

Cabinet

Supplementary Agenda

Date: Monday, 12th November, 2012
Time: 2.00 pm
Venue: Council Chamber - Town Hall, Macclesfield, SK10 1EA

11. **Key Decision Cheshire East University Technical College Company**
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In accordance with Section 100B (4) (b) of the Local Government Act 1972, the Chairman of the Cabinet has agreed that this item be considered as an item of urgent business as a company needs to be formed by Cheshire East in order to submit an expression of interest to the Department of Education by 16 November 2012; failure to meet this deadline would mean that Cheshire East would have to wait a further 12 months in order to submit its application.

As this is an urgent item it will also be exempt from the call-in provisions.

To approve the submission of an expression of interest to the Department of Education to pursue the establishment of a University Technical College.

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CHESHIRE EAST COUNCIL**REPORT TO: CABINET**

Date of Meeting: November 12 2012.

Report of: Strategic Director, Children, Families and Adults

Subject/Title: Cheshire East University Technical College

Portfolio Holder: Cllr Rachel Bailey

1.0 Report Summary

- 1.1 This report seeks approval and authorisation to submit an Expression of Interest (EOI) to the Department of Education (DFE) to pursue the establishment a University Technical College. In order to do this, a company needs to be established for the University Technical College (UTC) in support of the Expression of Interest (EOI). This project is one of the major change projects for Cheshire East and an identified priority in its 3 year plan.

2.0 Decision Requested**2.1 That Cabinet:**

1. Notes that at their meeting on the 15 October 2012 members approved the pursuit of a Universal Technical College as part of the Councils Three Year Plan 2013 – 16.
2. Formally approves the submission of an Expression of Interest to the Department of Education by 16 November 2012 on behalf of the Company (to be established – see below) to develop a UCT in Cheshire East and notes the process thereafter as set out at paragraph 7.2 of the report.
3. Authorises the Council to establish a Company Limited by Guarantee as part of the process as set out in Appendix 1 of the report.
4. Approves Lorraine Butcher Strategic Director of Children Families and Adults as an initial director of the UTC company and that Fintan Bradley be confirmed as company secretary in the first instance. Key business and academic partners/sponsors will be appointed at a later date.
5. Notes that membership of the company will change to reflect the business/ Industry and University partners once further negotiations have been completed at which point a further report to Cabinet will be submitted.

3.0 Reasons for Recommendations

- 3.1 The decision requested to establish a company will enable Cheshire East to submit an EOI form to the DfE by the submission date of November 16 2012.

4.0 Wards Affected

4.1 All Wards

5.0 Local Ward Members

5.1 All Ward members

6.0 Policy Implications

6.1 Economy – This proposal accords with and is complimentary to:

- All Change for Crewe regeneration programme
- New town centre investment, including retail, leisure and housing, through utilisation of significant Council assets.
- Local infrastructure enhancements. With the aspiration for growth, up-front investment in the local infrastructure is vital.
- New local jobs. A further £3.5m has been secured for more immediate investment in enhancements to local transport improvements, to enhance connections and promote sustainability.
- Office and industrial developments on track. Building on major recent investment from Bentley, Fayrefield and Expert Logisitcs.
- High Speed City: a longer-term plan for super-growth, delivered on the back of plans for a hub station for Crewe on a new HS2.

The Cheshire East UTC will also help address:

- The gap in economic productivity (GVA) between Crewe and the UK as a whole has continued to grow, reflecting a decline over the past 15 years in the type of jobs and skills required in the town's economy.
- Levels of unemployment and NEETs that are above the UK average, and well above the average for Cheshire East
- Low levels of attainment and aspiration in some of Crewe's schools

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 This is a minimal cost to the Authority and once established the company becomes the accountable body and commissioner of the project. There is minimal risk to the Authority in the establishment of the company and delivery of the project.

- 7.2 If the EOI is accepted in early December, Cheshire East Officers and the sponsors and partners would be invited to develop and refine the EOI into a more detailed Application Form and then submit to interview. This would take place in London in late January/early February in order to respond to more detailed questions as part of the application process. If successful the company will receive a ring fenced budget in order to deliver the project and commission further work.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 External solicitors have been provided with instructions to set up a company limited by guarantee following approval of this action and confirmation of the initial appointments (2.1.3 and 2.1.4).
- 8.2 Whilst the outcome of discussion with current potential sponsors and others appears positive until these are resolved any wider legal implications are unknown. Cabinet will need to receive a further report on the composition of the company in due course when any wider legal implications can be identified.
- 8.3 “Companies limited by guarantee are normally incorporated for non-profit making functions, with no share capital and members rather than shareholders. The members undertake to contribute a predetermined nominal sum to the liabilities of the company which becomes due in the event of the company being wound up. It is anticipated that the company will be formed by buying an incorporated but non-trading (shelf) company. As the company is to be set up for the purposes of making an expression of interest it is anticipated that it will be formed using either the set of articles suggested by the BDT or with a set of model (default) articles of association which will be altered if the expression of interest is superseded by a full application. The Council will be the only member at the outset.”
- 8.4 At the outset the company will be wholly owned by Cheshire East. Any further implications won't be known until the partners and sponsors are confirmed.

