
FEETHAMS OFFICE DEVELOPMENT

**Responsible Cabinet Member – Councillor Stephen Harker,
Efficiency and Resources Portfolio
Councillor Chris McEwan, Economy and Regeneration Portfolio**

**Responsible Directors – Paul Wildsmith, Director of Resources
Richard Alty, Director of Place**

SUMMARY REPORT

Purpose of the Report

1. The purposes of this report are:
 - (a) To seek Cabinet endorsement of the offer made to the Department for Education (DfE) in relation to their decision to retain an office in the North East when they relocate from Mowden Hall;
 - (b) To seek Cabinet approval for the development of an office building to the rear (east) of the Town Hall, should DfE provide written confirmation that this is their selected property option for the North East office;
 - (c) To seek delegated authority for the Director of Resources, in consultation with the Director of Place and the respective portfolio holders, to progress and finalise the design details and specification for the building;
 - (d) To seek delegated authority for the Director of Resources in consultation with respective portfolio holders, to negotiate terms in line with the principal Heads of Terms as set out in paragraphs 40 and 41 of this report;
 - (e) To seek agreement from Cabinet to use of the National SCAPE Framework as the preferred Procurement Strategy for the development;
 - (f) To ask Cabinet to recommend Council, should the scheme be the DfE's preferred option to:
 - (i) Agree capital funding of up to £9.3m for the construction of an office building to the rear (east) of the Town Hall to be funded by Prudential Borrowing;

- (ii) Approve the estimated revenue financial consequences of the scheme noting the range of costs is dependant on varying factors in the future;
- (iii) Increase prudential borrowing limits to cover the total project costs up to a maximum of £9.3million, with authority delegated to the Director of Resources to borrow only the level of funding required to cover the total project costs.

Summary

2. The development strategy for the Feethams Area is set out in the Feethams Development and Planning Brief. The first phase of the development of this area was considered by Cabinet in 4 October 2011, resulting in the former bus depot site being identified as suitable for a leisure development including a multiplex cinema and associated uses. Following a successful procurement exercise, a conditional legal agreement is in place and a planning application for the development is anticipated in Summer 2013.
3. The Feethams Brief identifies that the remainder of the surface car parks within the area are also suitable for the development of commercial uses including offices. DCFS (now DfE) had previously identified an interest in a direct build on Beaumont Street East Car Park; however they were not able to secure funding to deliver the project.
4. There is, however, still a pressure on DfE to relocate from their premises at Mowden Hall to an alternative location within the North East, including property options outside of Darlington. A decision to relocate from Darlington could result in the loss of up to 440 jobs from the Borough and as such the Council has been working closely with DfE to identify appropriate property options within the Borough which meet their specification.
5. The Council has identified at least three property options within the Borough which it feels meet the criteria as set out by the DfE in their consultation document. These options are: an existing office building within the Town Centre; flexible space at Lingfield Point and an innovative new build forming part of a public sector hub within the Town Centre. It is the latter which is the subject of this report.
6. To ensure a new build option is available within the DfE timescales a Council-led direct build is the only procurement option available to the Council. The Annual Procurement Plan will identify that this is a strategic procurement and as such this report sets out the justification for this development and procurement strategy and seeks its necessary agreement from Cabinet.
7. This report sets out the proposal and delivery mechanism and assesses the risks associated with progressing a new build. It seeks Cabinet endorsement to undertake these works should DfE consider that it is their preferred option and ask Cabinet to recommend that Council agree the relevant financial implications. To ensure the project timescales can be adhered to, this report also seeks delegated authority for the negotiation and completion of the Full Agreement for Lease and for the design process.

8. A lease structure has been offered to DfE which is compliant with the Government Property Unit's stipulation for flexibility. This is a 15 year lease with a tenant option to break during the tenth year, subject to an 18 month notice period. There is a potential financial risk involved in entering this arrangement which could see the Council faced with considerable financial costs if the DfE exercise their right to break the lease after 10 years or relocate from the premises before the end of the 40 year financing period for the office. The building will, however, be designed with flexibility in mind which should make it attractive for another occupier, sale or possibly for the Council to occupy.

