

Somerset West and Taunton Council

Executive – 16 September 2020

Delivering Regeneration – Setting up a Special Purpose Vehicle

This matter is the responsibility of: Councillor Marcus Kravis Portfolio Holder for Asset Management and Economic Development

Report Author: Tim Bacon

It is important to stress that the full content of this report is commercially sensitive and must remain confidential. The report is solely for Members of Somerset West and Taunton Council. Details must not be disclosed to any other person.

1 Purpose and Executive Summary

- 1.1 The purpose of this report is to propose the establishment of a local authority trading company (**Name to be decided**), and specifically to seek approval for the creation of the SPV. This follows the All Members presentation from Monday 17th August 2020 and the presentation is attached at Appendix 1.
- 1.2 The reason why a SPV (Special Purpose Vehicle) is required is to deliver first and foremost Town Centre Regeneration projects that would not likely be delivered by the open market. This is the way that the Council can intervene in the market place and bring forward the regeneration projects that, have in the main, been talked about in policy documents but seldom delivered in the ground. The SPV will be a considerable step change in the pace and certainty of turning plans into reality. The SPV will be a limited company.
- 1.3 The Council has received independent legal advice in connection with the creation of the SPV. and this will be provided at Appendix 2 once received. Financial advice is still awaited and the scope of this advice is provided at Appendix 3.
- 1.4 The SPV will be established as a Company wholly owned by the Council at the head of a group of subsidiary companies designed primarily to support the delivery of regeneration ambitions and the strategic priorities of the Council but which could also deliver other objectives as the Council may require. The SPV will provide an overarching governance mechanism for all subsidiary **SPVs**, where there is a commercial need for them being established. References to the **Group** are to the parent SPV and any subsidiary SPVs underneath the

parent from time to time. Projects and services will be added to the Group on a business case by business case basis as approved by Full Council.

- 1.5 The Council will guide the functions of the SPV through an SPV Steering Group.
- 1.6 Council control of the SPV will be via shareholder agreements, land agreements and, where needed, funding agreements.
- 1.7 This report summarises why the SPV is required (by reference to independent legal and financial advice where that is appropriate). The report reviews what the Group structure will do and function, and how it will achieve the Council's goals.
- 1.8 The costs of setting up the Group structure have already been approved in earlier decisions in Council approvals in June 2019, January 2020 and March 2020. In context minute 2.1 from the January 2020 Council report specifically included the possibility of developing the site through a Special Purpose Vehicle and set aside project team costs for the same. All Members briefings were held on the 2nd March 2020 where the SPV was the sole subject of Members Briefings and 43 Members attended those briefings.
- 1.9 The governance and business case approach for future projects/SPV's is set out at Appendix 4. It is important to note that this approval is only for the principle of setting up a SPV. The SPV is delivery tool for the Council that will only have projects to pursue only after individual projects are approved by Full Council. The business cases for Firepool and other regeneration projects will be presented to Full Council in November 2020. Subsequent business cases will follow as needed thereafter. The Council owns the business cases and each will set performance requirements to be delivered by the SPV.

2 Recommendations

Executive recommends that Full Council:

- 2.1 Approve the creation of (name to be confirmed) as a company limited by shares and wholly-owned by the Council in accordance with the principles of future business cases set out in this report;
- 2.2 Delegate authority to the Director of Place (in consultation with the Executive) to register the name of (the SPV) and complete all practical, financial and legal matters to enable (the group SPV) to be established including approval of the final form of all necessary legal documentation and thereafter oversee operations of the Council.
- 2.3 That Projects and services are added to the Group on a business case by business case basis as approved by Full Council and performance monitored through the Shareholder Agreement.

