
Executive

21 April 2022

Report of the Corporate Director of Place
Portfolio of the Executive Leader (Policy, Strategy and Partnerships)

York Central Enterprise Zone Funding Agreement

Summary

1. The delivery of York Central has been a City of York Council (CYC) priority for well over 2 decades. Regeneration of this brownfield site will bring significant new housing and economic growth space to facilitate the future development of new sustainable business sectors to augment the existing economy, in this central, sustainable location. The importance of York Central is highlighted in the Local Plan, and in the Strategic Economic Plans of both regional Local Enterprise Partnerships. York Central will also play a pivotal role in the city wide economic recovery from the Covid 19 pandemic.
2. In 2016, the council committed a £10m budget to kick start the York Central Partnership project that has now finally started on site. This “at risk” up front financial commitment to the scheme has enabled CYC and its partners Homes England, Network Rail and the National Railway Museum (NRM) to :-
 - i. secure grant funding of £112.226m
 - ii. Working with York North Yorkshire Local Enterprise Partnership (YNY LEP) established an Enterprise Zone which will fund £35m CYC contribution to the scheme
 - iii. Acquire all third party land to deliver the site,
 - iv. Create and consult on a site wide masterplan and secure planning permissions
 - v. Procure a construction partner for the delivery of the infrastructure and commence enabling works such as demolition, line clearance and archaeology.
3. York Central will become a thriving addition to the existing city centre with; new business space, new homes, a re-modelled railway station and a transformed NRM.

4. In March 2020, as the major landowner of the site, central government announced the award of £77.1m Homes Infrastructure Grant (HIG) to Homes England and Network Rail to fund the enabling infrastructure for the site. The major landowners have undertaken due diligence on the contract procured by CYC for the first phase of infrastructure delivery and will now deliver the site infrastructure directly.
5. CYC have played a pivotal leadership role in establishing the Partnership, securing funding, funding the design team to masterplan the development and achieve planning consents for a high quality, viable and deliverable scheme, all whilst owning a very small part of the site.. This report sets out:-
 - i. Proposals to enter into a funding agreement with landowning partners to draw down Enterprise Zone funding to deliver the enabling infrastructure
 - ii. The resources needed to support inward investment and job creation on York Central
 - iii. A timeline for the delivery of the enabling infrastructure and the build out of the first phases of the scheme
 - iv. The proposed technical assurance regime for the adoption of highways and the stopping up of Leeman Rd
 - v. Proposed investment in offsite improvements to the riverside path to augment and integrate the wider cycling and pedestrian network with the new routes through York Central

Recommendations

6. Executive is asked :-
 - i. To delegate to the Chief Finance Officer (in consultation with the Director of Governance or her delegated officers) the authority to enter into an Enterprise Zone funding agreement with Homes England to reimburse infrastructure costs to enable the delivery of York Central.
 - ii. To agree the allocation of the previously approved £35m capital budget funded from future EZ receipts, as a contribution to the enabling.
 - iii. Infrastructure to be used after all other grant funding has been exhausted.
 - iv. To allocate up to £2.7m of previously approved CYC borrowing to fund the Technical Assurance work to enable the highways infrastructure to be adopted.

- v. To allocate up to £500k of previously approved CYC borrowing to deliver the Jubilee Terrace to Scarborough Bridge Riverside Path improvement scheme.
- vi. To agree the allocation of up to £250k of EZ revenue receipts to fund inward investment activity in the council's economic development team, specifically to promote York Central and to attract occupiers.
- vii. To delegate to the Director of Transport, Environment & Planning the authority to agree technical assurance arrangements for the adoption of the highways infrastructure for York Central set out in this report.
- viii. Delegate to the Director of Transport, Environment & Planning (in consultation with the Director of Governance or her delegated officers) the authority to enter into S278/38 Agreements with York Central landowners.
- ix. Delegate to the Director of Transport, Environment & Planning (in consultation with the Director of Governance or her delegated officers) the authority to enter into the Bridge Agreements with Network Rail and Homes England.
- x. Delegate to the Director of Transport, Environment & Planning the certification of discharge of conditions to permit the Stopping Up of Leeman Road.
- xi. To agree the disposal of the former Canteen Building on Chancery Rise to Network Rail in order to facilitate the removal of their operational uses from the York Central site, and delegate to the Director of Housing Economy and Place to agree the final value, following an independent valuation exercise.

Reason: - To ensure the delivery of York Central and to provide funding for enabling infrastructure including a new access route to York Central, and to support the commercial development of the scheme to generate EZ income to fund that infrastructure

Background

- 7. The delivery of York Central is essential to the future of York, contributing significantly to the growth of the regional economy, through the provision of high quality office space, and to meeting housing need in the city. Though the site has been earmarked for regeneration for many years, previous attempts to deliver the scheme have not come to fruition and we are now poised to seize this once in a lifetime opportunity to make this development a reality.

8. York Central Partnership (YCP) is a partnership of landowning bodies on the York Central site and is comprised of, Homes England, Network Rail, National Railway Museum (NRM) and CYC. YCP developed a comprehensive masterplan for the whole site, which secured planning consent in 2019 which will deliver up to 112,000 sq. m of commercial space and up to 2500 homes as well as a large park, public squares and an expanded NRM. Delivery of the site is central to the Strategic Economic Plans (SEPs) for both LEPS and has enjoyed wide spread national and regional support with it's' designation as both a Housing Zone and an Enterprise Zone.
9. Extensive local consultation and engagement was undertaken ahead of the planning process which demonstrated significant support for the scheme. Previous attempts by the market to bring a scheme forward on this site foundered because of the unique risk profile of the site and it has required public sector leadership and ownership to bring the site forward for development.
10. The key factors which have finally enabled the scheme to be brought forward:-
 - i. The establishment of the York Central Partnership bringing together all the public sector land owners
 - ii. Assembling the land for redevelopment and commencing the clearing of operational rail use
 - iii. Establishment of Housing Zone Status which has brought investment from Homes England to support the delivery of housing on the site.
 - iv. Establishment of the Enterprise Zone which brings with it the ability to retain the additional business rates generated from the site to allow investment in delivering the scheme and securing economic growth on the site.
 - v. Securing significant enabling funding from a range of government agencies including the WY+TF, YNYER LEP, Leeds City Region LEP, the One Public Estate Programme, Homes England and the Ministry of Housing, Communities and Local Government (MHCLG).
 - i. Establishing an award winning masterplan, on which basis we have secured outline planning permission for the site followed by the Reserved Matters approvals for the first phase of infrastructure
 - ii. Procuring a construction partner for the first phase of the infrastructure, and delivering preceding enabling infrastructure packages

