

EDGAR STREET GRID DELIVERY VEHICLE

PROGRAMME AREA RESPONSIBILITY: ECONOMIC DEVELOPMENT, MARKETS AND PROPERTY; AND ENVIRONMENT

CABINET

15 JULY, 2004

Wards Affected

County-wide

Purpose

To agree to the establishment of a delivery vehicle for the Edgar Street Grid Masterplan.

Key Decision

This is not a Key Decision.

Recommendation

THAT the Council works with Advantage West Midlands and other appropriate partners to establish a joint venture company to deliver the Edgar Street Grid Masterplan.

Reasons

The Edgar Street Grid Masterplan has been adopted by the Council and has been incorporated into the second deposit draft of the Unitary Development Plan. A dedicated delivery vehicle is required to ensure the proposals are implemented. It is envisaged that the proposals will make a significant contribution to the regeneration of the County.

Considerations

Background

1. This report follows on from a previous report to Cabinet on 18th December, 2003. At that meeting Cabinet agreed the masterplan for the Edgar Street Grid site and agreed that appropriate elements be included in the revised deposit draft of the Herefordshire Unitary Development Plan. Cabinet also agreed that a further report be prepared assessing the options for a delivery vehicle to implement the proposals.
2. A series of masterplanning reports were prepared by the consortium of consultants led by DTZ Pida. A full set of these documents is available in the Members' Room. The proposals have been integrated into the next draft of the Herefordshire Unitary Development Plan, which was published for the statutory six week consultation period on 13th May, 2004. Including the proposals within the planning process in this way is essential for implementation, if compulsory purchase is to be considered. Notably, the proposals will require the safeguarding of land, for example for the new road infrastructure. Such schemes should only be included within the Plan if they have a realistic prospect of implementation within the Plan period (to 2011).

Further information on the subject of this report is available from
Geoff Hughes, Head of Community and Economic Development on 01432 260695

- 3 Whilst the proposals are being developed through this process the Council and Advantage West Midlands have been giving consideration to the establishment of a dedicated delivery vehicle to take the proposals forward. The consultants have proposed a number of options including the establishment of an Urban Regeneration Company (URC) or some form of joint venture company with the private sector. This report explores the role of a delivery vehicle and assesses the various options and recommends a way forward.

Delivery Mechanisms

- 4 The completed masterplan establishes a bold and ambitious direction for development across the study area, uniting it with the rest of the City as a whole. Whilst confident that the private sector will play its part in responding to new development opportunities, significant drive and focus of attention will be required from the public sector agencies to deliver the project over time.
- 5 The scale of the task should not be underestimated. The overall development timeframe is expected to run over the next 15 – 20 years to full completion, with the initial 5 – 8 years being the critical period to establish the infrastructure and development framework. Early priorities for delivery will include:
- Statutory planning framework (UDP) and development briefs
 - Planning management and co-ordination.
 - Land acquisitions including CPOs.
 - Cash flow/financial management and funding
- 6 Management and delivery of the project will require continued focus of attention from the client group and a multi-disciplinary team approach. The dedicated focus of resources will be essential to making the vision appear in an acceptable timeframe, maintaining the momentum established to date and building occupier and investor confidence in the City of Hereford.
- 7 Whilst many of the skills and statutory powers already exist within Herefordshire Council, Advantage West Midlands and other public agencies, the challenge will be to ensure that dedicated resourcing and management attention is given to delivery. A minimum resource structure for the dedicated project team is likely to require:
- **Senior Development/Project Manager**
Responsible for co-ordinating all delivery tasks.
Drive forward the development vision and engage with partners.
Experience in property development and commercial negotiations.
 - **Contracts Manager**
Responsible for contractor negotiations
Experienced in civil engineering management and design.
 - **Legal Manager**
Especially in the early stages to manage the CPO process.
 - **Finance Manager**
To co-ordinate funding and cost control.
Manage mechanism to ring-fence cash flow/funding.
 - **Admin Assistant**
To manage the team and co-ordinate reports.
- 8 The skills of this team would be augmented as requested via access to support staff

at Herefordshire Council, Advantage West Midlands and bespoke consultancy appointments.

