

Meeting of the Council - 24th February, 2014

Report of the Cabinet

Dudley Business Investment Zone

Purpose of Report

1. To consider the proposals of the Cabinet regarding the creation of a Dudley Business Investment Zone at the Waterfront area of Brierley Hill.

Background

2. Following exclusion of the South Black Country elements from the approved Black Country Enterprise Zone (as part of the Government's national Enterprise Zone initiative), Cabinet approved (on 14th March 2012) the principle of a designated zone at the Waterfront in Brierley Hill where a business rate incentive would be used to stimulate investment, growth and jobs. Cabinet also authorised the Directors of the Urban Environment and Corporate Resources, in consultation with the appropriate property owners, to undertake further work in relation to this initiative and to report back to Cabinet with a detailed management and operational plan (attached as Appendix 3).
3. Whilst Cabinet approved the principle, subject to further feasibility, of approaching the initiative in three phases (Waterfront, Waterfront II and Harts Hill) it was agreed that initial work would focus upon the existing office park at The Waterfront (the location plan is attached as Appendix 1). A plan of the three phases is attached as Appendix 2.
4. Brierley Hill is designated as the Black Country's strategic centre in the Black Country Core Strategy (BCCS). The BCCS also provides the planning framework for an additional 1million sq ft of office space within the area, with the scope to create over 6,000 new jobs.
5. At the Waterfront, there is some 650,000 sq ft of high quality office accommodation, of which approximately 200,000 sq ft is currently vacant.
6. From April 2013, the business rates retention scheme enables local authorities to retain a proportion of locally collected business rates to help fund the services they provide. The Dudley Business Investment Zone will be an important scheme in promoting the long term development of the Borough's business rate base.

Scheme Overview

7. The Dudley Business Investment Zone would operate on the basis of a two-year business rate free period, subject to State Aid limits, for new occupants of vacant space in the designated area.

8. The cost of the business rate incentive would be shared equally by the Public Sector (Central Government 25%, the Council 24.5%, West Midlands Fire Authority 0.5% and the property owners 50%).
9. The lifetime of the scheme is proposed to be five years, commencing 1st April 2014 and ending on 31st March 2019. Therefore, to get the full two-year benefit of the scheme, businesses would have to take occupation of premises in the designated area by 31st March 2017.
10. The Council reserves the right to review the period of duration or operation of the scheme, and this can be changed by the Council at any time if it so decides.

Management Framework

11. To maximise the overall contribution of the scheme and to minimise financial cost and other risks to the Council, a draft management framework has been developed (Appendix 3).
12. It is proposed that the Dudley Business Investment Zone would be managed by the Council via a Management Board, the composition of which is to be determined.

Operating Model

13. An options appraisal for delivering the scheme has been undertaken. Legal advice has confirmed that the proposed operating model is compliant with appropriate legislation.

Financial Model

14. The financial implications of the scheme are set out below. The model utilises information on rateable values and expected business rate revenues generated by the Council as at 1st December 2013. All of the analysis has been undertaken using 2013 prices. That is, no allowance is made for the effects of inflation over the lifetime of the scheme.
15. The model is based on acceleration in the letting of office floorspace after the first year, with the net effect that the 200,000 sq ft of floorspace, available at the commencement of the scheme, is let in four years. Whilst it is difficult to be precise about the rate of occupation, it is considered that this estimate represents a 'worst case' scenario for the Council in terms of financial liability.
16. Under this scenario the assumptions are that the estimated gross cost of the incentive over the lifetime of the scheme - once the implications of the State Aids limit is factored in - would be £1.123 million, of which the Council's share would be £0.275 million (24.5%). At peak, the maximum annual value of the scheme is expected to be £0.315 million in Year 4 (2017/18), implying costs of £0.077 million for the Council.
17. The maximum discount available to any occupier would be subject to the de minimis exemptions allowed under EU State Aid rules. The maximum discount that can be provided is approximately £165,500 over 3 years.¹ However, in the case of the proposed scheme, the maximum proposed discount is set at £55,165 per year over a

¹ Based on the *de minimis* threshold of €200,000 and an exchange rate of €1.2085:£1.00, as at 3rd December 2013

two year period (i.e. £110,330 in total), which is the average annual de minimis rate applied over two financial years only.