3 Risk Assessment – SPV based risks in non- bold text 1-5 and venture risks in bold 6 and on

	Risk Description	Likelihood	Impact	Overall	Risk Mitigation Measures	Likelihood	Impact	Overall
1	Failure to act commercially and recover expenditure and fees, if unable to deliver the plan set out in business case.	3	3	9	<i>The full business case was developed and further inputs from an independent Property advisor and Quantity Surveyors will be sought, showing a positive overall return on investment.</i>	2	2	4
2	Insufficient through-put of business to justify separate SPVs	2	2	4	<i>Group to be actively considered as owner/ developer of appropriate property, with suitability, viability to be established on a case by case basis.</i> <i>Underlying administration cost of Group low with lean resourcing model, so overheads kept to a minimum unless potentially viable cases are brought forward. At least initially, the costs of early stage business case development will be borne by the Council rather than Group, with costs of approved business cases being on-charged to Group as part of the financial model.</i>	1	1	2

	Risk Description	Likelihood	Impact	Overall	Risk Mitigation Measures	Likelihood	Impact	Overall
3	Dependencies (resourcing, staffing, etc.) still located within the Council – this is the downside of a "lean" model.	2	3	6	<i>Group SPVs (and subsidiary SPVs in time) to enter into Group-wide Resourcing Contract to regulate drawdown of resources as needed.</i>	1	1	2
4	<i>Directors' duties owed by those on the Group Boards</i>	2	2	4	<p><i>Clarity of governance structure under Shareholder Agreement and Articles.</i></p> <p><i>Ensuring directors are those with the appropriate mix of skills and experience (i.e. they know what they are doing and why they need to make decisions).</i></p> <p><i>Regular review to ensure governance processes are working efficiently and properly.</i></p> <p><i>Training for potential Board members.</i></p>	1	1	2
5	Administrative burden increases with additional corporate structures such as the proposed SPV.	2	2	4	<i>See above regarding administration costs.</i>	1	1	2

	Risk Description	Likelihood	Impact	Overall	Risk Mitigation Measures	Likelihood	Impact	Overall
6	Climate Change - If the Council does not lead from the front in delivering zero carbon developments no one else will	3	3	9	<i>That the Council prioritises a zero carbon policy in regards to all of its projects</i>	1	2	2
7	Risk that the status quo continues and the Town Centre will not deliver the desired regeneration without intervention from the public sector (SWT). As a result the Taunton economy will suffer.	3	3	9	<i>That the Council embarks in a level of measured intervention sufficient to generate the required levels of change to protect jobs and the wider economy.</i>	1	2	2
8	That the Council overstretches its finances in delivering direct development in a risky economic environment	3	3	9	<i>That the risk is offset by using a Special Purpose Vehicle and securing third party funding with as limited impact on the Council's finances as is possible</i>	2	2	4
9	Failure to attract purchasers/tenants to the site	3	3	9	<i>The sites are considered prime site for mixed use redevelopment quality accommodation will be provided and the option of the use of an SPV enables part exchanges, rent or price concessions. An SPV will also allow opportunities to provide finance/loans to stimulate sales as needed. There is a national housing shortage and if people are not buying they are likely to be renting.</i>	2	1	1

	Risk Description	Likelihood	Impact	Overall	Risk Mitigation Measures	Likelihood	Impact	Overall
10	The economic impact of Covid and Brexit lead to a deep recession greatly impacting on the business cases for each of the projects to be delivered by the SPV/Group	3	3	9	<i>That any capital value contagion is managed on the balance sheet by seeking to rent all completed accommodation. Adverse conditions to be offset by committing to projects block by block and reviewing the state of the market and slowing down or speeding up as required. The accommodation built must be best in class to be ultra-competitive in the local economy.</i>	2	2	4
11	The Council does not have the necessary skills in-house to undertake the build management and letting.	2	3	6	<i>Council have an internal team with the skills to manage the site initially and a suitable recruitment policy will be enabled at the appropriate market rates to employ a high quality and independent team within the SPV/Group</i>	2	2	4
12	Impact of Unitary Status	2	3	6	<i>The intention is to deliver the level of regeneration required in the Town Centre and the need for that intervention remains the same for any future successor Council. Any new Council will have the authority to exit the SPV as set out in the Shareholder agreement</i>	2	2	4
	Mean score	2.5	2.8	7		1.4	1.5	2.1

