

**Leader's Key Decision Form**

REF NO

2267

**Department**

Development

**Subject**

Skills Hub

**Decision**

This is a Key Decision taken by the Leader of the Council.

Subject to call-in: ~~Yes~~ No.

Total value of decision: £0.175m (plus potential exposure of up to £2.650m)

Revenue or Capital: Capital

Decision taken

1) To support the development and submission of a business case for a new Skills Hub situated on the Broadmarsh East site. This will require NCC to commit to providing a long-term loan to Central College and New College Nottingham of up to £10m and a short-term loan to cover cashflow before capital receipts (currently estimated at £5m), subject to:

- The colleges maximising their capital receipts from site disposals
- A minimised cost for the Skills Hub, based upon a realistic floor space and benchmarked costing
- Other sources of funding being unavailable
- Sufficient confidence about the colleges being able to repay the borrowing and agreement of appropriate security for the loan
- The colleges agreeing appropriate procedures to accept the LEP funding and govern the Skills Hub development

(entering into the loan will be subject to a further Executive decision once the scheme is fully developed)

2) To accept the risk of potential clawback for LEP funding to the colleges, to the extent of the value of betterment on the Broadmarsh East site if the overall scheme does not go ahead (maximum exposure equal to £1.9m) and delegating the agreement of clawback terms to the Corporate Director of Development.

3) To provide a bridging loan of up to £0.750m to cover project management, site survey fees and any enabling works the colleges need to undertake, to be repaid when the Local Enterprise Partnership (LEP) funds can be drawn down (expected no later than December 2015), subject to:

- A letter of comfort from the LEP guaranteeing repayment once the revised business case is approved

- The Colleges guaranteeing the loan if the LEP funding isn't made available
- Terms (including the comfort letter and loan documents) agreed by the Corporate Director of Resilience.

4) To approve expenditure up to £175k to meet NCC costs associated with the project (including minor demolition costs, financial evaluations and internal staff time), to be included in the overall scheme costs and recovered through the interest charges to the Colleges (described in recommendation i) above), should the scheme proceed.

5) To appropriate the land within the red line boundaries presented in Appendix A, for planning purposes under Section 122 of the Local Government Act 1972.

**Other Options Considered**

(with reasons for rejecting options not favoured)

*Do not support the scheme*

Without the support of NCC, then the scheme will not proceed.

*To approve all funding at this stage*

This is felt to expose the Council to far greater risk without corresponding benefits.

*Await implementation of the FE commissioners review before committing to the scheme*

There would be a significant delay to commencement of the project and this would create major problems in accessing LEP funding for the colleges. This option is felt to significantly increase the risk that the scheme would not proceed.

*Not to appropriate the land for planning purposes*

This option was rejected as the land must have been acquired or appropriated for planning purposes in order to pursue extinguishment of public rights of way in relation to existing highway on site by utilising Section 251 of the Town and Country Planning Act 1990 (Section 251 TCPA). Stopping up of the highway is necessary to facilitate future redevelopment of the site. It should be noted that other statutory mechanisms exist to extinguish public rights of way and that each of these has been carefully considered in terms of risk, after which an internal decision to pursue Section 251 was taken.

**Reasons for Decision(s)**

Continuing our support for the Skills Hub is a requirement to secure up to £30m designated from the LEP for this development, with a total cost of approximately £60m. The Council's support and commitment to the overall bid is necessary to secure the funding. Final approval to make the full loan is deferred until later in the process, until the design, costs and governance of the development are more certain.

The LEP is proposing to advance the scheme funding to carry out site enabling works and to progress design through to the main construction procurement stage (usually the LEP do not fund until after

this stage is reached). They require clawback should the scheme not proceed and we have negotiated NCC exposure down to the extent of costs incurred on works that enhance the value of the land we own. The maximum cost is forecast as £1.9m.

The bridging loan is recommended, if required, to allow sufficient work to enable the LEP funding to be accessed and any critical path work to proceed. This will allow the project to proceed, while minimising the risk exposure to the Council through a combination of assurances and guarantees from the colleges and the LEP.

