

## **DEVELOPMENT OF SENNOCKE AND BRADBOURNE CAR PARKS**

### **Cabinet – 15 October 2015**

Report of                      Chief Officer Environmental & Operational Services  
   Chief Finance Officer

Status:                         For Recommendation to Council

Also considered at         Council - 3 November 2015

Key Decision:                No

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#### **Executive Summary:**

This report seeks approval to develop the Sennocke Car Park and Bradbourne Car Park sites to provide a branded hotel and additional car parking capacity

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**This report supports the Key aims of Value for Money and financial self sufficiency**

**Portfolio Holder**         Cllr Fleming

**Contact Officer(s)**     Mark Bradbury Ext 7099  
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#### **Recommendations to Cabinet**

- a) Cabinet recommends to Council that they agree to proceed with the proposed schemes.
  - b) Cabinet recommends to Council that a Development Management Agreement and Agreement for Lease are entered into with the preferred Development Management Consultant and preferred Hotel Operator on the terms outlined in Appendix D.
  - c) Cabinet recommends to Council that the development is in the public interest and therefore the land should be appropriated for planning purposes in accordance with Section 122 of the Local Government Act 1972 and subject to the powers provided by Section 237 of The Town and Country Planning Act 1990.
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## Recommendations to Council

- a) Council agree to proceed with the proposed schemes
- b) Council agree that a Development Management Agreement and Agreement for Lease are entered into with the preferred Development Management Consultant and preferred Hotel Operator on the terms outlined in Appendix D.
- c) Council agree that the development is in the public interest and therefore the land should be appropriated for planning purposes in accordance with Section 122 of the Local Government Act 1972 and subject to the powers provided by Section 237 of The Town and Country Planning Act 1990.

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**Reason for recommendation:** The proposed development has the potential to deliver economic benefits to the District through the provision of a much needed Hotel and additional car parking at Sevenoaks Station. The Investment will also provide an income stream that could contribute significantly towards the Council's aim of Financial Self Sufficiency.

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## Introduction and Background

- 1 The Council currently operates two off street car parks close to Sevenoaks Station. The Sennocke Car Park comprises 84 spaces and the Bradbourne Car Park 216 providing a combined total of 300 spaces.
- 2 Both car parks are well used by commuters including a significant number of long term season ticket holders. The Sennocke Car Park is fully occupied most week days and for the Bradbourne Car Park average peak occupancy exceeds 80%. The two car parks operated by South Eastern Railway have similarly high occupancy rates.
- 3 The Sennocke Car Park site has been identified for development in the Council's adopted Allocations and Development Management Plan (ADMP). The ADMP also notes the potential to accommodate replacement car parking by decking the Bradbourne Car Park.
- 4 The current allocation for the Sennocke site is for residential use but the Council's Core Strategy at Paragraph 5.4.10 states that there is scope for further tourist related development in the District and the location policies give support to hotel development in Sevenoaks.
- 5 There has been an acknowledged shortage of hotel accommodation in the District for some time and this is particularly evident in Sevenoaks where there is no branded or business class hotel offer.
- 6 An options appraisal on alternative development options for the Sennocke Car Park Site has been carried out and was considered by the then Portfolio Holders for Finance and Resources and Economic and Community Development, The Leader of the Council and Strategic Management Team.
- 7 A copy of the Options Appraisal is attached as Appendix B

- 8 Following due consideration developing Sennocke Car Park for Hotel Use was selected as the preferred option subject to further negotiations delivering a proposal that offered Value for Money.
- 9 Negotiations with the interested hotel operator were undertaken alongside market testing to identify other potential operators. Following interest from a further operator best bids were invited.
- 10 These were compared and ranked based on a weighted assessment of return on investment; annual net Income to the Council; covenant strength; brand perception and construction cost risk. The comparison and ranking is included in Appendix C.
- 11 Negotiations with the owners of the adjoining Farmers site with a view to either acquiring the site or developing both sites through a joint venture mechanism to deliver a more comprehensive development were also undertaken. During the negotiations the owner secured planning consent at appeal for a higher density scheme.
- 12 The owner's price expectations were previously high and increased following the appeal decision. A purchase price that would be acceptable to the vendor could not be supported by the Head of Economic Development and Property or an independent 'Red Book' valuation. After due consideration and discussion with members of Cabinet it was agreed not to pursue a purchase.

