EAST KENT HOSPITALS UNIVERSITY NHS FOUNDATION TRUST

REPORT TO: **BOARD OF DIRECTORS**

DATE: **29 JANUARY 2015**

SUBJECT: **ESTATES DEVELOPMENT PARTNERSHIP/PUBLIC PARTNERSHIP**

REPORT FROM: **DIRECTOR OF STRATEGIC DEVELOPMENT AND CAPITAL PLANNING**

PURPOSE: **Decision**

CONTEXT / REVIEW HISTORY

East Kent Hospitals University Foundation Trust is well placed to unlock value from its own estate, and through maximising these assets it can reinvest and redevelop its accommodation landscape to better support its strategic aims, Delivering Our Future and to provide better, more fit for purpose flexible health care environments.

The Director of Strategic Development and Capital Planning has been reporting to the Board over a series of related papers that a number of potential financing and delivery options, are being evaluated by the Trust, as the delivery vehicle for our strategic aims. The options researched over the last 12 months work on the assumption that the Trust forms a partnership or Joint Venture structure which through the use of land, capital and revenue would deliver significant redevelopment opportunities.

Papers previously presented to the Board;

- Redevelopment and Rationalisation Strategy
- Estates Visioning Paper
- Delivering Our Future presentation
- Strategic Estates Partnership
- Estates Joint Venture Open Day
- Soft Market Day Report
- KCC Accommodation Strategy
- Public to Public Partnership
- Assessment of Delivery Options

SUMMARY

The Delivering Our Future strategy is fundamental in securing a sustained Trust and patience experience going forward. The Trusts future estates planning needs to directly link with the Delivering Our Future strategy, acting as an enabler, contributor and catalyst.

In support of this the Board have been presented, over the course of the last 12-18 months, a range of papers demonstrating the potential opportunities which exist for EKHUFT through utilisation of its estate. These papers follow on from an initial high level, Rationalisation and Rebuild Strategy (RRS) which highlighted that the Trusts large estate, some 200,000 sqm, was:

a) being underused in terms of staff and patient accommodation and;
b) has significant challenges keeping up to date in terms of compliance, patient and staff expectations,
c) and inflexible, with continuing changes in care pathways, technology and health initiatives.

Currently and as part of our strategic aims, the estate faces a number of complex, related and emerging priorities including the need to develop a master plan capable of creating the built environment for;

- Single Emergency & High Risk Hospital
- Redeveloped base sites
- Shared Service Support Hub – admin/HQ enabling leaner clinical sites
- Nursing Homes – for teaching, pathways, income
- Integrated Health through Health and Social Care Campus – community and acute
- Primary Care co-habitation – hosting and partnering onsite GP practices
- Corporate Landlording – supporting Divisions to focus on care

Whilst the Trust has successfully called on its own capital funds to deliver key estate capital projects and technology and service developments, it is clear that such significant service reconfiguration coupled with the resulting estate reconfiguration will require access to funds which are beyond the Trusts own ability to generate.

The Trust has presented a number of papers to the Board which researched and developed our thinking into how we might achieve this future funding need and essentially has looked at four delivery vehicles;

1. Government or market funded "self-build"
2. Private Finance 2 (PF2)
3. Strategic Estates Partnership (SEP)
4. Public Partnership

In summary, Options 3 and 4 involve the creation of a partnership with another organisation, either private or public; the joint partnership then develops and delivers the projects over a period of time with any profits/returns being divided between partners or in the case of a public partnership re-invested into further projects.

Option 1, involves the direct borrowing of the whole or part capital required via government funding vehicles, these are at below market interest rates. This option would require a traditional contracting model, such as Pro21 which is currently being used by the Trust to build our new hospital at Dover.

Option 2, whilst the jury is out on PFIs as a whole, PF2 is billed as the evolution of the government backed PFI models, with more flexibility and assurances than previous PFI projects. This vehicle could suit the Trust if certainty of our plans were in place.

RECOMMENDATIONS

The Board are recommended to approve the formation of a Public to Public Estates Partnership with Kent County Council.

NEXT STEPS

An executive Board level lead, to oversee the development of key work steams will need to be identified. Work streams will need to include:

- A **Finance** work stream to evaluate and prepare our Strategic and Outline Business cases and to model the financial strategy
- A **Governance and Legal** work stream to ensure the correct joint Board is formed and legal processes are followed
- A **Health** work stream to ensure benefits can be mapped and captured and to

ensure strategic direction remains patient and health focused

- A **Property** work stream to oversee projects and to delivery asset utilisation
- A **Communications and Engagement** work stream to ensure staff and the public involvement and communications and engagement is appropriate and positive

IMPACT ON TRUST'S STRATEGIC OBJECTIVES

SO1 Quality – *Deliver excellence in quality of care and experience of every person, every time they access our services* – These proposals aim to improve healthcare environments through investing in modern fit for purpose buildings capable of meeting current and future patient care.

SO3 Innovation and Improvement – *Place the Trust at the leading edge of healthcare in the UK, shaping its future and reputation by promoting a culture of innovation, undertaking novel improvement projects, and rapidly implementing best practice from across the world* – These proposals seek to deliver future innovative working and care environments combined with new ways of working, flexibility and innovative commercial partnership vehicles

SO4 Business Development – *Identify and exploit opportunities to optimise and, where appropriate, extend the scope and range of service provision* – rationalising and enhancing our hospitals will allow the Trust to re-invest in better service provision and better environments.

SO5 Infrastructure – *Continue to upgrade and develop the Trust's infrastructure in support of a sustainable future for the Trust* – these proposals aim to reduce long term liabilities, enhance, redevelop and improve our existing infrastructure whilst seeking to ensure that the Trust occupies leaner more fit for purpose care environments

SO6 Finance – *Deliver efficiency in service provision that generates funding to sustain future investment in the Trust* – providing flexible working environments with reduced on-going costs will contribute to the Trusts future stability in addition to ensuring that revenue and capital expenditure on the physical estate is proportional and not a drain.

LINK TO BOARD ASSURANCE FRAMEWORK

Check the BAF

IDENTIFIED RISKS AND RISK MANAGEMENT ACTIONS

Legal and Contractual - advice will be required to ensure a sound legal framework exists between both organisations which minimises possible future issues.

Political – associated with the public consultation element of Delivering our Future and local issues from changes in land use

Public – The "privatisation" of the NHS features high on the minds of the public, this is offset by the formation of a Public Estates Partnership. There is also possible public risk from changes to provision locally and from perceived negative changes to local health provision

Financial – There is a risk if the Trust is unable to service its loans, careful financial modelling will be required to ensure a financial strategy is developed with income/profits mapped and captured.

FINANCIAL AND RESOURCE IMPLICATIONS

Estate Master planning, as an enabler, seeks to release capital and cashable savings, through the rationalisation of space and assets.

Capital receipts, in the form of potential development land being reused to redevelop our hospital sites directly or in conjunction with a developer/investor for clinical activities, housing or other income opportunities.

Revenue savings will be released from a decrease in on-going Estates costs (currently circa £13m annually) and total building maintenance costs including £2m capital each year, through the reduction of overall space. Our current cost per sqm equates to £275 per square metre per annum plus utilities.

Our backlog maintenance profile of £26m will also be positively impacted with routine, significant and high risk areas being rationalised as part of a redevelopment strategy, enhancing our ability to be compliant and to keep abreast of changing legislation

A key work stream to be developed, once a direction of travel is agreed, will include the detailed financial planning arising from partnership negotiations and the overall cost/benefit analysis that will be generated through project OBC and Master plan strategic cost modelling. Financial planning colleagues are engaged and a number of early sessions are underway.

