

Gloucester City Council

Meeting:	Cabinet	Date:	10 July 2019
Subject:	Regeneration at Kings Quarter		
Report Of:	Cabinet Member for Regeneration and Economy		
Wards Affected:	Westgate		
Key Decision:	Yes	Budget/Policy Framework:	No
Contact Officer:	Philip Ardley, Consultant - Place	Tel:	396107
	Email: philip.ardley@gloucester.gov.uk		
Appendices:	A – Costs of Enabling Works and Additional Legal Implications (exempt by virtue of paragraph (3) of schedule 12A to the Local Government Act 1972)		
	B – Block layout plan		

EXEMPTIONS

The report and Appendix B are for general release; however, the public are likely to be excluded from the meeting during consideration of Appendix A to this report as it contains exempt information as defined in paragraph (3) of schedule 12A to the Local Government Act 1972 (as amended).

1.0 Purpose of Report

1.1 To secure approval for the lease surrender of Bruton Way car park, extension of the project management contract and the necessary capital enabling costs (see Appendix A Table 1) to carry forward the momentum generated by the Kings Quarter regeneration project and ready the site for development.

2.0 Recommendations

2.1 Cabinet is asked to **RESOLVE** that:

- (1) the following activities be approved to assist in achieving the accelerated delivery programme for enabling the development of Kings Quarter and ensuring that the pace of change can be continued if planning permission is granted:
 - a) the surrender back to the Council of the present long lease to NCP Limited for the Bruton Way multi-storey car park at the earliest opportunity, upon terms approved by the Property Commissioning Manager in consultation with the Head of Policy and Resources.
 - b) the extension of the contract for the Kings Quarter dedicated project management resource from 7th July 2019 until 6th January 2020, as envisaged by the original Cabinet approval dated 22nd June 2016, with Reef Estates Limited and to authorise the waiver of the contract rules under rule 6.1.5.

- c) the allocation of additional costs required in respect of the determination of the Planning application for Kings Quarter and Kings Square as set out in Appendix A Table 1.
 - d) the demolition of Bruton Way Car Park, Bentinck House and partial demolition of the northern end of Grosvenor House.
- (2) it be noted that subject to any necessary consents being obtained and the bids from the procurements listed in recommendation (1) and Appendix A, Table 1 being in budget the Council will award the contracts (having first followed the appropriate decision making process) to enable those works to be undertaken after determination of the planning application.
- (3) it be noted that further budget will need to be identified for the next phases of the regeneration programme. Future Enabling Works associated with this have been listed in Appendix A Table 2.

3.0 Background

3.1 This report seeks approval for the next stage in the delivery of Kings Quarter and directly relates to enabling costs that were highlighted to Cabinet on 5th December 2018 as being critical to enabling the discharge of planning conditions relating to Kings Quarter and therefore enable the delivery of a refurbished Kings Square by Autumn 2020. A more detailed breakdown of these costs can be found in Appendix A Table 1.

3.2 In order to progress to the delivery stage for the Kings Quarter development and undertake further archaeological and site investigation, we need to demolish the remaining buildings around the old bus station. The city council owns the freehold of Bentinck House and the Bruton Way car park site and purchased the headlease for both buildings from Aviva in 2014 subject to the sub-lease to NCP Limited. The NCP sub-lease lease includes the ground floor exit from the car park onto Bruton Way under Bentinck House but is the only outstanding interest in this site. Following protracted negotiations, NCP have agreed in principle to surrender the remainder of their sub-lease for the Bruton Way multi-storey car park that is not due to expire until May 2037. The surrender would be at a nil premium but NCP require agreed heads of terms for NCP to take a lease until May 2037 for a new car park close to this site. Such heads of terms would not be legally binding on either party but are intended to show intent and would be dependent on commercial market terms being agreed once the car park has been fully designed and finalised. Bentinck House and this Bruton Way car park are constructed as a single structure and share all main services. They require demolition as an entity to avoid substantial cost and such work can be undertaken now that the old bus station has been demolished. The site forms almost half the delivery area for the next stages of the Kings Quarter development and is crucial to the building of plots 2 and 4 together with the creation of the new public realm. The financial considerations for this surrender are set out in Appendix A.

