under Section 17 of Part II of the Housing Act 1985. Should it be possible to reach agreement on a mutually acceptable undertaking, agree to the withdrawal of the property from the CPO.
- 1.2 This decision is in support of the Council's Empty Properties Strategy which aims to bring long term empty properties back into use.
- 1.3 The reoccupation of empty properties brings in additional income to the Council via the New Homes Bonus paid to Local Authorities as a result of increased housing supply.

2.0 Background

- 2.1 The property highlighted on the attached plan and photograph (Appendix 1 and 2) is a detached bungalow that has been empty since 1 July 2020.
- 2.2 The property is unregistered, and it has not been possible to establish ownership of the property and land. The previous occupier moved out of the property and is currently resident in Staffordshire.
- 2.3 There has been contact with the previous occupier who has been repeatedly advised to seek legal advice with regard to the ownership, probate and registration issues. While initial conversations were positive, the previous occupier has not instructed a legal practitioner to act in the matter.
- 2.4 Neighbours have made efforts to reduce the detrimental effect of the property by regular maintenance of the front garden. However, the property continues to deteriorate and there are ongoing concerns regarding security and dilapidation.
- 2.5 Notice under Section 215 of the Town and Country Planning Act 1990 requiring the owner to remedy the detrimental effect of the property was served. The owner (or beneficiaries) has not responded or made any appeal, and the Notice has not been complied with.
- 2.6 The principle of establishing a revolving fund to drive forward the Private Sector Empty Property Strategy was approved by Cabinet on 11 January 2006. The revolving fund provides for properties that are consistent with the strategy to be acquired, marketed for sale and brought back into residential occupation. The arrangements proposed for the property identified are consistent with that strategy. Should the Compulsory Purchase Order be confirmed in favour of the Council, the Council would seek to dispose of the property by tender, auction, or private treaty. The property would be sold with the condition that the property is brought back to a required standard of repair within a specified time limit. This will also apply to any negotiated acquisitions.

3.0 Evaluation of alternative options

3.1 There are three options that the Council could consider:

- a. Do nothing – the property is likely to remain empty, continue to be a wasted housing resource, continue to have a detrimental effect on the amenity of the area and continue to be a drain on the public purse.
- b. Empty Dwelling Management Order (EDMO) – An EDMO is considered to be a less draconian option than a compulsory purchase. However, the cost of refurbishment could place a strain on the Council's finances. It may not be possible to recover the cost of initial refurbishment and subsequent management/ maintenance through the rental income generated over the seven years that a Final EDMO could be in place.
- c. Compulsory Purchase Order (CPO) – The prospect of a CPO often prompts the owner to act leading to the property being refurbished and re-occupied. However, if it is necessary to acquire the property, the proposals for the onward disposal and refurbishment ensure that the property is brought back into use at a minimum cost to the public purse.

3.2 Based on the above it is recommended that the option of a Compulsory Purchase Order is progressed.

4.0 Reasons for decision(s)

4.1 The reasons for the decision are:

- a. To ensure that the property provides much needed housing by prompting the owner either act voluntarily or via enforcement through a CPO.
- b. To ensure that the property does not continue to be a drain on public resources.
- c. To ensure that the detrimental effect that the property is having on the area is removed.
- d. To ensure that the property has a positive financial impact on the public purse through additional New Homes Bonus funding.
- e. The proposal to pursue a CPO is the most cost effective in terms of financial and physical resources for the Council.

5.0 Financial implications

5.1 In the event of an acquisition, the costs can be met from the approved capital budget for 2023-2024 of £241,000 for the Empty Property Strategy. The subsequent sale of the property would result in a capital receipt ring-fenced to finance future purchases through the Empty Property Strategy. Any non-capital costs incurred between purchase and sale, for example security measures, must be met from current private sector housing budgets.

5.2 As the Notice under Section 215 of the Town and Country Planning act 1990 has not been complied with, the additional statutory 7.5% compensation payment will not be applicable in this case.