The Partnership and EKHUFT in its own right will need to develop careful capital modelling, determining the right time to fix source funding, the periods at which the source funding can be drawn down from a finance source, such as the ITFF and the I&E implications of servicing the loan.

LEGAL IMPLICATIONS / IMPACT ON THE PUBLIC SECTOR EQUALITY DUTY

To date the Trust has been supported by specialist property lawyers Bevan Brittan.

Specific Legal advice will be commissioned on the governance, structure and implications of a partnership with KCC and any subsequent project specific structures could be commissioned by the partnership to deliver aspects of the overall master plan.

A Jointly owned, executive lead entity will need to be established with associated legal implications around directorships.

Notifications to relevant authorities will be required including Monitor and appropriate companies registration etc.

Planning Authorities briefed and engaged with appropriate applications in due course.

Procurement advice relating to entering into direct relationship and/or OJEU issues

PROFESSIONAL ADVICE TAKEN ON ANY NOVEL OR CONTENTIOUS ISSUES

Framework approach advice taken from Procurement Services and NHS Commercial Solutions

External legal advice to be taken from the Trusts advisors

COMMITTEE ACTION REQUIRED:

The Trust Board are asked to:

Approve the recommendation to proceed with a Public/Public Estates Partnership vehicle with Kent County Council for the purposes of creating better health integration and an estate master plan capable of delivering our future needs.

CONSEQUENCES OF NOT TAKING ACTION:

It's clear that commissioners, providers and patients desire a greater degree of integrated health and social services in the future. Health outcomes are shown to be better, improved costs and better efficiencies are more likely and through the combination of resources better public services are deliverable. EKHUFT as the single acute in the East Kent region stands to benefit enormously should health services be redesigned, to accommodate future population and financial pressures. Failing to take these integrated strategic steps will inevitably cause continuing operational pressures for front line services, A&E, bed numbers and specialist services.

Additionally the Trust will continue to retain long term backlog maintenance and repairing liabilities valued in 2013 at £26 million.

Our current estate and associated revenue costs will make contributing to the Cost Improvement Program difficult. This will see revenue costs being incurred by estates teams who are challenged to maintain our existing estate in a safe and fit for purpose condition.

Our current estate remains inflexible and not able to support the future direction of care in the long term. Inflexible working environments can contribute to poor staff morale and productivity. Our staff have fed back that working conditions are not ideal and should be improved, this could lead to poor retention and a perception of undervaluing staff.

Our estate inflexibility and physical limitations inhibit our ability to compete in the heath economy making the provision of delivering new and innovative health care challenging. Service improvements and new care opportunities are at risk from our need to "rebuild" on a case by case business.

Poor perception from patients and visitors, verbal and written correspondence from both groups identifies views that relate to overcrowding, lack of appropriate space, underuse, and poor decoration and appearance. Our PLACE inspections, whilst good, are indicating that our Hospitals could be improved whilst the Trust recent CQC report highlighted some poorly maintained and lack of fit for purpose buildings.

These liabilities and constraints will limit the Trusts vision and impact on our Corporate Risk register rating and sustainability.

1. Introduction

1.1 The Trust occupies an 188,000sqm estate valued at £239m (1st April 14) with buildings ranging from late Victorian and Edwardian through to modern purpose built units. The complexities of managing and mapping this estate against the current and future needs of a highly complex health care provider, continue to pose a long term challenge for the Trust.

1.2 In addition to the long term needs of the Trust a number of already known strategic drivers need to be considered in terms of our future property strategies:

- Multimillion pound annual Trust Cost Improvement Program – estate and occupancy costs account for a significant proportion of our annual revenue budgets at £25m per annum (including estate and soft fm costs)
- Delivering Our Future Strategy – future of clinical services and impact on sites
- Outpatient Strategy and new models/locations for OP services
- Space Utilisation Study – findings, underutilisation of existing clinical space by 25% and non-clinical by c50%
- Back Office Reduction Group – potential shared service opportunity and resulting staff headcount implications
- Condition Survey – compliance and cost liabilities arising from occupying our existing hospitals

1.3 To aid strategic planning and to understand the interdependencies involved the Director of Strategic Development and Capital Planning has been reporting, regularly to the board, on a number of key work stream initiatives. These have included papers over the last 12 months on:

- Redevelopment and Rationalisation Strategy
- Estates Visioning Paper
- Delivering Our Future presentation
- Strategic Estates Partnership
- Estates Joint Venture Open Day
- Soft Market Day Report
- KCC Accommodation Strategy
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1.4 The work undertaken to date is being developed in the context of a changing NHS landscape with the Clinical and Specialist Commissioning Groups, changing patient needs and behaviours and crucially, continued challenging economic environments both within the NHS and the wider UK economy. These challenges make it increasingly more appropriate that organisations understand the ability of their assets to help deliver or hinder their strategic plans.

1.5 The very real capital and revenue opportunity, that exists within NHS assets are already being exploited by a wider range of Trusts, with some 18 known SEPs in development in the UK and by the recently created NHS Property Services organisation, who have been tasked with reducing significant numbers of sites over the next 2 -10 years.

1.6 The possible contribution from NHS assets, to the One Public Estate initiative is earmarked as a potential £7.7billion alone. (EC Harries report for the Department of Health).

1.7 This paper updates the board on progress made in evaluating finance and delivery options for EKHUFT and specifically:

a) A Public to Public Estates partnership with Kent County Council and
b) A Strategic Estates Partnership with a private company.

1.8 Whilst both options will unlock value in our land holdings and assets and will draw on our ability to service a capital loan and generate income this paper recommends that a Public to Public Partnership will evolve the positive opportunities already identified in a Strategic Estates Partnership, by further developing opportunities to access strategic relevant land, access to a wider range of funding and crucially to better integrate health in our communities through the delivery of integrated social health campuses, emergency high risk hospital and remodelled base sites.

2. Delivery Vehicles reviewed – ways to unlock funding

Summary to date

2.1 In order to unlock funds, organisations have initially released surplus land/assets to the open market, obtaining best prices and re-investing capital receipts. This has seen large amounts of redundant NHS assets being placed on the market over the last 10 years. The complication with this approach is very few estates can generate the size of re-investment funding required from just this route alone.

2.2 Organisations have therefore looked at alternative initiatives such as Private Finance Initiatives. It's true to say that some PFIs have been successful but there is no escaping from the continued negative impression left from central government backed finance vehicles, which in many cases proved to be, too restrictive to cope with a changing financial climate and a changed health model.

2.3 It is also clear that early models included the requirement to supplement operating costs through expensive support and maintenance costs, thereby making long term repayment expensive. PFIs have sought to learn from these problems and the evolved PF2 has sought to address many concerns.

