

| <b>Bath &amp; North East Somerset Council</b>  |   |                                   |
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| MEETING  | <b>Cabinet</b>  |                                   |
| MEETING  | <b>1<sup>st</sup> February 2024</b>                                     | EXECUTIVE FORWARD PLAN REFERENCE: |
|  |   | E 3487                            |
| TITLE:   | <b>Somer Valley Enterprise Zone – In Principle Statutory Mechanisms</b> |                                   |
| WARD:  | Paulton   |                                   |
| <b>LIKELY TO BE TAKEN IN EXEMPT SESSION</b>  |   |                                   |
| <b>List of attachments to this report:</b>   |   |                                   |
| <ul style="list-style-type: none"> <li>• Appendix 1 (Exempt): Statutory Mechanisms</li> <li>• Appendix 2 (Exempt): Equalities Impact Assessment</li> </ul> |   |                                   |

## THE ISSUE

1. The Council is promoting the Somer Valley Enterprise Zone (SVEZ), a mixed use commercial development at Old Mills north-west of Midsomer Norton with associated highway works (the SVEZ Scheme). The land required to deliver the SVEZ Scheme is currently held in multiple ownerships, as outlined in further detail below.
2. In order to construct the SVEZ Scheme, it is necessary to acquire the land and rights required for the commercial development, together with several small parcels of land outside of the existing highway boundary required for the associated highway improvements (such as cycle and pedestrian path connectivity). Negotiations for the acquisition of the land and rights needed for the delivery of the SVEZ Scheme have commenced. However, to ensure certainty of delivery and timescales for delivery officers are now contemplating the use of additional statutory mechanisms to support land assembly.
3. This Report provides Cabinet with an overview of the current progress of negotiations with landowners. A separate appendix (**Appendix 1 (Statutory Mechanisms)**) provides commentary on the statutory mechanisms and powers available to the Council to enable land acquisition by compulsory purchase should this be necessary as a last resort. The Council is considering all available mechanisms to deliver the land, including the making of a compulsory purchase order (CPO) for the Scheme, in order to protect its position and ensure the deliverability of the development. Any such mechanisms would run in parallel to ongoing negotiations for voluntary land acquisition. This Report seeks authority for an 'in principle' decision to progress these statutory mechanisms, and authority to proceed now with related early activities.

Should the use of CPO or any other statutory mechanisms be determined to be required, further Cabinet approval would be secured to authorise the next stages of the process.

## **RECOMMENDATIONS**

The Cabinet is asked to:

1. Note the ongoing progress which has been made towards the acquisition of land required to develop the SVEZ Scheme.
2. Authorise the carrying out of formal land referencing (including the procurement of a land referencing agent and the issue requisitions for information under the Acquisition of Land Act 1981 and/or any relevant or associated statutes) across the area being considered for the SVEZ Scheme in order to identify landowners, their interests and to gather as much information as possible about the land. This will include full due diligence and financial evaluation to ensure value for money.
3. Authorise the entry into negotiations by the Council (and on behalf of the Council) with landowners and others with an interest in the relevant land required for the delivery of the SVEZ Scheme in order to acquire land and rights by agreement where possible.
4. Authorise the acquisition of land or rights required for the SVEZ Scheme subject to relevant financial limits, whereby the decision to proceed with any purchase in excess of the SVEZ Scheme budget would be referred to [Cabinet /Single Member Decision] for authorisation;
5. Delegate to the Director of Regeneration and Housing and the Director of Sustainable Communities (or [the Monitoring Officer / Executive Member] for payments of over £500,000), in consultation with the S151 Officer, authority to take all necessary steps to acquire by agreement land and/or rights required for the SVEZ Scheme and to negotiate and settle all necessary compensation and professional fees (including interim payments) as agreed with landowners, where compensation is within the SVEZ Scheme budget. This will be subject to full due diligence and financial evaluation to ensure value for money and that commitments are in line with approved scheme budgets.
6. Authorise the taking of all steps (including the drafting of a CPO and related documentation) necessary to prepare for a subsequent report to Cabinet to determine the use of compulsory purchase powers to acquire the land and rights in land required for the SVEZ Scheme.

