

# **WIRRAL COUNCIL**

## **CABINET**

**12 MARCH 2015**

<b>SUBJECT:</b>	<b>ENTERPRISE ZONE – RE-INVESTMENT OF BUSINESS RATE UPLIFT</b>
<b>WARDS AFFECTED:</b>	<b>POTENTIALLY ALL WARDS WILL BE AFFECTED BY THIS REPORT</b>
<b>REPORT OF:</b>	<b>STRATEGIC DIRECTOR REGENERATION &amp; ENVIRONMENT</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>CLLR PHIL DAVIES INVESTMENT</b>
<b>KEY DECISION</b>	<b>YES</b>

### **1.0 EXECUTIVE SUMMARY**

1.1 This report seeks Members approval to develop a Wirral Waters Enterprise Zone Investment Plan. The local plan will build on Government Enterprise Zone Policy to use uplift in business rates within the EZ as a catalyst for the longer-term regeneration proposals of Wirral Waters and other economic regeneration programmes in Wirral. The Investment Plan will develop a base financial model for growth, identify and assess key risks and propose a schedule of projects that need funding which will be provided through the uplift in business rates generated by the Wirral Waters Enterprise Zone. The Investment Plan will be brought back to Cabinet for approval and every subsequent project proposal would be considered on a case by case basis.

### **2.0 BACKGROUND**

2.1 In Budget 2011, Government announced it was to establish 22 new Enterprise Zones (EZ's) in Local Enterprise Partnership (LEP) areas in England. Mersey Waters was announced as one of four original EZ's within the Budget and encompasses both the Wirral Waters and Liverpool Waters developments, the transformational regeneration programmes proposed by Peel Holdings.

2.2 The Policy behind EZ's was to create transformational change by allowing the following benefits:

- A business rate discount worth up to £275,000 per business over a five year period
- All business rates growth within the defined retention area of the zone for a period of at least 25 years will be retained by the local area to support economic priorities and ensure that EZ growth is re-invested locally ie back into the zone
- Government help to develop simplified planning approaches for the zone using, for example, existing Local Development Order powers
- Government support to ensure that superfast broadband is rolled out throughout the zone

- 2.3 Wirral Waters was further supported in Budget 2013 with a designation for Enhanced Capital allowances for plant and machinery, one of only five designations in the Country.
- 2.4 Local Authorities with an EZ have the ability to provide discounts of potentially up to 100% discounts to business rates to businesses locating to or expanding within the zone, with the Government reimbursing the Council the cost of the discount. The EZ governance structure is expected to make decisions on matters such as these.
- 2.5 However, discounts available to each business are limited by EU state aid law, up to a de-minimis threshold of €200,000 over a rolling three year period, the equivalent of approx. £55,000 per year. The collecting authority is required to ensure that businesses do not receive greater levels of support. Each business will receive discounts for five years from the start of its occupancy providing that it enters the zone before 31<sup>st</sup> March 2017.

## **LOCAL BUSINESS RATES RETENTION**

- 2.6 Enabling Local Authorities to retain a significant proportion of the business rates generated in their area is intended to provide a financial incentive for them to promote local growth and to meet the cost of service provision becoming self sufficient through Business Rates and Council Tax revenues.
- 2.7 Enterprise Zones status does provide a number of incentives as outlined in para 2.2 to enable investment. However, in the case of Wirral Waters and Liverpool Waters, property values presents a fundamental issue in that end values are far less than the actual cost of development. A further report on this agenda, the Property Development Framework, outlines this in more detail.
- 2.8 The important thing for members to note is that since the creation of the zone in 2012, the basic incentives have not been enough to encourage new development, and new interventions are required.
- 2.9 Government policy and legislation is in place that provides for any uplift in the zone after 1<sup>st</sup> April 2012 to be re-invested for a period of up to 25 years (ie up to 1<sup>st</sup> April 2037). However, no uplift has been generated.
- 2.10 That said, during the back end of 2015, the zone will see the practical completion of two new developments in Wirral Waters; Tower Wharf a 50,000 sq ft grade A office development and a new campus for Wirral Metropolitan College. Officers are currently in the process a calculating the uplift.
- 2.11 Given the legislation in place and Government Policy for the use of business rate uplift, the agreement with the Local Enterprise Partnership is that the collecting authority in Mersey Waters will be able to re-invest this uplift. Members must note that the Government Policy is that business rate uplift is controlled by Local Enterprise Partnerships. In 2012, the LCR LEP agreed that up until 31<sup>st</sup> March 2015, any uplift would be split 50/50 between the LEP and the collecting authority. This agreement has now expired and the collecting authority is now allowed to re-invest the uplift into the zone and initiatives within its own boundary.