2.4 Increasingly, Trusts are looking to leverage not only the full capital value of their estate but also the "whole benefit" of partnering. The September Board paper "Assessment of Delivery Options" outlined that EKHUFT had essentially four routes by which we could unlock enough funding to deliver our future strategic needs. These where presented in detail in that paper but are summarised below:

- **Government or market funded "self-build"**
  – accessing capital and building a range of projects in-house
- **Private Finance 2 (PF2)**
  – using a private build company from which we would rent a finished build/ings
- **Strategic Estates Partnership (SEP)**
  – 50/50 partnership with a private company that would build a range of projects (including non-health projects to be able to afford health projects
- **Public to Public Estates Partnership**
  – partnering with another public partner and through this approach develop enhanced public/public benefits – in our case KCC and health integration benefits

2.5 The last Board paper – Assessment of Delivery Vehicles, presented in September concluded that the options of **Government or market funded "self-build"** and **Private Finance 2 (PF2)** were a way of accessing finance and not in themselves able to deliver an overarching vehicle capable of being flexible and fluid enough for Delivering Our Future. For reference both options are attached as Appendix 1 as although these are not appropriate to deliver the complete set of projects and services that we may require they could be used for individual projects and hence remain valuable tools to call on.

2.6 The Board therefore asked that a further piece of work be undertaken to review the Strategic Estates Partnership and the Public Partnership against a set of principles and criteria.

Board high level Principles

2.7 Following the last Board discussion a set of high level principles were agreed for use by Board members in comparing a Strategic Estates Partnership (SEP) against a Public to Public Partnership (PPP), these principles were outlined as:

a. Partnership needs to be considered in the context of a positive influence in the development and delivery of our strategies
b. The benefit to the whole health economy and other groups, such as CCGs, GPs and community
c. Funding – source, range, affordability, accessibility and income
d. Risk – short, medium and long term, for example transfer of knowledge

2.8 In addition to the above principles the Board has agreed a set of criteria by which both options need to be considered against. These are detailed below:

A. Flexibility - the ability to be future proof

Public to Public Partnership

Offers flexibility to future proof, given that the partnership will be defining the "to be delivered projects" in a framework of a 50/50 partnership over a period of time. Like a SEP, the PP will be designed around the changing and challenging needs of both organisations to achieve strategic aims and the proposed ToR will need to have a significant element of inbuilt flexibility. Key to this flexibility will be the shared drivers - CIPs, Demographics, National Policy, Public expectations etc - that only two public organisations can understand.

Strategic Estates Partnership

SEP partnerships are very flexible, depending on the partner chosen. The Integrator model (section 2) would be the preferred route and as such the projects/services can be defined during the course of the partnership.

B. Simplicity – avoiding complexity in the model and mechanics

Public to Public Partnership

Specifically a desire by the Board to avoid unnecessary complexity in the mechanics of the vehicle. Neither vehicle is simple by its nature but the added value of the PP lines in simpler legal routes and the resulting non-requirement to undertaken complex and lengthy procurement process. EKHUFT is familiar with inter-organizational governance structures, such as KPP and KCC have experience of partnerships across other councils, health and education. The mandate of the joint board will need to ensure the mechanics of decision making and the process of doing business is made as simple as possible.

Strategic Estates Partnership

Like the PP, a strategic estates partnership does need considerable legal process to ensure governance arrangements are robust. The resulting SEP is relatively simple in structure with a 50/50% division and a project by project basis of evaluation. The commercial partner would seek to bring its knowledge of the private sector processes to bear as would the public partner. The SEP does allow for "internal competitive processes" by which each the SEP is evaluated as the best vehicle for delivery this can add opportunity but also extra work and complications.

C. Opportunity to draw on the best of a number of approaches

Public to Public Partnership

This criteria specifically refers to the vehicles ability to draw on the best of a number of approaches - to ensure this is possible the joint Board would need to ensure that the PP has an approach built into its ToR which allows adaption to other emergent models. The PP model does draw on the internal competitive process in determining the best process for specific projects and therefore could use other vehicles such as PF2, sale and lease back etc.

Strategic Estates Partnership

The SEP is an adaptive vehicle; the joint private/public board would equally need to ensure its ToR reflects the ability to use alternative emergent models over the course of its proposed 25 year tenure. The SEP does tend to be highly adaptive to market directions and therefore other SEPs are adapting to drivers which were not apparent at the formation of the partnership.

D. Sustainability

Public to Public Partnership

The PP is proposed to be a long term partnership, with the earliest projects having to be successful to prove the concept and to increase the "by in" of both independent organisations. Financial sustainability will be crucial and although both organisations have to react to external drivers (often beyond their control) long term mapping of the financial liabilities involved will be a key action.

Strategic Estates Partnership

The SEPs that have already been placed into the NHS have agreements of 25 years, although it's early days (the longest being 6 years old) it is highly possible that the sustainability in the partnerships can be maintained.

E. Ability to offer full or majority of capital

Public to Public Partnership

The PP will have access to a range of UK and EU capital, including the ITFF (£1.5bn) and LEP (£500m). The public/public partnership would have unique access to public funds at below market rates, fixed at the time of draw down. For example the ITFF have discussed with the Trust lending at 1.9% over 10 years or 3.5% over 25 years.

Strategic Estates Partnership

The purpose of the SEP is not only bring professional resources into the partnership but also to access capital from private markets. Our initial discussion with the ITFF would suggest that their preference would be not to lend to SEP arrangements, however they would be willing to review on a case by case basis and have lent to private/public partnerships previously. It's clear form our research and form the open market day that all of the shortlisted potential partners have access to capital including for example Amber who have an investment fund of £2bn.

F. Affordability and economic prudence in the long run

Public to Public Partnership

The PP will need to be affordable and financially prudent for both partners, in order for it to be successful in the short term and sustainable in the longer term. Given the challenging financial climate for both EKHUFT and KCC early projects must generate income. The biggest issue to address in terms of affordability is the ability for each organisations, individually and collectively, to

be able to service debt generated from the partnership's objectives. The PP model allows for below market rate public funds to be utilised this combined with a re-investment of profits into both organisations - versus into a private company - would help make the overall affordability more sustainable in the long run. The mandates and accounts for both organisations will dictate the scope of the affordability and its crucial therefore that clear and transparent accounting is essential. From the Trusts perspective the ITFF would charge interest which is affordable to EKHUFT given the desire to deliver income generating ideas and the delivery of substantial rebuilds, facilitating changes in service models and profitability in the future.

Strategic Estates Partnership

The SEP would require full financial evaluation as part of the competitive partner selection process. In order to service the capital required and depending on the source being private capital or ITFF money the overall affordability will depend on initial projects generating income and the possible inclusion of back office services along with non-NHS income (retail/housing development etc.) all playing a part. It's key to note that SEPs are not PFIs and the total indebtedness of the SEP can be more carefully managed, given that the partnership doesn't signup to an ideal figure but rather evaluates each project individually (see section on costs below).

G. Ability to deliver needs for local communities and redevelop base sites

Public to Public Partnership

The PP is fundamentally attuned and addressable to the needs of the Local communities of East Kent, given the public mandate of both organisations. The projects identified as possible early wins are primarily helping to deliver the localism agenda, particularly in terms of integrated health and social care. The strategic aims of KCC and EKHUFT reflect the needs of the a changing and challenging local populations that both serve and as such the PP is a vehicle which will primarily will only likely deliver projects which are directly beneficial to the community. The PP would need to consider the membership of the joint board or the means by which it reports to the public, this could be with the inclusion of Councilors and Governors for example.

Strategic Estates Partnership

The desire to ensure that the SEP meets the needs of the Local Community will be driven by EKHUFT on the presumption that the commercial partner will not have such a clear mandate to comply with. The Trust will have a 50% stake in the SEP and so will need to satisfy itself that enough local focus is included in the overall project plans. For example the finance master plan in the SEP may require an element of retail in order to enhance profits of a less profitable project, therefore not strictly with a focus to meet the needs of Local Communities.

