

## COUNCIL

Date: 24 MAY 2017

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Potential Loan to North East Equality and Diversity (NEED) Ltd.

Report of the Chief Executive

Cabinet Member: Leader of the County Council

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### Purpose of Report

The report provides details of a proposed loan facility to North East Equality and Diversity (NEED) Ltd of £450,000 for the purchase of the former Fire Station at South Road, Alnwick; along with a short term advance for up to 4 months of £90,000 to cover VAT associated cash flow implications.

### Recommendation

It is recommended that Council;

- **Approve the two Loan Facilities of £450,000 and £90,000 to North East Equality and Diversity (NEED) Ltd subject to the following;**
  - **The Council's Legal Team agree a legal agreement with North East Equality and Diversity (NEED) Ltd in advance of any loan draw down by the organisation, containing the terms and conditions set out within this report.**
  - **The Council's Legal Team place a legal charge on the asset which the organisation purchase using the loan facility in advance of any loan draw down by the organisation.**

### Key Issues

1. The Council has been approached for a loan facility of £450,000, along with a short term advance for up to 4 months of £90,000 to cover VAT associated cash flow implications, from North East Equality and Diversity (NEED) Ltd.
2. The proposed loan facility would be subject to the terms and conditions identified within the main body of the report.
3. The loan request was considered by Risk Appraisal Panel on 30 March 2017. An update from the Panel will be given to Cabinet on the day.

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## **Background**

North East Equality & Diversity (NEED) Ltd is a disability and community transport organisation charity based in Alnwick, operating across the North East and Borders region. It owns a fleet of minibuses and other accessible vehicles for use by the public and works in partnership with a number of organisations throughout the region.

The organisation was formed in 2002 under the name of Transport in North Northumberland providing services to North Northumberland. In 2010 the organisation changed its name to North East Equality & Diversity (NEED) Ltd and expanded to cover the North East and Border Region, but still retaining a particular emphasis on Northumberland.

One of the organisation's main charitable aims is the provision of accessible affordable transport to those most vulnerable in the community, this includes older people, those with a disability (physical/mental), those who are rurally or/and socially isolated, young people and those who are unable to afford public or private transport.

NEED has for a number of years operated from and garaged its vehicles at the Fire Station at South Road, Alnwick.

The existing site and station at Alnwick has long been considered to be in poor condition, and lacking the necessary modern facilities the Fire Service requires to meet its operational needs and other statutory duties.

In 2014 the Council took the decision, as part of its asset rationalisation programme, to relocate the existing station to a new shared facility on Alnwick Lionheart Industrial Estate. This new facility is now nearing completion and it is anticipated the Fire & Rescue Service will vacate the existing station in late April or early May 2017.

Due to the physical constraints of the new site, the Council was unable to accommodate NEED's office accommodation and garaging requirements within the new development plans at Lionheart. It was therefore expected that, once the new building was complete, notice would be served to terminate their tenancy agreement.

In the interim the South Road site and Station was placed for sale on the open market. A number of formal bids were subsequently received, including a competitive offer from NEED itself.

Heads of Terms have since been agreed with NEED (and approved by its Trustees) for the freehold disposal of the South Road Fire Station land and buildings for the sum of £450,000. As part of the agreement, NEED will assume responsibility for all costs associated with the security, maintenance and insurance of the entirety of the site. NEED has agreed to pay the Council's legal and surveyor's fees.

## **Proposed Loan**

During the disposal negotiations NEED approached the Council asking if it would be prepared to offer a loan facility to assist with the acquisition.

The legal powers which enable the Council to make the loan available include, (but not limited to) the Housing Act 1985, the Local Government Act 1972 and the Local Government Act 2000, the Localism Act 2011, and Paragraph 13 Schedule 13 of the Local Government Act 1972.

The loan has been considered by the Chief Executive and following a series of due diligence checks on the organisation (as outlined below) it is proposed to grant North East Equality & Diversity (NEED) Ltd a facility of £450,000. This would be secured by a legal charge against the property, and subject to the terms and conditions outlined further below.

## **Due Diligence**

In considering the application Council officers have reviewed NEED's previous two years of annual accounts - for the periods ending 31 August 2015, including comparative figures for 2013-14, and 31 August 2016 - along with the forecast out-turn for 2016-17, and income and expenditure projections for the following two financial years.

In the previous three complete financial years NEED has generated surpluses of between £10,000 and £50,000 per annum. This would on the face of it suggest that the organisation might struggle to meet the new loan repayment commitment of around £40,000 per annum.

However, NEED's forward projections indicate it has quite ambitious plans to grow the business, and it has in fact been successful in recent months in securing a number of new contracts; in particular with the Council's Home to School Transport Division. These Home to School Transport contracts make up over 60% of NEED's income / turnover.

Officers in Home to School Transport have confirmed that the 19 contracts NEED currently operate are worth around £375k per annum. However, 14 of these contracts are due to end at the end of July 2017. Unfortunately, because of the impending schools reorganisation in this area, it will be June or July before it is known how many of the contracts will be renewed.

The organisation also has plans to generate additional income (estimated at around £25,000 per annum) from renting out surplus office and garage space within the building. Four local organisations have so far expressed an interest (via email) in renting space.

