

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL – TUESDAY, 17 NOVEMBER 2020



Title of Report	ESTABLISHMENT OF COMPANY TO BE KNOWN AS 'EM DEVCO LIMITED'	
Presented by	Councillor Robert Ashman Planning and Infrastructure Portfolio Holder	
Background Papers	Report considered by Community Scrutiny – 28 October 2020 Report considered by Cabinet – 10 November 2020	Public Report: Yes
Financial Implications	It is proposed that a financial contribution of £500k over 3 years is made to support the Interim Vehicle is agreed and the amount in excess of the £100k provision already included in the 2020/21 General Fund revenue budget is met from the reallocation of existing Economic Development earmarked reserves no longer required for their original purpose.	
	Signed off by the Section 151 Officer: Yes	
Legal Implications	The Council is working collaboratively with Rushcliffe Borough Council and Broxtowe Borough Council and joint external legal advice has been sought by the 3 districts. Legal advice has been received on the creation of the Interim Vehicle, the Members' Agreement and Articles of Association and the content of this report.	
	Legal advice regarding State Aid will be provided collectively to the 5 Member Councils and will be provided to Council before the meeting on 17 November 2020.	
Staffing and Corporate Implications	No staffing implications. The proposal supports economic recovery and corporate Delivery Plan priorities	
	Signed off by the Head of Paid Service: Yes	
Purpose of Report	To outline the progress made in considering the strategic and economic case for a development corporation and set out the recommendations for establishing the Interim Vehicle (to be known as EM Devco) which includes North West Leicestershire District Council as a member of the company.	
Recommendations	THAT COUNCIL:	

	<ol style="list-style-type: none"> 1. NOTE THE WORK THAT HAS BEEN DONE TO DATE ON THIS PROJECT AND THE RECOMMENDATIONS FROM CABINET AT THEIR MEETING ON 10TH NOVEMBER 2020 WHICH WILL BE DETAILED IN AN UPDATE REPORT FOLLOWING THE MEETING; 2. APPROVES MAKING A FINANCIAL CONTRIBUTION OF £500,000 TO SUPPORT THE INTERIM VEHICLE OVER THE NEXT 3 YEARS, WITH THE ADDITIONAL FUNDING REQUIRED TO BE ALLOCATED THROUGH THE REALLOCATION OF EXISTING ECONOMIC DEVELOPMENT EARMARKED RESERVES NO LONGER REQUIRED AND SUBJECT TO THE AGREED FUNDING CONTRIBUTIONS FROM OTHER AFFECTED LOCAL AUTHORITIES AND GOVERNMENT FUNDING BEING SECURED; 3. APPROVES THE COUNCIL TO JOIN THE INTERIM VEHICLE AND PARTICIPATE IN THE INCORPORATION OF IT; 4. APPROVES IN PRINCIPLE TO THE COUNCIL ENTERING INTO THE MEMBERS AGREEMENT AND PARTICIPATING IN THE INCORPORATION OF THE INTERIM VEHICLE CLG AND DELEGATES AUTHORITY FOR AGREEING THE FINAL FORM OF THE MEMBERS AGREEMENT AND ARTICLES OF ASSOCIATION TO THE STRATEGIC DIRECTOR (PLACE) IN CONSULTATION WITH THE PLANNING AND INFRASTRUCTURE PORTFOLIO HOLDER; 5. NOTES THE PROPOSAL TO APPOINT THE PORTFOLIO HOLDER FOR PLANNING AND INFRASTRUCTURE AS DIRECTOR OF THE INTERIM VEHICLE BY CABINET AT ITS MEETING ON 10 NOVEMBER 2020
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1. BACKGROUND

1.1 In February 2019 the Government approved funding for a 2 year programme to explore the business case for a locally led development delivery vehicle for the East Midlands and asked the Midlands Engine to lead the work. The Midlands Engine was asked to consider three 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).

1.2 The development corporation 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 districts alongside private sector; business community; central government; LEP's; and university representatives. The Executive Group is a smaller group of executive officers. Both are chaired by Sir John

Peace, as chairman of the Midlands Engine. Anthony May (Chief Executive of Nottinghamshire County Council and Chair of the Midlands Engine Operating Board) is the Senior Responsible Officer and Ken Harrison is the Programme Director.

- 1.3 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.

