

**Cheltenham Borough Council  
Cabinet - 10th November 2020.  
Council - 16th November 2020.  
Minster Innovation Exchange  
(Formerly known as Workshop Cheltenham)**

<b>Accountable member</b>	<b>Rowena Hay, Cabinet Member for Finance</b>
<b>Accountable officer</b>	<b>Executive Director – Finance and Assets</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key/Significant Decision</b>	<b>Yes</b>
<b>Executive summary</b>	<p>On 8<sup>th</sup> October 2019, Cabinet approved the recommendation to support the creation of the Workshop Cheltenham development, including a tier 2 Growth Hub, by Workshop Cheltenham Limited (WSC) on Chester Walk car park following a land swap with GCC for part of St George’s Road car park.</p> <p>A revision to the original planning approval in June 2019, incorporating a change from remodelled shipping containers to modular construction, was approved by the Planning Committee on 20<sup>th</sup> August 2020.</p> <p>On 3<sup>rd</sup> March 2020, Cabinet approved (exempt item) investment up to £1.7m in WSC to facilitate delivery of the facility and Council endorsed the lending as part of its Treasury Management Strategy on 23<sup>rd</sup> March 2020.</p> <p>The March 2020 Cabinet delegated authority to agree final terms of the investment and to set up the most appropriate vehicle for investment in Workshop Cheltenham. Independent legal advisors considered a number of options and recommended setting up a Limited Liability Partnership (LLP) with WSC to manage the building.</p> <p>In July 2020, the Government announced a £900m ‘Getting Building Fund’ to support economic recovery following the Covid-19 pandemic outbreak, co-ordinated by the Gloucestershire First LEP (LEP) under the banner of Local Infrastructure Stimulus Fund (LISF). The council made an application for funding an enhanced scheme rebadged as ‘Minster Innovation Exchange (MIE)’ and received a grant award of £3.114m.</p> <p>This report outlines the revised MIE scheme; the outcome of the work to establish the best investment vehicle for the council; the funding implications taking into account the grant funding and outlines the rationale for the waiver of contract procurement rules necessary to facilitate delivery of MIE within the government deadlines.</p>
<b>Recommendations</b>	<b>It is recommended that Cabinet:</b>

- 1. Approve the council accepting the award of the Getting Building Fund grant from the GFirst LEP of £3.114m and delegate authority to the Executive Director Finance & Assets, in consultation with the Cabinet Member Finance and the Borough Solicitor, to agree final terms and contract for the Getting Building Fund grant with the LEP.**
- 2. Approve the council accepting the award of the Tier 2 Growth Hub residual grant of £433,638 and taking over the role of promoter of the Growth Hub and delegate authority to the Managing Director Place and Growth, in consultation with the Cabinet Member Finance and the Borough Solicitor, to agree final terms and contract for the Growth Hub grant with the LEP.**
- 3. Approve the council entering into a joint venture (including the incorporation of the new limited liability partnership (LLP)) with WSC to manage MIE and delegate authority to the Executive Director Finance & Assets, in consultation with the Cabinet Member Finance and the Borough Solicitor, to:**
  - a. agree the final terms of the Joint Venture;**
  - b. approve the form of and the council entering into any documents required to put in place or otherwise facilitate the creation of the Joint Venture;**
  - c. take any decisions (to include, without limitation, the approval of all documents) considered necessary by the Executive Director Finance & Assets to facilitate the creation and/or operation of the Joint Venture.**
- 4. Approve the council entering into a contract with WSC for WSC to deliver the design and build of the MIE subject to the final terms being agreed and, in accordance with Contract Rule 6.2.1, agree to waive the requirements of the council's Contract Rules to enable the design and build agreement to be entered into provided that the estimated value remains under the applicable threshold for a full procurement process determined by the Public Contracts Regulations 2015.**
- 5. Delegate authority to the Executive Director of Finance and Assets, in consultation with Cabinet Member Finance, to agree the final terms of the design and build agreement and such other documents as may be required relating to the construction and delivery of the MIE and to approve the council entering all required documentation, including a commercial lease to the LLP for the management of the MIE.**
- 6. Approve for consultation the public realm masterplan for the Minster grounds at Appendix 6, as outlined in section 8, and delegate authority to the Managing Director Place and Growth, in consultation with the Cabinet Member Finance to respond to the feedback from the consultation.**

**Recommend for Council to approve:**

- 7. The gross capital budget for MIE of £4,671,000, as per Appendix 5, be incorporated into the council's budget and capital programme**

for 2020/21.

**Financial implications**

The financial projections for the revised investment proposal for the delivery of the MIE based on the council commissioning the construction of the MIE and the creation of a new joint venture limited liability partnership (LLP) between the council and WSC, taking into account the £3.114m of government funding, are included at Appendix 2 (exempt), Appendix 3 (exempt) and Appendix 4 (exempt).

