

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 02 July 2019

TITLE	Temple Island – update on proposals and disposal arrangements		
Ward(s)	Windmill Hill and Lawrence Hill		
Author: Richard Marsh	Job title: Programme Director – Temple Quarter		
Cabinet lead: Mayor	Executive Director lead: Colin Molton		
Proposal origin: BCC Staff			
Decision maker: Mayor Decision forum: Cabinet			
<p>Purpose of Report: At the 4th September 2018 Cabinet meeting, Cabinet reached a decision to work to develop proposals for an alternative, mixed-use scheme for the Temple Island site and, at the appropriate time, return to Cabinet with worked up proposals. A request was also made for Cabinet to receive updates on progress relating to the alternative, mixed use scheme.</p> <p>This report therefore seeks to;</p> <ol style="list-style-type: none"> 1. Provide an update on progress made in relation to proposals for a mixed use scheme on Temple Island; 2. Secure approval for continued dialogue with our identified partner, Legal and General (L&G); 3. Secure in-principle commitment to the disposal of the Temple Island site to L&G along with an in-principle agreement to enter in to an Agreement for Lease for a new office building on the Temple Island site (both subject to further due diligence and scheme development before legally binding Agreements are entered in to); 4. Secure delegated authority to the Executive Director for Growth and Regeneration, in conjunction with the Deputy Mayor Finance Governance and Performance, to enter in to a Strategic Partnership with L&G and an associated non-legally binding Memorandum of Understanding, and; 5. Secure approval for Capital funding of up to £0.5m required to support the progression of development proposals relating to a mixed use development on Temple Island. 			
<p>Evidence Base: The Site The Temple Island (Arena island/Diesel depot) site is a substantial brownfield site of approximately 7 acres/3 hectares in close proximity to Bristol Temple Meads station and in the heart of the Bristol Temple Quarter Enterprise Zone. Some enabling infrastructure has been developed to support the development of the site, such as Brock’s bridge and St Philips footbridge, but further investment is required in order to bring the site forwards for redevelopment and the site remains derelict.</p> <p>With the planned development of the University of Bristol’s new Temple Quarter Enterprise Campus (TQEC) at the former Cattle Market Road Sorting Office site, enabled through the demolition of the sorting office by the City Council with funding from WECA, and with progress being made with the redevelopment of Temple Meads station, including the creation of a new Eastern Entrance, the Temple Quarter is changing rapidly, and an opportunity exists for the area to become part of the extended city centre and to facilitate improved connectivity to the city from the residential communities to the east. There is therefore a significant opportunity for the City Council to capitalise on current momentum and likely future investment in to the Temple Quarter by enabling the delivery of a landmark mixed-use development on Temple Island.</p> <p>The Partner Following on from the September 2018 Cabinet decision, the Council has been in discussions with Legal and General (L&G) regarding the development of the Temple Island site. L&G have a recent history and experience in partnering Councils, such as Newcastle and Sheffield, to bring forward, fund and progress significant and complex urban regeneration projects and have proven expertise in the area. L&G have expressed a strong desire to enter in to a similar arrangement with the Council in order to bring forward the regeneration of the Temple Island site. Further information about L&G is contained within Appendix A.</p>			

Discussions between BCC and L&G have confirmed L&G's ambition to promote and deliver a new, quality mixed-use scheme on Temple Island and to enter in to a wider Strategic Partnership to support investment and development within the Temple Quarter and city as a whole.

The Proposal

The development proposals produced by L&G for Temple Island expand upon those set out in September 2018 and envisage the delivery of new homes (with 40% affordable provision), office space, a hotel and conference facility, associated retail provision and new public realm linking the site directly to the A4. However, work undertaken has also demonstrated challenges associated with the delivery of a mixed use development on the Temple Island site – especially relating to the level of land remediation previously undertaken on the site – and this may have implications for the scheme moving forwards.

Images of the proposed L&G scheme are already within the public domain – but these are highly indicative and further work will refine the scheme layout, content and physical/appearance of the buildings. It is anticipated that this will result in much greater architectural variation between the buildings on site and yield a scheme which is both commercially attractive, but also sympathetic to Bristol and its character.

Interest from prospective hotel and conference facility operators has been received, and soft market testing has validated the scale of the proposed conference facility. Discussions are scheduled to take place between L&G and prospective hotel and conference centre operators in order to determine the precise scale and layout of the facility and these discussions will be crucial in informing the overall scheme layout, as well as associated construction/enabling works requirements and whether any funding would be required in order to support the provision of the conference facility.