11. It is a priority for all partners to accelerate the delivery of York Central in order to:-
 - i. Deliver essential commercial space to promote economic growth
 - ii. Maximise the ability to facilitate development through retained business rates from the EZ, by early phase build out of commercial space
 - iii. Deliver a significant quantum of much needed mixed tenure housing within the local plan period
 - iv. Undertake capital highways spend before the end date of the WYTF and Homes Infrastructure grant spend deadlines

Infrastructure Capital Cost

12. The York Central site is heavily constrained by abnormal infrastructure costs, principally related to providing site access, but also related to the brownfield nature of the site. These costs have inhibited the ability of the market to deliver the scheme in the past. A detailed appraisal of these core 'off plot' abnormal infrastructure costs was undertaken in 2018 and the costs were determined to be £155m. This infrastructure includes the new access bridge, highway cycle and pedestrian connections into and through the site, a new station entrance, a 5.5 ha park, 3 public squares with enabling ground works, site clearance, remediation and utility supplies. The masterplan is predicated on overcoming site constraints and early provision of quality place making infrastructure which will be built out early in the development timetable to increase market confidence, encourage occupiers to the site and also optimise value from each plot (which in turn the infrastructure funding package and EZ borrowing is predicated upon)..

Financial Approvals to Date

13. In December 2013, Executive agreed to earmark £10m towards the delivery of York Central. Currently £9,758k has been released to support technical work, masterplan development through to planning, land acquisition costs and site preparation works. There have also been other grant contributions from WYTF, Homes England, One Public Estate, LCR LEP, YNYER LEP and Department for Communities and Local Government (DCLG) EZ funding.
14. Homes England have paid for the costs incurred and funded by the council in relation to delivering the outline planning application (£1.876m) and the CYC costs incurred funding Infrastructure Package 1 (£1.96m).
15. This reimbursement provides additional funding to the council that can be reinvested into the York Central project. This is shown in the table below

	Date	£'000	£'000
CYC Original Budget	Dec 13		10,000

Executive Approvals Dec 2013- Mar 2018			(5,338)
CYC – Infrastructure Budget	Nov 18		4,662
Executive Budget Approvals			
Early Contractor Involvement	July 19	(415)	
Reserved Matters Design	Oct 19	(695)	
Infrastructure Programme 1	July 20	(1,960)	
York Central Housing	Nov 20	(150)	
Client Costs	Apr 21	(900)	
Scarborough Bridge Land	Apr 21	(150)	(4,270)
Total CYC Unallocated			392
Homes England Reimbursement – OPA / OP1			3,836
CYC Budget Available			4,228

Table 1 Breakdown of £10m York Central Delivery Budget

16. There are a number of proposals in this report including £500k funding for delivery of infrastructure improvements along the riverside path from Leeman Road to Scarborough Bridge. It is also proposed to fund CYC Technical Assurance work prior to adoption of the highway of £2.7m.
17. Table 2 shows that there remains £4,228k available to reinvest in the York Central Project. It is recommended that this budget is used to fund early years costs as the borrowing costs are budgeted. The table below shows that £1,028k remains available as a council contribution towards the overall project.

	£'000
CYC – Budget Available	4,228
Proposals in Report (£3,200k)	
• Highway Technical Assurance	(2,700)
• Leeman Rd Riverside Path	(500)
Unallocated budget £10m	1,028

Infrastructure costs

18. The costs across the infrastructure work streams of £155m were estimated in 2018 by the Partnership's master planning consultants and verified by cost consultants Turner and Townsend. They included allocations for risk and inflation but ultimately the final costs will be dependent on detailed designs and procurement exercises. It was identified at that time that given such large scale works it is inevitable that there will be cost pressures across elements of the programme but we could not at that time have foreseen the combined inflationary impacts of Brexit, a global pandemic and now the war in Ukraine.

19. In 2020 CYC procured a construction partner (John Sisk Ltd) but following the award of Housing Infrastructure Grant (HIG) directly to Homes England, and subsequent design development and due diligence, Homes England are now entering into contract with John Sisk Ltd
20. The detailed design work to take the bridge design from RIBA stage 3 to a deliverable bridge structure has identified some technical / buildability challenges in respect of the main arch abutments and the associated embankments adjacent to the Millennium Green which are now being incorporated into a revised design for the permissioned bridge. This will need some minor amendments to the planning permission and further discussions with the Millennium Green Trust. These changes are primarily technical amendments to the structural design and will have little or no impact upon functionality or aesthetics.
21. In addition to these design iterations, the passage of time and extremely high levels of inflation for key building materials, particularly steel, have increased the costs of IP2 above the available grant funding. During the due diligence review, John Sisk were asked to identify value engineering options to keep the bridge and the remainder of IP2 within existing cost parameters, however the options to achieve significant savings required a whole new bridge design with a narrower width which would have precluded one of the footways across the bridge, required a whole new planning permission and a revised agreement with the Millennium Green Trust.
22. The revised design was also not consistent with the design parameters for the permissioned bridge in the outline planning application and would also represent a significant compromise to the pedestrian facilities which are central to the transport strategy for the whole site. It would also reduce the aesthetic appeal of the gateway to the site. It was considered therefore that there were considerable risk that this revised bridge design would not achieve planning permission and would likely give rise to a further time delay of least 18 months. This would trigger a further inflationary impact given that a year's delay based on current levels of inflation could increase overall costs by c£12m. In addition a delay significantly reduces the level of EZ funding available and exceeds the spend window of both main sources of funding.
23. For those reasons the landowners propose to progress the permissioned design as part of the IP2 work package. However the updated costs significantly exceed the grant funding available for IP0-2 and this generated a requirement to call upon EZ funding earlier in the scheme build out than had originally been anticipated
24. The cost plan will continue to be iterated as the scheme progresses, and opportunities for cost efficiencies, value engineering, and savings through the sequencing and timing of provision will continue to be explored. It should be

noted that there is also scope for costs to increase and unknown issues to be encountered as the scheme progresses. Opportunities to add further commercial and social value to the development through the available funding streams will also be explored as the scheme progresses, alongside the project's relationship with wider development opportunities including land to the front of the railway station.

