

# Cabinet



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Thursday, 15 August 2019

A meeting of the **Cabinet** of North Norfolk District Council will be held in the Council Chamber - Council Offices, Holt Road, Cromer, NR27 9EN on **Friday, 23 August 2019 at 10.00 am.**

At the discretion of the Chairman, a short break will be taken after the meeting has been running for approximately one and a half hours

Members of the public who wish to ask a question or speak on an agenda item are requested to arrive at least 15 minutes before the start of the meeting. It will not always be possible to accommodate requests after that time. This is to allow time for the Committee Chair to rearrange the order of items on the agenda for the convenience of members of the public. Further information on the procedure for public speaking can be obtained from Democratic Services, Tel:01263 516010, Email:[emma.denny@north-norfolk.gov.uk](mailto:emma.denny@north-norfolk.gov.uk).

Anyone attending this meeting may take photographs, film or audio-record the proceedings and report on the meeting. Anyone wishing to do so should inform the Chairman. If you are a member of the public and you wish to speak on an item on the agenda, please be aware that you may be filmed or photographed.

**Emma Denny**  
**Democratic Services Manager**

**To:** Mr A Brown, Mrs S Bütikofer, Mrs A Fitch-Tillett, Ms V Gay, Mr G Hayman, Mr R Kershaw, Mr N Lloyd, Mr E Seward and Ms K Ward

All other Members of the Council for information.  
Members of the Management Team, appropriate Officers, Press and Public



**If you have any special requirements in order to attend this meeting, please let us know in advance**  
If you would like any document in large print, audio, Braille, alternative format or in a different language please contact us

**Heads of Paid Service:** Nick Baker and Steve Blatch  
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## A G E N D A

1. **TO RECEIVE APOLOGIES FOR ABSENCE**

2. **MINUTES**

1 - 4

To approve, as a correct record, the minutes of the meeting of the Cabinet held on 8<sup>th</sup> July 2019.

3. **PUBLIC QUESTIONS AND STATEMENTS**

To receive questions and statements from the public, if any.

4. **ITEMS OF URGENT BUSINESS**

To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972

5. **DECLARATIONS OF INTEREST**

Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Code of Conduct for Members requires that declarations include the nature of the interest and whether it is a disclosable pecuniary interest

6. **MEMBERS' QUESTIONS**

To receive oral questions from Members, if any

7. **OVERVIEW & SCRUTINY MATTERS**

To consider any matters referred to the Cabinet by the Overview & Scrutiny Committee for reconsideration by the Cabinet in accordance within the Overview and Scrutiny Procedure Rules

8. **CONTINUATION OF FUNDING FOR FIXED TERM RESOURCES WITHIN THE POST & SCANNING TEAM**

5 - 8

**Summary:**

The Digital Transformation Programme has significantly increased the need for corporate scanning, indexing, redacting and copying of documents to support new business processes and to enable paperless working.

**Options considered:**

In order to deliver this service, whilst the outcomes of the Planning and Environmental Health BPR have been rolled out, it has been necessary to support this work with 2 Full time, fixed term, Post & Scanning Assistants. This report requests the release of previously identified funding to extend the two posts for a further 12 months.

Outsourcing of ongoing scanning and copying activities have been assessed and discounted on practicability and value for money grounds.

Increased use of Service based staff is not feasible because of other work demands and coordination and control issues.

Fixed term additional resource with the appropriate skills and experience has been successfully supporting the service to date and is considered the most practical and cost efficient option until the new processes are fully implemented within service areas such as the Planning Service.

**Conclusions:** The provision of funding for an additional 12 months for the 2 posts (fixed term) will allow the immediate requirements to be met whilst assessing the long term demand and resource requirement to provide adequate support for service business processes.

**Recommendations:** **That Cabinet approves the release of £52,000 previously identified Digital Transformation funding to allow the continuation of the two fixed term posts for a further 12 months in the Digital Mail Room Team.**

**Reasons for Recommendations:** The continued employment of the 2 additional posts within the Digital Mail Room Team will ensure that the team has the capacity and skills available to support the scanning, redaction and copying of applications, and documents until the full introduction of systems and processes to help deliver paperless working.

Making the posts fixed term will provide flexibility to react to changes in delivery and service demands over the next 12 months.

## 9. EGMERE BUSINESS ZONE PROJECT UPDATE

9 - 16

**Summary:** This report provides Cabinet with an update in relation to the Egmore Business Zone Project and considers the options available for the Council in relation to this scheme.

The report considers a number of potential options as follows;

- Options considered:
- Seek an alternative anchor tenant;
  - Install the enabling road infrastructure only;
  - Build the unit on a speculative basis;
  - Seek an alternative site or;
  - Withdraw from the proposed scheme.

Conclusions: Given the options appraisal presented above, the fact that at the present time there are no other interested parties that the Council is aware of and coupled with all of the implications around the build contract and timescales (lapse of the LDO and Enterprise Zone status) it is no longer considered viable to continue with the project. Given the timescales and levels of uncertainty around so many different issues it is considered that the project now contains too many risks and the benefits originally anticipated for the site are highly unlikely to be realised.

Recommendations: It is recommended that Cabinet;

- 1) Cease the current scheme and that any unallocated funds are made available for alternative capital projects.
- 2) Agree to delegate authority the Head of Finance in consultation with the Portfolio Holder for Finance to effect the necessary reserve transfers required in respect of the revenue funding requirements if the decision is taken to stop the project.

Reasons for Recommendations: Based on the options appraisal undertaken ceasing the project at this point is considered to be the most appropriate course of action.

## 10. CROMER TENNIS HUB

17 - 36

### **Summary:**

This report sets out the current position in relation to the Cromer Sports Hub and gives options for Members to take the matter forward.

