

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET

4 October 2017

Report of the Chief Executive

SWANSEA BAY CITY DEAL

Matter for Decision

Wards Affected: All

SECTION A

Purpose of Report

1. A progress report on the City Deal and recommendations as to the position the Council should take on the possible next steps in the process.

Background

2. In brief, City Deals are bespoke arrangements between Cities or Regions and Government designed to promote growth, innovation and employment measured in terms of Gross Value Added (GVA) growth and jobs. In the devolved context, they are triangular arrangements between City Regions and the UK and Welsh Governments.
3. On 24 January 2017, Cabinet agreed to delegate to the then Leader of Council authority to sign an in principle City Deal agreement on the basis described in that report (listed as a background paper below).
4. The Cabinet also agreed that the City Deal should be referred to the then Economic and Community Regeneration Scrutiny Committee (or its successor) for further consideration and that officers should bring a further report to Cabinet on any definitive commitments following the local government elections. This report seeks to discharge those commitments.

5. On 20 March 2017, the Prime Minister, the First Minister and the four Council Leaders (Carmarthenshire, Pembrokeshire, Swansea and us) duly signed the Deal (at Appendix 1). The headline figures were a £1.3 billion deal to transform the economic landscape of the area, boost the local economy by £1.8 billion and generate almost 10,000 new jobs over the next 15 years based upon 11 projects (see Section C below).
6. The total investment package is made up of £241 million of UK and Welsh Government funding, £396 million of other public sector money and £637 million from the private sector. The other key partners are the two Health Boards - Abertawe Bro Morgannwg and Hywel Dda – plus the two Universities – Swansea and Trinity St David's.

More Recent Developments

7. A provisional governance structure has been established in shadow form (at Appendix 2). The main focus – led by Carmarthenshire County Council as the accountable body designate - has been on finalising the governance arrangements required to underpin the City Deal. There have been a series of meetings over the summer and in recent weeks at various levels: the Shadow Joint Committee (Leaders); the Programme Board (Chief Executives) and others (finance and legal officers).
8. The governance arrangements are to be the subject of a draft Joint Working Agreement (JWA) – and will include regional scrutiny arrangements. The work has been ongoing for some six months with external legal support; but is not yet complete. In terms of the draft itself, numerous versions and supporting documents have been produced over the summer. The document runs to some 70 pages; but is available to Members (from Legal Services) on request. Thus the process is proving very complicated and resource intensive – and that complexity potentially increases considerably the financial risk to the local authorities. At its most basic level, if Members were to ask for a simple explanation of how it all would work in practice, officers could not provide a clear one as things stand. In recent weeks, it has effectively been decided to start again on the JWA and search for a different, more practical, model.
9. The essential problem is that clarity is required on a number of key issues (detailed in Section B below). This is needed from the region itself and both governments before officers could recommend that the

Council sign it; but the necessary clarity has **not** yet been achieved despite intensive efforts, including discussions with Ministers.

10. The agreement signed in March commits both governments to work with the region to achieve this. This Council is one step removed from the discussions (as Carmarthenshire Council act as the main point of contact). Whilst there has been plenty of contact, there is insufficient evidence of joint problem solving in our view. One issue is that we get very little in writing – certainly by way of definitive commitments - from the two governments. This is important in the context of the financial issues and risk explored below.
11. Moreover, the March agreement also contains two arguably conflicting priorities. The Welsh Government wants the process led by a Joint Committee of local authority leaders (consistent with their approach to local government reform¹) whereas the UK Government has insisted upon a private sector led Economic Strategy Board (ESB) as part of the arrangements. It is worth noting that this is pretty much what we had prior to 31 March 2017 in the form of the Swansea Bay City Region Board; but the Welsh Government effectively abolished it. All this should not be an insurmountable problem; but it is indicative of the complexity as we are now required to go through a quasi-public appointments process to populate the new Board.

