From: **Donald Farquharson: Interim Director of Property and Infrastructure Support**

To: **Gary Cooke: Cabinet Member for Corporate and Democratic Services**

Decision No: 15/00024

Subject: **Southborough Hub**

Key decision **Sale of assets over £1M**
Expenditure over £1M

Classification: **Unrestricted**

Past Pathway of Paper: **N/A**

Future Pathway of Paper**: Growth Economic Development and Communities Cabinet Committee**[1]

Electoral Division: **Tunbridge Wells North (Peter Oakford)**

Summary: Progress is being made on the Southborough Hub with the proposal that Tunbridge Wells Borough Council (TWBC) and Southborough Town Council (STC), now enter into call options on their lands with Kent County Council (KCC) to enable the development of a multi use facility which would include a library, theatre, football pavilion, town council offices, cafe and possibly a medical centre. The development will be paid for via a residential and commercial enabling development and the Call Options can be activated anytime at KCC's request. In tandem with this will be a Memorandum of Understanding (MoU) that will set out the governance of how all three councils will work together in progressing the project. This report sets out the details of this scheme and recommends that KCC now look to enter into these agreements.

Recommendations:

The Cabinet Member for Corporate and Democratic Services is asked:

To enter into significant legal agreements including, but not limited to, land options and a Memorandum of Understanding with Southborough Town Council and Tunbridge Wells Borough Council.

To permit the disposal of the Ridgeway site in Southborough and the fifty percent claw back over the adjacent land owned by Southborough Town Council, with part or all of the combined receipts being allocated to support the development of the Southborough Hub.

[1] Cabinet Member for Community Services will subsequently sign the key decision on allowing the library to move and for the scheme to proceed.

To authorise the Director of Property and Infrastructure Support to finalise the purchase of the Tesco's and Lloyds Bank land as part of the Hub redevelopment.

To authorise the Director of Property and Infrastructure Support to finalise terms for a freehold or leasehold interest of the library and football pavilion.

To authorise the Director of Property and Infrastructure Support to finalise terms for the disposal of the Hub and the Car Park back to Southborough Town Council and Tunbridge Wells Borough Council respectively.

To permit the project subject to KCC's VAT partial liability exemption position not being breached or in breach.

This decision is required to enable the Southborough Hub which has been a long term aspiration for all three tiers of local government to be brought forward and delivered.

1. Introduction

1.1 The Southborough Hub has been a long term aspiration of TWBC, STC and KCC. The development would see a mixed use community asset developed that would include a theatre, town council offices, a library, football pavilion, café and possibly a medical centre thanks to a residential and commercial enabling development.

1.2 Numerous attempts have been made at bringing forward the project which is fettered with complex land ownerships and outstanding legal agreements. The town council clearly rejected the last scheme brought forward by Tescos and the current proposal seeks to bring forward a comprehensive development that would include the Tesco land in tandem with land owned by Lloyds bank.

1.3 In terms of the development STC would be putting in the most land[2], however due to a 50% claw back on much of that, KCC[3] would in effect be putting in the most value. TWBC would put in a similar amount of land[4] to KCC. The partners have taken a land equalisation approach to values given that certain partners freeholds bring different benefits such as access and high street frontage to the scheme. Without these neither partner would be in a position to deliver a comprehensive and enhanced value from the overall development.

1.4 All three councils have currently invested £25k in the latest development programme and this has enabled the project to masterplan the area, work up options, consult the community and architects are now progressing towards enhancing the high level designs in consultation with stakeholders.

1.5 For political and viability reasons, two options are being worked up, one which would see the Royal Victoria Hall (RVH) refurbished alongside a minimal new

[2] Circa 15,978 sqm Ridgeway land and the Royal Victoria Hall
[3] KCC land circa 3,564 sqm The Ridgeway
[4] Circa 3,325 sqm (137 London Road, Yew Tree Road car park, toilet block adjacent to Tesco land)

build and another option which would see a cleared site with a complete new build. Current community facilities are in a poor to very poor condition. The town councils recent decision to cease all expenditure on the RVH and close it has been one of the main reasons for this project now gaining momentum.

1.6 Given the sometimes unpredictable political nature at the local level, both TWBC and KCC believe that binding the three councils together with regard to a Call Option on the land will now ensure that this project will progress. In tandem with this will be an MOU setting out how the project will be governed and delivered. The proposal will see each council having one vote and the setup will look to incentivise STC to engage with the borough and the county regardless of any changes post the elections.