Recommendation

9. It is recommended that :-
 - (a) Cabinet endorse the offer made to the Department for Education (DfE) in relation to their decision to retain an office in the North East when they relocate from Mowden Hall;
 - (b) Cabinet approve the development of an office building to the rear (east) of the Town Hall, should DfE provide written confirmation that this is their selected property option for the North East office;
 - (c) Cabinet delegate authority to the Director of Resources, in consultation with the Director of Place and the Efficiency and Resources, and Economy and Regeneration portfolio holders, to progress and finalise the design details and specification for the building;
 - (d) Cabinet delegate authority to the Director of Resources in consultation with the Director of Place and the respective portfolio holders, to negotiate terms in line with the principle Heads of Terms as set out in paragraphs 40 and 41 of this report;
 - (e) Cabinet agree to use the National SCAPE Framework as the preferred Procurement Strategy for the development;
 - (f) To ask Cabinet should the scheme be the DfE's preferred option to, to recommend that Council:
 - (i) Agree capital funding of up to £9.3m for the construction of an office building to the rear (east) of the Town Hall to be funded by Prudential Borrowing; and
 - (ii) Approve the estimated revenue financial consequences of the scheme noting the range of costs is dependant on varying factors in the future.

Reasons

10. The recommendations are supported by the following reasons :-

- (a) To add further weight to and endorsement of the offer made to DfE, which was made subject to the Council's formal decision making procedures;
- (b) To retain between 340 and 440 jobs within the Borough;
- (c) To aid the delivery of the Feethams Planning and Development Brief and the objectives of the Town Centre Fringe Masterplan;
- (d) To enable the design to advance in line with the required timetable without the need for further Cabinet resolutions;
- (e) To enable the Council to have the ability to have timely and efficient negotiations with the proposed End User in line with the agreed principles in advance of significant capital expenditure in respect of the project;
- (f) The National SCAPE Framework is the preferred Procurement Strategy for the design and build for the proposed development. It enables the Council to work within the prescribed timescales of the proposed End User and delivers value for money;
- (g) Should this project advance, the Council will be exposed to increased financial implications; due to the nature of these financial implications the constitution requires a Council resolution.

Delegations

11. The delegation sought in 9(c) is a temporary delegation to enable the design formulation and its approval to advance in a timely manner to ensure the necessary project timetable can be adhered to. The project timetable will enable the Council to achieve the end date sought by DfE as the prospective End User of the building and therefore make the Council's offer more appealing. In consulting with the Director of Place and the respective portfolio holders on design matters, the Director of Resources will consider the regenerative benefits of the scheme, together with the management and maintenance implications following the initial lease period.
12. The delegation sought in 9(d) is a temporary delegation to enable the negotiation and completion of the Full Agreement for Lease to secure formal interest and contractual commitment before the award of contract for the works. In consulting with the Director of Place and the respective portfolio holders, the Director of Resources will discuss the terms and implications for the Council and project timetable.

Richard Alty, Director of Place
Paul Wildsmith , Director of Resources

Background Papers

Feethams Planning and Development Brief
Initial Feasibility Cost Plan
Outline Design Feasibility
Case for the Department for Education to remain in Darlington

S17 Crime and Disorder	The report has no implications for crime and disorder
Health and Well Being	The report has no implications for health and well being
Carbon Impact	This report may result in the development of a new office building which will have a carbon impact. The Building is designed to BREEAM Excellent with an EPC rating of 69(c) and located within the town centre, easily accessible by sustainable transport modes which will help ensure the carbon footprint of the building is acceptable. District and shared heating options with the Town Hall will be considered and implemented where feasible.
Diversity	No implications
Wards Affected	Central; Mowden
Groups Affected	All
Budget and Policy Framework	The resolutions in this report are likely to result in changes to the budget framework. It is therefore recommended that Cabinet ask Council to consider and approve the financial implications.
Key Decision	Yes. The resolution results in the Borough Council incurring expenditure which is significant having regard to the budget for the service or function to which the decision relates and there will be significant effects on communities living or working in an area comprising one or more wards in the Borough.
Urgent Decision	No
One Darlington: Perfectly Placed	Supports the Perfectly Placed priority by retaining jobs in Darlington, bringing jobs to the town centre and facilitating office development.
Efficiency	<p>The workload resulting from the recommendations in this report assumes resources at existing levels within the Programmes and Projects, Capital Projects and Corporate Landlord Sections. The financial implications are set out in detail in the report.</p> <p>The delivery of a public sector hub has significant potential for collaboration with other public sector bodies with the opportunity for savings for the Council.</p>

