



SCRUTINY COMMISSION - 4 NOVEMBER 2020

EAST MIDLANDS DEVELOPMENT CORPORATION 'INTERIM VEHICLE (DEVCO)' AND FREEPORT PROPOSAL

REPORT OF THE CHIEF EXECUTIVE

Purpose of the Report

1. The purpose of this report is to set out the background, progress to date and expected benefits of the East Midlands Development Corporation Programme, known as "The Alchemy Project".
2. The report sets out proposals for the establishment of an Interim Vehicle (to be known to as EM Devco CLG (Company Limited by Guarantee)), to maintain momentum prior to a Statutory Development Corporation being created by Parliament, including the award of £1.5m in the form of a £0.5m annual grant (2021-2024) which will be considered by the Cabinet at its meeting on 15 December 2020.
3. This report also outlines the latest position with regard to the East Midlands Airport 'Freeport' proposal which could form part of the Development Corporation's emerging proposition. A formal bid by East Midlands Airport is expected to be submitted to Government as part of its competitive bidding process when the Freeport timetable is confirmed.

Policy Framework and Previous Decisions

4. In March 2020 the Cabinet supported the Council's continued role in the establishment of Project Alchemy and the bid for a Freeport at East Midlands Airport.

Background

5. In February 2019 the Government approved funding (circa £3m) for a 2-year programme to explore the business case for a locally led development delivery vehicle (LLUDC) for the East Midlands and asked the Midlands

Engine to lead the work. The Midlands Engine (a partnership coalition of Councils, Combined Authorities, Local Enterprise Partnerships (LEPs), and businesses in the region) was asked to consider three development locations in the East Midlands; specifically, Ratcliffe-on-Soar Power Station site, Toton and Chetwynd Barracks (both in Nottinghamshire), and East Midlands Airport (in Leicestershire).

6. The current geographic extent of Project Alchemy includes Nottinghamshire and Leicestershire (Nottinghamshire County Council, Leicestershire County Council, Broxtowe Borough Council, Rushcliffe Borough Council and North West Leicestershire District Council.
7. The East Midlands Development Corporation (EMDC) programme is overseen by an Oversight Board (The Alchemy Board) supported by an Executive Group. The Oversight Board is made up of Leaders from the region's upper tier local authorities and directly affected district councils alongside the private sector, business community, central government, LEPs, and university representatives. The Executive Group is a smaller group of executive officers from those organisations. Both are chaired by Sir John Peace, as chairman of the Midlands Engine.
8. The overall ambition of the EMDC is to supercharge a new era of growth for the regional economy by enabling projects which build directly on the potential of HS2, the region's status as a major trade and logistics gateway, and its historic strengths in research and development and industrial innovation; particularly research and innovation related to the emerging low carbon economy.

Defining the Development Corporation

9. The Midlands Engine considered various potential options for establishing a Development Corporation. Four key features were identified as needing to be satisfied for the Development Corporation:
 - To be locally led in order to better meet the needs of the local area. An Oversight Authority is proposed, potentially comprised of local authority members, to have oversight and control of various powers of the Development Corporation.
 - To have wide financial powers so as to be able to access a wide range of funding including private and public equity and debt finance, and grants and other investments. It is also proposed that the Development Corporation be given powers to become a community infrastructure levy charging authority.

- To have two streams of planning powers. Firstly, plan-making powers, and secondly operational and enforcement powers.
 - To be able to undertake delivery of projects and infrastructure, including the ability to determine planning applications and grant development orders, thus avoiding multiple applications where applications span more than one local authority area.
10. A number of existing forms of development delivery vehicle were considered, but it was agreed none adequately meet requirements and therefore a new form of Locally Led Urban Development Corporation is proposed. This will require new primary legislation to be passed by Parliament. It is considered that this will offer the greatest benefits to the local authorities going forward.
11. In order to make immediate progress it has been agreed that the establishment of an Interim Vehicle that provides a framework for decision making, is required. Early involvement through the Interim Vehicle will be beneficial to the Council in helping it to shape the nature of the proposed Development Corporation, in particular with a view to ensuring a locally led position is established.