25. It is likely that the overall cost of the infrastructure will be in excess of the initial estimate of £155m. In order to enter into contract for IP2 and move the project into delivery, Homes England have requested that CYC enter into a funding agreement to release the EZ funding, originally earmarked for later infrastructure packages, which will be needed for the first and most significant enabling works (IP2 package). As greater certainty arises as to the build out rates and EZ retained income, it is likely that there will be a further request to draw down further EZ funding for further infrastructure packages which will require a decision from full council and the YNY LEP. The landowners also propose that the development partner will be able to contribute to future infrastructure package costs. That partner will not be in place for at least 11 months. It should be borne in mind that whilst we are currently seeing the impact of inflation and time on costs, the same factors could also impact upon property values and business rates.

Enterprise Zone Funding

26. The granting of an Enterprise Zone on the site at York Central allows the council to retain 100% of business rates uplift to 2042 at the site. It is a joint Memorandum of Understanding between MHCLG (as was) YNY LEP and CYC as accountable body which requires both CYC and YNY LEP to agree the use of EZ funding. In 2018 the YNY LEP board agreed their support in undertaking EZ backed borrowing of £35m to deliver the enabling infrastructure and open up York Central for the delivery of the masterplan. At the same time, CYC full council agreed to undertake borrowing of £35m subject to Executive receiving a further report and agreeing to release the funding.
27. The retained EZ funding provides ongoing revenue that allows the council to borrow to fund a proportion of the total infrastructure costs. Modelling initially undertaken in 2018 assumed that the full debt was drawn down in 2022/23 and was then repaid over a 19 year period. The result of the modelling showed that a borrowing level of £35m was affordable and could be repaid under a range of scenarios of volume, rateable value and timing of commercial development. It also identified that there could be potentially significant early year deficits where borrowing costs are higher than revenues and it was proposed that these would be funded from Venture Fund and Business Rates Pool with appropriate financing charges applied.

28. EZ income has been remodelled on the assumption of the landowners projections of the commercial build out of the scheme which include a first commercial phase with a significant pre-let to a tenant with a strong covenant, to be delivered by 2027. This base case has then been modelled to accommodate variations in the amount of commercial space made available on the development, the speed of delivery of the commercial units and the Rateable Value of properties within the development
29. The result of the revised modelling shows that a borrowing level of £35m remains affordable and can be repaid under each scenario. There are however still potentially significant early year deficits where borrowing costs are higher than revenues. It is proposed that these are funded from Venture Fund and Business Rates Pool and with appropriate financing charges applied.
30. The cash flow detail of the models is summarised below

Scenario	RV assumption	Delay	Office quantum reduction	Net NNDR generated (2041) £'m	After Borrowing Costs £'m	Early yr. Interest £'m
1	Baseline	0	0	103.2	48.6	-1.7
2	Low (-8.8%)	3 year	0	74.5	19.2	-5.5
3	Low (-8.8%)	2 year	0	81.1	26.2	-4.2
4	High (+8.8%)	3 year	0	89.1	34.0	-5.5
5	Baseline	0	20%	86.9	32.2	-1.7
6	Low (-8.8%)	3 year	20%	62.7	7.4	-5.5
7	Low (-8.8%)	2 year	20%	68.3	13.2	-4.2
8	High (+8.8%)	3 year	20%	75.0	20.5	-5.5

31. The table above shows that across all scenarios, the £35m investment is affordable and should provide a net surplus of business rates over the period of the Enterprise Zone scheme. The revenues vary according to the sensitivities whilst the debt costs remain constant across all scenarios. The internal financing costs are linked to the deficits should they occur. These are more significant with the longer delays in build out as debt costs are being incurred without offsetting revenues.
32. The table above however still potentially significant early year deficits where borrowing costs are higher than revenues. It is proposed that these are mitigated by smoothing the MRP impact of the investment and funding interest charges from the £3m Venture Fund allowance that was approved in the November 2018 report, as well as potential Business Rates Pool income and through overall Treasury Management resources.

33. In order to proceed into infrastructure construction contract with John Sisk Ltd, Homes England require confidence that they have the required funding for the IP2 work package and have requested that the council enter into a funding agreement for a maximum of £35m. As previously assumed, existing eligible grant funding from HIG and WYCA will be used first with the expectation that EZ funding will be needed to complete work in 2024/5.

