

<b>Decision maker:</b>	<b>Cabinet member Corporate strategy and budget</b>
<b>Decision date:</b>	<b>Friday, 15 June 2018</b>
<b>Title of report:</b>	<b>ENTERPRISE ZONE CAPITAL INTERVENTIONS PHASE 4</b>
<b>Report by:</b>	<b>Economic development manager</b>

## **Classification**

Open

## **Decision type**

Key

This is a key decision because it is likely to be significant having regard to:

An executive function which results in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## **Wards affected**

Dinedor Hill;

## **Purpose and summary**

To agree the next phase of capital interventions to make council owned land at the Hereford Enterprise Zone (Hez) ready for investment from either private sector developers or businesses, or from direct development undertaken by the council.

The capital interventions within this phase broadly relate to the provision of new road and utility infrastructure to service plots, site ground raising to comply with flooding mitigation measures, more specific plot works when end user requirements are understood, and site wide signage and landscape works.

## Recommendation(s)

That:

- (a) £2.55m from the enterprise zone capital programme provision be allocated to the following infrastructure interventions at the Hereford enterprise zone:

Augment the zone-wide ground raising solution utilising spoil from the North Magazine	£450k
Road access interventions	£400k
Utilities investment as follows:	
• Water, foul, gas main provisions to the North Magazine	£750k
• Utilities for plot C1	£300k
• Specific plot by plot provision as required	£150k
Plot works	£300k
Site wide improvement works including strategic signage and landscaping interventions	£200k
<b>Total</b>	<b>£2.55m</b>

- (b) the Economic Development Manager be authorised to take all necessary operational decisions to implement the above interventions, including the appointment of contractors following an appropriate procurement process.

## Alternative options

1. Option 1 – make no forward expenditure on the enterprise zone (EZ).

### Advantages

There would be no further capital outlay by the council.

### Disadvantages

This would result in applying a brake on or even end further sales of land on the zone, with consequent impact on sales receipts, business rate returns and the reputation of the council. Clients are expecting service-ready plots and the sale price reflects this. There has been no appetite to buy the land in its original state.

2. Option 2 – agree a reduced amount of expenditure

### Advantages

This would reduce the capital outlay by the council.

### Disadvantages

A lower capital outlay would serve to reduce the volume of sales, which would be confined to those plots which are made ready for development. This would change the nature of the zone's approach which has been commercial in intent and responsive to the speed of client interest. Some clients would be turned away or asked to wait. This option would not be in the council's interest as it would reduce the capital receipts received and severely reduce the total business rate retention figures over the 25 years life time of the EZ programme up (up to 2038). Again it would impact negatively on the zone – turning away a prospective client on the basis that plots could not be made ready for them would change the perception of and reputation of the zone as a place to make an investment.

## Key considerations

3. The council bid for, and won, enterprise zone status in 2011 for some 170 acres of largely brownfield land around the Rotherwas estate. Zone status brings incentives to businesses moving onto the zone, and provides a major opportunity for the council to accelerate economic activity with the sale of land and the development and occupation of vacant land at Rotherwas estate. Most importantly the business rates generated by businesses on the zone are retained for economic benefit for the Marches Local Enterprise Partnership, not returned to the Treasury. The faster plots are sold, buildings re built and occupied, the bigger this sum becomes, accumulated over a 25 year period ending in 2038.
4. It is significantly in the council's interest therefore to stimulate interest in and attract businesses to buy land and build on the zone as quickly as possible. This in turn generates job opportunities in the new workspace constructed.
5. As a brownfield site, there are constraints on the site and hence significant investments that are needed to bring plots of land to a state where businesses can buy and build new workspace on the land. This includes surveys and technical reports, remediation of contamination, demolition of any unusable buildings, creating necessary road access and the identification and provision of utilities – gas, water, foul drainage, electricity and broadband – for the plots. There are also some zone-wide investments that need to occur to keep the overall estate attractive to investors – landscaping, signage and maintenance. We are currently attracting significant interest from a number of expanding local companies in the right sectors – this interest will not come to fruition if the complexities of analysis, preparation and investment in remediation and infrastructure was left as their responsibility. The upfront uncertainty and cost of time and resources would be a significant inhibitor and even if investors still went ahead would cause significant delays and any incurred cost would inevitably be expected to be netted off any eventual sale price.
6. The approach of promoting service ready sites is working. As the zone makes plots ready, they are being bought and built out at an unprecedented rate for Herefordshire. Contracted capital sales total over £3.1m, with over £2.4m under negotiation as sites are prepared. Over 350,000 sq ft of workspace has been built or contracted to, with another 257,000 sq ft under negotiation. At least £19m has been spent on construction, £16m from the private sector. Almost 1,000 jobs have or will be accommodated in the developments built or contracted, with over 900 in the negotiations underway. The gross rates position identified for the lifetime of the zone for the developments built or contracted are just under £10m, with over £6m in the sales under negotiation.
7. The EZ executive board has reviewed current sales progress and the next areas of the zone that need to be made ready for sale. Accordingly, the board has identified the following interventions for the next phase draw down from the EZ capital allocation:

**Augment the zone-wide ground raising solution utilising spoil from the North Magazine** £450k

(An indicative budget of £900k has already been approved for this project. That estimate was based on soft market testing using industry standard figures. Nevertheless, this project will be complex and involves a number of variables as well as very large volumes of material. Notably, although the spoil heap has been tested exhaustively, the cost of treating that material could alter substantially, as could the amount of material identified as required to be disposed of offsite. Further, other issues could emerge in terms of the movement and management of the spoil at each of the proposed locations. The evolved specification for the project will involve restricting the spoil in defined areas dug for the purpose, freeing material to raise the various platforms. In so doing it will not fetter the development plots for sale. Accordingly we are proposing to increase this budget area with a substantial contingency to cover additional costs that may occur in the detailed tendering process and in delivery)

**Road access interventions** £400k

In order to open up sites and make plots accessible to be sold and then built upon, road access need to be installed. Plots with a confirmed client interest (and therefore an immediate need for access arrangements include Plot C1 and the NMiTE/Shell Store sites.

**Utilities investment including:**

**Water, foul, gas main provisions to the North Magazine** £750k

(The North Magazine represents the jewel in the crown in terms of potential development as well as hosting the Shell Store and NMITE developments. Electricity is the only major utility currently present. A strategic approach to bring capacity is needed in order to avoid a piecemeal approach)

**Utilities for plot C1** £300k

(again C1 is lacking key services)

**Specific plot by plot provision as required** £150k

(as and when necessary to bring services to plot)

**Plot works** £300k

(this includes a whole range of site-specific activity, including surveys and technical works, remediation of any contamination, fencing, landscaping and other works that are specific to the plot as defined by the end user. It is impossible to determine the exact nature of these works, or their cost, until an end user is known. Works are limited in scale as strategic works are largely undertaken before individual sites are made available for sale.)

**Site wide improvement works including strategic signage and** £200k

## **landscaping interventions**

(development and implementation of a strategic and coherent suite of signage and landscaping interventions to and around the zone)

8. These works will largely complete the major infrastructure works needed to open up and make the zone land ready for investors. To note, there are two exceptions to this. The first at Skylon South where currently not enough is known about the scale/development requirements to estimate the full extent of infrastructure work needed. The second is at the North Magazine where the finer grain plot preparation will depend on the end configuration of sites – 1/2/3 or 4 occupiers will alter plot layouts markedly, with consequent requirements for groundworks and more detailed utility layouts. These latter projects will be subject to a further request in due course.
9. Projects brought forward under each of the above budgets will be fully specified by appropriately qualified and procured advisors and then commissioned in accordance with the council's standing orders using framework contractors or procurement processes as appropriate including through the Balfour Beatty Living Places annual plan.
10. These budgets have been scoped as the anticipated maximum required in each category to progress activity. If less resource is needed to prepare the sites / conduct the activity, less will be spent than the budget allowed for.
11. It should be noted that this is the fourth phase of capital interventions within the EZ which reflects the ongoing nature of the programme of investments that needs to be made at the zone both in zone wide projects and in specific plot interventions for particular occupiers.
12. Plot disposals across the zone to date have exceeded 34.5 acres of land. In addition the council has constructed two direct build projects comprising approximately 23,600 sqft. This has facilitated the movement of 38 companies onto the zone. There is ongoing demand for land to build and floorspace within the zone and the zone team have a number of "live" enquires that cannot be accommodated at this point. These interventions will bring forward serviced employment land to meet this demand.

## **Community impact**

13. Through the direct facilitation of company growth by providing land and premises for expansion and relocation of businesses, the enterprise zone contributes to the council priority of 'Support the growth of our economy' and it is a key project in the council's corporate delivery plan.
14. It is also a priority project within the Herefordshire Economic Vision and it could significantly support the goals of the scheme including growing the local economy and creating higher value jobs. The project will also support the goals for the Marches Strategic Economic Plan including Supporting Business and Physical Infrastructure.
15. The zone is allocated for employment use and services infrastructure will be in place before construction starts. The development will be covered by the Local Development Order for the enterprise zone which permits development of premises under B1, B2 and B8 use classes, subject to compliance with specified conditions.
16. Failure to proceed with these interventions will mean that council owned land will not be fully serviced or accessible. Experience on the zone (and elsewhere across

Herefordshire) has demonstrated that there is no demand for employment land that is not fully serviced, and there is a strong likelihood that the council owned land will not be sold.