Appendix 2 sets out the estimated outcome if the council invests £850k. Appendix 3 sets out the estimated outcome if the council invests £1m.

All funding being utilised by the council will be spent by the council except for circa £40k (yet to be agreed) invested into the LLP as a capital contribution to provide funding to support pre-letting / marketing activity.

The council's involvement in the joint venture is designed to be on commercial terms so that the council is acting as a market economy operator.

Appendix 4 updates the business case presented to Cabinet in March 2020 and shows the overall net impact of the proposal on the council's revenue budget with a reduced level of council investment in the MIE.

An indicative capital budget for the enhanced scheme is shown in a table at Paragraph 7.3 and at Appendix 5. The revised upper limit of borrowing required of £1m (net of the government grant), is within the level of original upper limit of £1.7m included within the Investment and Treasury strategy for 2020/21 approved by Council in March 2020.

A due diligence process has been undertaken by the LEP resulting in a positive report to the LEP Investment Panel by the independent assessor.

Due diligence is still required on the financial projections for the LLP. Based on indicative figures, the breakeven point for the MIE to be profitable is 54.5% occupancy if £1m is invested and 53% occupancy if £850k is invested. It is estimated that the occupancy will be an average of around 60% for the first year and then grow 5% per annum. This is in line with ventures of this nature.

Detailed financial implications are set out in section 7 of the report.

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<p><b>Legal implications</b></p>	<p>The council is being advised by Anthony Collins Solicitors LLP (ACS). ACS has provided detailed advice, which supports the proposals outlined in the report.</p> <p>In summary, the council has the ability to act here through its General Power of Competence under the Localism Act 2011. In utilising the General Power, it is considered that, notwithstanding the need for the council's involvement to be financially viable and that the LLP will be a commercial entity, the council is acting for a dominant regeneration and economic development purpose here and not a dominant commercial purpose. This is noted above in this report and in the March 2020 Cabinet report discussing the drivers for the council to act here.</p> <p>The council must ensure that in acting it complies with its powers to invest and borrow. The council will only be providing a proportion of funding directly to the LLP as an unsecured (albeit controlled in accordance with the LLP governance) capital contribution.</p> <p>The council must also only dispose of land for best consideration to enable compliance with both its disposal powers and the rules on State aid. The council considers that it would be acting in accordance with these requirements and compliance will be kept under review as the terms are finalised.</p> <p>The council must only enter into contracts for works, supplies and services in compliance with the Public Contracts Regulations 2015 and the Constitution. The valuation of the proposed design and build agreement with WSC is below the threshold above which the Regulations apply. However, the council does require a waiver of its Contract Rules as detailed in this report. The council will not be procuring the operation of the MIE.</p> <p>The EU rules on State aid still apply, as at the date of this report and the full details of their replacement are not yet known. It is not considered that the council is receiving any unlawful State aid and its arrangements with WSC and the LLP are intended to be on commercial terms so that State aid does not arise.</p> <p>Legal advice will continue to be obtained as the detailed terms of the council's involvement in the MIE are agreed.</p> <p><b>Anthony Collins solicitors LLP</b></p>
<p><b>HR implications (including learning and organisational development)</b></p>	<p>The Council is considering the options for the delivery of the Growth Hub. Approval is sought to delegate authority to the Executive Director Place and Growth, in consultation with the Cabinet Member Finance, to agree the contract for delivery of the Growth Hub with the LEP.</p> <p><b>Contact officer: Julie McCarthy HR Manager</b>  <a href="mailto:julie.mccarthy@publicagroup.uk">julie.mccarthy@publicagroup.uk</a> Tel 01242 264355</p>
<p><b>Key risks</b></p>	<p><b>See Appendix 1</b></p>

