CABINET	AGENDA ITEM No. 5
24 FEBRUARY 2014	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Marco Cereste, Cabinet Member for Growth, Strategic Planning, Economic Development, Business Engagement and Environment Capital	
Contact Officer(s):	Simon Machen, Director of Growth and Regeneration	Tel. 453475

FUNDING PETERBOROUGH'S FUTURE GROWTH

R E C O M M E N D A T I O N S

FROM : Cllr Marco Cereste, Cabinet Member for Growth, Strategic Planning, Economic Development, Business Engagement and Environment Capital	**Deadline date :** 5 March 2014

In order to facilitate the establishment of a Peterborough investment Fund to bring forward development through £130M of external investment, Cabinet is recommended to **approve**:

(1) The business case for an investment joint venture at Appendix 1
(2) The establishment of a Joint Venture Company with a Fund regulated by a UK registered fund manager with a 50% equal shareholding for each party
(3) Investment of £3m funded from the existing capital programme, representing the value of the 50% shareholding in the joint venture company and match funded by the Fund
(4) Granting of Option Agreements in favour of the Fund on the sites listed within this report, and to be included in the asset disposal list to be agreed by Council as part of the Capital Strategy
(5) An Agreement for Lease with the Fund for the development of offices on Fletton Quays

Cabinet is asked to **recommend** to Council:

(6) Amendments to the Capital Strategy and Asset Management Plan as part of the Medium Term Financial Strategy to be approved by Council to include the revised capital programme, the sites listed in this report on the asset disposal list and the approach to granting Option Agreements
(7) Amendment to the Treasury Management Strategy as part of the Medium Term Financial Strategy to be approved by Council to allow the Council to elect to take the benefit of land transfers as units in the fund
(8) Amendment of the Constitution 'Appointments to external organisations' to include the joint venture company and the Fund within the 'key partnerships category' to enable the Leader to appoint members to
    a. the Board of the Joint Venture Company
    b. the Fund investment committee
    c. the Fund management board

Cabinet is recommended to **delegate** authority to the Director of Growth & Regeneration, in consultation with the Leader of the Council, the Director of Governance and Executive Director of Resources, to

(9) Agree the fund investment criteria, shareholders agreement and all other necessary documents to establish the joint venture company and the agreements with the Fund
(10) Authorise the creation of additional organisations such as limited companies, or limited liability partnerships (a council wholly owned company) to hold any dividend bearing units in the Fund
(11) Cabinet is further recommended to delegate authority to the Director of Governance, in consultation with the Executive Director of Resources, to agree the terms of the Agreement for Lease and to execute the transfers of land in response to the exercise of the Option Agreements by the Fund

1. ORIGIN OF REPORT

1.1 In December 2009 Cabinet agreed a report entitled 'Peterborough's Growth Delivery Arrangements' which included a series of proposals aimed at driving forward the city's growth agenda. This report includes detailed proposals for the delivery of growth and regeneration schemes in Peterborough and for the Council's involvement in those schemes.

2. PURPOSE AND REASON FOR REPORT

2.1 In summary, the purpose of this report is to seek Cabinet's approval to:

- establish a 50:50 joint venture company with a new Peterborough Investment Fund to prepare viable and consented development schemes for a series of sites

- participate in the governance of the Peterborough Investment Fund through representation on the Fund's Investment Committee and Management Board

- grant Option Agreements on the sites listed in section 4.3.3 of this report to the Peterborough Investment Fund

- Approve the future Council office consolidation plan described in this report and enter into an Agreement for Lease with the Peterborough Investment Fund for new administrative offices to be developed on Fletton Quays

- recommend to Council that the Treasury Management Strategy is amended to permit investments in Collective Investment Schemes to enable the Council to participate in the profits of the Peterborough Investment Fund, if it chooses to do so

2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.3, 3.2.4 and 3.2.7.

3. TIMESCALE AND URGENCY

3.1 The Council's urgency provisions have been invoked for this Cabinet report. This decision was included in the current Forward Plan on the 4 February 2014, which is less than 28 days prior to the decision being taken. Details of the proposed decision were placed upon the forward plan as soon as the business case for the scheme was considered viable. It is considered preferable to refer this matter to Cabinet on the 24 February so that this scheme can be referred to Council to be considered as part of the budget setting process for 2014/15. The Cabinet's recommendations for the budget to Council takes place on the 24 February 2014.

3.2 The Chief Executive, as the Proper Officer, has advised the Chair of the Sustainable Growth and Environment Capital Scrutiny Committee of the intention to invoke the urgency procedure.

Is this a Major Policy Item/Statutory Plan?	**NO**	If Yes, date for relevant Cabinet Meeting	

4. Funding Peterborough's Future Growth

4.1 Background

4.1.1 The growth context

4.1.1.1 The Council has a firm commitment to growth expressed through the adopted Core Strategy and its supporting site allocation documents. The priorities that drive the Medium Term Financial Strategy include:

- Growth, regeneration and economic development to bring new investment and jobs. Supporting people into work and off benefits

4.1.1.2 It continues to invest in the infrastructure to support that growth including transport and public realm schemes, energy and digital infrastructure, and the schools capital programme.

4.1.1.3 The recent Centre for Cities 'City Outlook 2014' reported that Peterborough:

- is the fastest growing city in the country by population – a 1.6% growth rate
- has the second highest private sector employment growth at 5.5%
- has the 5th highest growth rate in housing stock – 0.9%
- is in the top 10 for the highest proportion of private sector employment

4.1.1.4 Housing and employment growth is clearly regaining momentum in the city, but there remain significant challenges given the fragile national and international economic climate, with significantly reduced public sector grant subsidy available to support growth. Whilst progress is being made in securing the development of brownfield and greenfield sites in Peterborough (for example, the Great Haddon employment site and the recently announced residential redevelopment scheme on the former District Hospital site), ambition has had to be reined back to be more commercially realistic and a number of key strategic opportunity sites, particularly in the city centre, are stalled.

4.1.2 The Council's growth delivery arrangements

4.1.2.1 In December 2009, Cabinet agreed a series of measures in the report 'Peterborough's Growth Delivery Arrangements' aimed at driving forward the city's growth ambitions in the wake of the economic downturn that began in 2007.

