

## Central Bedfordshire Council

Executive

3 April 2018

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Report of: Cllr Nigel Young, Executive Member for Regeneration  
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**This report relates to a decision that is Key**

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### Purpose of this report

1. To seek a decision on the transfer of up to 0.52 ha of serviced land owned by the developer for a community building to Potton Town Council as set out in the S106 Agreement for the development on land on the east side of Biggleswade Road.
2. To consider the business case for £579,132 of Section 106 monies secured from the same development and £179,859 secured from a new development at 64 Biggleswade Road towards the costs to develop / construct a community building on land east of Biggleswade Road, Potton.

### RECOMMENDATIONS

**The Executive is asked to:**

1. **on receipt of a transfer notice from the developer, and to the timescale described in the S106 Agreement for land on the east side of Biggleswade Road, Potton, approve the receipt of up to 0.52 ha of the community hall land on behalf of Potton Town Council for the purpose defined in the 2014 S106 Agreement for land east of Biggleswade Rd, Potton;**
2. **subject to Potton Town Council and the Hall for All group confirming that the community building is fully funded, allocate the S106 funding which has been secured for the purposes of developing a Community Building from the Land east of Biggleswade Road (£579,132) and 64, Biggleswade Rd ( £179, 859) developments, to Potton Town Council; and**

- 3. request Potton Town Council to confirm greater commitment to the realisation of the community building. Delegate authority to the Directors of Regeneration / Community Services in consultation with the relevant Executive Members to make any further decisions regarding the transfer of the Community Hall Land and S106 funding to Potton Town Council. This should include ensuring a restrictive covenant is placed on the land for a community building or use as public open space**
- 4. Approve the S106 funding to Potton Town Council upon receipt of evidence showing the full funding has been secured. This evidence must be provided within 5 years of the last S106 payment being received and the S106 money must be profiled in a Funding Plan to fund the final construction phase of the community building. This shall also apply to any further S106 funding secured for the purposes of the community building in Potton secured from future developments in Potton.**

### **Overview and Scrutiny Comments/Recommendations -**

3. This item has not been to Overview and Scrutiny in order to meet the request of Potton Town Council and Potton Hall for All group that it be considered by the April meeting of the Executive.

### **Background**

4. Executive has previously considered and approved the transfer of community buildings on a number of new developments (which have been built as part of those new developments) to Silsoe Parish Council, Biggleswade Town Council, Stotfold Town Council and Marston Moretaine Parish Council.
5. The Council has been in discussion with both Potton Town Council (PTC) and the Potton Hall for All group (PHfA) for several years about their proposal for a new community building and the allocation and release of S106 funding secured for the purposes of a community building in Potton.
6. The Section 106 Agreement for the development relating to 'Land on the East side of Biggleswade Road Potton' signed in 2014 includes provision for between 0.5 and 0.52 hectares of serviced land to be transferred to the Council (Central Bedfordshire Council) or directly to the Town Council for the development of a Community Hall or public open space purposes and £579,132 of S106 funding. The S106 provision allows CBC to accept the land transfer on behalf of PTC.

7. The £579,132 S106 funding towards the provision of a Community Hall is compiled from a number of original contributions. These contributions are to be pooled to provide funding towards the construction of the Community Hall and the agreement includes the proviso that if the Community Hall has not been commenced within a period of 5 years from the date of the latest payment of those contributions, the contributions will be applied towards their original purpose. The latest payments are due to be received at 100 occupations. The original purposes are:

Cemeteries	1,057
Green Infrastructure	230,879
Emergency services	31,257
Indoor sport	51,038
Library	8,758
Mental Health	4,832
Primary Care Buildings	67,044
Primary Care Land	23,556
Secondary care	85,768
Village hall	65,101
Waste	6,946
Welcome pack	2,896
<b>Total</b>	<b>£579,132,000</b>

