

Decision Pathway – Report

PURPOSE: Key decision

MEETING: Cabinet

DATE: 04 February 2020

TITLE	Temple Island – conditional disposal of land interest to L&G and associated office building lease		
Ward(s)	Windmill Hill and Lawrence Hill		
Author: Colin Molton	Job title: Executive Director, Growth & Regeneration.		
Cabinet lead: Cllr Cheney	Executive Director lead: Stephen Peacock		
Proposal origin: <i>BCC Staff</i>			
Decision maker: Cabinet Member			
Decision forum: <i>Cabinet</i>			
<p>Purpose of Report: At the 2nd July 2019 Cabinet meeting, Cabinet received an update on proposals for Temple Island re-development and the proposed disposal of land to Legal and General. Approval was given, 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 to be constructed on the Temple Island site through a first phase of works. Cabinet further approved a project budget of up to £0.5m to support the development of proposals for the Temple Island site.</p> <p>This report provides a further update on progress with L&G on Temple Island project within the context of the wider growth and regeneration plans for Bristol and seeks approval to (i) enter in to all necessary legal documentation to take the project forward (ii) for funding to continue progression of the scheme (including on site investigations), and (iii) for the development and submission of funding applications to WECA to support enabling works.</p>			
<p>Evidence Base:</p> <p>Bristol is a world leading city with a strong vision for the future. The city is leading the way in delivering innovative new housing solutions and is seeking to ensure that the city is more inclusive, well connected, sustainable and successful for everyone who lives, works and studies in Bristol.</p> <p>Regionally, the city has been working in close partnership with both neighbouring authorities and with partners within the wider region; forming the Western Gateway partnership which will be focused on creating a cross-border economic partnership to the benefit of its citizens and businesses.</p> <p>Looking across the city, several physical regeneration projects and programmes are progressing which support this ambitious agenda including those within the Temple Quarter; Bedminster and Hengrove. Between these major projects, development will be delivered which will create new homes for existing and future residents; deliver new workspace to support economic growth in the city, and; deliver modern-fit for purpose transport infrastructure which will support sustainable, efficient and cost-effective local and regional travel.</p> <p>At the same time, the city is continuing to look forward and to innovate; development at Frome Gateway, Western Harbour and proposals for a new Mass Rapid Transit for the system are all demonstrating how the city intends to grow in a more sustainable and inclusive manner and account for the needs of future generations, as well as existing residents and businesses. The Mass Rapid Transit will see connections from key hubs, enabling the movement of significant numbers of people between key destinations within the city – including Temple Meads.</p> <p>In the Temple Quarter; proposals plan to build on the success of projects such as the Engine Shed and on the growth delivered through the Enterprise Zone. The city now has an opportunity to capitalise on emerging opportunities and BCC, working in close partnership with other public sector bodies including Network Rail, WECA and Homes England, is actively seeking to facilitate the development of a new city quarter within Temple Quarter; somewhere that realises the Mayor’s Vision of a “new city quarter</p>			

that is welcoming to all – to live, work, study, enjoy leisure time and build on Bristol’s strengths as a world class city”

Indeed, significant progress is already being made;

- The completion of the roadworks at Temple Gate, although completing later than anticipated, have paved the way for further development at Temple Gate – facilitating the development of significant amounts of office space adjacent to 100 Temple Street on land reclaimed from the highway and facilitating the delivery of Engine Shed 2
- The City Council and its partners (Network Rail, West of England Combined Authority and Homes England) are progressing Masterplanning work for the Temple Quarter which will set the Vision for the Temple Quarter moving forwards and support future investment in to key projects, including;
 - Temple Meads railway station; investment in a new City Gateway formed by a new northern entrance to Temple Meads with an enhanced concourse and arrival facilities;
 - Investment in public realm and retail in and around the station; delivering a significantly improved passenger experience and delivering much needed facilities for residents, commuters and workers alike;
 - Investment in supporting infrastructure, including a new dispersed transport interchange delivering fit for purpose facilities for taxis, buses, cyclists and accommodating the operational requirements of the railway.
- The University of Bristol is preparing its reserved matters planning application for its new Temple Quarter Enterprise Campus adjacent to Temple Meads, having recently secured its reserved matters consent for new student residences on Temple Island, and, integrated with the University’s plans for its new Temple Quarter campus, and;
- The partners’ have also worked with the University of Bristol to develop proposals for a new Eastern Entrance to Temple Meads which will deliver an improved accessibility and connectivity to Temple Meads; opening up the east of Temple Meads for redevelopment and supporting longer term development aspirations for this area of the city.