17. The council is committed to providing a healthy and safe environment for all individuals impacted by its coordinated activities. As a result the council endeavours to ensure that the work they and their partners undertake, does not adversely affect the health, safety or welfare of members of the public or visitors. Therefore partners are expected to work to the same high health and safety standards and approved codes of practice as the council, as far as is reasonably practicable and any contracts will reflect this.

## **Equality duty**

18. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
19. The development of the enterprise zone will support the council's commitment to equality by advancing equality of opportunity, with the potential of increased job opportunities.

## **Resource implications**

20. The funding of these proposals is already part of the Medium Term Financial Strategy. A capital allocation of £16m has been made to the Hereford enterprise zone. Of this figure £9.3m has previously been requested via the three previous Capital Intervention reports. The council have an agreement with the Marches LEP and partner local authorities (Shropshire Council and Telford and Wrekin Council) that investments in zone infrastructure (i.e. the £16m capital programme allocation) will be repaid from the retained business rates that are accrued from within the zone.
21. The costs included in paragraph 7 above have been informed by external consultancy advice, this has been reviewed by the Enterprise Zone Managing Director and team and checked against previous works and project costings to result in an identified budget for each project.

## **Legal implications**

22. The Council has wide powers to acquire, hold, appropriate, develop and dispose of land under Sections 120 – 123 of the Local Government Act 1972, Part 2 of the Housing Act 1985, the Local Authorities (Land) Act 1963 and the Town and Country Planning Act 1990 (amongst other powers). Section 1 of the Localism Act 2011 also contains the Council's general power of competence to do anything that an individual may do, providing this is not constrained by legislation. These powers are wide enough to promote the economic and social regeneration of the area including providing infrastructure, grants, loans and support for business to assist with growing the local economy. These explicit powers are

also supported by section 111 Local Government Act 1972, the power to do anything that is calculated to facilitate or is conducive or incidental to the exercise of any of the council's functions.

23. Local authorities have a fiduciary duty to council tax payers, business ratepayers and other providers of local government finance to balance the interests of those who will benefit from expenditure against those who have contributed to the funds of the local authority when expending significant amounts of money like in the present case. Members should therefore be clear as to the likely benefits that will arise from the expenditure and that the way it will be spent gives value for money consistent with the council's best value duty.
24. There are legal duties on the council as landowner with regard to environmental remediation. The contaminated land regime as prescribed by the Environmental Protection Act 1990 is the statutory regime for remediation of contaminated land which causes an unacceptable level of risk. Under the regime, local authorities must identify contaminated land and categorise it according to level of risk. Liability for the remediation of contaminated land passes to the current owner or occupier of the site unless the original contaminator can be identified (considered unlikely in this case). A site which has not been remediated will be significantly less attractive to a prospective occupier and any funder which supports them; therefore the council's proposal to address the remediation works itself, prior to sale, represents an appropriate course of action and a best value solution in the circumstances.
25. State aid is also potentially relevant. The council has been advised that in principle no aid arises where a local authority prepares its own land for subsequent sale, as long as the impact of the works is recovered by selling at a full open market value (and in accordance with S123(2) of the local Government Act. Accordingly the scheme is state aid compliant. None of the works constitute dedicated infrastructure for any plots already sold; in other words, all plots will benefit from the works.
26. The commissioning of contractors to provide the services required for the works at the zone will require compliance with the Public Contracts Regulations 2015 ('PCR') and the council's own contract procedure rules.

## Risk management

27. If the recommendations are agreed:

Risk / opportunity	Mitigation
<u>Financial</u>	
Budget overspend	Each project will be costed before sign off and progress reviewed to ensure spend remains within the budget
Inadequate procurement arrangements	Projects will be commissioned either through the framework contracts or using procurement rules
Delays in implementing projects	Establish clear protocols for sign off and delivery of projects

## Legal

Remediation requirements not met	Develop and maintain full suite of information on contamination on site. Deal with any contamination appropriately utilising advice, and liaising with EA and council departments
State Aid not followed	Ensure any work is done prior to plot sales. Land sales made at full market value
Procurement rules not followed	Procurement of all contractors providing services to deliver these budget comply with Public Contract Regulations and the council's own contract procedure rules

## Reputational

Delays in implementing projects, leading to delays in sales, capital receipts, construction and business rates generation	Clear, certain and swift processes in place to ensure sign off and implementation of projects.
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28. If the recommendations are not agreed:

Risk / opportunity	Mitigation
<u>Reputational</u>	
Sales stop	Seek development partner willing to forward fund infrastructure costs  Look at some sort of incentive package to encourage individual investors to take on land as it is and make it ready themselves

## **Consultees**

29. The EZ executive board and the local member have been consulted and are supportive of the proposals.
30. Political groups have been consulted and no comments were received.

## **Appendices**

None

## **Background papers**

None identified