

**EXECUTIVE DECISION SESSION
28 APRIL 2020**

CENTRAL PARK – HYBRID BUSINESS INNOVATION CENTRE

**Responsible Cabinet Member – Councillor Alan Marshall
Economy Portfolio**

**Responsible Director – Ian Williams
Director of Economic Growth and Neighbourhood Services**

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to seek approval to develop a Hybrid Business Innovation Centre, comprising offices and clean workshop space, known as Business Growth Hub 2 on Central Park.

Summary

2. Following the success of Business Central incubation accommodation on Central Park, the Council has been developing plans to create additional business incubation / managed workspace accommodation for new and growing Small to Medium Sized Enterprise businesses (SMEs) in Darlington.
3. Supported by funding from the European Regional Development Fund (ERDF) and Tees Valley Combined Authority (TVCA), a design feasibility study and an independent demand study have been undertaken. The outcome of the demand study confirmed the demand and evidence of need for such accommodation within the Tees Valley region.
4. An outline application was submitted to the ERDF programme for £4.2m of the estimated capital cost of £7m and discussions are ongoing with TVCA to fund the balance. TVCA has provided funding of £500,000 to undertake detailed feasibility and design up to the end of RIBA Stage 4. A compliant, full ERDF bid needs to be submitted by 31 May 2020.
5. The Hybrid Business Innovation Centre will accommodate 2,370 sq m of business space. This provisionally includes plans to create three or four “clean” workshop spaces with the remainder being office accommodation. The site location is shown hatched on the plan in **Appendix 1**.
6. To meet the external funding deadlines the Council must now prepare the project for the next stages of development and delivery. The key funding deadline is that of the ERDF Programme, which needs to commit its funds as soon as possible, but no later than 31 December 2020. All ERDF funds must be spent by 31 December 2022. This means it is essential to progress the necessary

contractual arrangements as far as possible for the construction and operation of the building as well as all other associated legal agreements regarding operator leases and land transfers.

7. The following actions are required:

- (a) Undertake an OJEU-compliant competitive tender process in order to appoint an operator for the Hybrid Business Innovation Centre. Initially the successful operator will be required to advise on the specification of the building and enter into an agreement to lease the Hybrid Business Innovation Centre. Final contracts will only be put in place if all funding bids are successful, the operator bid is within pre-tender estimates, the construction works are within budget and the land required for the project is secured. Tenderers will be advised of these pre-conditions as part of the tendering process.
- (b) Through a further OJEU-compliant procurement process, the Council will appoint a third party to undertake the design and construction of the Hybrid Business Innovation Centre including any associated infrastructure works. The pre-conditions will be as stated in 7(a) above. Initially the appointment will be to undertake all the necessary work to achieve RIBA Stage 3, funded by TVCA. Final contracts will only be put in place if all funding bids are successful, the operator bid is within pre-tender estimates and the construction works are within budget. A contract to take the project to full design and construction will only be entered into once all pre-conditions have been met.
- (c) Acquisition of land at Central Park from Homes England to facilitate the development of the Hybrid Business Innovation Centre on the terms provisionally agreed with Homes England and as set out in this report.

Recommendations

8. It is recommended that :-

- (a) the contents of the report (in particular paragraph 27) be noted and approve the release of the £500k development funding provided by TVCA;
- (b) funding bids for £2.8m from Tees Valley Combined Authority and £4.2m of ERDF funding be approved for the full design and construction phases of the project. A further report will be provided regarding the outcome and conditions associated with the funding if bids are successful;
- (c) delegated powers be granted to Procurement Board to:
 - (i) approve the appointment of a third party for the design, construction and associated infrastructure work with the appropriate breaks linked to the funding applications and planning; and
 - (ii) approve the Council entering into an agreement to lease with the chosen operator for the Hybrid Business Innovation Centre and subject to satisfaction of conditions of the operator lease terms.

- (d) the acquisition of land at Central Park from Homes England on the terms set out in this report, be authorised; and
- (e) the AD Law and Governance be authorised to document and to put in place all the necessary legal agreements and enter into contracts to deliver the project.

