

**COUNCIL – 10 NOVEMBER 2009**

**THE STAG COMMUNITY ARTS CENTRE – HEADS OF TERMS**

Report of the: Community & Planning Services Director

Also considered by: Cabinet 22 October 2009

Status: For decision

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**Executive Summary:** This report provides details of the final Heads of Terms of a long term lease to secure the future operation of the Stag by way of a land disposal to Sevenoaks Town Council. The Heads of Terms have been agreed by Sevenoaks Town Council and by Cabinet. Council is requested to consider and approve the Heads of Terms set out in the appendix to this report.

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**This report supports the Sustainable Community Plan which identified a strong desire for people to live in communities with access to flourishing services**

**Portfolio Holders** Cllr Mrs Bracken and Cllr Mrs Bosley

**Head of Service** Head of Community Development – Mrs Merle Bigden

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**Recommendation:** It be RESOLVED that

- (a) the Heads of Terms of a long term lease, set out in the Appendix to this report, to secure the future of the Stag by way of land disposal to Sevenoaks Town Council be approved; and
  - (b) that authority be delegated to the Chief Executive in consultation with the Leader and Portfolio Holders to agree the detailed terms of the long term lease based on the approved Heads of Terms, together with a funding agreement relating to the approved grant.
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**Background**

- 2 As set out in the report to Cabinet on 9<sup>th</sup> July 2009, following the signing of temporary lease by this Council and Sevenoaks Town Council on 31<sup>st</sup> December 2008, the Stag Community Arts Centre was handed over to Sevenoaks Town Council on 2 January 2009 and has been successfully re-opened.
- 3 A presentation of successful progress to date was made by Mrs Linda Larter, Chief Executive of the Stag Community Arts Centre to the Social Affairs Select Committee on Tuesday 2 June 2009.

## Long Term Lease

- 4 The finalised Heads of Terms for the long term lease are attached as an Appendix. These were considered by Cabinet on 9<sup>th</sup> July 2009 and by the Social Affairs Select Committee on 28<sup>th</sup> July 2009. In turn, the comments of the Social Affairs Select Committee were considered by Cabinet on 30<sup>th</sup> July 2009 and it was agreed that these would be taken into account when drawing up the detailed lease.
- 5 At the meeting of Cabinet on 30<sup>th</sup> July, it was noted that a positive and constructive meeting had been held between Member and Officer representatives of this Council and Sevenoaks Town Council the previous day, 29<sup>th</sup> July 2009, at which their mutual commitment to the Stag had been reconfirmed and the Town Council's concerns about the rent review clause had been addressed. The underlying principles regarding the Heads of Terms including the proposed rent review clause had been clarified and agreed. As a result, additional wording is recommended for inclusion in the rent review clause set out below. This provides for a 25 year lease period at a peppercorn rent for the first 5 years, followed by a rent review which would take into account the following factors:
  - (a) the level of accrued public subsidy granted over the expired tenure of the lease at the date of the rent review;
  - (b) the withdrawal of any grant by the District Council;
  - (c) the level of reserves that the Lessee may have in regard to any Charity Commission guidelines; and
  - (d) the level of any trading surplus.
- 6 The draft Heads of Terms were considered and agreed by Sevenoaks Town Council on 14 September 2009. These were further considered by Cabinet at its meeting on 22 October 2009 and recommended for approval by full Council.

## Key Implications

### Financial

- 7 A grant for the operation of the building and related services of £50,000 per annum and a grant for community provision and youth outreach of £50,000 will be paid to Sevenoaks Town Council in quarterly instalments by this Council. In total this Council will pay the grant for five years, such period to be inclusive of the initial one year period which started on the 2<sup>nd</sup> January 2009. The remaining grant will be paid upon the completion of the new lease upon each of the first four years throughout the term, subject to agreed performance indicators to be set out in a formal Funding Agreement. This funding is included in the current 4 year budget plan.

- 8 Purchase of asset maintenance services by Sevenoaks Town Council will provide annual revenue of £14,000 per annum to this council. This income is included in the current budget plan.

Legal, Human Rights etc.

- 9 There are no legal implications for this Council other than those set out in the Heads of Terms and the subsequent lease and funding agreement. Sevenoaks Town Council will operate this facility in accordance with their equalities policy.

Resource (non-financial)

- 10 Existing staff input to joint partnership working will continue. Sevenoaks Town Council has arranged to purchase an asset maintenance service from this Council's Property Team at a cost to the Town Council of £14,000 for 2009/10, to arrange, manage and advise the Town Council in respect of maintenance and property improvements. This is a separate business arrangement which is not part of the lease.

Value For Money and Asset Management

- 11 Sevenoaks Town Council will operate the STAG Community Arts Centre on a full repairing lease by way of land disposal. Information regarding the operation of the Stag and youth outreach will be provided to this Council on a quarterly basis in accordance with the Funding Agreement, with reporting dates to be agreed.

Equality Impacts

- 12 The continued operation of the Stag Community Arts Centre will promote access for all as a community arts facility.

Impact and outcomes for the community

- 13 The Stag is being well used by local people with the theatre booked until the end of 2010 and a full cinema programme. A youth outreach programme is also underway and good links have been made with a range of partners and community groups. It is also anticipated that the ongoing operation of this venue will also contribute to the economic viability of Sevenoaks Town. Opportunities for the future are promising.

**Conclusions**

- 14 The Heads of Terms as set out in the Appendix were considered and agreed by Sevenoaks Town Council on 14 September 2009. On 22 October 2009, Cabinet resolved to recommend approval of the Heads of Terms to Full Council on 10 November 2009. Cabinet also resolved to recommend to Council that approval should also be given to delegate authority to the Chief Executive, in consultation with the Leader and Portfolio Holders to agree the detailed long term lease on the basis of the Heads of Terms set out in the

Appendix, together with a suitable Funding Agreement regarding the approved grant.

**Risk Assessment Statement**

- 15 The Stag Community Arts Centre set up period has been completed successfully. However the initial period following the setting up of a charitable organisation, building audiences and developing income streams will be challenging for Sevenoaks Town Council. Sevenoaks Town Council is committed to working with partners and the community, including volunteers, to increase audience numbers and general usage of the facility and has identified this as a high priority in establishing the operation.
- 16 It should be noted that the freehold of the Stag building is a financial asset for the whole district and in the event that there is a breach of the terms of the lease, the Council will have the power to forfeit the lease and repossess this building. As is normal in a lease of this type, the tenant will have the right to appeal against such forfeiture or repossession to the courts and it will be a matter for the courts to determine whether such relief is granted.
- 17 The detailed lease, based on approved Heads of Terms, and the funding agreement need to be agreed with Sevenoaks Town Council to ensure the future operation of the Stag. This work is currently underway.

**Sources of Information:** Previous Council, Cabinet and Social Affairs Select Committee reports

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