2. PROGRESS TO DATE

- 2.1 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 84k jobs, £4.8bn Gross Value Added (GVA) and at least 4,500 homes to be delivered.

- 2.2 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 & 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;
 - a proposal to 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 proposed across the wider area; and
 - creation of ZERO on the Ratcliffe Power Station site, an international centre for the development of market-ready zero emission technologies.

- 2.3 In addition to the broad programme benefits outlined above, there are a number of specific benefits for each of the five authority areas. For North West Leicestershire District Council the identified benefits include the development of a comprehensive and integrated plan for the area around East Midlands Airport which will create a series of attractive and deliverable investment propositions including:

- Retaining and enhancing the unique and special qualities of our existing communities
- A world-class green and blue environmental investment programme with R&D 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
- 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
(Appendix A)

2.4 Work is continuing on the preparation of the detailed business case, which will set out to Government how it meets the criteria for public-sector intervention. It will establish a case for change, a value for money assessment, commercial viability, financial affordability, and a route to delivery. It is anticipated that this will be submitted to Government in March 2021.

2.5 The initial stages of the programme highlighted the lack of any off-the-shelf model in statute to deliver the region's aspirations for a locally led approach of the kind envisaged. Instead a new model of governance is required, a Locally Led Urban Development Corporation (LLUDC).

2.6 There has been an ongoing and positive dialogue with Government regarding the most appropriate legislative pathway to establish this new type of Development Corporation:

2.6.1 In January 2020, the Midlands Engine responded to the MHCLG 'Development Corporation Reform: Technical Consultation';

2.6.2 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; and

2.6.3 In August 2020, the [Planning White Paper consultation "Planning for the Future"](#) includes positive reference to the Development Corporation work on page 69 with the following statement:

"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."

2.7 The Parliamentary processes required to establish a new type of development corporation will take time and at the July meeting of the Oversight Board, partners endorsed the establishment of an Interim Vehicle to maintain momentum, subject to approval of the five directly affected local authorities.

3.0 ESTABLISHING THE INTERIM VEHICLE

3.1 Subject to the approval of the recommendations in this report, the Interim Vehicle, to be known as EM Devco will be incorporated on a date to be confirmed in the form of a Company Limited by Guarantee (CLG). The five local authorities with administrative responsibilities within the current scope of the programme (Toton, Chetwynd Barracks, East Midlands Airport Area and the power station at Ratcliffe on Soar), will be the members of the company, namely:

- Broxtowe Borough Council
- Leicestershire County Council
- North West Leicestershire District Council

- Nottinghamshire County Council
- Rushcliffe Borough Council.

3.2 The Interim Vehicle will, in part, mirror the intended form of the statutory Development Corporation and will consist of:

- An Oversight Authority comprising the 5 Local Authorities who will be the guarantee holders and corporate 'Members' of the CLG;
- An independent skills-based board of directors, including up to 11 directors, made up of a combination of independent and non-independent directors - the independent directors will be appointed through an open recruitment process and non-independent will be representatives from the 5 local authorities; and
- Local delivery vehicles/ special purpose vehicles or joint ventures for each site.

3.3 The Interim Vehicle will not have any statutory powers, these will remain with the relevant local authority partner until the establishment of the statutory development corporation.

3.4 The draft Members Agreement and draft Articles of Association set out the formal constitutional arrangements for the CLG and a summary of the key matters included in those documents are attached in **Appendix B**. Approval to establish the Interim Vehicle will confirm the authority's agreement to the details within these documents. The two County Councils (Leicestershire and Nottinghamshire) have jointly commissioned Bevan Brittan and the three District & Borough Councils (Rushcliffe, Broxtowe and North West Leicestershire) Browne Jacobson to provide independent advice. The draft Members Agreement and Articles of Association have been based on an agreed set of principles developed between the 5 Local Authorities.

3.5 There remain a few matters outstanding to be resolved between the councils however these are being narrowed all the time. At present the key matters to be agreed are:

- The form of funding contribution and the documentation to support this;
- Agreement on how changes to the articles may be brought about as well as the process for moving from this Interim Vehicles to a development company;
- Division of liability for staff or upon winding up the Interim Vehicle;
- The process for approving director conflicts of interests to ensure that directors appointed by a council with an interest in a decision are able to take part in discussion and vote;

3.6 Once established the first key task 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.

4.0 FINANCIAL IMPLICATIONS

4.1 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 programme team has also received

additional resources through a mix of direct funding and in kind support from partner Local Authorities.