Reasons

9. The recommendations are supported by the following reasons:-
- (a) To enhance the environmental, social and economic well-being of the Borough.
 - (b) To support actions arising from Darlington’s Economic Strategy.
 - (c) To support the delivery of the Enterprise Zone on Central Park.

Ian Williams
Director of Economic Growth and Neighbourhood Services

Background Papers

No Background papers were used in the preparation of this report

S17 Crime and Disorder	Design will have regard to managing crime and disorder issues.
Health and Well Being	The concept incorporates active travel options that contribute to health.
Carbon Impact and Climate Change	The project entails an aspiration to achieve BREEAM Excellent standard, minimising the building’s carbon impact.
Diversity	Diversity issues have been accommodated in the design of the building.
Wards Affected	Stephenson / Whole Borough
Groups Affected	Darlington new and growing SME businesses, local residents
Budget and Policy Framework	This report does not represent a change to the budget and policy framework
Key Decision	Yes
Urgent Decision	No
One Darlington: Perfectly Placed	This project particularly meets the ‘One Darlington’ priority of the Council’s SCS. It is providing support to new and existing local businesses that will better equip them to survive the early days of trading as well as improve prospects of growth and the creation of local, high-skilled and higher added value jobs.
Efficiency	This project relies wholly on capital funding from HCA and ERDF which could not be used for any other purposes
Impact on Looked After Children and Care Leavers	The project does not have an impact on looked after children and care leavers.

MAIN REPORT

Information and Analysis

10. Following the success of Business Central incubation accommodation on Central Park, the Council has been developing plans to create additional business incubation / managed workspace accommodation for new and growing Small to Medium Sized Enterprise businesses (SMEs) in Darlington.
11. A bid has been submitted to the ERDF programme for £4.2m and negotiations are taking place with TVCA for 2.8m. The ERDF and TVCA bids are submitted on a without-prejudice basis as neither the Council nor the funders are obligated to provide or accept funding. If the bids prove to be successful and offers of funding are received, a further paper will be provided with recommendations regarding the acceptance of funding and any associated conditions. It is anticipated that this will be in September 2020. The Hybrid Business Innovation Centre will create 2,370 sq m of hybrid business space of which 400-430 sq m of net lettable space will be to create three or four workshop spaces and 1,400 sq m of lettable business accommodation in total.
12. Darlington Hybrid Business Innovation Centre will be located on Central Park within the Enterprise Zone. The sectoral focus of the Central Park Enterprise Zone is health and digital and as such any eligible businesses based within the area identified will benefit from Business Rate Relief. The site however is also suitable for other sectors and these are encouraged to also occupy the commercial area within Central Park to help create an active and buoyant commercial environment. This project will provide much-needed entrepreneurial and business growth space and will therefore act as the catalyst for further economic development opportunities in the Borough.
13. Although the project does not include revenue costs for direct business support activities it will forge strong working relationships with organisations such as Teesside University, CPI, Tees Valley Business Compass and NEBIC to enable SME tenant businesses to access existing business support and sectoral support provision in the Tees Valley.
14. This project is seeking ERDF funding to support the development of high-quality business premises. This will help to address the relative underperformance of the North East in terms of business formation, sustainability and productivity. It will contribute to a new enterprise activity in the North East and although it will not focus exclusively on disadvantaged areas, the project will benefit these areas by enabling new and growing SMEs to create jobs and wealth in a disadvantaged part of Darlington.
15. The project offers a great opportunity for Darlington to address a key market failure through creating the environment that will nurture and focus on entrepreneurship and business growth for new and existing SME's. The Council has consulted with operators in Business Central on Central Park who confirmed that they are experiencing high levels of occupancy (c.90%) and that the Hybrid Business Innovation Centre is likely to complement rather than compete with this facility and it is understood that there is demand for the proposed development.

16. The building is forecast to be ready for SMEs to move in to by January 2022 and be financially complete by March 2022.

