

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



Supplementary Information

Date: Tuesday, 23 July 2019

Time: 2.00 pm

Venue: The Chamber, Committee Room - City Hall,
College Green, Bristol, BS1 5TR

Distribution:

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Date: 22nd July 19



Supplementary Agenda

5. Call in of the Cabinet Decision: Temple Island – update on proposals and disposal arrangements

Appendix C: Decision record (signed)

Appendix E: Officer/Executive Response to the Call In

(Pages 3 - 6)

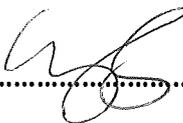


Deadline date for Call-in referral 9 July 2019

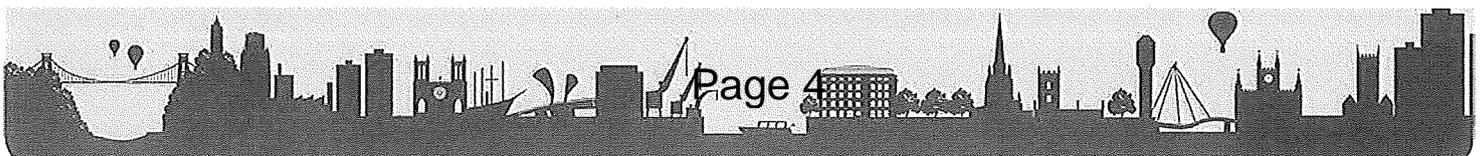
(a)	Subject:	Temple Island (agenda item 8)
(b)	Ward:	Lawrence Hill; Windmill Hill
(c)	Declarations of interest:	None
(d)	Decision taken	<p>1. Cabinet approved the Council entering in to a non-binding strategic partnership with Legal & General and to delegate authority to the Executive Director for Growth and Regeneration, in conjunction with the Deputy Mayor Finance Governance and Performance, to negotiate and agree a non-legally binding Memorandum of Understanding to support this.</p> <p>2. Cabinet approved the City Council committing, in principle, to the conditional disposal of the Temple Island site to L&G on a long leasehold basis – in a way which demonstrates best consideration – and to the Council entering in to an Agreement for Lease relating to an office building not exceeding 100,000 sq ft (NIA) to be constructed on the Temple Island site through a first phase of works.</p> <p>3. Cabinet approved a project budget of up to £0.5m to support the development of proposals for the Temple Island site. This funding to be utilised for internal BCC staff time and fees, professional consultancy fees, site and survey work and including an appropriate contingency allowance.</p>
(e)	Exempt Information?	Open
(f)	Decision made in exempt session?	No



(g)	Additional information at the meeting/documents taken into account: Equalities Impact Assessment Four public statements One councillor statement Five councillor questions
(h)	Reason for decision: As set out in the report.

Signed :.....  Date : *15/7/19*

Cllr Craig Cheney, Deputy Mayor (Finance, Governance and Performance)