## **ENHANCED CAPITAL ALLOWANCES**

- 2.12 In 2012, Officers, along with Peel submitted a joint bid to Government for Enhanced Capital Allowance status. Effectively this allows businesses investing into the Zone to receive benefits related to capital expenditure on plant and machinery. The designation was for an 11ha site on West Float which was agreed in 2013. However, now that there is proposed investment into the site at West Float, Wirral Council is required to sign a Memorandum of Understanding (MoU) with Government to allow this incentive to be offered. The MoU is attached as Annex A to this report.

## **ENTERPRISE ZONE GOVERNANCE**

- 2.13 The current Mersey Waters EZ governance model is as follows:

- EZ Board
- EZ Working Group

- 2.14 The EZ Working Group meets regularly and in advance of the Board. The group is chaired by a representative from the Department for Communities and Local Government and includes Wirral Council, Liverpool Council, representatives from the LEP, BIS North West, the Homes and Communities Agency (HCA) and Peel Holdings. The Strategic Director for Regeneration and Environment is Wirral's lead representative on the Group.
- 2.15 The Board is chaired by Cllr Phil Davies, Leader of Wirral Council. The group also includes the Mayor of Liverpool, the Chief Executive Officers of both Councils, Asif Hamid (Deputy Chair of LCR LEP).
- 2.16 The Board is the principal governing body of the EZ and reports back as appropriate to the LCR LEP Board and the Combined Authority. The LEP also employ a project manager through their own resources but this money is only in place for one year (2015 Calendar year).
- 2.17 The Board would need to be involved in investment planning decisions for good governance in regards to Government policy but ultimately it would be Wirral Council who would be the accountable body for re-investing the Business Rate uplift.

## **CREATION OF A BUSINESS RATE UPLIFT INVESTMENT PLAN**

- 2.18 With a number of new developments now underway, including the Tower Wharf Office Development and the new Wirral Metropolitan College Campus, there is now an opportunity to use this Government Policy to invest into new developments.
- 2.19 On this basis, the rateable values for the new developments within the EZ would allow the Council to identify the business rate revenue that is to be generated annually and to capitalise this. This can be done either by investing the cumulative business rate uplift or by the Council prudentially borrowing. This would mean the Council borrowing from either the Public Works Loan Board or other local funds, such as the Growing Places Fund, with repayment over a period being serviced by the uplift in business rates.

2.20 This could include investment via the existing approaches of land acquisition and land assembly and GAP funding as well as potentially allowing the Council to also adopt the head lease model (see Property Development Framework report) by underwriting any risk to the Council by using the uplift. Currently, Peel have commissioned Amion consulting to explore in more detail the potential uplift projections and business plan for Mersey Waters. This work will be used to inform the Council's Investment Plan.

### **3. RELEVANT RISKS**

3.1 This approach requires careful consideration and the following paragraphs outlines in detail some of the risks involved.

3.2 The risks to this approach together with mitigating actions are identified below:

- a.) If the Council borrows prudentially, capitalising the annual business rate income from uplift, then this borrowing would need to be serviced. If the tenants of any new developments were to go into administration or cease operations, then the business rate income would reduce. Empty Property Business Rates are significantly less than business rates generated by rateable value and are a cost to the EZ or the Council. Therefore, investments should be made on a case by case basis and the risks associated – ie the strength of the tenancy and company locating into the zone should be assessed accordingly
- b.) If resources were made available for land remediation, the Council would need to ensure that any developer would be responsible for servicing the Council's borrowing if development was not commenced within a prescribed period of time. In the case of the Enterprise Zone this would be Peel Holdings.
- c.) A full risk assessment for this element of the proposed Property Development Framework will be put together as part of the Investment Plan that will be brought back to Cabinet.

3.3 Government do fully expect the business rate uplift to be re-invested back into Economic Development and into EZs as per the policy that they have introduced. Officers are currently awaiting the outcome of a business case submitted to Government for an extension to the Business Rate Retention Boundary. The risk of not adopting this approach is that Wirral Waters would not attract the resources needed to catalyse the long term regeneration and job creation potential of Wirral Waters.

### **4.0 OTHER OPTIONS CONSIDERED**

4.1 Officers will continue to seek to secure external funds wherever possible to address the constraints to development identified in paragraph 2.1 of this report and to bring forward investment. Again, where a business case can be put forward and projects could generate returns, either financially or through floorspace, jobs and business rates income, Officers will report to Cabinet.

