

Eden District Council

Council
14 July 2016

**Delivering Growth, Better Paid Jobs and Commercial
Income for the Council - Heart of Cumbria Limited**

Reporting Officer: Chief Executive

Responsible Portfolio: Leader

1 Purpose of Report

- 1.1 In October 2015, the Chief Executive produced a consultation paper on the delivery of Council priorities and projects and within that, identified the need to consider alternative delivery vehicles if the Council was to secure the potential for income generation and employment development.
- 1.2 The Chief Executive is to report that consequential upon the Executive's consideration of the item on major capital schemes and employment initiatives, which was drafted and consulted on within the Council as a result of that initial consultation paper, at its meeting in May 2015, it was considered by the Executive appropriate that a corporate structure may be formed in order to take forward the initiative if this was deemed necessary. This would include working with organisations and individuals outside of the Council to promote sites for development for growth and hopefully delivering higher paid jobs in which the Council ultimately may have some form of interest in which will help to promote new jobs and in particular, higher paid jobs to support the future Eden economy. It has long been the intention of the Council to attract higher paid employment opportunities to Eden from whatever potential sources there may be either in terms of new employment or indeed supply chain jobs to existing companies within the area.
- 1.3 This report deals with the establishment of a corporate vehicle to take the initiative forward whereby the Company, can move to the next stage to promote Eden which is open for business and to work with business.

2 Recommendation:

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| <ol style="list-style-type: none">1. That four members of the Council, consisting of two Conservatives, one Independent and one Liberal Democrat, be recommended to the Executive for appointment as Directors of the Company.2. That it be noted that further consideration is to be given to the Business Plan for the company and the detailed arrangements for staffing arrangements including the identity of the Managing Director and Company Secretary and financial arrangements and for such matters to be the subject of a future report to the Executive. |
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| 3. The proposed actions as set out in paragraph 3.3 of this report be noted. |
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3 Report Details

- 3.1 The initiative to deliver growth and better paid jobs as well as securing income earning opportunities through “doing things for a commercial purpose” is being progressed in a variety of ways and over the forthcoming months, reports will be brought forward to the Executive and Council as appropriate on how work on these initiatives is being taken forward. The M6 Corridor initiative has been adopted by the Local Enterprise Partnership as one of the four key themes which it bases its economic strategy upon. Penrith being on the crossroads of the M6 with the A66 and at the heart of Cumbria in terms of its location, provides a great opportunity for much of the future employment generation and transport infrastructure to be operating from.
- 3.2 In fulfilment of the intentions of the Executive, the Company Heart of Cumbria Limited was established by the Chief Executive as a nominee to protect the name for the Council. The Executive will be considering the formal transfer of the company to the Council so the Council would be the sole shareholder and will be asked to appoint Members as Directors of that Company in order to take it forward over its initial phase of evolution. It is suggested that the composition of such a Board should represent interests of Members across the Council and comprise two Conservatives, one Independent and one Liberal Democrat which also reflects the political complexion of the Council. Consideration is also being given to the identity and role of officers to fill the role of Directors and Company Secretary. Other matters under consideration relates to the likely arrangements for legal and financial advice to the company.
- 3.3 The Member of Parliament for Carlisle, John Stevenson is hosting a Cumbria Nuclear Conference in September and a table has been booked at that conference for ten places. Invitations will be given for the four Members proposed as the Directors together with an officer of the Council to represent the Council at that conference. Invitations will also be given to five representatives of companies operating in the locality who complement the intentions of the Council to promote economic development and growth. The key note speaker for the conference is Andrea Leadsom, Minister of State for the Department of Energy and Climate Change. Lord Hutton of Furness, Tom Samson and John Clarke are also able to attend and make their respective contributions to discussions on the nuclear industry in Cumbria and how businesses can engage with the sector. The conference will commence on the evening of 21 September and conclude at Carlisle Racecourse on 22 September 2016.

4 Policy Framework

- 4.1 The Council has four corporate priorities which are:
- Decent Homes for All

- Strong Economy, Rich Environment
 - Thriving Communities
 - Quality Council
- 4.2 These priorities seek amongst other things to provide opportunities for growth and housing for residents. The establishment of the Company as proposed may enable the delivery of these policies when and if appropriate. At the same time, the Council is keen to maintain and enhance the services it provides generally. To do that, alternative sources of income will be needed. The establishment of the Company may provide an avenue to be able to achieve increased income and it is considered that as other Councils have pursued that over many years it is an option now for the Council to consider as a delivery vehicle.