Establishing the Interim Vehicle (EM Devco CLG)

12. Subject to the approval of the Cabinet in December, it is intended that the Interim Vehicle will be incorporated on or before 31st December 2020, in the form of a Company Limited by Guarantee (CLG). The five local authorities with administrative responsibilities within the current scope of the programme (covering the sites at Toton, Chetwynd Barracks, East Midlands Airport and the power station at Ratcliffe on Soar), will be the owners of the company, namely:
- Broxtowe Borough Council
 - Leicestershire County Council
 - North West Leicestershire District Council
 - Nottinghamshire County Council
 - Rushcliffe Borough Council.
13. The Interim Vehicle will mirror the intended form of the statutory Development Corporation and will consist of:
- An Oversight Authority comprising member representatives from the 5 local authorities who will own the CLG;
 - An independent skills-based board including up to 11 directors, made up of a combination of independent and non-independent persons – to be appointed through an open recruitment process; and

- Local delivery vehicles/special purpose vehicles or joint venture businesses for each site.
14. The Interim Vehicle will not have any statutory powers. Powers will remain with the relevant local authority partner until the establishment of the statutory Development Corporation.
 15. In July 2020 the Secretary of State confirmed his support for the establishment of an Interim Vehicle, to continue to build momentum prior to the creation of a statutory Development Corporation.
 16. In August 2020, the Planning White Paper consultation "Planning for the Future" included positive reference to the Development Corporation work:

"As we bring forward planning reform, we also want to ensure we have in place the right delivery mechanisms, including Development Corporations. A good example that we are already progressing is development at Toton in the East Midlands, where we have announced our intention to support the establishment of a Development Corporation to maximise the area's international links and create tens of thousands of new homes and jobs. We want to see more schemes of this kind, backed by modern delivery models, around the country."

17. Once established the first key task of the Interim Vehicle will be to consider appointments and develop a business plan. It will be the responsibility of the Board to deliver the business plan which will need the approval of the Oversight Authority and which will be reviewed on an annual basis. Approval will be required of the Oversight Authority for decisions that fall outside the business plan especially those which have a budgetary implication.

Legal Implications

18. The hybrid Locally Led Urban Development Corporation will require primary legislation. Options for the interim vehicle have been considered including Limited partnerships, limited liability partnership, community benefit societies, community interest companies etc. Having taken advice on various options, the proposed way forward is via a Company Limited by Guarantee, a separate legal entity distinct from its members and regulated by the Companies Act 2006. A CLG may enter into contracts in its own name and is responsible for its own debts and liabilities subject to the liability of members limited to a nominal amount. If the company is wound up the members' guarantee will only be called upon if the company cannot otherwise satisfy its debts. Members of the company do not have the right to share in the profits of the company by way of dividend payments and the arrangement therefore is more

akin to one of stewardship of development activities rather than an owner with entitlement to receipts.

19. The County Council has the vires to join such a Company under the provisions contained in the Localism Act 2011 which confers the power on the Authority to do anything that an individual may do subject to various statutory restrictions relating to commercial enterprise.
20. A CLG will be subject to governance through a Members' Agreement and Articles of Association setting out the arrangements for the company and how it will operate. The Articles govern the constitution of the company dealing with the powers of directors, members, voting and board and member meetings. At this stage, there are a number of outstanding points to be agreed between the respective councils in relation to some of the key points in these governing documents.

Resource Implications

21. The core costs for 2019-20 and 2020-21 of the Midlands Engine Development Corporation programme so far have been funded by Government, through the Ministry of Housing, Communities and Local Government (MHCLG). The total funding was £2 million, spread equally across 2 years (2019/20 and 2020/21). The Development Corporation programme has also received additional resources through a mix of direct funding and in kind support from partner Local Authorities.
22. The County Council's proposed grant award to the Interim Vehicle is set out as follows, in line with Nottinghamshire County Council:

Financial Year	Grant award
2021-22	£0.5m
2022-23	£0.5m
2023-24	£0.5m
TOTAL	£1.5m

23. The financial contribution proposed will be matched by Nottinghamshire County Council with further contributions coming from the 3 district councils. Midlands Engine has made representations to MHCLG regarding a substantial contribution to help meet the full cost of the Interim Vehicle, but as yet no response has been received.
24. The full cost exceeds the funding being committed by the 5 local councils and without an MHCLG contribution a significant review of the intended Interim

Vehicle approach will be required. Any funding committed by this council would be conditional on a satisfactory proposal resulting from the review and the full contributions being approved by the other four Local Authorities.

25. Further to the financial grant award it is expected that the County Council's Growth Unit will support the project from existing staff resource, providing additional benefit in kind.
26. The Director of Corporate Resources and/ Director of Law and Governance have been consulted on this report.

