



Leicester
City Council

WARDS AFFECTED
All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Overview and Scrutiny Management Board
Cabinet

5th March 2009
9th March 2009

**ESTABLISHMENT OF SUB-REGIONAL ECONOMIC DEVELOPMENT
ARRANGEMENTS AND ECONOMIC DEVELOPMENT COMPANY**

Report of the Chief Operating Officer and Deputy Chief Executive

1. PURPOSE OF REPORT

- 1.1 This report updates and seeks Cabinet approval to complete the establishment of the new sub-regional economic development arrangements (including emda Sub-Regional funding programme, Multi Area Agreement and Support Unit) and Leicester and Leicestershire Economic Development Company (EDC).

2. SUMMARY

- 2.1 This report outlines progress and seeks Cabinet approval for the final stages in establishment of the new Leicester and Leicestershire sub regional economic development arrangements including the Leadership Board, Coordination Group, Strategy and Performance Groups, officer Support Unit based at the City Council, Multi-Area Agreement and Proposed Economic Assessment for the sub region.
- 2.2 This report also updates on progress on the establishment of an EDC for Leicester and Leicestershire which is due to commence activity from April 2009. Delegated authority is sought to endorse the reconstitution of the Leicester Regeneration Company Limited as the new Economic Development Company and the acceptance of the County Council into membership of the company.
- 2.3 Establishment of the EDC will achieve one of the key Enterprise and Skills priorities included in the 'One Leicester' 25 year vision.

3. RECOMMENDATIONS

- 3.1 Cabinet are requested to:
- a) Note progress in relation to the Multi Area Agreement, Leadership Board, Coordination Group, Strategy and Performance Groups, officer support unit and commencement of the Economic Assessment for the sub region.
 - b) Delegate authority to the Chief Operations Officer and Deputy Chief Executive the finalised structure of the officer support unit to be based at the City Council.
 - c) Endorse the reconstitution of the Leicester Regeneration Company Limited (of which the Council is Corporate Member) as the new Economic Development

- Company for Leicester and Leicestershire and delegate authority to the Chief Operations Officer and Deputy Chief Executive to act on behalf of the Council in securing this transition.
- d) Nominate Councillor Patrick Kitterick as a non-executive director of the new company and delegate to the Chief Operations Officer and Deputy Chief Executive authority to nominate a second Director to the board of the new company.
 - e) That Alistair Reid be appointed as the representative of Leicester City Council for the purposes of the annual general and extraordinary general meetings of the Leicester Regeneration Company Limited (or as renamed) and is authorised to vote on behalf of Leicester City Council in all matters to be transacted at such meeting/s
 - f) That the Chief Operations Officer and Deputy Chief Executive be authorised to negotiate the terms of the funding agreement with the EDC in respect of the delivery of a programme of work in support of the sub regional arrangements described in this report and within the available funding.
 - g) For note, the Cabinet meeting of 8th December 2008 previously agreed delegation in relation to the Head of Legal Services in consultation with the Cabinet Lead for Regeneration and Transport to finalise the agreements as set out in paragraphs 4.3 & 4.4.

4. REPORT

Background

- 4.1 As outlined in the December 2008 Cabinet report sub-regional economic development arrangements have resulted from:-
- The Government's sub-national review of Economic Development and Regeneration which proposes a greater role for upper tier local authorities in leading economic improvement at the sub regional level and a broader but more strategic role for Regional Development Agencies.
 - Leicester and Leicestershire functioning as a single economic area and being therefore, the appropriate geography for carrying out economic leadership functions;
 - the opportunities to align City and County economic development activity particularly in relation to Local Area Agreements and through a new Multi Area Agreement

