

Body: Cabinet

Date: 14th September 2016

Subject: Housing & Economic Development Partnership (HEDP)
Delivery Programme

Report Of: Ian Fitzpatrick, Director of Service Delivery

Ward(s): All

Purpose: This report provides an up-date on, and sets out plans for the Devonshire Collective Creative Hub Cluster project as part of the Driving Devonshire Forward programme.

Decision Type: Key Decision

Recommendation:

1. Note progress of the Creative Hub Cluster.
2. Agree to ESCC external funder conditions set out in Paragraph 5.6 of the Report and confirm that associated grant be spent on the Councils' buildings ahead of being leased to a new Community Interest Company (CIC) for use as a Creative Hub Cluster.
3. Agree that Council officers facilitate the establishment of a CIC as set out in the report
4. Agree the initial members of an independent CIC; Devonshire Collective. These are to be; Chair of Devonshire West Big Local Board ,EBC Director of Tourism and Enterprise and EHL Senior Programme Manager DDF
5. Agree a waiver of the Contract Procedure Rules to allow the award of up to 15 year leases to the new Community Interest Company, Devonshire Collective, for 67-69 Seaside Road and 1-5 Seaside commercial spaces without a competitive process for the reasons set out in paragraph 5.5 of the report.
6. Delegate authority to the Director of Tourism and Enterprise in consultation with the Cabinet Portfolio Holder for Tourism to take all necessary steps to complete the lease arrangements with the CIC as outlined in paragraphs 5.2 and 5.3 of this report.

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1.0 Introduction

1.1 The Driving Devonshire Forward (DDF) programme has been running for just over 2 years. It aims to improve the Devonshire Ward through a range of initiatives including:

- New build housing
- The acquisition and refurbishment of priority empty buildings
- Public realm investment funded by external grants and via the housing investment programme
- EBC investment in new tourist facilities – beach huts.

The project is an example of neighbourhood level community led regeneration; it is strategically co-ordinated by the DDF Steering Group which includes Ward members, residents, members of the local business community and other key stakeholders such as the University of Brighton and Devonshire West Big Local. (DWBL)

1.2 First phase delivery has focused on the town centre end of the Ward to improve the secondary shopping area and encourage better links to the sea front and main tourist areas.

There has also been significant investment into Princes Park to meet priority objectives set out in the 2012 Development Plan; refurbish café and provide new entrance.

In total more than £6m of investment has so far been delivered in the Ward with key highlights as follows:

- £1.83m of Coastal Communities Fund (CCF) grant secured for job creation and investment into Princes Park and Sea Houses Square
- The acquisition and refurbishment of 3 x main priority properties: 1-5 Seaside, 67-69 Seaside Road and 137 – 139 Seaside Road.
- New build schemes at Coventry Court and Longstone Road
- A CCF funded facelift programme to the Elms Parade of 30 properties on Seaside Road
- Installation of 20 traditional beach huts near Fort Fun and a design competition for 5 iconic huts to be installed in the new year
- 115 people have gained or been supported into jobs through the CCF Funded Tech Resort and Building Partnerships projects

1.3 The next phase of DDF work has four priorities:

- To continue improvements to the Seaside Road retail area
- To secure funding for the next phase of improvements to Princes Park to meet remaining Development Plan objectives: main project new concrete edge beam to lake
- Further housing developments to target remaining priority buildings and help bring forward key strategic sites
- To support and develop the local economy to create further jobs and provide stimulus to emerging sectors such as the creative arts.

1.4 The Creative Arts sector is an increasingly important part of the local economy. A recent Geography of Creativity study named Eastbourne as one of 47 towns nationally with a high concentration of companies in this sector. Our own research has supported this finding but also highlighted that a lack of the right workshop and gallery space is inhibiting this growth.

This report recommends that the Council facilitate the set-up of a new Community Interest Company (CIC), the Devonshire Collective, to support creative enterprises in the Ward through the establishment of a creative hub.

1.5 Creative hubs are an established business model across the country allowing small creative enterprises access to space and organisational support they could not otherwise afford.