There are some NCC specific costs that will need to be incurred that have not been agreed as being directly within the scope of the project (such as internal project management costs, costs of valuation for sites, planning application fees for the road and financial viability of the colleges to afford the loan repayment from NCC). It is proposed that these costs are covered as part of the overall loan repayments, through the differential between NCC's cost of borrowing and the charge to the colleges.

Appropriating the land within the site for planning purposes will allow the commencement of processes (including consultation) to extinguish public rights of way over the existing roads on the site. It is proposed that a replacement road will be provided on the site. The land was acquired in a piecemeal manner and appropriating in this manner is consistent with formalising the Council's intention to use for strategic development purposes.

**Affected Wards**

Bridge

**Advice Sought**

	Yes	No
Legal	✓	<input type="checkbox"/>
Finance	✓	<input type="checkbox"/>
Human Resources	<input type="checkbox"/>	✓
Equality & Community Relations Team	<input type="checkbox"/>	✓
Procurement	<input type="checkbox"/>	✓
Other – Chief Officers Group	✓	<input type="checkbox"/>

**Finance Observations – Kamala Atwal (Finance Analyst) 27/11/15**

**Capital Expenditure**

The Skills Hub scheme requires a £60m investment currently comprising the following elements:

Element	£/m <sup>2</sup>	Cost
Enabling works	32	£650,000
Substructure	135	£3,149,950
Superstructure	662	£13,497,900
Finishes	127	£2,582,550
Fittings and Equipment	30	£681,100
M&E Services	542	£11,036,100
External Works	66	£1,850,794
<b>SUB-TOTAL</b>	<b>1,594</b>	<b>£33,448,394</b>
<b>Preliminaries</b>	<b>175</b>	<b>£3,570,700</b>
<b>Oncosts:</b>		
Contingency	106	£2,155,825
Equipment	95	£1,935,150
Professional Fees	225	£3,608,256
Decant	17	£341,350
Inflation	243	£4,940,325
VAT	491	£10,000,000
<b>SUB-TOTAL</b>	<b>1,352</b>	<b>£26,551,606</b>
<b>GRAND TOTAL</b>	<b>2,946</b>	<b>£60,000,000</b>

The investment value is based on calculations made by external agents and both of the Colleges and was endorsed by the Major Programmes Team. The full value of the investment made by NCC is subject to a separate decision.

### Capital Finance

The scheme will be managed by the Colleges, the Local Growth Fund will be paid to the Colleges and College reserves and capital receipts will be required to deliver the scheme. Gap funding in the form of a loan from NCC is required, current modelling makes this to be £10m. This is the maximum value that the City Council is prepared to loan to the capital scheme in the long-term. There is expected to be an additional requirement in the short-term to cover a period whilst other college buildings are being sold, currently estimated at £5m. Any such loan will be dependent upon a due diligence exercise to ensure that the repayment of such a loan is affordable to the Colleges. The expected long-term funding of the scheme is summarised below:

Source	Investment Value (£m)
Local Growth Fund	30.0
NCN and Central College reserves and capital receipts (disposal of current estates)	20.0

NCC (to fund the pre-construction and construction works i.e. supporting cash flows and to also include £175k upfront payment for preliminary costs)	10.0
<b>Total</b>	<b>60.0</b>

The scheme requires NCC to directly cover the preliminary costs of £175k in order to progress. These costs will be recovered through the charges made to the Colleges over the life of the investment should the scheme progress.

The scheme may also require a bridging loan of £750k from NCC to cover the colleges initial design and enabling costs if there is any delay to the award of the LEP funding. This will be recovered from the LEP and NCC will only provide this cash flow support subject to a letter of comfort from the LEP.

If the scheme is approved and goes ahead, no funding is required from NCC in relation to the land. If the scheme doesn't go ahead any expenditure relating to betterment of the land (eg surveys we could use, diversion of utilities and building a road) will be subject to claw back from NCC by the LEP. The total cost of this is projected at £1.9m and would be the maximum exposure for the Council.