4.1.2.2 The report created a mandate to work directly with the capital markets to secure investment for a series of development projects that would help drive the city's growth agenda. A dialogue with the capital markets was to be developed, and the city's growth projects and ambitions presented so that they were attractive to long term investors. It was anticipated that if these activities were undertaken effectively then by the end of the third year it would be possible to attract private funding to offset these costs in the future. In short, the interactions with the capital markets would have been sufficiently valuable to investors that going forward the investors would want to fund the work.

4.1.2.3 The report recognised that new approaches were needed, including:

- a redefined role for Opportunity Peterborough to enable more focused economic development activity, skills, and marketing of the city to businesses and investors

- establishing the Peterborough Delivery Partnership initiative to pull together public and private sector finance to deliver development programmes mandated by the Council

4.1.2.4 Given the fluid economic context, some elements of the original proposals to Cabinet were not taken forward in full. For example, policy and strategy functions relating to the growth agenda such as the Local Plan and Housing Strategy were combined with the planning and transport functions of the Council in a single service to more closely align strategy and delivery. The Growth and Regeneration directorate has also been created more recently to ensure a consistent and co-ordinated approach across the Council's suite of growth functions.

4.1.2.5 Since December 2009 work has been ongoing to develop relationships with potential investors willing to work collaboratively with the Council, focussing initially on Council-owned land and assets, and particularly those in and around the city centre. These investors need to be flexible and willing to work with the Council to develop schemes rather than expecting the Council to have done the scheme development work – and incurred the associated costs – up front.

4.1.2.6 In July 2012, Cabinet approved a strategy for bringing forward the delivery of the Riverside Opportunity Area (ROA), including extending the assets the Council considered as part of this area to include the Pleasure Fair Meadows car park. Part of this strategy included intent to establish a joint venture company to deliver parts of the ROA, beginning with Fletton Quays. This proposal (and what Cabinet are now being asked to approve) supersedes that work.

4.1.2.7 Discussions have been positive and have helped shape the proposals set out in this report. Operational independence from the Council, for example, was seen as important and helpful by the private sector investors, capital markets and developers that would need to be involved going forward. This was a factor in proposing a new wholly-owned company to take forward growth and regeneration, included in the senior management restructure presented at Employment Committee in September 2013. Implementation of this wholly owned company has been paused as it became clear that the proposals presented in this report would potentially deliver greater, more far-ranging benefits to the Council and city.

4.1.3 Summary of the proposed model

4.1.3.1 The groundwork that followed the 2009 report has created an opportunity to form a long-term relationship with the capital markets, and to use this relationship to help fund and drive forward Peterborough's growth ambition. The proposals set out in detail in the following sections of this report are to establish a Joint Venture Company (JVCo) that would provide access to a significant and reliable stream of funding for delivering growth schemes. The proposal would include the following elements:

- establishing a Joint Venture Company (JVCo) that would be 50:50 owned and controlled by the Council and a new Peterborough Investment Fund, whose purpose would be to develop viable schemes for key sites in the city

- the Fund would initially raise in the region of £130m using international and UK investors to take forward development schemes and deliver new homes and commercial facilities in Peterborough. This money represents entirely new investment to the city raised by the Fund

- The Council would make available to the Fund some of the sites it has available for disposal, in exchange for which the Council would receive market value and also have the opportunity to benefit from profit share from schemes that are delivered

- the schemes that the JVCo develops would have to be approved by both the Council's and the Fund's representatives on the JVCo Board, before they are recommended to the Fund's Investment Committee. Only then can the Fund can take them forward, and the Council would only transfer sites to the Fund at this stage

4.2 The Model Proposed

This section provides an overview of the delivery model proposed.

4.2.1 How the new approach would work in summary

The basic model of operation is designed to be straightforward:

- as part of the process of establishing these arrangements, an initial pipeline of schemes involving Council owned assets is proposed for the new JVCo to develop

- in each case, the JVCo would work to create a commercially viable scheme for which it can apply for planning consent, including the design work, environmental studies, and financial modelling that are necessary to ensure the scheme is deliverable. An essential part of this work would also be to demonstrate that the business case for each scheme was acceptable from both the Fund's and the Council's perspective

- subject to the JVCo Board agreeing to take the scheme forward, the JVCo would then pass the 'on the ground' delivery of each scheme over to the Fund, which would create a Special Purpose Vehicle (SPV) company to oversee scheme implementation

- the costs that the JVCo incurred in developing the scheme and taking it through the planning process would be invoiced to each SPV after it is set up, allowing the JVCo to recoup those costs for funding future activity, thereby creating a 'revolving fund' for future scheme development

4.2.2 The JVCo and its structure

4.2.2.1 The JVCo would be a company limited by shares, owned 50:50 by the Council and the Fund. It would be overseen by a small Board, envisaged as comprising four voting board members. The Board would have equal representation from both parties and have a decision making structure that requires consensus. Only projects that are approved by both partners would go ahead.

4.2.2.2 Both the Council and the Fund would pay £3 million for shares in the company, which would provide the JVCo with the working capital it needs to cover the cost of developing schemes up to the point of investment by the Fund into an SPV. The cost of developing the scheme would then be refunded to the JVCo by the SPV. This investment would be funded by existing capital programme budgets earmarked for delivering growth (this is outlined in more detail in section 5.1 below). These payments would be made over a three year period, with equal amounts drawn down quarterly from the Council and the Fund.

4.2.2.3 The £3 million would be the Council's only cash investment into these arrangements. This investment has the potential to:

- secure a new investment fund for Peterborough projects
- deliver in the region of £130 million of new investment into the city
- provide a springboard to further investment in future phases

4.2.2.4 Day to day, the JVCo would be run by a small team that that would include seconded posts from the Council's current growth and regeneration team. The costs to the Council of any secondments would be recharged to the JVCo. Whilst the JVCo is not designed to make a profit, it is intended to cover its costs by recharging the costs of developing schemes to the SPVs that deliver them. This is explained in more detail later in this report.

4.2.2.5 More detail of the financial implications for the Council of this proposal can be found in section 5 later in this report.