SECTION B

Key Legal, Financial and Risk Issues

12. These are all intrinsically inter-linked. At a basic level, local authorities in Wales have the powers to establish Joint Committees under sections 101 and 102 of the Local Government Act 1972 and sections 19 and 20 of the Local Government Act 2000. The JWA would be the legal vehicle for doing so. There has also been debate about whether the existing powers available to local government to promote economic and wider well-being such as the 2000 Act are sufficient in terms of delivering the City Deal – ahead of any general power of competence foreshadowed as part of the Welsh Government's plans for local government reform (but that requires legislation which is at least a year away) - or whether these are constrained to the administrative areas of individual local authorities.

¹ See the statement of the Cabinet Secretary for Finance and Local Government on local government reform of 18 July 2017

13. Crucially, there are a number of key financial issues that remain unresolved and are linked to the delivery of the projects and other material considerations – sections C and D below. What follows is by no means an exhaustive list and the current excess of ambiguity increases risk – a sentiment the Leader expressed clearly in a letter to his regional colleagues in June of this year and in discussion with the Cabinet Secretary (Mark Drakeford) in mid-July. The first three issues below were also the subject of an exchange of letters over the summer between the Leader of Swansea Council and the Cabinet Secretary; but the latter’s response provided no real clarity:

- The March agreement commits the Welsh Government to “explore” the retention of a proportion of any additional National Non Domestic Rates (NNDR) generated by City Deal projects. This has a direct bearing on the business cases under preparation and is a potentially vital means of servicing interest payments on borrowing. However, whilst the Cabinet Secretary has indicated that a scheme may possible, it would operate on a regional basis and it is unclear how that would operate in practice. Therefore the overall position remains unresolved and an early resolution of the issue seems unlikely, if at all. In a different context, there is equal uncertainty at the UK level where the proposed Local Government Finance Bill, which was to have provided for similar reform in England, was dropped from the summer Queen’s Speech.
- The City Deal includes £396m of public sector funding. We have received details of the indicative UK and Welsh Governments funding per project; but we need to see the equivalent for the public sector funding (how much, from what source and over what period etc.?) Without this, we cannot advise Members of the full financial impact. A major issue is the uncertainty around the so called ARCH (regional Health Collaboration) programme which is linked to the City Deal. A bid was submitted to the Welsh Government by the two health boards in the region in January of this year and we are well aware of the competing priorities for revenue and capital funding within the NHS. The ARCH programme has been asked to look at “alternative sources of funding”; but assumes more than £100 million from the City Deal. Increasingly, we do not believe that the ARCH programme will secure significant medium to long term funding from the Welsh Government. If so, there can be no question of Councils being invited to plug any gap. This uncertainty could, in turn, undermine

the ability of projects to attract the even larger required private sector match funding. These matters therefore remain unresolved.

- Local authorities can only capitalise expenditure on the basis that they have long term assets on their balance sheets. In relation to City Deal capital projects, some will be developed and built by Councils; but others may need capital grant payments from a Council(s). Thus local authorities will need Welsh Government (and possibly UK Government) approval to capitalise both the revenue expenditure and capital grant payments made to third parties. This applies to both the Government and the public sector funding streams and without the capital direction, the full extent of the revenue cost and capital grant payment will have to be funded from the Council's revenue account in the year of spend. This is unaffordable unless it is spread over as long a period as possible – up to 40 years. Moreover, unless Capitalisation Directions are provided then our external auditors will not allow us to spread the repayment over time which would place an unsustainable cost on the Council taxpayer and could possibly be judged to be in breach of our fiduciary duty. Again, this matter remains unresolved.
- The March agreement includes a reference to contribution/funding conditions to be imposed by the two governments; but these have yet to be married up with the JWA in final form. Also, there is the issue of who approves these conditions (this must be a matter for individual Councils, not the Joint Committee in our view). We also need the ability to veto flawed business cases or we automatically lose financial control; but if one business case does not proceed, this potentially presents its own set of problems as things stand (see final bullet point below). These conditions also have a bearing on the content of the Implementation Plan required as part of the March Agreement; but one has yet to be produced. Thus the position here again remains unresolved.
- The March document can also be read two ways on the nature of the funding. For some projects, we will require both capital and revenue funding (at least short term) e.g. CENGs – see below. That seems possible on one construction; but elsewhere the document suggests that the funding will be capital only. Once more, the position remains unclear.
- Most importantly, at a meeting in July the Welsh Government indicated that no funding for any project would be released until