- 5.3 Bringing empty properties back into use attracts New Homes Bonus to the City Council and will result in additional council tax revenue.
[JM/20102023]

6.0 Legal implications

- 6.1 Section 17 of the Housing Act 1985 empowers local housing authorities to compulsorily acquire land, houses or other properties for the provision of housing accommodation. However, the acquisition must achieve a qualitative or quantitative housing gain. In order to make a Compulsory Purchase Order under this power and achieve successful confirmation, the Council will need to show compliance with the requirements of the relevant statutory provision and circular 06/2004 Compulsory Purchase and the Criche Down Rules. Where there are objections to a Compulsory Purchase Order the matter may go forward to a public inquiry and specialist Counsel may need to be engaged to present the Council's case.
- 6.2 Article 1 of Protocol 1 of the Human Rights Act 1988 guarantees peaceful enjoyment of possessions and would be engaged by the making of a CPO. However, the contents of this report and the actions recommended are considered to be proportional and compatible with the Human Rights Act 1988, particularly bearing in mind the above checks and balances on the Local Authority's power.
[TC/26102023/C]

7.0 Equalities implications

- 7.1 Equalities implications have been considered throughout the process and in assessing the outcome. An Equality Analysis has been completed for similar acquisitions of privately owned empty properties and the analysis does not indicate any adverse implications or impacts. Bringing an empty property back into use will improve the visual amenity of the area and can make the area more welcoming to some groups covered by the Equality Act 2010, in doing so this will promote participation in public life.

8.0 All other implications

- 8.1 Where applicable, Corporate Landlord Estates Team will be required to produce valuations and arrange for the appropriate disposal of the property by auction or private treaty.
- 8.2 Bringing an empty property back into use will improve the health and wellbeing of the new occupants by providing safe and secure housing.
- 8.3 Enabling occupation and removing the detrimental effect of the property will reduce the anxiety associated with crime and the fear of crime that living adjacent to an empty property can cause.

9.0 Schedule of background papers

- 9.1 Empty Homes Policy and Strategy 2019 – 2014.