Rationale for the Project

17. The project has been developed to meet an identified need and to support the delivery of the Council's economic strategy. The project need is based on:-
 - (a) Identified business underperformance in the North East and Darlington
 - (b) A lack of entrepreneurship
 - (c) Low Business Start Up rates
 - (d) High Business failure rates
 - (e) Low business growth and small increase in GVA
 - (f) Lack of serviced offices in relation to surrounding areas
 - (g) No provision of smaller office unit accommodation (15 – 50m²)
 - (h) Lack of suitable accommodation for companies seeking clean workshop / office space to exploit space
 - (i) Lack of private sector speculative developments in times of recession
18. Market research also found that the market will not support sector-specific accommodation, therefore the Hybrid Business Innovation Centre will be open to all new and existing SME's (however those from the digital sector may benefit from business rate relief through the Enterprise Zone).
19. The key aim of this project will be to:-
 - (a) Support SME business growth and job creation
 - (b) Create of Business Growth space
 - (c) Encourage innovation, entrepreneurship and collaboration
 - (d) Regenerate an under-used area and kick start Enterprise Zone development
20. This project will seek to deliver the following outputs/results:-
 - (a) Brownfield land reclaimed
 - (b) Business premises developed
 - (c) Creation of new jobs
 - (d) Safeguarding of existing jobs

- (e) Attracting businesses to the region
- (f) Net increase in GVA
- (g) Net increase in employment

Capital Build

21. The overall capital project comprises the construction and fitting out of a Hybrid Business Innovation Centre as well as hard and soft on-site landscaping, provision of services and car parking to access the building; alongside all associated professional and design fees.

Building Operator

22. An operator will be secured through an open competitive tender process to manage the building and services as a tenant under the terms of a long lease. In order to make this attractive to an operator, it will be necessary to offer a contract of sufficient duration (potentially a minimum of 20 years) to enable the operator to re-coup any shortfalls in income in the first few years during which the building will become established and occupancy rates will increase.
23. The current business growth hub does not have a revenue requirement and it is hoped that the same will be achievable in this case with the appropriate lease terms. If there is a revenue demand, then the Council will look at relevant options prior to reporting back to members.
24. It is proposed to appoint an operator conditionally, on the basis that the funding will be secured for the capital works, that planning permissions be obtained, and the works completed by a specified date. The operator can be involved prior to the finalisation of the building design so that designs can be adjusted to best meet their needs; therefore, greatly increasing the likelihood of it achieving high occupancy rates soon after completion. The Council will review this position prior to committing to the full build contract for the Hybrid Business Innovation Centre.

Procurement Strategy for Capital Works

25. The Council's Contract Procedure Rules require that all contracts in excess of £100,000 be considered for designation as either strategic or non-strategic based on value and significance to the authority. The contract for the construction of the Business Growth Hub is automatically designated as strategic because of its value. Due to the timescales imposed by the ERDF funding regime, that is, to have the building complete and handed over to an operator by January 2022, the Council is proposing to use the SCAPE framework to procure the capital works on a design and build basis.
26. The SCAPE framework has been established through an open competitive process which meets the competitive tendering requirements of the Council, ERDF and TVCA. The key benefit of procurement through the SCAPE framework is that it will decrease the lead-in time between securing funding, approval for the building design and start on site. It is also an established framework with a successful track record for delivering major capital projects. The capital project will be managed by

the Council's Capital Projects Team. As the procurement is strategic the decision to award the construction contract will be delegated to Procurement Board.

27. **Note – this report was originally intended to go forward to the 31 March Cabinet but was cancelled because of the Covid 19 lockdown. In order to give sufficient time to meet deadlines an urgent decision was made on 14 April by the Managing Director in consultation with the Leader to progress the design development phase (drawing down £235,000 of TVCA funds).**

Procurement Implications

28. A contract for the operator will be let through an open tender process.
29. The terms of the lease will be a full repair and insuring lease for the hybrid business innovation centre on a similar basis as was adopted for Business Central (1). This will include a keep-open requirement to operate the building in accordance with the specification as an incubator and in full compliance with the requirements of ERDF and TVCA. It will be for a duration of up to 20 years in order to give operators the ability to absorb and offset any initial start-up costs and lower levels of occupation against longer-term revenues. The Council will also investigate what options may be available to minimise any risk of it becoming liable for any gap in revenue costs.
30. As part of the SCAPE framework the provider is required to deliver the services at the tendered framework rates. DBC will engage its own Quantity Surveyor to verify the project costs are in line with the framework to ensure value for money and compliance with procurement legislation and funding terms.
31. As part of the SCAPE framework the contractor is required to provide social value benefits as an addition to the contracted services. These may include the mandated use of the local (Darlington) supply chain where a suitable local supplier exists, the creation of apprenticeships where appropriate and the delivery of other community benefits. The social value benefits delivered on this contract will be recorded on the Council Social Value register and reported back to members.