4.2.3 The Fund and the Council's participation

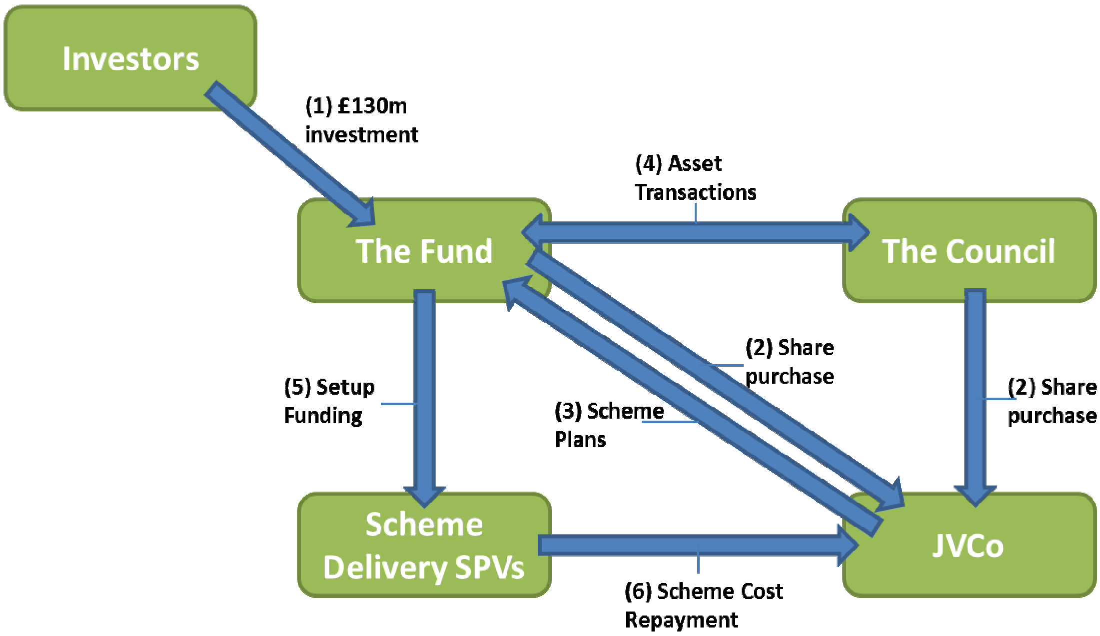
4.2.3.1 The Fund would be newly established specifically to take forward infrastructure projects within Peterborough, and it would be the main method by which the scheme SPVs referred to above are financed. The Fund will be domiciled in Guernsey, be regulated by the Guernsey Financial Services Commission, and be VAT-registered in the UK. It would be managed by an experienced, fully UK-regulated fund manager. Investors into the fund will, like all funds of this nature, vary over time, but is likely to be a mix of UK and overseas investors.

4.2.3.2 The Council will interact with the Fund in three primary ways:

- firstly, the Fund will be the Council's partner in the JVCo
- secondly, the Fund will be able to buy over time and at market value specific assets from the Council, if the JVCo's Board approve schemes that require them (see section 4.3.3 later in this report)
- thirdly, because these arrangements are intended to be collaborative, the Fund has offered the Council representation on its Investment Committee – which must approve any projects before the Fund can invest in them – and the Fund's Management Board, with the Council being offered the option of taking two out of five seats and one out of five on each respectively.

4.2.4 The overarching structure of the arrangement

The diagram and description on the next page illustrates in simple terms the interrelationship between the Council, the JVCo and those elements of the Fund referred to above.



1. Investors would make available in the region of £130m of investment in these arrangements and approved schemes that come forward
2. Both the Council and the Fund would buy shares in the JVCo for £3m in cash, payable to the JVCo quarterly over three years
3. The JVCo develops viable schemes and passes these plans to the Fund to invest in and take forward to delivery
4. The Council sells assets involved in viable, approved schemes to the Fund. The Council may choose at the point of sale to receive payment either in cash or in units in the Fund
5. The Fund creates scheme delivery companies (Special Purpose Vehicles (SPVs)) to take forward each scheme, pulling together working capital that allows these to operate. The precise ownership structures of these SPV's would be determined on a case by case basis.
6. The scheme delivery companies would refund to the JVCo the costs that the JVCo has incurred in developing the scheme that the company was created to deliver

4.3 The Projects Proposed

4.3.1 The project pipeline

4.3.1.1 The initial pipeline of projects that would be taken forward by the JVCo is outlined below. They are consistent with the vision in the Proposed Submission City Centre Development Plan Document (CCDPD) approved by Council in December 2013, and would be subject to the normal planning application process. The first scheme for development would be the delivery of new offices on Fletton Quays, which would enable the Council to consolidate its current back office functions onto one site (sections 4.3.2 and 5.3 of this report provide further detail).

- Fletton Quays Phase One - new offices for the Council's back office functions
- the completion of Fletton Quays - a mixed use scheme with high quality homes, offices, ancillary retail and leisure uses, and potentially student accommodation
- the Wirrina car park – new homes close to the city centre

- the Pleasure Fair Meadow car park - a new multi-storey car park topped with residential accommodation
- Northminster multi storey car-park / Bayard Place – new homes in the city centre
- re-use of the Town Hall (retained in the Council's ownership) – retention of the existing civic suite and democratic functions, and relocation of the Council's customer interface from Bayard Place. The feasibility of relocating Central Library here would also be considered, alongside plans for re-using remaining parts for higher education use

4.3.1.2 The projects above would help deliver in the region of 300 new mixed tenure homes, including an element of affordable housing consistent with the Council's planning policies.

4.3.2 Office Consolidation

4.3.2.1 The Council has changed considerably in size and nature in recent years as it has moved increasingly towards a commissioning model, and employee headcount has reduced significantly. The Council recognises that its office needs have not kept pace with these changes and office consolidation could provide more efficient accommodation for employees, improved energy efficiency and the potential for cost savings in the long-term. In particular the current office estate has costly maintenance requirements. Whilst the Council's current 10 year capital programme includes some funding for maintenance, the likely investment needed over the next 25 years would be considerably higher.

4.3.2.2 Office consolidation also presents the Council with an opportunity to use its covenant to stimulate wider investment and regeneration by serving as a potential 'anchor tenant' to provide the confidence needed for others to invest in the surrounding area.