Development Corporation: Business Case

27. Significant progress has been made in considering the strategic and economic case for the Development Corporation, with the evidence pointing to transformational benefits for the region, with 84000 jobs, £4.8bn Gross Value Added (GVA) and at least 4,500 homes to be delivered in the coming decades.
28. The EMDC will contribute substantially to inclusive, zero carbon growth and levelling up by initially realising the enormous potential of the three key sites:
 - HS2 Hub at Toton and Chetwynd - a new destination for knowledge-driven jobs and an exemplar zero carbon mixed-use community, showcasing next generation living, with a HS2 hub station offering unrivalled connectivity;
 - Ratcliffe Power Station and East Midlands Airport Area that together will provide a demonstrator for new technologies and methods of:
 - Production and energy generation and supply
 - Transport and digital connectivity
 - It is proposed that the Airport would be the UK's only Inland Freeport with the Country's largest and only 24-hour dedicated air freight hub being its main entry point to the freeport
 - A global multi-modal hub and centre for trade and logistics with substantial housing growth is proposed across the wider area
 - Creation of 'ZERO' on the Ratcliffe Power Station site, an international centre for the development of market-ready zero emission technologies.

Development Corporation: Benefits for Leicestershire

29. In addition to the broad programme benefits outlined above, there are a number of specific benefits for each of the five local authority areas. For Leicestershire the identified benefits for the East Midlands Airport site include:
- Retaining and enhancing the unique and special qualities of existing communities.
 - A world-class green and blue environmental investment programme with Research and Development in climate change and zero carbon.
 - Sensitively located and carefully thought through co-location of mixed uses, with the potential for incorporating new homes, employment opportunities and infrastructure investment within that world-class landscape.
 - Investment in major infrastructure improvements which include enhancing J24 M1; enhanced links to the A453 and A50 – including the option to dual the A453 connection to the A42, along with improvements to A42 Junction 14.
 - An enhanced transport hub at East Midlands Airport connected to the East Midlands Parkway rail station and the HS2 Hub at Toton.
 - Enhanced rail head connection from the SEGRO Logistics Park at East Midlands Gateway to the wider rail network.
 - Shared benefits from the key sites in the wider East Midlands Development Corporation programme.
30. Work is continuing on the preparation of the detailed business case. It will establish a case for change, a value for money assessment, commercial viability, financial affordability and a route to delivery. It is expected that this will be submitted to Government in March 2021.

Freeport Proposals

31. East Midlands Airport (EMA), in collaboration with the D2N2 Local Enterprise Partnership, private sector businesses and landowners, is developing a bid to establish a 'Freeport' at the airport. This bid is expected to be submitted to Government by the end of 2020.
32. Freeports are secure customs zones located at ports where business can be carried out inside a country's land border, but where different customs rules apply. They can reduce administrative burdens and tariff controls, provide relief from duties and import taxes, and ease tax and planning regulations.

33. The Government's ambition is that Freeports will enhance trade and investment across the UK, boost growth and high-skilled jobs, and increase innovation and productivity in port regions, particularly those situated in or near areas of deprivation. Freeports will send a strong signal that the UK is an attractive trade and investment location which is open for business.
34. On 2 August 2019 the Trade Secretary announced the creation of new Freeports, intended to boost international trade and economic growth after Brexit. On 11 February 2020 the Government launched a public consultation on Freeport policy (a response was made by the Director of Corporate Resources, via the (officer) Freeport Working Group).
35. In early October 2020, Government published its response to the consultation, which includes:
- Government commitment to ambitious fiscal incentives associated with the Freeport, including access to employer National Insurance contributions to support investment
 - Potential new criteria to focus on Net Zero transition
 - New funds identified to support:
 - i. A Freeport Challenge Fund
 - ii. A Freeport Regulation Engagement Network
 - iii. Seed funding for capital projects
 - An expectation that bids will be supported by local authorities and LEPs
 - A commitment to rapid timeline in terms of competition and delivery.
36. East Midlands Airport and the bid consortium awaits publication of Government's formal competitive Freeport bid submission process and timetable, but this is expected to be confirmed before the end of 2020.
37. The County Council continues to be an active participant represented at the 'Freeport Working Group', chaired by D2N2 and comprising key regional public and private sector stakeholders.

Timetable for Decisions (including Scrutiny)

38. It is intended that detailed proposals will be submitted to the Cabinet for consideration at its meeting on 15 December 2020. As there is no further meeting of the Scrutiny Commission before then, the Cabinet report will be circulated to the Commission to enable its members to submit further comments direct to the Cabinet at that time. The views of the Commission arising out of this meeting will also be submitted to the Cabinet for consideration.

Equalities and Human Rights Implications

39. There are no equality or human rights implications arising from these proposals.

Environmental Implications

40. Environmental Implications will be identified, managed and mitigated through the Interim Vehicle 'Biodiversity Net Gain' Workshop throughout the project, which includes representation from relevant subject matter experts at the County Council.

Background Papers

Report to the Cabinet on 24 March 2020 "Midlands Engine Development Corporation Proposals".

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5993&Ver=4>

Circulation under the Local Issues Alert Procedure

None.

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