Evaluation Criteria and weightings

APPENDIX C

The shortlisted options have been scored against the weighted evaluation criteria set out below.

Criteria	Weighting
Is the Option an enabler to housing growth on Cheshire East owned assets?	10
Is the Option an enabler to jobs investment on Cheshire East owned assets?	10
Does the Option enable the Council to maximise development value to the Council by providing dedicated delivery arrangements and additional property and commercial expertise?	10
Does the Option enable the Council to minimise risks by providing dedicated delivery arrangements and additional property and commercial expertise?	10
Does the Option have the potential to act as a delivery vehicle to the Cheshire & Warrington LEP as well as Cheshire East Council?	10
Does the Option have the potential to secure private and Government investment into the Borough through creating the focus on delivery and providing the mechanism to deliver capital schemes?	10
Does the Option enable the Council to create profitable and transparent relationships with developers and investors which benefits the local communities – potentially utilising the Developer Panel Framework currently being scoped in more detail with a view to procuring during 2013/14?	5
Does the Option enable the Council to maximise any financial benefits through a dedicated delivery vehicle?	10
Does the Option enable the Council to minimise tax exposure of a dedicated delivery vehicle?	10
Does the Option enable the Council to benefit from agile operating arrangements of the delivery vehicle but still retain control?	10
Is the Option flexible to allow the Council to make changes to its structure in the future to meet changing landscapes/priorities?	5

Summary of Evaluation Scores

APPENDIX D

	Option 1		Option 2		Option 3a		Option 3b		Option 4a		Option 4b		Option 5	
	Score	Weighted score	Score	Weighted score	Score	Weighted score	Score	Weighted score	Score	Weighted score	Score	Weighted score	Score	Weighted score
Total	14	125	38	340	37	330	43	390	27	240	34	310	30	280
Ranking	**7**		**2**		**3**		**1**		**6**		**4**		**5**	

Commentary:

- Option 1 lacks the capacity and focus to deliver the Council strategic economic and regeneration objectives.
- Option 2 has the potential to deliver increased capacity and expertise but still lacks focus on key sites i.e. it is likely that the team will retain responsibility for a broader range of Council objectives.
- Option 3a benefits from increased capacity, expertise and focus on key sites but exposes the Council in significant risk both financially and operationally through the transfer of assets which crystallises Stamp Duty Land Tax.
- Option 3b benefits from increased capacity, expertise and focus, minimises the Council's risk exposure and mitigates the impact of Stamp Duty Land Tax.
- Option 4a although similar to Option 3 in terms of capacity, expertise and focus exposes the Council to increase operational risk and complexity through a lack of control and therefore agility in operations and flexibility to change with the Council to meet future objectives. It also exposes the Council to Stamp Duty Land Tax on the transfer of assets
- Option 4b has the same benefits as Option 3a without the exposure to Stamp Duty Land Tax. However, it is unlikely to be accepted as a delivery vehicle for the wider Cheshire and Warrington LEP thereby restricting its use as a commercial entity.
- Option 5 benefits from the increased participation of the private sector potentially providing useful skills, capacity and economies of scale. However, it is likely to require the Council to commit significant capital resources thereby relinquishing control, it is unlikely to be flexible to meet a changing local government landscape and if exclusive may be perceived as the Council favouring one particular private sector entity and compromising transparency. In addition the private sector partner will direct benefits away from local society.

Conclusion:

- Option 3b is considered by the Council to best meet its objectives.