18. It will be the Council's responsibility to ensure that there is no breach of the State Aid Regulations.
19. The model is very sensitive to this assumption in paragraph 17. The estimated costs of the scheme are based on a central case of 50% of the new occupiers being subject to the State Aids maximum threshold. If none of the occupiers were subject to the State Aids maximum threshold, then the cost to the Council would be £0.483m rather than £0.275m.

Proportion of Occupiers subject to State Aids maximum threshold	Cost to Council of incentives £m (2014/15-2018/19)
0%	0.483
25%	0.379
50% (central case)	0.275
75%	0.173

20. The risk set out in paragraph 19 will be managed in two ways:

- The scheme would be closed early to new entrants if potential costs to the Council threatened to exceed available financial resources; and
- The scheme will be managed to give priority to larger lettings.

Through the above mitigating actions, the risk to the Council is reduced to a minor risk in the risk assessment for the project.

21. The key results of the financial plan from the perspective of Dudley Council are as follows:

- The gross cost to the Council of providing the business rate incentives at The Waterfront is estimated at £0.275m (based upon the 50% letting subject to the State Aids maximum).
- Post 2019, the strategy is based on the potential for longer term growth of net business rate revenue resulting from the development of the planned future phases for the area. This would allow for the collection of business rates on approximately 1.4 million sq ft of premises in total rather than the current 650,000 sq ft, as a result of expansion of the existing campus.

22. If significant amounts of floorspace in the area are lost to other, non-employment yielding land uses (such as through the conversion of some or all of the building for residential purposes) then the results presented in the financial model will be re-calculated to take on board the potential loss of business rates revenues and/or economic benefits.

Economic Benefits

23. There are two key potential economic development outcomes for a successful scheme.

These are:

- The opportunity to maximise the job hosting potential of currently available floorspace at The Waterfront; and
- The opportunity to maximise the value of economic output (Gross Value Added)²

24. The gross employment yielding potential of the 200,000 sq ft of floorspace currently vacant at The Waterfront is estimated to be approximately 1,400 jobs.
25. The knock-on benefits of these jobs, in terms of stimulus to other businesses through supply chain impacts and expenditure by workers, are estimated to amount to a further 200 gross indirect jobs in the local economy.
26. The overall cumulative impact in terms of gross employment (direct plus indirect) is estimated to be approximately 1,600 in the wider local economy, when the eligible floorspace is fully occupied.
27. In terms of net additional employment, it is expected that 1,160 jobs could be generated for Dudley MBC residents.
28. The net addition to the value of the local economy by the same year is expected to be £68.8 million per annum (in 2012 prices).
29. Another key benefit of the scheme is that, by increasing occupation levels at the Waterfront, the viability of the next phase of office development in the area (up to a further 750,000 sq ft) is increased and meaningful discussions with potential development consortia can commence.

Consultation

30. There have been ongoing discussions with Council Officers and the two major Waterfront property owners during the development of the scheme.
31. An initial written consultation exercise was undertaken with the ten minority property owners in December 2012, from which four responses were received, all in support of the scheme.
32. Detailed consultation on scheme proposals took place with Waterfront property owners and property agents between November and December 2013. Overall, the response to the presentation of proposals was very positive and owners welcomed the fact that the Council is suggesting measures and committing resources to help to overcome the decline in occupation of The Waterfront.

Complementary Investment Strategy

33. Work will be undertaken to identify potential regeneration initiatives for The Waterfront that will complement the scheme, aiming to encourage more businesses to locate at the site and take up vacant premises and broaden the range of uses in The Waterfront in

² Gross Value Added is a measure of the value of economic output in the economy, and is conventionally used across the EU to measure the value of economic activity in sub-national areas (regions, sub-regions, etc.) or the value of production of particular industries.

response to changed market conditions consistent with the evolution of the Brierley Hill area as a mixed commercial and residential centre.

