

# Call In Sub-Committee (of the Overview and Scrutiny Management Board)



## Supplementary Information

**Date:** Monday, 22 July 2019

**Time:** 10.00 am

**Venue:** The Chamber, 1st Floor - City Hall, College  
Green, Bristol, BS1 5TR

### **Distribution:**

**Councillors:** Donald Alexander, Margaret Hickman, Tom Brook, Paul Goggin, Geoff Gollop, Paula O  
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**Date:** 19<sup>th</sup> July 19



# Supplementary Agenda

## 5. Call In of the Cabinet Decision - Development of Buildings Adjacent to the Harbour

(Pages 3 - 7)



Call In Sub-Committee  
(of the Overview and Scrutiny  
Management Board)  
10am on 22<sup>nd</sup> July 2019



**Title:** Call In of the Cabinet Decision - Development of Buildings Adjacent to the Harbour

**Summary**

To review the decision (taken at 2<sup>nd</sup> July 19 Cabinet) as a result of the matter having been called in by the Proper Officer on behalf of the Council.

**Please note the purpose of the Call In Sub-Committee is to review the process around a Cabinet decision and cannot change the decision itself.**

**Recommendation**

The Panel must decide either:

- a. Take no further action
- b. Refer the matter back to Cabinet -with issues (to be detailed in the minute) for Cabinet to consider before taking a final decision.
- c. Refer the matter to Full Council for a wider debate (NB : Full Council may decide either to take no further action or to refer the matter back to Cabinet with specific recommendations for them to consider prior to decision taking.)



**Appendices:**

**A – Procedure at the meeting**

**B – Call In Proforma**

**C – Cabinet Decision Record – *signed version to follow***

**D – Cabinet Report – *part exempt from publication***

**E – Officer/Executive Response to the Call In – *will be circulated as soon as possible***

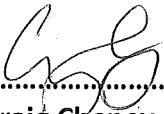
**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

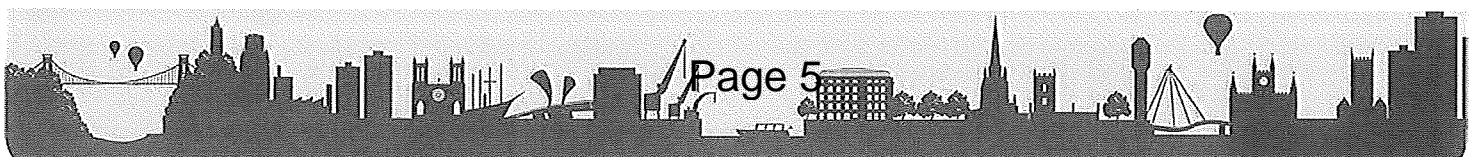
**Background Papers:**

Cabinet report dated – 2<sup>nd</sup> July 19

*Deadline date for Call-in referral 9 July 2019*

<b>(a)</b>	<b>Subject:</b>	APR 15 The development of buildings adjacent to the harbour (agenda item 22)
<b>(b)</b>	<b>Ward:</b>	Central
<b>(c)</b>	<b>Declarations of interest:</b>	None
<b>(d)</b>	<b>Decision taken</b>	Cabinet approved the purchase of the vessel and mooring licence as detailed in exempt Appendix I
<b>(e)</b>	<b>Exempt Information?</b>	Appendix I
<b>(f)</b>	<b>Decision made in exempt session?</b>	No
<b>(g)</b>	<b>Additional information at the meeting/documents taken into account:</b>	Two councillor statements Two councillor questions
<b>(h)</b>	<b>Reason for decision:</b>	As set out in the report.

Signed : .....  ..... Date : ..... 15/7/19 .....  
Councillor Craig Cheney, Deputy Mayor (Finance, Governance and Performance)