business cases for all 11 projects were approved. This position was confirmed in correspondence from the two Governments received during August, commenting on the draft JWA. Given the issues identified in this report, that would effectively mean that no funding could be accessed in the short to medium term and we would be condemned to moving at the pace of the slowest. It could also result in the local authorities taking all the risk by funding projects up front with no absolute guarantee that the Government funding will follow immediately or at all, if one considers how they have been trying to re-write the clauses in the JWA. That would be unacceptable (and not part of the original Deal). As things stand, we cannot envisage circumstances where we would advise Members to sign up on this basis and we have been clear with all parties on this. In recent weeks, there have been indications that the two governments are prepared to drop this requirement; but their stated position has yet to be retracted in writing.

14. Carmarthenshire Council (as the lead body) is doing its best to resolve these issues; but there seems to be an absence of capacity and/or will to resolve key issues. For example, the UK Government seems fixated with the minutiae of how the ESB will function in relation to the Joint Committee; but in truth this is a peripheral issue.

SECTION C

The Projects

15. A description of the full list projects across the region is contained at pages 10-14 of Appendix 1.
16. This Council was assigned the lead on four of them. The picture on progress is mixed (here and elsewhere in the region):
 - **Centre for Next Generation Services (CENGS):** we are in the process of completing a full business case on this project, with a proposed site at Baglan. The aim of CENGS is to bridge, through data analytics, the gap between research and innovation and the commercialisation of products and services to anchor in the region the next generation of global communication services.
 - **Homes for Power Stations:** This project is already well advanced. A site in Neath has been chosen to demonstrate the concept where buildings can generate, store and release their own

energy, to reduce fuel poverty and impact positively on health and wellbeing. The proposed development will provide 16 new homes on the site of the former Hafod Care Home: eight 2 and 3 bedroom homes and eight 1 bedroom apartments.

The application was made by the Council's partners Pobl Group supported by SPECIFIC (a Baglan-based Swansea University/Tata joint venture) and planning consent was granted on 8 August 2017. The project can be rolled out across the region in subsequent phases (perhaps under a different model as, unlike this Council, the other three local authorities have retained their housing stock and access to the Housing Revenue Account).

- **Digital Infrastructure:** This was to be the centrepiece of the strategy – as set out in the “*Internet Coast*” proposal submitted to the two Governments in February 2016. However, that focus has been diluted since. Also, the digital infrastructure agenda was very dependent upon the active engagement of the former City Region Board Chair and his wider senior level network; but the Board was abolished and that opportunity put at risk. The simple truth is that the necessary expertise (or contacts) exists neither in the Welsh Government nor local government. As a consequence, little work has been done in recent months to progress the project, although a part time external advisor has now been appointed. However, it is also worth noting that the region has submitted a circa £30m+ bid to the UK Government's Local Full Fibre Network Programme. This is not part of the City Deal per se; but is very much complementary to it in terms of enhancing digital connectivity. The UK Government has received some 100 bids (including four from Wales – Cardiff, Gwent, North Wales and ourselves); but, at the time of writing, we do not know whether our bid will be successful.
- **Steel Science:** the original concept - born during last year's turmoil around Tata – was a project designed to assist the company realise value to their bottom line in the short to medium term to mitigate against the financial and market pressures which the company were facing, as well as to anchor in the region research and development in the steel and related manufacturing sectors (which we are doing regardless of the City Deal).

This was very much the Council's focus and at one stage government was very keen on the idea (as a possible response to the crisis); but their interest subsequently cooled. We have also

had differences with Swansea University over their approach – to the extent that the University want to lead on the project. Essentially, they are more interested in research based capacity and projects, which have their place; but did not seem to us to be a sufficient response to the situation at Tata. Ultimately, it is the value of any project to Tata that will be decisive. We have also made it clear that we are not in the business of borrowing cash to fund University projects. The uncertainty has been compounded by discussions over a potential merger between Tata and ThyssenKrupp; but on 20 September 2017 it was announced that the two companies had agreed to the “first stage” of a deal to merge. At the time of writing, the full implications of the announcement remain unclear; but officers are re-engaging with Tata, Swansea University and others to identify a way forward.