In order to progress the development of the scheme and bring forward the regeneration of Temple Island, further work is required by both parties (L&G and BCC) in order to refine scheme proposals, progress detailed design development and identify the necessary enabling works packages (and costs.) This work needs to be completed before either party is able to reach a position whereby definitive commitment can be given to the transaction and recommendations made in terms of committing either party to legally binding agreements.

Whilst the Council anticipates incurring costs in developing its own understanding of the scope and cost of enabling works anticipated to be undertaken by the Council, these costs are likely to be much less significant than the costs likely to be incurred by L&G in progressing the detailed design of the mixed use scheme and associated planning applications. In order for L&G to commit to this expenditure, it is therefore necessary for the Council to;

1. Enter in to a Strategic Partnership with L&G through which the Council and L&G will agree to work together to progress proposals for Temple Island, deliver the Vision for the Temple Quarter and achieve key city-wide objectives. Further information regarding the Strategic Partnership is contained within Appendix A.
2. Confirm its in-principle commitment to two key aspects of the proposed deal;
 - a) To proceeding with a 250 year long-leasehold disposal of the Temple Island site to L&G, and;
 - b) To key principles established within the draft Heads of Terms developed between the parties and, subject to various future decisions and actions between the parties, enter in to a sub-lease of an office building of up to 100,000 sq ft (NIA) which L&G can deliver as a first phase of works.

The structure of the legal agreement relating to the disposal of Temple Island to L&G has been considered in detail and legal advice sought in this regard. The advice remains privileged but has taken full account of procurement requirements and emerging case law, including the recent Faraday case. The compliance of the proposed disposal route has been considered carefully based on a current understanding of what is a complex and dynamic area of law.

Under the terms of the proposed Agreement, if L&G satisfy the conditions precedent and complete construction of a first office building to industry standards, the Council will enter in to a 250 year (less one day) sub-lease of that building together with a provision to pay rent to L&G for a term of 40 years. The building will have a maximum net internal area of 100,000 sq ft. The lease will have RPI linked rent reviews; with an appropriate cap and collar.

BCC's rent for the building will be set as a percentage of the build cost and L&G will forego the typical profit as a percentage of gross development value (GDV) that developer would typically require.

This sub-lease arrangement is necessary in order to secure L&G's investment in the scheme (as it offers the L&G fund a guaranteed income from the site for a 40 year period, underpinning their investment) and, owing to the sub-lease arrangement set out above, it also allows the Council the opportunity to use its superior covenant strength to pay a highly competitive (i.e. reduced), head-rent to L&G and generate a profit rent from leasing the commercial office space to sub-tenants. Subject to positive market conditions, this arrangement should create a positive annual revenue stream for the Council.

L&G only require the Council to pay them rent for the first 40 year period and thereafter L&G will surrender its leasehold interest back to the Council for £1 and all rent arising from the sub-letting of the building will be the Councils without having to pay any further rent to L&G.

The proposal will also have other benefits to the Council – including creating new office space within the city, thereby supporting employment, and in generating additional business rates within the Enterprise Zone: supporting the Council in meeting existing commitments.

It is anticipated that subsequent phases of development (commercial and residential) would be progressed by L&G using its own resources, but with further opportunities for BCC to invest, should BCC so choose. In a situation where L&G achieves an IRR figure higher than a pre-agreed level, the surplus (overage) will be shared between the parties – ensuring that BCC is able to secure further capital receipts where the scheme out performs against initial forecasts.

L&G is expected to deliver a second, speculative office building on Temple Island – once the first office building (let to the Council) is 80% let - comprising high-grade office accommodation within the Temple Quarter – and may also drive further business rates and jobs growth within the Enterprise Zone. L&G have also stated their intention to deliver the initial phase of residential buildings on site with at least 40% affordable housing.

There are risks to the Council under this arrangement, most notably;

1. The Council will be disposing of a long leasehold interest in the site to L&G and will have limited control over the future form of development which will take place upon the site. The Council therefore needs to be mindful that it will be only through the exercise of planning control by the local planning authority that any formal control will be exercised over the form of this development.
2. Should the Council fail to secure a sub-tenant for the office building; the Council will remain liable for the payment of rent to L&G.

More information relating to the risks and benefits of the proposed approach, and mitigations for the risks, are contained within Appendix A.

Subject to Cabinet approval (sought here) for continuation of contractual discussions with L&G and the in-principle agreement to the disposal route and approach to BCC committing to a sub-lease of the first office building, L&G will proceed to develop and refine their proposals for the Temple Island site. It is expected that, as part of this process, L&G will also engage in pre-app discussions with the Local Planning Authority (LPA) with a view to a planning application being submitted for the mixed use scheme, once the parties have finalised a contractual position.