#### **Development Proposals - Hotel**

- 13 Following extensive negotiation and market testing, proposed Heads of Terms have been agreed with a leading Hotel Operator working in partnership with a Development Management Consultant to enter into a Development Management Agreement and Agreement for Lease to construct (at the Council's cost) a hotel with associated café/bar/restaurant on the Sennocke Car Park site.
- 14 The preferred Development Management Consultant will manage the design, submission of the planning application and construction of the Hotel on behalf of the Council to the preferred Hotel Operator's Specification for a fixed price to include the Development Management and Design Fees.
- 15 The preferred Development Management Consultant has a successful track record of developing hotels for the preferred Hotel Operator and funding these in the investment market. Working with the preferred Development Management Consultant on the basis of an agreed cost will enable the council to effectively manage construction cost and programme risk.
- 16 The Construction Cost and fees agreed with the preferred Hotel Operator and Development Management Consultant total £8,750,000. Whilst construction cost risk will lie with the preferred Development Management Consultant it is recommended that an additional contingency of 5% is allowed to cover the council's costs and any unforeseen costs. Rounding up gives a total budget of £9,200,000.

- 17 The preferred Hotel Operator will take a 25 year lease on completion of the construction. The lease will include rent reviews linked to the Consumer Price Index (CPI) every 5 years with minimum and maximum increases. There will be a tenant's break option in the 20<sup>th</sup> year of the lease.
- 18 The Development Management Agreement will make provision for the construction contract to be procured in accordance with the Council's procurement strategy.
- 19 Details of the preferred Hotel Operator, preferred Development Management Consultant and initial rental and yield profile are included in the attached exempt Appendix C. Based on the total budget outlined above and the agreed initial rent the investment would comply with the yield criteria set out in the approved Property Investment Strategy.
- 20 The preferred funding method for the hotel is from the Financial Plan Reserve and Capital Receipts from the disposal of other assets. The 'Financial Prospects and Budget Strategy 2016/17 and Beyond' report to Cabinet on 17 September 2015 included details about the council becoming financially self-sufficient. A benefit of this is that any Revenue Support Grant and New Homes Bonus received from Government, that is not included in the 10-year budget can be put into the Financial Plan Reserve which can be used to support the 10-year budget by funding invest to save initiatives and support for the Property Investment Strategy.
- 21 This funding method should result in an income yield in excess of 6% as required in the Property Investment Strategy. If this funding method is not feasible, another option will be agreed with the Leader and Portfolio Holder for Finance. Further details of the funding options can be found in Appendix D.

### **Development Proposals – Car Park**

- 22 To allow the development of the Sennocke site it is proposed that two parking decks will be constructed on the existing Bradbourne Car Park to create a total of c. 450 car parking spaces proving a net increase of c. 150 spaces (over the combined current total of 300 spaces on the Sennocke and Bradbourne car parks).
- 23 The proposal will :-
  - Replace the current provision on the Sennocke Car Park
  - Make provision for parking by hotel guests
  - Allow a reduction in all day on-street parking
  - Provide some additional capacity at the station to address current and future demand
- 22 Consultants Willmott Dixon have been appointed, through the SCAPE Procurement route to prepare a feasibility study covering, design, cost and programme for the construction of the decked car park. The brief is to design a high quality facility that mitigates impact on neighbouring properties whilst offering value for money.

- 23 Detailed design and costings will be commissioned should members endorse the recommendations but in the meantime Willmott Dixon has advised that assuming no abnormal site conditions or onerous planning conditions and a start on site in mid-2016, works could be completed within 5 months at a cost of c. £5.3 million including fees and contingency. A more detailed cost plan will be developed as the design progresses.
- 24 The preferred funding method for the car park is to internally borrow from the council's balances. This funding method should result in the cost of the car park being met by income received for the additional parking spaces. If this funding method is not feasible, another option will be agreed with the Leader and Portfolio Holder for Finance. Further details of the funding options can be found in Appendix D.
- 25 Cabinet has previously approved the submission of a planning application for a decked car park at this site on 6<sup>th</sup> March 2014 and members are asked to note that this will now be progressed.

### **Business Case**

- 26 There is an acknowledged shortage of Tourism Accommodation in the District and particularly in Sevenoaks where there is limited accommodation and no branded operator.
- 27 The Council has recently commissioned a Tourist Accommodation Study of the District. Whilst this is currently in draft form it does conclude :-
- With a currently limited stock of tourist accommodation, it is clear that growth in staying tourism, and the resulting boost that this will give to the District's economy, will require additional tourist accommodation across Sevenoaks District. This Tourist Accommodation Study shows potential for a wide range of different types of tourist accommodation across the District.
- 28 The development of a quality hotel is consistent with the Council's Economic Development Strategy which aims to help facilitate growth in the tourism industry and increase the number of providers of hotel accommodation.
- 29 The Sennocke site is well located to serve local businesses and support restaurants, bars and other retailers in the town centre and surrounding local centres. It is also well located for local businesses looking for accommodation for visiting staff, customer, consultants and other guests.
- 30 It is also well located for public transport with the Rail station opposite and frequent passing bus services. Developed in conjunction with the Bradbourne Car Park proposals it will not require its own car park thus ensuring efficient land use.
- 31 Development of the Hotel by the Council as opposed to a sale of the site will ensure :-
- Retention of the freehold interest in a key site for future generations

- A significant and growing income from a market leading operator with a strong covenant over a lease period of at least 20 years, contributing to the Council's commitment to financial self sufficiency.
- The potential for significant capital growth and a strong return on investment.

