

Place Overview and Scrutiny



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| Report subject | Bournemouth Development Company LLP Update |
| Meeting date | 21 September 2022 |
| Status | Public Report |
| Executive summary | <p>Bournemouth Development Company LLP (“BDC”) is a joint venture between BCP Council and MUSE Developments Limited a subsidiary of Morgan Sindall Group plc.</p> <p>As a result of the 7 September 2022 Cabinet Finance Update Muse as Development Manager to BDC are reviewing and updating the Partnership Business Plan (PBP) funding strategy and work programme. It is expected that the PBP will be brought to a future Cabinet for consideration.</p> <p>The purpose of this report therefore is to provide an update on current BDC project activity and note the actions which flowed from an independent review of the BDC governance structure conducted by Local Partnership in March 2021.</p> |
| Recommendations | That the Overview and Scrutiny Place Committee review this update report and provide any advice or recommendations to Cabinet as they see fit. |
| Reasons for recommendations | <p>Cabinet on 7 September 2022 budget paper approved a recommendation that no new financial commitments will be made until such time as there is a balanced budget for 2023/24 other than with the specific agreement of the Chief Finance Officer in consultation with the Portfolio Holder for Finance.</p> <p>The BDC Partnership Business plan (PBP) project priorities, funding strategies and work programme are currently being reviewed in light of this recommendation.</p> <p>Whilst no Cabinet decision is contemplated at this time, the committee has requested an update report.</p> <p>The aim of the independent review, conducted by Local Partnerships was commissioned by the Council’ s chief Executive to ensure greater clarity on roles, transparency and accountability in the relationship between the Council and BDC LLP.</p> |

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| Portfolio Holder(s): | Councillor Philip Broadhead, Portfolio Holder for Regeneration, Economy and Strategic Planning. |
| Corporate Director | Graham Farrant, Chief Executive |
| Report Authors | Sarah Longthorpe, Director of Delivery Regeneration Martin Tiffin, Town Centre Vision Programme Leader |
| Wards | Bournemouth Town Centre |
| Classification | For Update |

Background

1. The Bournemouth Development Company LLP (BDC) was set up in 2011 by Bournemouth Borough Council as a joint venture (JV) through a limited liability partnership structure ("LLP") between the Council and Morgan Sindall Investments (MSIL).
2. The BDC PBP sets out the strategic direction of BDC over the next five years, with a particular emphasis on the nature and extent of development activity BDC will undertake during the forthcoming year.
3. The Council has reserved the right under the LLP embers agreement to approve the annually updated BDC business plan which highlights the next steps to be undertaken on sites which are currently in the development phase and those which are earmarked for development but yet to enter the development cycle.
4. On 7 September 2022 Cabinet approved a finance update paper which included a recommendation that no new financial commitments will be made until such time as there is a balanced budget for 2023/24 other than with the specific agreement of the Chief Finance Officer in consultation with the Portfolio Holder for Finance.
5. It is not known as this stage whether this decision may have wider viability and development programme implications for the sites within the development cycle, such as Eden Glen and Cotlands Road. Muse as Development Manager require time to review these project timelines, viability and funding strategies.
6. Muse has highlighted that the approval of the new PBP is not time critical as the current BDC PBP dated May 2021 is a 5-year plan and therefore sets out the strategic direction and objectives to the period ending April 2026.
7. Each year BDC holds a strategy day in order to identify the joint ventures key strategic objectives, capture its key priority sites and identify constraints to its developments which in turn informs the business plan. This year the strategy day was held on 4 July and key members of BDC LLP board and BCP senior officers attended alongside representatives from BCP FuturePlaces Ltd (FuturePlaces).