The role of a Delivery Vehicle

- 9 The key purposes of the delivery vehicle will be to:
- Lead and facilitate the sustainable regeneration proposed in the masterplan strategy;
 - Co-ordinate, focus and drive forward specific development opportunities;
 - To achieve this by formalising a pooling of resources and expertise to secure independence within a clear framework and ensure confidence of potential partners over deliverability.
- 10 The merits of any delivery vehicle must be assessed against the following key criteria in considering the most appropriate approach:
- accountability – the body must be accountable to those whose support it relies upon;
 - land assembly – the body must be able to assemble land in order to deliver the masterplan strategy. This will need the involvement of a public body with CPO powers;
 - sharing in development value uplifts – by capturing some of the uplift in enhanced property values, the public sector may be able to subsidise projects and raise private finance;
 - planning framework – the body must be able to draw on a clear planning framework, established via the UDP, whilst recognising that the determination of planning applications will remain with the Council acting as local planning authority. It should also ensure a co-ordinated approach to securing and using section 106 contributions;
 - ability to raise long term funding and dedicated resources – the body will need to co-ordinate public investment and contribute to delivery by providing pump priming primary infrastructure over the life of the project;
 - durability/sustainability – the body must be built to last and be able to develop over time, with a structure and governance which ensures effective and robust decision making but with the flexibility to allow for changes in its membership and priorities over time

Delivery Vehicle Options

- 11 In formalising this resource structure and managing the development process, there are several options in terms of delivery vehicles and mechanisms including:
- A new Urban Regeneration Company for Hereford;
 - A multi-disciplinary project team within Herefordshire Council;
 - A joint-venture initiative with one or more partners.

Urban Regeneration Companies (URCs)

- 12 URCs have been established in a variety of locations across the UK to co-ordinate redevelopment and new investment in declining urban areas. They are usually structured as non profit making companies limited by guarantee involving public

sector partners as members (“owners”) and a Board of public and private sector directors, usually private sector led. The ODPM sees the main role of URCs as being to address significant latent development opportunities by developing and managing the implementation of a plan to realise the vision for the future of their area. The Urban White Paper (2000) proposed a programme of URCs, with the first tranche (in Liverpool, Manchester and Sheffield) being established in 1999/2000. URCs are set up to operate over a sustained period of 10-15 years. However, the time limit on their operations is not prescribed and should depend on local circumstances.

- 13 URCs are independent organisations established by:
- Central Government (ODPM and DTI) providing the overall policy context and guidance on best practice;
 - The relevant local authorities – whose role is to support and develop the URC (typically through representation on the Board and taking account of URC aims in developing planning policies), could be an investor and facilitator in the area (for example through the provision of public services and using CPO powers);
 - The relevant RDA – with a funding role and being a significant investor in and facilitator of URC activity;
 - English Partnerships – whose role involves supporting the central Government role, providing guidance and assistance to individual URCs and becoming involved directly as a partner; and
 - The private sector and other key partners.
- 14 The Government sees the role of URCs as a co-ordinating and facilitating one, adding value through improving co-operation and integration. Establishing a URC does not bring additional resources or powers over and above those that the partners themselves are willing to commit. How the URC relates to other partnerships and initiatives with regeneration and development objectives (such as Local Strategic Partnerships) should be clearly agreed amongst local partners to demonstrate the added value the URC will bring. Furthermore, the URC should act at arm’s length from the partners in order to engage the private sector.
- 15 There have been several waves of URCs established and more being promoted. In terms of Hereford, whilst the kudos of promoting a URC vehicle would have significant marketing benefits, there would be considerable upfront costs associated with such a venture. The resource team identified above would still be relevant in the context of a URC but the level of appointment would be more towards Director appointments given the management responsibilities involved. Annual revenue costs could be in excess of £300,000 – plus recruitment/set up costs and marketing. One of the advantages of a URC is that there are now a number of precedents for the model and the documents needed to deal with the constitution and finance arrangements.

