

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

4 DECEMBER 2014

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Access and Communities – Lead Cabinet Member – Cllr Coleman
Children and Young People – Cabinet Member – Cllr McCoy
Arts, Leisure and Culture – Cabinet Member – Cllr Dixon
Corporate Management and Finance – Cabinet Member – Cllr Harrington

INGLEBY BARWICK COMMUNITY CENTRE

1. Summary

Proposal to locate a community centre on village six, to land south of Barwick Lane, Ingleby Barwick.

2. Recommendation

1. Officers be authorised to complete a title transfer of land from Persimmon to enable a community centre to be sited at the preferred location; by transferring the land to Ingleby Barwick Town Council (Town Council), subject to the Town Council securing planning permission and sufficient finance to build and maintain the community centre.
2. Members approve capital monies of up to £50,000 be made available towards the provision of a Youth Café within the proposed community centre.

3. Reasons for the Recommendations/Decision(s)

Given the heavy use of the community centre in Beckfields village and demand from local community groups for another, the creation of this community centre would support the growing population of Ingleby Barwick, creating better quality of place for the community. The centre will be a public space, creating more chances for face-to-face communication and interaction, and spaces for children and young people to play/meet.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code).

AGENDA ITEM

REPORT TO CABINET

4 DECEMBER 2014

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

INGLEBY BARWICK COMMUNITY CENTRE

SUMMARY

Proposal to locate a community centre on village six, to land south of Barwick Lane, Ingleby Barwick.

RECOMMENDATION

1. Officers be authorised to complete a title transfer of land from Persimmon to enable a community centre to be sited at the preferred location; by transferring the land to Ingleby Barwick Town Council (the Town Council), subject to the Town Council securing planning permission and sufficient finance to build and maintain the community centre.
2. Members approve capital monies of up to £50,000 be made available towards the provision of a Youth Café within the proposed community centre

BACKGROUND

1. In February 2010, a revised Development Brief for villages five and six at Ingleby Barwick was produced to guide developers and builders in preparation of detailed proposals for the final stages of development. This included a number of pocket parks for open space provision.
2. As a result of consultation, a desire for the consolidation of public open space, as opposed to 'pocket parks' was identified, so to maximise the visual effect and potential usage. It was proposed that village six could potentially incorporate a community centre, alongside this open space, at a confluence of cycle routes and a highly visible position for the growing community (refer the area shaded green and numbered 2 on **Appendix One**) .
3. The area originally allocated for this community centre was along Barwick Green Lane which serves as a major pedestrian and cycle link through the development connecting existing development to the east to the Heritage Park and Tees Valley.
4. Planning Permission was granted to Persimmon for residential development at Hazeldene / Ashbrook / The Rings subject to a planning obligation (pursuant to a section 106 agreement) to create an area of open space / play area and include an area of land to be retained for a proposed community facility. Persimmon was obliged, under that agreement, to transfer the open space and community land, to Stockton Borough Council (the Council) if we so required.

5. Over time, it became apparent that the original site may not be the most advantageous for easy and safe highways access and surveillance of a community centre, and so the Council reviewed site options.
6. The Council identified an area of open space that would be acceptable for residential development, within Persimmon's ownership, that was otherwise required to be set out as open space in accordance with the masterplan referred to above (being the area shaded green and numbered 1 on **Appendix One**). Persimmon agreed, following negotiations with the Council, that in return for the grant of planning permission to build houses on this parcel of land they would allocate an equivalent area of land within the same site (known as the Sandgate/Sandview development) for the proposed community facilities. In accordance with this agreement Persimmon removed a section of land previously planned for housing development from their application for the Sandgate/Sandview development and identified it as being the site of the potential community centre (the land hatched red on **Appendix One**), which is the Council's preferred location for such a facility. The proposal would also require a variation to an existing section 106 agreement with Persimmon for the release of the requirement to protect the original area for the community building and this whole area would remain as open space.

DETAIL

7. The Council and Town Council have worked with an architect to produce designs for a community centre and youth café.
8. Pre-planning discussions have been held, and Persimmon has agreed to fund the associated planning application fee; and for the aforementioned architect to act as the agent for the submission. Pre-planning discussions have also been held regarding operational car parking, design, landscaping and it is anticipated that the planning application will be submitted by the end of November 2014.
9. Previously, the Council had identified capital monies for a proposed development of a youth café at the Beckfields community centre in Ingleby Barwick. This development was not delivered and £150,000 of the £200,000 monies allocated for the Youth Café was put toward other youth developments i.e. extension of Ingleby Barwick school(s).
10. The Council now seeks the commitment of up to £50,000 of the remaining one-off capital monies from that proposed development, towards the provision of the youth café element of this community centre build.
11. The Town Council would be responsible for securing the funding associated with the capital development and on-going maintenance and management of the community facility. The Council does not have any revenue funding to support any additional youth services beyond what we currently provide or commission, nor does it have any resources for ongoing costs of maintaining the proposed building.
12. Persimmon are in agreement to secure the transfer of the land hatched red on **Appendix One** to the Council following the successful grant of their planning application for the Sandgate/Sandview development to enable the community centre to be located in the preferred location. The Council would then propose to transfer the land to the Town Council to procure the building of the centre. It is proposed that the Council will not complete the transfer of land from Persimmon until the Town Council has secured planning permission and the necessary funding to build the community centre. Officers are currently determining how this will be transferred, but it is likely that this will either be a direct sale or a long-term leasehold with specific community covenants.

