

MINUTES of the meeting of General Overview & Scrutiny Committee held at The Council Chamber, Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Wednesday 14 January 2015 at 10.00 am

Present: Councillor WLS Bowen (Chairman)
Councillor BA Durkin (Vice-Chairman)

Councillors: AM Atkinson, AJM Blackshaw, ACR Chappell, PGH Cutter, DW Greenow, EPJ Harvey, JA Hyde, NP Nenadich, AJW Powers, A Seldon and DB Wilcox

In attendance: Councillors J Hardwick, AW Johnson (Leader), J Norris, GJ Powell (Cabinet Member), P Rone (Cabinet Member) and P Sinclair-Knipe

Officers: R Ball (Assistant Director Place Based Commissioning), B Norman (Assistant Director, Governance), P Robinson (Chief Financial Officer) and B Baugh (Democratic Services Officer). Attending as an observer: G Hughes (Director for Economy, Communities, and Corporate). Also present were: M Pearce (Enterprise Zone Managing Director) and A Smith (Senior Director, DTZ).

41. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors BA Durkin, TM James, JG Jarvis and RL Mayo. Apologies had also been received from Mr P Sell, an education co-optee.

42. NAMED SUBSTITUTES

The following substitutions were made: Councillor PGH Cutter for Councillor BA Durkin; Councillor NP Nenadich for Councillor JG Jarvis; and Councillor JA Hyde for Councillor RL Mayo.

43. DECLARATIONS OF INTEREST

No declarations of interest were made at the meeting.

44. QUESTIONS FROM THE PUBLIC

Attention was drawn to Supplement 1 to the agenda which contained ten questions received from the public, together with officer responses to those questions considered relevant to the call-in. The Chairman advised that written responses would be provided to the remainder in due course, in the order submitted.

45. CALL-IN OF THE MARCHES LOCAL ENTERPRISE PARTNERSHIP JOINT EXECUTIVE COMMITTEE DECISION ON MARCHES ENTERPRISE ZONE

The Chairman welcomed attendees and invited the Assistant Director, Governance to outline the circumstances of this call-in. The principal points included:

1. The call-in related to a decision about the Marches Enterprise Zone taken by the Marches Local Enterprise Partnership (LEP) Joint Executive Committee (JEC) at its meeting on 11 December 2014.
2. The JEC was a decision-making body recognised by law; Cabinet had approved the establishment of a joint committee to exercise executive functions in relation to the Marches LEP on 31 July 2014. Councillor AW Johnson was Herefordshire Council's representative on the JEC and was representing the decision-making body at this meeting.
3. The call-in primarily related to the non-listing of the 'Hereford Enterprise Zone, Accelerating Delivery: Investment Strategy' prepared by DTZ (the DTZ report) on behalf of the Department for Communities and Local Government (DCLG). Following the receipt of the call-in notice, the Assistant Director, Governance had circulated an email to committee members explaining that, although not required legally or by the Constitution (due to the exempt information contained in the report), a better approach would have been to have listed the DTZ report as a background paper given that this had been relied upon in the preparation of the JEC report. The Assistant Director, Governance had provided the document, with Appendix C removed, to committee members and it had been published on the council's website. Appendix C, with appropriate redactions, was included within Supplement 1 to the agenda.
4. The call-in notice stated that 'Further concerns regarding the substance of the decision and the options considered cannot be ruled out at this stage'. It was noted that the JEC report was in the public domain prior to call-in and the committee should focus on new issues that came to light with the publication of the DTZ report.

The Chairman invited the Assistant Director Place Based Commissioning to comment on the briefing note included in Supplement 1 to the agenda 'Policy background regarding infrastructure to support the development of the Hereford Enterprise Zone'. Attention was drawn to the following:

- a. The decision of the JEC 'allocates future business rate income to support the development of the Hereford Enterprise Zone (HEZ) by providing funding for such infrastructure as may be required to enable the HEZ to be completed. However, this decision does not pre-determine what infrastructure (if any) may be required nor pre-empt decisions that would need to be taken locally in the future regarding the details of what infrastructure should be provided and where.'
- b. The remainder of the briefing note provided background on: the purpose of the Local Development Order (LDO); the consultation undertaken on the LDO, including with the Highways Agency; the recognised need for further infrastructure investment to enable the full development of the HEZ; the strategic policy context, including the draft Local Development Framework (LDF); and the timetable for the LDF examination process.