SECTION D

Other Material Considerations

17. There are several which Members may wish to consider:

- Members will recall the Budget seminar on 19 July where the Director of Finance and Corporate Services outlined the acute pressures facing both the capital and, particularly, the revenue budgets over this Council term. The City Deal featured as a potentially significant financial pressure in that presentation (albeit largely unquantified at this stage), so this begs the question of competing priorities for prudential borrowing and finance.
- There are other priorities for Members to consider including Band B of the Welsh Government’s 21st Century Schools Programme to be launched in 2019 (we have done very well out of Band A); demands to maintain and improve the infrastructure of the County Borough (roads, bridges, etc.); the proposed rollout of the national childcare programme by 2020 and emergency provision for issues such as the Ystalyfera landslip. Accordingly, officers believe that Members should have the opportunity to consider the financial implications of the City Deal set against all of these priorities and during the forthcoming Budget Round.
- There are limited resources (human and financial) available to the Council to promote economic growth and job creation. This raises another question of priorities. Over the past five years or so, we

have devoted huge effort to the City Region/City Deal; but the Welsh Government cut the support funding to the region by 75% when the City Region Board was abolished and failed to deal with proposed secondments to assist in the work. We have agreed to contribute £50,000 during the current financial year provided the other Councils, the two Health Boards and Universities do likewise; but put simply, one could ask whether our time is best spent on this complex process with uncertain outcomes or should we concentrate upon securing funding (as we are currently doing) for the immediate delivery of regeneration schemes in the County Borough, particularly European Funding in advance of Brexit?

- As indicated above, there are (potentially at least) other vehicles for delivery; but outside of this complex governance framework. Moreover, the Valleys Taskforce provides a means of promoting City Deal related activity more locally and, possibly, delivering it more swiftly on the ground² given that the complexity of the framework actually risks delaying the delivery of projects.
- Finally, there may be doubts about the UK Government's commitment to the process given the gap between the rhetoric and the reality on large projects in South West Wales. In July of this year, rail electrification to Swansea was scrapped and UK Ministers have dithered endlessly over the Swansea Bay Tidal Lagoon. Thus it is reasonable to ask why we should currently believe that the City Deal would be any different and why we should carry the substantial risk identified in this report, particularly given the position that both Governments have taken hitherto on the release of funding (see the final bullet of paragraph 13 above).

SECTION E

Next Step Options & Conclusions

18. There are three scenarios (and other possible variations):

- First, officers do not favour establishing the Joint Committee formally in advance of finalising the Joint Working Agreement because we would effectively be committing ourselves to a legal entity which is not currently underpinned by robust governance

² See statement from the Minister for Lifelong Learning and Welsh Language (chair of the Ministerial Taskforce for the South Wales Valleys): 20 July 2017

arrangements and where too many important issues remain unresolved (as described in Section B above). A Joint Committee would also be a legal commitment, making it more difficult for the Council to subsequently withdraw if not satisfied with the position and, in our view, it would not be best practice to sign up on the basis of hoping that fundamental issues are resolved at a later stage. Moreover, it is arguable that as things stand, the arrangements do not meet the tests set out in the Welsh Government White Paper³.

- Second, we could withdraw now. That would not be well received either in the region or by the two governments; but officers do not at present recommend this course of action either. It would be premature. However, it seems to us that the Welsh Government's policy direction of mandatory regional working cannot extend to requiring local authorities to sign up to flawed/incomplete arrangements nor those which might put the Council taxpayer at risk and/or fail to satisfy our external auditors.
- Instead, we recommend a third way. The Council indicates that it is prepared to engage in further discussions; but not yet as a party to a formal Joint Committee should others wish to establish one. In our view, the JWA must be finalised first (including a resolution of the issues identified in Section B above) so as to provide clarity, remove ambiguity and reduce risk. In practice we hardly think the absence of a formal arrangement matters because, as things stand, there is little or nothing that the Joint Committee cannot do in Shadow form compared to a formal entity.