8. The S106 Agreement allows for these monies to be allocated towards the provision of a community building in the first instance. A more recent S106 Agreement agreed in January 2018 for a development at 64 Biggleswade Rd, CB/16/03943 in Potton has secured a further £179,859 towards providing a village hall in Potton. This report is dealing with the confirmed contributions from the two developments, which is £579,132 and £179, 859, totalling £758,991.
9. A contribution of £104,039 from The Marston Vale Community Forest will also be allocated to the community building in the first instance, subject to a Deed of Variation to the S106 Agreement. This will need to be approved by the Assistant Director, Development and Infrastructure.
10. The PTC/PHfA proposal states they will provide a £2.9m, 950m2 low carbon, public building to meet the primary leisure needs of the community of Potton by providing facilities that are currently unavailable to or fall short of user requirements. It will allow new local sports, cultural and performance groups to form and thrive and give rise to new community and commercial opportunities for new activities to emerge. It will be a modern, flexible, accessible venue available to the local community.

11. However, the S106 funding available does not meet the full costs of developing the community building aspired to by PHfA. It is imperative that the project is fully funded and deliverable prior to any S106 funding being released to avoid monies being spent and only part of a building being developed.
12. PTC submitted a planning application for the Hall and planning permission was granted in November 2017.
13. In November 2017, PTC and PHfA were asked to work together to produce and submit a Business Case to ensure that any allocation of S106 funding would result in the development of a community building.

### **The Business Case**

14. Potton Town Council and Potton Hall for All Group submitted the Business Case at the end of January 2018. The Business Case template asked them to provide the following information:

#### Governance

- Relationship between the Town Council and PHfA
- Ownership of the land and building and
- long term governance and operational arrangements.

#### Meeting Council priorities:

- Demonstrate alignment with the Council's plans and strategies

#### Meeting local community priorities

- Reference with community plans or council minutes or resolutions demonstrating that the proposal meets local priorities
- A statement setting out the benefits to the local community

#### Resources:

- how parties will work together to raise funds and meet the current funding gap
- A statement that demonstrates the capacity and expertise to construct, operate and maintain the asset
- A statement (evidenced by financial accounts) regarding sufficient income to support the asset
- A financial plan and programme showing how the construction, maintenance and running of the asset will be funded over a period of years (min 3 years)

#### Investment:

- A sustainable plan for capital investment in the asset
- Funding sources

#### Risk:

- A contingency plan in the event of a failure to deliver any aspect of the proposal and to maintain the asset safely

- Evidence of policies and procedures to ensure the safety and wellbeing of the local community, volunteers and staff when using the asset.

## **Business Case**

Paragraphs 15-35 below are an outline summary of their business case.

## **Governance**

15. PTC and PHfA are working closely together through a Steering Group. It meets quarterly and helps to guide the development of the business case and business plan, the Hall and interaction with other parties. PTC is supportive of the need for, and efforts to provide, a self-financing hall through encouragement, facilitation or other measures advantageous to the project, such as taking responsibility for the land, assets, payments and any applications. The PHfA group have clarified that at times, the Hall for All Charity would be best placed to progress an element, for example the ESIF funding application, and at other times PTC may be better placed, such as the reserved matters application. There are no particular or intended 'Assets' which PTC would 'take responsibility for'. There is simply an agreement from PTC to assist the development of the hall by taking action it is more efficient for them to take. This may involve assets, though the specifics of any such assets are unknown at this stage.
16. It is not currently the Town Council's intention to move any associated costs onto the precept, but the business case document indicates they may wish to do this in the future. They are also collaborating on other elements of the development, and provisions in the S106 Agreement, including discussions about moving the Town clerk and PTC offices into the new Hall.
17. Subsequent to the submission of the Joint Business Proposal document PTC discussed the issue of moving their offices to the community building though they did not support such a move at the present time. Even so, once building work has started on the community building and there is a delivery date for office accommodation being available, PTC will be approached to reconsider this decision based on more definite information that would be available at the time.
18. If the Council accepts the community hall land on behalf of PTC and transfers it to them, PTC will own the land and lease it to the tenant (PHfA) requiring them to construct and operate the Hall. This arrangement was approved by PTC at its meeting on 2 May 2017.