Economic Rationale

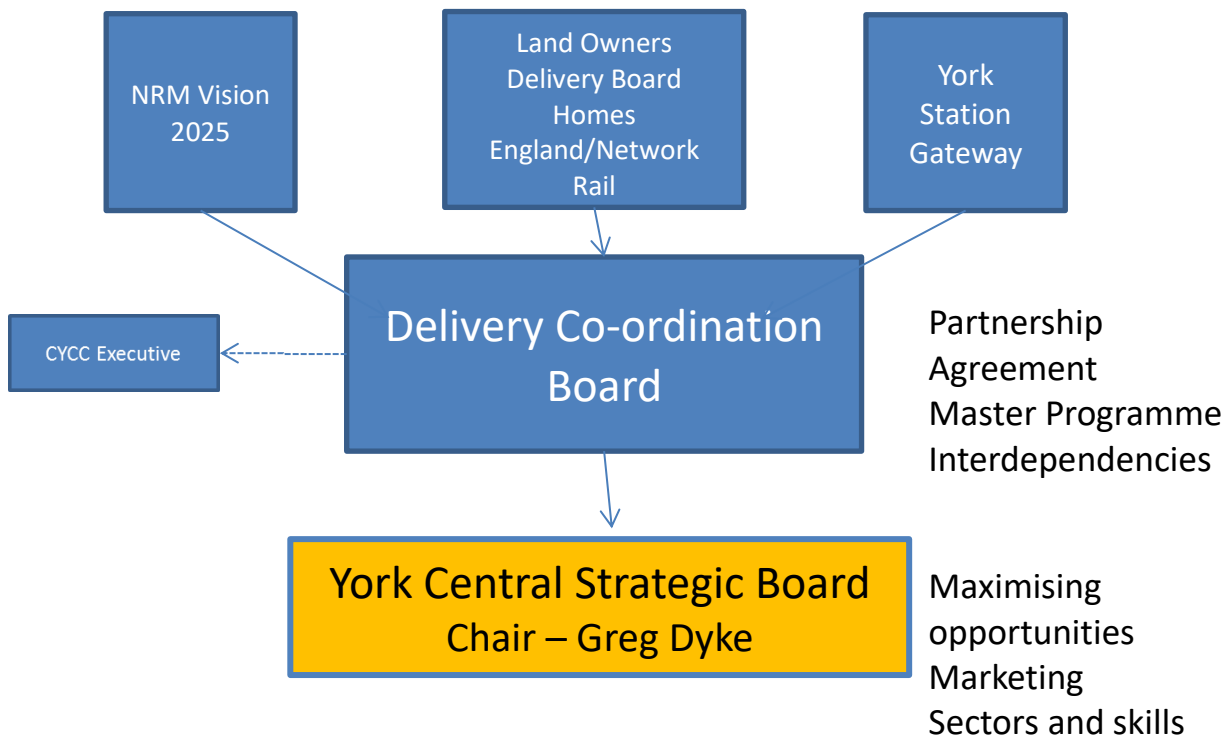
34. York has a constrained economic core, with our ancient walled city providing few opportunities for significant developments. York Central has been identified as York's most significant development opportunity for over half a century. The quantum of employment space which will be provided in York Central represents a unique opportunity to shape the future development of our economy, redressing depressed average wage levels across a diverse economy.
35. The region's economic plans have for many years identified the site as a housing and employment growth priority and set out, for YNYER a priority to 'fast track employment sites with market demand for high value sector growth', and for LCR a vision 'to be a globally recognized economy where good growth delivers high levels of prosperity, jobs, and quality of life for everyone'.
36. Aligned with this, the draft York economic strategy is currently being updated and has the long term objective of raising GVA and pay in York into the top UK quartile of UK economies through:
- Growing high value employment (Rail, Insurance, Tech, Creative, Bio/life sciences)
 - Growing the value of jobs in high employment sectors (retail, hospitality, social care)
 - Upskilling, reskilling and educating the future workforce
 - Developing green jobs and a carbon-zero future
37. The successful delivery of York Central's workspace, housing and connectivity will play a crucial role in enabling the city and the broader region to meet these targets. To increase wages, we need to support the growth of high-value jobs in sectors such as financial services, rail engineering, digital technology and professional services. These jobs need high quality well-connected office space, and there is currently a shortage of such space in central York. The commercial floor space identified in the outline application has the potential to provide a supply of space which would support high-value employment.

38. The commercial floor space that York Central will provide is a once in a generation opportunity to support curated, long term growth in industries which provide high value employment. The likely growth sectors include rail and transport high tech engineering, science and technology, financial services, with close partnership working with both Universities to promote innovation initiatives, seeking commercialisation opportunities through research, which are likely to present additional opportunities. Providing space and facilities which encourage collaboration between university and industry should be a clear priority.
39. Our strategy across the city is to seek to boost the value of retail, leisure and tourism employment through promoting York as a destination for high-value customers. The York Tourism Strategy seeks to grow the value of that sector as an important part of our economy. The expansion of the NRM will further enhance one of the city's key world class assets, making a significant contribution to this growth.
40. The site as a whole will be an attractive place to live, expressing York's unique world class cultural offer. We already have the highest skill level (in terms of % of the workforce with a level 4 qualification or above) of any city in the North of England. To maintain this advantage, York needs the kind of space which is proposed for York Central for people to live, work and play.

Developer Strategy

41. Homes England and Network Rail, will work together to bring forward land for development, procuring a development partner (s) to deliver the scheme. This relationship is governed by a Collaboration Agreement, and is on the basis of cost and existing use value recovery and land value equalisation across the site.
42. By providing the strategic 'off-plot' infrastructure for the scheme the partnership will manage the site abnormal costs which have inhibited development to date, reduce risk and establish the quality parameters and sense of place (infrastructure includes landscape structure and tree planting to key access corridor) all of which are essential for the private sector to engage with the scheme.
43. In spring 2022 the landowners Homes England and Network Rail are launching a tender exercise to identify a development and investment partner for the site. This exercise will be initially focussed on securing the input of an experienced regeneration partner to develop and deliver the masterplan, starting with the commercial elements. The landowners will also be assessing market interest in developing out the whole scheme, including the residential elements. This exercise will take c11 months and is due to conclude by March 2023.

44. In the meantime the Landowners have appointed a new interim Programme Director to take forward the delivery of the major infrastructure construction works.
45. The NRM is set to deliver its own £60m masterplan to radically improve and enhance their existing facilities, with the planning application for a new Central Hall borneto be considered by Planning committee in May 2022.
46. The project has an overarching governance structure, which seeks to ensure all elements of the York Central project (including the NRM expansion, the delivery of the infrastructure and the York Station improvements) are coordinated and the interdependencies are managed to ensure delivery.
47. As the project moves onto delivery phase existing governance arrangements have been reviewed to ensure coherent delivery across a large programme of interdependent projects. This is represented diagrammatically below.



48. The Strategic Board will determine its own chair and will be responsible for
 - a. Maximising opportunities
 - b. Ensuring Strategic fit
 - c. Oversight of programme
 - d. Sectors and skills development
 - e. Advocating for the scheme
 - f. Oversight of the promotion and marketing
 - g. Leading effective decision making within their organisation

49. The Delivery Co-ordination Board will be chaired by Project Director and will be responsible for :-
- a. Delivering the commitments set out in the York Central Partnership Agreement
 - b. Oversight of the Master Programme, Cost and Quality benchmarks as set in Partnership Agreement
 - c. Monitoring of infrastructure cost plan – agreed quality standard and extent
 - d. Monitoring of EZ funding agreement
 - e. Proactive reporting from each of the “projects” on deviation from all the above, early identification of issues affecting the critical path
 - f. Manage interdependencies
 - g. Programme assurance
50. There are a series of individual project boards for each main project within the overall York Central development including:
- York Central Infrastructure Delivery Board
 - Station Gateway Board overseeing the works to the front of the railway station
 - Landowners Board – led by Homes England and Network rail who own the infrastructure delivery contract and development partnership
 - NRM Vision 2025 project
51. These will all feed into the Delivery Co-ordination Board and will be individually responsible for reporting to funding bodies and ensuring their own project assurance.
52. The role of the Landowners includes (but not exhaustively):
- Potential further land assembly
 - Leading on community engagement
 - Leading on stakeholder management
 - Manage overall project programme
 - Manage phasing plan
 - Marketing of York Central
 - Attract occupiers (in conjunction with chosen developers and other stakeholders including CYC and the LEPs)
 - Procuring developer(s) to deliver plots in phased manner
 - Attraction of Registered Provider partner(s)
 - Ensuring design standards are met
 - Manage discharge of planning conditions

