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| **Meeting Date:** | 7th November 2019 |
| **Agenda Item:** | Item 5 and 8a  |
| **Item Subject:** | Growth Deal – New Model in Technology and Engineering NMiTE Phase 2  |
| **For:** | **Discussion** | **X**  | **Decision** | **X** | **Information** |  |
| **Purpose:**1. To update Board members on the latest Funding Proposal for NMiTE Phase 2 and consider options relating to the remaining allocation of £5.660m.
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| **Recommendations:**1. Following a full review of the information provided by NMITE, the LEP Secretariat are recommending to the Board Option B (detailed in Section 5.0) - to only fund the development of the Centre for Advanced Timber Technology (CATT) at an agreed level of funding and match. Option B would mitigate some of the risks to the LEP identified within this paper, whilst fulfilling the LEP’s commitment to the second phase of the project.

This option should be subject to the following: 1. NMiTE provide a reprofile of expenditure and match based on the one building development (CATT).
2. NMiTE provide the LEP with a suitable means of underwriting this project and the Marches LEP seek specialist external legal advice with regards options to underwriting.

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| **1.0 Background** Forming part of the Marches LEP Growth Deal 3 Programme the New Model in Technology and Engineering (NMiTE) project is strategically important for the region in helping to deliver economic growth. As a consequence of this in March 2017 NMiTE was awarded £8 million of Growth Deal funding for the achievement of the following outputs:

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| **Phase 1 & 2** | **Total** |
| New Learners (Student Enrolled) | 1,080 |
| Jobs Created  | 232 |
| Area of new/improved training floorspace (m2) | 9,400 |
| GVA Added Annually (£) |  £ 34,000,000 |
| Companies Supported | 450 |
| Private Sector Capital Match (£) | £10,900,000  |

At the 27 November 2018 LEP Board meeting a paper was presented on behalf of the Performance, Risk and Monitoring Committee (PRMC) outlining the risks associated with the project and potential solutions. The following recommendations were agreed:*The phasing of the Funding Agreement into 2 parts:** *Phase 1 Black Friars site (Phase 1) - £1.9m (2018/19) and £440,000 (2019/20).*
* *Phase 2 £5.7m\* LEP Funds - To be determined following a review by Spring 2019 on the progress in delivering the development of the Black Friars/Robert Owen Academy site, the outputs and match funding for that phase as well other suitable alternative premises.*

\*The overall allocation to NMiTE is £8m. £2.340m was allocated to Phase 1. This leaves a remaining allocation of £5.660m for Phase 2. **2.0 NMiTE Phase 1 – In Delivery**The Phase 1 contract for £2.34m was signed off by all parties in August 2019 with work on the Blackfriars Site currently being undertaken. At the last Board meeting members received a draft Business plan. This plan has now been updated and we understand from NMiTE has been signed off by their Board. The updated plan is attached in Appendix 1b. The LEP secretariat has requested an update on Phase 1 of the project which will be given by an NMiTE representative at this Board meeting as part of their presentation on Phase 2. This will enable the Board to review progress before considering the Phase 2 proposal, in line with the November 2018 Board recommendations highlighted above. **3.0 NMiTE Phase 2** Following Septembers Board meeting, the LEP Secretariat provided a Project Proposal template to NMiTE to complete to ensure that the Board were provided with a business case and as much information as possible in order to take a decision on Phase 2. This template was developed in line with the LEP’s Accountability and Assurance Framework (AAF) and is included with this paper – See Appendix 1 Project Proposal for detail. Outline of Project Proposal:NMiTE are seeking £5.780m for the Phase 2 proposal which comprises the development of three Centres on the North Magazine Development located on the Hereford Enterprise Zone (HEZ). The three centres within this proposal include:* Centre for Advanced Timber Technology (CATT)
* Centre for Automated Manufacturer (CAM)
* Centre for Future Skills (CFS)