MAIN REPORT

Information and Analysis

13. DfE, currently located at Mowden Hall, has in the region of 440 skilled and experienced staff, however, the current premises are in a poor state of repair and requires significant investment to tackle the buildings defects and improve facilities on top of the £1m per annum maintenance costs. For this reason DfE have taken the decision to move from Mowden Hall and have committed to retaining an office within the North East of England.
14. A decision to relocate from Darlington could result in the loss of up to 440 jobs from the Borough. Initially DfE considered a new build option within the Feethams Area of Darlington but the Department was unable to secure capital funding for such a development. The Council has therefore been working closely with DfE officials to identify the other property options available within Darlington which meet their relocation and site selection criteria as set out below:
 - (a) **Business need** – close to available workforce, business continuity, locations which minimise the cost, time and environmental impact in travelling between sites and stakeholders and ensuring new space provides expected quality of accommodation;
 - (b) **Minimising Costs for the Department and wider central Government** – minimise capital expenditure, negotiate best value property deals, provide value for money, re-use of Government estate, timely breaks within leases.
 - (c) **Minimising adverse effects on staff** – personal cost, travel times, availability and frequency of transport, minimising number of staff who would experience unacceptable commuting times, impact of decision on equality and diversity;
 - (d) **Take account of potential effects on the local community** – Examining the net differences between the property options;
 - (e) **Compliance with wider Government policies** – utilise existing Government estate, locate in areas easily accessible by public transport, locate in areas with significant Government presence to maximise opportunities for achieving value for money through future co-location.
15. The DfE timetable for its relocation from Mowden Hall is November 2014.
16. The Council believes that Darlington, especially the Town Centre, meets these criteria and has prepared a robust *Case for the DfE to remain in Darlington* outlining how as well as identifying the potential economic impact on Darlington of retaining or losing the job. This has been provided to the DfE to inform their decision making process.
17. There are two existing properties within Darlington that the Council considers satisfies these criteria – one being an existing property within the Town Centre and the second a flexible office space within Lingfield Point.
18. Whilst the Council considers that these two property options are suitable and in line with DfE's objectives, the DfE have informally indicated a preference for a location closer to the railway station. The Council is also aware that DfE are actively

considering options elsewhere within the North East including Newcastle and Durham. These locations may also satisfy the criteria as set out above in different ways/for different reasons, especially as there are properties within Government ownership available in the North East.

19. To ensure the Borough stands the strongest possible chance of retaining the DfE, a new build option was considered appropriate. Initial feasibility and design works have been undertaken to investigate the deliverability of a new build option within the Town Centre. It is this new build option which is the focus of this report and its recommendations.

New Build Property Option

20. Initial feasibility has identified that a new build, meeting the DfE's requirements can be provided within the Feethams Area, the most suitable location for which is to the rear (east) of the Town Hall.
21. The outline design feasibility study is attached in **Annex 1**. This building is:
 - (a) 3,660sqm gross and 3,000sqm Net Internal Area;
 - (b) BREEAM Excellent
 - (c) Achieves a EPC asset rating of 69(c);
 - (d) Good quality, open plan office accommodation;
 - (e) Located in the town centre, close to the railway station.
22. Discussions with officials at DfE have identified a shared desire to create a public sector hub, where an innovative and collaborative approach to services can be delivered. This is a unique selling point of the new build option next to the Town Hall, which offers the potential for a physical link between the two buildings. The concept for the public sector hub is addressed in paragraphs 24 to 26 below.
23. In locating the proposed new build office within the Feethams Area, the project also has the added benefit of contributing towards the realisation of the Feethams Development and Planning Brief and the objectives of the forthcoming Town Centre Fringe Masterplan. A particular advantage is the potential to continue the linear park along the River Skerne between the proposed Feethams leisure development and St Cuthbert's Church.