<p><b>Corporate and community plan Implications</b></p>	<p>As outlined in the March 2020 Cabinet report, the MIE supports the council’s vision for ‘a town where culture and creativity thrive’.</p> <p>Research by Nesta and Creative England shows Cheltenham’s 1,027 creative businesses constitute 11% of the total but employ only 4.5% of its workforce and contribute just 6% of its Gross Value Added (GVA). Cheltenham’s creative sector is significantly under-performing and there is a compelling case to do more to stimulate the contribution it makes to the local economy.</p> <p>The provision of easily accessed start-up spaces, principally for young creative entrepreneurs and cyber tech individuals and organisations will support a cyber eco system ahead of the Golden Valley development. MIE is a key part of the council’s post covid-19 recovery strategy.</p> <p>The enhanced development of MIE will be a significant regeneration project in the vicinity of the Minster and the Wilson and support the council’s aspiration to create a thriving cultural quarter in this location.</p> <p>The use of Chester Walk car park to locate MIE will introduce activity into the area adjacent to St Mary’s churchyard. This is expected to have many positive benefits, including a likely reduction in the level of antisocial behaviour that currently takes place within the churchyard and will repurpose an underused public asset.</p> <p>Additional footfall in this area is likely to have a positive effect on the Wilson, including its café.</p>
<p><b>Environmental and climate change implications</b></p>	<p>Following a change in construction approach, MIE will now be a modular building which will reduce its construction carbon footprint. The enhanced scheme will include solar panels, external thermal cladding and triple glazing with the aim of delivering a building which is operationally carbon neutral.</p> <p>The project team are working with Gloucestershire Local Nature Partnership to ensure that MIE and public realm works deliver both carbon efficient outcomes and a positive contribution to biodiversity.</p> <p>The location is also well placed in the town centre, reducing the need to travel to it by car.</p>

<p><b>Property/Asset Implications</b></p>	<p>In order to facilitate the delivery of MIE, the council will undertake a land swap with GCC. The proposal is to exchange Chester Walk car park for 61% of St George's Road car park. In accordance with part 3 of the constitution, the exchange of land or property with a value exceeding £250,000, sits with Cabinet. A decision to approve the land swap was approved by Cabinet on 8<sup>th</sup> November 2019.</p> <p>The council will lease the MIE to the LLP for best consideration. It is proposed that the LLP will pay a commercial rent for the land to CBC, based on 5.5% of gross rental income, capped at £75k per annum.</p> <p>As per the original Cabinet decision, the Growth Hub will continue to occupy part of the development. Although the LLP is intended to operate as a commercial entity the council will seek, in agreeing the final commercial terms, to ensure that delivery of the Council's obligations back to the LEP are secured.</p> <p>The LLP will operate MIE subject to the terms of the lease and in accordance with its commercially adopted business plan.</p> <p>Following negotiations, Cheltenham Festivals will now relocate to the development and will now contract directly with the LLP.</p> <p>The investment in MIE on Chester Walk car park will likely increase the value of the site.</p> <p>The freehold of the MIE will be in the ownership of the council albeit subject to the LLP lease for its term.</p> <p><b>Contact officer: Simon Hodges</b>  <a href="mailto:simon.hodges@cheltenham.gov.uk">simon.hodges@cheltenham.gov.uk</a> , 07775418664</p>
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## **1. Background**

- 1.1** On 8th October 2019, Cabinet approved the recommendation to support the creation of Workshop Cheltenham by Workshop Cheltenham Limited (WSC) on Chester Walk car park which is owned by Gloucestershire County Council (GCC). The decision included a land swap with GCC for part of St George's Road car park and, following the land swap, the provision for a lease from CBC to WSC to access Chester Walk car park to construct the Workshop Development.
- 1.2** During the autumn of 2019, WSC attempted to attract external financing to deliver the Workshop Cheltenham but as WSC would not have had a freehold interest in the land; it was unable to secure external funding. As a result, WSC approached the council to consider an investment in WSC to facilitate the delivery of the project.
- 1.3** On 3rd March 2020, Cabinet approved (exempt item) investment of up to £1.7m investment into Workshop Cheltenham Limited (WSC) at a commercial rate to enable the delivery of the facility, taking a share of the net profit from running the facility, subject to obtaining independent advice to establish the most appropriate investment delivery vehicle. The Council endorsed the borrowing as part of its Treasury Management Strategy at a meeting of Council on 23rd March 2020.
- 1.4** In July 2020, the Government announced a £900m 'Getting Building Fund' to support economic recovery following the Covid-19 pandemic outbreak, co-ordinated by the Gloucestershire First Local Enterprise Partnership (LEP) under the banner of Local Infrastructure Stimulus Fund (LISF). The council made a funding application, assisted by WSC, for an enhanced Workshop Cheltenham scheme rebadged as 'Minster Innovation Exchange' (MIE) and was awarded £3.114m.
- 1.5** This report outlines the revised MIE scheme; the outcome of the work to establish the best investment vehicle for the council the funding implications taking into account the award of LISF funding and outlines the rationale for the waiver of contract procurement rules necessary to facilitate delivery of MIE within the government deadlines.