Committee members that submitted the call-in notice made a number of comments, including:

- i. Investment was not being challenged per se; it was acknowledged that the HEZ was an asset to the county and the Marches LEP. However, concerns remained about assertions made in the DTZ report, particularly that the LDO 'effectively sets a cap' on HEZ development, and the potential financial implications of the assumptions being made.

- ii. Officers were thanked for making the DTZ report available in response to the call-in notice. It was felt that further understanding was needed about the relationship between the LDO and the HEZ and the nature of the constraints referred to in the DTZ report.

The Assistant Director Place Based Commissioning said that the LDO permitted a certain set of developments within the HEZ to proceed without the need for a formal planning application. The HEZ Managing Director said that the LDO allowed for a certain number of extra traffic movements, or 'trips', to ensure that development could be accommodated within the existing highway infrastructure. The Assistant Director Place Based Commissioning outlined the consultation undertaken with statutory bodies, including the Highways Agency, during the preparation of the LDO.

A call-in member commented that traffic volumes on the A49 had reduced in recent years and asked a number of questions in respect of: the results of discussions with the Highways Agency on the uplift of traffic movement caps; the results of the council's public consultation on the variation of the LDO; the timetable for the publication of the results; and whether DTZ should have been given details to inform the option modelling in the draft report.

Points made in response to the above and to further clarifications sought by call-in members included:

- The HEZ Managing Director said that he welcomed any reductions in traffic volumes on the A49, as this could provide additional capacity for HEZ development. He added that the simplified planning process facilitated by the LDO was important as it provided certainty to prospective developers.
- The Assistant Director Place Based Commissioning advised that the planning authority had the opportunity to review the LDO at appropriate times and discussions were ongoing between the planning authority and the Highways Agency; a written response on the latest position would be provided to the call-in members.
- The Director for Economy, Communities, and Corporate emphasised that the council had been pro-active in the process of revising the LDO to ensure that any additional network capacity was captured to benefit the HEZ.

A committee member referred to a letter tabled at the last meeting (dated 7 April 2014 to an unidentified recipient from Patrick Thomas, Asset Manager, Network and Delivery and Development Directorate, Midlands Team, Highways Agency) which stated that the "Highways Agency has not set any 'traffic movement limits' along the length of the A49". Clarification was sought on the constraints referred to in the DTZ report. The Assistant Director Place Based Commissioning said that analysis by the council's consultants and the Highways Agency had informed the current controls within the LDO. It was reported that the Highways Agency had the statutory power to direct the council to change its approach if it was not satisfied.

A committee member noted the statement that the JEC decision 'does not pre-determine what infrastructure (if any) may be required' but, with repeated reference to the River Wye Crossing in the DTZ report, was concerned that apparent constraints were being used as a reason to progress other infrastructure which may not be specifically required by the HEZ. The Assistant Director Place Based Commissioning said that the JEC decision was an enabling decision and the work by DTZ reflected the council's current policy position. Mr. Smith reported that DTZ was tasked by DCLG to consider how EZ performance could be optimised and Scenario 3 considered the potential of the HEZ with interventions fully implemented and River Wye Crossing completed.

In response to a comment from a call-in member, the HEZ Managing Director said that certainty about the level of development that could be accommodated strengthened the appeal of the HEZ to prospective developers.

Comments made by other committee members included:

- 1) EZ status was difficult to obtain, especially in isolated rural areas, and the council should do all it could to empower the successful development of the HEZ, to support further economic development and employment opportunities.
- 2) Progress was being made in developing security and defence industry growth in the county, alongside tourism and agriculture sectors.
- 3) Future central government and European funding would flow through the LEPs, so it was essential that the JEC worked collectively and efficiently, with effective support from its constituent authorities.
- 4) There was competition from neighbouring counties, the rest of the UK and internationally, therefore the authority had a responsibility to work together with the private sector to ensure that the benefits of the HEZ were realised.