4.2 The Interim Vehicle will require additional funding to bring forward the proposals. As such, in September 2020 the programme submitted a £18.6m ask to Government as part of the Comprehensive Spending Review 2020 (CSR) process to cover the first three years, which is awaiting decision (**Appendix C**).

4.3 The CSR proposition includes the establishment of a dedicated and focussed team and governance structure to rapidly progress delivery and undertake the following tasks, which would be crucial steps to delivering the benefits highlighted above in paras 6-8. This would include:

- Providing detailed, deliverable investment plans
- Establishing commercial arrangements
- Investing in enabling infrastructure which unlocks the key sites
- Acquiring and assemble the land needed for coherent delivery of homes and jobs
- Delivering key early outcomes:
 - 1,500 additional new homes
 - 500 jobs
 - £25m Gross Value Added (GVA) Growth per annum
 - Paving the way for statutory development corporation with powers and investment.

4.4 The five constituent local authorities have agreed (subject to individual council approval) that North West Leicestershire District Council, Broxtowe Borough Council and Rushcliffe Borough Council will contribute £500k each for the three years of the interim vehicle and Leicestershire and Nottinghamshire County Councils will both make a contribution of £500k per year for the three years.

4.5 The profile of payment is still to be determined and will be reviewed should the government choose not to fund, although there is an expectation of some revenue funding to be cash flowed (which will be announced in the comprehensive spending review at the end of November 2020).

The financial commitment is subject to confirmation that this contribution does not contravene State aid rules (which are in a state of flux because of Brexit). Legal advice is being sought by the five member councils on State Aid now that agreement has been reached on the contributions from each authority. This advice will be provided to Council before the meeting on 17 November 2020.

4.6 A revised spend profile based on a reduced amount has been prepared (refer **Appendix D** - Interim Vehicle Programme & Budget 2021/22) however, the ask of government remains at £18.6m. All decisions by other authorities will be made by the end of December 2020.

4.7 It is proposed that North West Leicestershire District Council's contribution to support the interim vehicle over the next 3 years is agreed at £500k. Funding for this contribution is proposed to be met through the existing £100k provision within the 2020/21 General Fund revenue budget and £400k from reserves.

4.8 The reserves identified to be used to fund the remaining £400k contribution relate to Economic Development earmarked reserves that are no longer required for their

original purpose. This includes £261,339 of residual funding within the Coalville Project earmarked reserve for which there are no further one-off expenditure commitments outside of the annual budget. A further £148,078 of unutilised funding in relation to the original £450,000 Shop Front Grants scheme is also proposed, following the latest round of applications and grants having been allocated.

5.0 OTHER OPTIONS CONSIDERED

- 5.1 Not to establish the Interim vehicle, but this is highly undesirable because momentum would stall and the deliverability of the benefits set out in this report would be put into considerable doubt.
- 5.2 As outlined, there is an expectation from the Midlands Engine that local authority partners fund the development corporation interim vehicle for its planned three years of operation. Providing this funding will ensure that the Council has a seat at the table to play a key role in shaping the Development Corporation into the future to ensure the delivery of maximum benefit for North West Leicestershire and the region.
- 5.3 The alternative option is to not support this proposal. However, the Development Corporation could continue without the support of local authority partners, although this would be far from ideal. In the short term, North West Leicestershire District Council will retain planning control but in the longer term (when the formal development corporation is established) this is unlikely to be the case and therefore the Council would lose any control of the site and its future development.

6.0 LEGAL AND GOVERNANCE IMPLICATIONS

Proposed Development Corporation

- 6.1 The Midlands Engine has instructed Pinsents to advise it in relation to this matter. Pinsents have given detailed advice in relation to the various potential options for establishing a development corporation which has been reviewed by Browne Jacobson on behalf of the District/Borough Councils. 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 membership 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 include the ability to approve planning applications.
 - To be able to undertake delivery of projects and infrastructure, including the ability to determine planning applications and grant development orders. This will avoid multiple applications to separate local authorities where applications span more than one local authority area.