### **Conclusions:**

The options identified give Members avenues to either take the project forward in its current form or to withdraw from it. Members should weigh the relevant factors, including the financial, community and reputational impacts before reaching a decision.

**Recommendations:**

That Members consider the options set out below.

1. To give delegated authority to the Head of Legal in consultation with the Portfolio Holders for Leisure and Finance to effect the necessary legal arrangements required in respect of the preferred option identified.
2. If the decision is taken to stop the project, that delegated authority be given to the Head of Legal and Assets and the Portfolio Holders for Leisure and Finance to effect the necessary reserve and funding requirements.

**11. EXCLUSION OF PRESS AND PUBLIC**

To pass the following resolution:

“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3 of Part I of Schedule 12A (as amended) to the Act.”

**12. PRIVATE BUSINESS**

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## CABINET

**Minutes of the meeting of the Cabinet held on Monday 08 July 2019 at the Council Offices, Holt Road, Cromer at 10.00 am**

**Members Present:**

Mrs S Bütikofer	Mr R Kershaw
Mr A Brown	Mr E Seward
Mrs A Fitch-Tillett	Mr N Lloyd
Ms V Gay	

**Also attending:**

Mr T Adams	Mr N Housden
Mrs P Grove-Jones	Mr J Rest
Mr N Pearce	Mrs Georgie Perry-Warnes
Mrs J Stenton	Mr N Dixon
Mr H Blathwayt	

**Officers in Attendance:**

The Heads of Paid Service, the Monitoring Officer, the Head of Finance and Asset Management, The Head of Economic and Community Development, and the Democratic Services and Governance Officer (Scrutiny)

**Press:** Not in attendance

**14. APOLOGIES FOR ABSENCE**

Apologies were received from Cllr K Ward, Cllr G Hayman, and Cllr G Mancini-Boyle.

**15. MINUTES**

The minutes of the meeting held on 03 June 2019 were approved as a correct record and signed by the Chairman following a minor amendment to the discussion of the Bacton to Walcott Sandscaping Scheme.

**16. PUBLIC QUESTIONS**

None.

**17. ITEMS OF URGENT BUSINESS**

None.

**18. DECLARATIONS OF INTEREST**

None.

**19. MEMBERS QUESTIONS**

None.

**20. OVERVIEW & SCRUTINY COMMITTEE MATTERS**

None.

## **21. RECOMMENDATIONS FROM WORKING PARTIES**

In the absence of the Planning Portfolio Holder, the recommendations from the Planning Policy and Built Heritage Working Party were introduced by Cllr V Gay.

The recommendations were proposed by Cllr V Gay and seconded by Cllr A Brown.

### **RESOLVED**

- 1. Adopt the four Glaven Port Appraisals for statutory planning purposes and for the Appraisal documents to become material considerations in the planning process.**
- 2. Agree the proposed boundary changes as recommended in the draft Appraisal documents and that they be published in accordance with the Planning (Listed Buildings & Conservation Areas) Act 1990.**
- 3. Agree the proposed Local Listings as identified within the draft Appraisal documents.**

#### **Reason for the decision:**

To approve the necessary changes to the Glaven Ports Conservation Area Appraisals & Management Plans 2019.

## **22. DEBT RECOVERY 2018/19**

Cllr E Seward, Portfolio Holder for Finance, introduced the Report and informed Members that he fully supported the additional recommendations outlined in the Report.

It was proposed by Cllr E Seward, seconded by Cllr R Kershaw.

### **RESOLVED**

- 1. Approve the Annual Report giving details of the Council's write-offs in accordance with the Council's Debt Write-Off Policy and Performance in relation to revenues collection.**
- 2. Approve the updated Debt Write-Off Policy.**
- 3. Approve the updated Benefit Overpayment Policy and the use of High Court Enforcement Agents if considered necessary.**

#### **Reason for the decision:**

To ensure that the necessary changes are made to implement the Council's updated Debt Recovery Policy.

## **23. ENFORCEMENT UPDATE**

Cllr N Lloyd, Portfolio Holder for Environment introduced the Report and noted the substantial time and effort officers had put into producing it.



### Questions and Discussion

Cllr P Grove-Jones said that she had kept herself up to date with the Sutton Mill property, and noted ongoing issues with waste disposal, then stated that renovation work was still yet to begin. She then referred to Beeches Farm site in Tunstead, and the eleven businesses that were set to be relocated as a result of enforcement action, and asked if there was any update available. The Corporate Director (NB) stated that Planning Enforcement and officers from the Economic Development Team had been working together with businesses to find suitable properties acceptable for use.

Cllr A Fitch-Tillett stated that she was very happy with the work of the Enforcement Board and was happy to second the Report.

It was proposed by Cllr N Lloyd and seconded by Cllr A Fitch-Tillett.

### **RESOLVED**

#### **Note the continued progress of the Combined Enforcement Board and the Combined Enforcement Team**

#### **Reason for the decision:**

To ensure that Cabinet are kept up to date on the progress of new and ongoing enforcement action being undertaken by the Council.

#### **24. MARKET TOWNS INITIATIVE – SECOND ROUND AWARD OF FUNDING**

Cllr R Kershaw, Portfolio Holder for Economic and Career Development introduced the Report, and informed Members that the Working Group had met on 3<sup>rd</sup> July to review the second round MTI applications. He added that subject to the funding recommendations being approved, there would be approximately £22k of funding remaining.

### Questions and Discussion

Cllr E Seward referred to recommendation 3, to give consideration as to the future use of any residual funds (either unallocated or unspent) and proposed that the towns should be contacted to offer the remaining funds to all towns for further bids, with attention drawn to the promotion of free parking initiatives.

Cllr P Grove-Jones stated that she understood concerns raised by the Working Group on some issues in Stalham, and asked whether the remaining £8800 unspent in Stalham could be ring-fenced for the town. Cllr S Bütikofer stated that the original funding arrangement had suggested that if further bids were not forthcoming, any remaining funds could be made available to the other towns. Cllr N Housden stated that there had been a suggestion at the meeting of the Working Group that any remaining funds be ring-fenced for the towns with an underspend.

