

CABINET – 11TH APRIL 2019

Report of the Chief Executive Lead Member: Councillor Jonathan Morgan

Part A

LOUGHBOROUGH AND LEICESTER SCIENCE AND INNOVATION ENTERPRISE ZONE

Purpose of Report

The purpose of this report is to seek Cabinet approval to the key elements of the proposed agreement with Leicester City Council and the Leicester and Leicestershire Enterprise Partnership to deliver the Loughborough and Leicester Science and Innovation Enterprise Zone.

Recommendation

That the Leader and Chief Executive be authorised to enter into an agreement with Leicester City Council and the Leicester and Leicestershire Enterprise Partnership to deliver the Loughborough and Leicester Science and Innovation Enterprise Zone including the Loughborough Science and Enterprise Park and Charnwood Campus in accordance with the principles set out in Part B of this report.

Reason

To enable the Council, Leicester City Council and the Leicester and Leicestershire Enterprise Partnership to establish clear arrangements to fulfil their mutual obligation to the Secretary of State for Housing Communities and Local Government to jointly deliver the Enterprise Zone.

Policy Justification and Previous Decisions

The Corporate Plan is broken down into three themes:

- Creating a Strong and Lasting Economy
- Every Resident Matters
- Delivering Excellent Services

The Loughborough and Leicester Science and Innovation Enterprise Zone is particularly relevant to the first theme.

The Corporate Plan contains the Council's specific objective to encourage new jobs to the Borough through promoting the delivery of the Science and Enterprise Park and encouraging new businesses to towns and villages.

The Council's Business Plan approved in March 2019 sets out a specific action to establish the governance mechanism and investment plan for the delivery of the Charnwood Campus and Loughborough University Science and Enterprise Park as

part of the Loughborough and Leicester Science and Innovation Enterprise Zone and that this needs to be in place by 31st December 2019.

Previously, in September 2015, Cabinet authorised the Leader and Chief Executive to enter into an agreement with the Leicester and Leicestershire Enterprise Partnership and other local authorities as necessary to promote and deliver the Enterprise Zone.

Implementation Timetable including Future Decisions and Scrutiny

In May 2017 the Secretary of State for Housing, Communities and Local Government entered into a Memorandum of Understanding with the Council, Leicester City Council and LLEP regarding the implementation of the Enterprise Zone (EZ) following its designation in April 2017.

That Memorandum of Understanding (MoU) has duration of 3 years expiring in May 2020. The MoU, inter alia, requires the local partners to enter into a fresh agreement setting out the delivery arrangements for the entirety of the duration of the EZ i.e. until 2042.

The aim is therefore to conclude the terms of a fresh agreement as quickly as possible and before the expiry of the existing Memorandum of Understanding.

Report Implications

The following implications have been identified for this report.

Financial Implications

The total business rate product estimated over the life of the EZ for the sites within the Borough is estimated at £113,000,000 [being £52m Charnwood Campus and £61m LUSEP]. This is a very significant amount and therefore the financial implications arising out of the operation of a future agreement are potentially substantial.

Risk Management

The risks associated with the decision Cabinet is asked to make and proposed actions to mitigate those risks are set out in the table below.

Risk Identified	Likelihood	Impact	Overall Risk	Risk Management Actions Planned
Failure to reach agreement	Unlikely (2)	Serious (3)	Moderate (6)	Sustained effort will be directed towards the negotiations to secure a successful outcome
Delays in reaching agreement	Unlikely (2)	Significant (2)	Low (4)	Sustained effort will be directed towards the negotiations to secure a successful outcome

Comments of Section 151 Officer

The matter of business rate retention, and in particular the proportions each party to the Enterprise Zone arrangement should retain, is a complex matter. Extensive financial modelling and discussions have taken place in order to negotiate the Council's share of the total business rate receipts, which should in theory leave the Council in a 'no worse off' position as compared to a situation where the Enterprise Zone had not been designated and business rates were retained in accordance with extant national retention rules. The negotiations culminated in a proposal from the LLEP in December 2018 that would allow 10% of all business rates arising from the Enterprise Zone sites in the Borough to be retained by the Council.

On the basis of the offer letter referred to above the opinion of the s151 officer is:

1. A retention rate of 10% in respect of both Charnwood sites within the Enterprise Zone can be construed as leaving the Council in a 'no worse off' position under the current business rate retention regulations (what might be described as the '50% retention' scheme).
2. The Council should reserve its right to reconsider this retention rate should the 50% retention scheme be superseded. A '75% retention scheme' is mooted by central government from 1st April 2020 and once the detailed calculation rules are understood it may be the case that a 10% retention rate for the EZ may no longer represent a 'no worse off' position for the Council.

It should be noted that as part of this proposal Leicestershire County Council and Leicestershire and Rutland Fire and Rescue Service would receive 2.5% of the business rates. This is outside the 10% retained by the Borough Council.