- Facilitate community uses through identification of community spaces in the development and working with stakeholders to identify what they are
 - Determine Long Term Management Strategy and establish the solution
 - Develop overall project energy waste and recycling strategy
 - Commission the design and delivery of future phase infrastructure
53. The council has long advocated for York Central to deliver on a broad range of social economic and environmental ambitions for the city to and continues to use its influence with partners and funders to ensure that York Central contributes:-
- i. Inclusive, sustainable economic growth
 - ii. Affordable, sustainable housing
 - iii. Healthy and happy communities served by excellent facilities and green/public spaces
 - iv. Towards the cities' ambition for zero carbon

Inward Investment and Occupier Attraction

54. The targeting of occupiers for the commercial space was always expected to follow on from achieving planning certainty and securing infrastructure funding to a confirmed timeline. A programme for future occupation is dependent on these dates. This work now needs to start in earnest.
55. The prospect of a central government hub in the city has been widely discussed though as yet not confirmed and the natural location for this is York Central. The recent announcement of the location of Active Travel England and the competition to become the headquarters of Great British Rail (GBR) all build confidence in demand for commercial space on York Central.
56. Landowners are in negotiation to secure a large scale anchor tenant for the site which could provide 2500+ new jobs in the city. The details of this potential deal are confidential at this stage.
57. This is hugely encouraging and will form a natural magnet for other occupiers. The space on York Central needs to be used to deliver the benefits of new, well paid jobs for the city, to catalyse economic growth. It is recommended that resources are set aside to supplement inward investment capacity, specifically to concentrate on attracting the right occupiers for the commercial elements of the scheme. This will involve liaison with DTi, targeting companies for growth and relocation as part of our Levelling Up ambitions and interfacing with regional bodies and existing businesses and growth drivers in the city.
58. An Inward investment plan for York Central needs to deliver the objectives of the regional and city economic strategies and therefore needs to have input

and oversight from key stakeholders including YNY LEP, Universities and business representatives to identify and secure opportunities. The Inward Investment function sits within the City of York Council Economy and Regeneration team, but is very small and in order to rise to the challenge of capturing the York Central growth opportunity, needs to expand with dedicated resource. It is proposed that an Inward Investment budget of £250k is allocated to kick-start Inward investment activity on York Central and that a steering group is established as part of the future delivery plans for the forthcoming York economic strategy.

59. The Enterprise Zone generated receipts of £928k over the first three years of its existence. This is placed in an earmarked reserve and is ring-fenced to support the delivery of the scheme and fund any borrowing backed by additional EZ receipts. As can be seen from the modelling in Paragraph 30 above the success of the EZ model is dependent on occupancy of the offices, retail and leisure units. The additional activity in inward investment is fundamental to achieving successful occupation of the units. It is proposed that the investment is funded from the early receipts which would reduce the value available going forward to £678k.

The role of the Highways Authority

60. The Highways Authority will act as the regulatory authority for the highway infrastructure elements of the York Central development. As the development is now being delivered by Homes England the relationship with the Highway Authority will proceed on a similar basis to a private development where legal agreements are put in place to ensure the interests of the public and the Council are protected generally through provisions in the Highways Act 1980.
61. The overarching principle of the Highway Authority's role is to ensure that the infrastructure that is due to be adopted as highway maintainable at public expense is: in accordance with the planning consent, safe in operation and that the future maintenance and other liabilities are minimised. Highway adoption agreements under section 38 of the Highways Act 1980 (the power of highway authorities to adopt by agreement) for sections of new highway and s278 (agreements as to the execution of works) for changes to the existing highway, will be entered into with the developer.
62. To take account of the public sector status of the lead developer and the Council's position as partner in the delivery of the overall York Central project, a tailored approach is proposed for some elements of the s278/38 agreements.

Performance Bond and Deposit

63. It is standard practice for a performance bond or cash deposit to be secured for delivery of the highway infrastructure where a private company is undertaking the works. This has two primary functions:
- i. to ensure completion in the event of the company going out of business
 - ii. to ensure the works are constructed to the quality and programme required
64. Homes England have indicated that they do not procure performance bonds for their developments or pay any deposits as it is considered to be an additional cost to the public purse without material benefit. As Homes England are a Government Agency it is not considered that there is a risk that they will go out of business, but protection is required to ensure that the works are delivered to standard and in a timely fashion.
- i. Default clauses will be included in the s38/278 agreement which will allow the Council to step in to rectify any default (e.g. time & quality) and recharge Homes England. If elements of work need rectification urgently and the developer does not agree, the council will need to fund these works and pursue through the courts or refuse to adopt the highway until all outstanding amounts are paid by the developer in accordance with the default provisions.
 - ii. Collateral Warranties will be obtained with the Homes England designers and sub-contractors to enable the Council to enforce the terms of the sub-contracts to resolve defects.
 - iii. An obligation will be included in the s38/278 agreement to provide a Bond in the event that the development is sold on to a third party prior to the adoption of the highway infrastructure.

S38/278 Fees

65. An essential element of the successful delivery of a highway scheme is the technical assurance process to ensure that the works are designed to the required standards and constructed in accordance with the approved designs. This ensures that the outcome is a safe, high quality and low maintenance highway. The s38/278 agreement would conventionally set out the fee levels payable to the Council to cover the approval processes for the design and supervision of the works. Under the Council's highway adoption mechanism for private developments the developer funds the Council's adoption costs with the fees for standard developments set at 10% of the construction costs which could be over £10m for the York Central highway infrastructure.