The maximum long term secured loan that NCC will make available to this scheme is £10m and will be at a commercially competitive rate.

### **Financial Risks**

- 1) Risk on betterment, NCC end up with land with a lower value or NCC are unable to develop the land speedily. The value of the betterment, up to £1.9m, will be taken from NCC reserves. If the scheme does not proceed NCC will need to review its capital programme to assess this impact.
- 2) The bridging loan of £750k is intended to be a short term loan which may potentially not be required by the scheme. If the scheme does require the loan which will be taken from NCC reserves, it is to be used for preliminary scheme works such as site surveys, enabling works etc. and will be managed via the in year cash flows (LEP draw down). If the scheme doesn't go ahead and there has been betterment of the land the proportion of the £750k bridging loan used for betterment of land will have to be met by NCC reserves.
- 3) If the scheme doesn't continue NCC incurs a revenue loss of £175k used for preliminary works which can't be recovered and will have to be met by NCC reserves.
- 4) Capital receipts may not be of anticipated value and therefore may put pressure on NCC to increase loan to protect investment

already made. This will be mitigated by effective scheme management by NCC as a key partner in the schemes development.

- 5) Cost of scheme increases and NCC has pressure to fund the shortfall to prevent scheme being at risk. This will be mitigated by effective scheme management by NCC as a key partner in the schemes development.
- 6) Schemes potential inability to repay the loan at any point over the term of investment. This is mitigated by NCC requesting some form of security such as the college's capital assets and or the skills hub site.

**Legal Observations – Andrew James (Team Leader Contracts and Commercial) & Rebecca Beecroft (Team Leder Conveyancing Team) 23/11/15**

The £10m loan is the subject of a further report following a due diligence exercise which will address the ability of the colleges to repay and the adequacy of any security. A loan agreement will be prepared. It is anticipated that the colleges will merge to form a new college otherwise the colleges would both have to sign the loan. To ensure the loan is not state aid the interest rate and other terms need to be set at a level which is commensurate with the market.

The City Council must manage the risk of clawback of LEP funding by putting in place a contract with the entity which will act as the accountable body for the LEP (this is Derbyshire County Council as the LEP has no legal capacity to contract). The contract will set out the circumstances for clawback and the mechanism for calculating the amount to be repaid.

The bridging loan needs also to be set at a rate which complies with market rates. It will be necessary to consider the capability of the colleges to repay the loan – this may include consideration of whether the City Council should take some form of security for the loan.

**Details of Consultations undertaken**

	Yes	No	Name and Date
Portfolio Holder	✓	<input type="checkbox"/>	Cllr McDonald 22/10/15
Ward Councillors	<input type="checkbox"/>	<input type="checkbox"/>	_____
Area Committee	<input type="checkbox"/>	✓	_____
Other Council Bodies	<input type="checkbox"/>	✓	_____
Corp. Directors Affected	<input type="checkbox"/>	✓	_____
Trades Unions	<input type="checkbox"/>	✓	_____
Minority Group	<input type="checkbox"/>	✓	_____
Others (Specify)	✓	<input type="checkbox"/>	College Principals 10/6/15 & 14/7/15
<b>Reasons for not consulting</b>			
Those not consulted are not directly affected by the outcome.			

## Consultation Outcomes

The views of those consulted have been fed into this paper.

## Background to the decision

The construction of the Skills Hub is an educational and regeneration priority for the City Council has been earmarked for a £30m grant in the 2014 Growth Deal. It is based on a joint proposition by Central College and NCN, with the City Council acting as the original proposer for the Growth Deal. The development cost is anticipated to be in the region of £60m and allow the development of a new custom built facility of 20,000-25,000m<sup>2</sup> on the land to the east of Broadmarsh Centre. This will assist the colleges a combined base of operations in the heart of the city centre and allow for improvement of educational standards in Nottingham through replacement of outdated and inefficient estate and complements the review of curriculum forming part of the wider Further Education review.