19. A sub-committee of the Town Council's Buildings and Facilities Committee will oversee longer term governance and enable joint decision making and dialogue. PHfA will manage the construction and operation of the building on a day to day basis, including the appointment of staff.

### **Council priorities**

20. The Business case indicates that a new Hall in Potton supports a number of priorities which are significant to the Council, such as: the Leisure Strategy and the need for more local facilities to support e.g. badminton clubs; the 5 Year plan and the priority to build strong and resilient communities; and the Community Engagement Strategy – communities doing more for themselves. It is proposed that the Hall will be a multi -purpose low carbon building embracing energy efficiency and renewable energy sources factored into the design stage. For example, an initial energy and sustainability report indicated the building could achieve a reduction of 87% CO2 emissions compared to minimum requirements and exemplary against BREEAM non domestic new construction criteria. Furthermore, attention to wildlife friendly planning, associated design features and location next to open space and an orchard ensures a fit with the Council's Nature Conservation Strategy.

### **Meeting Local Priorities**

21. Over several years the Hall for All group have consulted and engaged extensively with local groups and residents to determine local need and support for a new, larger multi -purpose Hall in the town. The evidence supplied includes a letter of support from the Town Council Chairman dated 2009, a town wide consultation in 1994 and a survey by PTC as part of the development of the Town Plan which revealed 50% support for a self-financing larger additional hall in the town. A further survey in 2012 indicated that support had risen to 86% of respondents who were in favour of a new Hall. Several other surveys have been undertaken e.g. by the developers in 2012 and a user group consultation in 2013, which indicated what type of activities and facilities were needed.
22. A list of user groups and supporters is attached in Appendix A.
23. During this time a Feasibility Study was undertaken by Bedfordshire Rural Communities Charity (BRCC) to test and validate the need for a new hall against what hall space was already available, and what would be needed to make a new building viable and sustainable. It concluded that further engagement was necessary to build local support, especially with users, and to take a strategic view of community facilities in the town with a view to consolidating groups within a new building.

24. Finally, the draft Potton Neighbourhood Plan supports the development of a new Hall.

## **Resources**

25. The total capital costs are forecast to be £2.9m and a further £0.1m of initial revenue costs. The capital and revenue financial plan to construct, run and maintain the building is attached in Appendix B.
26. We have encouraged the Town Council to increase their support and participation to the project, and it is clear from the business case proposal that PTC and PHfA are working together. The Town Council intend to own the land and lease it to the PHfA group and PHfA are taking the lead in securing additional funding to meet the current funding gap - of circa £2m.
27. The largest contributions towards the Hall costs are sought from the European Regional Development Fund (ERDF) Low Carbon Fund (£1.5m) and the Big Lottery (£424,264), with S106 expected to provide £863,000 – approximately 36% of the total capital costs. These are listed in Appendix C.
28. Subsequent to the submission of the Joint Business Proposal document, PHfA received a response from Big Lottery that their application would not be progressing to the next phase of consideration. PHfA say that occurrences such as this are wholly expected and none of the funding streams identified are guaranteed. They indicate that the table in Appendix C will, therefore, be a 'living' document. They indicate their funding strategy is dynamic and adaptive, so that they can respond to events and anticipate future developments to ensure that the project is fully funded before commencing construction. Since submission, they are investigating funding from Sport England under their Community Asset Scheme and the Joseph Rowntree Charitable Foundation's Sustainable Future Fund.
29. Therefore, none of the funds listed in Appendix C have been secured or received; though PHfA have passed stage 1 of the ERDF application process and will submit Stage 2 in April 2018. The status of each fund is shown in the table in Appendix C.
30. The PHfA group state that their trustees have extensive skills and experience, including financial management, fundraising and engineering. They have secured additional expertise and have appointed architects and engineering consultants to provide the necessary advice, and expect to appoint other professionals as the project evolves.