### **5.0 CONSULTATION**

5.1 This report is consistent with the principles of Wirral Council's Investment Strategy which provides the framework for securing investment and growth within the Borough.

This has been reviewed after extensive consultation with partners and has also been informed by consultation which has taken place with a number of private sector partners and local businesses through Invest Wirral's Business Forum.

## **6.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS**

- 6.1 None

## **7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 7.1 There are no implications for Voluntary, Community and Faith Groups arising directly from this report.

## **8.0 RESOURCE IMPLICATIONS, FINANCIAL, IT, STAFFING AND ASSETS**

- 8.1 A multi-disciplinary team of officers from Finance, Legal, Investment Strategy, Regeneration and Asset Management would work on the development of the Investment Plan, in partnership externally with the Local Enterprise Partnership and Peel as appropriate. As the Accountable Body for the business rate uplift, it is the intention that Wirral Council would undertake prudential borrowing that would fund projects that met the criteria agreed through the Investment Plan. The borrowing would be supported by the revenue resources provided by the uplift in business rates within the EZ. The first consideration would be to ensure that the revenue resources were in place to service any borrowing undertaken by the Council and the Investment Plan will set out clearly current income and projected income within the Zone.
- 8.2 There are financial risks associated with the Accountable Body role, the main one being the failure of the EZ to deliver sufficient business rate uplift to support the level of borrowing undertaken by the Council. The first principle of the Investment Plan is to ensure that this wouldn't happen and actual income is used for any borrowing. However, the risks will also be managed by detailed and expert financial modelling undertaken by the Council in partnership with key EZ organisations including Peel Holdings. The Council will also ensure that it has in place relevant contractual developer obligations. Officers will also work with the Director of Finance to ensure that any investment plan has a sound set of financial principles which limit the extent of borrowing and manage the risks accordingly to ensure that the EZ does not adversely impact on the Council's overall financial position.
- 8.3 However, the very nature of such a leading edge fund to support development will require specialist support. Officers will seek and secure best practice advice from other Local Authorities currently delivering such schemes, but it is likely that specialist legal, finance and commercial property specialists would need to be procured as appropriate. It is intended that any uplift generated would provide an income to the Council to manage, service and recover the costs of implementing the approach proposed in this report.
- 8.4 Any revenue generated by the uplift will be placed in a reserve until any borrowing is required.

## **9.0 LEGAL IMPLICATIONS**

- 9.1 The creation of an Investment Plan to reinvest the business rate uplift generated specifically by the Wirral Waters Enterprise Zone to catalyse and generate new investment opportunities, Wirral will (as appropriate) require the Council to rely on the Council's ability to:
- (a) acquire land by agreement for the benefit, improvement or development of their area pursuant to section 120 of the Local Government Act 1972;
  - (b) borrow money for the purposes of the prudent management of its financial affairs pursuant to section 1 of the Local Government Act 2003; and
  - (c) invest for the purposes of the prudent management of its financial affairs pursuant to section 12 of the Local Government Act 2003.
- 9.2 The Council intends to ensure that the operation of the Investment Plan complies with:
- (a) the application of the legal requirements set out in paragraph 9.1 above;
  - (b) the application of the Public Contracts Regulations 2015;
  - (c) State Aid requirements;
  - (d) the Council's constitution; and
  - (e) such other legal requirements relating to the project under consideration.
- 9.3 The report requesting Cabinet approval for each project shall set out how the legal requirements have been and/or will be satisfied and the operation of the Framework shall require Cabinet approval for each and every project.

## **10.0 EQUALITY IMPLICATIONS**

- 10.1 The potential impact has been reviewed with regard to equality and links to the existing EIA conducted for Wirral's Investment Strategy.  
<http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010-0>

## **11.0 CARBON REDUCTION IMPLICATIONS**

- 11.1 There are no carbon reduction implications arising directly out of this report.

## **12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

- 12.1 Any projects funded from the property development fund would require all statutory permissions to be in place prior to being approved by the Council.

## **13.0 RECOMMENDATIONS**

- 13.1 That Members agree to the development of an investment framework for the reinvestment of business rate uplift within the Wirral Waters Enterprise Zone in order to

support the delivery of the Council's Investment Strategy and long -term vision of Wirral Waters. Cabinet will receive the copy of the investment framework and will also receive project business plans on a case by case basis.

13.2 That formal sign off is given to the Enhanced Capital Allowances area of the Enterprise Zone.

13.3 That an annual report on the performance of the scheme is presented to Cabinet.

#### **14.0 REASON FOR RECOMMENDATIONS**

14.1 To establish a sustainable investment framework for the reinvestment of Enterprise Zone business rate uplift in Wirral to deliver the objectives of the Investment Strategy.

