



**CABINET – 22 OCTOBER 2024**

**EAST MIDLANDS DEVELOPMENT COMPANY LIMITED**

**REPORT OF THE CHIEF EXECUTIVE AND THE DIRECTOR OF LAW  
AND GOVERNANCE**

**PART A**

**Purpose of the Report**

1. This report recommends that as a member authority and part owner of the East Midlands Development Company, the County Council supports the Board of the Company to take the necessary steps to dissolve the Company. This action is in response to a request from the Company, a request which is being made to the five member authorities.

**Recommendations**

2. It is recommended that:
  - (a) the County Council supports the steps being taken by the Board of the East Midlands Development Company Limited to bring about the voluntary dissolution of the Company;
  - (b) authority is delegated to the Chief Executive and the Director of Law and Governance, in consultation with the Acting Leader of the Council, to take all necessary steps in terms of the legal procedure to enable dissolution; and
  - (c) the Company be advised that its proposals for use of its “materials and activities” to be transferred to the East Midlands County Combined Authority as well as being available to the member authorities will include making these available to the East Midlands Freeport and its members, subject to the conditions in the proposed statement of principles.

**Reasons for Recommendations**

3. To allow the timescale for dissolution of the Company to be met.

### **Timetable for Decisions (including Scrutiny)**

4. The approval of the recommendations in this report sets in train a process to lead to the publication of the Company's dissolution on 30<sup>th</sup> June 2025.

### **Policy Framework and Previous Decisions**

5. At its meeting on 15<sup>th</sup> December 2020 the Cabinet resolved to participate in the proposed Development Corporation, to agree governance arrangements and to make a financial contribution. The full resolution is available at <https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6000&Ver=4>.
6. At its meeting on 27<sup>th</sup> May 2022, the Cabinet resolved to set out concerns about the management and governance of the then Development Company and to communicate those concerns accordingly. The resolution paused the Council's engagement with the Company. The full resolution is available at <https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6744&Ver=4>.
7. At its meeting on 23<sup>rd</sup> September 2022 the Cabinet resolved that the ongoing lack of clarity about the Company's role was a concern in various ways and expressed concerns about the Company's decision making and its possible role as a mayoral development corporation impacting on Leicestershire. The full resolution is available at <https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6776&Ver=4>.
8. At its meeting on 23<sup>rd</sup> June 2023 the Cabinet resolved to remain in membership of the Company pending clarification of legislative uncertainties affecting the Company's role; to register concern at the Company's proposals to consult on the future of sites not in its ownership; and to press again for changes in the Company's governance. The full resolution is available at <https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=7077&Ver=4>
9. Most recently at its meeting on 26<sup>th</sup> March 2024 the Cabinet resolved that:
  - (a) The County Council remain in membership of the East Midlands Development Company for the time being but its engagement with the Company remains paused;
  - (b) The refusal of the Company to answer straightforward questions from a member authority about its management and governance following the Cabinet resolution of 23<sup>rd</sup> June 2023 be noted with regret and as wholly unacceptable for an organisation in receipt of public funds;
  - (c) The letter from the Chief Executive and the Director of Law and Governance to the UK Freeports Programme Director at the Department for Levelling Up, Housing and Communities, the concerns about the

Company and its Chairman expressed therein and action to be taken by the County Council as the accountable body for the East Midlands Freeport be noted; and

- (d) The County Council's position as set out in this report be communicated to the Company, the other members/local authority owners of the Company and other relevant parties.

### **Resources Implications**

10. There are no financial implications for the County Council in regard to the Company's position until it is dissolved. Any surplus held by the Company upon dissolution will be shared between the member authorities in accordance with the Members' Agreement.

### **Legal Implications**

11. The Board has said that the Company is solvent and is satisfied that it is in the best interests of the Company that it is dissolved. In that context, the Board has referred to the "natural conclusion" of the Company's activities and the creation of the East Midlands County Combined Authority (EMCCA). There is reference to the Company having been established for an "interim period of three years". The County Council's view is that was not the case, the Company was looking to a long term future and a three year period, now ended, related to the funding requested from the member authorities, which ultimately was not provided by all the authorities. Funding from the County Council ceased after the first year.
12. The process to dissolve a company is a voluntary strike-off. Once the Company has been struck-off the Register of Companies it will cease to exist. The voluntary strike-off procedure is relatively quick and simple and is provided for by way of an application to the Registrar of Companies under sections 1003 to 1011 of the Companies Act 2006. The Board has taken external legal advice and satisfied itself that it has undertaken all necessary due diligence and that the application can be submitted and will be accepted by Companies House.
13. The decision to dissolve the Company is a matter to be determined by the member authorities. The County Council has been asked to agree to consent and to sign the resolutions necessary to dissolve the Company.

### **Circulation under the Local Issues Alert Procedure**

14. None.

### **Officer(s) to Contact**

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## **PART B**

### **Background**

15. The County Council's concerns about the management and governance of the East Midlands Development Company as set out in Part A of this report have been consistently communicated to the Company but were never responded to with any degree of satisfaction. In large part they were ignored. The decision of the EM Dev Co Board to recommend that the Company is dissolved can therefore in one sense be supported.
16. The Company was set up in 2019 to assist in the development of three sites: "East Midlands Airport Area" (the land in question was never precisely defined), the power station at Ratcliffe on Soar, and land at Toton and Chetwynd including the then proposed HS2 hub and the Barracks. This was before the East Midlands Freeport was established, two of its tax sites covering land adjacent to and at the Airport, and the power station. The original Company proposals are also closely linked to HS2 going ahead. The future of the Company was therefore consecutively called into question by the Government's decision to establish the Freeport in 2021, the abandonment of HS2 beyond East Midlands Parkway, also announced in 2021, and the abandonment of the leg from Birmingham to Parkway announced in 2023.
17. Discussions between the Company and EMCCA have not resulted in anything to suggest an ongoing role for the Company is appropriate and there is no indication from the Government or the member authorities that any further funding will be forthcoming. Therefore, without funding and a clearly defined role going forward, the decision to dissolve can be seen to be inevitable.

### **Company Materials and Activities**

18. The Board is proposing that "materials and activities created by and on behalf of the Company" be transferred to the EMCCA as well as being available to the member authorities. It is also proposed that ongoing use and management of information held by the Company will be the subject of a statement of principles which enables the County Council as a former member of the Company to share material with third parties for a defined purpose (*'reasonable for the development and betterment of the East Midlands area in accordance with the Company's policies and plans'*) subject to conditions relating to placing the material in the public domain and endeavouring to ensure that any third party to whom the information is disclosed will use the same degree of care as it would in relation to its own confidential or commercially sensitive information.

### **Equality Implications**

19. There are no equality implications arising from the recommendations in this report.

### **Human Rights Implications**

20. There are no human rights implications arising from the recommendations in this report.