4.3.2.3 This proposal would consolidate those back office functions currently within Bayard Place, the Town Hall, Stuart House and Manor Drive into a single new office building as the anchor scheme on Fletton Quays. Development of this site remains challenging, and office consolidation here could help to kick-start wider redevelopment. The successful delivery of that development could in turn increase investor confidence in the wider city.

4.3.2.4 The collaboration proposed in this report offers an opportunity to achieve the Council's consolidation objectives and realise other beneficial outcomes at the same time:

- the Town Hall would remain in the Council's ownership and continue to serve as the heart of Peterborough's democratic life, retaining all civic functions, and would have a greater customer facing role through inclusion of Peterborough Direct
- the potential relocation of Central Library to the Town Hall could further strengthen this role, helping to create a new 'civic and customer hub' for the city, although this element requires more detailed consideration and consultation
- footfall in Bridge Street could be maintained through the strengthening of the Town Hall's customer facing role
- The Bayard Place and, potentially, Central Library sites become available to support the ambitions within the Proposed Submission City Centre DPD for a revitalised city centre, including significant new sustainable residential accommodation
- The residual space in the Town Hall can be used to support the development of the city's higher education offer, with preliminary discussions with University Centre

Peterborough indicating that the Town Hall may be well-suited to becoming teaching space, subject to further understanding of the proposals

4.3.2.5 Re-using the Town Hall in this way is seen as a positive option by University Centre Peterborough, meeting a future growing need for teaching space in the city and offering a town centre location for students, and aiding the development of a 'student offer' in Peterborough.

4.3.2.6 Critically, any proposal for consolidation must also work for the Council financially. An initial financial assessment has been undertaken, and is outlined in more detail in the financial implications section later in this report (section 5).

4.3.2.7 Subject to Cabinet approving this report, part of the suite of legal agreements the Council would enter into would be an Agreement for Lease with the Fund. By entering into this Agreement, the Council would be agreeing to lease new offices subject to conditions that would be specified in the Agreement for Lease being met. The Council would only enter the final lease if the financial model underpinning this consolidation proves *at worst* cost-neutral for the Council. In short, consolidation only goes ahead and the Council only enters into the lease if it makes financial sense for the Council to do so.

4.3.3 Use of Council assets

4.3.3.1 The Council has a variety of assets that it could make available to support the city's growth and regeneration, such as those located on the south bank of the river. Some of these would be made available to the Fund for purchase at market value through a series of Option Agreements. The list of sites is set out in the table below, along with details of whether the site has been included in the disposal list within the draft Capital Strategy (part of the Medium Term Financial Strategy) presented to Cabinet on 3rd February 2014, and also the relevant policy reference for the Proposed Submission City Centre DPD.

Site	In Disposal list	CCDPD policy
Wirrina Car Park	Yes	CC7: Riverside North
Former B&Q site	No	CC6: Riverside South
Former Matalan site	No	CC6: Riverside South
Bridge House Site	No	CC6: Riverside South
Engine Sheds	No	CC6: Riverside South
Bayard Place	No	CC3: City Core
Market Multistorey Car Park	Yes	CC3: City Core
Pleasure Fair Meadows Car Park	Yes	CC6: Riverside South
Aqua House (currently being purchased)	No	CC6: Riverside South
The Mill (purchase negotiations in progress)	No	CC6: Riverside South
Central Library (inclusion subject to further discussions)	No	CC10: City North

4.3.3.2 Where the assets are not currently included in the disposal list, then Council would need to amend the Capital Strategy to reflect these proposals as part of the Medium Term Financial Strategy. Whilst the Council cannot enter into the Option Agreements for the strategic sites it does not yet own, it is proposed that they are included once they are. The

Council will also update the Asset Management Plan to ensure it reflects entering into Option Agreements in this manner as an approach to disposals.

4.3.3.3 There will be a number of changes to parking provision in the city centre should the developments in the project pipeline proceed as planned, moving parking provision away from the core of the city centre and re-using other surface parking for redevelopment. These changes are in line with the strategy outlined in the Third Local Transport Plan and the Proposed Submission City Centre DPD that Council have previously approved.

4.3.3.4 As part of the setup of these arrangements, the Option Agreements put in place would allow the Fund to subsequently purchase these sites, providing predetermined conditions are met. The Council would only sell these assets to the Fund if, through its membership of the JVCo's Board, it is satisfied that the scheme proposed for the site is appropriate and viable. Even then, the actual transaction would only take place if planning consent is granted for the scheme.

4.3.3.5 These two factors provide comfort to the Council that it retains ownership of assets it wants to see developed until there is an appropriate scheme ready, with planning permission granted, that requires them. As is normal practice, each Option Agreement would 'ring-fence' the relevant asset to ensure it remains available for the Fund to buy for however long the Option specifies. This means, for example, that the Council could not grant the Option and then sell it to someone else within the life of the Option.

4.3.3.6 When the Council sells an asset to the Fund, the Council would receive market value for that asset. This could be a simple cash transaction. Alternatively, the Council would have the option to take its payment in whole or part by acquiring units in the Fund. This would allow the Council to receive upside from successful schemes because successful schemes should increase the value of the Fund and of the Council's units in it. The Council would then need to sell the units in the market if it wished to create a cash return.

4.3.3.7 It is important that the Council is clear on the potential risks and benefits of each of these options, but also that it does not need to select a preference at this point. The Option Agreements would be written so that the Council only has to decide how it wishes to receive payment at the point the Option is exercised by the Fund and the asset is sold.

Payment Choice	**Risks**	**Benefits**
Cash only	Value gained is potentially less than if taking units	Cash received can be used to invest elsewhere, or reduce borrowing costs to create an annual revenue return
Units only	The value of the Council's units in the Fund could go down, impacting the value of its investment. Any reduction in value would result in a write-off hitting the Council's revenue bottom line	The value of the Council's units in the fund has the potential to increase as successful schemes are delivered
Mix of cash and units	The value of the Council's units in the Fund could go down, impacting the value of its investment. Any reduction in value would result in a write-off hitting the Council's revenue bottom line	There is lower risk than the 'units only' option because the Council only takes a part payment in units.