It is intended that the three centres will provide core teaching and learning facilities to support the delivery of NMiTE’s Business Plan and the Marches LEP Growth Deal objectives. The LEP Board received a presentation on NMiTE Phase 2 at its 24th September 2019 Board Meeting. This included NMiTE’s draft Business Plan, as well as their proposal relating to the focus for investment in the second phase. It was agreed at this meeting that in order for NMiTE to demonstrate how it would achieve its deliverables against the original project submission a more detailed Business Case would be required. Following the 24th September 2019 meeting Board Members were asked to submit questions in relation to the presentation and draft Business Plan to the Marches LEP secretariat. These questions were then relayed to NMiTE with a deadline given of the 31 October 2019. As outlined above NMiTE were provided with a template to complete with a final deadline for information to be submitted by the 27th October 2019. An Extraordinary Board meeting was scheduled to discuss the responses submitted and for members to consider funding for Phase 2. NMiTE has now submitted the requested documentation which is contained in Appendix 1 – NMiTE Phase 2 Project Proposal. The LEP secretariat has reviewed all the information submitted and sought further clarification from NMiTE on areas that were not fully addressed or where information was missing. The appended information being presented with this Board paper contains NMiTE’s response to these queries. In addition to Appendix 1 there are further appendices which can be accessed via the Board members secured area on the Marches LEP website. A password will be provided separately to Board Members. **4.0 NMiTE Phase 2 Project Proposal – LEP Secretariat Assessment** Following a review of the project proposal from NMITE and the supporting documents, Board members are asked to consider the following areas in relation to NMiTE’s submission: * Financial
* Outputs
* Timescales
* Evidence of Demand

**4.1 Financial** Board members to consider a number of financial points: 1. The Project Proposal (Appendix 1) outlines a figure of £5.780m of Local Growth Funding being sought for Phase 2. The grant amount allocated to Phase 1 agreement is £2,340,000 leaving a remaining allocation of £5,660,000 for Phase 2 and not £5,780,000 as detailed in the Project Proposal - Appendix 1 (Section 2.1)
2. NMiTE has outlined their private sector match funding pipeline in the proposal however they are spending a significantly higher amount of grant before bringing in the match funding as referenced in the Match Profile in Section 3.5 of the Project Proposal. A high percentage of the match funding proposed within the pipeline is also unconfirmed, which presents a risk to the LEP as grant will be spent before knowing when match will come in.
3. Part of NMiTE’s proposal is to purchase land from Herefordshire Council with the grant. Board members will need to consider the potential for a conflict of interest to arise between Herefordshire Council acting as the Accountable Body for NMiTE and in its capacity as the owner of the land to be sold to NMiTE:
* Herefordshire Council has confirmed that they do not foresee this being an issue if they can demonstrate market value.
* Shropshire Council, as accountable body, has taken legal advice on this issue. While there is a potential conflict of interest, and this would not be a preferred option for the LEP and Shropshire Council as the accountable body for the LEP, the purchase could be acceptable as long as it can be demonstrated by Herefordshire Council that the two roles they are undertaking are being kept distinct and that the land is acquired by NMiTE through an open and fair process based on market value. Herefordshire Council and NMiTE would need to demonstrate that the necessary processes and procedures had been followed to ensure transparency.
1. Student numbers are a major source of income and Board members will need to consider the cashflows provided in Appendix 2a which can be accessed via the link provided. Student numbers cannot be verified due to this being a new University and there is a risk to the LEP that student numbers will not be as high as expected which will impact on income.
2. Underwriting - NMiTE has suggested a number of options in regard to security against the grant, however this does not fully address the underwriting of this project:
* NMiTE have suggested an option of putting a charge on the buildings. This is not the usual route with a grant and is more commonly used for loans however if there is considered to be a high risk of default then a charge is an option. An alternative to the placing of a charge against the title to the property being purchased is to include a condition attached to the  grant which could restrict the use of the building to purposes associated with the project for a specified period and to place a restriction on the title of the register to the property so as to notify third parties of the conditions of use of the property and to act as a trigger for clawback in the event of default. As stated, a restriction would only act as a trigger for clawback of the grant under the terms of the grant agreement if NMiTE default. It would not, in itself, create a legal charge which would give the LEP powers of enforcement in terms of becoming either a mortgagee in possession or creating a power of sale to recoup any outstanding grant monies. The Board members will need to consider the level of risk of the project and if either of the above options provide satisfactory security against the grant.
* Section 2.4 in the Funding Proposal (Appendix 1) indicates that NMiTE have the option to return the land to Herefordshire Council if it is not developed and the purchase monies refunded to NMiTE. If this were to occur, the Marches LEP could at this stage invoke the clawback provisions of the grant agreement to recover the refunded grant monies paid to NMiTE as a consequence of them being in default of the terms of the grant (i.e. due to their failure to progress development of the Project).
* To attempt to secure the recovery of the grant monies in default, after development on site has  commenced (and the option for Herefordshire to seek the return of the land to them has expired)  the Marches LEP could consider putting a charge on the land subject the points referred to above in relation to putting a charge on the title to the land. The difficulties arise in the timing of when the charge is placed against the title of the land and when the legal charge in favour of the Marches LEP would take effect. This would require further legal guidance as to how to proceed.
* In the event of default by NMiTE, Herefordshire Council and the Marches LEP have agreed that they may also need to  explore alternative options for delivering the outcomes/outputs of the Project which could involve considering the possibility of securing step in rights and/or appointing new providers to take over the land/buildings previously purchased or  developed  by NMiTE with the use of the grant funding
* Due to the complexities of the potential options for the underwriting of the project and mitigating the risks associated with it, it is strongly advised that the Marches LEP seek specialist external legal advice with regard to the options available to it should funding be given.