H. Additional and/or hidden costs/resources required

Public to Public Partnership

The Public to Public Partnership could be argued to be a more transparent cost vehicle (provided the mandate and governance is robust). Whilst the need to generate profit and income are also present in the PP, there would be less incentive to incur unclear costs given that the legal mandate (required to form the partnership without competition) ensures that the partnership is in the public interest and not commercial in its nature. A greater degree of transparency into the I&E is required by law and by BOTH organisations versus a SEP which has a 50% private partner.

Strategic Estates Partnership

There is no doubt that the SEP will incur costs in its own capacity, these can be kept to a minimum and can be overseen, challenged and approved by a joint board. SEPs do bring significant external resource and expertise, these will be charged to the running costs of the SEP and more often than not the Private partner will bring the bulk of this resource, however there should be no reason why these should not be transparent. Some SEP partners are willing to incur the majority of upfront risk costs i.e. for evaluating and then not progressing with projects but there would be a finite appetite for this in the long run.

I. **Clarity on the benefits both parties bring**

Public to Public Partnership

KCC would bring a unique geographically aligned understanding of the Trusts "place" in East Kent. They would clearly bring a shared understanding of being a public body, shared common statutory oversight and as a commissioner of services in the health economy an understanding of current and future challenges. Unique to KCC and the PP will be its ability to support the drawing together of fragmented organisations, providing a greater abilitiy to integrate health and social care. KCC brings tangible resources, assets, land and statutory functions which would facilitate pace in the partnership.

Strategic Estates Partnership

This would depend on the eventual SEP partner chosen. As demonstrated at the Trust open market day a range of partners is possible. It is likely that the chosen partner would need to demonstrate a high degree of flexibility and a willingness to help determine the shape of the SEP and its outputs over time. It’s also key, that the Trust identifies a partner which is likely to bring innovation, professional expertise that does not already exist within the Trust and competitive knowledge and "edge".

3. Public/Public Partnership with KCC – recommended delivery model (vehicle)

Background

3.1 A Public Partnership paper outlining the possibility of a public to public estates partnership between Kent County Council and EKHUFT was presented to the board in August. The partnership possibility has two routes with KCC potentially tendering, along with the private sector, through a competitive process should the Trust wish only to establish a Strategic Estates Partnership. Secondly and more relevant to EKHUFT is the opportunity, to form a public to public partnership, given the geographical area we both operate in, as acute provider, County Council and commissioner .

3.2 Following the initial paper to the Board a series of workshops have been held between both organisation in which more a detailed understanding of the pros and cons have been developed. Additionally, senior leaders from both Trust and Council in the form of the EKHUFT Chairman and CEO and KCCs Leader and CEO have met to discuss at high level the theoretical benefits for both organisations, the benefits to the population of Kent and the impact the partnership could have on health integration.

3.3 There are potentially four variances to be considered as follows:

3.3.1 Joint Procurement of a Third Party SEP Partner - KCC could join with the Trust in jointly procuring a third party SEP partner so that both the Trust and KCC would form a joint venture partnership with a private sector partner to form a SEP. The Trust and KCC can then both use the SEP to deliver estate transformation which will also allow greater integration of the Trust and KCC estate and facilities if so desired as well as providing greater opportunities for the private sector – this would be challenging given our potential early relationship and potential differing priorities and timescales.

3.3.2 Trust Procurement of a partner - KCC could become the SEP partner providing SEP services to the Trust. Under this option KCC would need to be the successful bidder under an EU compliant procurement procedure run by the Trust. Therefore, KCC would be one of a number of bidders for the SEP opportunity. The Trust would also need to ensure that KCC was not placed at an unfair advantage over other bidders and the Trust could show no bias towards KCC - therefore this option could not be the planned outcome of a competitive process and KCC would need to demonstrate they would have an equal offering to that provided by a Private bidder.

3.3.3 Joint Venture between the Trust and KCC to pursue third party opportunities – This would be very limited in reality in that if KCC was effectively acting as the developer partner, then it could be construed that KCC was providing works and services to the Trust both in delivering Trust operational estate needs and also in delivering third party development for commercial returns. Also distinguishing between commercial joint ventures that fall outside the scope of the Directive and joint ventures which are considered a concessionary opportunity and subject to public procurement is a rather unclear and poorly defined area of law. Consequently, there are challengeable risks when public bodies seek to appoint JV partners from the public sector in reliance on untested law.

3.3.4 Co-Operation Arrangements
The clearest and most established route to partnership is via Co-Operation agreements (using the Hamburg or Teckal approach) which in essence allows public bodies to form co-operating partnership arrangements for mutual benefit subject to a number of pre-defined guidelines being adhered too. The benefits for both organisations need to also be clearly in the public interest and not commercial in nature. Under procurement law Public authorities are permitted to co-operate with other public authorities for the purposes of carrying out their public service tasks as long as:

a) The contract establishes or implements a cooperation between the participating contracting authorities with the aim of ensuring that the public services they have to perform are provided with a view to achieving objectives they have in common;

b) The implementation of the co-operation is governed solely by considerations relating to the public interest (i.e. it is not commercial in nature between the partners but a true sharing of resources in performing a common task);

c) The participating contracting authorities perform less than 20% of the activities concerned by the co-operation for external customers i.e. the Partnership will need to limit its commercial activities to 20% of the overall output of both parties.

3.4 The Trust will need to satisfy itself that all legal assurances are achieved prior to forming a partnership with KCC but it is entirely within existing practice that public partnerships are viewed as feasible delivery models for the benefit of both organisations. The Board should note that both organisations are being supported by specialist lawyers and a work-stream dedicated to ensuring the legal aspects of a partnership will be fully developed.

Benefits of Public to Public Estates Partnership with KCC

3.5 The Trust and KCC have held several sessions over the last two months, to review at high level what possible benefits could exist as a result of a public to public partnership being formed. Some of these include:

a) Greater health and social care integration

- With better patient outcomes – local health agenda
- Shorter acute hospital stays – through quicker discharge
- Help in achieving NHS targets – with reduced referrals, A&E etc
- Greater community and primary care integration

b) Better health planning co-ordination with Commissioners and CCGs

c) Access to beneficial land – KCC leads, One Public Estate initiate in south east

- KCC owns significant land adjacent to our sites – specifically K&C
- Access to educational and city council land
- Compulsory purchase powers

d) Greater support from statutory bodies – highways/planning

e) Access to a wider range of funding streams

- Local Enterprise (LEP) funding – targeted at deprived communities
- EU and Central Government funding
- Compliant with ITFF funding guidance

f) Shared costs

- back office functions including IT/procurement/facilities
- enabler to estate rationalisation
- developer fees

g) Income stream from coordinated developments

h) Simplicity and speed of formation

Greater Health and Social Care Integration

3.6 Clearly the benefits to EKHUFT as an acute provider that arise from enhanced or better integration of health could be significant. The Divisional Director for Urgent and Long Term care seems the integration of health across the health patch as crucial to managing not only the immediate issues in capacity and demand but the series demographic issues we have in terms of population growth and changes in East Kent over the next decade

