



Decision maker:	Cabinet member finance and corporate services
Decision date:	Wednesday 25 March 2020
Title of report:	Transfer of Local Growth Funds for new model in technology and engineering (NMiTE) Phase 2
Report by:	Head of Corporate Finance

Classification

Open

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.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

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.

It is impracticable to provide the 28 days notice of this decision because the grant must be paid to Herefordshire council by 31 March 2020.

Wards affected

(All Wards);

Purpose

To enable the accountable body, Shropshire Council, to delegate responsibility for the managing of the Local Growth Fund (LGF) grant and the relationship with the successful grant applicant (NMiTE) to the council. The full grant amount of £5.66m for Phase 2 of the NMiTE project will be transferred from the accountable body to the council in advance of project delivery.

The grant funding will be utilised to develop a Centre for Advanced Timber Technologies and Centre for Automated Manufacturing on the Herefordshire Enterprise Zone.

Recommendation(s)

That:

- (a) Herefordshire Council accept by 31 March 2020 delegated responsibility for the managing of the £5.66m Local Growth Fund (LGF) grant and the relationship with NMiTE for Phase 2 of the NMiTE project.**
- (b) the chief finance officer be authorised, following consultation with the monitoring officer and cabinet member, to complete such legal documentation as is appropriate to protect the council's interests and take all operational decisions necessary to implement the above recommendations.**

Alternative options

1. To not accept the delegation by 31 March 2020, this would result in the loss of LGF grant funding of £5.66m allocated to NMiTE and the provision of a Centre for Advanced Timber Technologies and Centre for Automated Manufacturing on the Herefordshire Enterprise Zone.

Key considerations

2. The Marches Local Enterprise Partnership (LEP) have approved a £5.66m LGF grant to NMiTE. As part of an overarching £16m total project the grant will enable NMiTE to develop a Centre for Advanced Timber Technology, Centre for Automated Manufacturing, and a Centre for Future Skills on the Hereford Enterprise Zone. The project will establish the teaching space required to enable NMiTE to grow to a point where they can become self-sustaining. The new buildings will provide facilities required to support the development of a wide range of higher level skills including high level apprenticeships and continuing professional development, as well as degree and post graduate qualifications.
3. The location of the proposed buildings, alongside the Shell Store business incubation space that is currently being constructed, will be a significant asset to the Hereford Enterprise Zone. The developments will enable NMiTE and local businesses to work together, developing new opportunities, catalysing business growth, and will lead to the creation of new higher level jobs.
4. NMiTE will acquire the land from the council. The purchase of the land will be through the Hereford Enterprise Zone, in accordance with the existing delegated processes. Any land sale will be subject to an independent valuation to ensure that the council receives value for money.
5. The accountable body, Shropshire Council, has agreed to delegate responsibility of the management of this grant and the relationship with the applicant (NMiTE) to the council.
6. The full grant amount of £5.66m for Phase 2 of the NMiTE project will be transferred from the accountable body to the council as soon as reasonably practicable.

7. The date of eligible spend, to be incurred by NMiTE, in relation to this grant is 31 March 2021.
8. The accountable body requires Herefordshire Council to agree to the following conditions:-
 - a. On a quarterly basis Herefordshire Council will send to the accountable body information to allow the accountable body to report to the Marches Local Enterprise Partnership (LEP) Board and MHCLG on the overall performance of the Marches LGF programme;
 - b. That Herefordshire Council operates according to the Government's National Local Growth Assurance Framework in all matters where it is acting as the local accountable body for the project;
 - c. That Herefordshire Council agrees in principle that if the project delivery needs to extend beyond the financial year 2020/21, then Herefordshire Council can use its capital spend freedoms and flexibilities to achieve this. Herefordshire Council should notify any resultant alterations to project milestones to the Marches LEP as soon as the new milestones are agreed with NMiTE.
9. The accountable body confirms that neither it nor the Marches LEP will seek to clawback funding on the basis that any project failure is for Herefordshire Council to manage and remedy locally.

Community impact

10. The development of Higher Education provision in Herefordshire could have a transformational impact on our economy, retaining/ attracting younger generations to study and live in the county, attracting new businesses to invest in Herefordshire offering higher value employment opportunities, establishing an engineering skills base in a sector where there is a recognised significant national shortage. Students living and studying in the county will also have a significant impact on the local economy.
11. Supporting the opportunity of attending NMiTE in Hereford could also help to promote the life chances of those children we, as the council, are parents to.

Equality duty

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.

12. 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. As this is a decision on pass porting grant funding, we do not believe that it will have an impact on our equality duty.

Resource implications

13. The LGF grant will be received by Herefordshire Council from the Marches LEP ahead of 31 March 2020. It will then be released to NMiTE in line with the grant funding agreement. Full spend is expected to be achieved before 31 March 2021.
14. NMiTE submitted a Phase 2 Business Case to secure the grant funding and NMiTE have committed to achieving the deliverables agreed with the Marches LEP.
15. The accountable body confirms that neither it nor the Marches LEP will seek to clawback funding on the basis that any project failure is for Herefordshire Council to manage and remedy locally.

Legal implications

16. The grant funding is to be transferred to the council by Shropshire Council, the accountable body for the Marches Local Enterprise Partnership (Marches LEP) under the terms of a letter dated 2 March 2020. The Marches LEP received the Local Growth Funding under section 31 of the Local Government Act 2003, which confers upon a Minister of the Crown and the the power to pay a grant to a local authority in England towards expenditure incurred or to be incurred by it. The transfer of £5.66m of Local Growth Funding to the council in the role as project accountable body for phase 2 of the NMiTE development has been agreed and supported by the Ministry of Housing, Communities and Local Government (MHCLG). The council will ensure that the provisions of the grant are 'flowed-down' to NMiTE under a separate legally binding agreement that is to be entered into with them. This will similarly address matters such as amount of a grant, the manner of its payment and the conditions attaching to it, including its use and repayment by NMiTE.
17. There is no formal legal status given to the council being a publically accountable body for the phase 2 NMITE grant funding. However, the council's general duties relating to the use of public money and expenditure would continue to apply, In addition the council has agreed to accept the terms and conditions attached to the s31 grant letter to Shropshire Council. The council will ensure that these terms are flowed down to and are observed by NMiTE through the agreement to be entered into.
18. The council does not have a duty to enter into these arrangements but it has the power to do so under Section 1 of the Localism Act 2011 which confers upon the council a power to do anything that individuals generally may do (the general power of competence).

Risk management

19. The legal documentation will clarify the risks of entering this arrangement. The accountable body confirms that neither it nor the Marches LEP will seek to clawback funding on the basis that any project failure is for Herefordshire Council to manage and remedy locally.
20. The council is aware that if ineligible expenditure is incurred by NMITE this would not be covered by the grant and could therefore cause a cash flow concern to NMITE which

may lead to a reputational risk. These risks will be identified and monitored within the corporate finance risk register.

Consultees

21. Consultation with political groups has been completed, no responses have been received.

Appendices

None

Background papers

None identified