Land Issues

32. Homes England own the freehold interest in a number of separate areas on Central Park extending to 2.1292 ha (5.2912 acres) shown shaded grey on the attached plan (**Appendix 1**). The Council owns the remainder of the undeveloped land. In informal negotiations Homes England have provisionally agreed to transfer all of their land holdings in Central Park to the Council for £1 but on the basis that the Council may only dispose of any sites at open market value, net of abnormal development costs, with the net value being treated as a receipt under the terms of the existing Central Park Collaboration Agreement between the Council and Homes England. It is considered that this acquisition meets the principles of best value and it will allow the Council to carry out any maintenance, site investigations, development, marketing and sales without needing further approval from Homes England.

Financial Implications

33. The business case does not include any financial contribution to the project from the Council. In the event that there becomes a need for the Council to make a

financial contribution to the cost of the building or if it is not possible to secure external funding to cover any possible revenue (operating) shortfalls; a further paper will be brought to a future meeting.

Legal Implications

34. The operator will ultimately operate the building on the land shown in Appendix 1 that is to be acquired by the Council and to be leased to the operator as set out in the terms of this report.
35. The Council has the relevant powers to enter into the acquisitions and disposal as described in the report under local government legislation and the Localism Act 2011.
36. Initial title reports and due diligence for the land proposed for acquisition and disposal do not indicate any issues with the proposed uses and, subject to approval of the recommendations in this report, further due diligence will be carried out as part of the relevant disposal / acquisition.
37. There are no open space areas or assets of community value included in the land concerned which require consideration.
38. Section 123 of the Local Government Act 1972 deals with the statutory requirements for a Local Authority in relevant disposals of land. In general, the Council is required to achieve the 'best consideration reasonably obtainable' for such disposals based on an open market disposal. The Council will ensure it obtains best value by running an open process to determine (if any) the consideration for the lease. In the event that the operator ceases to operate the services of the incubator then the lease will be terminable at the insistence of the Council.
39. On the basis of the disposal through a tender process there are no state aid or competition issues arising as there is no transfer of value from the public sector to an undertaking.

Risks

40. There are a number of key risks associated with this project that the report highlights:-
 - (a) The Council cannot enter into legally binding contracts for either the capital works or the building's operation until all capital funding is in place. This is being managed through conditional appointments.
 - (b) It would be unrealistic to commit to a construction contract until an operator has been selected who can demonstrate the building can be operated either wholly from incomes generated from lettings and services or with minimal public subsidy, identified through the tender process. The early procurement of an operator and break clauses in the project's development seeks to mitigate this risk.
 - (c) The project will be dependent on external funding from ERDF and TVCA. If funding offers are received, funding will be conditional on achievement of

outputs and results as well as ensuring that the building remains operational solely for the purposes of providing accommodation for SME businesses for 20 years. This is a significant commitment and the ability to keep the building operational will be dependent on the demand from businesses for such accommodation. The Council has identified that there is demand for such space and will actively pursue an operator who can deliver these outputs.

- (d) There is a need to ensure that all aspects of the project are undertaken in an ERDF compliant manner. The Council's Investment and Funding Team is experienced in ERDF funding and will manage this process. The lease to the operator will include the requirement for the operator to directly covenant with ERDF in the required form.
- (e) The ability to deliver the project is dependent on the outcome of ongoing discussions with TVCA regarding the future of development agreement for Central Park. Discussions are at an advanced stage and this risk is being mitigated.
- (f) The business case does not include any financial contribution to the project from the Council. In the event that there becomes a need for the Council to make a financial contribution to the cost of the building or if it is not possible to secure external funding to cover any possible revenue (operating) shortfalls; a further paper will be brought to a future meeting.
- (g) Risks arising during the construction phase are mitigated by the use of a design and build contract. The contractor will also be required to provide a parent company guarantee and appropriate warranties from the professional service providers involved in the project (ie architectural and engineering warranties).