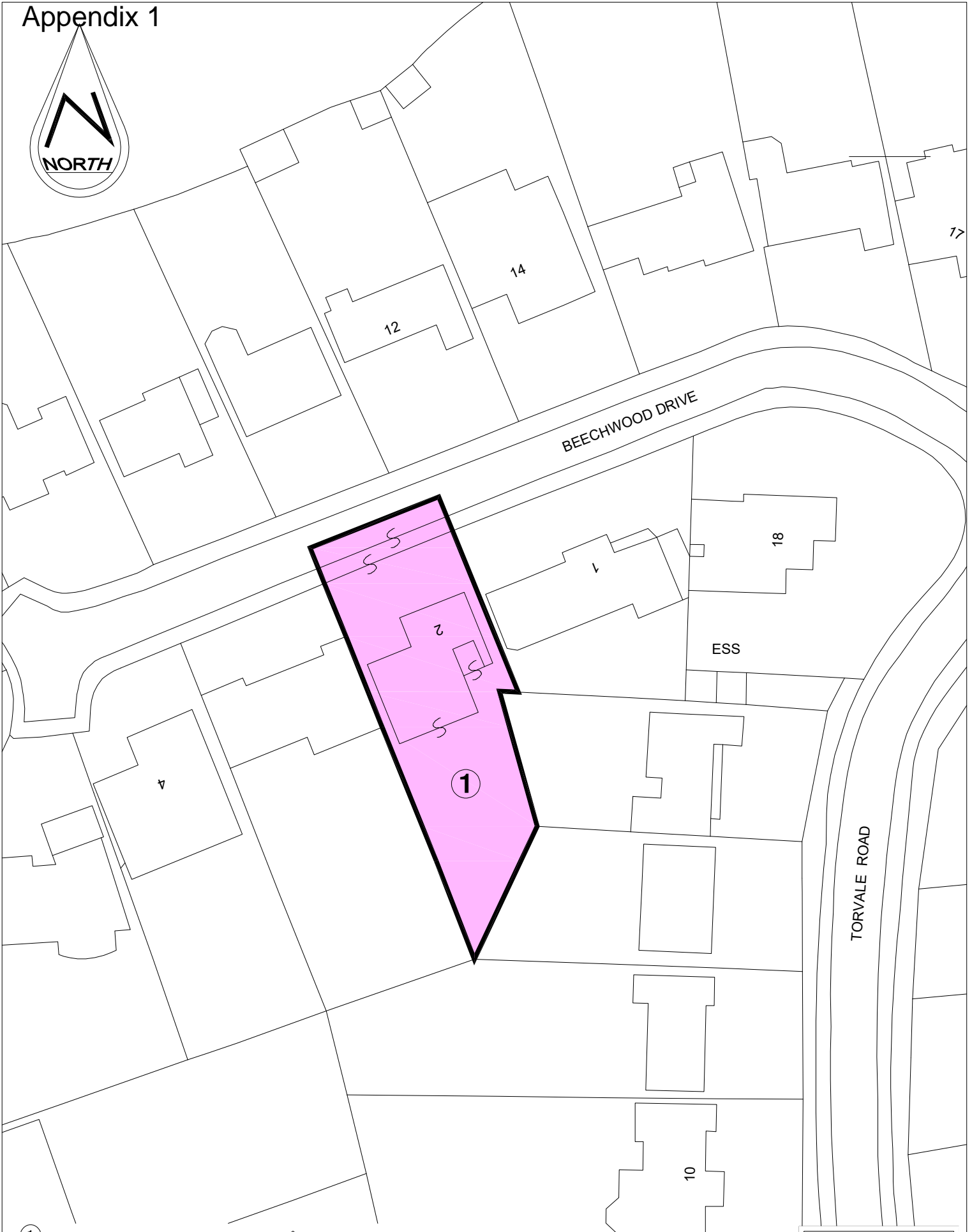
9.2 The Wolverhampton Strategic Housing Land Availability Assessment (SHLAA).

10.0 Appendices

10.1 Appendix 1: Site Plan

10.2 Appendix 2: Photographs

Appendix 1



① AREA COLOURED PINK = 532.2m² OR THEREABOUTS

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UPRN 100071136907

date	October 2023
scales	1:500
drawn by	AJP
dwg. no.	...ICPO's Beechwood Drive 2.dwg

THE MAP REFERRED TO IN
 THE WOLVERHAMPTON CITY COUNCIL
 (2 Beechwood Drive, Walsley)
 COMPULSORY PURCHASE ORDER 2023

City of Wolverhampton Council

Director - City Housing and Environment
 Civic Centre, St. Peter's Square, Wolverhampton

Tel. (01902) 556556

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CITY OF WOLVERHAMPTON COUNCIL	Cabinet (Resources) Panel 13 December 2023
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Report title	Transforming the Chubb Cinema to Boost City Centre Vibrancy	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Bhupinder Gakhal Visitor Experience	
Key decision	Yes	
In forward plan	Yes	
Wards affected	St Peter's	
Accountable Director	Ian Fegan, Director of Communications and Visitor Experience	
Originating service	City Assets	
Accountable employee	Julia Nock Tel Email	Deputy Director of Assets 01902 550316 Julia.nock@wolverhampton.gov.uk
Report to be/has been considered by	City Assets Leadership Team Core Services Leadership Team Cabinet Member Briefing Leader's Briefing	27 November 2023 29 November 2023 29 November 2023 4 December 2023

Recommendations for decision:

The Cabinet (Resources) Panel is recommended to approve:

1. New commercial plans to bring the Chubb Cinema back to life and bring a predicted 132,000 visitors a year to the venue, contributing to city centre vibrancy and the local economy when it opens in the Summer of 2024.
2. Entering into a lease agreement with experienced, commercial independent cinema operators PDJ Cinema Ltd (PDJ) for the Cinema space.
3. Entering into a lease agreement with Midlands Industrial Association (MIA) for Unit 5 within the Chubb building to be subsequently subleased to the cinema operator PDJ.