Cllr S Bütikofer asked Cabinet Members for their thoughts on the remaining funds. Cllr E Seward replied that arguments could be made for both options, but added that even if the money was not ring-fenced, Stalham would still be eligible to apply, and their application could be given extra weighting due to the town's current underspend. He then stated that he would prefer to stick to the flexibility of his original proposal, and added that the towns could be given six to eight weeks to submit further bids. Cllr S Bütikofer stated that six weeks was a reasonable time frame for the towns to arrange

further bids. The Head of Economic and Community Development stated that some unspent funds may be returned if projects fail to be implemented, and suggested that these funds would require further consideration. Cllr S Bütikofer suggested that these considerations could be made by the MTI Working Group. Cllr A Fitch-Tillett stated that a six week application deadline would require applications being submitted in August, which could be a difficult time with many people on annual leave. The proposal was adjusted to allow for an eight week application period.

Cllr N Lloyd asked whether there was any plan for any unspent funds after the final round of funding, to which Cllr S Bütikofer replied that it was possible that remaining funds could be used to subsidise free parking in the towns.

The recommendations were proposed by Cllr E Seward and seconded by Cllr R Kershaw.

### **RESOLVED**

- 1. Approve the MTI Working Group's recommendations to award £103,747.36 of funding to applications outlined in the Report.**
- 2. Request that the Overview & Scrutiny Committee continue to monitor the outputs and outcomes of any/all applications that receive funding.**
- 3. Give Consideration as to the future use of any residual funds (either unallocated or unspent) – Applicants to be offered two month period as final chance to apply for remaining £22,089.67.**
- 4. Approve delegated authority be given to the Head of Economic and Community Development to agree suitable funding conditions in respect of the approved applications, issue grant decision letters accordingly, and make necessary funding adjustments in accordance with the Delegated Authority Policy.**

### **Reason for the decision**

To provide funding to successful MTI applicants and approve the necessary steps to continue to administer the fund.

### **25. EXCLUSION OF PRESS AND PUBLIC**

That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3 of Part I of Schedule 12A (as amended) to the Act.

### **26. PRIVATE BUSINESS**

None

The meeting ended at 10.18 am.

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Chairman

## **Continuation of Funding for Fixed Term resources within the Post & Scanning Team.**

**Summary:** The Digital Transformation Programme has significantly increased the need for corporate scanning, indexing, redacting and copying of documents to support new business processes and to enable paperless working.

In order to deliver this service, whilst the outcomes of the Planning and Environmental Health BPR have been rolled out, it has been necessary to support this work with 2 Full time, fixed term, Post & Scanning Assistants. This report requests the release of previously identified funding to extend the two posts for a further 12 months.

### **Options considered:**

Outsourcing of ongoing scanning and copying activities have been assessed and discounted on practicability and value for money grounds.

Increased use of Service based staff is not feasible because of other work demands and coordination and control issues.

Fixed term additional resource with the appropriate skills and experience has been successfully supporting the service to date and is considered the most practical and cost efficient option until the new processes are fully implemented within service areas such as the Planning Service.

**Conclusions:** The provision of funding for an additional 12 months for the 2 posts (fixed term) will allow the immediate requirements to be met whilst assessing the long term demand and resource requirement to provide adequate support for service business processes.

**Recommendations:** **That Cabinet approves the release of £52,000 previously identified Digital Transformation funding to allow the continuation of the two fixed term posts for a further 12 months in the Digital Mail Room Team.**

**Reasons for  
Recommendations:**

The continued employment of the 2 additional posts within the Digital Mail Room Team will ensure that the team has the capacity and skills available to support the scanning, redaction and copying of applications, and documents until the full introduction of systems and processes to help deliver paperless working.

Making the posts fixed term will provide flexibility to react to changes in delivery and service demands over the next 12 months.

Cabinet Member(s)	Ward(s) affected
Contact Officer, telephone number and email: Sean Kelly, 01263 516276, sean.kelly@north-norfolk.gov.uk	

**1. Introduction**

- 1.1 Members are aware that one of the main work streams of the Digital Transformation Programme (DTP) has been the Planning Service Business Process Review (BPR).
- 1.2 One of the key elements of the Planning BPR yet to be fully implemented is the introduction of systems and procedures to enable paperless working. There remains a requirement for all planning applications however received to be scanned, documents redacted before being made public, and a printed planning file including all associated documents created for both householder and major applications.
- 1.3 Since the initial business case in support of the Planning BPR there has been a steady increase in the number of planning applications being made with a 17% increase between 2015/16 and 2018/19 of applications started (excluding withdrawals and rejected applications).
- 1.4 With the digitisation of the historic Planning Files requests to view these archived files now falls to the Digital Mail Room Team (DMRT) to redact and files and comply with General Data Protection Regulations before producing a publically accessible file.
- 1.5 The DMRT now also receive emails from Planning Officers, Agents, External Consultees and Applicants to make changes or add information to Planning applications. Since 2016 on average over 3100 emails have been received by the DMRT each year which equates to approximately 12 such emails a day. The actions required to resolve these emails can take from less than 1 minute to a full day's work in cases of major applications.
- 1.6 The use of the scanning services offered by the DMRT is increasing in scale and complexity as more services are becoming increasingly reliant on electronic recording of customer transactions.

