

## Bath & North East Somerset Council

|   |   |                                  |
|---|---|----------------------------------|
| MEETING:  | <b>Cabinet</b>  |                                  |
| MEETING DATE:   | <b>1<sup>st</sup> February 2024</b>                         | EXECUTIVE FORWARD PLAN REFERENCE |
|   |   | <b>E 3486</b>                    |
| TITLE:  | <b>Somer Valley Enterprise Zone Local Development Order</b> |                                  |
| WARD:   | Paulton   |                                  |
| AN OPEN PUBLIC ITEM   |   |                                  |
| <p><b>List of attachments to this report:</b></p> <p>Please list all the appendices here, clearly indicating any which are exempt and the reasons for exemption.</p> <ul style="list-style-type: none"> <li>• Appendix 1- E3487</li> <li>• Appendix 2 - LPA Officer report</li> <li>• Appendix 3 - LDO and Statement of Reasons</li> <li>• Appendix 4- Project Financials</li> <li>• Appendix 5 - Statement of Community Involvement</li> </ul> |   |                                  |

### 1 THE ISSUE

- 1.1 The delivery of Somer Valley Enterprise Zone is a Corporate priority via the Council's Economic Strategy (2014-2030).
- 1.2 The Council has promoted a Local Development Order (LDO) for the Somer Valley Enterprise Zone (SVEZ) to ensure the (current) Local Plan policy allocation SSV9 is enabled for delivery. When adopted by Cabinet resolution the LDO will grant planning permission for the development of plots and buildings within use classes B2, B8, C1, E and sui generis on the site, subject to conditions and limitations.
- 1.3 The LDO will remove planning barriers to the development of the site, thereby helping to encourage sustainable economic growth and job creation within the Somer Valley. This paper sets out the background and next steps in delivering the LDO that is being promoted by the Council.
- 1.4 The SVEZ is an intervention that will make our district more sustainable by delivering changes to movement patterns including walking and cycling and promoting bus transport, offering benefits to residents and wider Somer Valley communities by enabling people to remain local.

- 1.5 Adoption of the LDO by Cabinet addresses a market failure (see 3.2) and de-risks delivery through a flexible planning framework, that, via Compliance Applications, allows plots to be brought forward for development in a swifter timeframe than a conventional planning route.
- 1.6 A 'double lock' is provided, firstly through the delivery of the LDO, as the planning permission that controls how sustainable development comes forward, and secondly through the control effected by the acquisition of the land acting as a lever to enable delivery. The Council is then able to decide how to bring development forward, ensure the supporting infrastructure is put in place and that development aligns with the ambitions of the Council.
- 1.7 In order to address the future of the development, the Council has prepared an Ambitions paper reference E3510 to be read alongside this paper.
- 1.8 This report requests agreement to accept £9.3m grant funding award from the West of England Combined Authority towards development of the Somer Valley Enterprise Zone capital scheme.

## **2 RECOMMENDATION**

The Cabinet is asked to:

- 2.1 Resolve to adopt the Local Development Order for the SVEZ site recommended by the Local Planning Authority, and to meet the aims of policy SSV9.
- 2.2 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.
- 2.3 Delegate the approval to the Director of Regeneration and Housing and the Director of Sustainable Communities in consultation with the s151 Chief Finance Officer to:
  - Accept the Investment Fund grants from the West of England Combined Authority, subject to WECA approval at Committee
  - On grant acceptance to move from provisional to approved budget for £9.3m continue with land assembly and infrastructure design.

## **3 THE REPORT**

- 3.1 The Somer Valley Enterprise Zone is an allocated site (Policy SSV9) which seeks to deliver a mixed-use commercial development in the Somer Valley. The SVEZ is located on 13.5 hectares of land at Old Mills, which is situated to the north-west of Midsomer Norton.

3.2 The SVEZ has been allocated as an employment site since 2007, however the market has failed to bring forward the development due to significant barriers to private sector led intervention. These include the following:

- Viability- Development has not been delivered by the private sector as it is rendered unviable by the high enabling infrastructure costs, both on and off site. For example, and not limited to, highways, utilities and issues related to topography, ground conditions and flood risk.
- Fragmented land ownership- The site is held in multiple ownerships. This makes the necessary land assembly very complex and challenges a comprehensive approach to delivery.
- Planning risk/cost- Any developer or occupier would be required to secure planning permission which has time, cost and risk implications. The LDO will help to reduce the planning risk and cost to an occupier and/or developer delivering commercial development.