## **2. Investment delivery vehicle – Joint Venture**

- 2.1** Independent legal advisors, Anthony Collins Solicitors LLP, explored a number of delivery vehicle options for investment and recommended the creation of a Corporate Joint Venture (JV). Specifically, the advice was that the council and WSC should establish a jointly owned new Limited Liability Partnership (LLP). An LLP is a flexible joint venture vehicle, which would be able to adapt if new partners came on board or morph to reflect developments in the nature of the LLP. The advice also concluded that the land should be leased to the LLP on terms that demonstrate best consideration and that funding should be provided through a mix of debt and equity financing to achieve the desired councils flows of funding They recommended that a commercial/market terms evaluation should be undertaken to record how the council is complying with its State Aid obligations and that the council should obtain tax and appropriate financial advice.
- 2.2** This advice was shared with and supported by WSC. Although the flows of funding and development process have since changed as a result of the award of government grant (see section 3 below), the original advice on a new vehicle to manage and operate the MIE still stands. This now forms the basis of the legal agreements which are being drawn up to include the final terms of the council's involvement, taking into account the government grant funding.
- 2.3** The Cabinet is recommended to approve delegation for the legal agreements for the creation of the LLP to be agreed by the Executive Director Finance and Assets, in consultation with the Cabinet Member for Finance and the Borough Solicitor, in accordance with delegated powers in the March 2020 Cabinet report.

### **3. Getting Building Fund grant award / Local Infrastructure Stimulus Fund (LISF).**

**3.1** In July 2020, the Government announced a £900m fund to help kick-start the economy post Covid-19 pandemic by funding 'shovel ready' infrastructure schemes co-ordinated by the GFirst Local Enterprise Partnership (LEP) under the banner of Local Infrastructure Stimulus Fund (LISF).

**3.2** Despite very tight deadlines, council officers worked with the Directors of WSC to submit a funding bid for £3.114m for the enhanced MIE scheme. It included the original flexible workspace and Growth Hub but the bid also included funding for project management; an enhanced build and improved fit out and public realm improvements in the vicinity of MIE i.e. the Minster grounds.

**3.3** The bid was led by the council and sought to meet the following LEP requirements (references to the Scheme are to the MIE):

1. LISF: Deliverability - LISF funding is ONLY available to projects that will have completed delivery within 18months (by December 2021) –
  - Being predominantly a modular scheme, the core assembly / construction process is relatively rapid (c.18 weeks) with a total of c. 32 weeks required on site including preliminary enabling works.
2. LISF: Objective one: Driving up Economic Growth -
  - The Scheme will be a significant extension of the Scheme's sister facility Hub8 and act as a catalytic platform for high value cyber-tech and digital businesses to deliver economic growth and create high value jobs.
3. LISF: Objective two: Supporting GREEN recovery -
  - The Scheme transforms a GCC car park, removing hundreds of car movements from the town centre, to an exemplar low energy development that promotes the efficient decentralised generation and use of natural resources and renewable energy and protects the environment.
4. LISF: Priority one: Town & city centre modernisation
  - The Scheme supports regional and national objectives for town centres to embrace and adapt to radical changes in working practices and the way in which we shop to foster greater social interaction, community spirit and local identity to ensure they remain relevant and vibrant places at the heart of our communities and unleash longer-term economic potential.
5. LISF: Priority two: Investment in physical connectivity -
  - The overall impact of the Scheme will be transformational, vastly improving accessibility, footfall and connectivity to this important but often overlooked town centre site. It will enhance direct connectivity between the adjacent Grade I Minster, The Wilson museum and art gallery, Cheltenham Library, the High Street and to Hub8 at the nearby Brewery Quarter. Whilst also reaching beyond the Scheme to better connect the Promenade and the bus station with the lower High Street, along with enhancing the connectivity of the Honeybourne line links to/from the train station into central Cheltenham.
6. LISF: Priority three: Investment in innovation ecosystem -