Public Sector Hub Concept

24. By co-locating national and local government staff into one campus the resulting benefits will create a ground-breaking public sector hub. Darlington Borough Council's Town Hall already houses the ICT component of Xentrall Shared Services (a back office services collaboration between Darlington and Stockton Borough Councils) and is actively working with other public sector partners on space sharing and collaboration. The Town Hall houses a modern ICT data centre with designed in spare capacity with over 60 ICT professionals supporting both Councils. The opportunity to have DfE collocated would take the local collaboration into a national context. Collaboration between DfE and DBC is not new and an

initiative between the two organisations led to the Student Loans Company setting up a base in Darlington.

25. Exploratory talks between the Council and DfE have identified three areas where co-location will foster collaboration, deliver efficiencies and service improvements and realise real cost savings, to the benefit of both local and central government and the taxpayer.
 - (a) **Services** – cash savings will be available by sharing such facilities such as reception, meeting rooms, video conferencing, catering, printing, energy, security, facilities management, ICT, mail room, health & safety, well-being & occupational health. These will be realised in real savings to both parties' bottom lines.
 - (b) **People** – using the combined staff resource in a unique way to both develop staff and help the business of both organisations. This would include skill and experience sharing, training, continuous improvement, business transformation, secondments, joint apprenticeship schemes and mentoring & coaching. Such collaboration provides the opportunity to work in a unique way, sharing innovation and best practice between local and central government fostering better policies and services;
 - (c) **Business** – shared opportunities such as Darlington volunteering to host the Student Loans Company mentioned above and using DBC as a practical partner for policy testing. Darlington BC has taken a progressive approach to school relationships and support and could prove invaluable as a partner to access similar organisations.
26. Furthermore, the design of the new building and the way it integrates with the existing building will also be key to the way collaboration works. Initial thoughts are that there will be a communal main reception in the Town Hall leading to shared main space linking the existing and new buildings together with direct access to a shared collaboration space. The collaboration space is planned to have the widest possible ICT linkages to encourage pan-public sector collaboration in a relaxed but business-like environment.

Delivery Options

27. There are three main routes to delivering a new build option within the Town Centre which have been considered:

- (a) **Developer-Led:**

The sale of site to a developer who could build a new office for DfE. Office retained by the developer and let to DfE.

This option provides the Council with least control. As it would be delivered through a land sale as opposed to procurement, the Council would have little right to specify the nature of the development or who the developer selected as their End User. This option therefore carries little certainty that DfE presence would be retained in the Borough.

This option however has the potential to generate a land receipt for the Council and has no financial expenditure (capital or revenue) for the Council other than those incurred as part of the land sale. Council does not receive an asset or revenue income through this route.

However it would not have been possible to meet DfE timescale requirements by this route and this option has therefore been discounted.

(b) **DBC procure a developer to design and build an office for DfE:**
Office retained by developer and let to DfE.

This option provides the Council with greater control as they could provide the specification. Timescales would require a lengthy procurement, followed by legal discussions in advance of the developer undertaking their design and construction process. As such it is considered unlikely that this option will achieve the November 2014 timescale. Government Property Unit (who will have the final say in respect to the DfE property option) are reluctant to enter into new lease agreements with the private sector; in addition the developer's profit which would be included in the scheme would increase costs, potentially resulting in a property solution outside of the DfE's price range.

This option would incur costs associated with the procurement exercise and associated legal agreements. Capital expenditure would be incurred by the developer. Council unlikely to receive an asset or revenue income through this option.

(c) **DBC design and build:**
Office would be in DBC ownership and then let to DfE.

This option gives the Council the greatest certainty and control over the product delivered and the End User however the Council will carry the risk associated with the building. This option can be delivered within the DfE's relocation timescales.

28. It is considered that whilst it carries the most risk, the Council has the most control and certainty over option 28(c) the design and build route.