31. The financial plan (Appendix B) and the estimated annual income and expenditure (Appendix D) indicate that PHFA group expect to return a deficit of £1,000 in Year 1, a £19,000 surplus in Year 2 and achieve a surplus of £37,000 in Year 3. Whilst this may seem to be ambitious, the figures are backed up by a series of calculations based on a forecast of user group participation (Appendix Bi).

### **Investment**

32. Appendices B and C indicate the sources of capital investment. Future sources are anticipated from S106 as a result of any further developments in Potton and possible funding from PTC. Neither are confirmed.

### **Risk**

33. The Town Council agreed at its meeting in May 2017 to own the community hall land and lease it to the PHfA group for the purposes of the community building. The S106 Agreement ensures that the land must be used for the community hall or public open space.
34. A risk assessment provided in the Joint Business Case proposal is attached in Appendix E and covers both construction and operational phases. Most of the risks and mitigations are identified although not weighted in terms of their seriousness or likelihood.
35. The hall design allows for phased development of the current plans as well as space and scope for further extension / development in future, to be determined by capital funding and revenues once in operation.

### **Options for consideration**

36. PHfA could scale their ambitions to reduce the funding gap to be more in line with the S106 funding that is available and their ability to secure additional funding.
37. PTC could indicate greater commitment to the project by:
  - using its precept to make a financial contribution towards the construction of the building.
  - explore a loan from the Public Works Loan Board ( PWLB) to support the project and
  - take responsibility for the construction and ownership of the community building.
  - occupying office space in the building as part of a long term lease arrangement between PTC and PHfA.

38. This would be in line with our model for community buildings that are built as part of new developments, for example; to the parish / town councils in Silsoe, Stotfold, and Biggleswade.

### **Reason/s for decision**

39. PTC and PHfA are seeking confirmation that the S106 funding will be passed to PHfA for the purpose of constructing the community building. This decision will significantly assist their application to other sources of funding if they can demonstrate that 36% of the funding is secured and committed to them.
40. The S106 Agreement for Land east of Biggleswade Rd has safeguards included should the community building not get built; these were outlined in para. 7.
41. The land for the community building will be offered by the developer to the Council who can accept it on its own behalf or on behalf of another statutory or public authority. PTC and PHfA are making a case for it to be transferred to PTC.
42. The S106 Agreement includes the proviso that the land can be used for the development of a community building or public open space provision. Therefore, should the building not commence within 5 years of the last payment being received from the developer, those contributions will revert to their original purpose and the land will be used and maintained as public open space.

### **Council Priorities**

#### Creating stronger communities

43. The Business Case demonstrates that the provision of a community building led by PHfA and PTC meets a number of Council strategies and priorities, in particular 'Creating Stronger Communities'. The transfer of land and allocation of S106 money to PTC will help to build local capacity and resilience. The community will be in control of a significant asset, which when built, will be host to many important community activities and service delivery.

### **Corporate Implications**

### **Legal Implications**

44. The S106 Agreement obliges the developer to make available up to 0.52ha of serviced land to the Council for the purpose of a community building and secures up to £758,991 funding (including the MVCF contribution) for the purposes of a community building.

45. PTC and PHfA are legal entities. PHfA group is a registered charity with a written constitution, governed by charity law.