8. FuturePlaces were invited to attend the strategy day to ensure collaboration between BCP Council's key delivery partners on the regeneration of its strategic sites in Bournemouth town centre and realisation of the Council's Big Plan ambition.
9. This year prior to and in order to inform the strategy day a series of deep dive workshops were held to identify the constraints to delivery and work through solutions that will unlock delivery of the key priority sites, Eden Glen, Cotlands and Central.
10. The strategy day identified that a consistent constraint to progressing development on the majority of BDC sites is the requirement for the re-provision of public car parking within the developments.
11. In order to unlock this issue, a selective parking study is being commissioned by FuturePlaces to consider the current and future parking capacity requirements for Bournemouth Town Centre and the Lansdowne ahead of the new Local Plan and wider Strategic parking review for the BCP conurbation. It is intended that this study will inform where retained parking should be consolidated to support present and predicted demand. In turn this will assist BDC to identify how it can work with the Council to enable redevelopment of its option sites and accelerate the pace and scale of delivery.

Current BDC schemes – Progress report

West Cliff Mansions, Durley Road

12. Work commenced on site in January 2021 to deliver 44 new 1,2,3 bed homes to be available for sale on the open market. The scheme is scheduled for completion in Autumn 2022. As at beginning of July 2022 contracts have been exchanged on 100% of the homes off plan.
13. The on-site marketing office opened in June 2021 and the scheme was immediately well received by prospective purchasers. BDC report that after 12 months of marketing, contracts have been exchanged on the final apartment meaning that the scheme has been sold 100% off plan at prices in excess of the approved business plan projection. This highlights the appeal of Bournemouth as a place to live for a variety of homeowners including first time buyers, those living in the conurbation already and those looking to relocate to the town centre.
14. The Project is due to reach practical completion in November 2022 with the first residents moving in shortly thereafter. The final outturn profit will be known once the final account is agreed. This is likely to be in June/July 2023. Currently the scheme is expected to generate a profit of circa £2.5 million. It will be a BDC board decision as to how this profit is allocated in accordance with the terms of the LLP Members Agreement.

Winter Gardens

15. A comprehensive project update was provided in a report to the Place Overview and Scrutiny Committee on 16 June 2022. A brief summary is included below.

16. Demolition works have recently been completed to the Exeter Road properties and the Valentino's Kiosk. This enabling work has implemented the planning consent for the Winter Gardens scheme which had been due to expire in November 2021. The demolition of the buildings also helped to address anti-social issues in the area and significantly reduce on-going costs associated with the vacant properties.
17. The enabling demolition works have cleared part of the development site along Exeter Road and created an opportunity to get some meanwhile uses on the site that will provide economic benefit and stimulate an active frontage to Exeter Road. The Council, supported by Muse as Development Manager and FuturePlaces are working together to identify potential uses/market interest.
18. The "Option Execution Date" for this site, which fell 3 years after the date of planning consent expired in March 2022. It is therefore recommended that the "Option Execution Date" is extended out to April 2024.
19. This extension will enable FuturePlaces to continue to consider the regeneration of this area within a wider strategic context and determine if there are value optimisation and place making benefits of linking this site to the Council's proposals to invest in an improved, bespoke conference facility. It is appropriate to consider if the sites should be refurbished or developed collectively rather than in isolation to see if this would result in a wider more beneficial regeneration scheme.
20. FuturePlaces will consider the following key elements as part of a wider area redevelopment as an alternative to the refurbishment of the BIC;
 - Reprovisioning of Conference and exhibition (CONFEX) element of BIC within Winter Gardens site to include a seminar hall that can double as music venue with state of the art break out and streaming/production facilities;
 - Release of the existing waterfront BIC site, with optimised proposals for a high quality hotel, apart-hotel and residential scheme with ground and upper floor elements to provide public spaces, related commercial, leisure and F&B;
 - Reprovision of large-scale events space – locational and opportunity analysis in process.
 - A more integrated approach to the redevelopment of the seafront & Bournemouth ARC.
21. An outline business case is expected from FuturePlaces at the end of 2022. Both BCP FuturePlaces and BDC are committed to supporting the Council's Big Plan and delivering a viable scheme for Bournemouth.

Emerging Schemes - Key Priority Sites

Eden Glen

22. BDC are currently progressing design proposals for a residential led scheme comprising circa 50-60 homes, with active ground floor use. A viability assessment is currently being undertaken alongside seeking current residential market advice. The site could accommodate a build to rent offer and subject to due diligence and further Council approvals there is an opportunity for the Council to invest in this housing scheme following on from the success of Treetops at St Stephens Road and Caters

Quay in Poole, and increase its build to rent portfolio, managed by Seascape Homes and Property Limited.