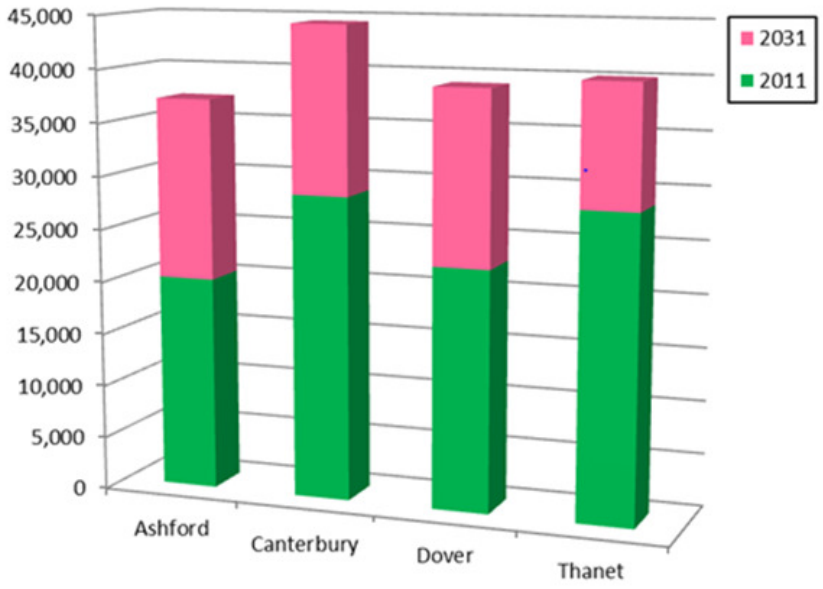

Diagram 1.3 - Forecast population growth in the over 65s in East Kent

3.7 The Trust along with senior leaders from the Community Trust, CCGs, KCC and GPs recently held a workshop at the Estuary View practice. The purpose of the day was twofold a) to define a route map by which the range of stakeholders could agree a structure that would further develop tangible outputs from local integration and b) develop at Estuary View a practical model that piloted these benefits, with the intention of replication in the wider health economy. Our potential partnership would offer a vehicle by which these outputs would be delivered.

3.8 KCC as both social care commissioner and development partner are clearly keen to support the wider health agenda and through the mapping of placement needs in the area see Estuary View and the following potential projects in Folkestone, Thanet and Dover as directly aligned to their Social Care Accommodation Strategy. From the Trust perspective these projects clearly align to our desire to establish Health and Social care Campuses with the resulting health and financial impacts.

3.9 Additionally there is an opportunity to develop a Dementia Village, utilising exiting houses, owned by the Trust, in Dover. This project would be keenly welcomed by KKC and CCG commissioners and reflects valuable learning from a recent joint trip to Holland. The village and the piloted outcomes could be developed as part of other projects and/or shared across the health economy, benefiting EKHUFT and enabling a better patient experience.

3.10 The benefits of a public to public partnership, between KCC and EKHUFT, are best illustrated when learning from examples of existing failures in our health system.

The story of Mrs Andrews - her failed care pathway published earlier this year in the Health Service Journal (HSJ) sites the breakdown in communication, lack of co-ordinated integration and reliance on unnecessary and expensive acute stay versus home or community health as having a series effect on the outcome of this patient, resulting in a now permanent long term stay in a residential care setting.

3.11 The Mrs Andrews story is sadly reported as all too common in our health system but the HSJ it sites a number of steps which could have dramatically positively impacted on the actual outcome. In one of the joint KCC/EKHUFT workshops the Mrs Andrews care pathway was overlaid against a number of projects that are potential outputs from the public to public partnership, these illustrate the key touch points (diagram 1.4 below) that both organisations, and wider health economy, could achieve more effectively under a future partnership model.

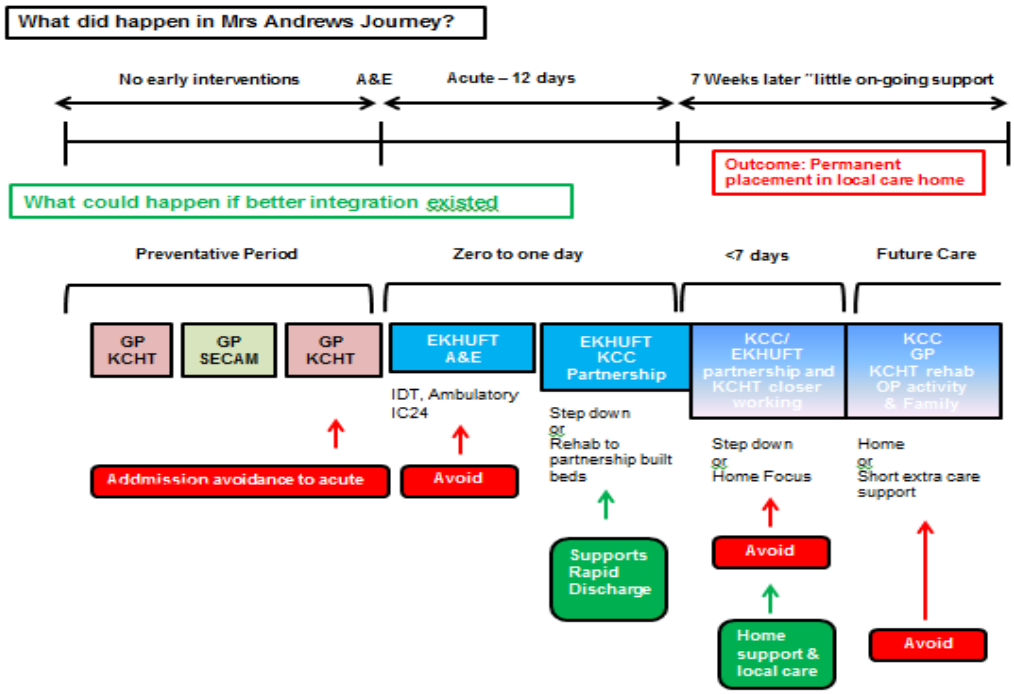

Diagram 1.4 Mrs Andrews care path way and the public/public touch points

Better Health Planning with KCC and CCGs

3.12 As discussed above a public to public partnership could deliver better health outcomes for individual groups of patients and path ways. Equally structured co-ordination across several providers and between commissioner and provider could result in better health planning and policy. There is a very consistent view that it's in the interest of all parties to co-ordinate this planning, removing barriers and improving the flow of data and resources could ensure less fragmentation.

3.13 Crucially a wealth of information and data exists across multiple organisations, the public to public partnership is already starting to unlock some benefits arising from the sharing of this information. For example KCC have detailed data on their planned approach to dementia and extra care beds in the next 10 years, this is linked to both organisations data showing the levels of need and deprivation in communities, EKHUFT equally have a huge range of data mapped against specialities which are feeding into the Delivering Our Future strategy. The co-ordination of data from several sources linked with commissioning intentions should provide a cost effective and strategic positive shift in health planning for the communities of East Kent.

Access to beneficial land

3.14 KCC is the lead authority for the One Public Estate in the southeast. This national Government initiative is looking to utilise the assets available across the public sector to maximise rationalisation of public land/assets, releasing sites for housing development and draw on the cumulative efficiency of a connected estate. KCC have now mapped the entire public estate including MoD and prison sites, all of the health portfolio including that transferred to NHS Property Services and all council and district owned assets, across Kent (expanding this knowledge into further counties in the New Year).

3.15 This collective database will provide for the first time the total publicly owned portfolio of all assets and land across the East Kent region. This knowledge is designed to break down barriers to the delivery of key regeneration and strategic projects. It is also designed to offer real opportunities for public bodies to engage in a facilitated dialogue about the accessibility of other republic sites, specifically if those sites help public bodies to deliver of key strategies.