Sub Regional Economic Development Structure

- 4.2 The proposed new economic development structure for Leicester and Leicestershire was considered at Cabinet in December 2008. This is attached as Appendix 1 for information.
- 4.3 The **Leadership Board** has been created with board membership as proposed in the previous Cabinet report. Two legal agreements will underpin the work of the Board and the wider sub regional structure. The first in relation to the role, remit and terms of reference of the Board and the second to establish the working relationship between the City and County Councils in relation to the City Council hosting the supporting unit and accountable body function. Delegated authority is sought from Cabinet for the Chief Operations Officer and Deputy Chief Executive to finalise these legal agreements.
- 4.4 A further legal agreement has been completed between emda, Leicester City Council and Leicestershire County Council in relation to management of the emda sub-regional

funding allocation. Projects that are due to complete prior to 1st April 2009 will be overseen by LSEP and emda. Any liabilities for projects that cease prior to 31st March 2009 will remain with either EMDA or LSEP. For projects that continue from 1st April 2009 these will be novated to Leicester City Council as the Accountable Body. However, EMDA indemnifies Leicester City Council in respect of projects that cease to exist prior to 31st March 2009 and any projects that are novated after 1st April 2009 subject to the terms and conditions of the EMDA agreement.

- 4.5 As part of the sub-regional arrangements, a **Co-ordination Group**, which provides support to the Leadership Board, has met and terms of reference have been agreed. The themed **Strategy and Performance Groups** have also met and draft terms of reference have been established with these groups. The Strategy and Performance Groups are as follows:-
- Enterprise & Business
 - Rural Partnership
 - Housing, Planning and Infrastructure
 - Transport
 - Efficiencies
 - Employment and Skills
- 4.6 The officer **Support Unit** for the new sub regional arrangements will be located within the Economic Development Function of the Planning and Policy Division of the City Council. TUPE consultation has commenced with staff transferring from the Leicester Shire Economic Partnership which is scheduled for completion by 1st April 2009.
- 4.7 The Support Unit will:
- Provide the support to the Leadership Board, Co-ordination Group and the Strategy and Performance Groups.
 - Develop and support the creation of a Economic Assessment which is a new statutory duty for Local Authorities by April 2010
 - Lead on the delivery of the Multi-Area Agreement
 - Creation of a new Economic Strategy by 2010
 - Programme Management of the emda Sub-Regional Allocation
 - Creation of a Sub Regional Investment Plan by 2010 to meet with EMDA's contract
- 4.8 Funding for the Leadership Board and support structures is £525k of which £80k is Leicester City Council's contribution in line with the funding detailed in the December 2008 Cabinet paper.
- 4.9 Delegated authority is sought from Cabinet for the Chief Operations Officer and Deputy Chief Executive to finalise the Support Unit structure taking into account TUPE transfers.
- 4.10 Work on the creation of an **Economic Assessment** for April 2010 has already commenced with establishment of a Programme Board and this will help to inform the future strategy and programme to be delivered across Leicester and Leicestershire.

- 4.11 To update on progress, a news alert is being created which will provide monthly updates on progress in relation to all sub-regional activities. This is issued via email and issued by the Economic Development Team of Leicester City Council, contact Joanne Ives.
- 4.12 Following approval by Cabinet in December 2008, work has progressed on the **Multi-Area Agreement** which was officially signed off by Government on 12th January 2009. A summary document of the Multi-Area Agreement is attached as Appendix 2.

Economic Development Company

- 4.13 A report was considered by Cabinet on 14 July 2008 where approval was given for:
- the principles, direction of travel and functionality of the EDC
 - the establishment of the EDC as set out in the work programme, and
 - the early appointment of a Chief Executive to be responsible for driving this programme forward and leading the new organisation
 - a further report to Cabinet before March 2009 formally launching the EDC.

Constitutional Arrangements

- 4.14 A variety of options were considered for forming the new company. In the context of the operations of the Leicester Regeneration Company Limited (LRC), the intention that the new company should at least in part act in succession to LRC and for contractual convenience, it was decided to reconstitute this vehicle. A full Due Diligence exercise has been undertaken on LRC to confirm its suitability. This was completed without issue in December 2008.
- 4.15 Cabinet is requested to endorse the reconstitution of the Leicester Regeneration Company Limited (of which the Council is Corporate Member) as the new Economic Development Company for Leicester and Leicestershire and delegate authority to the Chief Operations Officer and Deputy Chief Executive to act on behalf of the Council in securing this transition.