Key Decision: Yes

Background Papers: Cabinet report September 2015

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Part B

Background

Enterprise Zone Application

1. In September 2015 Cabinet considered a report from the Chief Executive which authorised the Leader and Chief Executive to commit the Council to enter into an agreement along with other partners to deliver an Enterprise Zone including two sites in the Borough and one in the City of Leicester.
2. At that stage designation of the Zone had not occurred. Rather, following Cabinet approval, the Council along with the City Council and LLEP submitted an application to the Secretary of State in September 2015 to seek designation of both sites plus the Leicester Waterside site.
3. This application was unsuccessful, but a re-application was submitted in July 2016. Again, the applicants were the Council, Leicester City Council and the LLEP. By submitting an application, the Local Enterprise Partnership and local authorities agreed to deliver the proposed Enterprise Zone together.
4. Various amendments were made to this application culminating in a revised version in September 2016. This was approved in early 2017 and the designation came into effect on 1st April 2017.

Memorandum of Understanding

5. Following designation, the applicants signed a memorandum of understanding in May 2017, authority for the Council to enter into this MoU having been delegated by Cabinet in September 2015.
6. This has subsequently been the subject of much discussion but over the last 21 months it has been established that:
 - The MoU has no legal substance and is practically unenforceable
 - There is no obligation on the Council or Leicester City Council as business rates collection authorities to pay any monies to the LLEP
 - The substantial obligation of the MoU is the requirement for the parties to develop further agreements, implicitly before its expiry in May 2020.
7. Since signing the Memorandum of Understanding the parties have sought to reach agreement on the long-term arrangements to deliver the Enterprise Zone beyond the expiry of the current MoU in 2020. Two sets of issues have emerged.
8. The first is the treatment of Business Rates generated in the EZ during its 25 year lifetime to 2042.
9. The second and more profound issue is the governance framework and key principles upon which investment and other key decisions regarding the delivery of the Enterprise Zone will be made.

Business Rates Allocation

10. Many attempts have been made to establish a reasonable mechanism to allocate the business rates between:
 - Those that would have been generated had EZ status not been awarded
 - Those that would arise only as a consequence of EZ designation.
11. The former of these is counterfactual and so modelling has been based on the assumptions submitted in the EZ application to Government. That has been complicated by the fact that the assumptions were changed during the application process in very significant ways.
12. The other main complication is that there are many variables/unknowns in the actual business rate formula and, probably, the future business rates formula. These matters are referred to in the comments of the Section 151 Officer in Part A of this report.
13. However, in December 2018 the LLEP proposed that the billing authorities (i.e. Charnwood Borough Council and Leicester City Council) should retain 12.5% of the business rates which, for the Council, becomes 10% after adjusting for County and Fire Authority allocations.
14. Whilst the Council does not believe that this formula should apply equally across the 3 EZ sites, given their vastly different growth potential as set out in the EZ application, the Section 151 Officer considers that the proposed retention of 12.5% is in overall terms acceptable to the Council.

Governance

15. There is as yet no agreement on the governance arrangements through which the Enterprise Zone will be delivered beyond 2020.
16. However, it has recently been affirmed by the LLEP that the EZ application was made by 3 parties who agreed by the act of applying to deliver the EZ together.
17. As a result, it is now possible to develop an agreement that enables the 3 parties to make collective decisions.

Current Position

18. In January 2019 the Chairman of the LLEP made a proposal to the other two parties as follows:
 - The billing authorities retain 12.5% of the business rates generated on the Enterprise Zone sites within their area. For the Council this means that 10% of the Business rates would be retained and the other 2.5% would be paid over to the County Council and Fire Authority.
 - The other 87.5% is therefore available for investment. The LLEP proposed a minimum level of investment in the EZ sites of 37.5%.

- The decision making regarding that 87.5% is a matter for the 3 applicants acting jointly (and therefore not the LLEP).
19. It is notable that the other Enterprise Zone in the LLEP area, the MIRA Technology Park in Hinckley and Bosworth Borough Council, was designated 3 years prior to the designation of the Loughborough and Leicester Science and Innovation Enterprise Zone but as yet the LLEP has not concluded an agreement regarding its governance. It is therefore a matter of concern that satisfactory arrangements are put in place sooner rather than later so that the development of the Enterprise Zone sites is not further jeopardised.

Proposals

20. Cabinet is requested to endorse the following parameters within which the Leader and Chief Executive must operate to secure a final agreement with Leicester City Council and the LLEP:
- A Governance Body with ultimate decision-making authority must be established comprising the 3 applicant parties.
 - Investment plans for each site in the EZ must be prepared and approved by all 3 parties.
 - The Council must retain the ability, as per the existing MoU, to invest EZ Business Rates (i.e. the 87.5%) directly into the EZ sites in the Borough.
 - Business rates in excess of the amounts required to fulfil the investment needs of the Charnwood sites in the Enterprise Zone will only be made available for alternative purposes once the investment needs of the EZ sites have been met.
 - Should there be a significant and material change in the national Business Rates Scheme then the basis upon which the Council retains its share of the business rates generated in the Enterprise Zone will be reviewed.
21. Recent discussions with the other parties have indicated that these principles provide an acceptable basis for agreement.

Appendices

None.