## **THE REPORT**

### **BACKGROUND**

1. In December 2016, the Council entered into a Memorandum of Understanding (MoU) with the Secretary of State for Communities and Local Government, now the Secretary of State for Levelling Up Housing and Communities. The MoU governed the provision of business incentives in the Enterprise Zone (EZ) and included provisions in relation to the delivery and marketing of an EZ.

2. Subsequently, the SVEZ was established in April 2017 to support local businesses and to attract new businesses and growth to the area, following its inclusion in the wider Bath & Somer Valley Enterprise Zone. EZs were designated areas across England which may offer business rate discounts or enhanced capital allowance for new businesses locating on the sites. EZs were designated on sites which would ordinarily not be expected to generate significant business growth or to generate any business rates without incentives and/or dedicated local stakeholder support. EZs also benefit from opportunities presented by simplified planning regimes, such as the use of Local Development Orders (LDO), as is proposed for the SVEZ Scheme.
3. The MoU was a statement of serious intent that was entered into voluntarily by the respective parties, and had moral force rather than creating legal obligations. The MoU covered the period up to March 2020.
4. The Enterprise Zone status was granted for a period of 5 years, which has now expired. The MoU is also no longer in effect. Without that formal status, some associated benefits for prospective occupier (such as business rates discounts and enhanced capital allowance) will not be available. However, the establishment of the SVEZ has still been instrumental in the promotion of the project. It has allowed for the promotion of the LDO and has been central to securing programme entry with WECA. The need for the SVEZ Scheme, and the demand that it is anticipated to generate, is still clearly demonstrated.
5. The SVEZ comprises greenfield land extending to approximately 13.5 hectares / 33 acres. It is located at Old Mills to the north west of Midsomer Norton and is fully allocated in the adopted Local Plan for new employment space following the adoption of the Local Plan Partial Update (LPPU) in January 2023.
6. The SVEZ site has not been brought forward to date for a number of reasons, including because it has not been possible to secure all of the land and rights required by negotiation. The other key issue is the high costs of delivering the enabling infrastructure, which means the SVEZ Scheme is not viable for the private sector. It is these issues which have led to the need for public sector intervention to assemble the land and deliver the SVEZ.
7. In line with its obligations under the (now expired) MoU, the Council remains committed to the delivery of the SVEZ Scheme to secure a number of important economic, transport and environmental benefits. These include:

### **Economic benefits**

- Supporting the Somer Valley to thrive and become more self-reliant by enabling economic growth through the creation of 1,300 new jobs increasing prosperity for the area;
- Diversifying the type of employment available in the area, offering flexible space to accommodate new and expanding local businesses and creating circa 35,800sqm of new commercial space;
- Delivering new highly sustainable and attractive new commercial and industrial space, helping to address business demand and employment land losses experienced in the Somer Valley;

- Offering opportunities for expanding local companies and businesses relocating to the area that are attracted by the skilled local workforce;
- Delivering important jobs to the local area and to assist with achieving the Local Plan aspirations for at least 900 new jobs by 2029;
- Generating business rates income. The potential business rates income (estimated to be in the region of £10,500,000 by 2040 / 2041) that would at least partially be retained by the Council; and
- Contributing circa £51,000,000 pa of net additional GVA to the West of England economy, and raising employment in this area by approximately 0.2%.

### **Transport improvements**

- Helping to address the patterns of out-commuting by offering new local job opportunities that are more accessible through improvements to specific local transport links;
- Improvements to traffic flows on the A362 between Old Mills and Farrington Gurney through speed limit regularisation and widening of the Sunnyside pinch-point;
- Supporting a sustainable travel modal shift through the provision of improved bus infrastructure and through the provision of a pedestrian and cycle track between the SVEZ and the Norton Radstock Greenway to the East; and
- Improvements to traffic flows through upgrades to the Thicketmead roundabout.

