

**Wiltshire Council**

**Cabinet**

**23rd July 2019**

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**Subject: Provision of Loan facility for Wiltshire College**

**Cabinet members: Cllr Philip Whitehead - Leader of the Council and Cabinet Member for Finance, Procurement and Economic Development**

**Key Decision: Key**

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**Executive Summary**

This report seeks consideration of the provision of a loan facility to Wiltshire college to enable them to complete their campus redevelopment.

**Proposal(s)**

To agree to provide a loan facility of £ 2.5 million to Wiltshire college subject to obtaining required security for the loan.

To delegate the detail of the security required and the commensurate interest to be charged on the loan to the Director of finance and procurement in consultation with the Leader of the Council and Cabinet Member for Finance, Procurement and Economic Development.

To delegate to the Director of housing and commercial development the authority to secure the charge on the security offered by Wiltshire college for the loan.

**Reason for Proposal**

The proposals will enable Wiltshire college to secure the remaining funding that they require to complete the redevelopment of their campus. In turn this will enable the Wiltshire to offer courses to the benefit of young people in Wiltshire as well as enable the Council to generate a return on the loan commensurate with the risk that is presented.

**Alistair Cunningham OBE**  
**Executive Director of Growth, Investment and Place**

## Wiltshire Council

### Cabinet

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### Purpose of Report

1. The purpose of this report is to seek consideration of the provision of a loan facility for Wiltshire College

### Main Considerations for the Council

2. Wiltshire College is in process of a redevelopment of the Salisbury and Lackham campus. The cost of redevelopment and funding they have secured to date is as follows,

Salisbury campus redevelopment	£ 15.050m
Lackham campus redevelopment	£ 9.20m
Total costs	£ 24.250m
Funding available	
LEP funding	£ 22.030m
Wiltshire college	£ 2.220m
Total funding	£ 24.250m

3. Wiltshire college has approached Wiltshire Council to provide a loan of £ 2.5m to satisfy current projected costs, and also allow for any minor overspend on the redevelopment.
4. The Council is subject to state aid rules when selectively providing financial support to third parties.
5. There are three exemptions that the Council could rely upon to ensure a loan facility is state aid compliant; the first is the market economy investor principle and lending on commercial terms, the second is a comparable EC proxy based on the level of collateralisation provided for the loan and a credit rating for the college

which would establish a percentage mark up on the base rate and lastly the Council could conclude that the college is not an economic undertaking under state aid rules meaning it can provide a loan on sub-market terms .

6. If the Council is minded to support the provision of loan facility then it will be necessary to undertake work to establish the loan rate and it is recommended that the detail of the arrangement is delegated to the cabinet member finance , procurement, transformation and operational assets in consultation with the Director of Finance and procurement.

## **Background**

7. Wiltshire College is redeveloping the Salisbury and Lackham college sites to both improve facilities and extend the post 16 educational offer. It has already secured LEP funding for these projects which was based on detailed business case proposals.
8. The terms of the loan are £ 2.5 million to be spent across Salisbury and Lackham college, term of loan 15 years, repaid at maturity and a £ 10,000 arrangement fee and each party to cover their costs.
9. The security offered by Wiltshire College for the loan is shown in appendix A in the exempt part of this agenda. The site is to be valued on the basis of redevelopment potential for residential purposes. The Council will need to be satisfied that sites have a value equivalent to the loan and that the value can be realised without adversely affecting the college if there is a need to realise the charge in the event that the college defaults on the loan.
10. In the event that the value of the sites does not offer sufficient security there will be a need to identify other Wiltshire college assets that could be charged in the interest of the Council. The other Wiltshire college campus sites have charges in the favour of other lenders and as such security would be sought on assets that do not have charges and have a prospect of being able to be realised without adversely affecting the on going operation of the college.
11. The Council has three options in determining the terms of the loan if it is to ensure it is state aid compliant. Offer the loan as a market economy investor on purely commercial basis the same as any other comparable lender in the market. Secondly, it could use the EC proxy to calculate a rate based on collateralisation offered and the credit rating of the college to calculate a mark up on the UK base rate calculated by the EC as currently 1.09%. As an example if the college credit rating is satisfactory and the collateralisation normal the mark up on base rate would be 220 base points giving an overall rate of 3.29%. The margin the Council would take on the loan will depend upon how the loan is financed. The third option is that the college could be considered that as not being an economic undertaking under state aid rules. Provision of public education is not regarded as an economic entity. There are a number of tests the would need to be satisfied but a critical one

would be if the majority of the college's income was derived from the state. Subject to investigation of the college's financial arrangements and external legal advice this may be an option. If it is found to be the case that the college is not an economic undertaking the loan arrangements could be much more flexible.

12. The loan can be financed from the commercial investment provision I the 20119/20 and 2020/21 capital programme.

### **Overview and scrutiny**

13. This report will be considered by financial planning task group.

### **Public Health Implications**

14. No significant implications have been currently identified.

### **Environmental and Climate Change Considerations**

15. No significant implications have been currently identified

### **Equalities Impact of the Proposal**

16. No significant implications have been currently identified

### **Risk Assessment**

17. The due diligence on the loan arrangements will take place based on external specialist legal advice on state aid rules.
18. The security offered by the college will be assessed by external valuation experts.

### **Financial Implications**

19. It has been possible to agree a phasing of the advance of the loan to Wiltshire College so that £1.5 million is provided in 2019-20 and the remaining £1.0 million in 2020-21. This funding is available from the 2019-20 and 2020-21 Commercial Investment capital programme.

The loan made to Wiltshire College would need to be fully securitised on assets that could be realised assets and that are not charged by lenders. The length of the loan would not exceed the useful economic life of the asset in order to protect the Council from risk.

The interest rate would be determined to ensure that any interest on borrowing paid by the Council is fully mitigated and Legal advice will be sought to ensure the rate is set at a level that complies with state aid legislation.

### **Legal Implications**

20. External legal advice has been sought from Bevan Brittan LLP on the state aid implications associated with this proposal. Bevan Brittan has advised on how the arrangements could be structured, as set out in paragraph 11 above.

## **Options Considered**

21. The Council could decide not to offer the loan. This will jeopardise the college's ability to complete their campus redevelopment and thus offer post 16 educational course to young people in Wiltshire. As such it is recommended that the offer of a loan is investigated.
22. The report sets out the three options that will be assessed to establish the best approach to offer a loan based on due diligence that will be presented to the cabinet member to inform the detailed arrangements.

## **Conclusions**

23. It is recommended to agree in principle to offer a loan to Wiltshire college subject to due diligence to ensure that the offer is state aid compliant.

**Alistair Cunningham OBE**  
**Executive Director of Growth, Investment and Place**

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Report Author: Simon Hendey, Director Housing and Commercial Development

## **Background Papers**

State aid advice on loan to Wiltshire college provided by Bevan Brittan.  
The following unpublished documents have been relied on in the preparation of this report:

## **Appendices**

Appendix A in exempt part of the agenda.