A call-in member commented that funding from a rural regeneration zone programme had been withdrawn in the past and questioned what assurances could be provided that monies and support would be maintained for the HEZ. In response, the Assistant Director, Governance said that the JEC decision set out the investment approach and committed the authorities of the Marches LEP to reimburse Herefordshire Council, from business rates generated by the HEZ, for the infrastructure investments made to enable the HEZ to be expanded and built out. Therefore, Herefordshire Council would place reliance upon that decision in making requisite investments. He added that there were compelling reasons for ensuring that momentum was maintained.

Councillor Johnson said that it was gratifying to hear the level of support for the HEZ from councillors but reminded the committee that the purpose of this meeting was to consider the call-in of the specific JEC decisions and not how and where money would be spent, this would be for future discussions and decisions.

The Chairman invited the Chief Financial Officer to comment on financial implications. The principal points included:

- a) Although the EZ was located in Herefordshire, it was for the JEC / LEP to decide on the allocation of business rates.
- b) The JEC / LEP had decided to reimburse Herefordshire Council for investments in the HEZ, as there would not be growth and additional business rates generated without such investments.
- c) The JEC / LEP had also decided to provide £100k a year from the additional business rates to help meet LEP running costs from 2016/17 onwards; one-off government funding was due to expire at the end of 2015/16. The remaining running costs would be shared between the three constituent authorities.

Councillor Johnson said that the principle of investment in the HEZ did not seem to be disputed and decisions had yet to be taken on how monies might be spent, therefore he considered the call-in unnecessary.

At the request of the Chairman, the Assistant Director, Governance, repeated that the JEC was a decision-making body recognised by law, it had delegated authority to exercise executive functions, and clarified the position with background papers.

A committee member commented on industrial development in other areas and how the HEZ could contribute to growth and jobs at Rotherwas and in the wider local economy. He felt that the benefits should be realised as soon as possible.

Mr. Smith gave a brief presentation on the work undertaken by DTZ on behalf of the DCLG, the principal points included:

- i. Mr. Smith was a Senior Director at DTZ, head of the public sector advisory team. DTZ had been appointed by DCLG to a framework to provide advice on 20 of the 24 Enterprise Zones (EZs) in England and Wales. DTZ had been tasked with understanding what could be done to optimise performance of the HEZ and had completed its report by the end of September 2014.
- ii. Occupier benefits included rates relief for a set period, enhanced capital allowances, and simplified planning zones. LEP benefits included business rates income growth, local taxation in the hands of the LEP, ability to invest against revenues accruing from growth achieved; and the creation of Tax Increment Finance schemes.
- iii. As the EZs were time bound, with an evaluation period of 25 years, it was important to make investments as early as possible to ensure viability and enable costs to be recouped through business rates income growth.
- iv. The HEZ had the potential for c. 150,000 square metres of new development but a River Wye crossing was considered essential to expansion beyond 50,000 square metres.
- v. An overview was provided of the options analysis and the key features of three scenarios: Scenario 1, 'Base Case'; Scenario 2, EZ Interventions partially implemented (River Wye Crossing is not completed); and Scenario 3, EZ Interventions fully implemented and River Wye Crossing completed.
- vi. The income and expenditure profiles were explained for each scenario, along with estimated surplus figures; £10.6m for Scenario 1, £10.8m for Scenario 2, and £43.9m for Scenario 3. It was noted that the figures had been informed by details from DTZ property and development teams. It was also noted that the difference between Scenario 1 and Scenario 2 was marginal in terms of surplus but Scenario 2 would create more jobs and other positive outcomes.
- vii. The findings were also shown in terms of net income and expenditure summary, floor area change, jobs created, and gross development value.
- viii. The report recommendations (as detailed on page 52 of the agenda) were summarised. It was emphasised that Scenario 3 focused on the HEZ, it did not consider the specific details of what road infrastructure might be required.

