

## **The West Midlands Land Commission Terms of Reference**

The Commissioners will keep these Terms of Reference under review as the work of the Commission progresses.

### **Background/context**

The West Midlands has achieved a great deal in development and regeneration terms in recent years - enterprise zones, iconic buildings, new homes, and significant transport investment and improvements – all of which have impacted upon the built environment, and contributed towards the region's recent economic growth. With some £8 billion of new investment agreed in the recent Devolution Deal, the West Midlands is now on the cusp of an even more ambitious programme, delivering a series of major new projects including HS2, Curzon, UK Central, a proposed second i54, the Coventry & Warwickshire Gateway - the combination of which has the potential to be transformative to the economy of the West Midlands and to have a significant impact at national level.

The new Strategic Economic Plan covering the WMCA area (the 'WMCA SEP'), demonstrates the impact of these major new investments on the regional economy. The WMCA SEP outlines plans to create additional jobs and deliver incremental GVA growth over and above the LEPs' existing economic targets. However, the delivery of the LEPs' existing plans is already constrained by land supply, with the pinch being felt on both land for residential and employment use. The WMCA SEP is therefore likely to prove an even greater stretch, and the West Midlands local authorities and the LEPs are concerned that the delivery of the WMCA SEP could be constrained by a lack of developable land.

The creation of the West Midlands Combined Authority ('WMCA') provides a singular opportunity to take a fresh look at the West Midlands land supply, and to consider what measures could be initiated and undertaken to ensure an improved supply of developable land from both a strategic and a regional perspective. Whilst individual local authorities will retain their role in facilitating the development of land within their areas, it is precisely the joined-up manner in which the WMCA will work that will provide the basis for some of the recommendations of the Commission.

### **Purpose**

There are three premises underpinning the work of the Commission:

- Premise 1: A sufficient supply of developable land for both employment and housing use is a pre-requisite for the delivery of the WMCA SEP.
- Premise 2: A shortage of sufficient developable land affects the productivity of the West Midlands region.
- Premise 3: Given the forthcoming changes in local government finance, most notably the abolition of the Revenue Support Grant and the full localisation of National Non-Domestic Rates, councils will become increasingly reliant upon real estate related taxes and income generated by economic growth, to fund the delivery of their statutory obligations.

For the purposes of the Commission a "sufficient supply of developable land" is defined as land which, ideally, is:

- Available in the right condition (remediated);
- In a range of lot sizes (to suit a diverse range of end users);
- Situated in the right place (where occupiers want to locate and residents want to live);
- Ready at the right time (reflecting the timescales of today's occupiers) anticipating the needs and timescales of future occupiers;
- Financially viable; and
- Benefiting from the right supporting social and physical infrastructure.

The WMCA's commitment to the Land Commission was outlined in the Autumn 2015 Devolution Deal. In that document, the Government outlined its support for the Land Commission and agreed to work with the WMCA in undertaking the Commission.

### **Approach and Scope**

The Commission is independent, and will seek to adopt an evidential, diagnostic approach, supplemented where appropriate by case study material. It will rely, inter alia, on work being undertaken by Peter Brett Associates on infrastructure and demand for land, by Metro Dynamics on the regional economy and real estate markets, on economic modelling undertaken by Oxford Economics, and the Dynamic Economic Impact modelling being undertaken by KPMG.

For the avoidance of doubt, the Commission is not a planning commission, nor should any of its recommendations constitute a material consideration in the submission and determination of future planning applications. The Commission will not make site specific recommendations, nor should any of its recommendations be construed as relating to the valuation of sites or assets, either implicitly or explicitly.

The Commission's geographic scope will be land covered by the three LEP areas. It will be cognisant of the poly-centric nature of the region.

The Commission will consider both public and private sector land holdings.

The Commission will address three major questions:

1. What are the challenges associated with delivering the employment land and housing targets set out in the WMCA SEP?

- Establish the shortfall in the housing/employment land supply by reference to the WMCA SEP.
- Contextualise the shortfall in terms of historical delivery across the West Midlands and other UK geographies
- Identify the implications and risks of the shortfall for the West Midlands.

2. What are the blockages to the delivery of developable land?

- Critically assess the historic and current experience of the West Midlands in delivering new housing/employment development and a sustainable supply of developable housing/employment land.
- Obtain and review feedback from local authorities, developers, housebuilders and other consultees to identify, and weight the importance of, the real blockages to delivery.
- Identify the extent to which blockages are local, regional or national.

3. How can a sufficient supply of developable land in the West Midlands be secured?

- Evaluate the extent to which national and local tools are insufficient or not working effectively in the West Midlands context.
- Capture the learnings from successes and failures in the West Midlands, including assessing the track record of AWM and other development enabling bodies.
- Review and include examples of best practice and innovation drawn from other parts of the UK and other countries.
- What can the WMCA achieve now, through the exercise of its powers, which was not otherwise possible?

### **Lines of Enquiry**

Within this scope, the Commission is likely to want to cover the following lines of enquiry:

(i) How to ensure a pipeline of a sufficient supply of developable land, which:

- supports both the growth ambitions of local businesses, and the future diversification of the local economy; and;
- for which there is a review mechanism to adjust the pipeline to react to changing occupier, resident, and funder patterns.

(ii) Collaborative delivery mechanisms for those functions which impact on land supply and usage in the following areas:

- spatial planning (statutory and non-statutory)
- the delivery of physical and social infrastructure
- Private and publicly-sourced funding
- the use of cross-subsidies between local authorities
- the identification, prioritisation and fast-tracking of strategic sites
- the delivery of local sites with regional significance
- the creation of centres of expertise
- the role of the LEPs within these mechanisms
- the relationship between constituent and non-constituent authorities.