**4.2 Outputs** The table below outlines the outputs agreed for Phase 2.

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| **Phase 2** | **Total** |
| New Learners (Student Enrolled) | 810 |
| Jobs Created  | 195 |
| Area of new/improved training floorspace (m2) | 6,195 |
| GVA Added Annually (£) |  £ 27,520,000.00  |
| Companies Supported | 375 |
| Private Sector Capital Match (£) |  £ 7,766,250.00  |

The Board will need to consider whether Section 4 in the Funding Proposal (Appendix 1) provides adequate information on how these will be achieved over the lifetime of the project and whether they provide value for money given the proposed level of investment. **4.3 Timescales** Work around the development on Phase 2 presents the LEP with a significant risk due to the timescales involved in ensuring that Growth Deal Funding is spent by 31 March 2021. The timescales outlined in the proposal are tight and there could be possible slippage in building the centres and the spend. The LEP Board must carefully consider the practicalities of the proposal outlined by NMiTE and the ability to defray all Growth Deal expenditure within the 2020/21 financial year and explore during the NMiTE presentation what scope for slippage has been built into the programme.Board Members are asked to consider the Funding Proposal and the timescales outlined in Appendix 1a - the North Magazine Proposal. Appendix 1a cites the completion date of the CATT as March 2021 and plans to spend £6.867m. £4.347m of LEP funding has been allocated to this phase of the development and includes construction and equipment costs. The expected construction costs (Land/Design/Ground/Construction) are £3.717m. This could indicate the project may be intending to spend remaining LEP funds (£630,000) on items such as equipment ahead of construction completing. This would present a risk to LEP should the project not complete. Board Members should also consider that the timescales on the CAM building point to a completion of April 2022. NMiTE has costed a figure of £1.353m of LEP funding for expenditure incurred by March 2021, however Board Members should note that construction of this building is not due to start until April 2021. Pre construction costs amount to £867,000 and it is assumed that these will be incurred before April 2021. The remaining LEP funds total £486,000, however it is not clear how this funding will be spent before April 2021.The construction on the CFS building is not due to commence until April 2022. NMiTE has a large proportion of match attributed to the latter stages of the project which again presents a risk to the LEP should earlier stages not complete, the project is delayed, or match funding is not available. **4.4 Evidence of Demand** In Section 5 of the Funding Proposal NMiTE has provided letters of support and a report by HATCH Regeneris on the Strategic and Economic Cases. With reference to these documents, together with the Business Plan and the North Magazine Development Proposal, Board members will need to consider whether the evidence of demand presented in it is robust enough to award funding to the Phase 2 proposal.**5.0 Options** Board members are asked to consider the following options: 1. To fully fund the project at £5.660m having considered the submission and risks identified in this paper.
2. To fund the development of the Centre for Advanced Timber Technology (CATT) only at an agreed level of funding and match. This would mitigate some of the risks to the LEP in terms of timescales and expenditure, whilst fulfilling the LEP’s commitment to the second phase of the project. This option would also require NMiTE to bring forward the required level of match. As a guide, based on the current level of grant requested for this building, £5.293m of match funding would be required.
3. Defer a decision on the project until January 2020 so NMiTE can address areas of risk and provide more detail addressing concerns around timescales and expenditure, including match funding.
4. To not fund the project. Board members are asked to carefully take into consideration the high level of interest in this project and the reputational risks to the LEP should funding for the project not be approved.
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| **Financial implications:*** If the LEP underspends against its Growth Deal allocation, this could impact on the level of grant provided by government to the Marches LEP.
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| **Legal Implications:*** Legalities around the Land Purchase will need to be addressed within a Grant Funding Agreement.
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| **Risks, opportunities and impacts:*** High level interest and a reputational impact should the project not be funded.
* Timescales of project development and delivery needs to be carefully managed.
* To mitigate any underspend the Board are being asked to agree an open call for capital projects to come forward.
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**Appendices**

Appendix 1 – Project Proposal**(Commercially sensitive therefore not loaded onto website)**

Appendix 1a – North Magazine Development Proposal **(Commercially sensitive therefore not loaded onto website)**

Appendix 1b – NMiTE Business Plan **(Commercially sensitive therefore not loaded onto website)**

Appendices 1c – 5 can be accessed via the Board members secured area on the Marches LEP website**. (Commercially sensitive – therefore not loaded onto main website)**

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