

Decision maker:	Cabinet member contracts and assets
Decision date:	Tuesday, 12 February 2019
Title of report:	Ross Enterprise Park – Phase 1 Development
Report by:	Economic development officer

Classification

Part exempt

This report is open but appendix 2 is exempt by virtue of the follow paragraph(s) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended.

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Decision type

Key

This is a key decision because it is likely to result 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. A threshold of £500,000 is regarded as significant.

Notice has been served in accordance with Part 3, Section 10 (General Exception) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

Wards affected

Ross East;

Purpose and summary

To approve the budget and development arrangements of the first phase of employment land at Ross Enterprise Park including the main contractual arrangements to enable a timely commencement of development of the site.

Ross Enterprise Park – Phase 1 will release 8.5 acres of net developable serviced employment land that will be utilised by businesses and developers to undertake their own design and build.

Works to create the infrastructure will include the construction of site access, internal roads, groundworks, utilities and drainage.

The Phase 1 of the park will enable the creation of up to 250 jobs, provide space for around 20 local businesses (including some that may relocate their operations out of the county), generate a land receipt of up to £1,700,000 and a retained business rates income up to £200,000 per annum.

Recommendation(s)

That:

(a) the Acting Director of Economy and Place, in consultation with the Chief Finance Officer, is authorised to enter into construction contracts with Engie Regeneration Limited for the development of Ross Enterprise Park, Phase 1, as defined by the appended redline plan, and subject to costs being within the maximum project cost of £7.07million, and in accordance with the council's following requirements:

- i. Delivery of an enterprise park infrastructure (to exclude construction of buildings) to provide circa 8.5 net developable acres of land that will be disposed to private sector users for employment development (offices and industrial units)**
- ii. A design and specification in line with normal market practice and demand, subject to the other requirements set out here;**
- iii. Delivery of the site access, required section 278 highways works, internal estate roads, soft and hard landscaping, drainage, utilities, remediation and other reasonable infrastructure requirements of a business park;**
- iv. To achieve the earliest possible completion date to allow disposal to end users;**
- v. Ensure compliance with all planning conditions and other regulations relating to development (including health and safety and ecological requirements) during the design and construction.**

(b) The Acting Director of Economy and Place is authorised to take all operational steps necessary to give effect to the above recommendation.

Alternative options

1. Not to undertake the project (do nothing). This would involve not developing the site and retaining the site as small holdings let to tenant farmers. Advantages would be no capital expenditure required and the opportunity for the council to invest in other initiatives. This option was discounted as the employment needs of Ross on Wye, including the needs of growing local businesses, would not be addressed. The strategic employment needs identified within the core strategy would also be lost.
2. Delivering the whole 15ha employment park immediately (rather than a phased development) was another option considered. This was discounted and not explored in any detail as the market assessment did not evidence a need for this quantum of

employment development at the current time and therefore delivering the infrastructure would not be prudent. The council could deliver the remainder of the site subject to another decision.

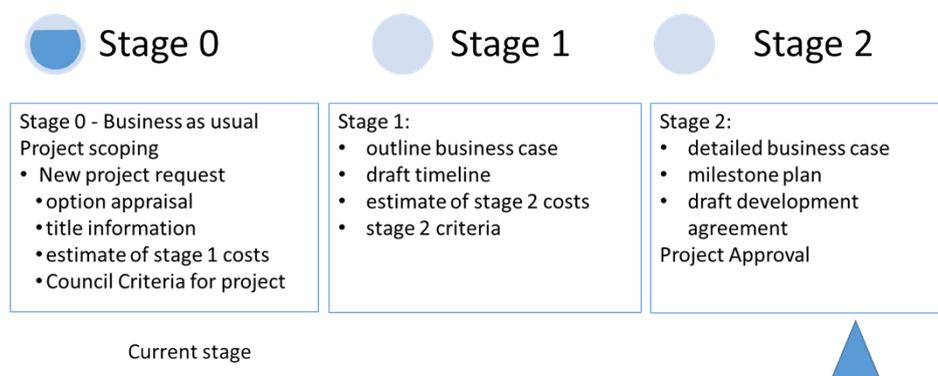
3. The council could choose not to procure this work through the DRP Programme, however, that would delay the implementation of the phase 1 employment land and this could have a significant implication to the scheme delivery programme and the realisation of benefits.
4. Alternative commissioning options exist for the project. The proposed approach was recommended as the partnership approach will allow the council to take advantage of its partners' expertise to ensure the success of the project.

