
Meeting of the Cabinet – 22nd September 2022

Report of the Director of Regeneration and Enterprise

Wind Down of New Heritage Regeneration Limited (NHRL)

Purpose

1. This report provides an update on the financial performance of New Heritage Regeneration and outlines the proposals for the wind-down of the company.

Recommendations

2. It is recommended:-
 - That the contents of this report are noted.
 - That NHRL is wound down as of 31st December 2022.
 - That the Director of Regeneration be authorised to work with the Chief Executive Officer of NHRL to conclude the negotiations with Homes England on the property portfolio.
 - That, on the assumption the property portfolio is retained, the income stream be ringfenced for regeneration purposes (including to cover the costs of the transferred staff salaries and pension strain).
 - That the Director of Regeneration be authorised to conclude the Human Resources/staffing issues.

Background

3. In 2009 the Council set up a separate company which is wholly owned by the Council known as New Heritage Regeneration Limited (NHRL). Its purpose is to provide concentrated resources directed at

commercial negotiations with landowners and developers. It is partly funded by the Council and partly by income from a portfolio of properties originally acquired by Advantage West Midlands, subsequently transferred to Homes and Communities Agency (HCA), and currently jointly managed by the Council and HCA under a stewardship agreement.

4. The origins go back to 2005 and the adoption of the Dudley Area Development Framework. Between 2006 and 2008 a number of studies were carried out and recommendations made regarding the most appropriate approach to delivering regeneration in Dudley, culminating in NHRL. The scope of NHRL has since been extended to Brierley Hill.
5. Cabinet on the 31st of October 2007 considered a report on the delivery of the Area Development Framework (ADF) and approved the registration and formation of the arm's length company (ALC). Public sector investment to acquire land and property assets was secured from the Regional Development Agency (RDA) Advantage West Midlands and series of DMBC property assets were also identified. These were included in a business plan to be taken forward by NHR. In addition, Cabinet was asked to consider the benefits of extending the role of the ALC in the future to coordinate regeneration delivery across the borough, with its primary focus being to deliver the regeneration of Dudley and Brierley Hill town centres.
6. Cabinet approved in June 2008 that the ALC be set up on an interim basis in advance of securing this external funding using (a) funding in the base budget for the delivery of the ADF and (b) rental income received from the properties acquired in Dudley town centre using AWM funding New Heritage Regeneration Ltd. The ALC was formed on the 6th of August 2008 with the title New Heritage Regeneration Ltd (NHRL). It is a minority interest company with the Council represented on the company board by the Leader of the Council and the Leader of the Opposition Group.
7. In December 2008, following a national recruitment exercise, Bill Kirk was appointed as NHRL Chief Executive, taking up position on the 6th of March 2009, and Robin Butler as company Chairman.

8. On 10 June 2014, the Council entered a formal collaboration agreement with Homes England, which took over responsibility for AWM investments following its closure. The Collaboration Agreement set out several agreed objectives, clarified the roles of the two partners, and set out the principles of property projects within the ADF portfolio would be taken forward. The agreement also established the NHRL board and Steering Group.
9. NHRL has several operational functions including leading on the land unification process, expediting the planning process, securing funding, procurement of development and financial management.
10. The agreement was to come to an end on 31 March 2021, following which a reconciliation exercise would be undertaken by the parties.
11. Several NHR managed projects remained in delivery in March 2021. These included the Very Light Rail National Innovation Centre at Castle Hill which was due to complete in 2022. Approval was therefore sought to extend the longstop date within the Collaboration Agreement by a further 12 months to 31 March 2022. This was to allow the project activity to be completed and the financial reconciliation between the parties to be undertaken. The approach was agreed by Homes England.
12. The extended Collaboration Agreement has now come to an end and the activities of NHR are now beginning to wind down. The NHRL board is convening in the end of September to officially agree the closure and to minute the decision.
13. Homes England will then need to terminate their agreement. Negotiations on the terms have commenced but it is envisaged that DMBC will retain the property portfolio for regeneration purposes in the interim (and its related income stream) and retain the right to dispose of at will in the future with no call on the assets from Homes England.

Finance

14. The operating budget of NHR derives from two sources: an annual contribution from Dudley MBC of £140,000 and the rental income from letting the retained property portfolio of sites/premises within the Dudley ADF area.