Local Authority involvement in a URC (which will usually be established as a company limited by guarantee) needs to comply with all relevant local government legislation relating to companies – this is the same regime as would apply to a local authority’s involvement in a JV company and is dealt with in more detail below.

In-house project team

- 16 If the appropriate skills were available, an in-house project team could be established to run and manage delivery. This is no ordinary task and finish project however. The major challenge in this approach would be ensuring long term (e.g. beyond ten years) commitment to the development process within the context of continued organisational change and management pressures on the local government and political environment.
- 17 A project team is unlikely to have delegated power to commit to decisions and this can create a degree of uncertainty for development and other partners whose engagement in the long term process will be critical.
- 18 Furthermore Herefordshire Council has very limited experience of project managing large scale redevelopment projects and there are not the appropriate skills available to effectively manage a regeneration scheme of the scale and complexity of the Edgar Street Grid.
19. It would be possible to establish a self contained regeneration team which attracted secondees from other public sector partners and the private sector which would overcome the concerns in para 18. The main benefit of this option is the control it gives the council over the whole project; the main disadvantages are the lack of buy in from other partners, and the absence of a clear focus/leadership for the regeneration scheme.

A Joint-Venture Initiative/Partnership

- 20 Such partnerships cover a wide range of types and are a flexible model. They are typically constituted to secure inter-organisational and cross-sector working on key local or sub-regional issues, and often have a relatively broad set of aims although they can be focused on detailed local delivery issues. Membership and constitution varies, with strategic partnerships with relatively loose constitutions and wide membership at one end of the spectrum to development joint venture companies formed of a public sector body and its private sector partner at the other. Most models involve creating a limited liability model to give protection to the constituent partners, and a company structure is usually preferred (although there is now a limited liability partnership option). If a company is used, a distinction also needs to be drawn between companies limited by guarantee (mostly not-for-profit) and those limited by share (mostly commercial ventures).
- 21 Local authority involvement in joint venture partnerships has to comply with various statutory provisions relating to councils' interests in companies. Section 2 of the Local Government Act 2000 (which gives councils the power to do anything to promote or improve the economic, social or environmental well being of their area) has given local authorities more flexibility to become involved in companies. The guidance under s.2 reinforces that the well being power will also enable local authorities to form or participate in companies provided that they are satisfied that this will further the wellbeing of the area. The proposal to establish and participate in a company with the aim of regenerating the Edgar Street area of the City, would seem to fit exactly into this purpose.

Local authority involvement in companies also needs to take account of the rules established in the Local Government and Housing Act 1989 and relevant regulations. These introduced the concepts of controlled, influenced and regulated companies. They broadly meant that if a council had more than a 19.9% interest in a company (through board membership and company ownership) and a close relationship with

the company, there was a risk of the company being treated as part of the local authority for all capital control purposes. In the context of the former capital finance regulations, this was a serious risk which needed to be avoided. All URCs which have been set up are structured to ensure that combined local authority interests are kept below 19.9%. The recent introduction of the new prudential financing regime has arguably reduced the significance of a company being “regulated” – the worst position would be that the whole of the company’s financial borrowings would need to be taken into account in the council’s prudential borrowing limits and this may not be acceptable for some councils. New regulations to align the definitions of local authority interests in companies with new accounting definitions and the prudential borrowing regime are expected. In the meantime, it would be prudent to develop any JV model based on keeping local authority interests below the limits for “regulated” companies.

- 22 A JV model based on a minority interest local authority guarantee company would help to formalise the aims and objectives of the delivery vehicle and engage fully with key partners on an open basis. The initial partnership is likely to involve Herefordshire Council and Advantage West Midlands and possibly English Partnerships, with the flexibility to incorporate one or more private sector partners, if necessary, in the future.
- 23 A Management Board would need to be established comprising senior representatives of each partner organisation and including political member representation. This Board should have sufficient authority to confirm and approve actions/decisions in the context of the partnership’s remit based on the masterplan and agreed development vision. It will be important to note that when acting as members or directors of the company, any “representatives” of the Council must act in the interests in the company, even if these conflict or are not aligned to the aims of the constituent partners.
- 24 Statutory planning powers would be retained by the local authority providing full control over land-use and design considerations within a democratic environment.
- 25 The project team would be funded through the JV agreement although employed under contract by Herefordshire Council but reporting to the Management Board. Some of the posts could operate on a temporary secondment basis where the core skills are readily available.
- 26 Provided a clear framework is established at the outset, the Joint Venture/Partnership approach should provide much of the benefits of a URC and create similar levels of confidence without the complexity of establishing new systems and structures. However, there will still be a need for company documents to be agreed, including memorandum and articles of association for the company, and possibly members’ and funding agreements. There will be tax implications consequent on the setting up of a company (VAT and corporation tax) which would also apply to a URC.