- The purpose-built Cyber Innovation Facility within the Scheme will be the new focal point for the cyber-tech and digital innovation ecosystem where academia, industry and government can coalesce, intersect and interact to stimulate tech-led growth that is the cornerstone to increasing productivity.
7. LISF: Priority four: Improvements to human capital
    - The Scheme will support our next generation of cyber-tech and digital talent by enhancing an existing relationship with Gloucester College (see <http://www.gloscol.ac.uk/>) to complement its investment in cyber-tech and digital courses to help facilitate integration between students / graduates and industry in the form of work placements, apprenticeships and other career progression opportunities;
  8. LISF: Priority five: improving digital connectivity
    - The Scheme will enable over 50 businesses / 250 members to connect to a next generation digital infrastructure including a direct, independent, ultra-fast, secure and resilient dark-fibre connection (in excess of 10GB) and access to and utilise fully secure VM or bare metal single servers in a fully supported data centre environment.
- 3.4** The proposal submitted to the LEP was to use the LLP to utilise the expertise and procurement process undertaken by WSC to deliver MIE ensuring that the scheme remained 'shovel ready'. The bid proposed that the grant would be passported to the LLP on commercial terms to comply with State aid requirements and be repaid back to the council over a 10 year period and be re-invested in future cyber infrastructure.
  - 3.5** The submission articulated the benefits of the enhanced proposal; included governance arrangements for the LLP that would still be created in this scenario. It included a revised profit and loss account projection for the LLP which reflected the grant funding and demonstrated the financial stability and longevity of the facility, including the Growth Hub.
  - 3.6** The bid underwent a LEP due diligence process which considered the project outputs against the LEP and Government criteria; the financial stability and longevity of the scheme and State Aid compliance. The due diligence assessor initially requested that the council provide a guarantee plus a clawback of the passported the grant repaid to the council back to the LEP.
  - 3.7** This process resulted in an addendum to the bid being submitted by the council, which proposed that the council lead on the commissioning process and take on the role of 'promotor' of the Growth Hub rather than WSC. This revised approach was supported by the due diligence assessor and removed the need for a guarantee and clawback of the grant repaid back to the council by the LLP.
  - 3.8** This model will see the MIE developed prior to being leased on commercial terms to the LLP. The council will contract with WSC through an under-threshold design and build contract to deliver the MIE works. Although the LLP is intended to operate as a commercial vehicle and will not be procured by the council to enable delivery of any operational elements of the LISF bid, achievement by the council of its obligations to the LEP will be factored into the negotiation of the commercial terms for the LLP.
  - 3.9** The LEP Investment Panel supported the revised bid on 19<sup>th</sup> August and the LEP Board awarded a grant of £3.114m on 1<sup>st</sup> September 2020.
  - 3.10** The Cabinet is recommended to delegate authority to the Executive Director Finance & Assets, in consultation with the Cabinet Member Finance and the Borough Solicitor, to agree final terms of the grant delivery contract between the council and GFirst LEP to reflect the commitment to outcomes of the Government grant funding.

## **4. Growth Hub**

- 4.1** The original Workshop Cheltenham proposal included a Growth Hub, which was to receive £500k of capital funding from the LEP which was to be managed by WSC. As outlined above, it is now proposed that the council take over the 'promotor' role for the Growth Hub, which provides the LEP with additional assurance as to its security and longevity. All existing contracts with WSC will be terminated and a new contract would be agreed with the council.
- 4.2** The LEP are supportive of the Growth Hub being delivered either (i) directly by the council using directly employed CBC staff or (ii) via the LLP as per the original proposal. The delivery options are being currently evaluated. Where delivery is to be via the LLP, then this will be built into the commercial terms setting up the LLP. If it is to be delivered by CBC, then this will be factored into the property terms with the LLP.
- 4.3** The Growth Hub is a model adopted in other districts within the county and provides invaluable support to businesses by offering (a) free, impartial diagnostic and brokerage to businesses and individuals in Cheltenham Borough and Gloucestershire via the Business Navigator service; (b) tailored support depending on size and growth; (c) access to online business support, networking events and use of Growth Hub space.
- 4.4** The LEP have requested that the council consider the delivery of a virtual Growth Hub, ahead of the completion of MIE. This could support economic growth for business impacted by Covid-19 pandemic and is being explored by officers and the Directors of WSC.
- 4.5** The LEP have already advanced £66,362 to WSC towards the creation of the Growth Hub. As such, the council will contract with the LEP for the balance of £500,000 grant due i.e. £433,638.
- 4.6** The Cabinet is recommended to approve the council taking on the 'promotor' role for the Growth Hub and delegate authority to the Managing Director Place and Growth, in consultation with the Cabinet Member Finance and the Borough Solicitor, to agree final terms of the Growth Hub contract with the LEP.

## **5. Procurement and waiver of contract procurement rules**

- 5.1** As outlined above, the approach proposed to deliver the original Workshop scheme was for the LLP to be both the commissioning body for the procurement of the construction of MIE and for it to manage MIE and the Growth Hub. It would have engaged WSC for support on both aspects.
- 5.2** WSC has at risk been engaging with and, in some cases, contracting with suppliers already. The public realm works will be delivered directly by the council (and its procured contractors) and do not form a direct part of the MIE. As lead commissioner for MIE, the council will engage WSC through a Design and Build agreement to manage the construction of MIE and the various site contractors will now be sub-contractors to this contract.
- 5.3** The council undertook a due diligence review to ensure that the procurement processes undertaken by WSC for the appointment of suppliers of goods and services and works contracts (comprising the realisation of the work that the council would engage WSC for) demonstrate best value and ensures quality. The review established that WSC had undergone a selection process, which mirrored the approach taken by the council in its normal procurement process.
- 5.4** For the modular building, the main component of the project and budget, an external consultant specialising in modular buildings was appointed to assist in tendering for the supplier who sought quotations from a number of modular building suppliers and evaluated and compared price; product performance, quality and delivery method statements. An external Quantity Surveyor has been employed to support the implementation of the project. Work has been undertaken to analyse the overall project budget in order to determine which elements can be tendered through

the normal procurement process within the overall project timeframe.