66. However, in this case, where the Council is also a funding contributor to the overall scheme, the payment of EZ backed funding to Homes England for it to be then returned to the Council is not considered appropriate. It is therefore proposed that the Council agrees a budget of up to £2.7m based upon the current estimate of checking/supervision requirements, to cover the design checking and inspection fees proportionate to ensuring the highway infrastructure is delivered to the required standard. The allocation is considered sufficient to cover the first 3 years of the main highway construction phase through to adoption. Actual costs will be kept to the lowest possible level commensurate with protecting the Council's long term interests, and any unspent funds will be returned to the scheme delivery budget upon adoption of the highway.
67. It is proposed to deliver the efficient and effective checking/supervision services by the use where appropriate of a combination of in-house staff, consultants and potentially an integrated, shared, assurance arrangement with Homes England.

Maintenance/Commuted Sums

68. On developments, where there are non-standard highway items, the developer pays a fee for the long term maintenance of the features. It is proposed that the cost of the future maintenance of non-standard highway items such as structures, traffic signals, non-standard paving on the York Central site, will be charged to the developer. The level of the charge will be determined following the completion of the detailed design.

Phasing of Highway Adoption

69. It is anticipated that the s38/278 agreement will be split into phases to match the delivery programme and allow the early adoption and discharge of conditions. It is proposed that the decision to enter into s38/278 agreements for the York Central Highway Infrastructure is delegated to Director of Planning, Environment & Transport.

Bridge Agreements

70. Bridge Agreements cover the relationship between Network Rail, Homes England (acting as the Developer) and the Council, for the bridges over the railway. The agreements provide approval from Network Rail to permit construction of the bridges over the railway which are due to be designed and built by Homes England and maintained in the future as part of the adopted Highway by the Council. Alternative arrangements, where the ownership/maintenance of the bridges is retained by Network Rail, are also being investigated. It is proposed that the authority to enter into Bridge

Agreements for the York Central bridges is delegated to Director of Planning, Environment & Transport.

Stopping Up Order

71. The Stopping Up of a section of public highway (Leeman Rd) in the vicinity of the NRM was proposed as part of the Outline Planning Application. Following approval of the Reserved Matters Application for the main highway infrastructure, the Developer progressed the separate Stopping Up Order process with an application to the Secretary of State for Transport. A Public Inquiry was held in April 2021 and the Secretary of State granted the Stopping Up in September 2021.
72. The Stopping Up Order enables a section of Leeman Rd to be extinguished as public highway and will come into operation once the Council is satisfied that the conditions of the order have been met. Prior to the stopping up coming into force, alternative vehicular and pedestrian/cycle routes must be available around the stopped up length of Leeman Rd.
73. In addition to the new and improved public highway routes, pedestrians will also be able to pass through the NRM during Museum opening hours. The detail of the building layout is subject to a current Reserved Matters Application submitted by the NRM in December 2021. The detailed arrangements for the operation of this route are subject to a Walkways Agreement which has been approved between the NRM and the Council.
74. The Leeman Rd Stopping Up Order states that no part of the highway shall be stopped up pursuant to the Order until the Council certify to the developer that the provisions of article 3 of the Order have been complied with. The developer shall to the reasonable satisfaction of City of York Council provide:-
 - a) "The proposed new highways as shown on the plan accompanying this Order (shown as "New Highway to be in place when stopping up is implemented"; and
 - b) Improvement of the highways as proposed and detailed on the plan accompanying this Order (shown as "Highway Improvement"); and
 - c) The new footpath/ cycle track (shown as "New footpath/ cycle track") as approved under the planning permission."
75. It is proposed that the certification that the highway has been delivered to standard in accordance with the requirements of the Stopping Up Order conditions is delegated to the Director of Planning, Environment & Transport. To allow the certification by the Council the highway must provide a safe, convenient route for existing users to mitigate the impact of the stopping up. A number of tests will be applied to the highway layout put forward for certification by the developer, to ensure that the conditions of the Stopping Up

Order have been met. These will include the need to demonstrate that there is a good highway reason why the full highway layout approved by the reserved matters consent should not or cannot be delivered in advance of the stopping up. For example a temporary road layout will need to be proposed and approved for the junction of the existing Leeman Rd and the new Spine Road pending the delivery of the connection through to Water End. .

Offsite enabling works and improvements

76. There are 2 areas that require consideration that exist outside the red line of the site

The Canteen Building – Chancery Rise

77. Annex B sets out the site which sits on land previously transferred by Network Rail to the council when this was a potential vehicular access route onto the site. In 2021 CYC agreed to dispose of Alliance House, east of the Canteen building, to NR to facilitate operation clearance of York Central site. They have now identified that they also need the Canteen building and surrounding land to complete this relocation and free up the main site.
78. Now that this land is definitely not needed for an access road, the council have no alternative use for the site. The Canteen building is in an extremely poor state of repair and is beyond viable repair and therefore has no potential future use. An independent valuation has been commissioned and it is proposed that the decision to finalise the sale price and dispose of the site subject to a formal independent valuation is delegated to the Director of Housing Economy and Regeneration.

Improvement works to riverside path Jubilee Terrace to Scarborough Bridge

79. The Jubilee Terrace to Scarborough Bridge Riverside Path is a key route on the cycle network connecting the west of the city with the city centre and the Scarborough Bridge river crossing. An alternative high-quality, off road route unaffected by river flooding will be provided as part of the York Central development.
80. The acquisition of land at the Scarborough Bridge end of the existing Riverside Path, has now been completed following the Executive decision in April 2021. This means that the Council is now in control of the full length of the path, allowing the progression of a comprehensive upgrade to the route to improve the layout for cyclists and pedestrians (width, lighting etc.). Subject to approvals it is also anticipated that sections of the route could be raised to allow use at higher river levels although at very high levels the route will still remain impassable.

81. Subject to more preliminary design, it is anticipated that an upgraded route could cost £500k-£1m. The contribution to upgrading off-site cycle routes included in the York Central s106 agreement (nominal £375k for all works around the York Central site) is insufficient to cover the delivery of this level of improvement. An allocation of £20k has been provided in the Transport Capital Programme using Local Transport Plan funds in 2022/23 to undertake the further investigation work (including public consultation) required to confirm the scope, cost and deliverability of the route upgrade.
82. It is proposed to allocate a capital budget of £500k to deliver the Jubilee Terrace to Scarborough Bridge Riverside Path improvement scheme. Depending on the results of the feasibility study, it is anticipated that further funding will be needed from other sources, such as the Local Transport Plan to enable the full route to be delivered.