4. The Council and PDJ equally sharing the rental and service charge costs of Unit 5 within the Chubb Building on a full repairing lease arrangement.
5. The virement of £1.5 million from the Capital Corporate Provision and Contingency for Future Programmes to the Chubb Cinema in order that a contribution towards the refurbishment and fit out works of the cinema space, which will be paid in the form of a grant.
6. Delegate authority to the Cabinet Member for Equalities and Governance and in consultation with the Deputy Director of Assets, Section 151 Officer and Chief Operating Officer to approve the lease agreement and final Heads of Terms for the lease arrangements with the new operator and MIA.

1.0 Purpose

- 1.1 To provide details on how the Council owned space within the Chubb building will be bought back into use as a new four screen cinema with a new, experienced commercial operator who will help bring a predicted 132,000 visitors a year to the venue, contributing to city centre vibrancy and the local economy.
- 1.2 To seek approval to enter into a 30-year lease arrangement with PDJ to bring the Cinema back into beneficial use.
- 1.3 To seek approval to enter into a 30-year lease arrangement with MIA for Unit 5 within the Chubb building which will subsequently be sub leased to PDJ for their box office operation.
- 1.4 To seek approval for the allocation of £1.5 million from the Capital Corporate Provision and Contingency for Future Programmes to the Chubb Cinema project in order to contribute toward the refurbishment and fitout of the cinema space. This contribution will be paid in the form of a grant to PDJ
- 1.5 To seek approval to delegate authority to the Cabinet Member for Equalities and Governance and in consultation with the Deputy Director of Assets, Section 151 Officer and Chief Operating Officer to approve the lease agreement and final Heads of Terms for the 30-year lease arrangement both with PDJ and MIA.

2.0 Background

- 2.1 The former Lighthouse Cinema ceased to trade in November 2022. The Council received the formal notice of insolvency from the Administrators in January 2023 and the keys to the building were formally handed back to the Council on 9 February 2023. Prior to this, the Council had provided significant support to the venue.
- 2.2 Following the collapse of the Lighthouse, the Council was determined to bring this vital heritage space back into use as a cinema.
- 2.3 The Cinema space is situated within the historic and award-winning Grade II listed Chubb Buildings. City of Wolverhampton Council owns the freehold interest in the Chubb Building and has granted a long leasehold interest to Midlands Industrial Association Limited (MIA). The Cinema is excluded from the long leasehold interest.
- 2.4 Located on Fryer Street, the Cinema is well positioned within the City Centre and is in close proximity to Wolverhampton's main retail and leisure district and is convenient for the travel interchange - bus station, Wolverhampton Train Station and the West Midlands Metro Line providing access across the City, Black Country, West Midlands and beyond.
- 2.5 At present, the Cinema comprises two screens, projection rooms, toilet facilities, training room, ancillary office accommodation, editing room, green room, server room, kitchenette and multiple storerooms. The Cinema is dated throughout and in generally poor condition with poor quality facilities and heating systems. Feedback from Cinema operators has demonstrated that in its current condition and layout, the Cinema is not suitable for occupation or viable commercial use.

2.6 The previous occupier also let Units 1B, 4 and 5 from MIA which comprised a box office, café and event space. This ancillary space, particularly the box office will be essential to the success of any future operator. MIA are the landlords of this space and they have been included throughout this project.

3.0 Marketing Process for Future Operator

3.1 To ensure that the marketing process met with s123 of the Local Government Act 1972, the City of Wolverhampton Council appointed Bruton Knowles as letting agents to seek expressions of interest in the Cinema from suitably qualified occupiers. Following a diligent marketing campaign, including a direct marketing exercise to 17 parties, the Cinema received 16 enquiries and eight expressions of interest.

3.2 The Council, in conjunction with Bruton Knowles and MIA interviewed selected applicants across two separate stages and found PDJ Management Limited to be the Preferred Occupier based upon their experience, vision for the Cinema and capacity to deliver an excellent leisure facility for the benefit of Wolverhampton.