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#### **ANNEX A**

Enhanced Capital Allowances - Memorandum of Understanding

#### **SUBJECT HISTORY**

Cabinet – Enterprise Zone: Business Rates Discounts      2 February 2012

## **ANNEX A**

**Date** \_\_\_\_\_

**(1) The Lords Commissioners of Her Majesty's Treasury**

**-and-**

**(2) [name] Council**

## **MEMORANDUM OF UNDERSTANDING**

relating to the availability of first-year allowances pursuant to section 39 and sections 45K to 45N of the Capital Allowances Act 2001 (expenditure on plant and machinery for use in designated assisted areas).

**THIS MEMORANDUM OF UNDERSTANDING** is entered into on.....

**BETWEEN:**

- (1) The Lords Commissioners of Her Majesty's Treasury ("HM Treasury"); and  
(2) *[name] Council*, being a responsible authority, as defined by section 45K(14) CAA 2001, for the Relevant Designated Assisted Area (the "Authority")

each a "Party" and together the "Parties".

**RECITALS**

Whereas:

- (1) On 23 March 2011 the Government announced its intention to establish Enterprise Zones in order to promote economic growth.
- (2) To help promote economic growth, it was proposed that a range of incentives would be made available for businesses locating within the Enterprise Zones. Full details of the incentives available are published by HM Treasury on its website.
- (3) One such proposed incentive was to make available a new type of first-year allowance under section 39 CAA 2001 for companies locating in specific areas within certain Enterprise Zones. It was envisaged that the proposed areas would be ones where a small number of large capital intensive companies would be able to make a significant, new capital investment in the Enterprise Zone.
- (4) On 26 August 2011 HM Treasury invited Local Enterprise Partnerships to apply for land within their relevant Enterprise Zone to be considered for designation by HM Treasury as an area which would benefit from first-year allowances. The criteria on which HM Treasury has decided such designation is set out in this Memorandum of Understanding.
- (5) Section 44 of and Schedule 11 to the Finance Act 2012 introduced section 45K to 45N and section 212U CAA 2001, under which first-year allowances are available for expenditure on plant and machinery for use primarily in an area which at the time the expenditure is incurred is a designated assisted area.

(6) Section 45K(2) states that a designated assisted area means an area which (a) is designated by an order made by HM Treasury and (b) falls wholly within an assisted area.

(7) Section 45K(3) states that an area may be designated by an order under section 45K(2)(a) only if, at the time the order is made, (a) the area falls wholly within an Enterprise Zone and (b) a memorandum of understanding, in respect of the area, relating to the availability of first-year allowances available under section 45K, has been entered into by HM Treasury and the responsible authority for the area.

(8) Section 45K(14) defines a “responsible authority” for an area as (a) if the area is in England, a local authority for all or part of the area or two or more such local authorities; (b) if the area is in Scotland, the Scottish Ministers; (c) if the area is in Wales, the Welsh Ministers; and (d) if the area is in Northern Ireland, the Department of Enterprise, Trade and Investment in Northern Ireland.

(9) Accordingly, this Memorandum of Understanding, between HM Treasury and the Authority, being the responsible authority for the Relevant Designated Assisted Area, is a memorandum of understanding for the purposes of section 45K(3) CAA 2001.

**IT IS AGREED** as follows:

## **1 STATUS, DEFINITIONS AND INTERPRETATION**

**1.1** This is a Memorandum of Understanding for the purposes of section 45K(3) CAA 2001.

**1.2** This Memorandum of Understanding sets out the understanding between the Parties in relation the Relevant Designated Assisted Area.

**1.3** In this Memorandum of Understanding:

“CAA 2001” means the Capital Allowances Act 2001.

“designated assisted area” means an area designated by an order made by HM Treasury under section 45K(2)(a) of the CAA 2001.

“Enterprise Zone” means an area recognised by HM Treasury as an area in respect of which there is a special focus on economic development and identified on a map published by HM Treasury on its website.

“first-year allowances” means new first-year allowances under section 39 and sections 45K to 45N of CAA 2001 for expenditure on plant or machinery for use in designated assisted areas.

“Local Development Order” means an order made by a local planning authority under section 61A of the Town and Country Planning Act 1990.

“Local Enterprise Partnership” means an organisation involving local authorities and businesses which works towards the economic growth of a particular local area and which is known as a “local enterprise partnership” as described in more detail on the website of the Department for Communities and Local Government:

<http://www.communities.gov.uk/localgovernment/local/localenterprisepartnerships/>.