- 3.3 The Council appointment of a dedicated project management resource for Kings Quarter was extended for a further 12 months until 6th July 2019. This cost to date is significantly below the budget approved by Cabinet on 22nd June 2016 for a three year period commencing on 1st January 2017. This further extension accords with the Council's financial regulations but the extension will require a waiver of the contract rules. The extension is required to ensure continuity in professional advice and negotiation with key stakeholders to maintain progress for the Kings Quarter planning application determination before the end of this year. Therefore the recommendation is to extend this contract until the end of the three year period on 6th January 2020 relying on waiver rule 6.1.5 that specialist consultants are required and it is in the report author's professional opinion that it is in the Council's best interests to engage Reef Estates Limited for the reasons referred to above. The final cost for this appointment is shown in Appendix A and remains within the approved budget.
- 3.4 We are currently on target for the Business Plan which was submitted and approved by Cabinet on the 13th September 2017. Since that time the Planning Team led by property and planning advisors Avison Young (GVA Limited) and the Architectural team lead by AHR have progressed the design and planning strategies for Kings Quarter. In addition, the Car Parking Strategy has been completed and brought to Cabinet and approved on 11th July 2018.
- 3.5 During 2018, the consultancy teams completed a vigorous and inclusive engagement process with key stakeholders to firstly inform the design of Kings Square and secondly ensure that they have captured as many professional, community and political aspirations/issues as possible. This was completed by way of workshops and one to one meetings. The information collated was used to create a design brief for Kings Square and to inform the more detailed design of Kings Quarter.
- 3.6 A hybrid planning application for Kings Quarter was submitted in December 2018 and validated early this year. This application requested detailed consent for Kings Square, new public realm and changes to Market Parade, creation of the new Cathedral View pedestrianised street, together with Plots 1, 2 and 3a and b (Kings House). Outline consent has been requested for Plots 3c, 3d and 4.
- 3.7 Appendix B attached to this Report identifies the respective locations of all plots in this proposed development.
- 3.8 The planning application is currently being determined and statutory consultee responses have been received. To date, there has been only two objections raised to the planning application. The first made by the Highways Agency has been successfully argued by the consultant team and formally retracted. The second objection by the Environment Agency (EA) has proven much more difficult to remove. Unfortunately, the EA are in the process of updating their 2006 flood model for the city. This work by the EA has been very protracted and the consultant team have been unsuccessful in persuading the EA to allow the City Council to submit technical information based upon the old flood model. This has resulted in significant additional cost. The Project Manager and consultant team are working with the Council Planning Officer and Flood Officer to try to minimise the impact of these changes.

- 3.9 Phase 1 Demolition of the old bus station and the former Furniture Recycling Project store, referenced in the previous approval paper, has been successfully completed on time and on budget. The associated archaeological and ground investigations have also been completed. It has proved a useful exercise and as expected there have been significant archaeological finds made. These include buried human remains and the outline of what is believed to be a possible Carmelite Friary. The archaeological importance of this site has been fully taken into consideration throughout the design and planning process.
- 3.10 There have been positive discussions with Western Power Distribution (WPD) regarding the electricity supply requirements. It looks probable that they will cover the cost of replacing the existing substation within Grosvenor House. This could provide the Council with a substantial cost saving. There are now two viable options for the siting of the new substation; the first being the cleared Furniture Recycling Project site and the second being next to the existing substation within Grosvenor House itself. Work is progressing to identify the most practical solution and a programme.
- 3.11 As intended, the project team have progressed with the establishment of an Art Panel for the Square. This is a group of local stakeholders/users of the Square along with local representatives from the cultural and artistic sectors within Gloucester. This panel is supported by the Cabinet Member for Culture and Leisure. The Panel have selected two designers following a procurement exercise which saw 33 submissions. The successful designers are Michael Grubb Studios (MGS) and George King Architects (GKA), both local to the South West of England and with an impressive track record. MGS will provide a lighting design for the Square and GKA will create an innovative and unique approach to the structural edges within the Square. It is intended that both designers will present a preferred option to the Panel towards the end of July.
- 3.12 Finally, the relationship between the Council's asset managers for Kings Walk, Reef Group, has developed and they are now a regular contributor to the Kings Quarter monthly project meetings and are fully involved in the design/planning process as well as the future branding and marketing efforts. The joint PR messaging strategy is working well and there has been a much more consistent flow of positive press releases arising from Kings Quarter.

