



## CABINET

**KEY DECISION: REPORT OF COUNCILLOR KELHAM COOKE, THE DEPUTY LEADER OF THE COUNCIL**

<b>Report to:</b>	<b>Cabinet</b>
<b>Date:</b>	6 September 2018
<b>Subject:</b>	<b>Acquisition of Land in South Kesteven (PD0095)</b>

<b>Decision Proposal:</b>	<i>Key Decision to be taken by the Cabinet on 6 September 2018 under executive decision-making powers subject to approval by Council of the allocation of funding</i>
<b>Relevant Cabinet Member:</b>	Councillor Kelham Cooke, the Deputy Leader of the Council
<b>Report author:</b>	Jane McDaid Assistant Director of Growth 01476 406256 Jane.McDaid@southkesteven.gov.uk Date: 16 <sup>th</sup> August 2018
<b>Reviewed by:</b>	Debbie Muddimer Strategic Director - Resources Council Offices, St. Peter's Hill, Grantham, NG31 6PZ Debbie.Muddimer@southkesteven.gov.uk Date: 16 <sup>th</sup> August 2018
<b>Signed off by:</b>	Paul Thomas Strategic Director for Growth P.Thomas@southkesteven.gov.uk Date: 4 <sup>th</sup> September 2018
<b>Approved for publication</b>	Councillor Kelham Cooke, the Deputy Leader of the Council Date: 4 <sup>th</sup> September 2018

## **SUMMARY**

The purpose of this report is to obtain an executive decision to authorise the acquisition of a parcel of land in the South Kesteven area subject to a report being submitted to Council on 27 September 2018 for approval of the necessary budget allocation.

Due to the commercial sensitivities that apply to the land in question, the details are contained in the exempt appendices attached to this report. These appendices are exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 for the reasons referred to in paragraph 1.2 of the report.

The decision is included on the Council's Forward Plan.

## **RECOMMENDATION**

**Cabinet is recommended to authorise the acquisition of a parcel of land in the South Kesteven area (a) subject to contract, satisfactory replies to searches and enquiries and to the terms negotiated; and (b) also subject to approval by Council of the necessary budget allocation.**

### **1. BACKGROUND TO REPORT**

- 1.1 The Council has the opportunity to purchase a freehold parcel of land with vacant possession in the South Kesteven area which is considered to be strategically important for the Council's growth ambitions. The Council needs to move at pace to secure its position regarding the land to satisfy the vendors aspirations for disposal.
- 1.2 The details of the site in question are set out in exempt appendices attached to this report to preserve the Council's commercial position. Paragraph 3 of Schedule 12A of the Local Government Act 1972 applies to exempt the information contained in the exempt appendices referred to in 1.3 below. Having regard to the public interest test, it is considered that on balance it is necessary to protect the Council's and the vendor's respective commercial positions by applying this exemption. If that were not the case, both parties' positions would be compromised and/or prejudiced.
- 1.3 There are the following exempt appendices referred to in 1.2 above:
  - Exempt Appendix 1 – Details relevant to the transaction including the financial implications
  - Exempt Appendix 2 - Site Plan
  - Exempt Appendix 3 - Schedule of building areas
  - Exempt Appendix 4 - Heads of Terms
  - Exempt Appendix 5 - Feasibility Study
  - Exempt Appendix 6 – Social and Economic Value
  - Exempt Appendix 7 – Planning comments
- 1.4 Time is of the essence in this transaction and an early decision is required to ensure that the Council secures the site.

## 2. OTHER OPTIONS CONSIDERED

- 2.1 Consideration has been given to not purchasing the site in question. However, in order to promote sustainable economic development in the area, this is regarded as an essential site.

## 3. RESOURCE IMPLICATIONS

- 3.1 Council will be asked to approve the capital budget for this acquisition. The recommendation will be to finance this from prudential borrowing, with the associated capital financing costs to be funded from the Local Priorities Reserve. Income received from New Homes Bonus is set aside in this reserve and will therefore be used for the capital financing costs of the borrowing for this scheme.
- 3.2 The total financing cost over a 3 year period (the estimated time the Council will require to complete the development of the site) will be in the region of £0.930m.
- 3.3 Financing costs of the debt will be incurred for the period the Council holds the land and these costs will not be fully offset by the temporary income available from the existing buildings on the site. However, the Council will be exploring a mixed use scheme with early disposal of various areas of the site to receive capital receipts which would reduce the Councils debt obligations. Further information is set out in Section 8 below and further financial information is included within Exempt Appendix 1.
- 3.4 Redevelopment of the site will require further capital investment. Proposals will be brought forward on a project/sub site specific basis as required and alternative financing options, such as joint ventures, developers etc. will be explored.

## 4. FEASIBILITY

The feasibility assessment relevant to the site in question is set out in Exempt Appendix 4.

