



East Northamptonshire Council

Policy and Resources Committee - 9 December 2009

Creation of a Local Asset Backed Vehicle (LABV)

Summary

The report considers the creation of a LABV to assist the Council's regeneration plans.

Attachment(s)

- 1) P & R report 13 July 2009

1. At the meeting on 13 July 2009 this Committee considered the attached report about creating a LABV. As a result, officers were asked to obtain a legal opinion and arrange a further workshop for all Members.
2. The Committee was advised, under Minute 134, that a further legal opinion had been received and that it confirmed the Council had the appropriate legal powers to establish a LABV using Section 2 of the Local Government Act 2000 subject to reference to the Sustainable Communities Strategy being made.
3. A Member workshop was held on 12 November 2009 where all Members had an opportunity to express their views.
4. Following the workshop It is now recommended that:
 - (i) the Council proceed with the creation of a LABV;
 - (ii) a Project Board be created to bring forward proposals and three Members be appointed to the Board;
 - (iii) the Council's procurement rules be waived and Trowers & Hamlin be appointed as lead consultants on the basis of a single quotation;
 - (iv) that the preparation of a business case and soft marketing test be agreed at this stage;
 - (v) that an initial revenue budget of £65,000, to be funded from the Asset Management Reserve, be agreed.

Implications:		
Corporate Outcomes or Other Policy/Priority/Strategy		
Good Quality of Life	<input checked="" type="checkbox"/>	Good Reputation <input type="checkbox"/>
Good Value for Money	<input checked="" type="checkbox"/>	High Quality Service Delivery <input type="checkbox"/>
Effective Partnership Working	<input checked="" type="checkbox"/>	Strong Community Leadership <input checked="" type="checkbox"/>
Effective Management	<input type="checkbox"/>	Knowledge of our Customers and Communities <input type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours		<input type="checkbox"/>
Other:		
Decision(s) would be outside the budget or policy framework and require full Council approval <input type="checkbox"/>		
Financial	There are no financial implications at this stage <input type="checkbox"/>	
	There will be financial implications – see paragraph <input checked="" type="checkbox"/>	
	There is provision within existing budget <input type="checkbox"/>	
	Decisions may give rise to additional expenditure at a later date <input type="checkbox"/>	
	Decisions may have potential for income generation <input type="checkbox"/>	
Risk Management	An assessment has been carried out and there are no material risks <input checked="" type="checkbox"/>	
	Material risks exist and these are recorded at Risk Register Reference - <input checked="" type="checkbox"/>	

	inherent risk score - residual risk score -				
Staff	There are no additional staffing implications <input checked="" type="checkbox"/>				
	Additional staff will be required – see paragraph <input type="checkbox"/>				
Equalities and Human Rights	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications <input checked="" type="checkbox"/>				
	There will be an impact on equality (see categories above) or human rights implications – see paragraph <input type="checkbox"/>				
Legal	Power: Section 2 of Local Government Act 2000				
	Other considerations: Procurement Rules, Financial Procedure Rules EU Procurement Regulations and Directives				
Background Papers: None					
Person Originating Report: Mark Lovell, Executive Director on behalf of Strategic Management Team Tel: 01832 742074. Email: malovell@east-northamptonshire.gov.uk					
Date: 20 November 2009					
CFO		MO		CX	

(Committee Report Normal Rev. 19)



East Northamptonshire Council

Policy and Resources Committee - 13 July 2009

Creation of a Local Asset Backed Vehicle (LABV)

Summary

This report considers the creation of a Local Asset Backed Vehicle (LABV) as part of the Council's regeneration plans

Attachment(s)

Briefing note from Trowers & Hamlin

1. Introduction

- 1.1 As part of the regeneration plans, Officers have been looking at the potential of attracting investment into the District to facilitate the regeneration of the town centres, particularly Rushden which is a Corporate Plan priority and delivery of other schemes across the district such as the Kingsmead Industrial Unit site in Kings Cliffe.
- 1.2 The Strategic Management Team (SMT) has identified the possibility of creating a Local Asset Backed Vehicle (LABV) to generate investment to deliver projects in the town centres, particularly Rushden, and on other sites in the Council's ownership.
- 1.3 A LABV is a medium to long term joint venture partnership between a local authority and a private sector investment partner. The joint venture vehicle is 50% owned by the public sector and 50% by the private sector investment partner. Agreements are typically for 10, (with extensions to take them to 15 or 20 years.)
- 1.4 An initial workshop was held with a small group of Members on 2 July to explore the creation of a LABV. It is proposed that a workshop for all Members is now held to explain in more depth the benefits, risks and how a LABV will operate.