Key considerations

5. Ross Enterprise Park, formally known as Model Farm, is a 15 hectare strategic employment allocation serving the South of Herefordshire on Herefordshire Council owned land. It is well positioned for access to South West, Wales and the Midlands markets with excellent road network links that include the M50 linking to the M5 and A449 linking to the nearby M4. The aim of the development is to attract good quality businesses and grow high value employment. An outline planning consent (approved in December 2014 and expired in December 2017) allowed for the development of employment uses including B1 (16,500sq.m GFA), B2 (8,900sq.m GFA) and B8 (4,000sq.m). A refreshed planning application for the same proposed development was approved on 26 February 2018.
6. The employment land at Model Farm has been a longstanding allocation and it has not been possible to develop due to a market viability gap. Several business cases have been submitted for LEP/central government funding to fill the viability gap but these have been unsuccessful, principally due to highly competitive funding rounds where allocations have been made to other projects. Ross Enterprise Park was included within the council's capital programme in January 2018 by full council, subject to the approval of a Business Case. Detailed design has now progressed so that the development of phased implementation of the renewed consent could commence in spring 2019.
7. The council engaged Harris Lamb in February/March 2018 to undertake a market report to consider the local and regional dynamics and assess the potential demand from occupiers. The report identified strong local demand for industrial uses and recommended a first phase of development of eight to ten acres. With current market conditions, Harris Lamb state that this would take up to three years to sell to potential occupiers. The proposed red line boundary of the site attached to this report provides circa 8.5 net developable acres to meet this identified demand. The council has an enquiry list of enquiries from 10 businesses and developers that are potentially interested in land in excess of an acre for their build. Enquiries can be further progressed, once a decision has been made.
8. Following a decision by the cabinet member for contracts and assets, the council's development partner, Engie Regeneration, were instructed by the council in August 2018 to progress the work required to create a full business case and to discharge all preconstruction matters including planning and other regulatory consents which the development is conditional on. The detailed design/preconstruction work is on-schedule and planning/highways/ecology submissions have taken place.
9. The council has a legal basis to contract with Engie Regeneration under the terms of its Overarching Agreement entered into in June 2018. The services described above at paragraph 8 were commissioned from Engie by the council under a "New Project

Request”, operating as a single-stage approval process. The below diagram indicates current approximate status of the project within the DRP stage process.

DRP – stage process



10. Within the detailed design work and construction planning, Engie has been working to a brief that along with other requirements, includes the council’s key requirements for the scheme:
 - i. Delivery of an enterprise park infrastructure (to exclude construction of buildings) to provide circa 8.5 net developable acres of land that will be disposed to private sector users for employment development (offices and industrial units)
 - ii. A design and specification in line with normal market practice and demand, subject to the other requirements set out here;
 - iii. Delivery of the site access, required section 278 highways works, internal estate roads, soft and hard landscaping, drainage, utilities, remediation and other reasonable infrastructure requirements of a business park;
 - iv. To achieve the earliest possible completion date to allow disposal to end users;
 - v. Ensure compliance with all planning conditions and other regulations relating to development (including health and safety and ecological requirements) during the design and construction.

11. Subject to the council being satisfied with the outcome of the pre-construction services, the council can proceed to then award a works contract to Engie for the construction of Ross Enterprise Park. The pre-construction services are still in progress but a detailed cost plan is now available which is further explained below. There is a significant time pressure to start on site with enabling works to ensure that ecologically sensitive areas can be progressed at the appropriate time of year, supporting the overall works programme. This report therefore proposes that the decision to approve the outcome of the New Project approval process and proceed with the construction contract, which includes the enabling works, is delegated to officers, within the parameters in the recommendations set out above.

12. An outline cost plan for phase 1 scheme has been produced with a focus on delivering the elements contained within the detailed design proposal. The costings to date indicate the infrastructure work will be £5,223,112, as detailed design works are not fully complete, risk and optimism is accounted for within the appropriate budget. A contingency budget for the project is also proposed (see table in paragraph 24) and all falls within the £7.07m budget that has been approved within the capital programme. Using a competitive

tendering process for the work, the council's development partner will obtain best value for the proposal and deliver the infrastructure at or below this cost. Given the council's experience on the enterprise zone, in addition to the cost of the site infrastructure, it would be prudent to allow for a budget £900,000 related to the sales of plots to end users. These costs will include fees and any additional costs to sub divide plots or provide utilities, legal costs, professional charges and other capital costs related to the disposal of the park. The exact mix and breakdown of these costs will depend on end uses that come forward and the scale and type of their requirements. There is a need for flexibility in the council's approach to reflect private sector investment. The previously approved detailed design costs are included as well as a small enabling package required for to enable the start on site (improving temporary road surfaces).