High level tax analysis & commentary on options APPENDIX E

Tax Commentary	Option 1	Option 2	Option 3a	Option 3b	Option 4a	Option 4b	Option 5
Corporation Tax (CT)	Neutral – CEC exempt from CT	As Option 1	CT payable on taxable surpluses within delivery vehicle unless structured as a tax transparent Limited Liability Partnership (LLP).	Risk of CT leakage minimised if vehicle is not trading commercially or is structured as LLP (as in Option 3a).	As Option 3a	As Option 3b	As Option 3a – although use of a Limited Partnership or Limited Liability Partnership should maintain neutrality for the Council's share of the surplus
Stamp Duty Land Tax	Neutral – SDLT generally payable on land/ property acquisitions.	As Option 1	Adverse SDLT position if delivery vehicle is company limited by guarantee, otherwise SDLT neutral on land transfers from CEC to LLP or company limited by shares.	SDLT neutral as in Option 1 (Land interests remain in CEC, so no SDLT issues on formation of delivery vehicle)	As Option 3a, provided CEC holds 75% or more of limited company shares. Complex SDLT partnership rules to be considered (under LLP route).	As Option 3b	As Option 4a
Value Added Tax	Neutral - depending on CEC's de-minimis position	As Option 1	Dependent on specific transactions, should be capable of VAT neutral treatment	As Option 3a	As Option 3a	As Option 3a	As Option 3a

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Preferred Option: *Risk Management*

APPENDIX F (1)

Risk	Impact	Mitigation
Inadequate resourcing of the company	The Company delivers a poor service and fails to meet its objectives. Further costs would be required to increase the capacity of the team.	The Council will need to carefully plan the operating functions of the Company to better understand its resource requirements.
Fails to meet business needs / deliver the Council's primary objective i.e. growth in housing and jobs	The Company delivers a poor service and fails to meet its objectives. Further scrutiny/control required on the operational aspects of the Company. Further costs may therefore be incurred e.g. in sourcing the appropriately skilled resource.	The Council will need to clearly define the Company's operating parameters within the Company's constitution and business plan such that it is focuses on targeting the Council's primary objectives. It will also need to ensure the Company is provided with appropriate resources and skills.
Integration with the Council	The Company fails to operate cohesively with the in-house/retained team causing possible duplication of work or inefficient working practices. Further costs may be incurred	The Council will need to ensure there are clear operating boundaries and protocols/procedures such that any interface between the Council and the Company is efficient. It is therefore essential that staff of both the Council and the Company clearly understand their respective roles and responsibilities.
Unclear constitution/role/responsibilities/authority	The Company operates outside its anticipated boundaries further increasing the Council's exposure to operational/reputational risk.	The Council will need to ensure the Company's constitution and business plan is clear and the Company understands its roles and responsibilities and how much delegated authority it has.
Company lacks flexibility to respond to future changes	The Council is unable to utilise the Company to meet potential future objectives. Further costs may be incurred in enabling the flexibility or creating an alternate tool.	The Council will need to give careful consideration to the level of flexibility it allows the Company through its constitution. A careful balance of control and risk will need to be understood.

Preferred Option: *Risk Management*

APPENDIX F (2)

Risk	Impact	Mitigation
Company lacks agility to deliver it primary function	The Council fails to meet its objectives with a potential financial and reputational risk.	The Council will need to give careful consideration to the level of flexibility it allows the Company through its constitution. A careful balance of control and risk will need to be understood.
The Council does not have the required resource to effectively control/manage the Company	The Council lacks the visibility required to maintain scrutiny over the Company with a potential impact on its reputation.	The Council will need to ensure it clearly understands its role as the accountable body and therefore the level of resource required to maintain appropriate scrutiny levels of scrutiny without impacting on the Company's ability to remain agile and flexible.
The Council exerts control inhibiting the Company's ability to be agile and flexible	The Company fails to perform efficiently in meeting its primary objective which will have a financial impact.	The Council will need to ensure it clearly defines its own operating parameters ensuring it gets the right balance of control and risk.
The Company fails to develop beneficial relationships with developers	The Company fails to perform and deliver its primary objective. Further resources and cost may be required to develop beneficial relationships.	The Council will need to ensure the Company is staffed with individuals with the correct skills to enable the Company to operate efficiently.
The Company operates outside of its defined parameters	The Company exposes the Council to additional financial and reputational risk. Further costs may be required to support operations not authorised.	The Council will need to ensure the Company's constitution and business plan is clear and the Company understands its roles and responsibilities and how much delegated authority it has.
The Company acts without delegated authority	The Company exposes the Council to additional financial and reputational risk. Further costs may be required to support operations not authorised.	The Council will need to ensure the Company's constitution and business plan is clear and the Company understands its roles and responsibilities and how much delegated authority it has.

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