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# Newbury College Loan

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<b>Committee considering report:</b>	Executive
<b>Date of Committee:</b>	25 July 2019
<b>Portfolio Member:</b>	Councillor Jeff Cant
<b>Date Head of Service agreed report</b>	16 July 2019
<b>Date Portfolio Member agreed report:</b>	16 July 2019
<b>Report Author:</b>	Shannon Coleman-Slaughter
<b>Forward Plan Ref:</b>	Urgent Item

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## 1. Purpose of the Report

- 1.1 The purpose of this report is to support the University Centre Development at the Newbury College campus by providing a loan to the College to help fund its construction.

## 2. Recommendation

- 2.1 The Executive resolves to delegate authority to the Head of Finance & Property in consultation with the Head of Legal & Strategic Support to enter into facility agreement and associated legal charge and agreements with Newbury College to provide a loan to the College on the basis set out in this report.

## 3. Implications

- 3.1 **Financial:** The overall cost of the University Centre is estimated to be in the region of £5 million to £6 million. Newbury College has made a successful bid to the Thames Valley Berkshire Local Enterprise Partnership (TVBLEP) and has secured a capital grant of £1.75 million dependant on the building being open to students in September 2020. The College also plans to contribute to the project the proceeds of the sale of two parcels of land. The first of these is expected to be completed by the end of July 2019 but the second is subject to planning approval and is not expected to be realised until 2021 at the earliest.

A loan facility to a maximum of £3.5 million has been requested by Newbury College to bridge the timing gap between the construction of the centre and the sale of the second parcel of land. It is proposed that the rate of interest applied should be the higher of the estimated rate at which the Council would expect to invest its surplus funds for a period of longer than one year or the minimum rate required by State Aid regulations (if applicable).

The loan agreement will be is subject to a legal charge on

the parcel of land which the College plans to sell. The estimated value of this land without planning permission to develop is in the region of only £480,000. However evidence is set out in the confidential Appendix C to this report which suggests that in the event of planning consent being gained that this land has a potential value in excess of £3.5 million.

The proposed maximum term for the loan will be three years.

**3.2 Policy:** The proposed loan can be treated as an investment by West Berkshire Council under the terms of its Investment and Borrowing Strategy 2019/20, which was approved by the Council on the 5<sup>th</sup> March 2019.

**3.3 Personnel:** N/a

**3.4 Legal:** The Council is keen to support local economy and it is considered that University Centre will achieve this. The loan facility can be provided by using the general power of competence under Section1 of the Localism Act 2011.

Due diligence will need to be carried on the proposal and ability to secure the legal charge. Appropriate facility agreement and legal charge deed will need to be drawn up. Council will need to be satisfied that there are no State Aid implications arising from this.

**3.5 Risk Management:** Risks inherent in this proposal include:

The ability of the College to repay the loan and the value of the land against which the loan is secured are both subject to planning approval being gained for development of the site.

Although the College propose to repay the loan within three years, there is a significant risk that the planning approval and completion of the sale of the land could be delayed, which could prevent the College from repaying the loan within the specified timescale.

The success and timing of the sale of the land is also likely to be affected by the risks associated with the development industry, including wider economic factors which impact the industry over the next three years.

If a fixed rate of interest is agreed, there is a risk that interest rates could increase over the period of the loan and therefore that the Council could potentially have earned more interest by investing these funds elsewhere.

Funding awarded to the college by the LEP is subject to the University Centre being open to students in September 2020. If this deadline is not achieved, this could affect the viability of the project and the ability of the College to repay

the loan.

3.6 **Property:** N/a

3.7 **Other:** N/a

#### **4. Other options considered**

4.1 None

## Executive Summary

### 5. Introduction

- 5.1 The Council has been approached by Newbury College to provide interim funding of a new purpose-built Centre on the Newbury College campus, as part of the University Centre development. The Centre is expected to be of benefit to the local economy as a whole and therefore is in line with the priorities of West Berkshire Council. More details of the aims and benefits of the Centre are set out by the College Principal in Appendix D to this report.
- 5.2 The University Centre is to be funded through a combination of government funds, commercial investment and capital funds from the College. The overall cost of the project is estimated to be in the region of £5 million to £6 million and a successful bid to the Thames Valley Berkshire Local Enterprise Partnership (TVBLEP) has secured a capital grant of £1.75 million, dependant on the facility being open to students in September 2020. A site on Newbury College's campus has been agreed as the location for the University Centre, representing a significant investment from the College. The College plans to allocate a capital sum which is expected to be realised by the end of July 2019 from the sale (already agreed) of a parcel of land to the north of the campus.
- 5.3 In addition, the College also plans to sell a further parcel of eight acres of land to the east of the campus which will help finance the project. The value of this land is dependent on gaining planning approval for its future development. Further information about the estimated value and potential possible uses of this site and the likelihood of success for a planning application is set out in the confidential Appendix C to this report. The Council will also obtain an independent valuation of this parcel of land and it is estimated the value of this land without planning permission to develop is to be in the region of only £480,000. The valuation will also take into account potential development value.
- 5.4 The College has requested a loan of £3.5 million from the Council, to be drawn down on the 1<sup>st</sup> September 2019 at the earliest, which will enable the completion of the building by September 2020 deadline. The College proposes that the loan should be secured by a legal charge on the eight acres of land to the east of the campus which it intends to sell and that they will repay the loan on completion of the sale of this land. The College estimates that they will be able to repay the loan within three years.