3.3 The Council must now agree terms with the Preferred Occupier and this will include a capped capital contribution of £1.5 million from the Council towards the refurbishment and fit out costs, estimated to be £2.0 million. Should the total cost increase, the Council will not contribute any further capital, and conversely should the cost decrease, the Council will contribute less (77.8% of the total costs). This capital contribution is necessary and the Council as a responsible landlord has the ability to bring the venue back into vibrant use and ensure the building is fit for purpose in the future and adheres to all relevant building regulations. In order to attract a future occupier, the Council would be required to invest in the asset regardless of securing a tenant due to the current condition and viability of the building. In addition capital contributions can incentivise new tenants in the leisure market.

3.4 The proposal contained within this report provides the opportunity to work in partnership with a suitable operator to ensure this is achieved and therefore preventing the building falling into further disrepair and becoming an increasing liability, Furthermore, investing in the Cinema now will attract increased footfall (projected to be 132,000) to the City centre which will benefit surrounding businesses. Independent RICS accredited Consultants are satisfied that the marketing process is compliant with s123 of the Local Government Act 1972. It is considered to be the best deal achievable in all the circumstances and is recommended for approval.

4.0 Proposal

4.1 The proposal is to enter into a 30 year lease with PDJ Management with:

- i. Initial rent of £XXX per annum, with upwards rent reviews based on CPI (subject to a cap) and tenant break options.
- ii. PDJ are equally contributing to the costs associated to Unit 5 (subject to a 30 year lease) including rent and service charge, in addition to the fixed rent for the cinema.
- iii. The Cinema space will be let on full repairing and insuring terms, with PDJ obligated to keep the property in a good and tenantable repair.
- iv. The Cinema lease will contain rights for PDJ to assign subject to Landlord approval not to be unreasonably withheld.

- v. On an assignment of the cinema space lease, this would automatically break the Unit 5 sub lease and the Council will have the ability either to break the lease with MIA or sub-let to a new operator.
 - vi. The lease will contain a 'force majeure' clause to take into account acts that occur outside of either parties' control
 - vii The 30 year lease agreement will be subject to the Landlord and Tenant Act 1954 providing PDJ security of tenure.
- 4.2 To ensure the success and to deliver a best in class cinema product, the City of Wolverhampton Council will be contributing a capped capital investment of £1.5 million by way of a grant towards the refurbishment of the cinema space. The total investment cost is £2.0 million. Given the Cinema's current condition, layout, and market conditions, this capital expenditure is considered essential to achieve a letting as is the rent free period. This applies not only to the Leisure and Cultural market but also Food and Beverage, Retail, Office, and Industrial markets. As freeholder, the Council would be required to invest significantly in the facility before being able to let the property.
- 4.3 The risk of costs exceeding £1.5 million will be carried by PDJ and any saving against this forecast cost will mean a saving on the required investment by the Council. The Council will not contribute any further capital, and conversely should the cost decrease, the Council will contribute less (if less, the Council's contribution will be limited to 77.8% of the total cost).
- 4.4 The Council will make payment to PDJ based on evidenced expenditure. A detailed specification will be agreed and payment of the £1.5 million will be made via tranches on PDJ reaching agreed milestones within the fit-out programme. With PDJ undertaking the works, the Council will not be subjected to comply with the PCR Procurement Regulations.
- 4.5 The Council have undertaken a recent condition survey which highlights an immediate maintenance liability of £212,000 and would need to be actioned in any event for the building to be bought back into a fit for purpose use. Following the £212,000 investment the building would still require a significant capital input to enable a cultural facility to operate. This has been factored into the capital investment of £1.5 million.
- 4.6 It is intended for the fit-out works to be completed by PDJ utilising their own design team whom are knowledgeable on a cinema specification and will prove cost effective in reducing timescales with the Council not needing to procure contractors and suppliers. The Council as part of its due diligence will consider whether such financial assistance together with the contribution towards the service charge is a subsidy before entering into the lease. This is reflected further within the Legal implications of the report.
- 4.7 The targeted opening for the new cinema is the Summer Holidays 2024 following the refurbishment and fit out works.
- 4.8 Further details on the organisation PDJ and the proposal for the Chubb cinema building can be seen in Appendix 1.