5 Implications

5.1 Legal

- 5.1.1 The Localism Act 2011 (Section 1) gives a general power of competence. Section 4(2) it states where in exercise of a general power of competence a local authority does things for a commercial purpose the authority must do them through a Company, which in effect gives permission to establish a Company to undertake activities even for the private sector. The rules on the operation of companies are set out more fully in the Companies Act 2006. The power to establish companies follows on from the Local Government and Housing Act 1989 provisions which set the rules for local authorities' involvement with companies. Whilst the detailed nature of what the Company would be involved with is not set out yet, the general principles of facilitating and enabling development through working with land owners and developers is within the statutory framework for Councils to be engaged in. The use of a corporate vehicle in this instance in seeking to promote development on land which is not within the Council's ownership with private landowners provides a form of separation from the Council's regulatory planning role. Also as it could be considered that such activity is more "commercial" within the meaning of Section 4(2) the safer course of action is to use a corporate vehicle for this purpose.
- 5.1.2 Consideration needs to be given to whether the company is to deliver services to:
- (a) the Council; or
 - (b) predominantly to the Council but also to some other commercial organisations; or
 - (c) deliver commercial services to both the public and private sectors
- 5.1.3 In the case of 5.1.2(a) and (b) it is likely that the company would have the right to have contracts awarded directly to the council without competition. In the case of 5.1.3(c) the company would have to bid for work in compliance with European regulations (at least whilst the UK remains within the EU).
- 5.1.4 Consultation will need to take place with appropriate Council staff with a view to identifying officers with the appropriate skills to carry out the roles of

Company Managing Director and Company Secretary. And such other employee directors as may be necessary. Any such staff who carry out the role of Director will need to be seconded to the company and consideration may be required in relation to any issues in terms of pensions and taxation.

5.1.5 It is a requirement that any facilities that are given to the company by way of accommodation, and staff are re-charged to the company in full

5.1.6 The most important aspect to any successful trading company is the business case. This will need to deal with commercial strategies and business, financial and marketing plans. Clearly this will need to be worked up and it would be appropriate for such members as are proposed as set out in the recommendation in paragraph 2.1 of this report to be consulted upon the business case prior to consideration of its contents by the Executive.

5.2 Financial

5.2.1 Any decision to reduce or increase resources must be made within the context of the Council's stated priorities, as set out in its Council Plan 2015-19 as agreed at Council on 17 September 2015.

5.2.2 The cost of the event for the ten places at the conference is £500.

5.2.3 The cost of buying the Company will be a nominal £1.

5.2.4 The future costs of managing the Company including producing an annual statement of account, even if the Company has not commenced trading, and producing the annual return should all be able to be funded from a budget of £250 for 2016/7.

5.2.5 The Executive will give more detailed consideration to the actual costs of proposals coming from the Company and what level of grant and budget it would give to the Company and what specific delivery outcomes it would be seeking to achieve from the Company.

5.3 Equality and Diversity

5.3.1 The Council has to have regard to the elimination of unlawful discrimination and harassment and the promotion of equality under the Equality Act 2010 and related statutes.

5.3.2 It is not considered that there are any implications in this report.

5.4 Environmental

5.4.1 The Council has to have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

5.4.2 It is not considered that there are any implications in this report.

5.5 Crime and Disorder

5.5.1 Under the Crime and Disorder Act 1998 the Council has to have regard to the need to reduce crime and disorder in exercising any of its functions.

5.5.2 It is not considered that there are any implications in this report.

5.6 Children

5.6.1 Under the Children Act 2004 the Council has to have regard to the need to safeguard and promote the welfare of children in the exercise of any of its functions.

5.6.2 It is not considered that there are any implications in this report.

5.7 Risk Management

5.7.1 In relation to this report it is noted that the Council does have legal power to establish a Company and the financial implications are below £1,000 to do so and also cover the expenses of attending the conference in September. If the Company does not achieve anything of a positive nature over a three year period it could be argued it had failed, yet if the Council did not try then the opportunity to secure more higher wage employment for the District or greater income earning opportunity for the Council then equally it could be argued it did not consider and pursue opportunities available to it. The Council has invested tens of thousands of pounds in the past through conventional ways to secure economic development and whilst other Councils have set up development corporations and other structures to deliver, the Council has not yet done that. This proposal is one that will need to be dealt with carefully in terms of any future grants that may be given to the Company to ensure that there can be some deliverable performance objectives. Regular reporting to the Executive on activity should encourage more engagement across the Council in assisting it to succeed.

5.7.2 In terms of day to day operation officers would only be able to give a limited amount of time to the company in its early stages. However, extra investment of time can be considered in due course. This is the start of a process and should after a year it be considered that there is no value in progressing at least the Council will have tried to work in this new way to achieve betterment for the residents and businesses of Eden.

5.7.3 Clearly there are alternative ways of developing a high wage economy. Setting up and resourcing the company is one of various means that the Council may use to achieve this objective.

6 Reasons for decision/recommendation

6.1 The Council has had a policy of seeking to secure increase in the number of higher paid jobs and development of the economy for a number of years. The opportunity to work more closely with landowners and the private sector building upon the relationships that exist is something that should be taken forward in a corporate vehicle that does not place the Council at risk and by using a Company under Section 4(2) of the Localism Act 2011 provides the opportunity for that Company to work for a commercial purpose without challenge whereas if it were to do that within the Council that would not be compliant with the legislation.

Robin Hooper
Chief Executive

Governance Checks:

Checked by or on behalf of the Chief Finance Officer	√
Checked by or on behalf of the Monitoring Officer	√

Background Papers:

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