9.0 Risk Management

- 9.1 If the company is not formed by the November 16, the EIO form will not be treated as a serious in its intent by the DfE and Cheshire East Council will have to wait a further 12 months until the next round.
- 9.2 There is a risk, acknowledged by the BDT that the length of time Cheshire East Officers have had to work on the EOI has been comparatively short. It is important to note that the BDT indicate that other authorities have spent up to 12 months developing their EOI and have committed dedicated project management resources.

- 9.3 Although the risk of the application might not being as fully formed as other applications, the BDT makes clear in it email (appendix 1) that Cheshire East “should regard the formation of this company as an essential indication of the seriousness of the proposers’ intent”.

10.0 Background

- 10.1 As the largest town in Cheshire East, Crewe is already a key sub-regional population centre, with a population of 83,000, and is a major economic hub. Its 5,000 businesses include concentrations of professional services, distribution and advanced engineering, built on its rail and car manufacturing heritage. It is located in one of the most prosperous parts of the region, and its transport connections – road, rail and air, are unrivalled.
- 10.2 The future potential for Crewe is set to be delivered through the All Change for Crewe regeneration programme, led by a private-sector led Partnership Board and the commitment of Cheshire East Council. This programme will deliver a stride-change in growth – over 14,500 new jobs, 20% population growth and £230m of additional retail and leisure spend. The potential business/industry partners recognise this potential.
- 10.3 The BDT and the DfE emphasises that one of the very few but critical distinguishing features of a UTC by comparison with all other academies is the nature of the legal entity owning, managing, and responsible for the school. This can be a ‘shell company’ limited by guarantee, formed in order to establish a legal entity that can afterwards adapt in order to reflect the future UTC sponsorship, external linkages and curriculum offer.
- 10.4 In terms of its composition the BDT and DfE advises that it needs the minimum number of members, possibly 2, whose responsibilities are to appoint and remove the directors and approve the Articles of Association, and directors (who are ultimately legally accountable for the assets, finances and performance of the UTC). The members should be the key backers of the project and the BDT advises that in this case this would likely to be Cheshire East and the key Business and Industry partners in the area. The company will also be an exempt charity regulated not by the Charity Commission, but by the Secretary of State for Education.
- 10.5 There are on-going discussions with two key Higher Education sponsors and key Further Education partners who may form part of the company. The position will be confirmed as discussions progress up to and beyond the EOI stage.
- 10.6 Significant progress in a very short period of time has been made in order to prepare the EOI. This will be assessed in early December and a decision will be made whether Cheshire East will be asked for interview in late January/early February 2013. If called for an interview there is further time in order to develop and refine the application and the

company At this stage it is anticipated that Cheshire East would wish to maintain a minimal but sufficient involvement in the company and exit at an early and appropriate stage in the future.

10.7 In the long term it is envisaged that the company will comprise as a minimum composition possibly constituted by:

- Lorraine Butcher –
- Key Business / Industry partner 1 rep
- Key Business / Industry partner 2 rep
- Fintan Bradley as Company Secretary
- Officer 2
- Officer 3
- Higher Education representative
- Further Education representative

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Fintan Bradley

Designation: Head of Service Strategy Planning and Performance

Tel No: 0160627105

Email: fintan.bradley@cheshireeast.gov.uk

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Dear Rob

You have asked me to explain why it is that a bid for a University Technical College ("UTC") needs to include evidence that a charitable company limited by guarantee is already in existence before the closing date for applications, which in this case is 16 November 2012.

One of the very few hard pieces of evidence which persuades the assessors of a UTC application of the genuine nature of the local commitment is the fact that the proposers between them have taken the steps to approve and form such a company. The very fact that in all cases this requires considered thought and high levels of authorisation is the reason why this is taken so seriously. We want to know that you mean it. Also one of the very few but critical distinguishing features of a UTC by comparison with all other academies is the nature of the legal entity owning, managing, and responsible for the school. This legal entity will be the company that we now ask you to form.

Of course it can be a shell company. It will be a company limited by guarantee. It needs the minimum number of members (who appoint and remove the directors and approve the Articles of Association) and directors (who do everything else and are legally accountable for the assets, finances and performance of the UTC). The members should be the key backers of the project and the members can of course change the composition of the Board by written resolution after the deadline. Note that the company will also be an exempt charity regulated not by the Charity Commission, but by the Secretary of State for Education.

Given that your application will not be as fully formed as many others that we expect to receive, I think you and your colleagues should regard the formation of this company as an essential indication of the seriousness of the proposers' intent.

As far as timescales are concerned, the applications will be assessed by the DfE and ourselves and, probably in early December, a decision will be made concerning which of those should be asked to an interview. These interviews will take place in late January or early February. If your bid is selected this gives you time further to refine your proposal and to make sure that the senior individuals who will attend the interview are fully committed and fully briefed.

Yours

Charles Parker (CEO)

[The Baker Dearing Educational Trust](#)

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