## **2. Approach**

- 2.1 Two temporary Post and Scanning Assistant posts have been used to support the full functions of the DMRT so that experienced staff can be allocated to more complex and time consuming Planning work. This has enabled the DMRT to keep to the targets required by the Planning service to work electronically and to be confident in making decisions based on the information held within the system whilst maintaining service levels across all other service areas.
- 2.2 If approved, the funding will allow the continuation, for a further 12 months, of two fixed term posts within the DMRT.
- 2.3 The posts have been recruited using standard Council recruitment processes and policies and the current post holders are meeting the requirements of the post. Both of the post holders have recently been successful in obtaining alternative posts within the council and therefore a recruitment process will be required to fill the vacancies if approval is given.

## **5 Financial Implications and Risks**

### **5.1 Financial Implications**

The additional costs associated with extending the two fixed term posts for a further 12 months is approximately £52,000 inclusive of on-costs.

These sums are within the initial estimates for the Digital Transformation Programme budget approved by Council in March 2018.

### **5.2 Risks**

The Head of Planning has raised concerns about the impact the potential reduction on staffing in the DMRT will have on the Planning Service delivering a timely and efficient process to our customers. The recommendation to retain the temporary posts will ensure that current service levels can be maintained during the full implementation of the updated software system and implementation of processes designed to support paperless working, through effective case management and workflow. Without this resource there is a significant risk that services will fail to meet performance targets effecting both customers and the reputation of the council.

The lack of appropriately managed scanning, redaction and copying services will inhibit the delivery of improvement in service business processes and efficiency.

## **6 Conclusion**

The retention of the two fixed term posts will allow the continuation of the interim processes that have been effectively supporting the delivery of the Planning Service until the full outcomes of Planning BPR are fully implemented.

## **7 Sustainability**

The continuation of an efficient post and scanning system with accurate and up to date information will allow for ongoing service improvements and efficiencies across multiple service areas.

Efficient electronic service processes will also result in reduced environmental impact from the reduction in use of paper and print material as well as minimising the need for storage facilities.

## **8. Equality and Diversity**

There are no equality and diversity implications directly resulting from the recommendations or options considered in this report.

## **9. Section 17 Crime and Disorder considerations**

There are no Crime and Disorder implications directly resulting from the recommendations or options considered in this report.

## EGNERE BUSINESS ZONE PROJECT UPDATE

Summary: This report provides Cabinet with an update in relation to the Egmere Business Zone Project and considers the options available for the Council in relation to this scheme.

The report considers a number of potential options as follows;

- Options considered:
- Seek an alternative anchor tenant;
  - Install the enabling road infrastructure only;
  - Build the unit on a speculative basis;
  - Seek an alternative site or;
  - Withdraw from the proposed scheme.

Conclusions: Given the options appraisal presented above, the fact that at the present time there are no other interested parties that the Council is aware of and coupled with all of the implications around the build contract and timescales (lapse of the LDO and Enterprise Zone status) it is no longer considered viable to continue with the project. Given the timescales and levels of uncertainty around so many different issues it is considered that the project now contains too many risks and the benefits originally anticipated for the site are highly unlikely to be realised.

- Recommendations: **It is recommended that Cabinet;**
- 1) Cease the current scheme and that any unallocated funds are made available for alternative capital projects.
  - 2) Agree to delegate authority the Head of Finance in consultation with the Portfolio Holder for Finance to effect the necessary reserve transfers required in respect of the revenue funding requirements if the decision is taken to stop the project.

Reasons for Recommendations: Based on the options appraisal undertaken ceasing the project at this point is considered to be the most appropriate course of action.

Cabinet Member(s) Cllr Richard Kershaw	Ward(s) affected: Walsingham
Contact Officer, telephone number and email: Duncan Ellis, 01263 825151, <a href="mailto:Duncan.ellis@north-norfolk.gov.uk">Duncan.ellis@north-norfolk.gov.uk</a>	

## 1. Introduction

- 1.1 An original report outlining this potential development opportunity was reported to Cabinet in October 2014 and, following further work, additional reports have been brought forward to Cabinet in January 2016 and March 2017. An electronic copy of the most recent Cabinet report from September 2018 is available [here](#) and provides further information on the history of the project.
- 1.2 Following further discussions at Full Council on 21 November the decision was taken to undertake an independent review on the business case for this scheme. This was subsequently undertaken by the BE Group at the start of the year and this is discussed in more detail below.
- 1.3 This report now provides an update to Cabinet in relation to the Egmore Business Zone Project.
- 1.4 The Egmore Business Zone site is situated north of Edgar Road, Egmore. The original plan was for the site to be developed as a Business Park in 2 phases on land owned by the Walsingham estate, under a long lease arrangement. Phase 1 was to comprise infrastructure to create a serviced site extending to approximately 8.10 acres (3.278 ha) of developable land, structure planting and landscaping, and to potentially include a standalone unit comprising a workshop and warehouse facility (5,000 sq ft) and office accommodation (3,000 sq ft) for a named occupier which would act as the anchor tenant.
- 1.5 The site has been designated as an Enterprise Zone and this designation will operate for the five years from 1<sup>st</sup> April 2016 through until 31<sup>st</sup> March 2021. This status attracts business rate incentives and entails the establishment of simplified planning regime (previously established by the District Council through the designation of a Local Development Order (LDO) for the site) and superfast broadband to occupiers.
- 1.6 The extant Local Development Order (LDO) is focused on facilitating development related to the offshore wind sector but the duration of the LDO designation expires this month (August 2019), as no works have yet been undertaken on site.
- 1.7 Draft Heads of Terms have previously been agreed with the land owner (Walsingham Estate) and the anchor tenant but no final signed lease agreements are currently in place.
- 1.8 A tender exercise was undertaken during 2017 and a preferred contractor was identified. Whilst the tender for construction was split into two distinct elements as described below, it was intended to commence the works in tandem:
  - Construction of infrastructure including roads, footways, drainage and installation of utilities to create a “serviced site” to enable other units to be developed more quickly;
  - Unit 1 comprising 3 bay workshop and office premises. Approximately 773m<sup>2</sup> of floor space with associated parking and landscaping.