In November 2014, the project was put on hold as a result of financial issues at NCN's Basford Hall site. These have now been resolved (in part due to a £5m loan from NCC and a £10m Skills Funding Agency grant) and all parties have re-committed to the project, with a revised timetable targeting a September 2018 opening. The LEP has confirmed that its grant is available for the project over the longer period (2015/16 to 2017/18) with £5m available to fund pre-construction costs in 2015/16. This was presented to the D2N2 Infrastructure Investment Board in August, with responses to some residual questions provided in late November.

In addition, the Skills Hub development must now be seen in the context of an area-based review (the first of its kind in England) led by the FE Commissioner and involving NCC as a key local stakeholder. This review was finalised in July 2015 and supported the merger of the colleges, with a single curriculum and the establishment of the Skills Hub as part of an estates review.

Findings from the Area-Based Review are very helpful and give us significantly more confidence that the Skills Hub is deliverable and affordable.

### *Key Risks and Mitigation*

The following represent the key risks associated with the project and the mitigation approach from the Council's perspective:

Cash flow associated with the project – the vast majority of the colleges' contribution is from capital receipts and the timing of these cannot be guaranteed in advance; there may be a need to fund in the medium-term an amount in excess of £10m until all capital receipts can be realised. The expected impact will be estimated once the overall scheme is more fully developed and in advance of the Council entering into any loan agreement, although initial estimates suggest a one-year requirement for an additional £5m.

Recommendations from area based review not applied – through the conditions of the proposed loan the Council can support shaping the Further Education sector; as the ultimate commitment to the loan is deferred to later in the process. If the overall scheme changes significantly as it progresses, then the Council can consider the impact of this when deciding to fund the overall scheme.

Governance – for the project to succeed, this requires a true partnership approach between the colleges. Ensuring all relevant stakeholders are actively involved in decisions will be integral to ensuring buy-in with the final scheme and minimising the risk of disputes leading to delay or changes to the development.

The scheme was subject to an internal review via the Chief Officers Group. Their recommendations and the steps taken to date as a result of those recommendations are presented as within the Exempt Appendices B & C.

*Highway issues and land appropriation*

There are two highways which cross the site, namely Popham Street and Maltmill Lane. Popham Street is used primarily for access for residents linking Cliff Road and Canal Street. Maltmill Lane was a cul-de-sac providing access for commercial units that have been demolished.

In order for the development to progress, the highways must be permanently stopped up. The Council intends to pursue this by utilising Section 251 TCPA, which requires an application to the Secretary of State, who must be satisfied that (a) an alternative right of way has been or will be provided; or (b) that the provision of an alternative right of way is not required. It is intended that Popham Street will be replaced with a new road on the east side of the development. Section 251 TCPA also requires that the land over which the highway runs must first be appropriated for planning purposes. The Council has power to do this under Section 122 of the Local Government Act 1972.

In order to appropriate the land without further legal implication or additional requirements the following tests need to be met:

- i) *The Council would have power to acquire land by agreement for the same purposes.* The Council has powers under sections 226 and 227 of the Town and Country Planning Act to acquire land compulsorily or by agreement provided it will facilitate the carrying out of development or re-development that will promote or improve the economic, social or environmental well-being of the area. The City Council holds the freehold to the whole site, although there are three existing leases that are a combination of short-term or in the process of being terminated.



ii) *The land is no longer required for its current use. The land has been assembled over a period of time and was previously intended to be used for the expansion of the Broadmarsh Shopping Centre . However, the current proposals for the redevelopment of the Broadmarsh do not extend to this land so it is surplus to that requirement. A section in the north-east of the site shown crossed hatched on the plan at Appendix A warrants particular mention. It was acquired for the Broadmarsh redevelopment and the terrace of houses (10-24 Cliff Road) which stood on it were demolished. Notwithstanding, the land continues to be held by the Council for housing purposes and as a temporary measure it was grassed over pending redevelopment. The Housing Partnership and Development Manager has confirmed that that land is no longer required for housing purposes.*