EDC Membership

- 4.16 The necessary papers have been drafted to allow a transfer of ownership from the current membership – Leicester City Council, English Partnerships (now the Homes and Communities Agency), and EMDA – to the new owners – Leicester City Council and Leicestershire County Council.
- 4.17 Formal transfer of ownership and control is planned to be effected on 18 March 2009 when, subject to Cabinet approval from both the City and the County Councils, the changes described in this report will be confirmed.

Funding

- 4.18 Funding provisions for the EDC remains as follows:
- £250k City
 - £250k County
 - £125k Districts
 - £250K EP
 - £282K emda

- Total core funding - £1.2m/annum (Plus programme funding for specific programmes and projects)

Board Membership – Directorships

- 4.19 While HCA and EMDA will remain key funding partners, they have elected not to remain in membership of the new company. Nor will they seek executive control through directorships. Instead each will be represented as observers to the board.
- 4.20 Neil Morris the current chairman of the company is to step down. Nick Carter, the former editor of the Leicester Mercury, has been appointed as Executive Chairman of the new company.
- 4.21 David Hughes has been appointed as Chief Executive of the new company but will not be a statutory director. John Nicholls, Chief Executive of LRC is to step down as a director and will be leaving the company to pursue other projects.
- 4.22 The Board will have private sector control and four additional private sector directors are currently being sought through ‘Nolan’ compliant procedures. The Business Forum has been asked to nominate a non-executive Deputy Chairman. Together with the Chairman, this will give a total of six private-sector board members.
- 4.23 The District Councils have nominated Ms Sue Smith, Chief Executive of Harborough District Council, as a statutory director.
- 4.24 Leicester City Council and Leicestershire County Council will each nominate two directors. It is proposed to nominate Councillor Patrick Kitterick as a non-executive director of the new company and delegate to the Chief Operations Officer and Deputy Chief Executive authority to nominate a second director to the board of the new company.

Operating Plan

- 4.25 A draft Operating Plan for the Company is being prepared and this will form the basis of further preparatory work to be undertaken by the new Chief Executive ahead of the launch of the EDC in early April

Staffing

- 4.26 The current staff of LRC will retain their contracts of employment. Three Members of staff from Leicester Shire Promotions Limited (LPL) will transfer into the new company under the Transfer of Undertakings Protection of Employment Regulations (TUPE). A further current member of staff at LPL on a fixed term contract will be granted a new fixed term contract by the new company. Two further members of staff at LPL are to be seconded to the new company.

Premises

- 4.27 The current premises of the LRC are not large enough to accommodate the newly merged team. Nor are they Disabled Access compliant. Suitable alternative accommodation is currently being sought.

Launch of the EDC

- 4.28 Preparatory work is nearing completion on the launch of the EDC at which a new company brand and logo will be revealed. The launch of the EDC will represent achievement of one of the key actions of the 'One Leicester' Enterprise and Skills priority. This will be the first EDC in the East Midlands and together with the new wider sub regional arrangements set out in this report represent a unique approach nationally.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

Financial Implications

- 5.1 The financial contributions by the City Council to the EDC and support function of the Leadership board of £250k and £80k are the existing budgets for contributions to LRC, LSEP and Leicester Promotions.
- 5.2 There were no significant issues uncovered following the financial due diligence of the LRC.

Martin Judson, Head of Finance, extension 297390

5.2 Legal Implications

LEGAL IMPLICATIONS SUB REGIONAL PARTNERSHIP

- 5.2.1 The new EDC will be brought into being by reconstituting the existing Leicester Regeneration Company Limited, of which the Council is currently a member and nominates a director.
- 5.2.2 The company will be reconstituted under a new name and its membership will comprise Leicester City Council and Leicestershire County Council. The day to day business of the company will be undertaken by the Board of Directors, although certain significant transactions will require the approval of both the County and City nominated directors.
- 5.2.3 The memorandum of the Company will be altered to extend its objectives to Leicestershire and the sub regional regeneration objectives. The articles of the company also require some technical amendments to reflect the change in membership and consequential practical points.
- 5.2.4 It is proposed that the outgoing executive directors of the Company, on behalf of the Company, enter into a disclosure agreement containing the usual undertakings as to trading, liabilities etc.
- 5.2.5 The Company will be a regulated company for the purposes of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order 1995. As such it will be treated (and in particular its credit transactions will be treated) in the same way as a subsidiary for the purpose of the Councils accounts and will need to be taken into account by the Council in determining its prudential borrowing limit.
- 5.2.6 It should also be noted that the above legislation also imposes other requirements on local authority companies, in particular as to the disclosure of its status as a local authority company, access to information and directors salaries and interests.