- 5.5** The estimated value of construction of MIE is circa £4.2m, which is less than the current Public Contract Regulation 2015 threshold for a full procurement in respect of a works contract (£4,733,252).
- 5.6** In order to enter into the Design and Build contract, a waiver of the council's contract rules is required by Cabinet in accordance with Contract Rule 6.2.1. As per Contract Rule 6.1.4, in the opinion of the Authorised Officer (Executive Director of Finance and Assets – Paul Jones) in consultation with the Deputy Section 151 Officer and the Borough Solicitor the work to be executed under the Design and Build contract (i.e. delivery of MIE) is urgent in order to meet the government requirement for funding to be a 'shovel ready' scheme and to ensure that the council can draw down the grant funding obtained. There are, therefore, exceptional circumstances to justify a waiver.
- 5.7** Once the LLP is formed, it will enter into such contracts as are necessary for the operation of MIE. This will be determined in accordance with its business plan. It is anticipated that the LLP will be set up so that it is not a contracting authority. This is a matter that will be kept under review during the set up.

## **6. Revised funding options / Investment proposal**

- 6.1** The Government grant and enhanced MIE scheme has impacted on the financial modelling approved by Cabinet in March 2020. As such, a revised financial model has been developed.
- 6.2** The overarching principles of the revised investment in MIE include the following:
- The council will be the commissioning body for the procurement of the construction of MIE.
  - The majority of the council and grant funding will be spent directly by the council, but a proportion of the council funding/investment will be invested as a capital contribution to the LLP to assist with cash flow in respect of the LLPs obligations.
  - The LLP will be the commissioning body for all aspects of the management of WSC.
  - The council investment (£850,000 to £1m) will be paid back by the LLP over a 10-year period.
  - WSC will receive some elements of its return through the fees it charges to the LLP for services delivered.
  - The council will receive rent under the lease based upon turnover (5.5% of gross income up to a cap of £75,000 per annum. Rent will not be payable in year 1.
  - Net profits will be split 60% to WSC and 40% to CBC.
  - The MIE development will be owned by CBC.
  - The lease will contain provisions in respect of permitted use and disposals (including underletting) to allow the council permissible influence over tenants occupying the space within MIE.
  - Open book accounting arrangements will apply.
- 6.3** The council is in the process of agreeing the terms of:
- the LLP/joint venture documentation; and

- As a member of the proposed LLP, the agreement between the LLP and WSC for management of MIE will be an 'all inclusive' management fee on an 'at cost' basis.

Officers are exploring a mechanism to incentivise WSC to exceed financial targets which may be considered once the cost base for the LLP has been finalised and agreed between the council and WSC, to be considered and agreed using delegated powers outlined in recommendation 3. This arrangement may be dealt with either in the LLP legal documentation or the management agreement between the LLP and WSC.

## 7. Financial implications

- 7.1** WSC are working with the Quantity Surveyor to firm up construction costs following the change to modular construction. The current estimate of the overall indicative budget for MIE is £4.521m, including public realm works. Despite the grant of £3.114m, the project will still require council investment of at least £850k to part fund the delivery of MIE.
- 7.2** The original Workshop Cheltenham scheme included a contingency for borrowing which allowed for unforeseen circumstances. Given the enhanced and more complex nature of the project, it is proposed that additional borrowing headroom of £150k is built into the revised overall budget to ensure that the revised MIE scheme, including public realm works, can be delivered within the challenging deadlines. This would increase the total budget to £4.671m and the upper borrowing limit to £1m which is still within the original £1.7m limit approved by Council in March 2020.
- 7.3** As such, the Cabinet is requested to recommend that the Council approve the amendment of the council's budget and capital programme for 2020/21 to include the MIE scheme with an indicative overall gross project budget of £4.671m, including the borrowing headroom of £150k. A summary of capital spend and funding for MIE is included in the tables below and detailed at Appendix 5.

