

# Gloucester City Council

<b>Meeting:</b>	<b>Cabinet</b>	<b>Date:</b>	<b>8 December 2021</b>
<b>Subject:</b>	<b>Kings Quarter The Forum Phase 2 Approval</b>		
<b>Report Of:</b>	<b>Leader of the Council</b>		
<b>Wards Affected:</b>	<b>Westgate</b>		
<b>Key Decision:</b>	<b>Yes</b>	<b>Budget/Policy Framework:</b>	<b>Yes</b>
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<b>Appendices:</b>	<b>1. Site Layout Plan</b> <b>2. Revised Development Business Plan</b> <b>3. Specialist Financial Appraisal and Cost Plan</b> <b>4. Draft Construction Tender Report</b>		

## EXEMPTIONS

The public are likely to be excluded from the meeting during consideration of appendices 2 to 4 of this report as they contain exempt information as defined in paragraph (3) of schedule 12A to the Local Government Act 1972 (as amended). All sections of these appendices 2, 3 and 4 are considered confidential and commercially sensitive.

### 1.0 Purpose of Report

- 1.1 To secure approval for a recommendation to Cabinet that they authorise Officers to enter into a legally binding contract with the successfully tendered construction company to deliver Phase 2 for the Kings Quarter The Forum mixed use development in its entirety, in accordance with the Development Funding Agreement and approval by Council on 28<sup>th</sup> January 2021.

### 2.0 Recommendations

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

- (1) the Head of Place or the Head of Policy and Resources in consultation with the Leader of the Council and Cabinet Member for Environment and the Council Solicitor be authorised in accordance with the Development Funding Agreement to complete a JCT Building Contract with the successfully tendered construction company to implement Phase 2 of Kings Quarter The Forum in its entirety as set out in Appendix 4 of this report.
- (2) authority be delegated to the Head of Place or the Head of Policy and Resources in consultation with the Council Solicitor to take all necessary steps and undertake necessary procedures, including entering into any legal arrangements or other documentation as may be required to implement or facilitate Phase 2 for the Kings Quarter The Forum in accordance with the

Council decision taken on 28<sup>th</sup> January 2021 to proceed with the entire redevelopment scheme within the total capital cost of £107m.

### **3.0 Background and Key Issues**

3.1 This report seeks approval for the continuing delivery of Phase 2 Kings Quarter The Forum and directly relates to approvals and the previous updates submitted to Cabinet on the 11<sup>th</sup> March 2020, 17<sup>th</sup> June 2020 and 13<sup>th</sup> January 2021 and to Council on 28<sup>th</sup> January 2021. To recap the primary approval given was:

That the Head of Place in consultation with the Leader of the Council and Cabinet Member for Environment, the Head of Policy and Resources and the Council Solicitor is authorised to enter into a Development Funding Agreement with our Partner to implement the construction and development of Kings Quarter The Forum in its entirety at an estimated total cost to the Council of £107m, to create a high quality mixed use hub, packed with community features aimed at attracting new companies to Gloucester, based on the latest proposal outlined.

3.2 A detailed Development Funding Agreement was drafted between our specialist external lawyers, Trowers & Hamblins and our Development Partner's lawyers Stephenson Harwood. This was then negotiated by your officers and regeneration consultant with further advice from Jones Lang LaSalle's property and financial teams together with legal advice from Trowers & Hamblins construction team. This comprehensive Agreement was completed with our Development Partner on 21<sup>st</sup> May 2021. The Agreement requires the financial viability for The Forum to be re-assessed and approved by the city council once the competitive tenders have been received and prior to agreeing the appointment of the preferred construction contractor.

3.3 This is now the final report to Cabinet following receipt of the competitive tenders on 3<sup>rd</sup> November 2021. These have been assessed and marked in detail by the design and procurement team and the report prepared as set out in Appendix 4. There will be a period of intense negotiation with the preferred contractor to finalise the value engineering proposed as part of the successful tender and agree a final contract sum with an award anticipated early in 2022.

3.4 The actual delivery of the remainder of the scheme is now crucial, and the appointment of a tier one building contractor is an important key to its success.

3.5 It was reported in the last Cabinet paper that there was considerable occupier interest being generated in Kings Quarter. The officers and our development partner are pleased to be able to report that good progress has been achieved with negotiations underway with four high quality hotel chains and three national car park operators for the respective buildings on plot 2. Additionally, three serious office occupiers are negotiating heads of terms with our letting agents, two of which are anticipated to be in legals by early next year, again for plot 2. This would achieve almost total occupancy of this part of the development prior to starting on site.

3.6 The scheme is almost identical to that shown in the Kings Quarter planning permission consented on 3<sup>rd</sup> March 2020 but increases the office element on plot 4

to cater for the present demand from specialist digital companies favouring this area but not being able to occupy grade A office accommodation as none presently exists in the city centre. The design has also been refined as a result of consultation and to ensure buildability. There is one significant change which has resulted in The Forge business centre, pre-let to Reef Group, moving from plot 2 to occupy part of the ground and first floors on plot 4, thereby creating the reception hub for this main building and bringing immediate life and a digital presence to this building. This has allowed the offices on plot 2 to be pre-let to mainly professional firms as highlighted in 3.5 above.