- 5.2.7 The Company is a company limited by guarantee. The guarantee is given by its members but is limited to £1. No distribution is permitted to members, profits are to be applied for the purposes of the company.
- 5.2.8 Because of the private sector balance on the board of directors the Company will not be able to trade with the two Councils outside of the law relating to public procurement. It will also be a “contracting authority” itself and therefore subject to the law relating to public procurement.
- 5.2.9 The Council has power to participate in this company under the provisions of section 2 of the Local Government Act 2000 (well being) but in doing so must have regard to its community strategy.
- 5.2.10 It is intended that the Company deliver a programme of work in support of the sub regional partnership priorities. This will be supported by stepping down emda sub regional funding allocation under a funding agreement which will reflect the terms and conditions of the emda declaration of grant entered into by the Council.
- 5.2.11 The report has identified a TUPE transfer of staff from Leicester Shire Promotions to the EDC. The staff concerned have rights in respect of their current conditions of service and in respect of pensions, and to be consulted and provided with information. Failure to observe these rights could lead to liability for the EDC.

Joanna Bunting Legal Service, extension 296450

6. OTHER IMPLICATIONS

| OTHER IMPLICATIONS | YES/NO | Paragraph references within the report |
|-------------------------------|--------|--|
| Equal Opportunities | Yes | Whole Report |
| Policy | Yes | Whole Report |
| Sustainable and Environmental | Yes | Whole Report |
| Crime and Disorder | Yes | Whole Report |
| Human Rights Act | No | |
| Elderly/People on Low Income | Yes | Whole Report |

7. RISK ASSESSMENT MATRIX

This only needs to be included if appropriate with regard to the Council's Risk Management Strategy

| Risk | Likelihood L/M/H | Severity Impact L/M/H | Control Actions (if necessary/appropriate) |
|--------------|---------------------|--------------------------|---|
| 1 Failure of | L | H | Close dialogue to be maintained at |

| | | | |
|---|---|---|--|
| County Council to endorse reconstitution | | | both officer and member level |
| 2 HCA and EMDA decline to step aside as members | L | L | Both organisations would be welcome to remain as members |
| 3 Current directors decline to step aside | L | M | Members of the company would be required to meet in later extraordinary session to dismiss directors – this would cause delay only |

L – Low
M – Medium
H – High

L – Low
M – Medium
H – High

8. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

- Cabinet report of 8th December 2008 titled – ‘Sub Regional Arrangements for Economic Development’
- Cabinet report of 14th July 2008 titled – ‘Establishing a New Economic Development Company for Leicester and Leicestershire’.
- Prosperous Places: Taking forward the Review of Sub-National Economic Development and Regeneration: BERR – March 2008

9. CONSULTATIONS

- Officers within Leicester City Council
- Cabinet lead for Regeneration Highways and Transportation
- Officers within Leicestershire County Council
- Officers at emda
- Officers at English Partnerships/Homes and Communities Agency
- Officers and Board at Leicestershire Strategic Economic Partnership
- Officers and Board at Leicester Regeneration Company
- Officers and Board of Leicestershire Promotions/invest Leicestershire
- Leicestershire Chamber of Commerce
- Leicestershire Business Voice
- Officers/leaders of District Councils

10. REPORT AUTHOR

Andrew Smith, Service Director Planning and Policy 297201
Joanne Ives, Acting Head of Economic Development 296524

| | |
|--------------------------|---|
| Key Decision | Yes |
| Reason | Is significant in terms of its effect on communities living or working in an area comprising more than one ward |
| Appeared in Forward Plan | Yes |

| | |
|-------------------------------|---------------------|
| Executive or Council Decision | Executive (Cabinet) |
|-------------------------------|---------------------|

Appendix 1