QUESTION	Executive/Officer response
(a) Proportionality	
<p>1. In the absence of any attempt to market test or open tendering for this partnership, it is impossible to say whether the council is getting value for money or signing up to a deal with L&G which is proportionate to the aim of getting a mixed-use development built on the Temple Island site. It may be that the aim could be achieved with another operator with a lease at market rates without the additional inducements of the council funding further infrastructure and remediation works and guaranteeing rent on 100,000 sq feet of office space.</p>	<p>It is acknowledged that no formal tendering or procurement process was undertaken in the selection of L&G as development partner because the proposed agreement will be a property transaction, rather than a public contract, and so a procurement process compliant with the Public Contracts Regulations 2015 will not be required.</p> <p>L&G have been chosen as the Councils partner in this project due to their financial and other resources, their previous experience and proven track record in projects of this kind and their commitment to working in partnership with the Council in connection with their other landholdings in Bristol.</p> <p>The financial arrangements will be subject to independent valuation and sign-off to demonstrate best price/value.</p> <p>The office space is being built by L&G and provided to the Council at cost. It is anticipated the annual rental required by L&G for this office space should be more than covered by the Council pre-letting the office space to the market. This increases the pace of development, and accrues value to the Council through the BCC covenant strength.</p>
<p>2. Secondly there is an agreement to spend £0.5m but there is nothing to suggest that this figure is necessary or proportionate given that there are no details of the plan for how it would be spent or the procurement process which will be used to decide who will be providing the consultancy services.</p>	<p>This budget is to ensure the Council continues to be advised by external experts (including Legal, Procurement, Valuation and Cost consultancy) which achieves the best terms for the Council and ensures a successful regeneration. The Gross Development Value of this scheme is anticipated to be in excess of £350m and the Cabinet paper (Appendix A) sets out how this modest level of fee for a scheme of this scale would be spent. Their procurement will follow the normal Council rules.</p>
(b) Due consultation	
<p>3. There is no evidence of attempts to consult with other comparable developers.</p>	<p>The proposal does not trigger an obligation on the Council to consult. However, we can confirm that there has been some informal discussion with potential developers. The development will be split into phases and we expect development contracts for most phases will be exposed to the open market. The exception to this is where L&G use their own affordable homes developer / provider which will achieve a higher than policy compliant level of affordable homes. The current arrangements are being envisaged as a property transaction, rather than a public contract, and so a procurement process compliant with the Public Contracts Regulations 2015 will not be required.</p>
(c) A presumption in favour of openness	
<p>4. Despite statements in the cabinet meeting, the legal and other advice on which this decision was based has not been made available to scrutiny.</p>	<p>The legal advice from the specialist external lawyers will be made available on a managed access basis to members of the sub-committee and those signing the call in. Members' will appreciate that such advice benefits from legal professional privilege, which we would not wish to prejudice.</p>
(d) Clarity of aims and desired outcomes	
<p>5. The proposal claims to align with the Corporate Strategy aim of delivering affordable homes, however there is nothing in the proposal that would guarantee the delivery of affordable homes beyond what the council is able to enforce through planning policy on any developer, and given that we own this land we should be ensuring that any development on it is policy compliant.</p>	<p>The proposed broader partnership with L&G is based around collaboration and an ambition to realise shared ambitions for our city – but participation is voluntary. It demonstrates L&G's commitment to our city that they are willing to enter in to such a Partnership. It is accepted that the agreement with L&G will not oblige them to execute works on the Temple Island site, including the provision affordable homes.</p> <p>Securing affordable homes will be dealt with through the planning process and L&G have confirmed their aspiration to provide higher than policy compliance of the number of affordable homes (above 40%) It is intended that the Council will have the right to re-purchase the land in the case of non-delivery. This and other commercial drivers should ensure the development is delivered.</p>
<p>6. Similarly, the provision of a Conference centre with a c 1500-2000 capacity is stated as a key objective but there is no mechanism for ensuring that is what is built.</p>	<p>Analysis of the conference market is being undertaken as part of the detailed scheme appraisal and further information on this component will be submitted to Cabinet later in the year.</p>
<p>7. The Mayor previously stated that this site was to be developed in this way rather than as an arena, to provide better social value and a better financial deal for the city. However this proposal will have costs for the council, and expose it to considerable financial risk,</p>	<p>The proposals represent considerably less financial risk to the council than a publically financed arena and will bring homes, retail, leisure and work space to the heart of the redeveloped Temple Quarter.</p>

<p>without any guarantee of achieving the desired outcomes and so fails to deliver those aims.</p>	<p>The Strategic Partnership offers the Council the opportunity to work with L&G to realise wider social, economic and environmental objectives across the city and is not limited to Temple Island. For example; by undertaking small scale projects which offer the opportunity to engage the local communities and offer opportunities for residents to develop new skills.</p> <p>The proposed agreement with the Council will stipulate the extent of the Councils financial obligations so the Council will be limiting its financial risk to a low level. A fuller risk assessment will be contained in the future Cabinet paper.</p>
<p>8. There is no evidence of the consideration of other routes.</p>	<p>See responses to earlier questions on this point. Appendix A to the cabinet report identified alternative development mechanisms eg land sale, joint venture, OJEU compliant procurement.</p>