In order to expedite delivery of the Temple Island site and to de-risk the site from a development perspective, it is expected that through the Agreements reached with L&G, BCC will be responsible for undertaking specific enabling and preparatory works in order to prepare the site for redevelopment. Where necessary, BCC will be required to seek and secure planning and statutory consents in order to support and progress these enabling and preparatory works.

Detail around these works will be developed through the next stage of scheme refinement and further information will be provided relating to the extent and cost of works in a future report to Cabinet. However, in order to allow BCC to progress proposals for these enabling works, project funding is required in order to support various elements of work.

Cabinet approval is therefore now sought for up to £0.5m of project funding to support the next stage of works relating to Temple Island. Funding to support this is expected to be drawn from the Capital Investment Reserve.

As part of the work undertaken since the Cabinet decision in September 2018, alternative disposal and development options to enable the redevelopment of Temple Island have been considered, and detail around these alternative approaches are set out within Appendix A.

The proposed approach of disposal to L&G is set out on the basis that it will allow BCC to secure an exceptional development and funding partner with a proven track record of regeneration delivery and ample funding; it may expedite delivery of the site versus alternative routes for the appointment of delivery partners; will allow BCC opportunity to invest in the scheme; allow control over BCC's exposure to risk, and; will allow BCC to utilise grant funding to undertake enabling works. This is balanced against a reduction in overall BCC control over the form of development and the potential limiting of BCC's ultimate income/return from the land (versus other delivery mechanisms).

Assuming the Cabinet endorse the recommendations set out within this report, it is anticipated that the City Council and L&G will continue to work together over the coming months to refine scheme proposals and develop a more detailed understanding of scheme opportunities and constraints; scheme costs and values; legal mechanisms and structure and the overall viability of development. It is anticipated that once this next stage of work is complete, a more detailed report will be brought back to Cabinet with detailed financial and economic analysis which demonstrate a comparison with the benefits and outputs of the alternative scheme as set out in September 2018. This report will also set out recommendations on next steps and present a

comprehensive proposal for Cabinet to review and approve.

It is currently expected that this report will be presented in late 2019 or early 2020 and that Scrutiny will be engaged in the development of this report in order to consider and evaluate the proposed scheme, and its benefits, against those previously established for the mixed use scheme as part of the September 2018 Cabinet decision.

Cabinet Member Recommendations:

1. To approve 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.
2. To Approve 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.
3. To approve 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.

Corporate Strategy alignment:

The proposals align with a number of corporate priorities, including:

- Develop a diverse economy that offers opportunity to all;
- Deliver 2,000 homes, of which 800 are affordable, built in Bristol each year by 2020;
- Develop an inclusive economy that offers opportunity to all and makes quality work experience and apprenticeships available to every young person, and;
- Reduce social and economic isolation and help to connect people to people, people to jobs and people to opportunities.

City Benefits:

Significant city benefits are anticipated to accrue through the redevelopment of the Temple Island site. The original VfM report suggested that around 2,000 jobs and 500 homes would be created through the redevelopment of the Temple Island site as a mixed use scheme.

Consultation Details:

Proposals have been developed and discussed with the Deputy Mayor Finance Governance and Performance.

Revenue Cost	£	Source of Revenue Funding	<i>Insert specific service budget</i>
Capital Cost	£0.5m	Source of Capital Funding	<i>Capital Investment Reserve</i>
One off cost <input checked="" type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice:

In September 2018 Cabinet resolved that the Council should work with partners to develop an alternative mixed use scheme for the Temple Island site – ideally incorporating a conference centre, hotel facility, commercial space with a supporting retail offer, and residential units including policy compliant affordable housing provision. This report updates Cabinet on the progress made since that decision, including discussions that have been taking place with potential development partner Legal and General (L&G) to develop proposals aimed at delivering aspirations for the site.

The report seeks approval for the Council to enter into a non-binding strategic partnership with L&G to exclusively develop proposals for the regeneration of Temple Island and in principle for the disposal of this Temple Island site via a long lease to L&G. It should be emphasised that this is an in principle decision only, and does not commit the Council either to the disposal of the site or its associated agreement to lease-back up to 100,000 sq ft of office accommodation to the Council. Further work is required to develop a proposition that is intended to be brought back to Cabinet during the current financial year for consideration, and significant additional due diligence is required before either party is able to reach a position whereby any definitive commitment can be given.