The Devonshire Collective is different in that it aims to deliver the 'hub' across several locations in close proximity to each other at the Town Centre end of the Ward.

1.6 The aims of the hub are to:

- Make best use of the 3 x commercial spaces the Council and Eastbourne Housing Investment Company (EHIC) have acquired through the housing investment programmes
- Ensure we meet CCF grant requirements for the refurbishment of the 2 x EBC commercial spaces and for new business start ups
- Help other community and EBC buildings in the area to diversify their offer by providing associated facilities e.g. exhibition space at the Hippodrome
- Stimulate and help change the local Ward level economy
- Provide an all year round offer
- Fill empty commercial units
- Provide a focus for the arts and cultural industries
- Enhance the character of the area
- Attract local residents and visitors to this part of Eastbourne

- 1.7 Through the DDF programme, and CCF grant, the Council has the opportunity to act as the initial facilitator for the project and to help establish a new independent not for profit CIC to run the Devonshire collective on terms that should help ensure its future sustainability.

A mixed offer is planned across a number of buildings with the 3 priority properties providing the main focus:

- 1 67-69 Seaside Road: Gallery space and café. EBC
- 2 1-5 Seaside: Workshops. EBC
- 3 137- 139 Seaside Road: Maker spaces and studios. EHIC

In addition to the 3 main buildings the offer will extend to Hippodrome; office space, exhibitions, events and Leaf Hall; contemporary dance, pilates, events.

EHIC acquired 137-139 Seaside Road in November 2015. Operational decisions relating directly to this property e.g. capital improvements, lease, rent, are EHIC's Board responsibility. Details given in this paper regarding 137- 139 Seaside Rd are for context only.

- 1.8 Over the first 3 years the project will generate the following business start up and job outcomes:

- Support the start up of 5 new businesses in the maker and studio space
- Creation of a Community Interest Company (CIC)
- 3 new jobs in the C.I.C.
- Accommodate 17 new enterprises, including ceramicists and printmaking
- Support 22 people into employment

2.0 Progress

- 2.1 In March 2016 Cabinet were provided with a report summarising initial feasibility work and providing an outline of the plans to establish the CIC in the Autumn subject to sufficient funding being secured.

Since Cabinet in March key progress has been:

- £193,300 of additional external funding secured (DWBL £80,000 ESCC £93,300 and Arts Council £20,000)
- Interim Project Sponsors Board established
- Planning approval for change of use for the three commercial spaces; from retail to Sui Generis.
- Work on branding, marketing, PR , social media, all underway
- First tenants identified e.g. printers and ceramicists
- Outline launch programme for Sept 2016 – Jan 2017 agreed
- Legal advice on the formation of the CIC via external lawyers (Gaby Hardwicke)

3.0 Financial

- 3.1 With the additional external funding now secured the total capital budget, for the 2 x EBC buildings, is £227,535. This is sufficient to enable the initial launch of a high quality offer in the two commercial spaces that will significantly enhance the area.

A paper is scheduled to be presented to the EHIC Board 137-139 Seaside Road in September in relation to the associated fit out and letting of 137-139 Seaside Road as the third venue.

- 3.2 In addition to securing the capital funding B&R's role, as specialist project managers, has also been to develop the operational arrangements for the Devonshire Collective and to ensure it can be run on an independent and sustainable basis.

Part of the additional funding secured is supporting pre and post launch revenue costs. This includes funding from DWBL, the Arts Council for the launch programme and CCF revenue underspend re-allocated as the project will deliver required CCF outcomes.

- 3.3 We have reviewed in detail the 3 year revenue budget for the CIC and are happy that these are realistic and robust. The revenue forecast for the CIC indicates a deficit in Year 1 offset by surpluses in Year 2 & 3 with the additional funding now confirmed. The Collective will be fully self-financing and non grant reliant from Year 4.

The revenue assumptions incorporate the commercial rental expectations for 137-139 Seaside Road and the subsidised rents for the other commercial spaces as assumed in the CCF bid.