## **Planning**

- 32 The Sennocke Car Park site has been identified for development in the Council's adopted Allocations and Development Management Plan (ADMP). The ADMP also notes the potential to accommodate replacement car parking by decking the Bradbourne Car Park.
- 33 The current allocation for the Sennocke site is for residential use but the Council's Core Strategy at Paragraph 5.4.10 states that there is scope for further tourist related development in the District and the location policies give support to hotel development in Sevenoaks.
- 34 A more detailed note on planning is attached as Appendix A.

## **Appropriation**

- 35 The Sennocke Car Park was originally acquired for the purposes of developing a car park. The land was sold to the Council with restrictive covenants preventing certain uses including development for a hotel. The vendor was the owner of the adjoining site now known as the Farmers Site from which the vendor operated a public house with hotel rooms.
- 36 The purpose of the covenant was therefore to prevent the Council developing a hotel in competition with the vendor. The vendor has subsequently sold the land and there is no longer a hotel on the site.
- 37 As the Council now wishes to use the land for a different purpose that it acquired the land for, it is prudent to appropriate the land for planning purposes in accordance with Section 122 of the Local Government Act 1972.
- 38 Section 237 of The Town and Country Planning Act 1990 provides local authorities with the power to over-ride rights and restrictions (including covenants) affecting the land provided that the land has been appropriated by the local authority for planning purposes in accordance with Section 122 of the Local Government Act 1972 and development is carried out in accordance with planning permission.
- 39 The effect of the appropriation would prevent the beneficiary of such rights from preventing the development from proceeding through an injunction. The beneficiary would however be entitled to compensation instead. The normal measure of the compensation is the loss in value of the land which benefits from the right or covenant.
- 40 As the beneficiary no longer operates a hotel on the land and the land has planning consent for a residential development it is considered that the value of

any compensation will be nil or negligible. Further advice is being taken on the matter and if appropriate indemnity insurance will be taken out.

## **Risk Assessment**

41 Attached at Appendix E

## **Conclusions**

42 The proposed development has the potential to deliver economic benefits to the District through the provision of a much needed Hotel and additional car parking at Sevenoaks Station. The Investment will also provide an income stream that could contribute significantly towards the Council's aim of Financial Self Sufficiency.

## **Key Implications**

### Financial

The proposal will involve a significant investment by the council and may involve borrowing. Further advice is being taken on the funding options and this will be reported in Appendix D (to follow). The proposal does offer an income stream that could contribute significantly towards the Council's aim of Financial Self Sufficiency.

### Legal Implications and Risk Assessment Statement.

As the land was originally acquired by the Council under compulsory purchase powers for car parking, it will be necessary to appropriate the land for planning purposes under Section 122 (1) of the Local Government Act 1972 (LGA).

As the land is not part of common land nor is it public open space land, there is no duty on the Council to consult or consider objections to its disposal (or leasing) on estate ownership grounds.

*Section 122 (1) of the LGA allows a principal council to appropriate for any purpose for which the council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before the appropriation.*

*In order to show that it is correct to appropriate the land for planning purposes section 246 of the Town and Country Planning Act 1990 (TCPA) makes reference to sections 226 and 227 of that Act, in that it states that any reference to appropriation of land for planning purposes should be for purposes which land can be (or as the case may be, could have been) acquired under those sections (that is 226 and 227) of that Act).*

As those sections apply to this appropriation it is therefore necessary to show that there is an alternative car park available and capable of being developed to re-provide the parking (Bradbourne Car Park) and therefore in accordance with sections 226/227 of the TCPA the Council can exercise the power and show that the development is likely to contribute to the social, economic and environmental well being of the area (see paragraphs 13 to 19 and 25 to 30 of this Report).

Once the land has been appropriated the Council will benefit from the powers of section 237 of the TCPA in that certain easements and other rights that affect the land may (if relevant) be overridden.

The Procurement of the construction contract will be subject to advertisement in the Official European Journal and to the Public Contract regulations 2015 as the threshold for such requirements starts at £4,322,012. Any tender process will also have to be compliant with the council's own Contractual Standing Orders

A detailed Risk Assessment is set out in Appendix E

#### Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

#### **Appendices**

A : Planning Briefing Note

B : Sennocke Site Initial Development Options Appraisal

C : Comparison of Hotel Operator Bids

D : Financial Return and Funding Options

E : Risk Assessment

#### **Background Papers:**

None

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