3.16 KCC owns land and assets in all six regions where the Trust has a hospital an example of early dialogue is outlining how a support hub (presented in previous Board papers as a key enabler) could be developed in Ashford, given that KCC own a business park which houses the Councils social works and hence shares the same health platforms and network lines. This site could enable the Trust to unlock some of its exists assets, providing a swing space into which the Trust can decant non-clinical staff from its acute site, further detail on this project is outlined further in this paper.

3.17 The Delivering Our Future strategy will require large scale reconfiguration of EKHUFT sites, the One Public Estate and specifically the partnering with Kent County Council as one of the largest land owners in Kent will seek to aid the delivery of our strategies, this could include access to adjacent or strategic land which could deliver our single emergency hub and our re-modelled base sites.

Political and support from statutory bodies – highways/planning

3.18 KCC as statutory provider of a number of local government services has the ability to develop more cohesive plans which reflect the directives required by bodies such as the Highways Authority, Building Control and planning.

3.19 Whilst all projects derived from a partnership with KCC would need to fully comply with guidance it is clear that better communication and a shared strategic direction would make inter-body working easier. Although the Trust has a positive history with such bodies, it has at times been frustrated by the time taken to navigate due process. This could be greater enhanced should the partnership have the ability to draw on specialist resource and expertise, this is not the Trusts core business and therefore a partnership with KCC would bring a new resource.

3.20 A public to public partnership could have positive political leverage across the range of stakeholders that EKHUFT work with. The localism agenda within health could be greatly enhanced by a regional strategy for East Kent which is supported by the County Council, flexibility within this agenda could still be delivered but with a wider inter- council and inter commissioner facilitation as a result.

Access to a wider range of funding streams

3.21 In addition to the ITFF loan facility, a number of matched or enablement funding opportunities can be explored as a result of the partnership, for example the South East Coast Local Enterprise Partnership (LEP) funding could be used to draw down against projects which improve the local outcomes of deprived areas, Thanet, Dover and Folkestone are all areas included in LEP as target areas. The development of Teaching Nursing Homes and Social Health campuses would act as place of employment in addition to attracting private housing investors into the area and as such qualify for LEP funding at 50% of the project value.

3.22 European heath and development funding will also become accessible. KCC have considerable experience of accessing this funding for use in major infrastructure projects, road network improvements and IT networks, additionally there is a drive both with the UK government and with the European Commission to channel funding into Health Integration with the Department of Health facilitating initiatives such as the Better care Fund. Early work is showing that for this funding to be effective it needs to be targeted at projects which integrate health across providers and sectors.

3.23 It is possible that certain Section 106 monies could be deployed and deferred for projects developed as part of the partnership, this money could be invested int the projects themselves or in the delivery of supporting infrastructure.

3.24 Overall, there would appear to be several opportunities for the partnership to access a range of capital and enablement money. An early key work stream, finance and funding, will need to be established in the new year, so as to determine the affordability, combination and structure by which either the Trust or jointly the partnership accesses the right funding to deliver our future needs.

Shared costs

3.25 The Board will be aware that the Trust has been reviewing back office functions over the last 12-18 months, this project is looking to review the efficiency and effectiveness of our back office functions and has made some conclusion in areas such as Estates, Procurement, HR and IT. Much improvement work is being delivered within these services and further initiatives and services are being reviewed going forward.

3.26 KCC is equally reviewing its support functions and during our initial work shop sessions a number of possible added value benefits, from a joint review, have been explored, these could be an early win from a partnership and could derive from shared costs and income opportunities, for example:

- KCC are keen to look at alternative providers for their Occupational Health Service,
- a possible shared common purchasing plan
- shared IT investments
- our shared need for electronic records and archiving
- maintenance and FM services
- HR consultancy and transaction activities
- Fleet services

3.27 Importantly it's worth nothing that considerable shared cost opportunities exist in areas relating to the joint development projects, particularly in design, consultancy fee's and project management fees. Whilst fee's would be incurred it could be argued that a combined internal resource could require less extra support and/or the supple of professionals ervices could be incorporated or "charged back" to the partnership. The SEP, as outline din previous papers is where a private/private partnership would see significant costs being incurred by the SEP but largely being delivered by the private partner, this would not necessarily be the same if in a public partnership, essentially there is less incentive to do this. Typically costs of c10% should be allowed for major capital projects, given the scale of the projects that could be delivered via the partnership this would be a significant cost.

3.28 Finally KCC are looking to develop a shared support hub in the east of the county, he Board will be aware that a Trust, Shared Support Hub is a key enabler to decanting space within our acute sites and to address our non-clinical staff space and facility needs. We have again looked at combining this support hub and would envisage a mutual benefit in co-habiting a built or leased facility.

Income stream from co-ordinated developments

3.29 The Trust remains keen to generate new streams of income in order to maintain financial stability, early projects envisaged as part of the KCC/EKHUFT partnership would seek to deliver new income streams back to the partnership and parent organisations, some of these would include:

- Teaching Nursing Homes
- R&D
- Extra care living units – private and commissioned
- Dementia specialist facilities
- Primary care practices – NHS property services rental and diagnostic needs
- Retail opportunities – as part of a wider " business park development"
- Housing – capital and leased social housing
- Academic – including the rebuilding of student and staff accommodation

3.30 It's crucial that income and capital returns need to be clearly defined so as to review the ROI and success criteria for specific projects. The income from these projects will be very important in securing the stability of the partnership and in securing its' longevity through changing political, health and economic changes.

3.31 The examples given above, outline at high-level, some of the benefits already being explored as part of a EKHUFT/KCC partnership. It's important to note that many of these are benefits which are distinct to a partnership of two public bodies versus that developed with a private partner. The Trust is clear that a partnership with KCC would have to add real distinct advantage beyond that derived from a private company.

3.32 It's also important to note that both organisations will need to determine the unique benefits derived from a private/public partnership, those benefits that neither organisation could feel is their core business, for example it is felt that SEPs deliver a higher level of commercial understanding and that private companies bring a commercial focus to projects which public organisations are accused of not have sufficient experience of, this focus is often pegged to the demands of profitability and shareholder governance. A EKHUFT/KCC partnership would need to satisfy itself that it had equal internal expertise to drive such benefits and that where this expertise does not exist to bring on board the right advice and professional support at key moments in the future.

Simplicity and speed of formation

3.33 As outlined above a key benefit of a partnership between to public organisations is the relative legal and procurement simplicity of formation. Whilst a SEP will legally have to be a full competitive process, lasting between 6-10 months depending on the format chosen, the PP could be formed legally within a matter of couple of months, with the biggest driver being the ability of partners to satisfying themselves with the proposed governance arrangements and ToR of the partnership.

3.34 At this point the Terms of Reference include the formation of a partnership vehicle capable of delivering strategic estates projects which aim to maximise the Trust's assets, aid and assist in the delivery of our Strategic health aims and aspirations and crucially is flexible and adaptive enough to help the Trust remain sustainable in the long term through Delivering Our Future.

3.35 The route to forming a PP also has a significant cost benefit to the Trust, negating the costs associated with a OJEU procurement process. The legal cost would be forecasted to be comparable, given the Trust would need to ensure a robust legal framework was in place to satisfy its Governance Boards and statutory bodies.

4. Strategic Estates Partnership (SEP)

4.1 The concept of the Strategic Estates Partnership, SEP (or Joint venture) is now well known to the board, with not only a master class but several board reports evolving the Trusts understanding of SEPs and following our research visits to a number of other Trusts including Cambridge University Hospital and the Isle of Wight.