### **Financial and Risk Implications**

46. The Council does not incur any ongoing risk with regards to the acceptance and transfer of the land to PTC. PTC agreed at its meeting in May 2017 to own the community hall land and lease it to PHfA for the purposes of the community building. The S106 Agreement ensures that the land must be used for a community building or public open space purpose.
47. At the time of writing the report the s106 land and funding is the only contribution secured towards the community building. There is a significant funding gap of circa £2m and therefore a risk that the outstanding funding will not be secured and the building will not be built / fully completed. PHfA have a number of funding applications in the pipeline and the S106 funding to PHfA will assist them in leveraging funding from other sources.
48. The risk to the Council is mitigated by the S106 funds only being released to PTC and only when PTC and PHfA have evidenced that the hall is fully funded within 5 years of the last S106 payment being received. The production of a Funding Plan will ensure that the S106 money is profiled to fund the final construction phase of the building. Money would be released in stages to ensure the hall is fully constructed.
49. There is a risk that the Community Building does not get built if the PHfA group fail to secure the full funding they require (£2.9m).
50. If the full funding is not secured and the building is not built, the S106 monies will not have been released and will revert to their original purposes as outlined in para. 7. None of the S106 funding available from the two developments described in paras 7 and 9 would be released to the PHfA group unless they can evidence that the building is fully funded and all other contributions secured.
51. The Council will not incur or pick up any responsibility or future liabilities with regards to the provision of the community building in Potton as designed by PHfA and PTC.
52. The S106 Agreement (land east of Biggleswade Road) obliges the developer to contribute **£579,132** towards the provision of the community hall with the proviso that if the community building has not been commenced within a period of 5 years from the date of the latest payment those contributions will be applied to the original purposes (described in para. 7)

53. The S106 Agreement for 64 Biggleswade Road does not specify which community building the money should be spent on. Therefore, if it is not spent on this building it can be re-allocated for other community buildings in Potton.

### **Equalities Implications**

54. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
55. The Business Case indicates the Community Building will be a multi-purpose facility, accessible to and used by a wide number of local community groups to provide local activities and services.
56. PHfA can demonstrate a significant amount of community consultation which reveals there is local support for new purpose built premises to meet local needs.
57. The Hall will be available throughout the week to all interested users at sustainable prices including discounted rates to community organisations) following priorities set by local people and user groups.
58. PHfA indicate that the new Hall will comply with legislation regarding access for people with a disability.
59. New daytime social activities will be available such as tea dances for older residents and the building design will support a modern nursery.
60. Space will be flexible to be used for many other purposes at different times of the day and week.

### **Conclusion and next Steps**

61. The Business Case prepared by PTC and PHfA demonstrates local support for a new multi-purpose community building in Potton.
62. PTC are supportive and willing to receive the land and lease it to PHfA to construct the community building. There is a possibility that they may assist in meeting the funding gap by taking a loan from the Public Works Loan Board and may relocate to the new building when built.
63. There is a current funding gap of circa. £2m, with a risk that the additional funding will not be secured. However, a decision by the Council to allocate the S106 monies to PTC to develop a community building may help them and PHfA to secure the remaining funding.

If the funding gap is not met, the S106 funds will not be released and instead will be used for the original purpose outlined in paras 7 and 51. No S106 monies will be released to PTC and PHfA group until receipt of evidence showing the full funding has been secured and a Funding Plan is developed that shows the S106 funding profiled to fund the final stages of construction.

64. PTC needs to demonstrate greater commitment to the project beyond ownership of the land and leasing it to the PHfA and as outlined in para 37 -38.
65. If PTC and PHfA are successful, there is a contribution to several council priorities.
66. The next steps are as set out in the recommendations.

## **Appendices**

<b>Appendix A:</b>	User and Supporter groups
<b>Appendix B:</b>	Capital and Revenue costs
<b>Appendix Bi)</b>	Income from user groups
<b>Appendix C:</b>	Sources of Funding
<b>Appendix D</b>	Estimated Income and Expenditure
<b>Appendix E</b>	Risk Assessment
<b>Appendix F</b>	PTC and PHfA Governance framework

## **Background Papers**

The following background papers, not previously available to the public, were taken into account:

- (i) Joint Business Case and Proposal for a community building on land east of Biggleswade road Potton.

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