1.7 In addition TWBC and KCC are seeking to assist STC by helping to coordinate the project and give them the relevant expertise, knowledge and capacity they require to deliver the hub.

1.8 Following the signing of the agreements KCC will then be required to deliver a Development Agreement that will cover the specifics of the project. Once signed KCC will then call in the option and transfer partners land over for £1 and then progress with the marketing, sale and entering into of all necessary contracts for the delivery of the hub. On completion STC will have the hub transferred back to it for a £1. KCC will benefit from a long term peppercorn rent on the new library while also owning the football pavilion and benefiting from a rental income from it. KCC could then dispose of the old library and use those surplus funds as it deems fit. TWBC will have part of the Yew Tree Road car park transferred back to it for a £1. Any capital surplus will be returned to the partners based on their initial up front investment and as a percentage of the land they contributed. It is not anticipated that there will be much if any of the latter.

1.9 As part of the agreements all three authorities will provide the necessary funding to progress the project to completion. It is anticipated that a contribution of £70k will be required from KCC to match STC and TWBC contributions. The funding source for these funds is yet to be agreed.

1.10 It is anticipated that on completion of the project a not for profit organisation will take over the running of the facility to ensure its longevity and this will be fully funded by STC.

2. Financial Implications

1.11 To date STC and TWBC have invested £25k each in the project with KCC contributing £25k in kind via staff time. Moving forward it is anticipated that a further £70k will be required from each party to now deliver the scheme.

1.12 High level figures suggest that the total development costs for the hub are likely to be in the region of £4.5M and this matches the anticipated £4.5M income from the enabling development. It is critical that the scheme should be self funding as neither partners wish to invest any further sums above what the enabling development and up front investments will permit.

1.13 The project would see KCC sell the dilapidated Ridgeway site which is currently occupied by the Ridgeway Football club and sees regular use from its +500 young members. The sale of this site to anyone else other than the football club would be politically difficult and the current position sees KCC taking either a freehold of the new pavilion (and or a long term peppercorn leasehold) and re-provides for the club while benefiting from an ongoing and possibly enhanced revenue income stream with a longer term sale still possible to the club should they raise sufficient funds. The development would be phased to ensure ongoing use of their facilities and minimise disruption. There is also a limited company operating from the site that teaches young people with learning difficulties and they would have to find alternative premises.

1.14 The current dilapidated library site which is on the Yew Tree Road, London Road junction would be able to continue to operate during the development phase. Once the hub was complete, it would move across and would benefit from a long term peppercorn rent. The new site would be marginally larger than the old one in order to benefit from s106 funds while the old site could then be sold for an estimated £400k and the local development framework already has the site allocated for c10 units.

1.15 In bringing this project forward officers have worked closely with Bob Lane to ensure that any risk to KCC from breaching its VAT partial liability exemption position are being monitored. While it is currently anticipated that the funds would pass through KCC books, any final decision on this would be taken by the section 151 officer prior to signing of any contract. In the interim officers continue to monitor the situation and should the position change, then the funding would be passed through STC books where breaching their position would cost the council £25k and this would be amalgamated within the costs of the development along with any increased VAT implications for the project.

3. The Report

1.16 Numerous attempts have been made at bringing forward the development but partners, politics and circumstances have never been conducive to allowing the project to move forward. Tesco who bought the site back in c2008 put forward the latest scheme which was rejected by the town council as their footprint continued to expand beyond any reasonable measures. The current proposals present the best opportunity for the three councils to take advantage of legally binding agreements that would firmly put KCC in the driving seat and enable the scheme to now be delivered. The following options consider alternative options that could be followed with option two being recommended.

1.17 <u>Option 1: Do nothing</u>: KCC does not agree to move the library in and therefore does not sign up to the land option and MoU and maintains the status quo. The project would then fail as KCC land is central in terms of allowing the wider development to proceed. TWBC would then look to dispose of their land leaving the town council with non productive assets and ongoing legal issues over maintenance and dilapidation of the current buildings.