2. What do LABV's do?

- 2.1 Under the LABV the Council would contribute land or properties and the private sector contributes the funding, capacity and expertise to develop the sites within the Council's ownership. It would also have the scope to work with other land owners to bring forward and delivery other land that is key to the strategic development of the towns. The Council can control when it releases its land or assets to the LABV and can, through a Project Approval Process, exercise greater control over the types of developments that happen on specific sites than under existing developer agreements.
- 2.2 Developments undertaken by the LABV can include residential, retail, commercial and industrial properties together with community and public sector facilities.

3. Reason for the creation of a LABV

- 3.1 The Council has ambitious plans for the redevelopment of its town centres. The Council owns some key town centre sites, particularly in Rushden, but has very limited funding and capacity to deliver the regeneration of the town centres. The Council has been unable to secure, through the Growth Area Funding (GAF), significant investment in its towns and therefore alternative sources of funding need to be found. A LABV would enable the Council to utilise its asset base to control the type of

development that happens in the town centres and generate a revenue or capital return through the partnership which can be reinvested. In addition to the town centres the Council owns several other sites that it would like to bring forward for development, for example a number of unsuccessful attempts have been made to secure funding for industrial land at Kings Cliffe to increase the capacity of the existing industrial site.

- 3.2 The Council would be a 50% equity participant in the LABV and as such can influence the pace, location and timing of the developments that take place. The Council will be able to ensure it receives maximum financial, economic and regeneration returns from the disposal of any of its assets.
- 3.3 The investment partner will bring capacity and skills to forward fund masterplans and complete viability studies at no or minimal cost to the public purse. They also bring commercial knowledge and networks to a project, in way that a small District is unable to.
- 3.4 One principal advantage is that the Council will only need to procure once under the LABV model to deliver a number of specific projects over the medium to long term. This should deliver substantial cost and time savings for the Council and potential developers.
- 3.5 There is now a tried and trusted model for creation of a LABV. Tunbridge Wells Regeneration Company, Croydon Urban Regeneration Vehicle and EASEL Leeds Ltd are successfully up and running.
- 3.6 A LABV is not subject to EU procurement rules and can manage the delivery of each project without the need to re-procure for each specific development. It can therefore encourage and support the use of local suppliers and contractors.

4. Procurement Route

- 4.1 The Council will be required to procure its private sector investment partner for the LABV under the various EU Regulations, specifically the Public Sector Contract Regulations 2006; the procurement is likely to use the competitive dialogue procedure.
- 4.2 However, as indicated above the Council will only need to procure once and it will not be necessary to procure the individual projects under the EU rules.

5. Legal Powers

- 5.1 In order to create a LABV the Council would need to rely on its “well being” power contained in section 2 of the Local Government Act 2000 and in turn ensure that due regard is given to the outcomes stated in the Sustainable Communities Strategy.
- 5.2 The view of legal advisors is that a LABV can be created under these powers but as with any new initiative as we progress through the process it will be necessary for the Council to take formal legal advice. It will also be necessary to ensure that the Council exercises suitable governance over the creation of the LABV to ensure that we get all the “ticks in the right boxes” to rely on the “well being” power.
- 5.3 It is proposed that discussions would be held with the Audit Commission, as our external auditors, on the legality of creating a LABV. However, it should be noted that the Audit Commission has not challenged the creation of other LABV.

6 Members’ Involvement

- 6.1 The involvement of Members in the process will be key. In accordance with the agreed Project Management Framework it is proposed to create a Project Board to work with Officers and External Advisors to bring forward proposals to this Committee

for the creation of LABV. It is suggested that three Members be appointed to the Project Board.

6.2 As part of the Members' involvement in the process it is proposed to hold specific workshops with the Audit and Risk Committee and Scrutiny Committee so that these two Committees fully understand the implications and their views can be taken into account when deciding whether or not to proceed further.

7. Financial Implications

7.1 As with any new initiative it is necessary to pump prime the project. It is estimated that pre-procurement costs and initially external advice will be around £65,000.