Delivery Programme

83. The delivery programme will evolve during the delivery phase of the project. A summary of key future milestones is provided below:

- | | |
|---|-------------|
| • Main Infrastructure contract let | April 2022 |
| • Procurement of Commercial development partners | March 2023 |
| • Stopping Up of Leeman Road | Autumn 2023 |
| • Western Access / Bridge and spine road complete | March 2025 |
| • NRM Vision 2025 Opening | 2025 |
| • First Commercial Occupation | 2027 |

Council Plan

84. The project will assist in the creation of a Prosperous City for All, and be a Council that listens to residents particularly by ensuring that:-
- iv. Everyone who lives in the city can enjoy its unique heritage and range of activities.
 - v. Residents can access affordable homes while the greenbelt and unique character of the city is protected.
 - vi. Visitors, businesses and residents are impressed with the quality of our city.
 - vii. Local businesses can thrive.

- viii. Efficient and affordable transport links enable residents and businesses to access key services and opportunities.
- ix. Environmental Sustainability underpins everything we do.
- x. We are entrepreneurial, by making the most of commercial activities.
- xi. We engage with our communities, listening to their views and taking them into account.

Implications

85. **Financial** – The main financial implications are set out in the report. These cover the financial approvals to date, a review of the Enterprise Zones financial modelling and the EZ receipts gained to date. The significant investment requested in the report comes with a number of risks that are considered further in the risk management section of the report.

The funding implications of the recommendations are summarised below

	Value £m	Budget Area	Budget Remaining £m
Contribution to IP2 delivery	35.0	Enterprise Zone backed borrowing	0.0
Riverside Path	0.5	CYC £10m borrowing	1.0
Highway Supervision	2.7		
Inward Investment	0.25	CYC EZ Receipts	0.7

The report also highlights the sale of the canteen site to Network Rail. It is propose that the receipts from this sale value is allocated to corporate capital receipts.

Human Resources (HR) – none

Equalities – Equalities impacts were considered in the full infrastructure planning application and detailed design process

Legal – EZ Funding Agreement - Legal Services are in discussion with legal representatives from the York and North Yorkshire LEP and Homes England regarding the proposed form of the agreement and will provide ongoing advice to officers in respect of the agreement.

86. **S38/278 Agreement and fees** - There is a proposal to use consultants, where appropriate, to deliver elements of the technical assurance of the highway works. Any consultants will be commissioned via a call-off exercise, through the Homes England Multi-disciplinary Framework Agreement. Such

an exercise would be in compliance with the Public Contract Regulations 2015 and the Council's Contract Procedure Rules and would be carried out with advice from both the Procurement and Legal Services teams.

- i. Performance Bond and Deposit - Whilst it is normal practice and would be preferable to require a performance bond or deposit from Homes England in relation to the highway works, it is understood that a pragmatic solution is needed in order to proceed in these specific circumstances. A number of bespoke legal mechanisms are proposed which, together, would provide a reasonable level of protection to satisfy the Council's obligation to minimise the cost and risk of the highway works to local residents:
- ii. Default clauses will be included in the s38/278 agreement which will allow the Council to step in to rectify any default (e.g. time & quality), and to recharge Homes England for the cost of these works. If elements of work need rectification urgently and the developer does not agree, then the council would need to fund these works and recharge Homes England for the cost of these works. If Homes England failed to pay any such sum of money, the Council could then potentially seek to recover the monies as a debt or an injunction through the courts, and refuse to adopt the highway until all outstanding amounts are paid by the developer in accordance with the default provisions.
- iii. Collateral warranties in the Council's favour will be obtained from Homes England's designers and sub-contractors to enable the Council (in its capacity as the Local Highway Authority and as a funding contributor to the overall scheme) to enforce those sub-contracts to resolve any defects.
- iv. An obligation will be included in the s38/278 agreement for a Bond to be provided to the Council in the event that the development land is sold by Homes England to a third party prior to the adoption of the highway infrastructure. This would protect the Council should Homes England transfer ownership of the land to someone else who fails to provide adequate security to the Council.

The mechanisms above have been discussed with and will be drafted with advice from Legal Services.

87. **Bridge Agreements** - the Bridge Agreements will be tri-partite agreements between Network Rail, Homes England and the Council. Legal Services are in discussion with legal representatives from both parties regarding the proposed form of the agreement and will provide ongoing advice to officers in respect of those agreements.
88. **Stopping Up Order** - It is a requirement of the Stopping Up Order that the stopping up cannot take effect until the Highway Authority certifies that the

new highways referred to in the order have been provided to the reasonable satisfaction of the Authority. The discretion given to the Authority by the Order must be exercised properly and reasonably in the interests of highways users. The decision to certify is subject to legal challenge by way of judicial review.

89. **Riverside Path (Jubilee Terrace to Scarborough Bridge)** - any investigations, design and/or building work carried out on behalf of the Council by third party consultants and/or service providers will be carried out in accordance with the Public Contract Regulations 2015 and the Council's Contract Procedure Rules, and will require further input and advice from the Procurement and Legal Services teams.

Information Technology (IT) - none.

Crime and Disorder - none

Property – Covered in the report

Risk Management

90. The project contains a number of significant risks, which Members need to consider carefully, and be fully aware of. This is one of the largest capital projects the Council will have embarked upon. It is also by its nature a project that has a number of different partners, and different funding sources. The £35m borrowing backed by Enterprise Zone receipts brings in a number of risks to the council as will be dependent on the overall state of the economy, commercial demand for high quality offices. Whilst some risks can be mitigated to some extent, even after mitigation there remain significant risks inherent within the Project. These risks, in terms of provision of infrastructure and ongoing viability, are further set out in the following sections. Members should formally note and consider the risks

Project Affordability

91. Overall costs will need to be managed across the stages and overspends in particular phases will need to be offset by changes to scope across other phases. The governance of the project will ensure that cost control is always at the forefront of delivery.
92. There total cost of all infrastructure packages is estimated to exceed currently agreed budgets. Homes England continue to undertake due diligence on future work packages and will explore opportunities for value engineering. It is likely that there will be further requests for EZ funding and that the landowners may seek further funding from an incoming development partner, further grant funding sources or from land value uplift from landowners.
93. Given the current wider economic climate there are a number of variables that could change to make the scheme more expensive. These include

factors such as changes to the Business Rates regime which could reduce viability of the EZ borrowing, increases in interest rates increasing the cost of borrowing, inflation which would potentially increase future costs and inflation impacting the prices of goods and services.