QUESTION	Executive/Officer response
(a) Proportionality	
<p>1. The costs of the optional mitigation measures, as set out in the exempt papers, are either disproportionate to the overall benefits or are not sufficiently clear to ensure an informed decision.</p>	<p>The optional mitigation measures have been fully considered and costed as set out in Exempt Appendix I to the Cabinet report. The costs of the options arise from either the requirement to repair the building due to its current condition or the terms on which the boat owner is prepared to treat. The costs and scope of building repair works have been evaluated by an external expert consultant. The potentially less expensive option of forcible permanent relocation cannot be guaranteed as it relies entirely on the courts interpreting the mooring licence in favour of Bristol City Council. The only alternative mooring which complies with planning policy has met with strong opposition from local residents and businesses in the area.</p>
(b1) Consultation	
<p>2. There is no note of any consultation – except for three cabinet members – to interested parties (such as nearby properties or boat owners) that could have facilitated a better outcome.</p>	<p>There is no statutory or other legal requirement to consult the public on this contractual issue. Consultation with adjacent property owners / residents has been carried out over a number of years in an effort to facilitate the proposed development. Adjacent boat owners (residential and commercial) have been asked whether they would sell or move willingly thereby creating a new mooring location, away from Bathurst Basin, for the boat. Whilst two boat owners have confirmed in principle their willingness to sell, neither space is large enough to accommodate the vessel in question. If both were purchased, their locations are not adjacent to each other so one single space large enough would not be created.</p>
(c) Consultation	
<p>3. There is no note of any consultation with the harbourmaster or other informed officers that could have facilitated a better outcome.</p>	<p>The harbourmaster has been engaged over the last few years on options available to resolve this matter as have the majority of senior and chief officers resulting in several Member briefings and a Corporate Leadership Board briefing prior to Cabinet.</p>
(e) A presumption in favour of openness	
<p>4. As a pragmatic decision, the degree of exemption in the report is excessive. As the vessel's name and the owner were exempted the alternative sums involved – the nub of the decision – could have been clear.</p>	<p>The Cabinet Report clearly sets out the reasons for the exempt information on the basis that it contains information that relates to an individual, the financial or business affairs of the Council and others and which is subject to legal professional privilege. The reasons for exemption were accepted by the chair of OSM. Although the vessel's name and the owner are exempt, the vessel is the only residential houseboat under discussion within the docks and many of the local community know the owner. It is documented on the Council and planning inspectorate's websites that the relocation of the vessel has been proposed in order to satisfy the planning permission for buildings adjacent to the harbour. Revealing the sums proposed to be paid to the owner will reveal information relating to the owner's finances.</p>
<p>5. There is no attempt to consider a fourth option of absorbing potential compensation, voiding the present contract and re-tendering.</p>	<p>This has been considered. There is no guarantee that any new development contract could be secured on more favourable terms. Additionally, voiding the contract just because economic conditions might be considered more favourable would seriously damage the Council's commercial credibility in the market, prejudicing future developments and relationships. Furthermore, the city centre planning framework plan (Bristol Central Area Plan) outlines the uses the property can be put to and does not include residential. Therefore any new planning application which continued the use of the vessel for residential purposes in this location will conflict with the current policy, except possibly if only offices were proposed. However as the planning guidance received requires the buildings envelope to remain in its current form and scale, the permitted use for developing as offices would not be financially viable due to repair costs and lack of height/density required. Any new development contract is therefore likely to require that the vessel is relocated.</p>
<p>6. There is no clear explanation regarding the build-up of the sum stated as being the overall cost of temporary removal which appears to include the full cost of bringing this building back to good condition.</p>	<p>Temporary relocation does not satisfy the terms of the development agreement and therefore the costs of repair would have to be met by the Council. The sums quoted for temporary relocation are the legal costs, the vessel owner's relocation costs, the costs to the Council of relocation and the repair costs of the building. The repairs are necessary to prevent health and safety hazards and to ensure the building and the listed quay do not collapse. An external expert building condition report was obtained which details the liabilities and costs of repair.</p>
(f) Clarity of aims and desired outcomes	

<p>7. The outcome here, as everywhere, should be to deliver the best overall solution for our citizens for this site and the remediation of city property. Instead this report is focused on getting rid of the vessel to resolved and deliver a poor deal done in 2015.</p>	<p>This decision does deliver the best overall solution which satisfying our contractual obligations. It resolves an issue the council has been unable to do so for 12 years. The development agreement was entered into following an initial transparent marketing process in 2007 and delivers regeneration at market value for the Council. The development agreement also delivers many permanent and temporary jobs as well as significant business rates and removes significant repair liabilities for the council. The purchase and removal of this vessel is the last impediment to achieving these objectives which directly result from the development agreement having been signed in 2015 on commercial market terms.</p>
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