7.2 The cost of the procurement process and preparing all the legal documentation will be in the region of £115,000 and post procurement advice and support will be about £15,000. The overall project could cost £195,000.

7.3 This should be put into context in that the Council had to invest some £400,000 upfront before the decision to transfer of its housing stock to a RSL in order to bring in £30m investment in its housing assets.

7.4 The above costs are revenue costs and it is proposed that these are funded from the Asset Management Reserve which currently stands at £3.576m.

8. Appointment of Consultants

8.1 It is proposed to appoint Trowers & Hamlins to act as lead advisers for the initial work to bring back the proposal to this Committee. It is proposed to accept a single tender from Trowers & Hamlins as this is deemed to be in the Council's best interest. This means waiving the Council's procurement rules.

8.2 It may be necessary during the process to appoint specialist finance, accounting and/or tax advisers and these will be subject to competitive quotes where appropriate.

9. Recommendations

It is recommended that:

- (i) subject to a workshop of all Members that the creation of a LABV be agreed in principle;
- (ii) a Project Board be created to bring forward proposals and three Members be appointed to the Board:
- (iii) the Council's procurement rules be waived and Trowers & Hamlin be appointed as lead consultants on the basis of a single quotation;
- (iv) an initial revenue budget of £65,000, to be funded from the Asset Management Reserve, be agreed.

Implications:		
Corporate Outcomes or Other Policy/Priority/Strategy		
Good Quality of Life	<input checked="" type="checkbox"/>	Good Reputation <input type="checkbox"/>
Good Value for Money	<input checked="" type="checkbox"/>	High Quality Service Delivery <input type="checkbox"/>
Effective Partnership Working	<input checked="" type="checkbox"/>	Strong Community Leadership <input checked="" type="checkbox"/>
Effective Management	<input type="checkbox"/>	Knowledge of our Customers and Communities <input type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours		<input type="checkbox"/>

Other:		<input type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval		<input type="checkbox"/>
Financial	There are no financial implications at this stage	<input type="checkbox"/>
	There will be financial implications – see paragraph 7	<input checked="" type="checkbox"/>
	There is provision within existing budget	<input type="checkbox"/>
	Decisions may give rise to additional expenditure at a later date	<input type="checkbox"/>
	Decisions may have potential for income generation	<input type="checkbox"/>
Risk Management	An assessment has been carried out and there are no material risks	<input checked="" type="checkbox"/>
	Material risks exist and these are recorded at Risk Register Reference - inherent risk score - residual risk score -	<input type="checkbox"/>
Staff	There are no additional staffing implications	<input checked="" type="checkbox"/>
	Additional staff will be required – see paragraph	<input type="checkbox"/>
Equalities and Human Rights	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications	<input checked="" type="checkbox"/>
	There will be an impact on equality (see categories above) or human rights implications – see paragraph	<input type="checkbox"/>
Legal	Power: Section 2 of Local Government Act 2000	
	Other considerations: Procurement Rules, Financial Procedure Rules EU Procurement Regulations and Directives	
Background Papers:		
Person Originating Report: Mark Lovell, Executive Director on behalf of Strategic Management Team Tel: 01832 742074. Email malovell@east-northamptonshire.gov.uk		
Date: 6 July 2009		
CFO		MO
		CX

(Committee Report Normal Rev. 19)

East Northamptonshire Council briefing paper - Local Asset Backed Vehicles

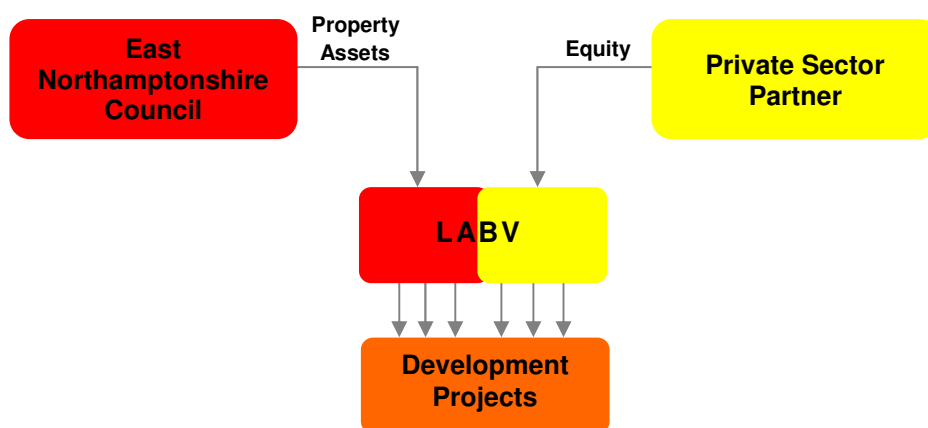
What are Local Asset Backed Vehicles?

