

MEETING:	CABINET
MEETING DATE:	10 APRIL 2014
TITLE OF REPORT:	CLOSEDOWN OF HEREFORD FUTURES
REPORT BY:	ECONOMIC DEVELOPMENT MANAGER

Classification

Open

Key Decision

This is not a key decision.

Wards Affected

County-wide, but with particular reference to those wards representing the city area.

Purpose

To obtain approval to the arrangements put in place to accomplish the close down of Hereford Futures Ltd (HFL) on a solvent basis and to manage the effective operation of ongoing projects.

Recommendations

THAT:

- (a) the transfer of HFL obligations to Herefordshire Council (as outlined at paragraph 6 below) be approved;**
- (b) delegated authority be given to the Director for Economy, Communities and Corporate, in consultation with the Solicitor to the Council, to finalise and sign the necessary documentation to effect the transfer of obligations arising from recommendation a) above, including any necessary variation to the joint venture agreement with Homes and Communities Agency; and**
- (c) the role and efforts of HFL board members throughout the board's period of operation is recognised and thanks be extended to the board.**

Alternative Options

1. That Cabinet decides not to approve the transfer of HFL obligations to the council.

This option has been discounted as it would not advance one of the council's priorities for economic development or realise the subsequent contributions towards the corporate plan. Not transferring the obligations would remove some of the council's regulation of the project and reduce the ability to enforce best value, in all its forms; it would also leave the council at risk of returning assets (or their equivalent value) to the Homes and Communities Agency (HCA) in line with the terms of the joint venture agreement (JVA)

Reasons for Recommendations

2. Following the close down of Hereford Futures Ltd there will be a number of outstanding obligations which will need to be continued to ensure the smooth operation of a number of projects which contribute significantly to the council's corporate plan. Additionally there will be ongoing financial, legal and operational implications of continuing with the projects, these will need to be managed and brought back to Cabinet or Cabinet Member as and when a decision is required.

Key Considerations

3. The master plan for the redevelopment of the ESG Area was agreed by Cabinet in 2003. Cabinet subsequently agreed to establish a delivery vehicle in 2004 leading to the creation of a company limited by guarantee, formerly ESG Herefordshire Limited and now known as Hereford Futures Ltd (HFL). HFL's activity is guided by the terms of a joint venture agreement (JVA) entered into by the company, the council, and Advantage West Midlands (AWM), the former regional development agency; on 26 June 2008. AWM's successor body is the Homes & Community Agency (HCA).
4. Following reductions in the council's funding agreed as part of the budget savings over the past two years, the HFL board met on 7 February 2014 and agreed that all members of the company, save the Chairman and Deputy Chairman, would resign on 25th April. They further agreed that the company would formally cease its operations at the end of April 2014, with the exception of doing what is required to finalise the accounts and close the company. The Chairman and Deputy Chairman would remain in post for this purpose.
5. Negotiations have taken place between the HFL chief executive, representatives of the HCA, and council officers on the necessary variation to the JVA to secure the exit of HFL from its responsibilities, and the transfer of HFL functions to the council or such other arrangements as the council may direct.
6. These negotiations have identified and agreed the following HFL functions for transfer to the council:
 - Disposal of 'Urban Village' and other Herefordshire Council owned properties on terms which realise proceeds not less than the market value.
 - Lead on negotiations for disposals in respect of 'Urban Village' and other

- Herefordshire Council owned properties.
- Secure contributions in respect of 'Urban Village' and other projects transferred on or before the date HFL closes down.
 - Old Livestock Market Redevelopment
 - Agree outstanding aspects of the management strategy
 - Agree car parking charges
 - Ensure compliance with the lettings and displacement strategy for any final lettings.
 - Undertake commercial reviews in relation to 1) the phase 2 site value and lease income and; 2) overage reporting.
 - Undertake negotiations regarding future affordable housing delivery within the 'Urban Village'.
 - Support the relocation of businesses from priority redevelopment areas.
7. Council officers have confirmed that they are aware of the functions identified above and that these can be performed within the approved budget for 2014/15; beyond this time period the capacity to continue with these functions will be governed by future annual budget allocations in line with other council service planning.
8. All the above functions relate to projects falling within the ESG Area, the 40 hectare site identified within the JVA. These projects will contribute to the priorities set out within the council's corporate plan and provision has been made within the appropriate service plans.
9. Delegated authority is sought for the Director for Economy, Communities and Corporate to agree and sign the necessary documentation to transfer HFL's outstanding obligations, as set out above, to Herefordshire Council, including any necessary variation to the JVA.
10. Granting approval to take over the obligations from HFL will not remove the necessity for council officers to gain the required approvals from Cabinet or Cabinet Member should there be any further decisions required on any of the above projects. Consequently further reports will be brought, as required, to the appropriate decision-maker setting out the detailed legal, financial and operational implications of specific projects or decisions.
11. All of the existing obligations placed on Stanhope and British Land as developer and financier of the Old Livestock Market redevelopment will remain unchanged by the release of obligations on HFL and transfer to Herefordshire Council. These obligations will be managed and monitored by the council's property team. Stanhope and British Land's approval is required to allow the release of obligations concerning the Old Livestock Market redevelopment and it is understood that this agreement will be forthcoming
12. In letters to the company directors from the Chief Executive and Chief Finance Officer in May 2013 it was confirmed that the council had requested HFL to continue to trade (in accordance with the agreed business plan priorities) and then wind down the business and affairs of the company. In consideration of the directors agreeing to this request, it was confirmed that the council would 'provide funding of a maximum value of £695k during the financial years 2013-14 and 2014-15.; this commitment was made in accordance with agreed budgets and obligations.