- 94. The EZ borrowing is based on an assumed level of interest rates. Given borrowing is not assumed to be incurred until 2024/25, there is a risk that they will rise prior to when borrowing is ultimately taken which will impact the overall borrowing cost. A ¼% rise in interest rates adds c£90k per annum to debt costs.

Enterprise Zone Receipts

- 95. As has been identified within the report there has been much modelling of potential income from the Enterprise Zone on the site. The key sensitivities which determine the success or otherwise are

Sensitivity	Impact	Control Measure
Speed of Delivery	Short term cash flow whereby the income receipts do not fund debt costs	Use of Inward Investment Resource and working with partner organisations to accelerate demand for the sites.
Amount of Commercial development	EZ revenues are dependent on levels of business rates paid on the site	Minimum level of commercial space set with the OPA parameters Borrowing to be modelled on min level
Level of Rateable Values	Not reaching assumed rateable values would lead to lower revenues	Working with developers to determine the commercial development is in line with business case.

- 96. The business rates are directly related to rental rates. The developments will only become profitable to developers at the rents which provide the level of business rates modelled. Working closely with the Local Enterprise Partnerships and other related bodies, the council will need to promote and advertise the advantages of major companies and organisations of the benefit of locating in the high quality offices on York Central. It is by completing the commercial zone in good time and delivering the EZ revenues that will de risk this investment at an early stage.

97. There is a delay between the investment requested from CYC and the availability of commercial development. This can be managed by a contribution of factors outlined in the report such as use of venture fund, business rates and treasury management. Should the delay be longer this would provide further pressure on council finances although could be managed by reviewing overall capital programme at the time.

External Funding

98. The majority of the external funding has been sourced. The £77.1m HIG funding is absolutely critical to the development. Without this funding the scheme in its current form will not progress. The West Yorkshire Transport Fund has allocated £34m to York Central (including front of station) but release of funds will be subject to detailed business cases being approved in April 22. In order to meet external funding obligations spend relating to HIG, WYCA and LEPs will be committed first with EZ borrowing funding later expenditure. This will need to be carefully managed with external funding agencies.

Partnership Working

99. There is a formally agreed partnership agreement that will determine the working relationship between CYC, Homes England and Network Rail. There are issues that the actions of one partner could impact the costs and revenues of another partner. For example much of the infrastructure will require access onto Network Rail land in order to deliver the bridge and new spine road. Homes England will require the land to be clear prior to occupation of the contractor. If the site is not clear at the required time, costs will be increased. A schedule of licences and permissions required to facilitate IP2 has been created and all relevant permissions are currently being put in place to mitigate this risk.

Abortive Costs

100. CYC has allocated £4.8m of its capital budget to the scheme to date. If the scheme were not to progress a proportion of these costs would be treated as abortive. This would result in a value written back to revenue and charged back to the accounts. This can be mitigated by using funding from early years EZ revenues (£928k for 2017/18 and 2018/19).

Regulatory Approvals

101. Failure to obtain the necessary regulatory approvals to dispose of land on the site for development or to clear operational railway uses from the site is another significant risk – this could prevent the development of the site in whole or part. Mitigation plans to date include the acquisition and extinguishment of long-term rail industry leases on the site by Network Rail

and development of a strategy that identifies relocation sites for the rail uses. In addition, a rail land use strategy for York is being taken forward. This issue is being led by Network Rail with a clear commitment under the partnership agreement to remove rail uses from the site within a phasing plan, to enable site development.

102. An obvious risk is of failure to secure future reserved matters planning permissions – this has been mitigated by early engagement with CYC as local planning authority in the ongoing development plans and engagement of stakeholders and local communities at both concept stage and as detailed plans have emerged.
103. The mechanism now being progressed for the delivery of the highway infrastructure has introduced a risk that the scheme may not be delivered by the developer to an adoptable standard resulting in additional work being required to rectify defects. This risk has been mitigated by entering into a s38/278 agreement with Homes England with additional clauses to cover the specific risks identified however, without a bond being in place, there remains a potential residual risk of additional cost being incurred by the Council if the developer or their contractors do not deliver the highway to the necessary standard.
104. A full risk register has been developed by the YCP and will be regularly reviewed by the project board as the project progresses.

Contact Details

Author:

Tracey Carter – Director of Housing Economy and Regeneration

Tony Clarke
York Central Highways Officer

Chief Officer Responsible for the report:

Neil Ferris – Corporate Director of Place

Report approved: ✓ Date: 11/4/22

Specialist Implications Officer(s)

Financial – Patrick Looker
Head of Finance

Legal – Frances Harrison
Head of Legal Services

Wards Affected: Holgate, Micklegate

For further information please contact the author of the report

Annex

Annex 1 – York Central Site Plan

Annex 2 – Chancery Rise site Plan

Background Papers:

Previous Executive Reports:

15 November 2017-	York Central – Preferred Access Route and Preparation for Planning
15 March 2018	York Central - York Central Access Construction
21 June 2018 -	York Central Master Plan and Partnership Agreement
30 August 2018 -	York Central Update - Western Access
29 th November 2018	York Central Enterprise Zone Investment Case
17 th January 2019	York Central Partnership Legal Agreement
18 th July 2019	York Central Partnership Update
24 th October 2019	York Central Update
23 rd July 2020	York Central Update
22 nd April 2021	York Central and York Station Gateway Update

List of Abbreviations

CYC - City of York Council

ECML - East Coast Main Line

EIA - Environmental Impact Assessment

EZ – Enterprise Zone

FAL - Freight Avoiding Lines

GBR -Great British Rail

HIG - Housing Infrastructure Grant

LCR - Leeds City Region

LEP - Local Economic Partnership

MG - Millennium green

MGT - Millennium Green Trust

MHCLG –Ministry of Housing Communities and Local Government

NRM - National Railway Museum

ONS – Office of National Statistics

WYTF – West Yorkshire Transport Fund

YC - York Central

YCP - York Central Partnership

YNY LEP – York & North Yorkshire Local Enterprise Partnership