4.3.3.8 This Cabinet report does not outline a preferred approach at this stage, because the Council can choose which of the approaches above it wants to take at the time of each asset's sale. The preferred approach can be determined at that point on a scheme-by-scheme basis. It should also be noted that if the Council wished to proceed with a payment approach that included dividend bearing units then it would need to establish a trading company through which to do this with the Fund. This is because the Fund would be a Limited Liability Partnership (LLP), which is common for Funds, and the Council can only commercially trade with an LLP through an intermediary trading company.

4.3.3.9 In the future, other assets in addition to those above could be made available to the Fund, and would be secured through the same Option Agreement mechanism, with the same protections built in. Clearly, both the Fund and the Council would have to agree to this at that point.

4.4 Council governance and these arrangements

4.4.1 This proposal begins with the creation of the joint venture company. Once it has been set up with the Council as a 50% shareholder, two separate legal entities will exist: the Council and the joint venture company. The Council operates in accordance with its Constitution and the company with its Memorandum and Articles of Association. The officers and members of each separate entity are bound by the rules relevant to their business when they carry out the functions of that entity. In other words, there are different governance procedures that apply to each entity and one does not override the other.

4.4.2 The Leader will nominate two members to sit on the Board of the joint venture company. They will represent the Council on the Board, but they will also continue in their normal duties as Councillors. This is part of normal Council business and there are many examples of this currently in operation, for example Cross Keys and Opportunity Peterborough.

4.4.3 Whilst those members sit at Council meetings, any decision making will be done in accordance with Council rules and procedures. When those members sit on the JVCo Board they have obligations to act in the best interests of the company. This is a requirement of the Companies Act 2006.

4.4.4 The question, therefore, is whether this creates any conflict for the Council? The answer is no, provided that the Council has appropriate governance arrangements in place to manage the relationship between the Council and the company.

These governance arrangements consist primarily of

1. nominating a member within the Council to act on behalf of the Council as the shareholder. This is an executive function and likely to be included within the portfolio of one of the existing executive members. Whilst it is common practice that shareholders often sit on the Board of Directors, this will require more frequent consideration of conflict issues than if the roles are separated.

   This member will be responsible for deciding which future options for land ought to be granted to the joint venture company and signing off the subsequent land transfers. They will take decisions in accordance with the Council's access to information rules and, as executive decisions, those will be subject to call-in by Scrutiny in the way that any other executive decision is;

2. ensuring that members nominated to the Board are aware of any potential conflicts when taking decisions within the Council related to the work of the joint venture company. Whilst there is not always a direct conflict when acting on the Council and on behalf of another body, any member nominated to the Board, for example, will have a disclosable pecuniary interest if the Board decides that its members will be remunerated. (There are no plans for Board members to receive remuneration but guidance on this point is included here purely to highlight the governance issues that may arise). It is important to emphasise therefore that the members take advice from the Monitoring Officer on their interests when acting on Council business.

3. Members will be required to attend training on their legal duties to the joint venture company so that when they take decisions on the Board, they are not drawn into any potential conflict issues. This satisfies the requirements of the Companies Act 2006, which places directors under a duty to promote the success of the company, exercise independent judgement and avoid conflicts of interest.

4.4.5 There are further additional controls which the Leader might want to have in place; for example, the annual business plan for the joint venture company should be submitted to the Cabinet for review each year, which again will be subject to scrutiny in the usual way.

4.4.6 *An example: Office consolidation*
The following is given as an example of how the governance process will operate within the Council for the proposal to consolidate the office accommodation on Fletton Quays.

4.4.7 If Cabinet approves these recommendations, it will mandate officers to establish a joint venture company with the Fund. That decision itself is subject to call in.

4.4.8 The Leader will nominate two members of the Council to the Board. Those nominations will follow the procedure for ‘Appointments to external organisations’ set out in the Constitution. A CMDN will be required, which again is subject to scrutiny in the usual way.

4.4.9 The Council will also enter into an Agreement for Lease with the Fund. An Agreement for Lease sets out the prior conditions which must be complied with before a lease can be granted. In this case the Council will enter the lease for the offices only if a fully consented business plan has been approved by the joint venture company, of which the Council is equal shareholder.

4.4.10 An outline business case would be developed for the new offices. That proposal will be presented to the Board, upon which the Council’s two members are sitting, for approval. If approved, this will lead to a planning application for consent to develop the site. That application will be submitted to the Council by the joint venture company.

4.4.11 Once the planning application is received, the Council will sit as the Local Planning Authority to consider the scheme. The Director of Growth and Regeneration has the planning function within his directorate; however any potential conflict will be avoided by referring the application to the Planning Committee for determination. The Council has Member and Officer Codes of Conduct which require Councillors and employees to avoid any potential conflict of interest and therefore any member or officer assisting the joint venture company to develop the planning application cannot take any part in advising upon, or deciding the application as the local planning authority. Similar controls are currently in place for example where the Council makes applications to develop sites it owns within Peterborough.

4.4.12 If the scheme is granted consent, the Fund is likely to exercise the relevant Option Agreement to acquire the land to build the offices. This is subject to the Fund's Investment Committee (on which the Council will have a representative, and which will have already agreed the investment in principle) approving this action. The Fund will establish a separate Special Purpose Vehicle (SPV) to deliver the offices. No additional Cabinet member decision will be needed to enter into a lease at this stage, as the lease can only take place if the conditions within the Agreement for Lease above are met.

4.4.13 A further Cabinet member decision may however be necessary should the Council decide to take units in the Fund representing the market value of the site as opposed to the current cash value. As there is discretion in considering whether to take the higher risk/higher reward option of units, a decision will be necessary. Should the Council make this decision, a wholly owned company will need to be established to hold those units.

4.4.14 The joint venture company will ask for reimbursement from the SPV of all its costs incurred in putting the scheme together. Those funds will then be used to develop further proposals on other sites within the asset disposal list.

5. FINANCIAL IMPLICATIONS

This section considers the financial implications in the following four areas:

- the investment into the JVCo
- future scheme development and the interaction with the fund, including potential holding of units in the Fund
- the emerging office consolidation business case
- the impact on the draft Medium Term Financial Strategy

It should be noted that it focuses on the financial implications for the Council, and does not cover the broader financial benefits to the city of the growth and regeneration proposals.