13. A full business case has been produced for the scheme by council officers using the cost information from Engie, the market assessment, projections of the floorspace that will be created for business rate purposes and assumptions from the enterprise zone.
14. The current scheme benefits are anticipated to be 250 jobs, provide space for up to 20 local businesses (including some that may relocate their operations out of the county), a land receipt of up to £1.7m (as indicated by the Harris Lamb Market Assessment mid-point valuation estimates) and retained business rate income of up to £200,000 per annum. These key metrics will be used to measure scheme performance.
15. The start on site for an enabling package of work, including making good roadways for use during the construction phase and clearing vegetation etc. subject to decision, will commence in February 2019 with the full start on site in April 2019 with work to construct the access and other related section 278 work to the highway. When a suitable access is implemented, work will then commence on other parts of the infrastructure including drainage, landscaping, utilities and preparation of the plot areas.
16. A communications plan will be developed with the communications section around the scheme and will incorporate marketing activity.

Community impact

17. The council's corporate plan 2016-2020 includes support the growth of our economy as a strategic priority. The wider Herefordshire economic vision sets out an ambitious framework for economic growth within the county and is supported by the core strategy. Delivery of the core strategy and economic vision will rely on significant investment in a variety of developments across the county.
18. Supporting the corporate plan and economic vision, the council's property strategy for 2016 to 2020 includes the objectives to maximise the economic benefits of the council's property asset base and to support economic development and housing growth.
19. Ross Enterprise Park, formally known as Model Farm, 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. 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.
20. The scheme has been discussed and developed with input from a wide range of stakeholders including the Marches Local Enterprise Partnership, the Herefordshire Investment Partnership, the business board and the local community.

Equality duty

21. 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.
22. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation. An equality impact assessment was carried out as part of the development and regeneration procurement process to appoint a development partner.

Resource implications

23. The resource implications of the scheme are as follows:

i. The employment land at model farm was included as a project within the 2018/19 Capital Programme/Medium Term Financial Strategy (MTFS) with a £7.07 million allocation;

ii. The financial implications of the scheme have been considered within the business case which outlines the costs from the cost plan prepared by Engie, allowances of other costs, receipts projected (from the market assessment) and projected income (business rates). After the development of the scheme there are no anticipated ongoing costs as a service charge will ensure that occupiers of the site cover the site costs (including roads, drainage and landscaping).

iii. The scheme is proposed to be funded by capital funding as allocated per the Ross Enterprise Park capital programme provision

iv. The capital receipts from sales, estimated at £1.7m be retained by the council for use within the general capital reserves.

24. The total scheme costs for Phase 1 are estimated to be a maximum of £7.07m which includes the infrastructure and a budget with an allowance for cost of sales (fees, plot sub division, utilities etc) and contingency. A full breakdown of costs is included within the tables below and the performance measurement criteria is outlined in paragraph 14.
25. It is therefore anticipated land sales receipts from the scheme are anticipated as up to £1.7m based on the Harris Lamb's March 2018 market assessment conclusions, therefore the council will be asked to contribute to a viability gap of £5.37m. The phase 1 scheme is anticipated to generate a business rate receipt estimated to be up to £200,000 per annum, this will more than offset the loss of small holding rental income of £8,000 per annum. The

council's investment will address the market failure in the scheme to date by unlocking the site and enabling the private sector deliver to deliver the wider benefits as indicated in paragraph 14.

26. In addition to the benefit of increased gross business rates, phase 1 of the scheme will create up to 250 jobs and help sustain the economy in a key market town with excellent connectivity including space to help retain local businesses and to support their continued growth. Phase 1 of the scheme will also involve delivering infrastructure that would be beneficial to future phases of the park, including the access road, drainage and landscaping infrastructure.