23. It is anticipated that a paper outlining this opportunity will be brought forward to Cabinet for consideration once the Council has achieved a balanced budget for 2022/23. As previously proposed by BDC in their adopted Site Development Plan, the scheme would be delivered without reprovision of public parking spaces on the site.

Cotlands Road

24. Over the past 10 years within the conurbation approximately 1 million sq ft of office accommodation, representing circa 25% of the conurbations purpose-built office stock has received planning permission for a change of use. Some of this aging stock has already been redeveloped, and some is at risk of redevelopment to another use in the future. There is a significant lack of investment in new Grade A offices with very little new stock coming to the market in the past 20 years. This is having a significant impact on office occupiers' choice. Working with the Council, BDC are looking to make a significant investment in the delivery of new, Grade A office accommodation to meet the needs of existing corporate partners in the conurbation and attract new employers/organisations which is seen as central to the ongoing regeneration of the Lansdowne area.
25. Initial proposals for a mixed-use development at Cotlands Road will focus on the provision of a new MSCP, a viable quantum of Grade A office accommodation to meet the Environmental, Social and Governance (ESG) and wellbeing requirements of office occupiers and their employees, enhanced public realm and new homes.
26. There is an opportunity for the Council to take the lead and invest in this scheme. It is anticipated that a paper outlining this opportunity will be brought forward to Cabinet for consideration once the Council has achieved a balanced budget for 2022/23.

Central

27. BDC and the Council considered proposals for a residential-led scheme of circa 200-300 homes on this elevated site, which benefits from fantastic sea views. Current planning policy requires the reprovision of public parking on the site. This parking requirement will be considered in the parking study that is being commissioned by Future Places (para 11 above). Once the parking position is agreed, BDC will be able to progress design development.

Local Partnership Review

28. In April 2021, the Council's Chief Executive commissioned consultancy firm Local Partnerships' to review the BDC JV to consider the current governance arrangements and whether the JV is providing value for money. The Local Partnerships' report - while concluding that BDC has delivered some residential schemes of good quality - also made several recommendations about how the Council could improve its oversight and scrutiny of the Limited Liability Partnership, including the need to ensure independent appraisal of schemes coming through the BDC platform.

29. The Local Partnerships' recommendations were incorporated into an action plan and presented to Cabinet in October 2021. In the main both members of BDC supported the recommendations in the report but highlighted certain recommendations they were not prepared to accept. This report stated the action plan would be reviewed in 2022 to ensure that the recommended improvements have been considered and implemented.
30. Recommendation 1 in the action plan suggests the Council should review the composition of the BDC JV board and governance arrangements.
31. Legal Services have considered recommendation 1 and advised that LLPs are different from Companies and as a result it is not appropriate to appoint NEDs. LLPs need to be incorporated with the Registrar of Companies, however, unlike a company an LLP does not have shares or shareholders, nor directors. They simply have members. Unlike a company, an LLP does not have articles of association which must be publicly filed with the Registrar of Companies. As in the case of BDC, Members will often enter into a members' agreement (setting out the rights and obligations of the members of the LLP) but that is a purely private document which does not need to be filed on any public register. In case there is no such agreement some default agreement provisions under LLP Regulations 2001 will automatically become effective.
32. On the incorporation of a limited liability partnership its members are the persons who subscribed their names to the incorporation document. Any other person may become a member of a limited liability partnership by and in accordance with an agreement with the existing members.
33. Should any amendments be required it is proposed that authority is delegated to the Chief Executive in consultation with the Monitoring Officer on behalf of the Council as a "member" of BDC to make the amendments to the Members Agreement.
34. The concept of NEDs, as it exists in case statutory corporations, public companies or private companies, is not directly relevant in case of LLPs. The benefits of NEDs include the input of a senior and experienced person on the board who can offer insight and a wider perspective to board decisions. As NEDs are not full time but can act as a sounding board for directors and a safety net for non-director shareholders. This does not apply to the governance structure of LLPs.
35. The action plan has been reviewed and updated and is attached at Appendix 1.