Procurement Route

29. There are two procurement routes for Option 27(c) the design and build route:

(a) **Full 'OJEU':**

A Full OJEU of a design and build contract would add between 4 and 6 months to the timetable for completing the new build office development.

If the DfE completed the Full Agreement for Lease in July 2013 the absolute earliest the DfE could relocate from Mowden Hall would be February 2015, 4 months behind their preferred end date.

(b) SCAPE National Framework – for developments over £2million:

Scape is a Local Authority controlled company which acts as a Contracting Authority and Central Purchasing Body as defined in the European Procurement Directives.

The nature of the SCAPE Framework means that it has undergone the OJEU process, enabling approximately 4-6 months being shaved off the traditional OJEU timescale.

A Full Agreement for Lease completed by July 2013 would allow the DfE to commence occupation in November 2014 which meets their preferred relocation date.

30. Both options are considered to deliver value for money as both go through rigorous market testing. With a traditional OJEU compliant design and build contract the submitted tender prices reflect the current construction market conditions but with differing percentages applied for individual contractor's overhead and profit. The SCAPE framework works with a Contractor procuring quotes during the development phase which are then presented to the Client.
31. The SCAPE framework is priced on an 'open book' basis with a minimum of three quotes provided for each work package at contract stage, and with a fixed percentage added for the contractor's overhead and profit. The current framework provider for projects in excess of £2million in value is Willmott Dixon. The percentage applied by Willmott Dixon for overheads and profit is currently 3.5%. As part of an initial cost assurance exercise an independently appointed cost consultant has commented that the 3.5% is 'typical for a project of this type and value'.
32. In addition to the contractor's cost there is also a cost to utilise the framework, which is payable directly to Scape and based on a fixed 0.5% of the project value.
33. To further ensure value for money is achieved by which ever route followed, the Council can employ an independent cost consultant to sense check the quotes and provide further assurance that the costs presented are realistic in relation to the current market conditions.
34. To ensure the project is delivered to the necessary timescales and ensuring sufficient measures to protect the Council's interests are in place and to ensure value for money is achieved as described above it is recommended that the SCAPE Framework is the preferred procurement route.
35. As the Scape Framework is undergoing a re-procurement (Scape 3), the Council has placed a Product Order under the existing Scape Framework, at no cost and no risk to the Council. This means that if Willmott Dixon fail to be successful in their bid for the renewed contract, the Council will be able to choose whether it uses Willmott Dixon or the successful company. If Wilmott Dixon are successful, the Council will be able to choose whether they use the fees and charges under the existing or new Scape Framework.

Works Undertaken to Date

36. An Access Agreement has been signed to enable the Council to speak with Wilmott Dixon under the Scape Framework. This also entitles the Council to request initial feasibility under the Framework at no risk and no cost. This includes an initial cost plan and programme and has been extended to include outline design feasibility.
37. The Council has also undertaken a Quantitative Risk Analysis to identify the anticipated costs if all risks are realised. These, together, have indicated that the total project costs to the Council will be between £8m and £9.3m, if 80% of the risks are realised..
38. The independent cost consultant has confirmed that there is sufficient tolerance within these figures; they also identified that value engineering could be employed to reduce costs and both these resources will ensure that the total project costs have identified areas where the specification could be amended to reduce costs whilst ensuring the high level specification is still achieved.
39. These pieces of work have provided comfort that the development is deliverable within the timescales and informed and supported the offer made to DfE.

Lease Agreement

40. Principle Heads of Terms have been discussed and agreed with DfE as set out below:
 - (a) 15 year lease with tenant option to break during year 10, subject to 18 months prior notice;
 - (b) Full Repairing and Insuring Lease;
 - (c) Rent – to be fixed depending on total project costs within a range of £8m to £9.3m;
 - (d) Other rents – Service Charges and Insurance, if applicable, Reserved as Additional Rent;
 - (e) User Clause – B1 Offices Only;
 - (f) Ability to assign and sub-let to be discussed between the parties and use of accommodation under licence subject to Landlord's Consent;
 - (g) Structural Alterations permitted subject to Landlords Consent with Reinstatement at end of term or at Lease Break if required;
 - (h) Rates are tenant's responsibility;
 - (i) Shared Services – Specified within Lease or by Separate Agreement; and
 - (j) 4 dedicated parking spaces adjacent to the building.
41. To limit the risk exposure to the Council the 18 month break clause notice has been included to provide the Council with sufficient notice to secure a new tenant, occupy the premises itself or sell.