13. It was agreed that HFL was intending to operate in a financial envelope of £486k and that the remaining balance of £209k was to be the maximum sum available to HFL to enable the directors 'to discharge in full the liabilities of the company as they fall due, and to repay all remaining liabilities together with the costs and expenses associated with the planned orderly wind down of the business and affairs of the company.' As of 26th March 2014 HFL have operated within the maximum value of £695k and currently a sum of £69k remains uncommitted.
14. It should be recognised that since its inception HFL has taken a leading role in co-ordinating the relocation of the former cattle market occupiers (other than the auctioneers themselves) and in the recommendation and management of developers in respect of the Old Market, Conningsby Street and the strategic partner for the 'Urban Village'. The company has also secured council and HCA approval to turning the master plan for the ESG area into supplementary planning guidance in 2007 which is recognised as a material planning consideration.
15. Planning approvals have been secured for a flood alleviation scheme, the Old Market, phase 1 of the 'Urban Village', an assisted housing development off Conningsby Street and the link road; all in line with the agreed master plan. Practical completion of the Old Market had been scheduled for the end of September 2014, but is now anticipated to be April, over five months ahead of schedule. . The development is approximately 95% pre-let and is the only new city-centre retail and leisure scheme to open in the UK during 2014.
16. The work of HFL and its executive function has been guided by the direction of the HFL board. As a part of their role, non-executive board members have contributed both time and knowledge during their membership of the HFL Board, this has been provided on a pro bono basis (with the exception of the Board Chairman who is remunerated to reflect the additional work and profile the role brings) and has been invaluable in terms of gaining scrutiny, challenge, direction and experience into the various constituent projects and operations undertaken by HFL since its inception. Board members have also utilised their considerable network of contacts and industry experience to support the work that the company has done on the Council's behalf.

Community Impact

17. The various projects within the ESG area are considered to contribute towards the achievement of priorities within the Corporate Plan in particular the "Economy" priority which is aiming to create and maintain a successful economy. Fulfilling the obligations via a transfer from HFL to the council enables these projects to continue to make a contribution towards the corporate plan and demonstrates the council is making best use of the available resources.

Equality and Human Rights

18. There are no equality or human rights implications arising out of this proposed transfer of obligations.

Financial Implications

19. As part of the 2013/14 budget setting process, the Council identified £695k funding available within the existing approved budgets and agreements. As of 26th March 2014 HFL have spent or committed an estimated £626k against the £695k maximum

sum allocated, leaving a remaining sum of £69k. In order to ensure the close down of HFL on a solvent basis and to protect the council against any unanticipated cost overruns it is recommended that any further call against this £69k requires the approval of the HCA and the council's Chief Executive and Chief Finance Officer, and it is restricted to activities required to secure the exit of HFL from its responsibilities.

20. The spend and commitments to date are summarised in the table below

	13/14	14/15	TOTAL
	£000	£000	£000
Operational costs			
Staff costs	290	119	409
Running costs	65	12	77
Sub-total – Pre agreed financial envelope	355	131	486
Additional operating costs			
	20	19	39
Project funding agreed	101		101
Total spent or committed (as at 26th March 2014)	476	150	626

21. As part of the initial establishment of HFL, the council undertook to underwrite any financial liabilities associated with the company pension scheme that may arise on closure of HFL. Worcestershire County Council, as operator of the Herefordshire Council pension scheme, has indicated that in their view there is unlikely to be any further pension liability.

22. Council officers have given an indication that the likely resource implication, within financial year 2014/15, of taking over the obligations from HFL is estimated to be the equivalent of £50,000 in officer time. It should be noted that, as mentioned in para 7 above, the cost of taking on these obligations will be met from within existing service budgets and staffing arrangements.

Legal Implications

23. The legal implications of agreeing these recommendations are described in the body of this report.

Risk Management

24. Stanhope/British Land are required to approve the novation of obligations concerning the Old Livestock Market redevelopment from HFL to Herefordshire Council. There is a risk that Stanhope/British Land will not grant this approval. However HFL and council officers have undertaken negotiations with Stanhope/British Land regarding the novation and a legal agreement has been drafted by Pinsent Masons dealing with the request. This agreement is currently being considered by council officers and will form part of the documentation delegated to the Director for Economy, Communities and Corporate to approve and sign.

25. The council currently owns properties within the ESG area which were acquired under the terms of the JVA. These acquisitions were funded by AWM, subject to the agency's right to call for their sale and return of the proceeds in the event that the HFL programme of projects did not proceed. The HCA has taken on AWM's role in

Further information on the subject of this report is available from
Nick Webster, Economic Development Manager on Tel (01432) 260601

the JVA.

26. Council officers have been in negotiation with the HCA and it is expected that the above arrangement will continue in future, subject to the Council accepting the obligations of HFL under the JVA. It is considered prudent for the council to accept the obligations in order to protect the council against the possibility of the HCA calling for a sale and return of the proceeds.

Consultees

27. Hereford Futures Ltd

Homes and Communities Agency

Appendices

None

Background Papers