6.3 A number of existing forms of vehicles were considered with a view to meeting these requirements:

- A simple joint venture – considered to be inappropriate because it would not have the requisite power to progress this project with the complex make up of authorities and stakeholders involved.
- A Locally Led New Town Development Corporation – whilst this form of vehicle enjoys many of the powers identified for this project and is locally led, under existing legislation it would not have plan making or planning enforcement powers and it does not have the power to become a community infrastructure levy charging authority and so is limited in the funding streams it may be able to access.
- An Urban Development Corporation – there are many benefits to this form of vehicle, however the Secretary of State has the power to give binding directions with which the vehicle must comply and so it does not have the benefit of being truly locally led.
- A Development Consent Order – these vehicles can have wider ranging powers but do have restrictions in terms of transport and economic development powers.

6.4 As none of the above existing vehicles are considered to meet all of the requirements of the proposed development corporation a new form of Locally Led Urban Development Corporation is proposed. This will require new primary legislation to be passed by Parliament. If legislated as suggested then this new form of vehicle will offer the greatest benefits to the local authorities going forwards.

Power to Establish the Development Corporation

6.5 The power to establish the proposed form of development corporation will come through primary legislation, in a similar way to the current forms of Urban Development Corporation and Locally Led New Town Development Corporation. In both of those cases there is primary legislation in place which broadly provides a power to the Secretary of State to designate an area for the relevant purpose and to establish the relevant vehicle by way of an order of the Secretary of State. Such an order will provide certain powers to the vehicle established by the order, with the Secretary of State potentially being able to exclude powers. Depending on the nature of the vehicle proposed there are differences as to the process to be undertaken and also the nature of the order that may be made by the Secretary of State. In both cases Parliamentary approval of the order is required.

6.6 The proposal for the new form of development corporation follows a similar process. Primary legislation will be required in order to provide the Secretary of State with the power to designate an area and establish a development corporation by way of an order. Parliamentary approval of the proposed order will be required.

6.7 As such the Council will not take a formal decision to establish the proposed development corporation. This will be a matter for the Secretary of State with the approval of Parliament. The Secretary of State will however be required to consult in relation to the designation of an area and the making of an order to establish the development corporation. The Council will have the opportunity to respond to that consultation with a view to shaping the nature of the development corporation and the powers afforded to it. The Council may also make proposals directly to the Secretary of State in relation to the development corporation.

- 6.8 The possibility of the primary legislation itself establishing the development corporation without further steps being required by the Secretary of State is being explored. However whether this is required will depend on how the primary legislation progresses.
- 6.9 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. The position that is established with the Interim Vehicle is likely to be reflected in the development corporation in due course.

Nature and Structure of the Development Corporation

- 6.10 The powers of the proposed development corporation will depend on the nature of the primary legislation that is ultimately passed. Whilst at this stage this is uncertain, it is proposed that this form of development corporation will be able to take on powers in its area to include acting as:
- Planning authority
 - Highways authority
 - Local transport authority
- 6.11 The Council's main role following establishment of the development corporation will be within the proposed oversight authority. The functions available to the oversight authority will be conferred by the legislation and the order creating the development corporation, but proposals include:
- The ability to give directions to the development corporation;
 - The ability to appoint members of the development corporation;
 - A requirement to give consent or approval to the acquisition or disposal of land by the development corporation; and
 - A requirement to give consent in the event that the development corporation seeks to have additional powers conferred on it by a subsequent order.
- 6.12 Again the benefits of the Council being involved in the Interim Vehicle is that the position that is established is likely to be reflected in the development corporation in due course, and this provides the Council with the ability to influence the nature of the future development corporation.

Legal Implications for the Council of the Proposed Development Corporation

- 6.13 The key legal implication for the Council of the proposed development corporation is that to the extent that any powers in respect of a particular area are afforded to the development corporation, the Council will no longer be able to exercise such powers. As such the Council will lose a degree of control over those matters, the functions in respect of which are then to be exercised by the development corporation.
- 6.14 The potential for the legislation to include an ability for powers of the development corporation to be "switched on and off" is being explored. For example, certain powers may be afforded to the development corporation for certain phases of development, and otherwise revert to the Council. Again this is only a proposal at this stage and what is ultimately the position will depend on the nature of the proposed primary legislation.