Capital Breakdown	£
<b>Preliminaries</b>	<b>62,500.00</b>
Modular units	3,007,300.00
Event space	240,000.00
Furniture and fittings	200,000.00
Public realm works / landscaping (CBC)	355,000.00
Other Costs	200,000.00
<b>Total Packages</b>	<b>4,002,400.00</b>
<b>Professional fees</b>	<b>416,200.00</b>
<b>Contingency</b>	<b>40,000.00</b>
<b>Total Scheme Cost</b>	<b>4,521,000.00</b>
<b>Additional Contingency</b>	<b>150,000</b>
<b>TOTAL COST</b>	<b>4,671,000.00</b>

Funding Sources:	£
<b>LISF grant</b>	<b>3,114,000.00</b>
<b>CBC loan (upper limit)</b>	<b>1,000,000.00</b>
<b>CBC Public match</b>	<b>57,000.00</b>
<b>LEP GH grant</b>	<b>500,000.00</b>
	<b>4,671,000.00</b>

- 7.4** In summary, the construction of MIE will be financed from £3.114m of Government grant, £500k from the LEP for the Growth Hub and investment of circa £850k to £1m from the council (a proportion of the latter will be invested in the LLP as member capital to assist with cash flow and initial marketing activity) and £57k of council funding contribution for the public realm improvements.
- 7.5** Indicative cash flow projections for the LLP showing financing of the council borrowing of £850k by the LLP are modelled at Appendix 2 (exempt) and £1m Appendix 3 (exempt).
- 7.6** It is proposed that the LLP will repay the council investment (whether spent by the council or invested as member capital) on a straight line basis over the 10 year period, based on 1/10<sup>th</sup> of the investment sum with a 5% interest rate payable. This will be the first draw on the gross profit and taken directly as a council management cost of running the LLP along with costs such as the lease of the land to the LLP, operational management costs for running the facility and other associated costs.
- 7.7** It is proposed that the council will receive a share of profits based on 60% to WSC and 40% to the council which delivers a commercial rate of return to the council. Due diligence will be undertaken on the financial accounts produced to calculate this profit split.
- 7.8** In addition, following an initial one year rent free period, the council will receive site rent based on 5.5% of gross income.
- 7.9** These payments will offset the opportunity cost of the loss of car parking revenue. An updated estimate of the net financial impact taking into account revised MIE income projections is contained at Appendix 4 (exempt).
- 7.10** Separately to the commercial return, the council will also benefit from additional business rates which have yet to be quantified.
- 7.11** Independent Tax advice will be sought to ensure that this is minimised for the LLP, CBC and WSC.

## **8. Public Realm.**

- 8.1** The public realm in the area surrounding Minster is in a poor state of repair. A budget of £355k for public realm enhancements formed part of the grant funding application to provide investment in paths; wayfinding; public spaces including seating; lighting and public art within the Minster grounds which will create links to the MIE and will also create linkages to the High Street and the Wilson. The council already has £57k identified, part of the match funding, for planting and public art in the newly created public spaces which will be part of the scheme.
- 8.2** The proposed interventions will provide an exciting opportunity to transform the area from one which attracts a significant degree of antisocial behaviour to one where people will want to meet and spend time.
- 8.3** A Public realm masterplan, attached at Appendix 6, outlines the nature of the proposed public realm interventions.
- 8.4** Cabinet is recommended to approve the public realm masterplan at Appendix 6 for consultation with key stakeholders, including the Diocese and delegate authority to the Managing Director Place and Growth, in consultation with the Cabinet Member Finance to respond to the feedback from the consultation. The detailed proposals will be presented to Cabinet for final approval.
- 8.5** Reasons for recommendations

- 8.6 Despite the government grant funding, if the council does not invest, then the MIE development is unlikely to go ahead due to the inability to raise external financing.
- 8.7 As a result, the significant regenerative and place shaping benefits to Cheltenham, as outlined in this report and the Cabinet reports of March 2020, will not materialise. The MIE is likely to make a considerable positive economic impact on the town and is part of its Covid-9 recovery package which would be negatively impacted if the scheme were not to proceed.
- 8.8 The Council, largely as a result of the government grant, will benefit from a significantly enhanced scheme, with improved outputs and outcomes for 50% less investment compared to the proposals agreed in the March 2020 Cabinet and Council meetings.
- 8.9 The recommendations set out in this report enable the council to proceed with the project and to enter into all necessary arrangements and legal documents to facilitate the delivery of MIE and the achievement of the resulting benefits to Cheltenham referred to throughout the report.

**9. Alternative options considered**

- 9.1 Not progressing was considered and discounted given the potential negative impact on the place strategy aspirations particularly given the negative economic impact of the Covid-19 pandemic.

**10. How this initiative contributes to the corporate plan**

- 10.1 The proposal delivers against one of the key strands of the council’s corporate plan, which is that Cheltenham seeks to be a town where culture and creativity thrive.