4.0 Reasons for Recommendations

- 4.1 To enable the officers and the project manager to obtain certainty of vacant possession of this multi-storey car park. This building is in poor condition, and requires demolition in order to progress further archaeological investigation that is likely to be a condition for the determination of the present planning application prior to redevelopment.
- 4.2 We have now commenced procurement for the next stages of the Kings Quarter redevelopment in Kings Square and considerable excitement is being generated together with some very encouraging occupier interest both in Kings Walk and plots 2 and 4. Creating certainty and confidence is key when negotiating with potential tenants hence works starting on site by way of demolition is a very significant step forward. Removal of the Bruton Way car park lease interest greatly aids this.

- 4.3 The detailed negotiations undertaken and enabling actions identified by the project manager will help to maintain the pace of delivery, and therefore the extension of the project manager's contract until determination of the application towards the end of this year is highly desirable for continuity.
- 4.4 To enable the officers and the Project Manager to discharge the potential planning conditions required to bring forward Kings Quarter for redevelopment by Autumn 2019 and to ensure that constraints can be removed to enable activity on site by the end of this year.
- 4.5 Unfortunately as a direct result of the EA objection the planning approval process has risen in cost. Despite several attempts to persuade them, the EA refuses to lift its objection unless its unverified model is used. The creation of this model by the EA has been a challenge and if we were to wait until they secured the funding to complete and verify the model it would represent an unacceptable risk to the programme. Consequently, this paper requests approval for the cost of verifying the EA model and re-running the models they require. The Consultant team will be put under significant pressure to complete this as soon as possible to meet the agreed programme.
- 4.6 Further additional cost has been incurred as a result of the EA requiring proof of a potential solution for the replacement of the existing River Twyver culvert running beneath Bruton Way Car Park. As a result of their requirements for more detailed information further CCTV studies and Ground Penetration Surveys have been undertaken to confirm the exact location and condition of this culvert and therefore reassure them that the proposed methodology to enable construction of Plot 4 is robust. This process has led to increased project management, technical fees and survey costs.
- 4.7 The Council has been notified of the possibility that NCP may close Bruton Way car park. There have been instances of disturbed masonry due to the continued deterioration of the building and the top two floors have been closed for use. Consequently, in order to maintain momentum, this paper seeks approval to move ahead with the demolition of both Bruton Way Car Park and Bentinck House. Following due procurement processes, this could result in a cleared site by the Spring of 2020. There are financial revenue implications resulting from the closure of the car park which can be mitigated by a temporary use of the cleared site for short term car parking income until the new buildings commence construction. The removal of the car park and Bentinck House will both help with the marketing of the development and ensure that once an occupier is identified redevelopment of the site can progress immediately without further delay.
- 4.8 The relocation of the existing Tesco within Grosvenor House is proving complicated and Tesco have been supplied with a number of alternative relocation options and are currently considering their position. In order to ensure the Council has all available options open to it, this paper requests the funding to partially demolish Grosvenor House leaving Tesco in situ. Professional advice has been provided that this could be achieved and may enable Western Power Distribution to bring forward the renewal of their electricity substation.

5.0 Asset Based Community Development (ABCD) Considerations

- 5.1 A comprehensive engagement process has been underway for a number of years and is inclusive as described in clauses 3.5 and 3.11 above. In addition widespread stakeholder consultation is underway as part of the statutory planning process and sustainability is detailed in the planning documents. Employment, apprenticeships and local business opportunities are included as integral factors for assessment of the Invitations to Tender for the construction contracts.

6.0 Environmental Implications

- 6.1 A fully detailed Environmental Impact Assessment has been submitted as part of the planning application.

7.0 Alternative Options Considered

- 7.1 The project manager's contract could be terminated at its due date. Their work could be progressed through already stretched internal resources or through letting of a new contract, but this would introduce uncertainty and a lack of continuity which may harm the scheme.