Options Appraisal

36. This is an update report for noting only. The forthcoming cabinet report that will seek approval for the BDC PBP will outline the options and associated implications of approving or not approving the proposed PBP.

Summary of Financial implications

37. This is an update report and is for noting. As such there are no particular legal issues arising at this stage. Based on the information provided to the Committee however

recommendations maybe made for further consideration by Cabinet or Full Council as appropriate.

Summary of legal implications

38. This is an update report and is for noting. As such there are no particular legal issues arising at this stage. Based on the information provided to the Committee however recommendations maybe made for further consideration by Cabinet or Full Council as appropriate.

Summary of equalities implications

39. The forthcoming BDC PBP and all individual sites as they come forward for development will be subject to a full EINA.

Summary of risk assessment

40. When individual projects come forward for consideration from the overall BDC development programme the key risks that will be considered as part of the individual site development plans that are prepared include the following:

- Investment Risk including the risk that the development is non-profit making
- Pre-Construction Risk including planning, design and funding risks
- Construction Risk including inflation, supply chain disruption, late completion and cost overruns.
- Communications/Reputational Risk

List of appendices

Appendix 1 Local Partnerships' Review of BDC: Updated Action Plan

Appendix 1: BDC Review: Detailed Action Plan

RAG Rating Key

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| Completed | Green |
| In Progress/Partially Completed | Amber |
| Not Completed/Obsolete | Red |

| Recommendation & Actions | Critical /Essential / Recommended | Lead | Target Date | BCP/MUSE Agreed Actions February 2022 | Status |
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| Recommendation 1: BCP council should review the composition of the BDC JV board and governance arrangements as outlined in this report. | Essential (within 6 months) | | | | |
| <p>Appointment of Non-Executive Directors and independent Chair to represent both shareholders:</p> <ul style="list-style-type: none"> • Consultation with Muse to agree in principle decision. • Undertake Recruitment & Selection Exercise <ul style="list-style-type: none"> ○ Draft Job Description (including published objective criteria and performance review process) ○ Advertising ○ Interviews • Refresh Members Agreement to reflect changes (will require Cabinet/ Council approval) | | Council | Target for completion by 31 st December 2021 | <p>Non-Executive Director Appointment</p> <p>Independent Chair Appointment</p> <p>- Agreed that Michael Auger (MUSE) will continue to Chair the BDC JV Board. Both parties agreed an appointment of independent chair is not necessary as not multiple partners.</p> | <p>NOT COMPLETED</p> <p>Legal advice has concluded that the concept and benefit of NEDs do not apply to a LLP governance structure.</p> <p>COMPLETED</p> |

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| | | | | Amend members agreement | <p>NOT COMPLETED/OBSOLETE</p> <p>As the appointment of NEDs is not applicable the members agreement does not need to be amended.</p> |
| <p>BDC website update to include publication of:</p> <ul style="list-style-type: none"> • Board papers • Minutes • Forward Plan | | Muse | Refresh of BDC website underway. Target for completion 31 st October 2021 | <p><i>BDC website updated to include publication of;</i></p> <ul style="list-style-type: none"> • <i>Current Business Plan (including forward development programme)</i> • <i>Site Development Plans</i> • <i>Links to BCP website for Council Cabinet papers/decisions</i> <p><i>BCP Council website updated to link to BDC LLP website</i></p> <p><i>Publication of Board Papers/Minutes</i></p> | <p>COMPLETED</p> <p>COMPLETED</p> <p>NOT COMPLETED Both parties agreed not to publish as this is commercially sensitive information.</p> |