1.9 As there are no final signed lease agreements in place however the construction contract has not yet been signed as this would expose the Council to unacceptable levels of risk.

## **2. Current position**

2.1 Positive discussions had been held with the New Anglia Local Enterprise Partnership (NALEP) regarding potential grant funding from the Enterprise Zone Accelerator Fund.

2.2 As part of drafting the funding bid submission to the LEP the Corporate Director & Joint Head of Paid Service (Steve Blatch) wrote to the key stakeholders, namely the Walsingham Estate and the anchor tenant on 21 June 2019.

2.3 The Walsingham Estate responded on 3 July 2019 to say that following further internal discussions they were still happy to proceed on the basis of the Heads of Terms for the lease of the land which had previously been drafted and agreed.

2.4 The anchor tenant responded on 28 June however, informing the Council that they currently had a 10 year lease agreement in place on an alternative site with break periods in September 2020, September 2022 and September 2024. They went on to explain that, based on their current requirements and business status, that they were happy to continue in their current premises for now. They also stated that as and when the situation changed that they hoped there would still be place for them within the Egmere Development Zone site.

2.5 Unfortunately however this means that there are no current finalised lease agreements in place with either the anchor tenant or the land owner. Having these agreements in place was a requirement of the funding application to NALEP, without this certainty it has not been possible to submit a bid due to the increased levels of risk for both the external funding partner and the Council.

## **3. Options**

3.1 Given the current position of the scheme, a number of options have been considered and these are explored in more detail below.

### *Seek an alternative anchor tenant*

3.2 As outlined above, while the anticipated tenant is still interested in reviewing the opportunities at the site in the future, they do have an alternative location secured and there is no current lease agreement in place with them for the proposed new unit at Egmere. At the present time the Council is not aware of any other interested parties who are in a position to enter into a lease for the proposed unit on the site. Should it be possible to find a suitable tenant in the very near future (or indeed secure agreement with the previously proposed anchor tenant) there are still a number of significant challenges which would need to be addressed for the scheme to progress as follows;

- Identifying a suitable tenant with a strong covenant whose requirements match the current proposed unit dimensions (designs have already been agreed and completed in respect of the unit as any changes would require further design time);
- As outlined above the LDO lapses this month so planning would need to be finalised and works started on site by the end of August to progress at the current time. While the normal planning process could be followed after August this could have a significant impact on timescales;
- The Council does not have signed lease agreements in place with either an anchor tenant or the landowner. Further to this there is no signed contract in place with the preferred build contractor to construct the unit and no proposed start date (as the Council could not be exposed to the risk of entering in to the build contract without the landowner and tenant being signed up to lease agreements). This in itself creates additional issues as follows:
  - The preferred contractor may not have capacity to complete the build contract now. If the build project needed to be re-tendered this would add a further 3 to 4 month delay to the start of the build process;
  - The previously provided contract prices will be subject to further inflationary cost increases;
  - Given that the build contract needed to commence on site this month to deliver by October 2020 there are only 6 months before the Enterprise Zone status lapses in March 2021 as the EZ status runs for a five year period from April 2016 through to the end of March 2021. Any tenant would need to be in situ prior to the end of this period to benefit from the business rates relief;
  - The original tender process to establish the preferred supplier for the build was completed over two years ago, so making an award at this point could potentially be subject to challenge. As with the point above, if the decision was made to re-tender this would add a further 3 to 4 month delay.
- Legal documentation would need to be agreed and completed prior to any lease agreements being signed;

3.3 The partnership and potential funding from NALEP would have helped to significantly de-risk the project from the Council's perspective. The LEP's funding criteria require either strong evidenced demand for units in a particular location or certainty of a pre-let and the anticipated income derived from that lease; and therefore without firm evidence and an anchor tenant there is no sound investment proposal to put forward to the LEP. The LEP will also require a charge over the land and property to secure its debt, however as the land would be leased, a mechanism would need to be established to deal with this requirement.

*Install the enabling road infrastructure only*

- 3.4 It would be possible for the Council just to construct the road infrastructure and enabling works (water, foul drainage, electricity etc) but the contract cost for this element of the works is c£900k. This would not result in any return to the Council unless a third party undertook the development of any units and the time pressures outlined above in terms of the loss of the Enterprise Zone status lapsing in March 2021 are all still relevant, as are the issues surrounding the preferred contractor for the construction works.

*Build the unit on a speculative basis*

- 3.5 While it would be possible for the Council to construct the unit on a speculative basis (assuming the build contractor was still available), this would be a very high risk strategy as it would not be possible to attract any additional external funding. The challenges outlined above regarding the build contractor are still all relevant to this option and the Council would still need to have secured a tenant onsite by 31 March 2021 for them to benefit from the business rate support.

*Seek an alternative site*

- 3.6 As both the Enterprise Zone and the LDO are specific to the site in Egmore there is no option to move or re-designate this. Alternative sites for development in other parts of the district could be considered in the medium term but these would not attract the additional (Government backed) benefits to the Enterprise Zone status or the LDO.
- 3.7 The Council appointed a consultant (BE Group) to prepare a Business Growth and Investment Opportunities Study in 2015. The report highlighted the lack of good quality commercial floor space across the whole of the district. This did highlight the need for additional floor space so there may be opportunities in the future on alternative sites.
- 3.8 A further BE Group report update was commissioned at the start of the year to review the business case for this proposed development. It considered the project from a commercial perspective and determined that the project is unlikely to be commercially viable and would be highly unlikely to be brought to the market by a private developer. The only realistic option was for the Council to develop Unit 1 and provide the infrastructure to the full site and then take the remaining serviced land parcels to the market. The report did however conclude by saying that even if these land parcels were developed and occupied in a timely manner, the project would still be marginal and was considered high-risk.