5.1 The £3m investment into the JV

5.1.1 The Council currently invests in growth in three main areas:

- the Growth and Regeneration team, including the direct costs of the team and the funding for taking forward Cabinet's proposals. The revenue budget for this is £544k per year from 2015/16. Given that the Council has been working to develop growth opportunities across the city in recent years, this budget has typically been fully spent. It is envisaged that if the Council continued to work in isolation that this level of annual funding would not be sufficient to bring about the scale of development that is envisaged in the Proposed Submission City Centre DPD

- a capital budget for general growth projects (funded by the remaining elements of the Growth Area Fund, and then through borrowing).

	2014/15	2015/16	2016/17	2017/18	2018/19
	£m	£m	£m	£m	£m
Peterborough Delivery Partnership (PDP) projects	2.237	0.500	0.500	0.500	0.000

- a number of capital budgets to support specific purposes, for example the cost of disposals, riverside opportunity area and public realm. In addition to this, the Council uses Section 106 monies to provide new infrastructure to support growth.

5.1.2 As well as delivering benefits more generally across the city, growth brings additional income to the Council through business rates, additional council tax income and the New Homes Bonus. The Council's budget proposals for 2014/15 benefit from this income. It is also a key element of how the Council would generate additional income in future to help to support its budget at a time of continued grant reductions.

5.1.3 The JVCo would have £6m to invest in developing schemes and bringing forward investment in the city. The Council's investment in developing growth is doubled by the Fund's contribution. The Council's £3m contribution would be funded from the approved capital programme as follows:

- £2m from the 2014/15 PDP capital budget outlined above. This majority of this budget is funded from the Growth Area Fund grant, which as the name implies should be used for growth related capital schemes.
- £1m from affordable housing Section 106 monies. The level of affordable housing required in new development by the Council's planning policies allows this contribution. The Councils internal Legal team has advised on the use of this funding.

The financial impact of this is already included within the approved capital programme and MTFS.

5.1.4 There are a number of direct financial benefits to the Council arising from these proposals.

- the Council's investment in developing growth is doubled by the Fund's contribution

- the capital investment from the Council into the JVCo allows greater resource to be targeted towards getting schemes moving more quickly than would be the case if the Council simply continued investing its revenue budget at around £0.5m per year

- the use of capital investment into a company in this manner frees up some of the revenue budgets outlined above (the JVCo will undertake development work, and pick up the costs of the team). The Council will still have some internal costs, and may need to create a sinking fund to support some of the one-off office consolidation costs, including the stamp duty costs from the move, but otherwise the savings are as follows:

    - 2015/16 to 2017/18 £250k per year
    - 2018/19 onwards £400k per year[1]

5.1.5 There is some potential risk arising from this investment, as there is in any type of development arrangement. For example, the JVCo could get to the end of three years and not have developed a viable scheme. There are a number of controls and mitigations against this:

- money can only be spent by the JVCo on developing projects that the JVCo Board – and thus the Council, through its joint control of the Board – approve, giving consideration to the probability of a successful scheme being developed that the JVCo could recoup its costs from

- the Board will receive regular reports on the progress of developing a viable scheme to be presented to it. This would allow it to review progress and be assured that a scheme is likely to remain commercially viable. Projects where this viability was in question would be halted by the Board

- the £3m contributions from both the Council and the Fund will be paid quarterly over 3 years, offering an extra level of control

5.1.6 The initial finance within the JVCo from the Fund and the Council's share purchase would fund its operation for three years. The collaboration is designed so that the JVCo should create financially viable schemes that can be taken forward within that time. When the Fund takes a scheme forward, the company it creates to do this would reimburse the JVCo for all of the costs the JVCo incurred developing that scheme. This would help finance the JVCo's activities beyond the first three years of operation, creating a revolving fund.

5.1.7 The Council will discuss with its external auditors whether it will need to include its interest in the JVCo in a set of Group Accounts. This will depend on a review of the final legal documentation for the JVCo. The only implication of this is on the level and format of financial information the JVCo will need to provide to the Council.

5.2 Future scheme development and the interaction with the Fund, including potential participation in the Fund

5.2.1 Previous sections have outlined how schemes would be brought forward, and how the Fund's and the Council's representatives on the JVCo Board would determine if these schemes progress. These business cases will need to ensure that the Council's financial position is not adversely affected. Examples of issues that would need to be taken into account include (but are not limited to):

- the market value of assets and impact on the Council's disposals assumptions and capital programme

- any revenue implications, for example if a car park is redeveloped, would there be a reduction in car park income, or would that simply be dispersed to other car parks, and what would be the impact in pricing etc.?

The Council's finance team and external advisors would be involved in this validation, and advise the Council's shareholder and representatives on the Board as necessary.

5.2.2 The Council has several possible areas of benefit that arise from schemes that get taken forward by the Fund:

1. the Council would receive payment for its assets, either:

    a. in cash, at market value, or
    b. units in the Fund equivalent to the valuation of the assets, an appreciation of whose land values through scheme delivery would increase the value of the Fund, and thus the Council's shares within it, or
    c. a mix of the two

[1] Increasing as the sinking fund contribution drops out

2. Shares of developers' profits in relevant SPVs (if the Council is a participant in the SPV, although it should be made clear it is not under any obligation to do so)

These were outlined in more detail in section 4.3.3 above, along with a summary of the main risks and benefits of each. As was also outlined, the Council only needs to make the decision as to which is the optimum route as each scheme is developed and considered.

5.2.3 The Council would also receive a proportion of business rates generated from any overall net increase in commercial floor space / businesses, and benefit from the New Homes Bonus whilst it is in force. It may also face a reduction in business rate income if any existing premises are redeveloped. Both elements would be factored into each individual business case. As the Government is proposing to rebase the scheme 10 years after its introduction (2023/24), this will also need to be borne in mind.

5.3 Initial outline Office Consolidation business case

5.3.1 The Council has previously looked at options for office consolidation, for example within a possible Station Quarter redevelopment. This work identified a number of key issues when developing such proposals:

- Our current office estate has high maintenance costs. Some provision has been made in our ten year capital programme, but this is unlikely to be sufficient and additional maintenance will also be required beyond this period
- Initial comparisons between leasehold options and our existing freehold estate tend to show that leasehold is more costly, but this is for two key reasons:
    - The annual impact of the initial purchase cost tends to be excluded (as it cannot be freed up unless the asset is sold). For example the annual cost of the original purchase of Bayard Place is around £0.7m per year
    - The full maintenance costs of freehold are not included

5.3.2 An initial outline business case has been developed for the office consolidation. This includes a 30 year financial model, with key assumptions reviewed by GVA, our external property advisers for this work. This initial outline business case is simply intended to be a starting point for the JVCo to develop further into a full business case, including the full development appraisal.