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| Recommendation 2: BCP council should establish a client shareholder working group as outlined in this report. | Essential (within 3 months) | | | | |
| <p>Establishment of a quarterly Client Shareholder Working Group:</p> <ul style="list-style-type: none"> • Draft Terms of Reference • Agree Membership • Schedule Meetings <p><i>NB. this could be in addition to or replace the current non-contractual 'Portfolio Briefing' session (current membership would need to be supplemented with: BCP Council Chief Executive, BPC Monitoring Officer, Finance Director and Development Lead.+ BCP client lead officer?</i></p> | | Council | Terms of reference to be agreed by Cabinet by 31 st October 2021 | <p><i>Establishment of client shareholder working Group</i></p> <p><i>Increased frequency from Quarterly to Monthly. Meetings scheduled throughout 2022.</i></p> <p><i>Membership agreed to include Chief Executive, Chief Finance Officer, Monitoring Officer and BCP client lead officers as recommended, alongside the Development Manager and Muse Board representatives.</i></p> <p><i>Terms of Reference drafted and agreed.</i></p> | COMPLETED |
| Recommendation 3: Project Quantity Surveyors and Employers Agents should be appointed jointly by the | Essential | | | | |

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| council and Muse with appropriate professional warranties. | (within 3 months) | | | | |
| <ul style="list-style-type: none"> • Recommendation partially complete (examples include EA/QS appointed for St Stephens Road PRS Project. BCP will be appointing EAs/QSs to protect its own interests in Council’s investment in Winter Gardens project PRS & Car Park • Establish Corporate 4-year Framework for QS and EA in consultation with Procurement: <ul style="list-style-type: none"> ○ Complete specification (separate lots) including scoring & evaluation process. ○ Compile Tender Documents including draft contract & publish. ○ Evaluation. ○ Appointment of up to 4 providers. <p><i>NB. Procurement need 3 months to turnaround once spec agreed. Timescales could be accelerated if under the Public Contracts Regulations (2015) threshold (£189k) – but ideally 4-year framework to be established.</i></p> | | Council/ Muse | <p>Action already partially implemented to ensure independent valuation and cost measurement exercise on Winter Gardens scheme but longer term framework appointments to be made.</p> <p>Target date for completion 31st December 2021</p> | <p>Appointment of Project QS & EA services</p> <p>Note. On all historic and current projects BDC has appointed a QS and EA. At financial close the consultants have signed-off appointments and provided collateral warranties to BDC, the funder and the Council as freeholder of the site. As a result, all EA/QS appointments have a duty of care to BCP as a member of BDC. The DM maintains a record of PI cover for the EA/Qs and other members of the delivery team.</p> <p>Establishment of Corporate Framework for professional services (EA/QS)</p> | <p>COMPLETED AND CONTINUES TO BE MONITORED AS NEW PROJECTS COME FORWARD</p> <p>BCP to appoint independent EA/QS for BDC projects it intends to invest in for Regeneration purposes.</p> <p>Independent Valuation and Cost Consultant advice sought on Winter Gardens Scheme.</p> <p>Procurement currently considering new BCP framework for Professional Services</p> |
| Recommendation 4: BCP council should appoint a firm of chartered surveyors to provide future valuation advice on land values and commercial support on the | Critical | | | | |

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| <p>Winter Gardens and Cotlands Road schemes. The scope of this commission should include assisting the council scrutinise project viability appraisals prepared by Muse. They should also provide independent advice and represent the council in assessing and agreeing scheme specific commercial terms for transactions.</p> | | | | | |
| <ul style="list-style-type: none"> • Recommendation partially completed, District Valuer and Chartered Surveyors appointed to advise on current scheme (Winter Gardens) • Seek fee proposals per project in accordance with BCP Procurement regulations from chartered surveyors with relevant project/sector expertise. • Evaluate and award as per BCP procurement regulations. | | Council | Tendering exercise to be completed for term contract provider by 31 st December 2021 | | <p>PARTIALLY COMPLETED /ON-GOING</p> <p>BCP will appoint independent Chartered Surveyors for BDC projects it intends to invest in for Regeneration purposes.</p> <p>Independent Valuation and Cost Consultant advice sought on Winter Gardens Scheme.</p> |
| <p>Recommendation 5: Feasibility work related to construction of a new MSCP in Bournemouth should be made a priority and if practical accelerated. Alternative delivery models, including capital</p> | Critical | | | | |