5.0 Need and Demand for a cinema operator within the City Centre

- 5.1 Wolverhampton does not currently have an independent Cinema; Cineworld are the only operator in Wolverhampton and their multiplex is located out of the City Centre at Bentley Bridge Retail Park. It is also worth noting the significant financial operating challenges that big multiplexes, like Cineworld have experienced of late. According to PDJ and their anecdotal market research, many Wulfrunians from the south and west of the City now visit cinemas in Dudley or Telford.
- 5.2 One of the challenges that large multi-plex cinema operators are finding, is that there has been a shift in consumer choices and demand within the cinema world, which aligns with the opinion of the applicants interviewed as part of the marketing process. Many of the applicants explained that cinemagoers now seek a unique and more personal experience. This is partly driven by the rise of online streaming services which provide easy access to films; for movie-watchers to be encouraged to leave the home they need to be offered a unique and quality experience.
- 5.3 In recent years, independent cinemas, who offer a personalised and quality experience have become increasingly popular. Consumers seeking a unique and personalised experience is not exclusive to the cinema industry. This trend is also seen in retail and hospitality, where consumers want to support smaller independent businesses who similarly provide a unique and personalised experience.
- 5.4 In summary, there is no direct competition to the PDJ's offering within Wolverhampton and their vision of "affordable luxury", providing a unique experience aligns with current consumer trends. Furthermore, the Cinema's excellent location and connectivity should attract visitors from throughout the City and beyond.

6.0 Benefits of the Proposal

- 6.1 The proposal contained within this report would provide the following benefits:
- i. PDJ forecasts 132,000 visitors a year. This increased footfall will help to support other businesses within the City Centre as Cinemagoers often combine their cinema experience with drinks or dinner thus supporting the City Centre economy. Utilising the economic impact methodology used for City Events an additional footfall of 132,000 could generate circa £500,000 - £1 million per annum into the City Economy and over the 30 years generating circa £15 - £30 million.
 - ii. The Council would own a significantly enhanced asset which at present is a liability with investment requirements.
 - iii. The new venue would be a significant footfall driver and cultural asset within the city centre, contributing to the wider city offer and enhancing the city's profile and reputation.
 - iv. Furthermore the increased footfall will provide natural surveillance around Broad Street and Lichfield Street.
 - v. Wulfrunians will have the benefit and enjoyment of an "affordable luxury" cinema, something not currently offered within the City.

- vi. Complements the Council's investment into the transport Interchange, which provides crucial connectivity to facilitate further growth.
- vii. The Cinema will provide greater access to films and the arts.
- viii. Opportunity to rejuvenate a significant City Centre landmark.
- ix. The Cinema will have a strong social value focus and an Equality, Diversity and Inclusion policy. PDJ intend to show autism friendly screenings and parent and child screenings, opening the Cinema to all. PDJ has a demonstrable history in providing such screenings
- x. There will be three full time permanent jobs and between 20-25 part time jobs created from the new cinema.

7.0 Supporting Delivery of the Strategic Asset Plan

- 7.1 City Assets have developed a Strategic Asset Plan that was completed and approved by Cabinet on 17 October 2018. This provides the structure and management of the Council's land and property portfolio over the following five years, to 2023, and incorporates the "Our Assets" principle. The plan is structured into three parts:
- Asset Management Policy
 - Asset Management Strategy
 - Asset Management Action Plan
- 7.2 The Asset Management Policy establishes a clear mission with supporting principles for the management of land and buildings, ensuring it is fit for purpose and benefits the people of the City of Wolverhampton and to use land and buildings following rationalisation and disposal of land and buildings, that will enable a financial return to stimulate development and growth, support and encourage local businesses and promote joint-working.
- 7.3 The proposed lease with PDJ for the Chubb cinema building supports the policy as outlined and in particular delivery of items A1, A9 and B6 of the Action Plan.