### 6. Proposal(s)

- 6.1 It is proposed that:
  - (1) A loan facility is to be made available to Newbury College for £3.5 million under a facility agreement.
  - (2) The loan should be secured by the Council securing a first legal charge on the parcel of land to the east of the college campus which is planned for disposal by the college.
  - (3) Interest will be charged at a rate to be determined by the Head of Finance and Property, taking into account the estimated rate at which

the Council would expect to invest its surplus funds for a period of longer than one year and/or with a markup required to satisfy State Aid if applicable.

- (4) The timing of interest payments will also be agreed with the College by the Head of Finance and Property with a view to avoiding any negative impact on the Council's cashflow position.
- (5) All other terms and conditions of the loan to be agreed by the Head of Finance and Policy in consultation with the Head of Legal & Strategic Support.

## **7. Conclusion**

- 7.1 The aim of this arrangement is to enable Newbury College to proceed with development of a University Centre which will be of considerable benefit to the local economy while protecting the Council's financial interests.

## **8. Appendices**

- 8.1 Appendix A – Data Protection Impact Assessment
- 8.2 Appendix B – Equalities Impact Assessment
- 8.3 Appendix C – Part II Confidential background information
- 8.4 Appendix D – Details of Aims and Benefits of the Project set out by the Principal of Newbury College

## Appendix A

### Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via [dp@westberks.gov.uk](mailto:dp@westberks.gov.uk)

Directorate:	Resources
Service:	Finance & Property
Team:	Accountancy
Lead Officer:	Andy Walker
Title of Project/System:	Newbury College Loan
Date of Assessment:	27.6.19

**Do you need to do a Data Protection Impact Assessment (DPIA)?**

	Yes	No
<b>Will you be processing SENSITIVE or “special category” personal data?</b>  Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”	<input type="checkbox"/>	<b>X</b>
<b>Will you be processing data on a large scale?</b>  Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both	<input type="checkbox"/>	<b>X</b>
<b>Will your project or system have a “social media” dimension?</b>  Note – will it have an interactive element which allows users to communicate directly with one another?	<input type="checkbox"/>	<b>X</b>
<b>Will any decisions be automated?</b>  Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?	<input type="checkbox"/>	<b>X</b>
<b>Will your project/system involve CCTV or monitoring of an area accessible to the public?</b>	<input type="checkbox"/>	<b>X</b>
<b>Will you be using the data you collect to match or cross-reference against another existing set of data?</b>	<input type="checkbox"/>	<b>X</b>
<b>Will you be using any novel, or technologically advanced systems or processes?</b>  Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised	<input type="checkbox"/>	<b>X</b>

**If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.**

## Appendix B

### Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:**
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:**
    - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
    - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?



Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

<b>What is the proposed decision that you are asking the Executive to make:</b>	Approval of loan in principle
<b>Summary of relevant legislation:</b>	N/a
<b>Does the proposed decision conflict with any of the Council's key strategy priorities?</b>	No
<b>Name of assessor:</b>	Andy Walker
<b>Date of assessment:</b>	27.6.19

<b>Is this a:</b>		<b>Is this:</b>	
<b>Policy</b>	<b>No</b>	<b>New or proposed</b>	<b>No</b>
<b>Strategy</b>	<b>No</b>	<b>Already exists and is being reviewed</b>	<b>No</b>
<b>Function</b>	<b>No</b>	<b>Is changing</b>	<b>No</b>
<b>Service</b>	<b>No</b>		

<b>1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?</b>	
<b>Aims:</b>	Provide funding
<b>Objectives:</b>	As above
<b>Outcomes:</b>	As above
<b>Benefits:</b>	As above

<b>2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.</b> (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
<b>Group Affected</b>	<b>What might be the effect?</b>	<b>Information to support this</b>
Age	Members of all these groups could potentially benefit from the new University Centre at Newbury College	Within Newbury College's equalities policies and business case for the University Centre
Disability		
Gender Reassignment		
Marriage and Civil		

Partnership		
Pregnancy and Maternity		
Race		
Religion or Belief		
Sex		
Sexual Orientation		
<b>Further Comments relating to the item:</b>		
N/a		

<b>3 Result</b>	
<b>Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?</b>	<b>No</b>
Please provide an explanation for your answer:	
<b>Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?</b>	<b>No</b>
Please provide an explanation for your answer:	

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

<b>4 Identify next steps as appropriate:</b>	
<b>Stage Two required</b>	
<b>Owner of Stage Two assessment:</b>	
<b>Timescale for Stage Two assessment:</b>	

Name: Andy Walker

Date: 27.6.19

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) ([rachel.craggs@westberks.gov.uk](mailto:rachel.craggs@westberks.gov.uk)), for publication on the WBC website.