4 Group SPV and future Business Cases

- 4.1 The purpose of this report is simply to set up an SPV as the head company within the Group as it grows over time. It will be dormant until business cases are approved for future projects. The first will likely be Firepool and others as and when needed. Each business case will be accompanied by a consideration of delivery options
- 4.2 The following business cases for any regeneration development must analyse the appropriate business model for the initiative, which may or may not be through a company. Where a local authority is relying on section 95 Local Government Act 2003 (and arguably this reflects a wider fiduciary duty even where that power is not being relied upon), it must prepare and approve a business case pursuant to the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009. This requires the local authority to consider and approve a suitable business case for establishing a trading company, which must include details about:
- the objectives of the business;
 - the investment and other resources required to achieve those objectives;
 - any risks the business might face and how significant these risks are; and
 - the expected financial results of the business, together with any relevant outcomes that the business is expected to achieve.
- 4.3 Because a company is required, the level of management support required by the company from the Council will be set out on case by case basis.
- 4.4 The Council will ensure that it receives a commercial rate of return on any funding, supplies, services or assets provided to the company, or at least covering its costs in the provision of services or support. The Council may seek to directly support companies through offering these services at the appropriate and State-aid compliant price.
- 4.5 It is expected that a variety of property and development opportunities will be presented, to be delivered by an existing or new subsidiary SPVs with each opportunity needing a separate business case before commencing. As the "inputs and outputs" of development, the risks associated with specific developments and the expected financial results are only going to be known as and when opportunities are brought forward, those subsequent business cases will need to cover the majority of the points above.
- 4.6 The Councils principal powers to set up a SPV are summarised within Appendix 2.

5 Objectives - Regeneration of the Town Centre area

- 5.1 There are a range of stalled sites that need to be unlocked in the Town Centre area. Developers will generally prefer to build new housing on the 7,000 or so consented plots on green field consented sites outside the Town Centre area. More people living in the Town Centre is the optimum sustainable solution as more people living close to the Town Centre will deliver more retail and leisure spend to help protect and support the economy and the growth ambitions of the town and the wider district.
- 5.2 The Taunton Town Centre Area Action Plan considered various sites and allocated circa 2,500 new residential units. Of these only 20% have been delivered and major sites such as Firepool and others remain undeveloped. Town Centre sites in the region are expensive to develop as they are often constrained sites that require urban solutions. They provide a lesser commercial return for mainstream residential developers whom prefer to develop greenfield sites for predominantly houses which are easier to fund, build and sell.
- 5.3 There are a number of options for the Council to consider in taking forward these schemes and these are referred to in paragraph 5.12 below. As an alternative to any of these delivery options, the Council can pursue a "do nothing" option and let the market come forward to deliver these difficult sites. The downside to this option is that it is almost certain that nothing will be delivered at Firepool, which has been the case for the last 10 years and market conditions are hardly more favourable with Brexit lurking in the background whilst Covid 19 dominates the foreground. New home starts were down by 18% in the last quarter of 2019 purely because of Brexit. It is now much harder for developers to make decisions about tough urban sites. The do nothing option is not considered in any detail as it clearly does not meet the Council's objectives which have been set out in parameters in order to test the options.
- 5.4 The Council's emerging strategy is to find ways to encourage business for the Town Centre. Two main initiatives have been identified: firstly to bring more leisure uses into the Town Centre and secondly to encourage 2,500 or more new residential units of accommodation into the Town Centre. Doing nothing on Firepool or other regeneration sites do not help either initiative.
- 5.5 Using Firepool as a case study for the rationale and benefits of an SPV, the whole site has been appraised and tested against the following parameters. which have been considered in earlier Council briefings and meetings.
- Financial – viability
 - Delivery
 - Regenerative
 - Sustainability
 - Financial Risk

Each is scored out of 3. 1 is low and 3 is high. The delivery approach as a principle is appraised on the table at Appendix 1 page 8. This scores the options and concludes direct development or developing in an SPV as the highest scoring option.

Sustainability has been added as an assessment criteria in its own right.