“non-domestic rates discounts” means a discount, under the Non-Domestic Rating (Contributions) (England) Regulations 1992, on non-domestic rates of up to 100 per cent over a five year period (up to State aid de minimis levels) for businesses that move into an Enterprise Zone before April 2015.

“Relevant Non-Domestic Rates Discount Area” means the area of the Relevant Enterprise Zone which benefits from non-domestic rates discounts;

“Relevant Designated Assisted Area” means the area delineated in *Red* in the map contained in the Schedule to this Memorandum of Understanding;

“Relevant Enterprise Zone” means the *Mersey Waters Enterprise Zone* as shown on the map published on HM Treasury’s website.

“Relevant Local Enterprise Partnership” means the *Liverpool* Local Enterprise Partnership responsible for applying to HM Treasury for the Relevant Designated Assisted Area to be designated a designated assisted area.

#### 1.4 References to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory

instrument as amended, extended or re-enacted from time to time and to any regulations made under it.

## 2. CRITERIA TO DESIGNATE A DESIGNATED ASSISTED AREA

The Relevant Local Enterprise Partnership applied to HM Treasury for the Relevant Designated Assisted Area to be designated as a designated assisted area on the basis of various criteria previously set out by HM Treasury, including the following:

- (a) The Relevant Designated Assisted Area must be in an assisted area, being an area granted assisted area status by virtue of Article 107(3) of the Treaty on the Functioning of the European Union.
- (b) The Relevant Designated Assisted Area must be in an Enterprise Zone.
- (c) The Relevant Enterprise Zone must have a clear aim of attracting a small number of large, capital intensive companies.
- (d) The ability to demonstrate why first-year allowances will be of greater benefit to the companies locating within the Relevant Enterprise Zone than non-domestic rates discounts.
- (e) The Relevant Non-Domestic Rates Discount Area will be significantly smaller in the Relevant Enterprise Zone than it would otherwise have been but for the proposed designated assisted area.
- (f) There is an economic link between the Relevant Designated Assisted Area and the Relevant Non-Domestic Rates Discount Area. For example, the Relevant Non-Domestic Rates Discount Area may be the location for businesses which form the supply chain for businesses in the Relevant Designated Assisted Areas.
- (g) There is reasonable level of detail provided to explain the expected levels of investment in the Relevant Designated Assisted Area.
- (h) There has been previous interest by the Relevant Local Enterprise Partnership in first-year capital allowances and an explanation of the importance of them for the success of the Relevant Enterprise Zone.

### **3. THE RELEVANT DESIGNATED ASSISTED AREA**

**3.1** Having considered the Relevant Local Enterprise Partnership's application, and bearing in mind the purpose of Enterprise Zones and the incentives proposed to be made available for businesses locating in Enterprise Zones, HM Treasury has concluded that offering first-year capital allowances in the Relevant Designated Assisted Area would be material to the success of the Relevant Enterprise Zone and will be of greater benefit to the businesses locating within it than non-domestic rates discounts.

**3.2** Accordingly, HM Treasury intend to designate that the Relevant Designated Assisted Area is a designated assisted area.

**3.3** The Authority will endeavour to ensure that the Relevant Designated Assisted Area is developed in a way which is consistent with the application made by the Relevant Local Enterprise Partnership and the criteria outlined in paragraph 2 of this Memorandum of Understanding, in particular with regard to the nature of development and levels of expected investment, including by the Authority using planning simplification measures such as Local Development Orders.

**3.4** In fulfilling the endeavour described in paragraph 3.3 above, HM Treasury expects the Authority to place particular importance on the following:

- (a)** the targeting of large capital intensive companies which anticipate making a significant investment of qualifying expenditure during the period of five years, starting in April 2012, such that first-year allowances will be of greater benefit to the companies locating within the Relevant Enterprise Zone than non-domestic rates discounts; and
- (b)** the targeting of new businesses involving new primary production (rather than those servicing existing activities) including manufacturing, as these may be considered more likely to stimulate regional economic growth. Where existing businesses are expanding but are eligible for first-year allowances the Authority will ensure that expansion will lead to additional growth and job creation.

**IN WITNESS** of which this Memorandum of Understanding has been duly entered into by the Parties.

**SIGNED** for and on behalf of HM Treasury

Signature.....

Signature.....

Name .....

Name.....

Position .....

Position.....

**SIGNED** for and on behalf of [name] Council

Signature.....

Signature.....

Name .....

Name.....

Position .....

Position.....

## SCHEDULE