Moving forwards; the Vision for the regeneration of St Philips Marsh, informed by a significant evidence base and extensive community engagement undertaken through the course of the masterplan commission, is for the delivery of an inclusive and sustainable city ‘innovation quarter’ – delivering new homes alongside new and retained employment spaces which cater for a wide range of Bristol’s businesses and which build on Bristol’s collaborative and creative nature. Public and open spaces will create opportunities to play, collaborate and dwell and community and retail facilities will facilitate opportunities for community activities.

Bristol is on the cusp of a significant phase of new and exciting development and Temple Quarter is poised to lead the way. Key projects are now moving forwards at pace, further developments are in the pipeline and key stakeholders are committed to making significant and generational change focused on the station and its surroundings.

The Temple Island site sits within the heart of the Temple Quarter and is a key gateway site; an arrival gateway; a link between the north and south of the city, and; a link between the east and west. With so much happening within the Temple Quarter, it is therefore imperative that complementary plans for the site can be brought forwards in a timely way so that the city can take full benefit from the scale and quality of development within the area; for example by ensuring that sufficient new office accommodation exists within this highly accessible and sustainable location to cater for demand from occupiers looking for high quality accommodation in close proximity to the enhanced station and the University’s new Enterprise Campus.

The Vision for the site is to create a new landmark mixed-use development for the city and one which demonstrates the city’s aspirations for the wider Temple Quarter; it has the potential to become a demonstrator for the city’s new innovation quarter in terms of what can be delivered and a catalyst for further development; delivering new homes, new employment space, a new hotel and conference facility, high quality public realm and opportunities for local retailers to create a new ‘go-to’ destinations.

Bristol’s bold ambition has been seized on by L&G and the Vision for Temple Island is something which L&G share and are keen to be involved in. L&G’s commitment to the city is demonstrated by the Strategic Partnership which has been formed between BCC and Legal and General. This Partnership also has scope to exist beyond the Temple Quarter and to cover other L&G assets within the City, allowing BCC and L&G to discuss plans and proposals for developments in Bristol in order to ensure that the city is able to realise wider benefits from development within the city.

Development of proposals:

Since the last Cabinet decision in July 2019, the City Council has been continuing to work with L&G to refine proposals for the Temple Island site. Discussions have progressed on the basis set out within the July paper and agreement has been reached substantially on the terms set out within the July paper. The only substantial changes are that;

- the Temple Island site is now to be drawn down in two phases by L&G;
- both parties will seek to work together in order to progress proposals for parking provision to serve the development, and;
- BCC will cap its contribution to enabling works required to prepare the Temple Island site for development.

In terms of the phasing of development;

- The first phase will focus on the delivery of the two office buildings and the first four residential blocks, including the substantial amount of public realm.
- The second phase will relate to the delivery of the final residential block and the hotel and conference facility.

The two stage process of land draw down will allow L&G a right of pre-emption for 5 years, starting on the date of the unconditional leasehold period of Phase 1, to draw down a 250 year lease of the Phase 2 land.

This change will give further time for Legal and General to seek to secure a hotel and conference facility operator and work with the operator to deliver a robust proposal for the design and operation of the facility. Further soft market testing undertaken by L&G since July has confirmed strengthened operator interest from a number of operators in a hotel and conference facility on Temple Island. This is very encouraging, and no public sector investment in the hotel or conference facility is currently expected.

The phasing will allow the site for the hotel and conference facility to be framed by the development of the completed phase 1, meaning that it is not trying to operate within a construction site. It has the added advantage of being able to support the new University Campus which will be completed by that time, and benefit from increased values accruing from the development of phase 1 by L & G, and the added confidence that will bring.

This phased approach to development of the site also has wider benefits in allowing other projects' to utilise the Phase 2 land to support the progression of other key projects within the Temple Quarter, including the new Eastern Entrance for Temple Meads and the University's Temple Quarter Enterprise Campus site. This will ensure that several key projects across the Temple Quarter are able to progress concurrently, to the benefit of the city.

