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|  | <p>URGENT REPORT TO Leader of the Council Councillor T Fox</p> <p>1 September 2009</p> |
| | <p>Key Decision YES</p> <p>Forward Plan Ref No</p> |
| <p>Corporate Priority</p> <p>Top priority of Aim Two 'Encouraging Economic Growth and Job Creation</p> | <p>Cabinet Portfolio Holder Councillor D. J Bastiman</p> <p>Date of decision 1 September 2009</p> <p>Deadline for call-in 5.00pm Not applicable</p> <p>Implementation date 1 September 2009</p> |

REPORT OF: Head of Legal and Support Service – 09/509

WARDS AFFECTED: North Bay and Northstead

SUBJECT: DEVELOPMENT AGREEMENT – PEASHOLM PARK AND SURROUNDING AREA

RECOMMENDATION:

To approve:

- (i) Entry into an agreement with Yorkshire Forward to accept £50,000 grant funding from the geographic programme, to meet the cost of preparing a business plan for the Open Air Theatre (£29,000) and the legal costs of preparing a development agreement in relation to the Peasholm Area (£21,000).

1. REASON FOR DECISION:

- 1.1 The business plan will support an application to Yorkshire Forward for grant funding from the Geographical Programme towards the construction of the Open Air Theatre
- 1.2 The business plan will also support a report to Council to aid Members in deciding whether to proceed to construct and operate the Open Air Theatre
- 1.3 Accepting the external funding will enable the Council to prepare a development agreement which will set out the legal terms of the contract between the Council and the preferred bidder in advance of the Council decision as to whether to proceed with the construction of the Open Air Theatre in October. This will ensure that, subject to Council approval, construction works commence on site immediately after the decision by Council enabling the Open Air Theatre to open by summer 2010.
- 1.4 A decision upon whether Yorkshire Forward grant funding will be made available for this project is sought urgently to inform Council decision making at the meeting in October. The preparation of a business plan is therefore urgently required and a decision to accept funding cannot therefore await a meeting of Cabinet.

2. ISSUES

- 2.1 The drafting of the development agreement needs to be carried out prior to the anticipated Council meeting in October so that, subject to the approval of full Council, officers can immediately proceed to let the contracts required for the construction of the Open Air Theatre with a view to a Summer 2010 opening (which the preferred bidder has specified as a requirement). The Council will employ external solicitors to assist in the drafting of the development agreement. The total cost of preparing the development agreement is likely to be in excess of the £21,000 from Yorkshire Forward with the additional costs being met from Council budgets.
- 2.2 In support of an application to Yorkshire Forward to be used to assist finance the Open Air Theatre a detailed Business Plan has to be produced. Subject to approval Officers plan to contract with Drivers Jonas, from the Council's Property Consultants Framework. The cost of these works will be £29,000 and fully funded from the external funding received from Yorkshire Forward.
- 2.3 The funding from Yorkshire Forward will be requested from monies within the Geographical Programme. This funding is a finite resource and once fully allocated it is gone. The Scarborough Renaissance Programme Framework bid was submitted to Yorkshire Forward earlier in 2009 covering projects from 2009 to 2014. The total available funding is £12.35m with requests totalling £14m. Any funding to support the Open Air Theatre will have to be contained within this budget which could impact on future schemes subject to any conditions that Yorkshire Forward might attach to the grant.

- 2.4 The following table outlines the current proposed funding requests to Yorkshire Forward:

Table 1
Inclusion and Skills £3.35m (Fully allocated)

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|-----------------------|---------------|
| University of Hull | £2.35m |
| Scarborough Job Match | £1.00m |
| Total | £3.35m |

Urban Renaissance Capital £9m (Funding Shortfall of £1.65m)

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|--|----------------|
| Scarborough Spa Development | £4.0m |
| Innovation Centre | £2.5m |
| Outer Harbour | £2.0m |
| Open Air Theatre (indicative) | £1.0m |
| Renaissance Enabling/Marketing/ Feasibility | £1.15m |
| Total | £10.65m |

3. HIGHLIGHTED RISKS:

- 3.1 If the Council does not undertake a business plan it will not be eligible to apply for external funding from the Geographical Programme to support the cost of constructing the Open Air Theatre.
- 3.2 The cost of producing the business plan and the initial legal fees (£50,000) will be funded from the Geographical Programme. Funding for this will result in less funding from other projects. The £50,000 is fully at risk pending a decision by Full Council on the Open Air Theatre.



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Background Papers: Previous reports