iii) *The land is not a "common" or "open space". "Common" and "open space" are statutorily defined, and none of the site constitutes "common". Whilst the majority of the site does not constitute "open space" the cross hatched land on Appendix A could potentially do so. This is because the statutory definition of "open space" encompasses any land which is used for the purpose of public recreation, as well as land laid out as a public garden or which is a disused burial ground. As the public may have used the grassed area for recreation even though the land was not laid out as such or held by the Council for that purpose, as a precautionary measure the Council fulfilled the additional requirements relating to the appropriation of open space land. A notice was placed in the Post Lite on the 23<sup>rd</sup> & 30<sup>th</sup> September 2015 expressing the Council's intention to appropriate the land and inviting objections to be submitted to the Council by 5<sup>th</sup> October 2015. No objections have been received.*

It is the report author's view that each of the points at i)- iii) above is satisfied and that the appropriation to which paragraph 5 of the decision refers may be made. Specific legal advice supporting this approach is contained within exempt Appendix D.

**Declared colleague/  
Councillor Interests**

None

**Dispensation by  
Standards Committee**

Date:

Dispensation Reference:

**Equalities**

Has the equality impact of the decision been assessed?

NO

YES – equality impact assessment attached

**Social Value Implications**

None

**Crime and Disorder Implications**  
**Published Documents**

None

None

**Background Papers**

None

**Exempt/Confidential report**

Appendices B and C to this report is exempt from publication under paragraph number 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to information relating to the financial or business affairs of any particular person (including the authority holding that information) and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.


It is not in the public interest to disclose this information because it includes initial advice used to form a negotiating position on risk and financial exposure for the Council as part of this deal and this position would be weakened by such disclosure at this point in time.


Appendix D to this report is exempt from publication under paragraph number 5 of Schedule 12A to the Local Government Act 1972 because it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

It is not in the public interest to disclose this information because this maintains the confidentiality of the legal advice.

**Contact Person**

Paul Clarke Programme Manager Major Programmes	Contact No. 63579 Email paul.clarke@nottinghamcity.gov.uk
--	---

Corporate Director or authorised colleague (Print name)	David Bishop	Date:	1-12-15
Signature			

Leader of the Council	Councillor Jon Collins	Date:	4/12/15
Signature			

Date Published: 04/12/15	Last Date for Call-in: N/A
--------------------------	----------------------------

# APPENDIX A



- All site area boundary (also with the site) at 1/20000
- All site area boundary (also with the site) at 1/20000
- All site area boundary (also with the site) at 1/20000

THE RIGHTS HUBS HOUSING PLAN  
 General College Neighbourhood  
 Project: [unclear]  
 Site Plan  
 Red Line Boundary - Development  
 Version 001