## 5. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below:

<b>Category Risk</b>	<b>Action / Controls</b>
Decline to make decision	Increases risk of third party interest in the site. Full and property due diligence has been completed to support the scheme.
Planning restrictions	Prior discussions with Planning to ensure any proposed change of use and development supports the national and local planning policies.
Contamination and ground	Risk is mitigated by ground

investigation	investigation survey.
Title deed restrictions	Legal due diligence and negotiations if required to release any existing covenants
Restrictions on the temporary letting of the existing buildings	An EPC to be provided by the vendor to ensure the buildings can be let on completion with minimal financial input.
Insurance of buildings	A rebuilding calculation will be obtained prior to completion
Interest rates increase thereby increasing the financing costs of the debt.	An increase of 0.5% would increase the financing costs by £40k. This risk will be managed through the treasury management process set out at Section 8.
There is a downturn in land prices and the Council has to hold the asset for longer than 3 years	The Council would seek to maximise the income generated from the site through short term leasing arrangements. The debt financing costs would continue to be incurred therefore this would need to be considered as part of the Council's budget and financial management.

## **6. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)**

6.1 The purchase of the site does not relate to people or any of the protected characteristics and an equality analysis is not relevant at this stage.

## **7. CRIME AND DISORDER IMPLICATIONS**

7.1 The site in question is secure from vehicular and pedestrian access.

## **8. COMMENTS OF FINANCIAL SERVICES**

8.1 The options for financing capital expenditure are as follows:

- Use of capital receipts
- Use of reserves
- Borrowing.

8.2 There are insufficient capital receipts or reserves available to meet this expenditure in full therefore it is recommended that it is financed through borrowing.

8.3 The decision about the need and timing of any external borrowing is delegated to the Council's Chief Finance Officer, as set out in Section c.16 of the Financial Regulations. In accordance with the Treasury Management Strategy, the cash position of the Council will be managed in the most effective way possible to maximise investment income and minimise borrowing costs.

8.4 The Council’s revenue budget does not include any resources to finance new borrowing, the annual cost of which will range from £230k - £310k, depending on the timing of any external borrowing. The financing costs could be met either from working balances or from earmarked reserves. The current policy of the Council is to transfer the income from New Homes Bonus to the Local Priorities Reserve, a reserve which was created to provide funding for the Council to spend on its key strategic priorities. As this is a regeneration and economic development project, it is recommended that the Local Priorities Reserve is used to fund the capital financing costs for the duration of the period that the Council will hold the asset. Once the asset is sold then the capital receipt will be used to repay the debt in full. Any income received from lettings on the site will be used to offset the financing costs, thereby reducing the amount needed to be used from the Local Priorities Reserve.

8.5 Because there are a number of factors that could affect the financing costs, it is prudent to consider the maximum costs that could be incurred. If external borrowing was required from the date of completion, and there was no income from any short term lettings of the site, then the total annual call on the reserve would be:

Interest	£150k
Minimum Revenue Provision	£160k
<b>Total</b>	<b>£310k</b>

8.6 The table below shows the impact this would have on the Local Priorities Reserve

<b>Actual Balance 31 Mar 2018</b>	<b>Latest forecast balance 31 Mar 19 (per Council July 2018)</b>	<b>Forecast balance at 31 Mar 2019</b>	<b>Forecast balance at 31 Mar 2020</b>	<b>Forecast balance at 31 Mar 2021</b>
£10,921,000	£5,553,000	£5,553,000	£6,912,000	£7,813,000

8.7 Under part 1 chapter 1 of the Local Government Act 2003, a local authority may borrow for any purpose relevant to its functions or for “the prudent management of its financial affairs”. The total amount that a local authority may borrow is governed by the requirements of CIPFA’s Prudential Code for Capital Finance in Local Authorities; and by the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

8.8 The key objectives of the Prudential Code developed by CIPFA are to ensure that the capital investment plans of local authorities are affordable, prudent and sustainable. The Council’s compliance with the Prudential Code is covered in the Treasury Management Strategy which is approved by full Council each year.

- 8.9 The prudential indicators that are most relevant to this decision are
- Operational boundary for external debt – the limit beyond which external debt is not normally expected to exceed. For the general fund, this is set at £20m for period 2018/19 to 2020/21;

- Authorised limit for external debt – the intended absolute limit that has to be set by the full council. For the general fund, this is set at £38m for period 2018/19 to 2020/21.

8.10 In conclusion, the proposed borrowing set out within this report is in accordance with the Council's Treasury Management Strategy and compliant with the approved Prudential Indicators.

## **9. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

9.1 A local authority has power to purchase property by virtue of s.1 of the Localism Act 2011, the general power of competence. In addition, s.111 of the Local Government Act 1972 provides as follows:- Subsidiary powers of local authorities.

Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.

9.2 Any purchase of property must be subject to the terms of the contract to be negotiated and the relevant searches and enquiries required to ensure that the property to be purchased is fit for the purpose for which it is intended and at best value. Where restrictions exist, we must ensure the restriction does not impact on potential uses and that indemnities are secured against any potential outstanding breaches prior to purchase. We need to be fully aware of third party rights and how they will impact on future proposals.

## **10. COMMENTS OF OTHER RELEVANT SERVICES**

### **Planning**

10.1 Any proposed development will need to take into account national and local planning policies.

### **Ward Members**

10.2 The Ward Members are aware of the proposal and they fully support the proposal.

## **11. EXEMPT APPENDICES**

Exempt Appendix 1 – Details relevant to the transaction including the financial implications

Exempt Appendix 2 - Site Plan

Exempt Appendix 3 - Schedule of building areas

Exempt Appendix 4 - Heads of Terms

Exempt Appendix 5 - Feasibility Study

Exempt Appendix 6 – Economic and Social Value

Exempt Appendix 7 – Planning comments

## **12. BACKGROUND PAPERS**

None

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