A motion was proposed and seconded to resolve that 'this committee endorses the decision of the JEC, with thanks to our LEP partners for their support'. A committee member commented that the JEC decision was backed by the other constituent authorities and had not been called-in by their respective scrutiny committees. He said that the reasons for the call-in were understood but considered that the publication of the DTZ report and the further information and advice received at this meeting had addressed the issues.

A call-in member commented on the role of overview and scrutiny committees, historic issues with the delivery of major projects, the value of detailed analysis to identify potential pitfalls, the increasing need for local authorities to offset decreasing central government funding through business and job growth, and the importance of openness and transparency.

In response to questions from a committee member: the Assistant Director, Governance said that it would not be appropriate to speculate on the future status of LEPs but expressed an opinion that, where a body placed reliance upon a decision to let contracts and incur costs, it would not be permissible for local or central government to make a contrary decision which exposed the body that relied upon the earlier decision; and the Chairman said that it was not appropriate to ask the HEZ Managing Director to express a view on the river crossing at this meeting. The committee member said that he understood that EZ status had been awarded on the basis that the zone was 'shovel ready' and considered the infrastructure requirements now being brought forward were of a different scale to those previously envisaged. The Chairman reminded the committee of the purpose of the call-in.

In response to questions from a call-in member:

- Mr. Smith said that: Scenario 3 identified the benefits that could be accrued as a result of removing constraints; it was acknowledged that the report did not go into detail about the means to remove constraints but it had been written for a particular purpose and wider distribution had not been expected; the HEZ was perceived as being in a very constrained location in transport terms, therefore Scenario 3 would make the site more attractive from an occupier perspective.
- The Chairman reminded the committee that the decision did not pre-empt future decisions on infrastructure.
- Mr. Smith advised that the report had been prepared prior to the discussions about a sum to help meet future LEP running costs. Councillor Johnson noted that the sum was relatively marginal in comparison to overall income and expenditure involved. The HEZ Managing Director confirmed that revised figures had been incorporated in the JEC report.
- In response to a question about key sensitivities, Mr. Smith reported that: future rates of income was a function of the amount of floor area that was developed; commitments from occupiers on site, or those intending to go on site, informed the first three to four years; future projections were based on market evidence, with input from DTZ's industrial and development teams; and the costs of enabling works in connection with the development of the site and environmental factors had been informed by previous work undertaken by council and HEZ teams. He said that a point had been reached where DTZ, the council and DCLG were comfortable with the analysis and the scenarios to be taken forward.

It was proposed and seconded that 'the question be now put' but the Chairman considered that a few more questions should be permitted before the procedural motion was put to the vote.

In response to questions from a call-in member:

- 1 - Mr. Smith provided further information about cost modelling, including the treatment of inflation.

- 2 - With reference made to paragraph 4.2 of the DTZ report (page 50 of the agenda), the Chief Financial Officer advised that borrowings were intended to be repaid on a priority basis after the £100k contribution to the LEP (if required) and revenue costs rather than an annuity basis.
- 3 - Mr. Smith said that the report had been prepared to create a level of understanding and commented that other EZs were struggling as agreements were not being reached at the LEP level.
- 4 - The Assistant Director, Governance drew attention to paragraph 10 of the JEC report (page 15 of the agenda) which read 'The recommendation is that Herefordshire Council will fund the interventions specified in Scenario 3 and the other two authorities agree that those investments and associated costs are repaid from the business rates accrued.'

The procedural motion that 'the question be now put' was voted upon and supported by the majority of committee members.

The substantive motion was then voted upon and supported by a majority of committee members.

RESOLVED: That this committee endorses the decision of the Joint Executive Committee, with thanks to our Local Enterprise Partnership partners for their support.

46. DATE OF NEXT MEETING

A meeting scheduled for 26 January 2015 was postponed.

It was suggested that the next meeting be held on 10 February 2015 but a committee member requested that this be rescheduled, as it would coincide with the start of the examination sessions on the Local Development Framework.

[The next meeting was subsequently confirmed as Wednesday 18 February 2015 at 10.00am]

The meeting ended at 12.15 pm

CHAIRMAN