*Withdraw from the proposed scheme*

- 3.9 As with any project there is the ability to withdraw from any further works. There are no formal agreements in place with contractors, landowners or tenants. This would mean that both the LDO and Enterprise status would lapse in August 2019 and the end of March 2021 respectively. The balance of the funding allocation could then be recycled to fund alternative capital schemes.
- 3.10 Should the decision be taken not to progress with the project then it will be necessary to transfer the final project costs back to revenue and for these to

be funded from reserves as it will not be possible to capitalise these costs as the project will be ceasing.

#### **4. Implications and Risks**

- 4.1 The current capital budget for the scheme stands at c£2.255m but assumes NNDC finance the project with a £0.450m contribution towards the infrastructure costs from the Norfolk Business Rates Pool (NBRP), giving a net cost to NNDC of just over £1.8m.
- 4.2 Spend to date on the project has been c£170k, however the Council received £44k external funding from the NBRP during 2017/18, a further £36k in April 2019 and there is a further minor claim pending of £5k, which would take the net cost to the Council down to £85k.
- 4.3 There is a risk that the NBRP could try to reclaim the funding provided to date but the Council has acted in good faith in trying to progress the scheme and any discussions with would be held on this basis. There should be a recognition that it will not always be possible to deliver schemes and that it is sometimes better to stop a scheme rather than to try and continue with it.
- 4.4 If the scheme were not to proceed the balance of the capital funding would not be required and would be released to fund alternative capital schemes.
- 4.5 There are reputational and relationship risks for the Council to consider, such as with the Walsingham Estate, NALEP and the NBRP group although it is felt that all of these can be managed.

#### **5. Conclusion**

- 5.1 Given the options appraisal presented above, the fact that at the present time there are no other interested parties that the Council is aware of and coupled with all of the implications around the build contract and timescales (lapse of the LDO and Enterprise Zone status) it is no longer considered viable to continue with the project. Given the timescales and levels of uncertainty around so many different issues it is considered that the project now contains too many risks and the benefits originally anticipated for the site are highly unlikely to be realised.

#### **6. Recommendations**

- 6.1 It is recommended that the current scheme is ceased and that any unallocated funds are made available for alternative capital projects.
- 6.2 If the decision is taken to stop the project it is recommended that Cabinet agree to delegate authority the Head of Finance, in consultation with the Portfolio Holder for Finance, to effect the necessary reserve transfers required in respect of the revenue funding requirements.

#### **7. Sustainability**

- 7.1 There are no sustainability implications directly resulting from the recommendations or options considered in this report.

#### **8. Equality and Diversity**

8.1 There are no equality and diversity implications directly resulting from the recommendations or options considered in this report.

**9. Section 17 Crime and Disorder considerations**

9.1 There are no Crime and Disorder implications directly resulting from the recommendations or options considered in this report.

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## **Cromer Tennis Hub**

### **Summary:**

This report sets out the current position in relation to the Cromer Sports Hub and gives options for Members to take the matter forward.

### **Conclusions:**

The options identified give Members avenues to either take the project forward in its current form or to withdraw from it. Members should weigh the relevant factors, including the financial, community and reputational impacts before reaching a decision.

### **Recommendations:**

**That Members consider the options set out below.**

- 1. To give delegated authority to the Head of Legal in consultation with the Portfolio Holders for Leisure and Finance to effect the necessary legal arrangements required in respect of the preferred option identified.**
- 2. If the decision is taken to stop the project, that delegated authority be given to the Head of Legal in consultation with the Head of Finance and Assets and the Portfolio Holders for Leisure and Finance to effect the necessary reserve transfers required in respect of the revenue funding requirements.**

<b>Cabinet Member(s)</b> Cllr Gay	<b>Ward(s) affected:</b> Cromer
<b>Contact Officer, telephone number and email:</b> <a href="mailto:emma.duncan@north-norfolk.gov.uk">emma.duncan@north-norfolk.gov.uk</a> 01263516045	

### **1. Introduction**

This report sets out the current position in relation to the Cromer Sports Hub and gives options for Members to take the matter forward.

### **2. Background**

- 2.1** Members will be aware of the Council's previous decisions in this matter as follows;

- 2.2 On 19 December 2017 Council (as the commitment of expenditure was outside the budgetary framework) resolved to approve the development of a Sports Hub for the District, centred in Cromer;

*“1) To approve of the necessary capital budget for the project, subject to the external funding being made available, as described in the report:*

*a) The approval of the necessary capital budget to support the delivery of a Community Sports Hub at an estimated cost of £2.681m, and additional tennis facility improvements at an estimated cost of £250k, as detailed in this report, subject to the necessary external funding being in place.*

*b) That the provisional financing be agreed as follows;*

*Lawn Tennis Association Grant £733k (25% of tennis related cost)*

*Capital receipts/reserves £1.465m*

*Lawn Tennis Association Interest free loan £733k (25% of tennis related cost, to be funded from capital receipts)*

*c) That delegated authority is given to the Head of Finance and Assets to adjust the financing outlined above if required to maximise the value for the tax payer.*

*d) In developing the project proposal, priority is given to a comprehensive development plan for the wider use of tennis facilities across the District”*

- 2.3 On 21 November 2018 the construction tender was awarded and the budget increased (necessitating a council decision) as follows;

*“1. That Council provisionally awards the construction contract for the Community Sports Hub to Bidder X as per the attached confidential Tender Evaluation Report; with final award being subject to the LTA Grant Funding expected on December 6th.*

*2. That Council agrees to an additional capital budget of £118,000 to fund additional, unforeseen works as described in the report.*

*3. That, subject to the Community Sports Hub going ahead, delegation is given to the s151 officer to adjust the financing by £228,000 in respect of the funding for improving the satellite community tennis facilities at Fakenham, Wells and North Walsham as described in the report. These amendments to be funded from capital receipts.*