3.3 The SVEZ will provide circa 1,300 jobs in 35,800 sqm of commercial floorspace.

The SVEZ LDO also:

- Encourages a connected network for walking and cycle.
- A balanced car parking approach, catering to the uses on site whilst also enhancing sustainable transport options.
- Efficient, sustainable, and low energy buildings
- A reduced pressure on resources for both LPAs and applicants.
- Flexibility to ensure that necessary, viable development comes forwards now and in the future.
- Enables growth by positively and proactively shaping sustainable development.
- Can generate £51m GVA.

3.4 The LDO enables a number of highways mitigations to take place on and around the site which are key to responding to any increase in traffic but also facilitating a transport modal shift.

- Speed limit regularisation along A362 – the reduction in speed limit promotes the use of a pedestrian/cycle path
- Additional lane at Sunnyside pinch point- resolves stop/start traffic flows and improves air quality for pedestrians and cyclists
- A new access roundabout to the SVEZ and road straightening on the A362- enables the creation of the segregated walking and cycling path
- Improvements to the design of Thicket Mead roundabout- provides the link to the Norton Radstock Greenway for the pedestrian and cycle path.

- The above highways mitigations, the SVEZ segregated walking and cycling path and the works being delivered by the Somer Valley Links project, will result in a reduction of 409 vehicle movements and an increase of 237 cyclist movements to and from the SVEZ.

3.5 The LDO enables the Council to clearly stipulate what it is seeking to achieve on site, and the parameters the Order sets will promote specific behaviour by developers, driving forward high-quality development and encouraging new employment growth. The LDO will grant planning permission for the development within parameters, including specific use classes and developable plots, specified in the Order. An LDO was selected as the planning mechanism for the site as it expedites the process of development by providing future developers with the greatest level of planning certainty, whilst promoting flexibility to respond to market demands.

3.6 Development on site will be determined by a Design Code that specifies the amount of development that can take place on each plot as well as the characteristics of any buildings, landscaping, and parking. Developers will be required to submit Compliance Applications to the LPA which will show that their development proposals align with the Design Code.

3.7 The submission of Compliance Applications will demonstrate that proposals align with the Design Codes and the Conditions applied to the LDO. The Council will maintain enforcement powers should development not be compliant with the LDO.

3.8 The LDO itself has been informed by a large number of technical reports as well as informal engagement with key stakeholders, local business owners, Parish and Town Councils and the public. The project team has worked with the SVEZ Key Stakeholder Group throughout the project to develop the LDO and an illustrative masterplan with appropriate use classes and building characteristics.

3.9 The LDO provides the planning mechanism to deliver the SVEZ, it does not at present commit the Council to any development on site but unlocks the site to further land acquisition discussions (including through the adoption of 'In Principle' Statutory Mechanisms set out in E3487, Appendix 1), progression with supporting on site and off-site infrastructure works including highways works and helps to enable developing discussions about extending local bus services.

3.10 The LDO and Statement of Reasons contains pre-commencement conditions including, but not limited to:

- No development on any plot shall commence until the highways infrastructure as been completed.
- No development shall commence until a Strategic Biodiversity Net Gain Delivery and Management Plan has been approved by the Local Planning Authority.
- Structural landscaping will be delivered in accordance with the approved Phasing Plan.

3.11 The initial LDO statutory consultation was open from 16<sup>th</sup> January 2023 to 13<sup>th</sup> February 2023.

Following the initial consultation, the project team engaged in workshops with Development Management to review and amend a number of LDO documents.

A revised statutory consultation ran from 22<sup>nd</sup> September 2023 to 26<sup>th</sup> October 2023. An officer report on the LDO consultation can be found in Appendix 2.

3.12 The changes since the initial statutory consultation include:

- The perimeter buffer zone depth increased from 10m to 15m-20m which creates wildlife dark corridors
- The removal of the perimeter path
- Inclusion of a primary substation on site.