- 5.6 Financial - There is a balance between viability (does it meet minimum criteria to warrant delivery) versus profitability (the ability to generate a surplus that can be reinvested into delivery of other projects, such as a multi-purpose venue on Firepool). Clearly both are quite different. For example it may well be that we term certain blocks of Firepool as regeneration drivers that need to achieve viability and others as revenue generators that must deliver profitability.
- 5.7 This balance will be reviewed by the Council, as the Firepool programme progresses. This would also include revenue benefits such as Council Tax and Business Rates as new income to the Council.
- 5.8 Deliverability - This assesses the deliverability in the following measures:
- Likelihood of planning success
 - Covenant – ability of occupier to deliver, track record, etc.
 - Funding – proof of funding and level of conditionality of that funding
- 5.9 Regeneration - Key drivers are uses that produce highly skilled jobs, general jobs, complementary commercial and leisure space (complementary to the Town). This would also allow for design and quality reflecting the Garden Town design guidance.
- 5.10 Sustainability - All schemes must deliver Council policy at all costs and that means achieving zero carbon, including:
- Photovoltaics and other micro generation options
 - Air source heat pumps
 - Triple glazing
 - Increased insulation
- 5.11 Financial Risk - This is simply the financial risks contained within each project or element of the SPV
- 5.12 Delivery Options
- These are considered in more detail in Appendix 1.
- Site by site sale
 - Non Council funded Joint Venture with Developer
 - Council funded Joint Venture with Developer

- Direct development
- SPV Options – Stand-alone new vehicle wholly or partly owned by Council. This option allows development to be taken off balance sheet and limits the financial risk.

5.13 These delivery options are summarised at Appendix 1 and the highest scoring options that best achieve the Council’s objectives are Direct development as with Coal Orchard or development through an SPV.

5.14 Direct development is a good solution. However it means that all of the risk sits with the Council and ultimately the tax payer. No property development is without risk and with ambition for schemes that may require a total investment of circa £200m, the borrowing will add additional pressure to the business debt. One key aspect is the need to make MRP (Minimum Revenue Provision) within the Council’s accounting regime. This means the Council has to take out a repayment loan over up to 50 years whereas many businesses can borrow interest only to maximise revenue surpluses now.

5.15 One additional benefit of an SPV is that it can secure third party funding with limited recourse to the Council if an occasion of loan default were to occur.

5.16 The sensible option of those presented options to maximise the return to the Council is the SPV model. This model is a well-trodden path for local authorities with a considerable number of Local Authorities having a local housing Company which is another form of SPV.

5.17 The key reasons for developing in an SPV are as follows:

Issue	Benefits	Impacts
Financial Risk	The ability to contain development risk with the Company and not the Council	There is likely to be some residual risk on the Council as not all of the development funding can be borrowed. The Council also has risk as an investor
Development Funding	The SPV can access third party funding with little or no recourse to the Council and that funding can be more flexible potentially without impacting on MRP (more on this is in Appendix 3.	FRS10 and dealing with consolidating the SPV’s accounts in the Council’s accounts but not likely to impact on MRP (minimum revenue provision)
Long term	The SPV can access long terms competitive interest	As a result a slightly higher interest rate over and

funding	only finance without the need to repay capital. Capital repayment plan is serviced by long term increasing capital values especially for the PRS model. This maximises surpluses	above PWLB will be payable but less overall that the repayment costs
Surpluses	<p>There are 5 mechanisms to return surpluses to the Council:</p> <ol style="list-style-type: none"> 1. Profit rent 2. Loan Interest 3. Payment for services 4. SPV can pay for some services that relate to the SPV that otherwise may have to be funded by the Council such as meeting the capital and revenue costs of a venue 5. Dividend <p>Crucially dividends are solely revenue income for the Council which are immediately available to support services as needed.</p>	<p>Items 1 to 4 are before tax payments.</p> <p>Item 5 is post corporation tax is currently 19% but there are a range of capital and other allowances available.</p> <p>The Council is not subject to corporation Tax. This is an extra over cost.</p> <p>Corporation Tax may well be offset by driving commercial efficiencies and speed of response</p>
Commerciality	The SPV can operate with a light touch approach and is able to make much quicker decisions and respond to market conditions without a 3 month Full Council decision process	The SPV could make decisions on a day to day basis outside of the control of the Council. However, all activities will be subject to business case which is approved by the Council
Venue or other non-commercial regeneration driving uses	The SPV can deliver at its own expense non-profit making activities on behalf of the Council paid for by its operating surpluses. Such activities would not be at the direct expense of the Council and tax payers. Such	The Council may lose some direct control of such ventures. Any tax efficiencies would need careful advice

	activities would then be run on an efficient commercial basis	
External activities and partnering opportunities	The SPV will be solely focussed on delivering Council objectives but there is nothing to stop the SPV pursuing regeneration activities inside or outside of the area as additional surplus generating opportunities	This external activity will need to be carefully managed so as not to change the focus away from the core SWT administrative area