A JV company limited by guarantee will provide clarity of focus for the regeneration initiative, limited liability for the constituent partners and a familiar structure for governance.

- 27 This partnership approach is recommended for the delivery of the Edgar Street Grid Masterplan.

Private Development Partner

- 28 Whichever form of delivery vehicle is established it will be necessary for the project to effectively engage with the private sector. The exact form of relationship with the private sector should be a matter for the delivery vehicle to decide once it has been established, although the setting up of a URC or JV will require the early identification of private sector partners as part of the overall project. A private development partner could feasibly be brought on board to supplement the skills of the public sector partners and help take forward delivery of initial enabling work and early developments.
- 29 Care will be needed to define the remit and extent of the “partnership” and the means by which development profit will be distributed. The public sector partners will have decisions to make relating to the ring fencing of assets and grant funding to the regeneration scheme and will also want to consider the potential benefits of taking a long term equity stake in any redevelopment scheme. There is scope in such arrangements for local authorities to share in the financial returns which motivate their private sector partners.
- 30 Partnerships with private sector property developers could involve:
- Project management – high level development management on a consultancy/development profit basis.
 - Infrastructure Design and Delivery – using the partner’s development experience to value engineer the infrastructure design and deliver within an agreed target price.
 - Development Land Partnership – whereby the partner takes responsibility to develop out the land holdings in return for delivering the required infrastructure.
- 31 All three options would be feasible for this project although involve increasing degrees of risk from both sides. The different layers of responsibility are also likely to appeal to different types of contractor/developer with the market responding in a variety of different ways. Initial soft market testing through discussion with an invited group of developers and contractors would help to further inform the most appropriate delivery process. Careful consideration needs to be given to the role of the private sector in this scheme. This could encompass both involvement in the JV company itself at a strategic level (operating as part of the Board and contributing to the overall development of the vision for the area) and also a potential contractual relationship between the JV and a private sector partner to deliver regeneration. If the services or works being procured by the JV are caught by the EU procurement regulations, there would need to be adherence to the EU procurement rules.

Conclusions

- 32 Having reviewed the range of options available for a delivery vehicle a Joint Venture Partnership appears to be the most appropriate model for taking forward the implementation of the Edgar Street Grid Masterplan.
- 33 Early indications from Advantage West Midlands suggest they are happy with the proposed approach. Feedback from English Partnerships is expected following a meeting on the 12th July 2004 and will be reported to Cabinet at its meeting on 15th July 2004. Subject to detailed discussions with Advantage West Midlands and English Partnerships it is suggested that a shadow board should be established during the autumn of 2004. Once in place this Board should agree detailed staffing and financial arrangements for the establishment of the Joint Venture Partnership.
- 34 It is anticipated that the delivery vehicle will employ a team of up to six staff as set

out in paragraph 7 above. The indicative revenue budget for this team is approximately £250,000 per annum. Subject to negotiations with other partners the Council may need to make a contribution of up to £125,000 per annum. Contributions could either be in cash or through the secondment of existing staff where they have the appropriate skills.

Alternative Options

The alternative options are set out in the report.

Risk Management

Risk Management Issues have been dealt with in the detailed reports prepared by the Consortium of Consultants led by DTZ Pida.

Consultees

Advantage West Midlands
Government Office for the West Midlands
CABE
Bevan Ashford – Private Legal Advice
English Partnerships

Background Papers

Edgar Street Grid Masterplan and associated reports prepared by Consortium of Consultants led by DTZ Pida.