3.13 The Council is committed to developing employment pathways through the lifecycle of the SVEZ:

- Working with local schools and employers to promote career paths and an understanding of business and industry in the Somer Valley
- Working with local businesses and those occupying space at SVEZ to promote employment pathways and apprenticeships during construction and occupational phases.
- Developing pathways in collaboration with Bath College (Somer Valley Campus) in Westfield
- Further workstreams will be developed post adoption of the LDO.

3.14 The Council is committed to managing flood risk and drainage associated with development through:

- Separate foul and surface water systems within the site boundary
- Surface water runoff discharged at controlled rates, via flow control, into Wellow Brook watercourse
- Surface water system to incorporate Sustainable Drainage Systems (SuDS) measures including permeable paving serving the commercial plots, ponds and attenuation tanks to serve roof and other hardstanding areas. SuDS offer a more natural approach to manage surface water drainage and can also create new habitats leading to an increase in biodiversity at SVEZ.

## **4 DELIVERY STRATEGY**

4.1 A Delivery Strategy has been commissioned to advise the Council on the next steps for site delivery after the infrastructure works have been completed. Progression with the delivery of the site, following land acquisition, will be subject to internal business cases which will be approved via Infrastructure & Development Group (IDG) and Sustainable Places Board (SPB).

## **5 LAND ACQUISITION**

- 5.1 Following adoption of the LDO, we expect the land acquisition process to take approximately 18 months. The project will then go through a Full Business Case process and full design and procurement of the highways and site enabling works. It is predicted that construction could be on site for the highways infrastructure by Q4 2025 – Q1 2026.

## **6 POST LDO ADOPTION**

- 6.1 A key commitment for the Somer Valley Enterprise Zone is the provision of a cycle path from Farrington Gurney to Midsomer Norton.
- 6.2 The SVEZ LDO will deliver a segregated walking and cycling track from Old Mills Lane along the A362 to integrate with the Norton Radstock Greenway.
- 6.3 The project team has been working closely with the West of England Combined Authority Somer Valley Links Project which, once approved, will complete the link from Old Mills Lane to Farrington Gurney. The Somer Valley Links project will submit an Outline Business Case in January 2024 and have a provisional on site works commencement date of Q3 2025.
- 6.4 The Council is also committed to ensure that SVEZ will be served by buses right from the start. A Bus Service Assessment has been prepared that reviews the current and future need for buses along the A362. At present, bus services meet the target set by the WECA Bus Service Improvement Plan (BSIP) which is due to be reviewed again in 2027. Conversations with First Bus have begun with the aim of maintaining and extending bus service provision beyond 2027.
- 6.5 The LDO will be reviewed on a 5 yearly basis to ensure that the site meets the original policy objectives and/or whether those objectives have become out of date. The LDO can be reviewed, modified or revoked at any time.
- 6.6 Further information regarding the future ambitions for the LDO can be found within Cabinet paper E3510.

## **7 STATUTORY CONSIDERATIONS**

- 7.1 Section 61A of the Town and Country Planning Act 1990 (TCPA 1990) gives an LPA the power to make an LDO. The statutory provision confirms that the LDO grants planning permission for the development specified in the LDO including for development of any planning use class specified. Section 61C of the TCPA provides that an LDO may be granted unconditionally or subject to conditions and limitations as set out in the order.
- 7.2 The SVEZ LDO includes conditions and limitations to control how the SVEZ will be developed. This will ensure that the SVEZ is delivered in accordance with the Council's overarching vision for the scheme – as informed by the various technical assessments – and broadly in line with the illustrative masterplan for the SVEZ (to be submitted as part of the LDO).

7.3 Sections 38 and 41 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 set out the procedural requirements for the making of an LDO, including the need for consultation. The Council is satisfied that it has complied with these requirements insofar as they have fallen due.

7.4 Paragraph 3 of Schedule 4A of the TCPA 1990 prevents an LDO having effect unless it is adopted by resolution of the LPA. An LPA is defined in the TCPA 1990 as being the relevant council. The Council has taken legal advice to confirm that the decision to adopt the LDO should be taken by Cabinet. As the adoption of an LDO is not listed as a non-executive function in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, it should therefore be considered an executive function and the decision taken by Cabinet.