- 3.4 The external full commercial rental valuations for 67/69 Seaside Road and 1-5 Seaside were £8,250 per annum and £6,000 per annum respectively. For the CIC rent discounts of 35% for 67/69 and 28% for 1-5 Seaside are assumed alongside an initial 6 months rent free term.

The rent discounts take into account the CCF grant and the expectation that the premises would be used to support business start ups and community use. They have been calculated by adjusting the original development appraisal for the acquisition of the buildings to take into account the new capital grants now secured and to ensure original NPV expectations are maintained.

The Business case for these subsidies is set out in Section 5 below.

The rent for 137-139 Seaside Road is at full commercial value in line with the Business Case approved by Cabinet before acquisition.

4.0 Governance

4.1 A Community Interest Company (CIC) is a company designed for social enterprises that want to use their profits and assets for the public good. They are intended to be easy to set up, with all the flexibility and certainty of the company form, have primarily social objectives, where surpluses are reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners.

4.2 The interim sponsors board is established and has been supporting and directing the project since March. The intention is that the interim board initially make up the board of the new CIC, based on nominated post holders as below:

- DWBL Chair
- EBC Director of Tourism & Enterprise
- EHL Senior Programme Manager DDF

4.3 Following legal advice (Gaby Hardwicke) and consideration by the interim board, the new CIC will be formed as a non- profit making CIC Limited by Guarantee with no share capital. The target date for incorporation is 30/09/16.

The Board's focus for the first 6 months to 31/03/17 will be to:

- Launch the Collective
- Ensure it is fully operational and is achieving income targets
- Recruit the CIC staff
- Recruit up to 3 more board members (not replacement members)
- Establish the collective as a sustainable model

4.4 In terms of ongoing governance the intention is that the CIC becomes wholly independent of EBC and operates to develop the creative offer in this part of the Town without Council support and without the Council being exposed to any future risk. The intention is that once the CIC is up and running the Council members of the Board will resign although EBC will have the option to review this if continued involvement is felt necessary.

4.5 The CIC will be supported by 3 sub-groups; finance, cultural and users' representation.

Recruitment of up to 3 more board members and members of the sub groups will be drawn from key stakeholders and partners; University of Brighton, Towner, local business, users, arts professionals and educationalists.

5.0 Legal Advice

- 5.1 Cabinet are asked to agree a waiver of the Contract Procedure Rules to allow the award of up to 15 year leases to the new Community Interest Company, Devonshire Collective, for 67-69 Seaside Road and 1-5 Seaside retail spaces without a competitive process and at a subsidised rental based on external valuation advice taking into account the primarily non commercial use.

The business case for the waiver is that the new CIC will deliver significant regeneration benefits to the area and also help ensure Coastal Communities Fund grant requirements for the creation of 8 direct and 110 indirect jobs are achieved.

This is also in line with the CCF grant application which assumed that the grant secured would enable the 2 x EBC commercial spaces to be let on flexible terms at a reduced rent to support start-up businesses.

- 5.2 The rent to the CIC will be at a discounted level as outlined in Section 3.4 and the consent of the Secretary of State will not be required where the Council considers that the leases will secure the promotion or improvement of the economic, social or environmental well-being of its area and the aggregate undervalue does not exceed £2m. Valuation advice has been taken and the undervalue is as set out in section 3.4.

- 5.3 The following heads of terms are suggested for lease between EBC and the new CIC in respect of the 2 x EBC commercial spaces: up to 15 year leases, an initial 6 month rent free period, break rights to be agreed between the parties, rent reviews, excluded from the security of tenure rights under the Landlord and Tenant Act 1954.

5.4 Contract Procedure Rules

The proposed arrangements will not create a works or services contract with the CIC and the Contract Procedure Rules will therefore not be engaged. This is because the Council is not seeking to impose any legally enforceable obligations on the CIC in relation to the provision of works or services.

5.5 Disposal of land

Subject to certain conditions, the Council has the power to dispose of its land in any manner it wishes and receive consideration for its land under Section 123 of the Local Government Act 1972. Disposal in this context includes granting a lease.