- 3.7 The immediate first phase on plot 3b (see Appendix 1 plan), to achieve the successful re-location of Tesco and build 19 high quality apartments for sale, is now on land wholly owned by the City Council. Construction by E G Carter following a competitive tender is now underway with the archaeological investigation, remediation of the land contamination and the foundation piling all having been completed.
- 3.8 Initial enabling works to de-risk plot 4 are underway with a very detailed archaeological investigation by Cotswold Archaeology. This has unearthed some important finds including a magnificent, well preserved, second century Venus figurine and a medieval stone coffin, found in what is believed to be the chapel of the previously “missing” Whitefriars Priory.
- 3.9 We have received detailed advice on financial viability and demand issues from our specialist consultants and this is included in Appendices B and C. The viability of the whole scheme remains challenging especially in the early years as a result of the current unprecedented circumstances. However, since the last report the demand from potential tenants has improved as highlighted in 3.5 above. In addition, viability has improved as a result of anticipated slightly higher rental values and shorter rent free periods forecast by our letting agents following initial offers from potential occupiers.
- 3.10 This development is a very significant investment on the part of the city council largely funded by borrowing. The success of the application for £3.98m grant monies for The Forge business centre from the Government’s Levelling Up Fund considerably assists risk mitigation. Furthermore the £9.70m grant from the same source for the University of Gloucestershire to convert the presently vacant old Debenhams building is a tremendous confidence booster since it may result in this scheme being realised sooner than originally anticipated. Hence this is encouragement for occupiers interest in The Forum and possibly creates a campus feel to this part of the city centre. In addition to the extensive regeneration and community benefits of this entire scheme, considerable long term secure income will be available to the city council for further regeneration purposes in the future. The city council will own the entire development on completion.
- 3.11 Legal fiduciary, procurement and state aid advice continues to be provided by our consultant lawyers Trowers & Hamblins in conjunction with One Legal.
- 3.12 Whilst this is an extremely significant investment it provides a massive opportunity to regenerate the city centre thereby benefitting the Kings Walk shopping centre including many surrounding properties. Together with the enhanced railway station, modern Transport Hub and refurbished Kings Square it will become an impressive

gateway into the city centre as well as creating very significant employment opportunities both in the short and longer term.

#### **4.0 Social Value Considerations**

- 4.1 The social value of the Council's plans for Kings Quarter are considerable and the Officers and Development Partner have been working with the Council's Economic Development Team to maximise this impact with involvement from our specialist consultants the Social Value Portal.
- 4.2 The joint development proposals for Kings Quarter expect that over the next 3-4 years an additional 1,000 new job positions could be created in the city centre. Our Development Partner is putting in place a task force to ensure that a programme to help the local community upskill appropriately is created and the development is fully linked to the new digital access programmes at local Higher Education and Further Education institutions. This may also be part of The Forge offering. The construction tender process has included clear guidance and expectations for delivering these community benefits, all in accordance with our Social Value Policy.
- 4.3 All the tenders from the four short listed contractors included extensive sections detailing their Social Value proposals which have been assessed as part of the procurement process and forwarded to the Social Value Portal for comment.

#### **5.0 Environmental Implications**

- 5.1 The proposals emphasise how sustainable design has underpinned the redevelopment of Kings Quarter. All buildings will be constructed with a design life well beyond the 60-year industry standard, with layouts, utilities infrastructure and floor to ceiling heights future proofed for new technologies and uses. For instance, the design has incorporated a way in which the proposed multi-storey car park can be readily converted to alternative use should our current reliance on the car lessen. We have committed to incorporating features such as cycle storage, car sharing systems, electric charging points and have considered how solar panels and green walls and roofs are to be included.

#### **6.0 Alternative Options Considered**

- 6.1 The Council Officers did review alternative options to bring forward the redevelopment of Kings Quarter. The options included:
  - Solely utilising Public Works Loan Board funding and managing the redevelopment of the site in house using procured contractors for each separate phase.
  - Advertising for a development partner and seeking expressions of interest.
  - Selling the site on a plot by plot basis with planning consent.
- 6.2 There are several disadvantages with each of the reviewed options such as: insufficient internal resources and experience, inability to maintain control over an important council regeneration asset, and significant delay in achieving activity on site at a time when action is required to commence building. They were all rejected.