### **Environmental**

- Delivering a sustainable, Net Zero mixed-used commercial development which will achieve 10% biodiversity net gain; and
- Reduce out commuting in the Somer Valley through the provision of new jobs and providing a range of active and sustainable travel improvements.
- The development will achieve a 100% regulated operational carbon emissions reduction from Building Regulations Part L 2021 (or future equivalent legislation), in line with the hierarchy set out in Policy SCR7 and the B&NES Sustainable Construction Checklist SPD (2023). The SVEZ will help to reduce vehicle-related CO2 emissions through the provision of EV charging on site, in line with the Council's local transport policies and climate emergency declaration

### **Wider benefits**

- Securing external funding through the West of England Combined Authority (WECA) to deliver infrastructure improvements that will benefit the Somer Valley; and

- Improvements to connectivity through support for superfast broadband.

## **Previous Decisions**

1. The following Council decisions have preceded this Report and provide relevant background to this decision:
  - a) On 10 November 2016, the site allocation and proposals for the SVEZ were unanimously approved by Full Council;
  - b) On 1 May 2018, the Cabinet Member for Economic and Community Regeneration authorised a £100,000 provisional capital item to the approved Capital Programme to be matched with £300,000 of WECA and section 106 contribution funding to prepare a Business Case for a comprehensive improvement scheme for the A362; this decision was effective from 12 May 2018; and
  - c) On 19 January 2023, the LPPU was adopted which ensures that the SVEZ is fully allocated in the Local Plan.
2. Cabinet should note that a business case for improvements to the A362 was prepared but was not submitted to WECA. Following WECA's advice, the highway improvements were subsumed into the main SVEZ Scheme (which now forms the basis of this Report), and officers have agreed with WECA that the Council will submit one business case for both elements. Further information regarding the funding position is provided in **Appendix 1 (Statutory Mechanisms)**.
3. It is also relevant to note that the use of a LDO as the planning mechanism for the SVEZ Scheme was presented to and agreed by the Enterprise Zone Steering Group in 28 November 2018. The LDO is considered further in the following section.

## **Planning Position**

1. Planning permission for the development will be secured via the LDO and this is currently being progressed. The Council is being requested to adopt the LDO by a Cabinet decision in February 2024 (alongside the resolutions requested in this Report). The LDO is a grant of planning permission for the development of the SVEZ that accords with the uses specified and parameters set in the LDO. The LDO is being promoted by the Council in order to encourage investment in the SVEZ and to facilitate delivery of employment development by reducing uncertainty and planning risks for investors and developers.
2. The LDO and the statutory mechanisms which may be required for the acquisition of the land and rights to ensure its delivery are closely linked, as the land is outside of the Council's control. Further information regarding the land required for the SVEZ is provided below. **Appendix 1 (Statutory Mechanisms)** contains an explanation as to the relationship between the LDO and the statutory mechanisms available for land assembly.

## **Associated Highway Works**

1. As part of the SVEZ Scheme, a range of associated active travel and highway improvements are proposed to be delivered along the adjacent A362 highway corridor (the Highway Works), many of which will require the use and development of third-party land.
2. In outline, the Highway Works that are currently being considered include the following:
  - Straightening the A362 to include a new roundabout to provide the necessary access to the SVEZ site;
  - Widening the road at 'Sunnyside' on the A362 to enable vehicles to pass one another easily and without causing delays during busy times;
  - Additional active and sustainable travel provision including new and improved bus stops and a pedestrian and cycle path between the SVEZ and the Norton Radstock Greenway; and
  - Potential junction improvements at Thicketmead Roundabout.
3. To pursue these associated highway improvements, the Council will need to acquire several small parcels of land outside of the existing adopted highway boundary to carry out improvement works (both east and west of the site and along the A362), in particular to ensure the delivery of the active travel provision. The highway improvements will also facilitate the flow of traffic and to create an entrance into the site from the A362.
4. Whilst some early dialogue and background investigations have commenced, detailed negotiations with the owners of Highway Works land parcels have not yet commenced whilst designs are being finalised. It is therefore considered likely that the acquisition of these parcels will need to be facilitated by statutory mechanisms available to the Council.
5. However, as these works will be necessary to deliver the SVEZ (and therefore form part of the SVEZ Scheme) it is recommended that the land required for delivery of the Highway Works be included in the resolution to approve steps up to the making of a CPO. Voluntary acquisition would still be pursued as a primary objective and use of any statutory mechanisms will be treated as a last resort.