5.3.3 A high level summary of the annual position is outlined below:

	£m
Forecast costs of 120k sq ft new site, including rent, business rates, utilities, annual maintenance etc.	3.5
Financed by:	
Accommodation budgets freed up from vacated premises (mainly rates and running costs)	1.7
Proposals to sub-let 30k sq ft of new office premises, plus other income	1.2
Potential rental income from Town Hall	0.4
Net business rate gain (gain from south bank less loss from Bayard Place)	0.2
Total	**3.5**

5.3.4 This summary highlights a number of key assumptions that will be tested further during the development of the detailed business case:

- that there will be a reduction in the floor space needed for office accommodation through consolidation, from agile working etc.

- that the Council will not require all the space in the new office building and will sub-let part of that development

- that while retaining ownership of the Town Hall and continuing to utilise the civic core, the Council will secure income from letting office areas outside this core

It should also be noted that it is easier at this early stage to estimate some of the potential costs than some of the benefits e.g. the potential business rate loss from vacating Bayard Place is included, but not the potential benefit from any redevelopment.

5.3.5 It will be the role of the JVCo to develop the detailed business case, including investigating further the options for ensuring a viable business case. That business case would be presented to the JVCo Board, which includes the Council representatives, for approval.

5.4 Impact on draft MTFS

5.4.1 Whilst the current approved MTFS includes the capital funding for the investment in the JVCo, the draft MTFS considered by Cabinet on 3rd February 2014 did not include all elements of this proposal. Whilst there are no adverse financial implications (the proposals actually provide for a revenue saving), there are documents in the MTFS that need amending in light of these proposals. These are:

- the capital programme will be updated to reflect the contribution to the JVCo. This will simply reflect the reallocation of existing funds as outlined in 5.1.3 above

- the asset disposal list in the Capital Strategy needs updating to include all assets identified previously in this report that the Council would enter into Option Agreements with the Fund for

- the Asset Management Plan will be updated to ensure it reflects entering into Option Agreements in this manner as an approach to disposals

- the Treasury Management Strategy needs updating to allow the Council the ability to accept units in the Fund, if it wishes to do so at a later point. To be clear, this is simply to put into place the framework to allow this to happen – at this point the Council does not need to make any decisions as to whether to accept cash or units for assets sold to the Fund

Subject to Cabinet approving the recommendations in this report, the budget papers presented to Full Council on 5th March 2014 will include these changes.

6 LEGAL IMPLICATONS

This section contains the legal implications in the following 4 main areas:

- authority of Cabinet and Council to approve the proposal
- constitution – terms of reference and Cabinet's recommendations
- procurement and state aid implications
- other statutory considerations

6.1 Authority of Council to approve the proposal

6.1.1 The proposal is contained in the Business Case attached as Appendix 1 to this report titled "A Business Case for an Investment Joint Venture for the Council". A brief outline of the proposed activities are for the Council to:

a) set up a Joint Venture Company (JVCo) to deliver business schemes to develop key sites in Peterborough city centre. The JVCo will be on 50% equal ownership between the Council and a new fund from the private sector, the Peterborough Investment Fund (Fund)

b) invest in the Fund to develop key sites, and

c) sale of assets to the Fund

6.1.2 Before the Council approves the proposal, the Council must be satisfied that it has appropriate statutory powers to carry out the proposed activities. The Council must also consider relevant statutory guidance when it exercises its statutory powers.

6.1.3 The Council has several statutory powers it may rely on to carry out the proposed activities, namely:

- Power to trade
- General power of competence
- Power to invest
- Power to promote the economic, environmental and social well -being of its area
- Incidental powers to discharge its functions
- Power to sell its assets

6.1.4 In relation to the power to trade, the Council is allowed to trade with the private sector to carry out its ordinary functions. However, the trading must be done through a company. This trading power is further supported by its general power of competency to generally do anything for a commercial purpose, unless there are restrictions.

6.1.5 The main restriction is that the commercial purpose or trading must be done through a company, as mentioned above. What this means is that the Council has the power to set up a JVCo to deliver the business schemes, and for the JVCo to be equally owned by the Council and the private sector Fund. Before the Council exercises its trading powers, the Council has also considered statutory trading guidance regarding its powers. In accordance with the trading guidance, the Council must approve the attached Business Case containing the proposals before trading starts. The trading guidance is listed in the section 'Background Information'.

6.1.6 In addition to its trading powers, the Council also has a statutory investment power that it may rely upon in order to buy shares in the JVCo and/or invest in the Fund. Where the Council exercises its investment power in the Fund, it must invest in accordance with its overall investment strategy (the Treasury Management Strategy (TMS)). This report includes a recommendation to request Council to amend the TMS to take account where the Council invests in the Fund by taking units in the Fund. If the Council chooses to take units in the Fund, the Council must establish a separate company, which will be a decision for a later date. It should also be noted that in accounting terms, the regulations classify that the purchasing of shares in the JVCo is capital expenditure, and differentiate between this and the investment in the Fund.

6.1.7 These proposals also commit the Council to sell a number of its property assets through specific Option Agreements, providing that the trigger conditions in the Option are met. The Council has the legal power to dispose of its assets in this way, but it has to be careful that it obtains "best consideration" for these, or potential state aid implications might arise.

6.1.8 The sale of assets as proposed within this report would be for an independently verified market value, assessed at the time the sale takes place, which provides assurance that the Council will be fulfilling its requirement to obtain best consideration. This also removes any state aid implications.