Impact on Town Hall

42. The proposed new build and its physical link with the Town Hall will have implications for the ground floor of the Town Hall and how it operates. If the new

build does proceed it will provide an opportunity to consider the potential for joint usage of plant and machinery and whether the overall energy performance and carbon footprint of the Town Hall can be improved.

43. It is timely that the findings and recommendations of the 'Space' consultants feasibility report looking at the overall condition, structural as well as mechanical and electrical, of the Council's key operational buildings including the Town Hall is due to be reported. It will be important to take these findings into account at the detailed design stage of the new build to maximise joint usage and potential energy efficiencies.
44. Equally, the proposed refurbishment of the Customer Contact Centre and ground floor needs to have regard to the proposed new build option and the implications for existing Reception facility which will become the focal point for the new build if it proceeds. The outline design feasibility considered two potential locations for a physical link with the Town Hall. It was considered that the preferred link location, in between the lift shaft and stairwells on the ground floor opposite the main reception area, has the least impact on the Town Hall operations and will not result in the loss of desk space available for the Council. It also delivers a more user friendly solution for both organisations and offers greater potential for shared spaces and meeting rooms which the Council could use.
45. The new building will fall within the Council's sites and premises portfolio and sit with the Corporate Landlord Team. Corporate Landlord have therefore played a key role in the design and specification of the proposed building, negotiating the Heads of Terms for the Lease (and Agreement to Lease) and in considering the relationship and impact with the Town Hall as set out above.
46. Other Corporate Landlord matters which have been considered include the potential implications for the Council's insurance policy, given the new building will be physically linked to the Town Hall and the maintenance requirements of the new build.
47. A key design specification of the new building and its mechanical and electrical equipment is that there are not expected to be any major maintenance requirements within the first 10 year period. Following the initial lease period, should DfE not renew their lease, the maintenance of the building will fall to the Council. Whole life costings for the building have been requested, so the Council can understand the ongoing maintenance costs of the building following this initial lease period.

Car Parking

48. The proposed location for the New Build Office is on part of the old Town Hall Car Park; although there is potential for c70-80 new parking spaces to be delivered on site providing pay and display parking purposes.
49. DfE have requested that they have 4 designated parking spaces which is relatively low for the size of the building being delivered. Should the Council need to find alternative tenants or owners after the initial lease term, it is likely additional car

parking spaces will need to be provided within the vicinity of the building. The provision of additional spaces on site could be used, alternatively, should a multi storey car park (MSCP) be delivered within the Town Centre or Town Centre Fringe, contract parking could be provided to ensure the office is attractive to potential occupiers.

50. The Council has already agreed to the loss of the 'new' Town Hall Car Park provided on the site of the former bus depot as part of the Feethams Leisure Development (4th October 2011). The justification for this was that this was a temporary provision, to make use of the site in advance of its development and to provide replacement parking for The Oval Development on Commercial Street Car Park. It was considered that the loss of this car park would not result in significant loss of revenue as the car park users would simply migrate to other car parks within the Feethams Area.
51. Temporary solutions to accommodate the potential undersupply on busy Saturdays and during the Christmas period are being investigated and will be reported, together with further car parking matters at a future Cabinet meeting.
52. The proposed new build office would result in an additional loss of c98 spaces from the Feethams Area. It is considered that there is sufficient parking elsewhere within the Town Centre to mitigate for the loss of these spaces on weekdays. There is, however, likely to be a shortage within the Feethams Area on Saturdays and during the Christmas period. The lack of spaces within this area could result in increased demand for non-Council car parks, such as the Cornmill MSCP or the new surface car park on the site of the former Ford Garage on St Cuthbert's Way. The diversion of parking from Council car parks to these non-council sites will result in the loss of car parking income to the Council.
53. Council car park revenue figures indicate that the closure of the new Town Hall Car Park will result in each of the remaining spaces to the rear of the Town Hall Car Park generating c£520 per annum. If 100 space are lost this is a potential revenue shortage of £52,000. It is proposed that there will be no cost to the Council in advancing this project and as such it is proposed that c£52,000 be added to the cost of the lease to DfE in order to cover the loss of this car parking revenue.
54. The Darlington Car Park Strategy is advancing and has identified a need for a MSCP in the south of the Town, in the Feethams Area or Town Centre Fringe. A further paper will be considered by Cabinet identifying the procurement and development strategy for this MSCP and the implications for the Council. This will boost the supply of car parking spaces within this area of town and free up the Council's remaining Feethams surface car parks for development in line with the Feethams Planning and Development Brief.