In terms of the parking provision to service the site; through the Temple Quarter master planning commission, the partners' have been seeking to resolve the future of parking provision within the Temple Quarter in order to realise joint aims and unlock the potential of the wider Temple Quarter area. This work will continue and the partners will engage with L&G as proposals for a car park progress.

It is the partners' intention that any future parking within the Temple Quarter is mindful of the need to encourage the reduction of private vehicle usage wherever possible. Any new car park is therefore expected to include significant amounts of cycle parking, whilst BCC will also work with L&G to minimise car parking provision associated with the Temple Island scheme.

In terms of the enabling works to be undertaken by BCC; the works are broadly consistent with those set out in Appendix A of the July 2019 Cabinet paper. BCC will be responsible for progressing enabling works within timescales to be fully agreed between the parties.

Up to £32m of funding has been identified by BCC within the EDF (Economic Development Fund) to support the development of the Temple Island project and supporting infrastructure or developments on other land holdings and funding may also be available from other sources to supplement or replace this, dependent upon the outcome of funding bids.

The level of capital receipt to be received from L&G/the long leasehold disposal will only be determined at the point at which certainty is secured through the planning process in the form of a consented outline/hybrid scheme. This will ensure that the Council is able to demonstrate compliance with S.233 Town and Country Planning Act 1995 (the land being held for planning purposes). This also means that the Local Planning Authority (and Scrutiny) can work through the planning process to achieve the highest quality scheme, realising the wider objectives of the Council.

A copy of the draft Heads of Terms relating to the proposed transaction are contained within exempt Appendix I. The Council has continued to seek legal advice through the development of proposals with L&G and will ensure compliance with state aid and procurement regulations as the scheme progresses.

As part of the due diligence undertaken in preparing proposals for Temple Island, KPMG is undertaking a comparison of the current proposals for the Temple Island site against those originally established through the September 2018 Cabinet decision. Initial analysis suggests that subject to the proposed scheme being delivered and operating in line with BCCs current expectations the benefit: cost ratio of the scheme would be 27.9:1, a slight improvement on the estimated BCR of the scheme featuring in the 2018 cabinet paper, which stood at 23.0:1.

L&G are currently in pre-application discussions with the LPA and, subject to Cabinet approval, L&G will continue 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, during 2020.

The risk profile under this proposed arrangement has not materially changed from the July position – although agreement to formally cap BCC's exposure to enabling works costs and undertake valuations at the point that planning certainty is achieved should provide additional comfort to BCC in terms of its exposure to risk.

Cabinet Member Recommendations:**That cabinet:**

1. Approve the Council entering into conditional agreements and an agreement for lease with Legal & General, based on the principles set out in the Heads of Terms contained within the exempt Appendix I,
2. Authorise the Executive Director for Growth and Regeneration, in consultation with the Deputy Mayor Finance Governance and Performance, the S.151 Officer, and Director of Legal Services to finalise the terms and conclude all necessary legal agreements between the parties.
3. Approve the allocation of £2m to the G&R Directorate to support the development of the project in line with the financial Appendix G – including further site investigation and scheme development work, whilst funding is sought to deliver the full extent of enabling works.
4. Approve the repurposing of EDF funding as per Appendix G, and the development and submission of funding applications of up to £32m to WoE LEP to enable BCC to implement enabling works to support the delivery of the Temple Island mixed use scheme and subject to Joint Committee approve and acceptance of the award incorporated into the council's capital programme.

That Cabinet notes:

5. The proposed Memorandum of Understanding between the Council and L&G (at Appendix A.2) to support broader joint working within the TQEZ.
6. Officers will keep the G&R scrutiny Commission informed and updated regarding the progress of the overall scheme.

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 latest KPMG VfM report notes that over 1,500 jobs and up to 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	£32m	Source of Capital Funding	<i>Grant funding – EDF</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: Detailed financial advice can be found in Appendix G.