8.0 Evaluation of alternative options

- 8.1 Option 1: The Council could continue to market the vacant cinema accommodation via specialist Property Agents and agree to invest in refurbishing the space in an attempt to attract a new occupier (cost to be confirmed). However, any refurbishment can only be limited because this sector is led by the market and branded therefore fit-out will always be required once a tenant/operator is identified. A full fit-out would require significant capital expenditure however, such investment would be very speculative with no guarantee that a deal would be achieved in the short term. In addition, an occupier would likely expect other incentives including rent free capital contribution and a likely lease break option to sign up to a 30 year lease or longer term.
- 8.2 Option 2: To leave the cinema accommodation in its existing and relatively poor condition and continue to market via specialist Property Agents. This option would however be unlikely to generate a letting in the short to medium term given the current market

conditions and the condition of the accommodation and will deteriorate further through lack of use, more costly to bring back into use and become increasingly less attractive to potential tenants whilst it remains empty.

9.0 Reasons for decisions

- 9.1 If the Council were to do nothing, the condition of the asset will continue to deteriorate, impacting upon an important and heritage asset within the City Centre. If the condition were to deteriorate further, it will only increase the capital expenditure required and will most likely make it more difficult to find a suitably qualified occupier. The Cinema, as it is, presents a liability to the City and requires significant investment to be brought back into beneficial use.
- 9.2 Based upon PDJ's forecast, the Cinema, at maturity is predicted to attract some 132,000 visitors to the City Centre which will help to support the local economy and protect jobs.

10.0 Financial implications

- 10.1 The cinema is currently empty after the former Lighthouse Cinema ceased trading. As the landlord, the Council is currently liable for holding costs such as utilities, gallery space, insurance and business rates which are in the region of £25,500 per annum.
- 10.2 The Council in conjunction with Bruton Knowles and the MIA interviewed applicants and found PDJ to be the preferred occupier. This report therefore seeks approval to enter into a lease agreement with PDJ for the operation of a cinema within the Chubb building.
- 10.3 This report also seeks approval for the Council to enter into a 30 year lease agreement with MIA for Unit 5 within the Chubb Building which is to be subsequently subleased to PDJ. PDJ will equally contribute to these costs. The Council will still retain responsibility for paying building insurance and gallery space service charges.
- 10.4 The operator will pay a starting fixed annual rent to the Council of £XXX, with rent reviews. This is linked upwards based on CPI and subject to a cap. In addition, the lease will include break options.
- 10.5 In order that the cinema can be brought back into use capital investment is required. The estimated total cost of the work is projected to be in the region of £2.0 million. As the landlord, the Council would be required to undertake works in order that it could be brought back into use and a suitable tenant can be found. As detailed in paragraph 4.3, a recent survey highlighted that immediate maintenance work in the region of £212,000 was required and, in addition, the Council would need to make significant investment above the £212,000 to enable a cultural facility to operate.
- 10.6 Negotiations have been ongoing with PDJ around the funding of the capital investment required. As detailed above, the projected costs are in the region of £2.0 million. It has been negotiated that the council will fund a capped £1.5 million of the refurbishments and fit out costs, with PDJ contributing the balance. If the capital costs are less than £2.0

million, the Council will fund 77.8% of the total cost. If the capital costs exceed £2.0 million, the Council's contribution is capped at £1.5 million.