6.15 The Interim Position

Power to Join the Interim Vehicle

- 6.16 In the interim it is proposed that an Interim Vehicle be established as set out in this report. This Interim Vehicle is proposed to be in the form of a company limited by guarantee. The Council's power to join a company limited by guarantee comes from the general power of competence in Section 1 of the Localism Act 2011 ("the 2011 Act"). This gives the Council the power to do anything that an individual might do. The power is restricted by Section 4 of the 2011 Act which requires that a thing done for a commercial purpose must not be something that the Council is required to do by statute, and must be something that the Council may also do for a non-commercial purpose. Pursuant to Section 4, when doing something for a commercial purpose the Council must do this through a company, which includes a company limited by guarantee.
- 6.17 Development and regeneration areas have regularly utilised the general power of competence, and the Council may do so in the current matter.

Nature and Structure of the Interim Vehicle

- 6.18 As stated above, the Interim Vehicle will take the form of a company limited by guarantee. This means that the company will have no share capital, and the local authorities will be the guarantee holders and therefore the 'members' of the company.
- 6.19 Guarantees cannot be sold in the same way that shares can, therefore if a local authority wishes to leave the company they would hand their guarantee back and leave. They could not pass their guarantee on to another body or organisation. The local authorities may leave the company at any time by giving 12 months' notice to the other authorities that they wish to leave.
- 6.20 While guarantee holders, the local authorities can exercise their control over the company in two key ways:
- Each local authority can appoint a director to the board, who will have a say in the day to day running of the company; and
 - As members, the local authorities together can take direction on the 'Consent Matters' set out in Schedule 1 to the Members Agreement.
- 6.21 At present, the following key provisions of the Members Agreement are awaiting finalisation by agreement between the local authorities:
- The division between Tier 1 and Tier 2 Consent Matters;
 - Whether funding will be provided as a grant or loan;

Legal Implications for the Council joining the Interim Vehicle

- 6.22 By joining the Interim Vehicle the Council will not delegate any of its statutory powers to the Interim Vehicle. The Council will retain control of these powers and any planning decisions will revert to each Council to be taken. The Council will not be bound by the considerations of the Interim Vehicle in exercising those powers.
- 6.23 **Governance**
- 6.24 The table below sets out the decisions to be taken by the Council in relation to the Interim Vehicle and the relevant decision making body within the Council:

Decision	Decision Maker
To join the Interim Vehicle	Full Council
To contribute financially to the Interim Vehicle	Full Council
To appoint a director to the Interim Vehicle	Executive

7.0 PLANNING IMPLICATIONS

7.1 In advance of the statutory development corporation, it is anticipated that the Interim Vehicle would work with respective local authority partners to develop masterplans and supportive policy frameworks for the sites.

7.2 The five councils who will be the members of the Interim Vehicle will support it either individually or together through the following means:

- Planning policy expertise and related information associated with the three areas.
- Engage in site masterplanning and ensure consistency with Local Plan review processes;
- Consult with the Interim Vehicle and engage their planning teams on land use and transport planning policies being developed as part of the current reviews of local plans and strategies.
- Consult with the Interim Vehicle and engage their planning teams on planning applications and other development management decisions relating to the development of the sites.

7.3 At this stage the broad principles for the statutory development corporation would likely mean:

- Planning powers will only be sought for land within the proposed development corporation area. The range of powers may include, as examples, plan-making; development management and associated revenue raising (e.g. CIL and s106) and CPO powers. Should any planning powers be provided to the development corporation, consideration will be given to how they will interact with the powers held by the surrounding planning authorities in respect of both how the powers are expressed and how they will be exercised.
- The requirements under the duty to co-operate will apply between the development corporation and local authorities, should the development corporation obtain plan making powers.
- Community engagement and consultation will be enshrined from the outset through the preparation of a statement of community involvement (SCI) and with a statutory consultation process envisaged.
- Planning fee income, which operates on a cost recovery basis only, will be paid to the development corporation for planning applications within its boundary.
- The partners will seek to ensure that the constituent local authorities will have an important role as statutory consultees for planning applications (and policy

through the duty to co-operate and the SCI), which would ordinarily fall within their respective administrative areas.

- The development corporation will act as the s.106 and/or CIL authority for associated infrastructure and where appropriate this may include the development corporation requiring developers to make contributions to strategic infrastructure outside of the development corporation's area.

