

## Report of the Portfolio Holder for Economic Development and Asset Management

### Formation of Broxtowe Local Enterprise Agency to Further the Aims of the Economic Development and Regeneration Strategy

#### 1. Purpose of Report

To seek approval for the establishment of Broxtowe Local Enterprise Agency, and agree to incorporate this as a Community Interest Company, in accordance with the Council's priority of Business Growth.

#### 2. Recommendation

**Cabinet is asked to RESOLVE that the establishment of the Broxtowe Local Enterprise Agency be approved.**

#### 3. Detail

The establishment of the Broxtowe Local Enterprise Agency (BLEA) Community Interest Company (CIC) will provide a boost to the Borough's economic development objectives by fostering meaningful connections between very small local businesses, entrepreneurs, and larger enterprises based in Broxtowe. Additionally, it will serve as a vehicle to publicise and support anyone in the Borough who wants to start their own business and thirdly it will try and lever in inward investment by member companies using their networks to circulate opportunities to invest or re-invest in the local economy. It might also provide opportunities to bid for funding where public sector agencies are excluded.

The cost of establishing the BLEA is approximately £2,000 and there is already an allocation in the Year 3 UK Shared Prosperity Fund (UKSPF) Programme to cover this. The report is required to be approved by Members to ensure the establishment of an entirely new entity that has the full endorsement of the Cabinet. Establishing the organisation as a CIC has the further attraction that the company's assets and resources can be locked down until they are no longer required by the company, at which point the assets will be returned to the most appropriate local successor organisation.

To start with most of the resources and activities of the company will be "grandfathered" through existing employees of the Council and especially its Economic Development Team. Other services will be bought in when required, such as through existing enterprise advisors paid on sessional rates. The organisation will not duplicate any courses or on line services provided by larger business support agencies. To begin with BLEA's only independent working part will be the Board and it is anticipated that locally elected Members will be appointed to it alongside other community and business representatives.

The work programme for the 2025/26 Economic Development Service includes concepts that will be co-branded with BLEA. For example, through a supply chain initiative, a “meet the buyer” event, the CIC will create opportunities for small businesses to access supply chains and contracts that would otherwise be out of reach, stimulating growth and collaboration. Additionally, the CIC will leverage the expertise and resources of big businesses in Broxtowe to mentor and support smaller enterprises, creating a robust ecosystem of shared knowledge and opportunity. Crucially, start-ups will benefit from tailored, face-to-face guidance, offering a personalised and accessible alternative to impersonal online-only services. This hands-on approach will help new businesses navigate the often-challenging early stages, empowering them to succeed and contribute to the prosperity of Broxtowe’s four towns and economic hinterlands.

Contained in **Appendix 1** is the Community Interest Statement.

Contained in **Appendix 2** is a table of actions expected to follow between now and the end of this financial year.

#### 4. Key Decision

This report is a key decision as defined under Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The proposals contained within the Community Interest Statement are significant and impact on our communities living and working in the area and our businesses based in an area comprising two or more Wards or electoral divisions in the Council’s area.

#### 5. Updates from Scrutiny

Not applicable.

#### 6. Financial Implications

The comments from the Head of Finance Services were as follows:

The cost of establishing the Broxtowe LEA is estimated at around £2,000. It is proposed that revenue cost will be funded by an allocation in the UKSPF Year 3 Programme.

#### 7. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

Section 1 of the Localism Act 2011(the Act) includes a ‘general power of competence’. It gives local authorities the legal capacity to do anything that an individual can do that is not specifically prohibited. This power can be for the benefit of the authority, its area or persons’ resident or present in its area. Further, Section 4(2) of the Act states that where, in exercise of the general

power a local authority does things for a commercial purpose, it must do so through a company. A CIC falls within the meaning of a company within section 1(1) of the Companies Act 2006

The relevant legislation in relation to a Community Interest Company ('CIC') is the Companies (Audit, Investigations and Community Enterprise) Act 2004 (CAICE 2004) created the CIC. As a result of the implementation of the Companies Act 2006, CAICE 2004 has been amended by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009.

Details of the CIC regulatory regime are set out in CAICE 2004 (as amended) and in the Community Interest Company Regulations 2005 (the Regulations) as amended by the Community Interest Company (Amendment) Regulations 2009 (2009 Regulations), The Community Interest Company (Amendment) Regulations 2012 (SI 2012/2335) (2012 Regulations) and the Community Interest Company (Amendment) Regulations 2014 (SI 2014/2483) (2014 Regulations).