4.2 Whilst recognising the benefit of the SEP as a delivery vehicle for the Trust the recommendation in this paper is that we evolve our thinking, building on the early SEP planning and opportunities these should be included as possible route to delivery but under the recommended overarching structure of a public partnership with KCC. The partnership therefore retains the option to use a SEP (or other vehicle such as PF2 and direct build) in the form of a menu of vehicles from which to deliver our strategic projects. This would allow the Trust to access the unique benefits that only the Public partnership will bring whilst not excluding the positive contribution that a SEP could bring also.

4.3 It's therefore worth reminding the Board on the key aspects of the SEP, presented in our previous papers.

4.4 The market open day described earlier in the report allowed the Trust to explore with the leading SEP developers this model of delivery and through an open dialogue allowed the potential developers and Trust to help define what type of partner and SEP would best align with our long term strategies.

4.5 A SEP is a joint venture partnership between EKHUFT and a partner (usually a private sector partner but not necessarily – see Section 3.28 regarding KCC below) typically over a long term of around 15-20 years. It is usual for the SEP to be set up as a corporate joint venture using a Limited Liability Partnership as the joint venture entity. Through this entity, the Trust and SEP partner would work together on the delivery of new capital schemes where required but primarily on developing and implementing a wider estates master plan/strategy.

4.6 Additionally the SEP can be used to include support services and equally through the limited company determine long term partnership approaches to services such as IT, HR and transactional services.

In the case of EKHUFT the role of the SEP may therefore include:

- development of a programme for the transformation of the Trust's estate which may include delivering new capital projects (potentially including the new single emergency and high risk hospital as an initial project);
- provision of private sector skills and expertise to maximise value from the Trust's estate;
- identification and development of proposals for and management of disposals and/or income generation schemes from surplus estate/land;
- management of the delivery of capital projects (including acceptance of delivery risk, supply chain procurement and supply chain management);

- provision of access to private sector capital to fund any shortfalls in Trust funding for projects;

- assisting the Trust in identifying solutions in relation to facilities management ("FM") services (and potentially back office services) which could generate savings for the Trust;

- create sub-partnerships with specialist developers/operators for extra care units and primary care facilities;

- Act as a landlord for “leased” projects such as the Trust’s planned shared support hub;

- An important feature of a SEP in relation to the delivery of new/refurbished facilities and FM/back office services (where relevant) is that the SEP acts as an "integrator" rather than a "provider". This means that the SEP / partner would develop the proposals for the delivery of the relevant new estate project or services for approval by the Trust and, once approved, would procure and manage the supply chain. However, the SEP / partner would be required to separately procure the construction contractor and any professional teams members such as architects (and any service provider if relevant) through a secondary procurement in accordance with EU procurement rules;

- It should also be noted that usually no exclusive right to deliver any projects or estate solutions are granted to the SEP / partner. Each new project brought forward would be subject to a two stage approval process by the Trust before the SEP may implement the new project.

The potential advantages of a SEP partnership include:

- The Trust benefits from SEP expertise on the transformation of its whole estate, which may include the existing proposals for the new single emergency and high risk hospital or may result in other solutions being developed for consideration by the Trust over a long period of time.

- The inclusion of the new hospital in the SEP scope may make it a more attractive opportunity for the market resulting in a higher level of interest and more competitive bids.

- A whole estate solution may be put forward by the SEP which could potentially use certain income generating projects or capital receipts from land disposals or savings generated from other estate solutions to subsidise the cost of capital projects that the Trust requires. This would have the potential for providing a more affordable hospital development, reducing borrowing and delivering overall estate transformation.

- The SEP joint venture entity set up has the potential to build up its own expertise and to bid to provide services to third party organisations in the future. This could generate profit which could be shared by the Trust and SEP partner, and possibly re-invested in further estates solutions.

The potential disadvantages of a SEP include:

- Assuming the SEP will be an 'integrator' rather than a 'provider'. Once the SEP has been procured a secondary EU compliant procurement will be required to appoint the supply chain to deliver the new hospital (as well as other projects identified). This will have an impact on timing for delivery of the hospital.

- Generally the Trust will need to consider whether a SEP partner can add value over and above the cost to the Trust of engaging a SEP partner. Whether the SEP partner is paid through a service fee or, more likely, project delivery success fees, the SEP partner will need to make money from its engagement as the Trust's SEP partner and it is likely that the Trust will pay for this either directly or indirectly.

Open Market Day

4.7 As part of the Trust's research into potential delivery and financing models and following the Board's agreement the Trust subsequently commissioned both GVA and Bevan Brittan to engage informally with leading market developers. Through their industry knowledge and following the Trust advert, in the Heath Investor magazine they shortlisted key potential partners to attend a Trust/Market Estates JV Open day on the 30th June. A report highlighting the learning and considerations from the open day was presented to the Board in July.

4.8 Each potential developer partner was sent a briefing pack with a set of high level strategic questions across four areas of its service provision: emergency care; trauma; outpatients and planned care, including:

- What are the appropriate settings to deliver care to patients?
- What services could be delivered locally?
- What services should be centralised?
- What services should the Trust stop delivering?
- What new services should the Trust start delivering?

4.9 Some of the UK's leading joint venture companies attended the day and included Interserve & Prime, Laing, Balfour Beatty, Amber, Ryhurst, Capita and Kier. The day proved very useful in helping the Trust consider the potential contracting approach it may consider and specifically whether the Trust should engage with a developer in the form of an Integrator or Provider partnership.

Integrator – Under the 'integrator' approach the JV / Partner would develop the proposals for the delivery of the relevant new estate projects for approval by the Trust and would procure and manage the supply chain. The JV / Partner would be required to procure the construction contractor and any professional team members such as architects through a secondary procurement exercise. The scope of the primary procurement to appoint an estates partner would not cover the award of the contracts to construct new facilities /refurbish or carry out works to reconfigure the estate as this would not have been tested during the primary procurement. However, the JV / Partner could procure and manage a construction and service supply chain, such procurement being on behalf of the Trust in accordance with EU rules.

Provider - Under the 'provider' approach, the opportunity to actually carry out the construction work associated with new estates projects and potentially to also deliver certain services would be included in the primary procurement of the Partner and therefore the Partner would not need to run a secondary procurement process for the construction contractor, architect and other members of the supply chain.

4.10 In summary a Strategic Estates Partnership (SEP) could offer a very real private/public contractual vehicle via which the Trust could deliver some or all of its future Estate need (that arising from the Delivering Our Future strategy). The partnership would offer income opportunities and potential strategic resource to develop plans and market share going forward. Many SEP partners are now working extensively with NHS providers and given that many SEPs have already delivered considerable changes to the health landscape it does appear a well proven model.

4.11 Whilst it is not the recommended option, a SEP could still form part of the vehicle by which some projects could be delivered. This could be down under the umbrella of the recommended public/public approach or independently. Further estate Master planning and financial modelling along with greater clarity from the Delivering our Future Strategy will help determine this.

5. Conclusion and next steps

5.1 Against a background of financial constraint a number of key property work streams are demonstrating that positive opportunities exist within our estate. These opportunities have been reviewed in the context of Delivering Our Future and the clinical foot print required to provide the Trust's future clinical needs from a fit for purpose estate.