8.0 Future Work and Conclusions

- 8.1 If the recommendations are approved, officers and the project manager will be able to continue working on the negotiation of the submitted hybrid planning application for Kings Quarter. In addition, progress would continue to procure a design and build contract for Kings Square for works to start in the autumn, together with a contract for the demolition of Bruton Way car park and adjoining buildings to start in January 2020. We would also seek temporary uses whilst the site was vacant to mitigate rental loss and cover the cost of borrowing for the capital works. Future progress reports on Kings Quarter will continue to be provided, together with reports for approval of the enabling and delivery phases, in a timely fashion
- 8.2 It should be noted that as part of the early enabling work for Kings Square, the World Cup Rugby Bench will be relocated as will the stand-alone public toilet facility located outside of the Post Office. The Property Department are reviewing several options for the new siting of both structures. A communications plan will be produced to ensure that tenants and shoppers are fully informed of the programme and impacts of the project.

9.0 Legal Implications

- 9.1 Once the surrender of the car park lease has taken place, the property implications include the loss of rent and full responsibility for this area lying with the Council together with maintenance and public liability. However an early surrender clears the title of this lease and assists with the future development of and dealing with the property. If (as anticipated) there is no consideration payable for the surrender then no Stamp Duty Land Tax will be payable (only payable above £150,000).
- 9.2 In July 2018 under the urgency provisions, a waiver was approved to appoint the project management advisers under a 12 month contract. A waiver is required to extend the appointment for a further 6 months under contract rule 6.1.5 which states;

“Specialist consultants, solicitor, barrister, agents, artist or professional advisers are required and:

- There is no satisfactory alternative;
- Evidence indicates that there is likely to be no genuine competition; or
- It is in the opinion of the Authorised Officer, in the Authority’s best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser.”

9.3 All procurements must be carried out in accordance with the Council’s Contract Rules and the Public Contracts Regulations 2015. All contracts above £10,000 must be in a form drafted or approved by One Legal. Provided that the tenders submitted are within budget, contracts exceeding £100,000 will need to be approved by the Cabinet Member for Regeneration and Economy and contracts not exceeding £100,000 can be awarded by the Head of Place.

9.4 Overall, there is likely to be substantial legal input in respect of the procurement, contract and property aspects of the Kings Quarter project

9.5 Paragraph 4.8 refers to the possibility of the site of Bruton Way Car Park and Bentick House being used as a surface car park. If a car park is to be operated by the Council, there are statutory processes which will need to be followed in order to designate it as a Council operated off-street car park and then to close it when development is ready to commence. Legal advice should be sought by officers at an early stage. If the land is to be used for any temporary commercial unit, the letting must be of a type and contain suitable terms to ensure that the occupation can be easily terminated

(One Legal has been consulted in the preparation of this report.)

10.0 Financial Implications

10.1 The three-year budget for this Kings Quarter enabling consultancy work was approved by Cabinet on 22nd June 2016 for £150,000 per annum and we remain within that budget.

10.2 The Planning Application budget which Cabinet approved on 6th December 2017 as revised by Cabinet approval on 12th September 2018 is presently within budget. Additional work required by the Environment Agency as a result of their objection is incurring additional costs. These are set out in Appendix A, table 1.

10.3 This paper requests a further approval for costs of enabling demolition works (Table 1) details are provided in Appendix A.

10.4 It is proposed that funding is available from the regeneration account which is sufficient for the additional planning application costs, and capital borrowing will be required to cover the demolition cost to be funded from temporary car park income and ultimately the new buildings on the site. This would be consistent with the Council requirement to ensure that any receipts generated from the ex- SWRDA transferred assets are used for city regeneration purposes.

(Financial Services have been consulted in the preparation of this report)

11.0 Risk & Opportunity Management Implications

- 11.1 The key risk in the Kings Quarter scheme at this stage is the failure to procure a suitable project development partner/occupiers and capital funding to take the project forward.
- 11.2 If planning permission is not granted the costs incurred to date may become abortive.

12.0 People Impact Assessment (PIA):

- 12.1 At present, there are no adverse impacts identified for any of the Protected Characteristic groups; as the regeneration of Kings Quarter progresses, the design process has been carefully devised to ensure maximum community engagement with a focus on achieving engagement with disabled and other minority groups. Further Impact Assessments will be considered as part of the planning process.

13.0 Other Corporate Implications

Community Safety

- 13.1 Safety of the public will be managed during the Kings Quarter regeneration by the City Council and their appointed Construction Design Management health & safety advisor in association with the main contractor.

Sustainability

- 13.2 None specific to this report, although sustainability will be considered when specifying products, and in construction methods.

Staffing & Trade Union

- 13.3 None.

Background Documents: None