A Local Asset Backed Vehicle (LABV) is a mid/long term joint venture equity partnership between a local authority and a private sector investment partner.

What do LABVs do?

The local authority contributes land and the investment partner contributes capacity to deliver, skills, experience and funds to develop the asset. There is no standardised drafting for LABVs, no "one size fits all" model, and bespoke solutions need to be set up in order to ensure that East Northamptonshire Council's outcomes are delivered.

Basic partnership diagram – LABV



Developments can include residential, operational public buildings (such as a Civic Centre), retail, community, office, and/or refurbished industrial and commercial property. The outcomes will be agreed between East Northamptonshire Council and the investment partner through an agreed business plan, budget and project approval procedure.

Depending on the parties wishes and following an assessment of the projected financial returns completed developments can then be sold or retained in order to generate an equal capital or revenue receipt for both East Northamptonshire Council and the investment partner.

Reasons why Local Authorities have (and are currently acting to) set up LABVs - why do it?

Local authorities are facing a tough economic settlement from central government and this is likely to tighten further over the next couple of years. Many local authorities are therefore looking to set up a LABV as a way to utilise their asset base efficiently and "make it sweat" in order to generate revenue and capital returns through a strategic mid/long term partnership.

It allows local authorities to rationalise their property portfolio in order to ensure that Council accommodation and other Council owned buildings are fit for purpose, carbon efficient, in the right location and to the right configuration, and that any disposals and/or developments generate maximum financial returns for the public sector.

Many local authorities are looking to use LABVs as a way to deliver their Sustainable Community Strategies and to deliver the economic, social and environmental well being of their areas. If structured correctly, local authorities can incentivise the private sector to create local job

opportunities and unlock regeneration by delivering developments that have previously been passed over by the private sector.

The public sector, as a 50% equity participant in the LABV, can control the pace, location, timing and type of development. The public sector is not “selling the family silver”, it is creating a development portfolio of assets which is fit for purpose and ensuring that it receives maximum financial, regeneration, and economic returns from any disposal or revenue income.

Advantages of using the LABV model

The principal advantages of setting up a LABV include:

- **Economic leadership** – maximise financial returns and generate investment to sustain local jobs and re-build local economies;
- **Flexibility** – LABVs can react to the market to allow proposals to be worked up in agreement between the public bodies and an investment partner to deliver optimum financial and regeneration outcomes. It allows public bodies to control the pace, location and type of regeneration and development;
- **Investment partner revenue support** – capacity and skills to forward fund masterplans, Local Development Frameworks, and viability studies completed at no or minimal direct cost to the public purse;
- **Procurement cost and time savings** – procure once to deliver multiple sites over a mid/long term period. This delivers substantial cost and time savings for both the public and private sector; and
- **Tried and tested delivery model** – Tunbridge Wells Regeneration Company, Croydon Urban Regeneration Vehicle and Leeds City Council's EASEL Leeds Limited company are all operating LABVs successfully to deliver economic, social and environmental regeneration. The LABV model works.

Trowers & Hamlins' experience

We have been consistently rated number one in Chambers and Legal 500 legal directories with regard to law firms who advise public sector bodies on Local Government law. We have a proven track record of advising over 200 local authorities on completed innovative and complex public/private and public/public projects and also their investment partners.

A **summary** of our most recent LABV experience includes:

We recently advised **Tunbridge Wells Borough Council** on their LABV with John Laing plc. This was the first local authority LABV to have reached completion in the country and will deliver £150 million of investment in Tunbridge Wells, Southborough, Cranbrook and Paddock Wood over the next ten years. The LABV aims to deliver a new Civic Centre, residential, retail, and community facilities.

We also recently advised **Leeds City Council** on their long term sub-regional housing led LABV with Bellway Plc. The project, covering 120 hectares of East and South East Leeds (EASEL), is a 20 year joint venture equity partnership involving residential, commercial and community developments.