**11. Consultation and feedback**

- 11.1 The council and WSC have undertaken considerable engagement with and received support from various stakeholders, including Gloucestershire County Council, GFirst LEP, Cheltenham Chamber of Commerce, Alex Chalk MP, Cheltenham Festivals, Cheltenham BID, Cheltenham Development Task Force, The Cheltenham Trust, Cheltenham Minster, University of Gloucestershire, Gloucestershire College, Cheltenham Library and CyNam.
- 11.2 The LEP have undertaken considerable analysis of the proposal based on the grant funding bid.

**12. Performance management – monitoring and review**

- 12.1 The outcomes from the MIE project will be monitored by both the LEP and the council. Review and monitoring mechanisms will be built into both the Design and Build contract and the LLP legal documentation.
- 12.2 The returns from the council’s investment will be monitored by the councils ELT.

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<b>Appendices</b>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Investment proposal - financial projections - £850k borrowing (exempt).</li> <li>3. Investment proposal - financial projections - £1m borrowing (exempt).</li> <li>4. Net financial impact on CBC – financial projections (exempt).</li> <li>5. Indicative Capital budget for MIE.</li> <li>6. Public Realm Masterplan.</li> </ol>
<b>Background information</b>	<ol style="list-style-type: none"> <li>1. Cabinet report 8<sup>th</sup> October 2019 Workshop Cheltenham</li> <li>2. Cabinet report 3<sup>rd</sup> March 2020 Workshop Cheltenham – investment proposal</li> </ol>

## Risk Assessment

## Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the council does not invest in MIE, then the facility is unlikely to be delivered and the place strategy theme for being a place where 'culture and creativity thrive' will be negatively impacted.	Paul Jones	21/2/19	4	2	8	Reduce	Cabinet and Council to agree an upper limit of £1m investment in March 2020.		Mark Sheldon	
	If MIE financial projections are not realised then the LLP may not repay the council's investment in the MIE and the commercial terms will not be realised.	Paul Jones	21/2/19	4	3	12	Reduce	Undertake further due diligence work to provide assurance that financial modelling is robust. Modelling has been undertaken which provides assurance that MIE breaks even at 50% occupancy levels.		Andrew Knott	
	If the relationship between the Council, LLP and WSC for the MIE is not deemed to be on commercial terms, then the council could be considered to be providing state aid.	Paul Jones	21/2/19	4	3	12	Reduce	Provide evidence to ensure commercial returns and seek external assurance that state aid does not apply.		Andrew Knott	
	If there is a CVA or insolvency, the Council's investment in the MIE may not be realised	Paul Jones	21/2/19	4	3	12	Reduce	Undertake further due diligence work to provide assurance that financial modelling is robust.			
	If there is a CVA or insolvency, the Council's powers as landlord may be	Paul Jones	21/2/19	4	3	12	Reduce	Explore mechanisms to protect the council's interest in agreeing final			



	inhibited or delayed							terms.			
	If the development does not proceed or is not a success there may be reputational consequences.	Paul Jones	21/2/19	4	2	8	Reduce	Cabinet and Council to agree the revised approach which supports the delivery of MIE.			
	If MIE tenants are not in line with the council's aspirations then MIE could have a negative impact on the ambition for the delivery of a delivery of cyber ecosystem.	Tim Atkins	21/2/19	4	3	12	Reduce	Ensure that occupation is controlled within the documents, as far as legal restrictions allow			
	If the council does not deliver MIE within the timelines required by the LEP then the Growth Hub grant funding may be at risk	Paul Jones	28/10/20	4	3	12	Reduce	Cabinet to approve the waiving of contract procurement rules and agree to contract with WSC to design and build MIE.			
	If the demand for workspaces is impacted by coronavirus, then the financial projections and returns to the LLP and council may not be realised	Paul Jones	28/2/19	4	3	12	Reduce	Ensure that the LLP actively markets the workspaces and links with the wider cyber development activity in West Cheltenham.			
	If WSC do not manage the delivery of MIE then the council will not meet the requirements of the LEP grant funding.	Paul Jones	28/10/20	4	2	8	Reduce	Due diligence undertaken of WSC. Ensure legal contracts with WSC and LLP deliver the construction and operation of MIE.			
	If the relationship with WSC is viewed as an unlawful public contract then there is a risk that grant will not be received.	Paul Jones	28/10/20	4	2	8	Reduce	Ensure that the rationale for the delivery approach for construction and management meets legal requirements.			
	If WSC viability as a partner in/provider to the LLP is not credible then MIE	Paul Jones	28/10/20	4	2	8	Reduce	Undertake due diligence to ensure that WSC is a viable partner in the LLP.			

	management may fall to the council.									
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**Explanatory notes**

**Impact** – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

**Likelihood** – how likely is it that the risk will occur on a scale of 1-6  
(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

**Control** - Either: Reduce / Accept / Transfer to 3rd party / Close