The outline proposal which officers are seeking authority to develop includes the following principles:

- Disposal of the site, on the basis of a long lease (250 yrs) at best consideration reasonably obtainable under S123 of the Local Government Act 1972. When last reviewed, as reported in September 2018, this equated to some £12.5m.
- Agreement that the Council lease-back for 40 years up to 100,000sq ft of office accommodation to ensure a guaranteed return back to L&G. This represents a transfer of risk from L&G to the Council which will need to be fully assessed in line with the associated cost / benefits of the proposition.

As outlined in Appendix A to the report, should the Council fail to secure a sub-tenant for the office building; the Council will remain liable for the payment of rent to L&G after the completion of the building – placing a potentially significant long term financial burden upon the Council.

Under the proposed Agreement, the intention is that should L&G fail to proceed with the development within a pre-agreed timetable, the Council will retain the right to buy back the site/development plots on terms which would reflect the investment by both parties and seek to promote the redevelopment of the site via alternative mechanisms. This should be on the basis of no more than cost plus or minus reasonable expenses on both sides, to ensure the Council is not financially disadvantaged.

The Council will have limited control over the form of development through the development agreement itself. This is necessary due to the nature of the partnership agreement being proposed.

Appendix A to the report outlines additional enabling works that will be required prior to the development, including the provision of utility services, and improvements to accessibility. There may also be further remediation works to the site. These could be significant, but have yet to be fully quantified, and reviewed for potential state aid implications.

As set out in the September 2018 Temple Island report to Cabinet, assessment of the original high level mixed-use proposition assumed that should the Council decide to take a stake in the proposition, the original allocation of £25.6m (excluding land value), CIL, capital receipt and other Council contributions, could be available to be re-purposed. An economic assessment will be incorporated into the detailed report so that likely costs and estimated economic and social benefits are compared to those highlighted in the Value for Money review undertaken for the previous Temple Island decision.

The report seeks approval for a project budget of up to £500k for the next stage development. Pending formal approval of any capital scheme it is recommended that this is considered priority funding from the Council's Capital Investment Reserve and should it progress to development, it could subsequently be capitalised as part of the scheme costs.

Finance Business Partner: *Chris Holme, Interim Head of Finance, Bristol City Council, 24th June 2019*

2. Legal Advice:

As the report and appendix A record, L&G have been chosen as the Council's partner in this project due to their financial and other resources, their previous experience and proven track record in projects of this kind. They provided initial proposals for the Cabinet report in September 2018, and these have been developed further since then.

L&G's other property interest in the Temple Quarter (TQ) also affords the opportunity to develop a strategic partnering arrangement of benefit to the temple quarter generally, although this is not critical to the proposed development of the Temple Island site itself. The memorandum of understanding is proposed to be "non-binding", and intended to be of no contractual effect. The objectives have not yet been finalised, but are intended to relate to high level joint planning in respect of developments in the TQ provided the MOU remains a statement of intent, (and contains no contractual obligations on either side) it will not amount to a contract; which would expose it to the procurement regulations.

The specific legal arrangements between the Council and L&G themselves, as detailed in the report and appendix A, comprise, in summary;

- disposal to L&G by way of a long lease (250 years),
- agreement for a lease back in respect of an office block,

The agreement for lease to L&G will not contain positive development obligations, although it is expected to require that the first office if built will comply with certain basic standards.

External legal advice has been obtained on the nature of the proposed transaction and in relation to any procurement issues which might arise. The current arrangements are being envisaged as a property transaction and will not therefore comprise a public contract, and so fall outside the ambit of the Public Contracts Regulations 2015.

It must be ensured that "best consideration" is obtained for the site in order to comply with s123 Local Government Act 1972, and in addition an independent valuation will be required supporting the disposal terms, to satisfy state aid requirements. These matters will be addressed in more detail in the future report, as will any state aid implications (if any) associated with the Council

investment in the enabling works.		
Legal Team Leader: Eric Andrews. Team Leader, Legal Services, 21 June 2019		
3. Implications on IT: There are no identifiable IT implications arising from this report		
IT Team Leader: Ian Gale; Head of IT, Bristol City Council. 14 th June 2019		
4. HR Advice: At the stage there are no HR implications evident		
HR Partner: Celia Williams, HR Business Partner – Growth and Regeneration, Bristol City Council, 18 th June 2019		
Background Documents:		
EDM Sign-off	Colin Molton	27/03/2019
Cabinet Member sign-off	Cllr Cheney	30/05/2019
CLB Sign-off	Mike Jackson	28/05/2019
For Key Decisions - Mayor's Office sign-off	Mayor's office	03/06/2019

Appendix A – Further essential background / detail on the proposal	YES
Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	YES
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	NO
Appendix J – HR advice	NO
Appendix K – ICT	NO