## **Land Assembly and Negotiations**

1. At the date of this Report, it is understood that the land required for the SVEZ Scheme is held in ten separate parcels. Five of these parcels are within the proposed boundary for the main SVEZ site. As explained above, there are a further five parcels located outside of the main SVEZ site relating to the Highway Works (where proposed works fall outside the existing public highway).
2. The full extent of the land and rights required will be confirmed once the final LDO boundary is determined following to adoption. However, subject to any changes as part of progressing the LDO, it will in any event be necessary to acquire all of the land and rights required to build out the SVEZ Scheme, including the Highway Works. The Council currently has funding available to enter into option agreements

in respect of the key land parcels. This funding comes from the same source as the enabling works, the WECA Investment Fund (see further below) and **Appendix 1 (Statutory Mechanisms)**.

3. Officers and the Council's instructed land agents have been engaging in negotiations for voluntary acquisition with landowners of the main site area for several years, with some negotiations having commenced in the last quarter of 2019. However, there has been more contact with some landowners than others. Offers to purchase land have been made to 4 of the 10 landowners with interests in the main SVEZ site area. No offers have been made to landowners affected by the Highway Works because the boundary of land required for the Highways Works has been subject to further consideration whilst the designs were finalised prior to the LDO being adopted.
4. Further consideration of the implications of the nature of the negotiations is contained in **Appendix 1 (Statutory Mechanisms)**.

### **Statutory Mechanisms for the Assembly of Land**

1. Please refer to **Appendix 1 (Statutory Mechanisms)**.

### **STATUTORY CONSIDERATIONS**

1. Please refer to **Appendix 1 (Statutory Mechanisms)**.

### **RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

1. Capital spending to the end of December 2023 for work to develop the business case and design the scheme totals £1.9m. WECA has agreed £1.82m grant funding for this current scheme in the approved capital programme and it is supplemented by B&NES match funding of £665k.
2. An Outline Business Case '+' (OBC+) has been submitted to WECA to request grant funding of £9.3m for project development costs such as land assembly and detailed technical design which are to be funded from the current £14.9m WECA grant allocation already included in the provisional capital programme.
3. In 2025 we plan to submit a Full Business Case (FBC) for project implementation costs of a further £20.6m which includes enabling works and completion of highways work, a new roundabout and perimeter landscaping. We propose to ask WECA to grant fund £19.5m of these costs, using the remaining £5.6m of the current £14.9 allocation plus an additional new grant allocation of £13.9m.
4. In total, costs of £29.9m are estimated for completion of the next stage of the scheme for both OBC+ and FBC costs and to be funded from B&NES match funding of £1.1m together with requests for WECA grant funding of £28.8m.
5. B&NEs match funding of £1.1m will contribute towards FBC project implementation costs. CIL (Community Infrastructure Levy) funding totals £756k. CIL of £375k was allocated to the scheme in 2023/24 to fund the eastern cycle track to lead from the SVEZ development and link in with the Norton Radstock Greenway. The balance of £381k CIL funding is earmarked for allocation in a future financial year. The project also has funds available from developer contributions paid through agreements under s.106 of the Town and Country Planning Act 1990 (TCPA) estimated at £329k.

6. See Appendix 4 for full financial tables being submitted to WECA. Adoption of the LDO will be subject to the confirmation of the OBC+ approval at WECA Committee and a signed Grant Offer Letter.
7. Further information on funding and how it relates to the potential statutory mechanisms is contained within **Appendix 1 (Statutory Mechanisms)**.

## **RISK MANAGEMENT**

1. The SVEZ Scheme offers an important opportunity to deliver employment uses and other benefits, but officers acknowledge that inevitably there will be both legal and financial risks involved.
2. A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance. The Council's risk register has been, and will continue to be, updated accordingly as the project progresses.
3. Appointment of external specialists is a key response to pro-active risk management around land and legal issues associated with the SVEZ Scheme. The Council has appointed a specialist legal team. Land agents have also been appointed to advise on and manage the negotiations for the acquisition of third party interests. Subject to this decision, land referencing agents will also be appointed to review the land interests in contemplation of relying on statutory mechanisms for land assembly.

