

Item Subject:	Transfer of Local Growth Funds for NMITE Phase 2
----------------------	---

1. Purpose:

To outline the terms of the transfer of the £5.66m Growth Deal (GD) Funds for NMITE Phase 2.

2. Recommendations:

- To agree the terms of the transfer of the £5.66m Local Growth Funds (LGF) for NMITE Phase 2 from Shropshire Council, acting as the Accountable Body for the Marches LEP, to Herefordshire Council as outlined in the draft letter at Appendix 2
- Authorise J Walton, Section 151 Officer to issue the letter at Appendix 2 on behalf of the Marches LEP to Herefordshire Council

3. Summary:

At the 27 January 2020 Marches LEP Board meeting two funding options were discussed which would negate the requirement for the underwriting of the £5.66m of GD funds for NMITE Phase 2. At the meeting the Marches LEP Board agreed that two options should be explored by the Marches LEP Team with the Ministry of Housing, Communities and Local Government (MHCLG), and other parties. Over the past 3 weeks T Bray, Area Director from MHCLG has been working with all three parties (Marches LEP/Shropshire Council, Herefordshire Council, NMITE) to agree a way forward on Option 2. Please note that Option 1 was deemed by MHCLG as inappropriate as it would require a new business case to be considered by Treasury, which would take too long.

Attached at Appendix 1 is a copy of the letter from T Bray dated 14 February 2020, which sets how MHCLG, the Marches LEP and Shropshire Council as the Marches LEP Accountable Body, Herefordshire Council and NMITE have agreed to work to implement Option 2.

On 18 February 2020 the Marches LEP issued a draft letter to Herefordshire Council setting out formally the terms for the transfer of the funds. Herefordshire Council asked for a number of changes on 20 February 2020. Attached at Appendix 2 is the agreed final draft letter.

The letter sets out the following conditions that Herefordshire Council are required to comply with:

1. From 3 August 2020 and thereafter on a quarterly basis Herefordshire Council will send to Shropshire Council the information on spend and outputs achieved. This information will allow Shropshire Council to report to the Marches LEP Board and MHCLG on the overall performance of the Marches LGF programme;
2. That Herefordshire Council operates according to the Government's National Local Growth Assurance Framework in all matters where it is acting as the local accountable body for the NMITE Phase 2 project;
3. That Herefordshire Council agrees in principle that if the project delivery needs to extend beyond FY 2020/21, then Herefordshire Council can use its capital spend freedoms and flexibilities to achieve this. Herefordshire Council should notify any resultant alterations to project milestones to the Marches LEP as soon as the new milestones are agreed with NMITE.

4. Financial implications:

Shropshire Council, as the Accountable Body for the Marches LEP LGF, will be delegating responsibility for managing the £5.66m grant and the relationship with the applicant (NMITE) to Herefordshire Council. The full grant amount will only be transferred from Shropshire Council

MARCHES LEP BOARD – Resolution

(as Accountable Body for the Marches LEP) to Herefordshire Council upon receipt of the 2020/21 LGF allocation from MHCLG, which is likely to be towards the end of April 2020. Once the transfer has happened it will enable the Marches LEP to demonstrate this element of the 2020/21 LGF capital grant has been defrayed. As a result of this transfer Herefordshire Council becomes the accountable body for these funds.

5. Legal implications:

Under the terms of the Articles of Association for Marches LEP Ltd – Clause 10.2.2, Cllr Hitchiner (Leader, Herefordshire Council) would not be deemed as eligible to vote as he leads the organisation receiving the letter at Appendix 2. To ensure the Marches LEP Board is quorate to take a decision as recommended at point 2, the remaining 2 public sector Board members, plus at least 5 private sector Board members will need to respond to this resolution.

Pinsent Masons solicitors have reviewed the draft letter attached at Appendix 2 and provided only a number of minor drafting changes which have been incorporated.

6. Risks, opportunities and impacts:

In the draft letter at Appendix 2 it states that Shropshire Council confirms that as Accountable Body for the Marches LEP, it will not seek to clawback funding on behalf of the Marches LEP on the basis that any project failure is for Herefordshire Council to manage and remedy locally, and on the basis that MHCLG looks to the performance of the whole LGF programme, not individual projects, and the degree to which partners have recognised risks and put in place appropriate mitigation.

7. Consultation:

The T Bray letter of 14 February 2020 attached at Appendix 1 outlines the culmination of a range of discussions between Marches LEP/Shropshire Council, Herefordshire Council and NMITE.

Appendices:

- 1. T Bray letter of 17 February 2020**
- 2. Draft letter from Shropshire Council to Herefordshire Council**