*4. That delegated authority is given to the Head of Finance and Assets to adjust the financing as outlined within the report if required to maximise the value for the tax payer.”*



- 2.4 On 27 February 2019, following the Lawn Tennis Association changing its mind in relation to the proposed grant, the Council (as the additional expenditure was outside the budgetary framework) considered the Sports Hub again and resolved the following;

*“1. That the business case for the Community Sports hub is reviewed to ensure it still represents value for money and is capable of still meeting the original objectives.*

*2. That Full Council approves additional capital budget of £672,000 required for the completion of the Community Sports Hub project*

*3. That if recommendation above is approved, authority to spend is then delegated to the Leader of the Council, Portfolio Member for Leisure and the s151 Officer, subject to a satisfactory review of the business case outlined in recommendation 1 above*

*4. That if recommendations 2 and 3 proceed, the s151 Officer is given delegated authority to arrange the additional financing requirements outlined above by the most cost effective means”*

### **3. Linked land transactions**

- 3.1 In order to facilitate the proposed scheme there needed to be a number of linked land transactions between: North Norfolk District Council, Cromer Lawn Tennis and Squash Association and Inspiration Trust (Cromer Academy).
- 3.2 In particular the Cromer Lawn Tennis and Squash Association is the current leaseholder of a protected 31 year lease of Cromer Lawn Tennis and Squash Courts (the Site) from 1 April 2005. The freehold of the site being owned by the Council. The lease has an option to renew for a further term of 14 years on such terms and conditions as shall be agreed between the parties. This includes an obligation to pay the CLTSA a subsidy (currently circa £25,000 pa).
- 3.3 The Association is a registered Community Amateur Sports Club. Its objects are to provide facilities for members of the Association to take part in and encourage the development of tennis, squash and other sports at the Site and an adjoining sports centre. Trustees are appointed by the General Committee of the Association, and the Trustee’s powers extend to adopt such measures as may appear to be necessary in the interests of the Association, subject to the approval of the General Committee. It currently has approximately 140 adult Members.
- 3.4 The Council agreed with the Inspiration Trust to build the Sports Hub on land which is currently in the Trust’s ownership (known as “the Red Land”). The

Trust's title, NK412287, registered at HM Land Registry includes a restriction on disposition that there should be, "No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the Secretary of State for Education". This means that the Trust had to approach the Secretary of State for consent before they could deal with the land.

- 3.5 The Secretary of State granted consent to the disposal of the Red Land to the Council, subject to a condition that the Council transfers land of equal amenity value to the Trust to enable the Trust to continue to deliver the full curriculum to its students.
- 3.6 The Council and Trust agreed two tennis courts forming part of the Association's lease of the Site (known as "the Green Land") would be of sufficient use and amenity to the Trust to enable them to satisfy the Secretary of State's requirements and ultimately transfer the Red Land to the Council.
- 3.7 The Council approached the Association by email on 13 April 2018 to outline the Council's proposal and to seek agreement in principle. Formal Heads of Terms were then sent to the Association with a covering letter by email dated 25 May 2018. The Council issued formal Heads of Terms to the Trust by email on 10 May 2018.
- 3.8 The Council would not be in a position to be able to transfer the Green Land to the Trust until it had been removed from the Association's lease, by way of a Deed of Surrender of Part and Re-grant. The simultaneous transfer of the Red Land to the Council and Green Land to the Trust being completed once the Deed of Surrender of Part and Re-grant had been entered into with the Association. Because the project was dependent on funding and acquiring the relevant consents, and in order to ensure that any expenditure by the Council would not be wasted in the event that either the Association or Trust pulled out late in the day, it was agreed the Council would enter into binding contracts with both the Association and the Trust (each subject to their own conditions).
- 3.9 Accordingly, the Council, Trust and Association agreed to enter into the following series of linked land transactions:
  - a) Agreement to enter into a Deed of Surrender of Part and Re-grant and Variation (the Agreement) of the Association's existing lease conditional on:
    - i. External funding of up to £712,500 being granted from the Lawn Tennis Association, representing approximately 25% of the total funding for the provision of the project, or in the alternative, internal funding being granted by the Full Council committee of the Council;

- ii. Education and Skills Funding Agency (ESFA) consent given pursuant to section 77 of the Schools Standards and Framework Act 1998 and Schedule 1 of the Academies Act 2010;
    - iii. Conditional contract entered into between the Council and the Trust for the transfer of the Green Land in an agreed form and satisfaction of the conditions thereunder; and
    - iv. Licence in agreed form annexed entered into between the Trust and the Association for use of the Green Land following the transfer to the Trust
  - b) Contract entered into between the Council and the Trust for the simultaneous exchange of the Red Land to the Council and Green Land to the Trust conditional on:
    - i. A planning permission acceptable to the Council
    - ii. Deed of Surrender of Part and Re-Grant and Variation being completed between the Association and the Council.
  - c) Deed of Surrender and Re-Grant of Part and Variation entered into between the Council and Association to remove the Green Land from the Association's lease
  - d) Simultaneous transfers of the Red Land to the Council and Green Land to the Trust.
- 3.10 All of the documents above were agreed with the relevant parties and on 28 March 2019, the Council exchanged the Agreement with the Association. The conditional Contract entered into between the Council and Trust was later exchanged on 4 April 2019.
- 3.11 The Council were made aware on 8 April 2019 by a member of the Association that a motion of no confidence had been presented in the current Chairman and Committee, with most members of the present Committee not standing for re-election in any event.
- 3.12 On the 15 April 2019 (PM), following the motion of no confidence, the Association held a Special General Meeting. The previous General Committee was replaced by newly appointed members, who do not share the same opinion as the previous Committee regarding the development of the Hub and are concerned about the removal of the Green Land from their lease.
- 3.14 The Council has been in discussions with the CLTSA to understand whether the Association are willing to execute the agreement.