## **7.0 Reasons for Recommendations**

- 7.1 The proposal offered has the potential to provide a high quality and rapid opportunity for the Council to see its regeneration aspirations for Kings Quarter realised. It would potentially create employment space for over 1,000 new employees, which could equate to over £100m injected into the local economy each year. Being able to secure that number of new workers into the city centre would not only boost the local spend, but the provision of the 18-hour facilities proposed would extend that spending window from presently only working hours, into the evening and night-time economy.
- 7.2 Considerable recent negotiations have taken place both to improve the viability and reduce the risks for this scheme thereby strengthening the city council's position with regard to defining the viability within the Development Agreement. Significant improvement in the viability has been enhanced by the success of the grant from the Levelling Up Fund as outlined in 3.10 above. At the same time the changes have underlined that the Development Partner arrangement accords with market sentiment and practice with expert experience for such a significant investment.
- 7.3 Extensive due diligence has been undertaken by our external consultants in conjunction with our Head of Policy and Resources, the Head of Place and our regeneration consultant to evaluate and negotiate the financial appraisal. Legal opinion has been provided by Trowers & Hamlins for procurement, state aid and to advise on the Development Agreement. The intention is to continue refining the viability and the financial returns and sign a binding legal construction contract for the major Phase 2 of this regeneration scheme.

## **8.0 Future Work and Conclusions**

- 8.1 The Council will continue to require the assistance of the property experts and external lawyers to scrutinise compliance with the Development Agreement and to negotiate the legal building contract and assist your officers as an expert client during the construction phases.

## **9.0 Financial Implications**

- 9.1 Cabinet approval is required to accept the viability and enter into the building contract all within the capital budget of £107m approved by Council on 28<sup>th</sup> January 2021.
- 9.2 As part of the Development Funding Agreement our development partner has taken an over-riding five year lease for the incubator business centre offices in the ground and first floors on plot 4 from completion. Guarantees are being provided for five years for the hotel income. Both these are subject to tenant incentives as set out in the cost plan. It is expected that a further proportion of the offices on plot 4 will be let prior to completion of construction under the test for viability. This ensures early income, avoids the vacant risk and results in these areas being properly managed

on behalf of the city council. Our partner has also funded the substantial architectural design costs resulting in the full planning consent determination received earlier this year. These costs would only be recoverable, if for any reason, the city council cancelled the Development Agreement, in which case they become payable on transfer of all necessary warranties and copyright of the proposals.

- 9.3 The current legal and due diligence costs were budgeted for within the original Kings Quarter approval and can be funded from existing arrangements.

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

## **10.0 Legal Implications**

- 10.1 Specialist legal advice is continuing to be provided by Trowers & Hamlins. Our lawyers have also provided advice for the procurement and State Aid issues surrounding this development and a draft summary was previously provided to Cabinet. Following publication of the relevant notices including a VEAT notice under EU and UK rules at the appropriate times, Trowers & Hamlins, in consultation with One Legal, believe that any risk of challenge has been minimised, and that risk is presently very low.

(One Legal are being consulted in the preparation of this report.)

## **11.0 Risk & Opportunity Management Implications**

- 11.1 The main risks associated with this proposal are financial. The overall level of funding required to bring forward a development opportunity of this magnitude is considerable. Whilst all due diligence can be applied, investing in property can be particularly difficult to accurately predict.

- 11.2 We have discussed fixed cost pricing with the shortlisted building contractors but due to present inflation pressures and difficulties in their supply chains only one contractor is currently prepared to price on that basis. The recommended contractor has indeed agreed to fix the cost of construction and this has been incorporated into his successfully tendered price as set out in Appendix 4.

- 11.3 It is a known fact that development in Gloucester can be financially challenging and whilst the latest independent financial appraisal completed on behalf of the city council for this development shows a significant improvement on previous assessments, there is still a potential gap between value that can be generated and total development cost in the early years. The development costs rarely sustain any initial land value. Therefore, we have explored mechanisms that utilise the potential income generating value of the development. When viewed over a longer-term period, the income generated can support the costs. Obviously, predicting the growth of revenue projections is difficult and there is a risk that they may not grow as predicted. Equally, there is also a possibility of greater returns than anticipated. The Council should take comfort in the fact that a private developer is sufficiently confident that they have signed the Development Funding Agreement with a commitment to take a lease and provide some guarantees for a 5 year income flow.

- 11.3 Council officers have sought independent advice to verify the financial appraisals underpinning this offer in order to mitigate future risk. Because of the significant

technological survey work and planning consent process undertaken by the city council directly, it is in a good position to verify the projected development costs. The risk of further abnormal costs and complications have already been minimised by competitively tendering the construction cost.

- 11.4 Other significant risks which include fiduciary and compliance issues are being carefully monitored and managed with considerable input from our lawyers and consultants. The relevant notices are being issued at appropriate times.

## **12.0 People Impact Assessment (PIA) and Safeguarding:**

- 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 development process where relevant.

## **13.0 Community Safety Implications**

- 13.1 There are believed to be limited community safety implications at this stage. The agreement to proceed with this proposal will involve construction taking place within a busy part of the city centre. During construction periods the contractors will be legally obliged to ensure the health and safety of not just their staff but also the local community.
- 13.2 Any changes in the final design of the development to accommodate occupiers will need to be agreed via the normal planning mechanisms and this is providing an opportunity for further scrutiny by key stakeholders such as police, counter terrorism teams, and the Fire Service.

## **14.0 Staffing & Trade Union Implications**

- 14.1 There are no staffing and trade union implications at this stage.

**Background Documents:** None