Finance Business Partner: Denise Murray, 27th January 2020

2. Legal Advice:

Where land is held for planning purposes (as here) the Council may dispose of it to such person, in such manner and subject to such conditions as appear to the Council to be expedient in order to secure the best use of that land and any buildings or works which are to be carried out on it (whether by themselves or by any other person), or to secure the carrying out of any works appearing to the Council to be needed for the proper planning of the area. Disposal must be at the best consideration, or

otherwise secure Secretary of State consent. The expectation is that the disposal will be at market value and an independent professional valuation is being obtained to support this.

As cabinet is aware, external legal advice has been taken throughout the process to ensure that the proposals do not offend the public procurement regime. This advice has been made available to cabinet members and members of the call in sub-committee. Concerns were nonetheless raised in some quarters over the potential procurement risk, notwithstanding the advice received. Accordingly, once the heads of terms were in a near final stage, an Opinion was obtained from a leading QC specialising in procurement law.

In summary the advice is that the proposed arrangements would not amount to a works contract or a works concession, because there is no positive legal works obligation being imposed on L&G and that therefore the arrangements, as currently proposed, fall outside the scope of the Public Contracts Regulations 2015. Furthermore no procurement obligation otherwise arises. He also advises that there is nothing he has seen which suggests that the arrangements involve the Council in improperly seeking to avoid the procurement regulations or that the arrangements are a sham. Accordingly the procurement risk is viewed as being low. Counsel does however recommend that the Council consider publishing a voluntary ex ante transparency notice (VEAT) as a protective measure, and consideration is being given to this.

Counsel's advice also addressed briefly the issue of state aid in connection with the proposed disposal by way of long lease etc. It recognises that whilst, as things stand, there should not be an issue, this will depend on the finalisation of the valuation exercise. The advice recognises meeting the Councils obligations to achieve best consideration (required under S233 Town and Country Planning Act 1990) will also assist in addressing any state aid issue (which also requires disposal on market terms). As detailed elsewhere in the report the expectation is that the disposal will be at market value and independent professional advice is being obtained on this, together with a site valuation.

Legal advice has also been obtained from the Councils external Solicitors on whether there are any state aid issues associated with the proposal for the carrying out of enabling works on the site. The advice received to date is that the current approach on the delivery of such works should be state aid compliant as the works that BCC will fund are capable of being regarded as 'public infrastructure' (under principles established in various EU Commission decisions). With regard to the L&G funded works, provided BCC receives market value for the site once those costs have been factored in, there should be no state aid issues; again this will be addressed in the valuation. State aid will be kept under review for the duration of the project.

Legal Team Leader: Eric Andrews, Team Leader, Legal Services, 10 January 2020

3. Implications on IT: There are no identifiable IT implications arising from this report

IT Team Leader: Simon Oliver 22/01/2020

4. HR Advice: No specific HR issues are foreseen. Oversight of the project is expected to continue under the Head of Regeneration with input from Finance, Property and Legal colleagues. Additional staff resource will be required to support the project as it progresses and moves in to a delivery phase, and this staff resource may be drawn from external consultancy organisations. Any new posts/consultants would be funded from within the project as part of the capital cost of the scheme.

HR Partner: Celia Williams, 18/12/2019

Background Documents:

July 2019 Cabinet Report (which can be accessed via the following weblink:

<https://democracy.bristol.gov.uk/mgChooseDocPack.aspx?ID=3685>)

Legal Advice from Counsel and Solicitors. (This is exempt from disclosure by virtue Local Government Act 1972 Schedule 12A part 1, para 5 - Legal Professional Privilege)

EDM Sign-off	Stephen Peacock	27 January 2020
Cabinet Member sign-off	CLlr Craig Cheney	27 January 2020
For Key Decisions - Mayor's Office sign-off		27 January 2020

Appendix A – Further essential background / detail on the proposal	YES
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A.1 KPMG VfM report (redacted)	
A.2 Draft memorandum of understanding between BCC and L&G	
A.3 CBRE letter (redacted)	
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	YES
Appendix H – Legal Advice	NO
Appendix I – Exempt Information I.1 Counsel’s Advice I.2 KPMG VfM Report (unredacted) I.3 Heads of Terms Principles & Background I.4 Finance Appendix (unredacted) I.5 CBRE letter (unredacted)	YES
Appendix J – HR advice	NO
Appendix K – ICT	NO