The Secretary of State's consent is needed if the Council receives less than the "best consideration that can reasonably be obtained" other than when granting a short tenancy and other than as referred to at paragraph 5.2. The Council is under a duty to achieve a particular outcome (best price reasonably obtainable).

It would be possible to meet this requirement via an external market valuation without an open tender process.

However, the Council's Contract Procedure Rules require that disposal of assets should be by way of competitive process or auction unless following consultation with the Finance Director, Cabinet agrees otherwise. As a general principle, Cabinet should only agree to waive these requirements if there are good and objectively demonstrable grounds for doing so.

In deciding to waive any requirement, Cabinet should have regard to its general fiduciary duty to its wider taxpayers and the duty to achieve best value from its procurement arrangements.

The proposal offers some distinct advantages to the Council, fits with the overall regeneration ambitions being delivered through DDF and justifies a waiver from the Contract Procedure Rules because it:

- Secures significant additional capital investment into the ward and will help make sure we can deliver the highest possible quality new facilities.
- Delivers on our CCF bid requirement to create start-up business space.
- Creates 3 new jobs and accommodates 17 enterprises
- Represents a commitment to the quality and growing cultural offer in the town.
- Enhances the opportunities and offer for local residents and visitors to Eastbourne.
- Creates 3 landmark/attractive buildings in the ward alongside training/skills/mentoring opportunities.

5.6 **ESCC Grant Conditions**

The conditions for the ESCC match funded grants are set out below.

ESI 4 £18,400

This grant is for specialist equipment e.g. kiln for ceramicists and printing presses. Key conditions are that the:

- Grant agreement is with the CIC, therefore use of the grant is subject to the prior formation of the Devonshire Collective CIC.
- CIC has signed a lease with EBC for a minimum term of 10 years.
- CIC creates 3 new jobs.

Upgrading Empty Commercial Property (UECP) £74,900.

The already secured CCF capital grant refurbishes the commercial spaces to a 'shell' finish. The UECP grant enhances the asset, ensures the spaces are at the right quality and ready to lease for start-up businesses.

Examples are:

- Design & install a wheelchair platform lift to the ground floor/basement 67-69 Seaside Rd
- Upgrade the electricity supply in 137-139 Seaside Road
- Kitchenette and vinyl floor finish in 1-5 Seaside.

Key conditions for UECP are:

- Grant agreement is offered to EBC
- Formation of the CIC with 10 year leases between Devonshire Collective and EBC/EHIC for the 3 commercial spaces

6.0 Consultation

6.1 Consultation with CMT has been ongoing. Member consultation has taken place with local ward members via the Driving Devonshire Forward steering group.

7.0 Key Risks

7.1 The key risks and mitigations are set out in the following table:

Ref	Risk	Mitigations
1	CIC fails	<p>Independent organisation no direct liability will rest with EBC if CIC fails.</p> <p>EBC accountable body for capital set up grants not ongoing funding or running of new organisation.</p> <p>Rent loss minimised as improvements to buildings will support re-let to other organisations and reduce void periods</p> <p>Representation of EBC, and other strategic partners, on CIC Board will provide operational oversight and compliance assurance</p>
2	Reputational risk if grants not secured and project doesn't launch	<p>External grant for capital works to the 2 x EBC buildings are secured and represent 100% of the expected works costs.</p> <p>Revenue grants have been confirmed from CCF, DWLB and the Arts Council</p>
3	Budget overspend	<p>EBC carries the risk of any capital overspend. Works to 1-5 Seaside and 67/69 Seaside Road have been tendered providing more certainty on budget. Capital works will be project managed by HEDP projects team who have</p>

		been responsible for similar CCF contracts Any overspend on the revenue budget will be the responsibility of the CIC
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8.0 Staffing and Resources

8.1 There are no staffing implications. Managing the contracts and lease terms can be absorbed within HEDP

Appendices: None

Background Papers: Devonshire Collective Business Case Report – January 2016

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