Capital cost of project	2018/19	2019/20	2020/21	Total
<i>Detailed Design, fees & enabling works</i>	250,000	219,193	0	469,193
<i>Infrastructure Development Costs</i>		2,872,711	2,350,400	5,223,112
<i>Capital Sales Costs (including subdivision costs and fees)</i>		250,000	650,000	900,000
<i>Contingency</i>		200,000	277,695	477,695
TOTAL	250,000	3,541,904	3,278,096	7,070,000

Funding streams (indicate whether base budget / external / grant / capital borrowing)	2018/19	2019/20	2020/21	Total
<i>Capital reserves</i>	125,000	1,770,952	1,639,048	3,535,000
<i>Capital Borrowing</i>	125,000	1,770,952	1,639,048	3,535,000
TOTAL	250,000	3,541,904	3,278,096	7,070,000

Revenue budget implications	2019/20	2020/21	2021/22	Total
<i>Positive business rate uplift (estimated up to – ongoing benefit beyond the years within the table)</i>		80,000	200,000	280,000
<i>Loss of small holding rent</i>	(8,000)	(8,000)	(8,000)	(24,000)
TOTAL	(8,000)	72,000	192,000	256,000

27. Ross Enterprise Park proposals are located on two existing Herefordshire Council tenanted small holdings, Spring Farm and Model Farm. Both of these small holdings were subject to Agricultural Holding Act tenancies but these have been terminated with the statutory compensation paid. Both tenants were then provided short term Farm Business Tenancy's which have also ended. Property Services are now in liaison with both tenants and their agents to obtain vacant possession of the site to allow work to commence.

Legal implications

28. The council has procured its development partner Engie Regeneration through a Public Contract Regulations compliant procurement process. The council has entered into a legally binding overarching agreement with the developer and this report explains how the Ross Enterprise Park project is being progressed in accordance with the process set out in that overarching agreement.
29. The overarching agreement provides a contractual framework within which the developer will incur costs and deliver services which enable the council's Executive to assess whether a project should proceed. The overarching agreement requires the developer to set out its expected costs for each stage of the project. In the case of this project, as explained earlier in the report, the council has elected to follow a single-stage (rather than two stage) process for scoping the project and has elected to pay the developer's costs as they incurred, rather than create a set of project criteria which the developer is asked to fulfil. The use of the cost reimbursable model is standard industry practice for construction services and relies on open-book auditing and partnership working between the council and its contractor. In legal terms, the council commissions firstly the pre-construction services as a "New Project Request" under the overarching agreement and then, subject to it being satisfied with the outcome of those services, the council proceeds to commission construction services, and enters into a construction contract in industry-standard form (JCT) to secure the delivery of the project through to practical completion on site.
30. The council has legal powers to enter into this project under section 1-4 of the Localism Act 2011 and other enabling legislation. As well as its general fiduciary duty, in exercising its powers the council must always have regard to its duty under s3 of the Local Government Act 1999 to secure best value, which requires consideration of all relevant social, economic and environmental matters. The overarching agreement identifies the council's right to assure that every project delivers best value including by using third party expertise to quality assure the project at different stages of its delivery.
31. The council will be supported by specialist legal advice in reviewing and negotiating any suite of project agreements.

Risk management

32. The key risks around the implementation of the Phase 1 Employment Land have been considered:

Risk / opportunity	Mitigation
The detail design work is delayed resulting in a delay to a start on site date.	The council will work closely with Engie to keep this package of work on programme and to budget. The enabling work can commence prior to the main start on site.
The cost of the scheme is higher than that of the cost plan.	The current cost plan has risk and optimism biases budgets that are suitable for the current level of design. A contingency budget has also been included.
There is limited demand for the employment land and therefore sales are low.	This has been mitigated by the market assessment and soft marketing undertaken and also by limiting initial development to a first phase. It is proposed that the council will accept this mitigated risk.
Other external factors will influence the programme or costs.	A number of minor technical risks are managed on a risk register.

33. Risks are managed according to the council's PROM framework, and recorded on a service risk register, being escalated to the directorate or corporate risk register according to the significance of the risk.

Consultees

34. The local member has been consulted on the proposals and is fully supportive. The town council, local residents and businesses have been consulted during the development of the proposals as part of the planning process and subsequent planning consent, granted in February 2018.
35. Political Groups Consultation response from The Herefordshire Independents stated that they "fully support these proposals but value for money is always a top priority". The council's processes will ensure that all contractual arrangements and land disposals related to the scheme achieve value for money.

Appendices

Appendix 1 – Red Line Boundary

Appendix 2 – Ross Enterprise Park Phase 1 – Business Case – **Exempt**

Appendix 3 – Statement of Community Involvement Addendum August 2017

Background papers

None identified