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| investment by specialist car park operators, should be market tested. | | | | | |
| <ul style="list-style-type: none"> • Early Market Engagement (working with Procurement Team) <ul style="list-style-type: none"> ○ Prior Information Notice published to invite providers to attend MS Teams Presentation (including technical issues, financing options etc.). ○ 1-2-1 sessions scheduled to gather market feedback. | | Council/ Muse | <p>Case for a new MSCP to be progressed in conjunction with demand study on future car parking requirements.</p> <p>Target Date 31st December 2021</p> | | <p>PARTIALLY COMPLETED /ON-GOING</p> <p>In June 2020 the Council approved an investment of £10.6 million in a new public MSCP at York Road as an enabler of the Cotlands Road scheme. BDC are investigating the procurement of a specialist car park contractor alongside a more traditional main contractor supply chain. BDC has confirmed that it will at alternatives approaches to the management and funding of public car parks in the future if required.</p> <p>Across other projects / sites, BDC are awaiting completion of a BCP selective car parking study, currently being commissioned by FuturePlaces.</p> |

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| Recommendation 6: BCP council should review the conditions attached to current (and future) funding arrangements (including loan notes) to ensure that risk is not disproportionately allocated to BCP council. | Recommended | | | | |
| Risk review to be undertaken by Council Officers in advance of recommendations to Cabinet/Council on future BDC schemes | | | Action to be taken forward as BDC proposals come forward | | ON-GOING |
| Recommendation 7: Assess proposed schemes against BCP council's strategic priorities and establish an agreed prioritised programme of development work. | Essential (Once Executive Development Director is in place) | | | | |
| <ul style="list-style-type: none"> Map current strategy and policy framework against current to programme to identify quantifiable and less quantifiable benefits from each scheme. Use Benefit mapping to prioritise programme. Agree changes to business plan. Partnership Board and Cabinet approval. | | Council | To be agreed once Council has reviewed URC business plan and BDC proposals for 2022/23 | <p>Assess Schemes against BCP Council's strategic objectives and establish prioritised programme of work</p> <p><i>The BDC Partnership Business Plan (PBP) is reviewed annually setting out a proposed development delivery timeline and uses for each site. More detailed site-</i></p> | <p>COMPLETED</p> <p>Awaiting key strategic reviews of the Local plan, Car Parking study and Regeneration Strategy.</p> <p>BDC Strategy Day 2 March 2022 held to inform strategy and work programme.</p> |

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| | | | | <i>specific Site Development Plans (SDP's) provide more detail on the proposed use and tenure options for each scheme. Both the BDC Business plan and each SDP have been revised to reflect the Council's BIG PLAN.</i> | Cabinet approval being sought for BDC Business |
| Recommendation 8: BCP council to establish a PMO office to oversee the composite development pipeline. | Critical | | | | |
| <ul style="list-style-type: none"> • Design Client side PMO function based to include: <ul style="list-style-type: none"> ○ Gateway approval process ○ Standard Templates (SBC, OBC, FBC, Risk Registers, Issue Logs, End Stage Reports, Progress/Highlight Reports etc) ○ Documented ways of working including forward plans, MS Teams, document storage, project status and milestone tracking etc. | | Council | Action underway on design of design of client side commissioning function to provide oversight of URC and BDC. Target date for approval 31 st October 2021 | | COMPLETED Commissioning function and delivery team approved by Cabinet 29 September 2021 to provide oversight to URC & BDC. |
| Recommendation 9: Test the use of Seascope to play a much more significant supply-side role, including acquiring land. | Recommended | | | | |

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| <ul style="list-style-type: none"> • Undertake options appraisal within business case to test this concept on next potential land acquisition | | Council | Recommendation to be reviewed once URC is fully operational | | <p>ON-GOING</p> <p>Council not BDC action.</p> |
| <p>Recommendation 10: Recruit an Executive Director to provide leadership within the council with a mandate to create an effective in-house capability to oversee a future development pipeline and oversee the performance of BCP council delivery vehicles.</p> | Critical | | | | |
| <ul style="list-style-type: none"> • Undertake Recruitment & Selection Exercise <ul style="list-style-type: none"> ○ Draft Job Description ○ Advertising ○ Interviews | | Council | Preparations for recruitment process are in place. Target date for selection of Director 30 th Sept 2021 | | <p>COMPLETED</p> <p>Director of Delivery selected and appointed 1/11/21</p> |