Financial Implications

55. Given the Council's financial position, it is not considered appropriate to advance this project if there is going to be a cost to the Council which cannot be appropriately mitigated. The rental levels charged to the DfE, as End User, will therefore have to fully cover the costs of the project in the initial lease period

including: borrowing costs, loss of car parking revenue and corporate landlord costs.

56. To fund the building, it is proposed to prudentially borrow the build costs over the life of the building.
57. The initial feasibility and design works undertaken have identified that the total project costs to the Council will be between £8.0m and £9.3m, should 80% of the risks identified be realised. In order to cover this capital expenditure, it is proposed that prudential borrowing over the lifetime of the building be utilised.
58. Through the Scape Framework a 'Guaranteed Maximum Price' is established in October 2013, following planning approval. This identifies the maximum price the Council will have to pay, however, the actual cost to the Council will not be known until the completion of the building. It is therefore not possible to identify at this time the exact level of prudential borrowing required to fund the development. It is therefore proposed that a maximum limit of £9.3million be set.
59. Therefore, a range of rent has been proposed to the DfE reflecting total project costs between £8m and £9.3m. In all cases the rental income will cover both the loss of car park income and borrowing costs.
60. However, as summarised in paragraph 40, a lease structure has been offered which is compliant with the Government Property Unit's stipulation for flexibility. This is a 15 year lease with tenant option to break at the end of 10 years, subject to 18 months prior notice. This leaves the Council facing a considerable risk should the DfE exercise the 10 year break or not renew after 15 years. The position is set out in the table below:

Loan	Annual Cost	Outstanding Debt				
		10 Years	15 years	25 years	30 years	40 years
£m	£m	£m	£m	£m	£m	£m
8.0	0.380	6.950	6.259	4.423	3.213	0
9.3	0.440	8.080	7.276	5.141	3.735	0

61. The table above shows the debt outstanding at given points reflecting the current proposal and then the position should a further similar 15 year lease (with 10 year break) be taken. Naturally, at the end of 40 years the borrowing is extinguished.
62. The above figures have used prevailing long term borrowing rates which are subject to fluctuation. However, to reduce borrowing costs in the first five years of the lease term, the Council hopes to utilise Growing Places Fund. An application to TVU for Growing Places Fund has been made for £1m on an interest free basis, repayable after 5 years. This will save the Council £0.050m pa for these 5 years and ought to provide cover for any increase in interest rates.

63. Should DfE decide to break their lease at 10 years or not renew their lease after 15 years, the revenue implications for the Council would be in the order of £0.500m pa until another occupier was found.
64. As stated in paragraph 55 the rental levels charged will cover all costs of the Council for the initial 10 years of the lease, however, the costs and income do not fall evenly over the 10 year period and there will be some upfront revenue costs that will be recovered in later years. The profile of the costs and income for the 10 years are set out below:

Year ending	Annual Position
	£000s
31/03/2014	72
31/03/2015	(6)
31/03/2016	(12)
31/03/2017	(12)
31/03/2018	(12)
31/03/2019	(12)
31/03/2020	(12)
31/03/2021	(12)
31/03/2022	(12)
31/03/2023	(12)
31/03/2024	(12)
31/03/2025	(8)
	(50)

65. To ensure the Council does not exceed its VAT exemption threshold, which will have financial implications for the Council's budget as set out in the current MTFP, the Council will opt to tax the land. The impact of this on the project is that VAT will be chargeable on the building once completed. This will be passed onto the DfE who will have to pay VAT on their rent.