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

8.1 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.

8.2 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.

8.3 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

8.4 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.

8.5 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.

8.6 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.

## **9 RISK MANAGEMENT**

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

9.2 A Risk Register is maintained for the project.

9.3 The top project risks at present are:

- The land is currently in third party ownership and in order to implement the LDO the land will need to be acquired via negotiation or statutory mechanisms. See Appendix 1.
- Planning- should the employment allocation on the site not be delivered, there is the potential for a hostile application for residential development to be submitted for the site by landowners/promoter. This may also present a challenge for the new Local Plan in defending the employment allocation and a review will be required to establish employment land use in the Somer Valley.
- Funding- Current project spend of £1.8m. Risk of WECA requesting a capital reversion and Council required to repay current expenditure.
- Loss of Provisional Capital Programme- Current WECA 'tail' capital allocation of £14.9m could be removed from SVEZ and reallocated to the WECA capital programme and another Unitary Authority.
- Maintaining the Somer Valley Links project as a priority for delivery under CRSTS to enable delivery of the commitment for a shared pedestrian and cycle path to the Farrington Gurney

## **10 EQUALITIES**

10.1 An Equality Impact Assessment has been carried out on the SVEZ project. Following a review with the Equalities Team, no adverse impacts have been identified.

## **11 CLIMATE CHANGE**

11.1 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

11.2 The SVEZ represents an opportunity to address several related issues which will help to address the climate emergency. It will help 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 bus stop.



- 11.3 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.
- 11.4 The LDO is compliant with B&NES NE3a Biodiversity Net Gain (BNG) policy. The development aims to deliver 10% BNG via on- and off-site provision. Offsite BNG provision will follow the mitigation hierarchy set out with the NE3a policy with a focus on local provisions.

## **12 OTHER OPTIONS CONSIDERED**

- 12.1 The project explored 5 approaches for development on site:
- Do nothing- the public sector undertakes no works.
  - Low intervention- encourage landowner agreement and prepare a masterplan/development brief to support delivery of the site.
  - Medium intervention- encourage landowner agreement, advance a Local Development Order and provide initial site servicing.
  - High intervention- acquire part/all of the site, prepare a Local Development Order and service land within public sector ownership.
  - Full intervention- all of the works highlighted above, plus delivery of a first phase.
- 12.2 The 'do nothing', 'low intervention' and 'medium intervention' approaches were discounted as they did not provide the public sector with sufficient control to bring forward appropriate development.
- 12.3 The preferred option taken forward to the Outline Business Case for WECA in 2019 was the 'high intervention' route.

## **13 CONSULTATION**

- 13.1 An informal engagement was held from 19<sup>th</sup> May 2022 to 30<sup>th</sup> June 2022 for stakeholders, Parish Councils, Town Councils and the public to comment on the illustrative masterplan, proposed highway works and design aspects of the site. During the informal public engagement, a public webinar was held alongside presentations at Westfield Parish Council, Radstock Town Council, Paulton Parish Council and a resident's meeting held in Paulton. Consultation material was held on the B&NES website but also installed in Paulton, Midsomer Norton and Radstock libraries. A hard copy of the engagement questionnaire was also made available at the libraries.
- 13.2 The LDO statutory consultation began on 16<sup>th</sup> January 2023 and completed on 13<sup>th</sup> February 2023. Statutory consultees and the public were able to comment on all relevant LDO documents via the planning portal.

- 13.3 A revised statutory consultation was carried out from 22<sup>nd</sup> September 2023 to 26<sup>th</sup> October 2023. Prior to the revised consultation going live, the project team attended a Somer Valley Links consultation drop in event at Farrington Gurney on the 24<sup>th</sup> July 2023. In addition, the team presented at Farrington Gurney Parish Council meeting on 18<sup>th</sup> September 2023 and to the Somer Valley Forum on 20<sup>th</sup> September 2023.
- 13.4 Full information regarding the consultation can be found in Appendix 5: Statement of Community Involvement.

|  |                             |
|--|-----------------------------|
| <b>Contact person</b>  | Richard Holden 01225 477655 |
| <b>Background papers</b>   |                             |
| <b>Please contact the report author if you need to access this report in an alternative format</b> |                             |