The projections indicate annual surpluses increasing to in excess of £100,000 by 2018-19, after allowing for the new loan repayments.

As at 31 August 2016 NEED also had cash backed reserves of around £47,000, along with other assets (vehicles) of around £63,000.

On the assumption that the income targets can be achieved, and taking in consideration the security of the legal charge, officers are overall satisfied with the organisation's financial standing and ability to meet its future commitments.

### **Loan Terms and Conditions**

1. The maximum amount of the facility is £450,000.
2. The loan facility is to be used for the purchase of the Fire Station, South Road, Alnwick.
3. Repayment of principal will be made over 20 years, from the date of the loan drawdown.
4. Principal will be paid monthly in line with the repayment schedule.
5. Interest will be charged on a quarterly basis at rate of 4.75% per annum, and accrue from the date of the loan drawdown. Interest shall be paid quarterly in line with the repayment schedule.
6. The loan is to be secured against the land and buildings purchased with the loan advance to NEED. The maximum value of security required is £450,000 plus outstanding interest.
7. NEED may repay the Loan in whole or in part at any time prior to the end of the loan term. In doing so they will provide notification in writing to the Council no less than 5 working days' prior to the prepayment. Where necessary a revised payment schedule will be produced by the Council and issued to the Borrower.
8. If NEED fail to meet any of the scheduled loan repayments they will be charged a default interest charge of the Bank of England Base Rate plus 4% and the Council would exercise its legal charge over the assets

### **Short Term Cash Flow Facility**

In addition to the above, it is also proposed to offer NEED a short term advance of £90,000 to cover VAT implications associated with the purchase until such time that the organisation can reclaim it from HMRC. The maximum anticipated period of this advance is 4 months, but could be significantly less – depending on the timing of the completion date. It is proposed that interest at the equivalent of 1% per annum

would be charged on this facility.

### **Supporting Statement from NEED**

NEED have provided the following statement in support of its application:

*“NEED is a Disability and Community Transport Organisation and registered charity (Reg charity No: 1120968 Reg Company No: 5817797). The loan would be to purchase the premises (Alnwick Fire Station) where we currently rent office space and compound for our vehicles, in order to secure the future of our 31 members of staff and continue to support 15 local businesses. Securing the premises will also allow us to expand, deliver new services, and bring employment to the local community. Our ethos is local jobs for local people.*

*Plans for the building are to develop part of the space into a community enterprise centre, with offices and units incubating community based not for profit organisations, and start up enterprises with affordable rent in order to support local employment.”*

### **Other Potential Issues / Risks: State Aid**

The provision of a loan to NEED will only be classed as a State Aid if the loan is given at an interest rate lower than a rate available on the open market.

In the absence of actual market rates being available, an assessment of the rate which would be obtainable on the open market has been undertaken in accordance with State Aid requirements. This rate which is referred to as the Proxy Market Rate, has been calculated as 1.78%. This is due to there being high collateralisation against the loan as a first charge is to be taken by the Council against the building, and the financial strength of NEED Ltd assessed as Satisfactory.

As the actual rate to be charged by the Council is 4.75% which is in excess of the proxy market rate, there is no unfair advantage to the organisation and State Aid is therefore not present.

### **IMPLICATIONS**

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|------------------------------------|--|
| <b>Policy</b>                      | None   |
| <b>Finance and value for money</b> | North East Equality & Diversity (NEED) Ltd will repay the loan in line with the payment scheduled issued by the Council. Interest on the loan(s) will be charged at 4.75% per annum.   |
| <b>Legal</b>                       | The legal powers which enable the Council to make the loan available include, (but not limited to) the Housing Act 1985, the Local Government Act 1972 and the Local Government Act 2000, the Localism Act 2011, and Paragraph 13 Schedule 13 of |

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|  | the Local Government Act 1972.<br>The proposal is subject to a signed legal agreement and legal charge on the assets.   |
| <b>Procurement</b>   | None  |
| <b>Human Resources</b>   | None  |
| <b>Property</b>  | None  |
| <b>Equalities</b><br>(Impact Assessment attached)<br>Yes <input type="checkbox"/> No <input type="checkbox"/><br>N/A <input checked="" type="checkbox"/> | The loan will allow North East Equality & Diversity (NEED) Ltd to continue its operations, providing disability and community transport facilities throughout Northumberland.   |
| <b>Risk Assessment</b>   | The perceived risks of the project are outlined above.<br>The loan will be secured by a Legal Charge and a loan agreement will be drafted by the Council's legal department to ensure that the Council's interests are safeguarded. |
| <b>Carbon reduction</b>  | None  |
| <b>Crime &amp; Disorder</b>  | None  |
| <b>Customer Considerations</b>   | None  |
| <b>Consultation</b>  | Leader of the Council   |
| <b>Wards</b>   | Alnwick.  |

### **Report sign off.**

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|                          | initials |
| Finance Officer          | AS       |
| Monitoring Officer/Legal | LH       |
| Human Resources          | n/a      |
| Procurement              | n/a      |
| I.T.                     | n/a      |
| Chief Executive          | SM       |
| Portfolio Holder(s)      | GD       |

### **Author and Contact Details**

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