PRELIMINARY			
NO.	DATE	BY	FOR
01	10/15/11	[unclear]	CONCEPT
02	11/15/11	[unclear]	CONCEPT
03	12/15/11	[unclear]	CONCEPT
04	01/15/12	[unclear]	CONCEPT
05	02/15/12	[unclear]	CONCEPT
06	03/15/12	[unclear]	CONCEPT
07	04/15/12	[unclear]	CONCEPT
08	05/15/12	[unclear]	CONCEPT
09	06/15/12	[unclear]	CONCEPT
10	07/15/12	[unclear]	CONCEPT
11	08/15/12	[unclear]	CONCEPT
12	09/15/12	[unclear]	CONCEPT
13	10/15/12	[unclear]	CONCEPT
14	11/15/12	[unclear]	CONCEPT
15	12/15/12	[unclear]	CONCEPT
16	01/15/13	[unclear]	CONCEPT
17	02/15/13	[unclear]	CONCEPT
18	03/15/13	[unclear]	CONCEPT
19	04/15/13	[unclear]	CONCEPT
20	05/15/13	[unclear]	CONCEPT
21	06/15/13	[unclear]	CONCEPT
22	07/15/13	[unclear]	CONCEPT
23	08/15/13	[unclear]	CONCEPT
24	09/15/13	[unclear]	CONCEPT
25	10/15/13	[unclear]	CONCEPT
26	11/15/13	[unclear]	CONCEPT
27	12/15/13	[unclear]	CONCEPT
28	01/15/14	[unclear]	CONCEPT
29	02/15/14	[unclear]	CONCEPT
30	03/15/14	[unclear]	CONCEPT
31	04/15/14	[unclear]	CONCEPT
32	05/15/14	[unclear]	CONCEPT
33	06/15/14	[unclear]	CONCEPT
34	07/15/14	[unclear]	CONCEPT
35	08/15/14	[unclear]	CONCEPT
36	09/15/14	[unclear]	CONCEPT
37	10/15/14	[unclear]	CONCEPT
38	11/15/14	[unclear]	CONCEPT
39	12/15/14	[unclear]	CONCEPT
40	01/15/15	[unclear]	CONCEPT
41	02/15/15	[unclear]	CONCEPT
42	03/15/15	[unclear]	CONCEPT
43	04/15/15	[unclear]	CONCEPT
44	05/15/15	[unclear]	CONCEPT
45	06/15/15	[unclear]	CONCEPT
46	07/15/15	[unclear]	CONCEPT
47	08/15/15	[unclear]	CONCEPT
48	09/15/15	[unclear]	CONCEPT
49	10/15/15	[unclear]	CONCEPT
50	11/15/15	[unclear]	CONCEPT
51	12/15/15	[unclear]	CONCEPT
52	01/15/16	[unclear]	CONCEPT
53	02/15/16	[unclear]	CONCEPT
54	03/15/16	[unclear]	CONCEPT
55	04/15/16	[unclear]	CONCEPT
56	05/15/16	[unclear]	CONCEPT
57	06/15/16	[unclear]	CONCEPT
58	07/15/16	[unclear]	CONCEPT
59	08/15/16	[unclear]	CONCEPT
60	09/15/16	[unclear]	CONCEPT
61	10/15/16	[unclear]	CONCEPT
62	11/15/16	[unclear]	CONCEPT
63	12/15/16	[unclear]	CONCEPT
64	01/15/17	[unclear]	CONCEPT
65	02/15/17	[unclear]	CONCEPT
66	03/15/17	[unclear]	CONCEPT
67	04/15/17	[unclear]	CONCEPT
68	05/15/17	[unclear]	CONCEPT
69	06/15/17	[unclear]	CONCEPT
70	07/15/17	[unclear]	CONCEPT
71	08/15/17	[unclear]	CONCEPT
72	09/15/17	[unclear]	CONCEPT
73	10/15/17	[unclear]	CONCEPT
74	11/15/17	[unclear]	CONCEPT
75	12/15/17	[unclear]	CONCEPT
76	01/15/18	[unclear]	CONCEPT
77	02/15/18	[unclear]	CONCEPT
78	03/15/18	[unclear]	CONCEPT
79	04/15/18	[unclear]	CONCEPT
80	05/15/18	[unclear]	CONCEPT
81	06/15/18	[unclear]	CONCEPT
82	07/15/18	[unclear]	CONCEPT
83	08/15/18	[unclear]	CONCEPT
84	09/15/18	[unclear]	CONCEPT
85	10/15/18	[unclear]	CONCEPT
86	11/15/18	[unclear]	CONCEPT
87	12/15/18	[unclear]	CONCEPT
88	01/15/19	[unclear]	CONCEPT
89	02/15/19	[unclear]	CONCEPT
90	03/15/19	[unclear]	CONCEPT
91	04/15/19	[unclear]	CONCEPT
92	05/15/19	[unclear]	CONCEPT
93	06/15/19	[unclear]	CONCEPT
94	07/15/19	[unclear]	CONCEPT
95	08/15/19	[unclear]	CONCEPT
96	09/15/19	[unclear]	CONCEPT
97	10/15/19	[unclear]	CONCEPT
98	11/15/19	[unclear]	CONCEPT
99	12/15/19	[unclear]	CONCEPT
100	01/15/20	[unclear]	CONCEPT