6.2 Constitution – Terms of reference and Cabinet's Recommendations

6.2.1 The Council's Constitution, in Part 3, Executive Functions, paragraph 3.2 states the Terms of References of the Cabinet including:

- '3*.2.3 To take a leading role in promoting the economic, environmental and social well- being of the area.*
- *3.2.4 To promote the Council's corporate and key strategies and Peterborough's Community Strategy and approve strategies and cross cutting programmes not included within the Council's major policy and budget framework.*
- *3.2.7 To be responsible for the Council's overall budget and determine the action required to ensure that the overall budget remains with the total cash limit.*'

6.2.2 All the decisions to establish the proposal are executive decisions falling within the Cabinet's Terms of Reference above. Those decisions recommended to Council are limited to amendments of budget documents or constitutional powers necessary to achieve the proposal.

6.3 Procurement and state aid

6.3.1 The nature of the proposals in this Cabinet report means that they are not subject to a procurement requirement. In the case of the Council's interactions with the Fund, these would principally take the form of the sale of assets from the Council to the Fund. This is an action that is exempt from the relevant public contract regulations and therefore does not raise a procurement requirement. The investment that the Council would make in the JVCo is also not subject to public procurement.

6.3.2 Whilst it is not a situation considered likely to arise, if the JVCo wanted to undertake work for the Council, Cabinet should note that the JVCo would have to compete for any contracts in the same manner any other private company would. This is because it is a private firm that is not wholly owned or controlled by the Council.

6.3.3 In terms of state aid, as noted in 6.1.7 above, a concern could emerge if the Council disposed of an asset for less than "best consideration". These proposals would specifically provide for the Council receiving an agreed market value consideration for its assets at the time of transfer, regardless as to whether it receives this in cash or units within the Fund, and as such no state aid implication would arise from such transactions.

6.4 Other statutory Considerations

6.4.1 The Council has general duty to have regard to the Equality Act 2010. The Council has in accordance with its statutory obligations considered the impact on equalities arising from its proposal. From its initial assessment, the Council considers that there is no equalities impact which requires action or any adverse qualities impact on any protected group. The Equality impact Assessment is listed in the section 'Background Documents'.

6.4.2 There are a number of other statutory considerations (Human Rights Act 1998, Crime and Disorder Act 1998 - as modified) which are considered not to have any implications for this proposal.

7 CONSULTATION

7.1 These proposals have been developed through extensive internal consultation with officers from finance and legal services, including the Head of Strategic Finance and the Director of Governance, both of whom have been involved in developing and refining the proposals.

8 ANTICIPATED OUTCOMES

8.1 That a Joint Venture Company will be established, unlocking in the region of £130m of new funding for taking forward key growth sites in the city, especially those in the city centre.

9 REASONS FOR RECOMMENDATIONS

9.1 The proposals within this report offer the Council an opportunity to unlock significant investment to help bring forward key city centre regeneration sites, allowing the Council to further the city's growth and regeneration with minimal additional investment whilst delivering potential financial and other benefits to the Council and the city.

10 ALTERNATIVE OPTIONS CONSIDERED

10.1 Use of prudential borrowing

10.1.1 The Council has the ability to obtain finance directly from the Public Works Loan Board at preferential rates of interest. It could choose to borrow in this way and invest in some specific growth projects, either itself or through financing of a wholly owned delivery model.

10.1.2 There are, however, limitations to this approach that limit its attractiveness. For example, most of the schemes that the joint venture would enable would not create operational Council buildings on Council land. They are schemes for the city, not for the Council, and would not be schemes the Council would normally fund from borrowing.

10.1.3 There is also a cost to borrowing finance in this way, and the nature of regeneration schemes tends to result in significant upfront costs and delayed returns, so were the

Council to take this approach there would be a period of time where it is paying a substantial interest charge without receiving income or receipts from a sale of capital assets that a scheme creates to offset this. It would also mean that the Council is taking on 100% of the risk in the development. With the Council forecasting a budget deficit in 2015/16 of £18m, this approach would be extremely difficult.

10.2 Traditional Local Asset Backed Vehicle

10.2.1 A Local Asset Backed Vehicle (LABV) is a partnership or joint venture between a public body and a private sector investment partner, normally over the medium or long-term. The public partner generally inputs assets, with the private sector partner providing finance and technical expertise. In the past, there have been some high-profile examples created in the UK, but they are now less favoured. For example, the private sector firm that created the first UK LABV with Croydon Borough Council, John Laing, announced in January 2013 it would not be involved in any future partnerships.

10.2.2 The level of delivery of schemes by LABVs has been lower than expected. Where they work best is where there are 'oven-ready' schemes and it is clear how to get the best out of specific sites. Peterborough has a number of complex regeneration sites that are not well-matched to this approach. LABVs, by their nature, also tend to be constrained to work on sites the relevant public body has transferred to them, whereas the JVCo proposed here would be free to work more widely if its Board approved.

10.3 Allow the market to drive growth

10.3.1 Whilst the UK economy is slowly recovering, it remains fragile. There are still many difficulties around bank lending and financing options that restrict the ability of the market to deliver growth projects. Peterborough has a number of key strategic sites, such as Fletton Quays, which failed to come forward during the height of the economic boom. With significantly less public sector subsidy available today and more difficulties in raising private finance, relying on the market alone could be a significant risk. Despite Peterborough's recent development successes, the market will also want to cherry-pick the easier, lower risk sites and leave the more difficult ones – of which the city has a number.

11 OTHER IMPLICATIONS

11.1 Staffing Implications

11.1.1 A number of staff within the growth team may be affected by these changes and this will be dealt with in accordance with the council's normal employment policies and procedures, in consultation with those staff and the trade unions.

11.2 Property Implications

11.2.1 As outlined in section 4.3.3 there will be a change to the Capital Disposals programme and the MTFS will be amended to reflect this.

11.2.2 On a day-to-day basis it will be necessary to consult with the JVCo to ensure that any works undertaken on the assets identified for transfer does not lead to unwarranted expenditure. Overall this will allow the Council to target expenditure on those assets which have a long term future and give us greater certainty regarding our future financial liabilities.

12 BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

- Cabinet Report: “Peterborough’s New Growth Delivery Arrangements” (http://democracy.peterborough.gov.uk/ieDecisionDetails.aspx?ID=248)
- Cabinet Report: “Delivery Strategy for South Bank & Surrounding Areas” (http://democracy.peterborough.gov.uk/ieDecisionDetails.aspx?ID=640)
- ‘General Power for Local Authorities to Trade in Function Related Activities Through a Company’
- Equality Impact Assessment dated 07/02/2014