## **EQUALITIES**

1. In line with its Public Sector Equality Duty (PSED), and the B&NES Council Equality Improvement Plan September 2022, the Council has carried out an Equalities Impact Assessment (EqIA) in order to identify any equalities issues as early as possible prior to a full EqIA when further information is confirmed regarding the scheme proposals and specific landowners.
2. A copy of this EqIA is appended to this report at **Appendix 2**. Given the stage of the proposals, the current EqIA has been undertaken at a high level. Further EqIAs will be undertaken at appropriate stages of the project, reflecting that the PSED is an ongoing duty. Full regard will be paid to the EqIAs in the development of any proposals and in negotiations with those with an interest in the SVEZ Scheme.
3. Please refer to **Appendix 1 (Statutory Mechanisms)** for further information.

## **CLIMATE CHANGE**

1. The Council declared a Climate Emergency in March 2019, committing it to providing the leadership necessary to enable Bath and North East Somerset to achieve carbon neutrality by 2030.
2. The SVEZ Scheme represents an opportunity to address several related issues which will help to address the climate emergency. It will help to reduce out-commuting in the Somer Valley through the provision of new jobs and it will also provide a range of active and sustainable travel improvements, including a new cycle link to the Norton Radstock Greenway, and new and improved bus stops.



3. Biodiversity net gain is also intended to be a key aspect of the SVEZ Scheme, and it is proposed to provide a zero carbon, sustainable development. The SVEZ will help to reduce vehicle-related CO2 emissions, in line with the Council's local transport policies and climate emergency declaration.

## **OTHER OPTIONS CONSIDERED**

1. Please refer to **Appendix 1 (Statutory Mechanisms)**.

## **CONSULTATION**

1. Consultation has been carried out with the Council's Monitoring Officer, Director of Regeneration and Housing, Director of Sustainable Communities and Deputy Council Leader and Cabinet Member for Economic Development and Resources.
2. Informal public engagement for the SVEZ LDO commenced in September 2021, with a presentation to the Somer Valley Forum on 7 September 2021, followed by a presentation to landowners on 27 September 2021. However, following these meetings, the engagement was put on hold whilst the proposed masterplan was revised at the recommendation of the Cabinet member for Economic Development Resources.
3. The informal public engagement then recommenced on 19 May 2022 and was open until 30 June 2022. It was advertised widely via Council press releases, direct emails to Ward and Parish Councils, letters to neighbours and landowners, site notices surrounding the site, an advertisement in the Somerset Guardian, social media posts, a post on the Council's newsroom and an interview with the Cabinet member for Economic Development Resources on Somer Valley FM.
4. Engagement consisted of the following displays and events: the public website containing project information and the proposed masterplan, a public webinar which was then uploaded to YouTube, presentation boards and hard copy questionnaires in Midsomer Norton, Paulton and Radstock libraries, presentations to Radstock Town Council, the Somer Valley forum, Westfield Parish Council and Paulton Parish Council as well as a residents meeting at Paulton village hall.
5. Levels of engagement for the above were good, there were 41 attendees of the webinar and 336 subsequent views of it on YouTube, 29 hardcopy questionnaires were completed, 106 online questionnaires were completed, 3,776 unique website views were received, and there were 53 attendees at the residents meeting. There were generally positive comments received from Midsomer Norton Town Council & High Littleton Parish Council. The project team also answered questions from members of the public.
6. The initial SVEZ LDO statutory consultation began on 16 January 2023 and ran to 13 February 2023.
7. After considering feedback from the first statutory consultation, the Council determined that a number of changes should be made to the SVEZ Scheme requiring amendments to the LDO. As a result, it was decided that a second statutory consultation should be held to seek views on those changes. In summary, the changes include:

- a) Increased depth of the perimeter buffer zone from 10m to 15m-20m;
  - b) Changes to the Wildlife (dark) corridors;
  - c) Removal of the perimeter path; and
  - d) Indicative location of the primary substation.
8. None of these changes affect the boundary of the SVEZ or the land-take requirements.
9. The second statutory consultation ran from 22 September 2023 to 20 October 2023.
10. As demonstrated by the changes made following the initial statutory consultation, the Council will take all representations into account in preparing the final proposals for the LDO, which will in turn inform the land assembly for the SVEZ.

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| <b>Background papers</b>   | None                         |
| <b>Please contact the report author if you need to access this report in an alternative format</b> |                              |