Risks

66. The objective of the project is to retain the skilled jobs DfE provides within Darlington; the biggest risk to this objective is failing to identify and promote all the property options within Darlington which meet the DfE's requirements. It is considered that with the two existing property options and the new build option and terms on which the offer has been made, present the best possible property options available to DfE within the Borough. In endorsing the offer made to DfE, it is considered that the Council will have done all it can to mitigate this headline risk.
67. In advancing the initial stage of this project, the Council has prepared and maintains a full risk log.

68. In taking the decision to advance to the next stage, should DfE confirm that the New Build option is their preferred property choice, the Council needs to be aware of the risks associated with the design and construction phases of the development. The most significant risks are set out below:
- (a) **Total project costs higher than anticipated** – the Council has undertaken a Quantitative Risk Analysis to identify the cost of the project to the Council (financially) should all the risks be realised. This has informed the rental thresholds included within the offer. The Council will employ an independent cost consultant to check quotes and provide assurances that the costs presented are realistic. The Project Team are satisfied that the £9.3m budget provide sufficient comfort and that it is unlikely that total project costs will ever exceed £9.3m;
 - (b) **DfE, as End User, withdraw their commitment** – The Council has made the offer on the basis that written confirmation, including DfE underwriting costs from that point until the Full Agreement for Lease is completed should they withdraw their commitment. Once the Full Agreement to Lease is in place, this agreement will set out the penalties should either party wish to terminate that agreement; and
 - (c) **Council do not agree the financial implications associated with the project** – This would mean the Council is not able to deliver the project. Cabinet has been asked to make the necessary recommendation to Council at its next meeting to ensure the project can continue. It is anticipated that by this date DfE will have made their decision. The Leader of the Council and the relevant portfolio holders have been fully briefed at the key points throughout the formulation of this project. The offer made to the DfE has been done so on the basis that there will be no financial implication for the Council within the initial lease period.
69. In the first 10 years of the lease there would be little risk to the Council as the lease would be with the Government (CLG) and would have certainty of payment. Clearly, it would be hoped that a new building to the back of the Town Hall would house the DfE for many years, however, the relatively short lease term (15 years) with a break clause (at 10 years) presents a risk to the Council should DfE accept the offer but terminate the lease relatively early.
70. The risk cannot be totally removed but can be mitigated by the following actions:
- (a) **Lease Provisions** – Providing at least 18 month notice of termination giving the Council time to market the building;
 - (b) **Design** – ensure that the building would be an attractive commercial proposition should it become vacant and is capable of sub-dividing to allow maximum flexibility and occupancy;
 - (c) **Council Portfolio** – maintaining active management of the Council's portfolio in a rapidly changing world which may involve the Council using the building should it become vacant.

71. As with all projects of this nature, it will be regularly considered and challenged by the Council's Asset Management Group. This process will help identify, consider and mitigate the risks the Council may be exposed to through the project.

Equalities Considerations

72. It is considered that this project has no specific implications for groups with protected characteristics. Equalities implications will be considered during the formulation of the design to ensure the building is compliant with the Equalities Act (2010).

Consultation

73. The Council has been working closely with DfE in relation to its relocation from Mowden Hall. DfE officials have been briefing their staff in relation to their decision makings process which will inform any decision they make with regard to their preferred property option.
74. Pre-Application consultation on the initial design will take place if the Council decide to progress with this project. This will give the community and key stakeholders an opportunity to influence the design process at an early stage.

Conclusion

75. Following the DfE announcement that it intends to relocate from its existing base at Mowden Hall to another office within the North East, the Council has worked with key partners to identify the property options available within Darlington. To this effect there are at least three excellent property options, which the Council believes meets and exceeds the DfE's own criteria as set out in their Estates Review Consultation Document: an existing office building within the town centre, a flexible and open plan office within a thriving business park and a new build option as part of an innovative public sector hub. The latter has been the focus of this Cabinet report, which seeks the resolutions necessary to advance the project should DfE identify it as their selected property option for the North East.