A Community Interest Company CIC is a limited liability company, designed for social enterprises that want to use their profits and assets for the public good. A CIC has the specific aim of providing a benefit to a community and must use its income, assets and profits for the community it is formed to serve. The primary purpose of a CIC is to benefit the community and not its shareholders, directors or employees. CICs can be incorporated or converted from an existing company are relatively straightforward to form as the Regulator of Community Interest Companies (the Regulator) provides a model constitution. They can be companies limited by shares or by guarantee however they must satisfy and continue to satisfy a community interest test.

A CIC cannot be a political party, a political campaigning organisation or a subsidiary of a political party or political campaigning organisation. A CIC cannot be a charitable company.

Key characteristics of a community interest company

The key characteristics of a CIC are:

- **Benefit a Community.** They are formed primarily for social enterprises that are being carried out for the benefit of a community. CICs may generate a profit but the purpose of CIC is one of community benefit rather to maximise a profit.
- **Community Interest Test.** A CIC must satisfy the community interest test at formation and continue to do so for as long as it remains a CIC. A CIC will satisfy the community interest test if it can show that a reasonable person might consider that its activities are being carried on for the benefit of the community. A company will not satisfy the test if its activities only benefit members of a particular body or its activities are political. Not all of the activities carried on by a CIC need to have a direct benefit to the community to which it serves but everything a CIC does should somehow contribute to benefiting the community it is set up to serve.

- **Transparency.** A CIC has to deliver to the Registrar of Companies an annual community interest company report with its annual accounts. This report records the CIC's activities for that year including any details on assets transferred for less than market value, dividends paid and the remuneration of directors.
- **Limited liability.** A CIC must be a limited company whether by shares or by guarantee. An unincorporated association cannot be a CIC.
- **Straightforward to Set Up.** CICs are formed under the Companies Act 2006 (CA 2006) like any other limited company. The Regulator has produced various forms of model memoranda and articles of association for CICs).
- **Asset Lock.** The Regulations specify that the CIC cannot transfer its assets (including any profits or other surpluses generated by its activities) for less than market value unless transferring them to another CIC or charity (that is either specified in its or articles or consented to by the Regulator) or if the transfer is for the benefit of the community it was set up to serve (known as the asset lock). This asset lock is set out in the articles of association of the CIC. CICs must consider the asset-lock when entering into commercial relationships and when deciding remuneration for its employees and directors. The asset lock protects the assets of the CIC and ensures that the assets and profits of the CIC will be devoted to the benefit of the community and not for rewarding shareholders and directors.
- **Flexibility.** A CIC can take the form of a number of different corporate structures so long as all its activities contribute to providing benefit to the community. If the CIC is a not for profit organisation, it can be formed using a company limited by guarantee. If, however, it wishes to make profits and distribute the profits to its members, it may be formed using a company limited by shares. As CICs cannot be charities, their objects do not have to be exclusively charitable and it is not subject to regulation by the Charity Commission. A CIC may also declare dividends on its shares to investors who are not asset-locked bodies (subject to its constitution). From 1 October 2014, there are no longer caps on the amount of dividend a CIC can declare on its shares. Directors may also receive reasonable remuneration.
- **Supervision and Regulation.** CICs are regulated by the Regulator who is appointed under CAICE 2004 and ensures that the CIC satisfies the community interest test and pursues its community interest objects. The Regulator has powers of intervention which include removing or appointing directors, transferring the CIC's property or shares and taking action in the name of the CIC (sections 41-51, CAICE 2004).
- **Compliance with Company Law.** CICs are limited companies and may even be listed public limited companies. In addition to complying with CAICE 2004 and the Regulations, they must adhere to the principles of company law and will be subject to the CA 2006 and any other applicable companies' legislation.

It is proposed Legal Services are instructed from the outset to assist the Economic Development Team with creating this entity.

8. Human Resources Implications

Not applicable.

9. Union Comments

Not applicable.

10. Climate Change Implications

The climate change implications are contained within the report.

11. Data Protection Compliance Implications

This report does not contain any OFFICIAL(SENSITIVE) information and there are no Data Protection issues in relation to this report.

12. Equality Impact Assessment

Not applicable.

13. Background Papers

Nil.