FINANCIAL & LEGAL IMPLICATIONS

Open Space Land Swap

13. The proposal outlined would see the Council acquire land from Persimmon for the proposed community centre, and release Persimmon from the obligation to retain land within the area shaded green and numbered two on **Appendix One** for a community centre, in exchange for Persimmon having been granted planning permission for housing on land otherwise required to be developed as open space.

Transfer of land to the Town Council

14. Under section 123 of the Local Government Act 1972, the Council has a duty to dispose of land and buildings (including the sale of freeholds, granting and assigning of leases and the granting of easements) for the best consideration reasonably obtainable. This obligation would apply to the onward disposal of the land acquired from Persimmon by the Council to the Town Council. The exception to this is where the consent of the Secretary of State has been obtained. The Secretary of State has given a general consent ("the Consent") in Circular 06/03, which would permit the Council to dispose at an undervalue of less than £2million, if the disposal will secure the promotion or improvement of the economic, social or environmental well-being of the area.
15. A decision would therefore be required to agree what, if any, subsidy would be granted to the Town Council through the onward transfer of the land, taking account of the Council's general fiduciary duty including demonstrating that there will be a general benefit to the wider community, not just to the Town Council. The Town Council would therefore need to demonstrate that the community centre will secure the promotion of, or improvements to, the economy, social wellbeing etc.
16. In some circumstances undervalue transfers may have EU State Aid implications. Generally an exemption called the De Minimis exemption can be used to enable transfer. This exemption permits the aid (the amount of the undervalue) to be provided so long as it, taken with any other De Minimis aid received by the recipient in any three year period is less than €200,000. If De Minimis doesn't apply, then it is likely for purely local community projects that the State Aid criteria requiring that the aid has the potential to affect trade between EU member states would not be met, so the aid would be permissible. A wide interpretation is used for aid having the potential to affect trade between member states so if it is not possible to utilise the De Minimis route then further legal advice should be taken to ensure that the proposal is structured appropriately.
17. Any land transfer would be heavily caveated to protect the Council's interest, and subject to the Town Council being able to demonstrate appropriate funds are in place to build the facility and sustain it into the future. As part of any land transfer the Council's interests would be further protected in terms of the site being released only to be used for the purposes agreed. To share in any potential development value after the land has been transferred to Ingleby Barwick Town Council, it is likely the Council will negotiate with Ingleby Barwick Town Council to bind itself, and any subsequent owners, to benefit from a share in the increase in value of the land should it be redeveloped and a valuable planning permission granted in the future.
18. Whether the site should be transferred via a direct sale or a long-term leasehold with specific community covenants, will also need to be determined.

Procurement

19. If the total cost to complete the community centre were to exceed £4,322,012 ("the Works threshold") then there is a risk that the disposal of the site if at an undervalue could trigger the Council's obligations to conduct a procurement under the Public Contract Regulations 2006. The basis for this would be that the contract for disposal to the Town Council could be deemed to be a public works contract if it obliged the Town Council to develop the site in a particular

way. If the Works Threshold were to be a risk then the Council could mitigate against this by ensuring that the transfer did not contain any specific development obligations. Instead the Council would need to have confidence that the Town Council would deliver the scheme without such direct obligations relying instead on planning and other constraints which may include overage or pre-emption rights which control and guide rather than oblige development to take place.

RISK ASSESSMENT

20. This report is categorised as low, and as such existing management systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

21. The Sustainable Community Strategy (Shaping Our Future) for Stockton-On-Tees 2008-2021 sets out the vision and key improvement priorities for the local area. This proposal fits within the following themes:

- Improving the local built and natural environment and quality of place for our local community
- Creating better open space
- Deliver design quality - public space to create chances for face-to-face communication and interaction, spaces for children and young people to play/meet
- Reduce anti-social behaviour

EQUALITY IMPACT ASSESSMENT

22. This report itself is not subject to an Equality Impact Assessment (EIA).

CONSULTATION INCLUDING WARD/COUNCILLORS

23. Relevant portfolio holders and appropriate officers.

Name of Contact Officer: Louise McDonald
Post title: Economic Strategy Manager (R&ED)
Telephone No: 01642 528942
Email Address: louise.mcdonald@stockton.gov.uk

Background Papers: CMT report – February 2014

Ward(s) and Ward Councillors consulted with

Property Implications - none