19. This approach has three main advantages. It provides more time to get the job done properly; it reduces the legal and financial risks if progress can be made and it provides Members with the opportunity to consider the advantages and costs of City Deal participation set against the competing priorities identified in this report and any others that Members may wish to consider.

20. The proper place for that is in the Council's 2018/19 Budget Round and it is at that point that we would recommend that final decisions on the City Deal be taken. It should also be noted that a recent meeting of the Shadow Joint Committee agreed in principle that a report to all

³ White Paper - Local Government Reform: "*Resilient and Renewed*": Welsh Government, 31 January 2017

constituent Councils would be made before Christmas if the JWA could be finalised. Meanwhile, the approach outlined above also provides the opportunity for the Council's scrutiny committees to make recommendations as they see fit and tie the process in to the production of our Well Being Plan/objectives (see immediately below).

Sustainable Development

21. The Future Generations and Wellbeing Act aims to make public bodies think more about the long-term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach. The Act places a duty that the public bodies will be expected to carry out. The well-being duty states:

Each public body must carry out sustainable development. The action a public body takes in carrying out sustainable development must include:

Setting and publishing objectives (“well-being objectives”) that are designed to maximise its contribution to achieving each of the wellbeing goals; and

Taking all reasonable steps (in exercising its functions) to meet those objectives.

22. Given the scale of the City Deal it is important that the Future Generations and Wellbeing Act is given due consideration in the development of any proposals, specifically in relation to the well-being ‘goals’ identified in the Act. The Public Service Board (PSB) is currently leading the development of our Well Being Plan/objectives as a requirement of the Act. There is a statutory duty upon the Council to approve both the Plan and objectives and on the PSB to approve the Plan by May 2018. Thus the decision making on the City Deal should inform this process (and vice-versa), if properly aligned.

Workforce Implications

23. None at this stage.

Equality Impact Assessment

24. Not required at this interim stage; but the Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific

Welsh public sector duties) having due regard the need to eliminate unlawful discrimination; advance equality of opportunity and foster good relations on the basis of 'protected characteristics'.

RECOMMENDATIONS

Members agree:

(1a) That the Council's position should be that the Joint Working Agreement (JWA) must be finalised (including a resolution of the issues identified in Section B above) before we could consider consenting to the establishment of a formal Joint Committee;

(1b) To request that officers bring a further report to Cabinet should a revised JWA be produced for decision, also to take account of any views expressed by the Scrutiny Committee [see recommendation (3) below];

(2) To authorise Cabinet Members and officers to continue to engage in informal discussions with a view to a decision on participation in the City Deal being taken by the end of the current financial year (in the context of the Council's 2018/19 Budget Round); and

(3) To refer this report to the Regeneration and Sustainable Development Scrutiny Committee for further discussion as Members see fit.

Reasons for proposed decision

To invite Members to provide direction on the conduct of further discussions on the City Deal.

Implementation of the decision

The decision is proposed for implementation after the three day call in period.

Appendices

Appendix 1 – Swansea Bay City Region City Deal – 20 March 2017

Appendix 2 – Provisional/Shadow Governance Arrangements

Background Documents

Draft Joint Working Agreement (JWA)

The Swansea Bay City Region “*Internet Coast*” Strategy – February 2016

Report to Cabinet, 24 January 2017

ARCH Portfolio Delivery Plan 2017

Letter from the Leader of Neath Port Talbot County Borough Council to the other Council Leaders in the region, 26 June 2017

Letter from the Leader of the City & County of Swansea (on behalf of the region) to the Cabinet Secretary for Finance and Local Government, 7 July 2017

Response from the Cabinet Secretary, 9 August 2017

Joint letter from the Wales Office/Welsh Government to Carmarthenshire County Council on the draft Joint Working Agreement, 17 August 2017

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