- 10.7 Payments to PDJ will be based on evidenced expenditure along with key milestones being achieved, as approved by the Council's monitoring surveyor, who's role is to ensure that the building is fitted out to the agreed specification.
- 10.8 The projected average annual borrowing costs based on an interest rate of 3.81% (the Council's current average borrowing rate) is in the region of £84,000. Over the 30 year period this is estimated to be in the order of £2.5 million.
- 10.9 The Capital Programme 2023-2024 to 2027-2028 Quarter Two report to Cabinet on 15 November 2023 included budget within the Corporate Provision and Contingency for Future Programmes to support the refurbishment costs of the Chubb building. This report therefore seeks approval to vire £1.5 million from this Corporate Provision and Contingency for Future Programmes to the Chubb Cinema project.
- 10.10 The table below summaries the annual average costs and income associated with the proposals outlined in this report.

	Average Annual Costs / Income £000
Average costs payable by the Council	
Gallery Service charge	XXX
Insurance	XXX
MIA rent and service Charge	XXX
Total projected average costs	XXX
Income to the Council	
Average projected rental income from PDJ	XXX
Contribution towards MIA rent and service rent	XXX
Total projected average income	XXX
Net income to the Council	XXX
Existing budgets no longer required	XXX
Average forecast borrowing costs	84
Projected overall cost per annum	18

- 10.11 The overall cost to the Council, after the projected income and including projected cost of borrowing, is in the region of £18,000 per year. These costs will be factored into the

Treasury Management budget. This is significantly less than the previous expenditure of £25,500 where the Council received very little benefit for this expenditure.

[AS/01122023/E]

11.0 Legal implications

- 11.1 Under section 123 of the Local Government Act 1972, the council has a duty to achieve best consideration from the disposal of its land and property. The grant of a lease constitutes a disposal and should therefore represent best consideration. As detailed in the report, subject to approval, the Council is intending to grant two leases and will be required to enter into a lease and related legal agreements to give effect to the Heads of Terms.
- 11.2 The Council must be satisfied that its proposal including any financial investments does not contravene the Public Contract Regulations 2015 (PCR), and its own Contract Procedure Rules.
- 11.3 If the Council were minded to agree that PDJ Cinema Ltd carry out the fit-out works the body of this report indicates that the Council will make a contribution towards the fit-out costs, the Council must consider whether such financial assistance together with the 50% share of the service charge and rent free period is a subsidy for the purposes of the Subsidy Control Act 2022 (the Act), such that it confers a specific economic advantage on one or more enterprises and is capable of having an effect on competition or investment in the UK or trade and investment between the UK and another country. Where any financial assistance is given directly or indirectly by a public body which confers an economic advantage and is capable of having an effect on competition and investment such financial assistance will be a subsidy and will require assessment against the Subsidy Control Principles set out in the Act. This would be a self-assessment carried out by the council. The proposal cannot proceed if it is in breach of subsidy control requirements.
- 11.4 An alternative to the above, would be for Council to carry out the fit-out works. In these circumstances the Council may decide to undertake a competitive tender as the Council is legally required to advertise public contract opportunities. Where the estimated value of a contract exceeds the relevant financial threshold, the procurement is subject to the full procedural requirements of Part 2 of the (PCR). The current threshold for works is £5,336,937. Where the contract opportunity is below threshold but exceeds £25,000 there is a requirement to publish the opportunity on Contracts Finder. This is also a requirement under the Council's own Contract Procedure Rules.
- 11.5 The Council shall seek external advice with regard to subsidy control as part of its due diligence.
- 11.6 In respect of virement the Council must comply with its fiduciary duties.
[JA/04122023/D]

12.0 Equalities implications

- 12.1 All development plans will consider and meet the needs of all people within the local community and an all-inclusive approach will be taken by City of Wolverhampton Council.
- 12.2 The proposed cinema operator, PDJ will be offering an inclusive and accessible cinema space to all. In addition a number of dedicated showings will be held for individuals who require additional needs.

13.0 Schedule of background papers

- 13.1 [Strategic Asset Plan 2018-2023](#) – Report to Cabinet on 17 October 2018 including:
- Asset Management Policy 2018-2023
 - Asset Management Strategy 2018-2023
 - Asset Management Action Plan

14.0 Appendices

- 14.1 Appendix 1 - PDF proposal

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Chubb Cinema CGI's PDJ's Proposal

















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