15. The overall operating budget funds services provided on behalf of NHR by Dudley MBC. For the financial year 2021/22 these are Accountancy Services £21,200, Legal & Property Services £10,200, Administrative Support £10,200 and Payroll Services £3,060 plus the appropriate inflation factor for in-house Dudley MBC services. The net cost of NHR to Dudley MBC for 2021/22 was therefore £95,340.
16. The ADF properties are a combination of premises acquired with AWM/HCA funding as well as others already held by Dudley MBC.
17. A list of the property assets are available on the [Council's Internet site](#).
18. All the properties within the Dudley ADF portfolio are owned by the Council. Those assets acquired using AWM funds are held by the Council but have a restriction on title in favour of Advantage West Midlands. These restrictions have now transferred to Homes England as the successor body. Prior approval is required before the disposal of any of these assets, which should be in accordance with the ADF Business Plan.
19. As the Partnership Agreement is coming to an end, the intention is to account for the parties' investments and then distribute the assets and proceeds. The initial priority return is in favour of the Council, to allow recovery of its investment. Any remaining proceeds will then be divided between the parties. At this stage, there is expected to be little, if any, surplus for division.
20. The target for closure of the agreement is Christmas. At this point, the restrictions on title can be lifted and the assets purchased with AWM funding will remain within the unfettered ownership of the Council. Corporate Landlord Services team are assisting with this exercise by valuing the remaining portfolio to support the division of proceeds calculation.
21. Legal advice is being sought but it assumed that the redundancy are legitimate costs associated with the closure of the company. The salaries of the retained employees (and the pension strain liabilities) could be met by income from the portfolio of assets.

Law

22. Section 111 of the Local Government Act 1972 empowers the Council to do anything that is incidental or conducive to the discharge of its functions.
23. Pursuant to Section 1 of the Localism Act 2011 a local authority has a general power of competence to do anything that individuals generally may do.
24. Section 123 Local Government Act 1972 will apply to the disposal of the properties in the portfolio.

Risk Management

25. The life of NHRL has always been intended to be finite and it has been extended beyond that initial period already. Both key parties agree that the timing of the closure is appropriate and are working together on this process and as such the principle of this action is low risk.
26. The valuation of the properties and the agreement of division of any surplus will be transparent and will involve Corporate Landlord Services and Finance.
27. The regeneration programme in Dudley and Brierley Hill remains a priority and whilst the substantive NHRL projects have or are concluding, work continues on the Future High Streets Programme and the Stalled and Derelict Sites workstream. To ensure that the closure of NHRL does not adversely affect this, it is proposed that one FTE is transferred from NHRL to full time permanent council employment and one contractor is engaged directly on a reduced part time and temporary basis to manage project monitoring. It is envisaged this would on the basis of 3 days per month until June 2023 (when ERDF last claims can be made). This is considered sufficient to manage the any risk to the programme and to monitor the project to manage the risk of grant clawback respectively.

Equality Impact

28. The proposals within this report are consistent with the Council's Equality and Diversity Policy. No equality impacts have been identified. There are no specific impacts that will affect children / young people.

Human Resources/Organisational Development

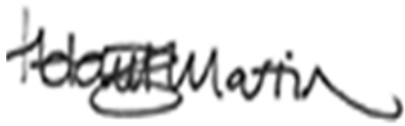
29. There are implications for staffing associated with the winding down of the company. There are currently two employees of NHR and one contractor. All three would cease to be employed by / or carry out work for NHR by 31st December 2022. It is anticipated that the Chief Executive role would be subject to a redundancy process, as this role would not be required once the company has ceased. However, as the work carried out by the Head of Regeneration Projects would continue, but internally within in Council, this postholder would transfer full time to Council employment via a TUPE process. The third member of staff is a contractor who the Council would directly engage on reduced hours (3 days per month until June 2023) to manage the monitoring and evaluation of the NHRL projects. These hours may reduce as the project evaluation period concludes and the risk of clawback diminishes. The contract with the Chair of the Board will also need to be terminated.

Commercial/Procurement

30. All processes, procedures and activities within the project proposals will be compliant with the Council's Commercial Strategy Any procurement resulting from the recommendations in this report are required to be compliant with The Public Contracts Regulations 2015 and the Councils Contract Standing Orders.

Council Priorities and Projects

31. The work of NHR contributes to the priorities in the Council Plan by supporting ongoing regeneration schemes, helping to re-develop and bring back into use long standing vacant and derelict sites and those of historical importance in our local townships.
32. Investment in our public realm has helped to develop safe and welcoming indoor and outdoor spaces for local communities to enjoy.
33. The work has also contributed to the borough vision by regenerating town centres where people are proud to live, work, shop and spend leisure time and supporting improvements in healthy outcomes for residents.



Helen Martin
Director of Regeneration & Enterprise

Report Author: Helen Martin
Director of Regeneration and Enterprise
Telephone: 01384 814004
Email: helen.martin@dudley.gov.uk

Background Documents

- [List of Portfolio Projects \(available online\)](#)