- 3.15 To date the Deed of Surrender of Part has not been completed and consequently as the Green Land cannot be transferred to the Trust, the terms of consent to disposal by the Secretary of State cannot be complied with, the Red Land cannot be transferred and the scheme cannot be built out.

#### **4. Spend on the scheme to date**

- 4.1 The Council's total expenditure on the Project to date is - £554,863.50. The Council also has committed sums of £132,540 yet to be paid.

- 4.2 A breakdown on the sums paid appears below;

##### **Professional and Consultants fees (Architect, Quantity Surveyor, Project Management, Employer's Agent, Building Services, Civil, Structural, Geotechnical services, demolition costs etc)**

Other professional and consultants fees already paid to date: £498,358.50

##### **Legal fees**

The Council has paid the legal fees of both the Association (Hayes + Storr) and Trust (Stone King) in relation to this matter. To date, the total expenditure on those external legal fees: £ 56,505

This does not include any time spent by eastlaw on the matter, or any final legal invoices yet to be received from Hayes & Storr and Stone King.

##### **Committed sums**

These sums are owed to contractors. These total £132,540 as follows;

Saunders Boston Chartered Architects; (as Principal designer) - £2,000.00 outstanding;

Real Consulting (Project Management/Employer's Agent): £10,240.00 outstanding;

Real Consulting (Quantity Surveyor): £6110 outstanding;

Conisbee (civil, structural and geotechnical services): £5850.00 outstanding;

MLM (building services): £5328 outstanding;

Pentaco (building contractor): £103,012.00 outstanding (due in accordance with the Letter of Intent, above). There is additionally a storage charge of £2,500 per week for the prefabricated frame, for which officers have sought justification.

- 4.3 If the Council were to withdraw from the project it would be necessary for officers to negotiate with the contractors already engaged (where there are sums outstanding and due to be drawn down), whether those contracts can be terminated early and at what cost to the Council. The earlier a contractor is

notified would provide them with more opportunity to find alternative work and mitigate their loss.

## **5. Options**

5.1 Consequently the Council is in a position where it has expended considerable sums on the set up costs of the Cromer Tennis Hub Projects but does not currently have ownership of the land to build out the scheme.

5.2 The options for Members to consider are set out below.

### **5.3 Specific Performance of the Agreement**

The Agreement with the Association is now binding on both parties, so either the Council or the Association could force the other to complete the Deed of Surrender of Part and Re-grant through specific performance under the contract, necessitating an application to the High Court. This is an equitable remedy, available at the Courts discretion and would enable the scheme to be implemented in full.

Any claim would be made against the current Trustees of the Association personally and individually as it is an unincorporated association.

Whilst the legal basis for the Council's claim is sound, any application to Court, is a process not without risk of failure and expense and clearly there would be a considerable delay in any build process which would potentially see the Council having to renegotiate the build contracts in any event.

Pursuing a remedy against an individual in this way could have significant impact on the Council's reputation and has the potential to undermine community cohesion. It would also make the Council's ongoing contractual relationship with the CLTSA very difficult.

### **5.4 Recover the sums expended**

As an alternative to specific performance the Council could seek to recover damages against the individual trustees for expenditure to date.

As identified above, this cause of action would again be made against individual Trustees of the CLTSA. This would again have the reputational and relationship risks set out above but would have the potential benefit of recovering a proportion of the Council's expenditure on the scheme to date.

### **5.5 Renegotiation with the Secretary of State to remove the restriction on the consent and purchase the Red Land**

It may be possible to renegotiate the terms of the consent granted by the Secretary of State to not transfer the Green Land. However this would further delay the scheme, and it is unlikely that the school would release the land at no cost if there was no "land swap". Any requirement to purchase the land

would require a further capital allocation, outside the budgetary framework. This could undermine the viability of the scheme and would change the business case previously considered by Council.

#### **5.6 Negotiate with the parties to unwind the agreements.**

If Members consider that the options identified above present too much of a risk to the Council and its communities then it is potentially possible to have a negotiated exit from the agreements.

In terms of financial implications of the project proceeding any further, the Council would need to write off the costs of the project to date, together with any contractual costs identified at para 4 above along with any additional costs associated with unwinding agreements, dealing with the steel frame etc and these are currently estimated at c5% of the total costs to date (spent and committed of just over £687,000) at around £34,000.

There would however be no further commitment of any capital resources, the opportunity cost of which is just under £70,000 based on the balance of funding and using the Council's investment interest return rate as per the 2018/19 outturn.

There would be a consequential cost in terms of the leisure contract that had assumed a saving of £65,000 although this has not as yet been assumed within the budget.

If this is the preferred option then the final project costs will need to be transferred back to revenue and funded from reserves as it will not be possible to capitalise these costs as the project will be ceasing.

#### **7. Risk**

The risk of each option is assessed within the body of the report.

#### **8. Equality and Diversity**

No implications

#### **9. Summary:**

This report sets out the current position in relation to the Cromer Sports Hub and gives options for Members to take the matter forward, following the Cromer Lawn Tennis and Squash Association intention not to complete the land transaction, meaning that the project can no longer be delivered.

#### **10. Conclusions:**

The options identified give Members avenues to either take the project forward in its current form or to withdraw from it. Members should weigh the

relevant factors, including the financial, community and reputational impacts before reaching a decision.

**11. Recommendations:**

**That Members consider the options set out below.**

- 1. To give delegated authority to the Head of Legal in consultation with the Portfolio Holders for Leisure and Finance to effect the necessary legal arrangements required in respect of the preferred option identified.**
- 2. If the decision is taken to stop the project, that delegated authority be given to the Head of Legal in consultation with the Head of Finance and Assets and the Portfolio Holders for Leisure and Finance to effect the necessary reserve transfers required in respect of the revenue funding requirements.**

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