8.0 CONSIDERATION BY THE COMMUNITY SCRUTINY COMMITTEE AND CABINET

- 8.1 The Community Scrutiny Committee considered this report at their meeting on 28 October 2020. The minutes of the meeting are attached at Appendix E to this report and Cabinet considered Scrutiny Committee recommendations on 10th November 2020. Cabinet's comments will be provided in an update report to Council following their meeting.
- 8.2 Scrutiny Committee resolved to amend the recommendations which were under consideration. The effect of the amendment was that Scrutiny's endorsement of proposals to Cabinet was caveated on that basis that a detailed risk assessment would be undertaken before Cabinet were asked to make their decision. Scrutiny's comments and concerns are captured in the minutes of the meeting which are a background paper to this report.
- 8.3 Paragraph 9.0 below sets out the risks which were considered by Cabinet together with an additional high level issues and risks log which was prepared by the Midlands Engine Executive to respond to the concerns and issues raised by Scrutiny (**Appendix F.**)

9.0 RISKS

- 9.1 The Articles of Association and Members Agreement do not currently contain any financial obligation. In addition, under this documentation the Council is able leave its position as a Member of the Company at any time by giving 12 months' notice. The right to appoint a director would cease at the end of the 12 month notice period.
- 9.2 An arrangement has been made between the organisations for contributions to be made as set out in paragraph 4.4 above. The terms of this funding, including structure, timing and ability to withdraw or cease funding has not yet been discussed or agreed. The Council is advised that the terms of the funding from each Member council would need to be captured in a separate legal agreement. A further report will be taken to Cabinet on the mechanism and details of the funding agreement in due course.
- 9.3 Appointing a Director and being involved in the Consent Matter decisions increases control over and involvement with the project and is preferable to not being a member of the Interim Vehicle.
- 9.4 The Council will retain its statutory powers, including planning powers. It is not until the development corporation is formally established following the passing of relevant primary legislation and an order having been made by the Secretary of State that the development corporation will be afforded any statutory powers. The extent of the powers afforded to the development corporation will depend on the nature of the primary legislation passed and also the Order made by the Secretary of State. Early involvement in the Interim Vehicle may assist the Council in shaping the nature of the

development corporation. The loss of powers on the part of the Council can be mitigated by the extent to which the oversight authority retains power over any matters. This is likely to be influenced by the balance that can be struck in the interim period.

- 9.5 Depending on the exact nature of the final form of development corporation in the primary legislation, the Council may lose financial income from Section 106 contributions, community infrastructure levy payments and business rates. This however will only impact at the point of the development corporation being established and not the Interim Vehicle, and it is preferable for the Council to be actively involved during this interim period so as to have the opportunity to influence the potential longer term position.
- 9.6 There are risks that the Development Corporation does not get approval from Government or the required level of funding, in the immediate or longer term, and so it does not deliver or does not progress beyond the initial 3-year interim vehicle stage.
- 9.7 There is a risk that after the initial 3-year term, further funding will be required from local authority partners to support the development corporation. This will need to be reviewed by each individual partner at that point in time if required and based on outputs delivered to date. There is no commitment to fund beyond the initial three years. It is expected that if a statutory development corporation is set up by government in the future it will be funded and will be able to borrow and secure investment from private equity firms to deliver the ambitions.
- 9.8 These risks are set out in the High Level Issues and Risks Log at **Appendix F**.

Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> - Support for businesses and helping people into local jobs - Developing a clean and green district - Local people live in high quality, affordable homes - Our communities are safe, healthy and connected
Policy Considerations:	Planning implications are considered
Safeguarding:	None identified.
Equalities/Diversity:	The Development Corporation will work at levelling up to deliver jobs, business and growth accessible across the East Midlands.
Customer Impact:	None identified
Economic and Social Impact:	The Development Corporation is targeting transformational economic and social benefit to the region.
Environment and Climate Change:	Positive impacts of carbon neutral development, blue and green infrastructure and natural capital gain.
Consultation/Community Engagement:	Community engagement and consultation will be enshrined from the outset for the Statutory Development Corporation with the preparation of a statement of community involvement (SCI). Statutory consultation will include community groups.
Risks:	Risks are limited and identified within the report.
Officer Contact	James Arnold Strategic Director of Place James.arnold@nwleicestershire.gov.uk