1.18 Option 2: Seek to gain value from the land: KCC enters into the agreements on the basis that they retain best value (or some value for their land). The old library site will be kept out of the deal and this will lower the capital contribution towards the hub which will make viability more difficult for KCC to achieve. However the project should nevertheless be deliverable and it allows KCC to re-invest in other critical services within the community. TWBC could consider its position with regard to the value of its land and could also look to pull additional value out leading to further viability issues and a failed project. This is considered unlikely given that all KCC land directly impacted by the development has been put in to the scheme.

1.19 Option 3: Gift the Ridgeway site STC: STC could then for political reasons decide not to enter into the agreement and or enter into the agreement and look to exit it at a later date. STC would then benefit from an access onto their land along with the revenue income stream from the facility. This would not solve the RVH issue or the town council buildings leading potentially to further dilapidations issues and TWBC loosing patience and selling its assets. KCC would lose any ability to influence the partners and ensure regeneration of the area.

1.20 Option 4: Dispose of the Ridgeway site: KCC would have political difficulty in doing so as this would be against the partnership approach adopted to date. In addition the presence of the Ridgeway Football club would severely limit the value of the site in comparison to one where the councils worked together to maximise value for the development. Unless purchased by STC or TWBC the project would then fail as KCC land is central in terms of allowing access for the wider development to proceed.

1.21 Option 5: Adopt a different approach: Rather than entering into a call option for the land and a MOU, KCC could request that a full Development Agreement be signed up to in order to know exactly what will be delivered before taking control of the project. Time has not permitted this approach to take place and given the impending elections, STC are looking to enter into a legally binding agreement now in order to ensure that future councils cannot simply unwind their position. The delivery of the hub has been dogged for over 20 years with amended political priorities and TWBC and KCC no longer wish to continually invest the capital sums required to progress such a project. The costs of a Development Agreement are substantial and STC could choose to walk away at any point during the development of this agreement.

1.22 The legal implications regarding the Call Option give KCC five years to complete the scheme once the options have been called. The MoU which is a non legally binding document sets out the governance for how the scheme will be managed and provides the blue print for the Development Agreement that will follow. The MoU proposes that three elected members will attend and vote on decisions at a project board. The representatives for the board are anticipated to be the Chairman of STC, the Cabinet Member for Communities and Wellbeing from TWBC and the Cabinet Member for Communities from KCC. The KCC representative will chair the meetings with each council having one vote other than the chairman who will have a casting vote if required. Any disputes will be escalated to an independent expert before being referred for arbitration. The governance is set out in such a way to encourage STC to

partake and help form the debate, however should they choose not to attend, decisions could still be made.

1.23 In moving the site forward there are three other legal implications that should be mentioned. Part of TWBC land is currently unregistered and TWBC are looking to have this registered as soon as possible. There is open public space belonging to STC being transferred to KCC and the relevant notices are being put up to ensure the transfer is legal. STC currently occupy TWBC land without any agreed lease in place and partners have agreed that both will sign up to a lease just prior to transfer of the land to KCC. KCC will then break the lease once development is ready to happen.

1.24 A full equalities impact assessment will be undertaken should the three partners sign up to the Call Options and MoU.

1.25 There are no implications on public health for this project.

1.26 The project will allow the council to dispose of the Ridgeway site and the old library site while gaining a new football pavilion and a new library.

1.27 This report seeks to delegate the necessary authority to the Head of Property and Infrastructure Support to enable the delivery of the scheme to happen. It recommends however that regular updates be brought back to the appropriate committees to update members on progress as and when key milestones are reached.

1.28 Subject to this key decision being granted the final sign off for this project to proceed is subject to agreement by the Economic Development and Communities Cabinet Committee on the 14 April 2015.

4. Conclusions

1.29 The opportunity has now arisen for KCC, TWBC and STC to enter into a joint call option and MOU in order to progress the Southborough Hub. Subject to all three councils signing up to these agreements within a very narrow timeframe, the opportunity has finally arisen to make this project a reality. The outcome would ensure that current legal issues are resolved and that KCC, TWBC and STC will all benefit from modern, fit for purpose community facilities that will benefit Kent's residents and help to revitalise the heart of Southborough.

5. Recommendation(s):

The Cabinet Member for Corporate and Democratic Services is asked:

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all of the combined receipts being allocated to support the development of the Southborough Hub.

To authorise the Director of Property and Infrastructure Support to finalise the purchase of the Tesco's and Lloyds Bank land as part of the Hub redevelopment.

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6. Background Documents

6.1 Appendix A - MoU
6.2 Appendix B – Risk register

7. Contact details

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