6 Governance and Control

- 6.1 The SPV must deliver the Councils' objectives. The SPV is nothing more than a delivery mechanism for and on behalf of the Council. The Council though needs to have the governance structure in place to make sure the SPV is delivering the Council's objectives in a way that the Council is content with. Ultimately the Council owns the SPV but as the SPV is an independent legal structure the Council needs control and governance mechanisms in place. The following table demonstrates the principal layers of governance and control that the Council will exert on the SPV and will be generally subject to.
- 6.2 It is also important to note that through controls exerted over group SPV, the subsidiary SPV's will in time have the same levels of control passed to them

Governance	Description	Impact
Shareholder Agreement	This is the basis under which the Council manages its shareholding and the more commercial elements of the corporate relationship between the Council, the Group SPV and any subsidiary including how decisions are made, the matters reserved to the Council as ultimate owner of the Group, how profits are treated, funding and other Council controls	This is the most important of the layers of control exerted over the SPV
Articles of Association	The Articles of association set out how the company is run, from an administrative perspective to the extent not included in the Shareholder agreement, the Articles of Association would normally include the SPV's objects This would also include clear and demonstrable policies to deliver equality and zero carbon amongst many other clear objectives	This will provide a headline measure of control over the activities of the SPV
Business Plan	This will set key performance indicators to measure the success and effectiveness of activities. This will likely be an initial plan reviewed annually	This will inform and direct the day to day activities of the SPV

Loan Agreements	This sets out and records all sums loaned to the SPV together with interest, repayments and all other usual loan agreements. This will also include recovery action and step in rights if the SPV was to default on payments or any terms and conditions	This will control how monies are spent by the SPV
Freehold Retention	All disposals to the SPV should, wherever possible be in the format of long leases which provide maximum control to the Council. All transactions will be S123 compliant format to guarantee the Council receives value for money from its assets	Provides the Council with control over the use of Council assets and sets a profit rent to ensure the Council is properly paid for assets utilised before corporation tax is levied
Nominations to the Board	The Council would retain control of key appointments such as Chairperson and Chief Executive	Ensures the Council has a key role in the make up of the Board
Steering Group	This is likely to be the Full Executive that will meet on a quarterly basis or more as is needed where the SPV will report to the SPV on progress and key issues	The Steering Group will report to Full Council and feedback key issues as required and recommend any formal action to be taken if required
Companies Act	This places obligations on the Company to conduct its activities in accord with company law. This will include confirmation statements and submission of accounting information	This ensures the Company complies with all relevant legislation

Audit/Accounting	It is a key component of the Shareholder Agreement and or Arts and Memos to ensure the SPV maintains high quality financial records which will be maintained in a professional manner and prepared by a firm of Auditors	This demonstrates the SPV's good and proper financial management in an open and transparent format
Exit Arrangements	The Council will retain the ability to wind up the SPV should it need to. It also has the options to sell all or part of its shares to third party investors or indeed to the SPV.	Any exit arrangements would be time consuming for example a full review would need to be undertaken
Meeting Financial commitments of the Council	The Council would reserve the right to call in super dividends as the Council's finances may dictate	The SPV may need to sell key assets as and when needed to raise distributable funds to meet the needs of the Council
Step In Rights	The Council will reserve the right to step into any activity being undertaken. This is an option which the Council can choose to exercise but will not be an absolute undertaking	This may have far reaching impacts such as SDLT and tax but will give the Council the surety that projects started will always be finished

7 Proposed SPV structure

- 7.1 The Council has received independent financial and legal advice in connection with the creation of the Group SPV, copies of which are contained at Appendix 2 and 3.
- 7.2 On the basis of that advice, the Council has assessed that the most appropriate route would be to establish the Group SPV as a company limited by shares. All other options are considered from a legal perspective in Appendix 2. A summary of the key advantages and disadvantages of this model are set out below:

<u>Advantages</u>	<u>Disadvantages</u>
<p>"Tried and tested" – a flexible and familiar structure which is still the most popular form of corporate vehicle. Limited liability for Council in capacity of shareholder for the debts and obligations of the company.</p> <p>Over 50% of local authorities in England have set up companies to support their corporate ambitions. Some are developing homes and commercial properties, some are supporting homelessness, IT or energy initiatives. Some have multiple companies which support different business streams and although they may be pulled together under one holding company which is the recommended solution here as this helps support multiple commercial activities.</p>	<p>Annual and event driven reporting to Companies House means a reasonably high degree of publicity regarding the company.</p>
<p>Simple mechanism for introduction of new equity/transfers of existing equity, although transfers of shares subject to potential 0.5% stamp duty charge. The share capital structure means the shareholder(s) can hold different numbers of shares (or different classes) and therefore, if there is more than one shareholder in the future, hold varying levels of influence.</p>	<p>Directors subject to statutory and common law duties, which will be of particular concern (to those directors) if the company is insolvent or is nearing possible insolvency.</p>
<p>Nature of shares as an investment gives possibility of future "exit" as well as income return for shareholders, subject to there being sufficient profits available for the purpose of distribution.</p>	<p>Company treated as a separate taxable entity from its shareholders.</p>
<p>Company can be established with a sole shareholder, so capable of being owned outright by the Council.</p>	<p>Potential issues surrounding valuation of shares on exit.</p>
<p>Can borrow in its own right and grant security over its assets.</p>	
<p>Can act as a vehicle to deliver Council's commercial trading ambitions (e.g. to sell services to third parties).</p>	

7.3 It is recommended that the Group SPVs objectives are established on a broad basis, so as not to exclude any particular opportunity. Accordingly, it is proposed that the SPV's objectives will, broad terms, be:

- To acquire, lease, invest in, finance, develop, hold, manage and/or dispose of housing property of various tenures and classes.
- To stimulate and accelerate property development in the Council's administrative area and wider.
- To provide services of any description to any person.
- To undertake any and all activity which from time to time may be considered necessary, connected with or ancillary, or in any way conducive to attaining the above objectives

7.4 The principles above would be fleshed out in each SPV's business case.

7.5 At present, the Group SPV will be a dormant "shell" with no assets or business plans/cases to deliver. The corporate and resourcing relationships between the Council, Group SPV and subsidiary SPVs would be governed at a high level by four principal documents:

- A Shareholder Agreement setting out the more "commercial" elements of the corporate relationship between the Council, Group SPV and any subsidiary SPVs, including how decisions are made, the matters reserved to the Council as ultimate owner of the group, how profits are treated, funding, and other Council controls. Any SPV created in the future would undertake to adhere to its terms, thereby creating a more unified governance structure across the corporate group.
- Articles of Association for the Group SPV are a requirement from a corporate law perspective and set out more "administrative" provisions. The Articles dovetail with the Shareholder Agreement.
- A Resourcing Contract setting out how the Group SPV would "call down" support from the Council or other members of the corporate group when required. As with the Shareholder Agreement, any subsidiary SPV created in the future would undertake to adhere to its terms, thereby aligning the way in which the Council enables each SPV to operate. The nature of the resourcing (for example, physical assets, property, IPR, personnel) needs to be priced in a way which complies with State aid principles.
- A Funding Agreement setting out how the Council would fund the Group SPV, to the extent the Council is not investing by way of equity subscription and/or third party debt is not sought. An SPV's funding arrangements would be agreed through its business case/business plan (the adoption of which is a Council reserved matter).