Permitted Development Rights

34. On 6 September 2012 the Government announced, as part of a package of measures to support economic growth, that permitted development rights would be introduced to better enable change of use from commercial to residential purposes. The changes came into force on 30th May 2013.
35. The new rights are for a time-limited period of three years, and the Government will consider towards the end of that period whether they should be extended indefinitely. The change has been accompanied by a tightly drawn prior approval process which will cover significant transport and highway impacts, and development in areas of high flood risk, land contamination and safety hazard zones.
36. Alongside the new permitted development rights, the Government announced that local authorities would be given an opportunity to seek an exemption for specific parts of their locality. The Council applied for an exemption for designated high quality employment areas and the Waterfront area. This application, in common with the majority of others around the country, was unsuccessful.
37. Whilst the Council would not necessarily resist applications for change of use in rational locations, or self-contained areas, the permittance of sporadic conversions could prejudice the letting of adjacent office space.
38. Article 4 of the Permitted Development Order (as amended in 2010) allows a Local Planning Authority (LPA) to apply a Direction to withdraw the permitted rights granted by the Order, where it is satisfied it is expedient that development should not be carried out, unless permission is granted for it by application.
39. Ensuring that the change of use or any demolition of the building(s) requires planning permission does not necessarily prevent such development taking place but it will allow the LPA some control to fully consider the wider implications of the works, and ensure that the views of others, with an interest in this matter, are able to be fully taken into account before a decision is taken.
40. It is therefore proposed that, should the Council consider that there are exceptional circumstances to do so, the Council apply an Article 4 Direction to control demolition and change of use of The Waterfront (except for the Point North building which will be subject to controls over demolition only due to the recent planning approval for residential conversion).
41. A report on the above will be taken to the Development Control Committee on 17th February 2014.
42. On consideration of the information contained in this report, the Cabinet, at its meeting held on 12th February, 2014, resolved to recommend the Council to approve the proposals set out in paragraph 53 below.

Finance

43. Local authorities have been given new powers to award further discretionary reliefs under the Localism Act 2011. The government will pick up 50% of the cost of this relief and therefore the net cost to Dudley, (based upon the assumption of 50% of new occupiers will be subject to state aid limits) is estimated to be £0.275m.
44. The cost to the West Midlands Fire Authority of awarding this discretionary relief is estimated to be £5,600 (based upon the assumptions in this report).
45. As stated in paragraph 13, the financial model is sensitive to the assumption that 50% of occupiers will be subject to state aid limits. In the worst case scenario where none of the occupiers will be subject to state aid limits, then the cost to the Council is estimated to be £0.483m. However, the mitigating actions set out in paragraph 20 significantly reduce this risk.
46. The overall cost may also vary if rateable values in the Business Investment Zone decline or recover more than the assumptions used at the time of writing this report. The cost to property owners participating in the scheme is estimated to be £0.562m based upon the assumptions used.
47. The scheme will close on 31st March 2019. Business rate discounts offered to tenants before 31st March 2017 will apply for the normal two year maximum period. After 31st March 2017, the business rate discount will be applied on a reducing basis up to 31st March 2019.

Law

48. Pursuant to Section 1 of the Localism Act 2011, the Council has the general power of competence to do anything that individuals generally may do.
49. Section 69 of the Localism Act 2011 amends section 47 of the Local Government Finance Act 1988 to allow local authorities to reduce the business rates of any local ratepayer.
50. A Direction is made under Article 4(1) of The Town and Country Planning (General Permitted Development) Order. Before making an Article 4(1) direction, the Council as local planning authority must consider it expedient that development should not be carried out without a planning application first being made and approved. (An article 4(1) direction can relate to specific or general development).
51. The law is clear that permitted development rights should only be withdrawn in exceptional circumstances. However, an Article 4 direction does not constitute an absolute prohibition of development; it simply requires that an express application for planning permission is to be made and then considered on its merits.

Equality Impact

52. This work has been conducted in full accordance with the Council's equality and diversity policies and should in no way have any prejudicial impact on different racial groups, disabled people, both genders and/or other relevant groups.

Recommendations

53. It is recommended:-

- That the Council's approval be given to create a Dudley Business Investment Zone at the Waterfront area of Brierley Hill from the start of the 2014/15 financial year.
- That the Cabinet Member for Regeneration be authorised to determine the composition of the Management Board.
- That the Directors of the Urban Environment and Corporate Resources, in consultation with the Cabinet Members for Regeneration and Finance, be authorised to:
 - Negotiate and enter into the required legal agreements for the Dudley Business Investment Zone.
 - Create appropriate delegations for the financial administration of the Dudley Business Investment Zone.
 - Update and amend the draft management framework.
 - Amend the Council's discretionary rate relief policy to allow the reduction in business rates for businesses within the designated area for the Dudley Business Investment Zone, as detailed above.



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Leader of the Council