6.2 Over the last 12 months, the Trust and Board have had a number of papers describing potential delivery models and approaches. Previous papers defined these options to four possible vehicles and further refined this to two options - a Strategic Estates Partnership with a private company and a Public to Public partnership with Kent County Council (KCC).

6.3 This paper is recommending that the Trust enter into a Public Estates Partnership with KCC and by doing so create a jointly owned separate entity by which the Trust can deliver its strategic aims and aspiration, confident that these align with the wider commissioning intentions of the CCGs and Council.

6.4 This paper confirms to the board that the ITFF funding source, coupled with other new sources accessible via the partnering with KCC, remains clear and continues to provide future capital at rates below market rates, fixed at time of acceptance and capable of being drawn against over a period of time.

6.5 This paper also outlines to the Board that whilst the previous lead option of a Strategic Estates Partnership with a private company, is no longer the recommended main vehicle to delivery, elements remain open to the Public partnership and will be considered in relation to specific projects, for example commissioning health master planning for the new emergency hub.

Appendix One

Notes on Government or Market funded self-build

2.1 The Independent Trust Financing Fund (ITFF, formerly the FTFF) has a fund of £1.5billion and offers qualifying Trusts low interest rate funds (10 years 1.9%, 25 years 3.5%) on long term agreements for the use of significant development projects. The Trust, through the Director of Finance has made initial contact with the ITFF and the initial response indicates that EKHUFT could secure favourable long term rates that could potentially meet a significant amount of our capital needs.

2.2 The ITFF is very flexible on the use of the loan although plans would need to be our existing 5 year Capital plan submitted to Monitor. Repayments need to be affordable for the Trust.

2.3 The application process is on the surface, relatively straight forward with papers being submitted to a Credit Committee (meets monthly). Applications are better supported if early engagement is sought, helping to develop an application jointly. Additionally the Trusts financial health is assessed, looking at previous 3 years history and future 3 year forecasts.

2.4 Alternative market funding vehicles haven't been researched in great detail given the excellent below market rates available via the ITFF. The Trusts bankers would be keen to explore potential financing should we feel that private funding could offer better alternative arrangements.

2.5 The Trust would need to consider the additional resources required in order to deliver the required projects, and the contracting route to procure either a single contractor or range of contractors. The Trust would need to use the P21+ contracting model (as it has in the case of the new Dover Hospital) and would need to consider the internal project resource required.

Potential advantages of 'traditional' contracting using ITFF funding include;

- *There are no third party funding costs (other than the interest on the ITFF loan) which should make the project more affordable.*
- *The Trust could retain more control and greater flexibility over the operation and maintenance of the buildings/projects.*
- *The Trust is likely to have a greater ability to replace the FM provider(s) through contracting directly with providers on relatively short term contracts.*

Potential disadvantages of using ITFF funding alone include;

- *ITFF funding may not be available for the full amount required (or for a sufficient term) so alternative sources of funding may still be required.*
- *Under certain contracting models there may be more beneficial risk transfer to the private sector.*
- *ITFF funding may be subject to certain restrictions or prohibitions where the Trust is procuring the funding as part of a joint partnership, such as a SEP with a third party private sector partner and therefore the project would need to be largely internal.*
- *It should be noted that, although a key driver for delivering projects through SEPs is often to take advantage of the partner's expertise in securing third party finance, there may be other benefits of a SEP in assisting the Trust with the delivery of a project even where third party finance is not required or very competitive. The joint venture open day highlighted the potential partnering benefits that could be available in the long term to the Trust, helping to develop and construct long term strategies and in bringing in specific expertise to develop these.*

- *In addition, although further investigation with the ITFF would be required, it may be that the ITFF would consider providing a loan direct to a SEP joint venture vehicle rather than to the Trust. Bevan Brittan is certainly aware of one case where ITFF have lent to an FT in the knowledge that the money will be loaned on to the SEP joint venture entity. Equally the ITFF may be open to the idea of lending to a Public partnership.*

- *It's clear that the ITFF offers a very real source of affordable funding; the consideration for the Board is whether the Trust requires more than just funding at this time.*

Notes on Private Finance 2 (developed from PFI)

This is a form of private finance contracting based on the Private Finance Initiative ("PFI") but with a number of amendments, aimed at improving upon PFI by addressing some of the weaknesses and criticisms that have been targeted against PFI. It should be noted that the standard documentation used on more recent health PFI projects has already been amended to address some of the lessons learnt from early PFIs. Appendix 2 sets out the key changes introduced by PF2 as well as a summary of some of the improvements that have been made through the development of PFI in the health sector.

It should be noted that PF2 (and recent PFIs) permits the Trust to make capital contributions of up to around half of the capital value of a project during the construction phase to reduce the overall requirement for third party financing. Therefore, a PF2 model could be combined with the use of ITFF funding injected by the Trust in order to reduce the overall cost of the scheme whilst also ensuring that third party finance can be used to part fund a project and to allow risk transfer to the private sector partner.

The PF2 delivery model would best suit projects with defined outputs and therefore could be used to deliver some of the individual projects the Trust is seeking to deliver. For example the relatively fixed costs associated with PF2 contracts would suit a single large project such as the Trusts planned Single Emergency and High Risk hospital provided that fixed designs are agreed at the time of contract sign off.

Historically PFIs have suffered due to their inflexibility (the quid pro quo for having fixed costs) so a fundamental understanding of the project is crucial to ensuring limited additional costs being incurred at a later date.

The potential advantages of using PF2 include:

- *Provides a model which utilises third party funding where required but also permits capital contributions from the Trust to assist with affordability.*

- *A new model supported by the government which could also increase 'bankability' through the provision of a government guarantee to back-off the Trust's financial covenant (a Deed of Safeguard). However, the availability of a Deed of Safeguard would need to be confirmed on a case by case basis and would not be available for projects with a capital value of less than £70 million.*

- *Standard form documentation which is based on tried and tested principles (including reflecting lessons learnt from operational schemes) and should be understood by the market.*

- *Provides a high degree of whole life price certainty to the Trust for the provision of a new building over a period of around 30 years.*

- *Transfers risks where appropriate to the private sector provider e.g. in relation to construction, maintenance, repair and lifecycle to the building.*

- *Provides for a single point of responsibility for the provision of the hospital construction and FM services to avoid Trust management of multiple subcontractors and the interface risk between them.*

- *The involvement of a third party funder can have advantages in terms of ensuring that the project company and its subcontracting arrangements are robust and that the project is delivered successfully. Given that a funder relies upon the payments from the Trust to the project company for the repayment of its loan, the interests of the funder in ensuring the project is delivered successfully are largely aligned with the Trust's.*

The potential disadvantages of using PF2 include:

- *The involvement of third party funders increases the cost of the project and reduces the flexibility that can be retained by the Trust with regard to changes in the use and requirements for the building. Third party funders will wish to exert a high degree of control over the operation of the facility and management of subcontractors.*

- *The high level of risk transfer to the private sector under PF2 is likely to increase the cost of the project.*

- *Although standard form and based on well-established PFI documents, PF2 is still relatively new and no PF2s have yet closed in the health sector.*

- *PF2 is likely to require heavy involvement of the Department of Health and potentially also the Treasury to 'police' the standard form documents and approve business cases on the basis that the Department of Health would be providing a Deed of Safeguard. The Trust and bidders will not have the freedom to make changes to the documentation without DH approval.*

- *PF2 guidance states that it is only suitable for projects with a capital value of £50 million maximum and therefore may only be suitable for part of the Trust's intended projects.*