- 7.6 The Group SPV would be managed by a board of directors (albeit the board would operate in adherence to the documents listed above and therefore certain decisions would be reserved to the Council as ultimate owner of the Group). For incorporation purposes, it is proposed that an independent candidate is appointed as director. Upon approval of the first SPV business case, it is proposed that further directors of the Board be nominated.
- 7.7 As noted above, in addition to approving the appointments to the Group SPV/SPV Boards, the Council retains a significant level of control through the reserved matters set out in the Shareholder Agreement.
- 7.8 There are no immediate staffing requirements for the Group SPV. Staffing requirements for each SPV will be identified from individual business cases. There will be a need for Group SPV/an SPV to administer its own internal administration and compliance with company requirements. It is envisaged that this will be managed in the first instance at least through secondment or the provision of services by the Council to the Group SPV.
- 7.9 As the Group SPV would be 100% owned by the Council it would be a local authority controlled company for the purposes of the Local Authority (Companies) Order 1995. This places a number of administrative, disclosure and financial obligations on controlled companies.
- 7.10 Whilst the corporate form of the Group SPV has been determined, the corporate form of the SPVs will be the subject of further analysis as opportunities come forward and Executive approval will be required at the appropriate time.

8 Investment and other resources required to achieve those objectives

- 8.1 The investment and other resources required to establish the Group SPV are low. The form of Shareholder Agreement and Articles of Association are near finalised and the Group SPV will need to undertake various formalities to approve and adhere to them.
- 8.2 As an opportunity arises, it will be subject to:
- Commercial, financial and legal due diligence
 - External commercial advice where that is considered appropriate
 - A separate business case
 - Executive approval
- 8.3 At this stage, it is anticipated that the Group SPV /SPVs would require finance and external support to demonstrate that functions are within budget:
- Business planning and financial modelling
 - Market research

- Legal matters
- Tax advice to ensure the most tax efficient structure is pursued

8.4 The borrowing requirements of the Group will be identified in the detailed business cases when opportunities are identified. The State aid implications of this will also be considered on a case by case basis.

8.5 Taxation will likewise be looked at in each SPV business case. This will allow proper consideration of the issues affecting each SPV (for example capital allowances, SDLT, corporation tax, options to elect to tax for VAT purposes and lease arrangements). In principle, due to the establishment of the Group approach, this should enable the Council to take advantage of more tax efficient group company arrangements in appropriate circumstances.

8.6 Opportunity-specific risks, as well as the wider risks, are to be considered on a case by case basis with the Executive approving any opportunities and the relevant business cases going forward.

9 Expected financial results of the business

9.1 These are to be assessed as opportunities arise. At present, the Group SPV will be a dormant "shell" with no assets or business plans/cases to deliver. However, it is intended that the SPV will deliver distributable surpluses in excess of £3m per annum from Year 5

10 Links to Corporate Strategy

10.1 Shape and protect our built and natural environment

10.2 Encourage wealth creation and economic growth throughout the District

10.3 Support the town centres throughout the District to meet the challenge of changing shopping habits

10.4 Facilitate the development of the commercial parts of the Firepool site in Taunton

10.5 Ensure our land and property assets support the achievement of the council's objectives (including service delivery, regeneration projects and community initiatives).

11 Finance / Resource Implications

11.1 Considered in Appendix 3

12 Legal Implications

12.1 Considered in Appendix 2.

13 Climate and Sustainability Implications

13.1 Zero Carbon is the strict policy.

14 Safeguarding and/or Community Safety Implications

14.1 None related directly to this report.

15 Equality and Diversity Implications

15.1 None related directly to this report.

16 Social Value Implications

16.1 At this stage we have not carried out a detailed analysis in this area but the regeneration benefits will be significant and the provision of much needed affordable rented accommodation will be considerable.

17 Partnership Implications

17.1 None related directly to this report.

18 Health and Wellbeing Implications

18.1 No known implications in this report.

19 Asset Management Implications

19.1 The Asset Management Team will be involved and have acted as advisors throughout the production of the proposal to make this investment.

20 Data Protection Implications

20.1 None related directly to this report.

21 Consultation Implications

21.1 None related directly to this report.

22 Scrutiny Comments / Recommendation(s)

To amend recommendation 2.1 to the following (additions in italics)

Approve the creation of (name to be confirmed) as a company limited by shares and wholly-owned by the Council in accordance with the principles of future business cases set out in this report; *subject to the provision of PWC Tax and compliance advice to include advice on Construction Industry Scheme (CIS).*

Democratic Path:

- **Scrutiny Committee – Yes**
- **Executive Committee – Yes**
- **Full Council – Yes –**

Reporting Frequency: Once only

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