(iii) The extent of public sector land ownership and the means of unlocking these sites.

(iv) The relationship and tensions between brownfield, greenfield and Green Belt land.

(v) Collaboration between the public and private sector, including partnership models for delivering new development and the identification, pricing, mitigation and management of risk inherent in these models.

(vi) How to facilitate sufficient investment to deliver land and property supply:

- establish how the West Midlands compares as an investment location relative to international peer cities and other UK cities
- dealing with cultural, reputational and legacy issues
- creating the sense of “one place”, but with local differentiation
- creating a simplified investment pathway for investors and funders.

(vii) The pros and cons of rendering unviable sites viable, including:

- ascertaining the extent of the viability challenge
- international best practice in remediation.

(viii) Is the planning system working in the West Midlands:

- the balance between reactive and proactive planning
- the relationship between the WMCA SEP and statutory local planning
- the explicit and implicit powers of local authorities (including CPO, LDO etc.) and the role these powers can play in the future
- sharing and co-ordination of expertise
- “use it or lose it” to address land banking
- the duty to co-operate
- CIL and other planning obligations.

Resources will be targeted to those areas which the Commissioners consider likely to have most impact on the land supply. Where matters are identified which require additional resources to fully investigate, Commissioners will make recommendations as to how future workstreams can address those matters.

The Commission is likely to identify some issues which, whilst important in the context of the West Midlands economy and real estate markets, do not directly affect the supply of land across

the region. Examples include the national skills shortage, the shortage of certain building materials, and the increasing costs of construction. The Commission will not directly address these issues, but will reference these matters in its final report to the WMCA, so that the WMCA may address them further through an alternative forum should it so wish.

In view of the relationship between productivity and the supply and cost of land, there is likely to be a close overlap between some of the work of the Commission and the proposed West Midlands Productivity and Skills Commission. To the extent that the timetable for the two commissions allows, they should collaborate to identify those areas of overlap and exchange relevant evidence and thinking.

## **Methodology**

An initial consultation process with key public sector stakeholders from across the West Midlands has already taken place, involving conversations with more than 50 individuals. These conversations have included representatives from both constituent and non-constituent authorities and all three LEPs. Those discussions have informed the drafting of these terms of reference.

The Commission's intention is that it should undertake an inclusive process, offering all relevant parties the opportunity to contribute evidence and views. At its conclusion, stakeholders should feel they have had the opportunity to contribute to its work and recommendations. The Commission will undertake a wide consultation exercise, including the following groups of stakeholders:

- Local Authorities (Leaders, Chief Executives, Heads of Planning, Regeneration and Economic Development)
- Local Enterprise Partnerships
- Marketing Birmingham
- The Homes & Communities Agency
- Institutional investors (including the West Midlands Pension Fund), banks and other funders
- Developers
- Housebuilders (large and SMEs)
- Remediation specialists
- Local universities
- The Urban Land Institute
- Local agents.

A call for evidence will be drafted to inform this consultation exercise. Interested parties will be invited to submit both written and oral evidence.

It is intended that three Commission hearings will be held, one in each LEP area, at which a range of organisations will be invited to attend and provide their views on the call for evidence.

A research programme will be drafted, informed by the initial stakeholder consultation exercise, evidence received, and the views of the Commissioners. The research will be conducted in parallel with the evidence gathering process.

In order to ensure the Commission process is inclusive, a PR and communications strategy is being drafted to launch the Commission, to publicise the call for evidence, to inform key stakeholders of progress, and to publicise the Commission's final report.

## **Outputs**

The Land Commission will make a series of recommendations, which will help shape:

- the policy agenda of the WMCA
- the elected Mayor's programme
- the policy and operations of individual local authorities and LEPs.

The Commission's recommendations will be made, cognisant of national policy priorities. They will seek to include recommendations for consideration by the WMCA to help inform future devolution discussions between the WMCA and the Government.

The Commission will seek to classify its recommendations to identify:

- those with potential short term impact (1-3 years), medium term impact (3-5 years), and long term impact (5 years+); and
- those which can be implemented by individual councils, those which can be implemented by the WMCA using its existing powers and resources, and those which can only be implemented by the WMCA with further support from the Government.

Recommendations will be made by the Commission to the Board of the WMCA. It will ultimately be for the Board of the WMCA to evaluate and decide whether to implement those recommendations. The Board of the WMCA will be invited to respond in writing to the recommendations of the Commission.

The Commission's report and the WMCA's response should be subject to independent and specialist legal review before publication.

### **Advisors**

Metro Dynamics will provide strategic advice to the Commission, and will also provide the Commission secretariat.

Bilfinger GVA will advise the Commission on matters pertaining to the local property markets.

Specialist advice will be sought from other advisers on an "as needed" basis as the Commission progresses.

### **Timetable**

The indicative timetable is set out below.

- Call for evidence published: 5 September 2016
- Written evidence submission date: 14 October 2016
- Three oral evidence hearings (one in each LEP area): 30 September, 7 October, 13 or 19 October 2016
- On-going research on key issues: By end November 2016
- Preliminary recommendations: End October 2016
- Report writing/independent legal review/final report: December 2016
- Final Report submitted to WMCA Board 31 December 2016

The eventual timetable will depend upon the volume of evidence generated, the extent of the research needed, and whether the Commissioners and the Board of the WMCA consider an interim report, or interim recommendations, to be of value.