

# Bristol Beacon



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## Appendix 3

## Options Appraisal

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**4 January 2023**

**Revision 4 – Final Draft for Cabinet**



## 1.0 Introduction

For reasons detailed elsewhere the Bristol Beacon Project has identified that it will exceed the agreed funding authority established following the BCC Cabinet Decision on the 9 March 2021, and the subsequent Deed of Variation signed with contractor Wilmott Dixon on the 29 April 2021.

To address the current potential difficulties in funding the Bristol Beacon Project, there are three primary options available to Bristol City Council (“BCC” and the “Employer”), namely:

- Option 1: obtain additional funding before the current funding runs out and proceed with the Bristol Beacon Project without disruption or delay,
- Option 2A: suspend the works (in accordance with a negotiated agreement with the Contractor if possible) until sufficient additional funding has been obtained to complete the works, or
- Option 2B: terminate the Contractor’s obligation to Provide the Works and re-engage the current Contractor or re-tender the works when sufficient additional funding has been obtained to complete the works.

A secondary option was investigated to identify if value engineering the project and/or a reduction in scope could make a significant impact in the budget short fall. Through detailed discussions and workshops with the design team and contractor it was demonstrated that the available opportunities for cost savings were small in comparison to the scale of the funding gap. In addition they would cause significant delays, carry large preliminary costs and professional costs in redesign. It was demonstrated that any savings gained would be made negligible by these costs. It was also shown that there would be a significant detrimental effect on the commercial and cultural opportunities the building can provide. As such this secondary option to value engineer was discounted.

Option 1 is considered to be the least disruptive and damaging to the interests of all of the parties. Accordingly, at a briefing on 16<sup>th</sup> September 2022 the PMO team were tasked with exploring the two scenarios (Options 2A and 2B) in which the project would be ‘Mothballed’. The Bristol City Council, Programme Management advisory team (“PMO”) have used a similar methodology in this review as that used at in the 1<sup>st</sup> Deed of Variation.

Table 1 of this Briefing Paper considers the contractual mechanics and impacts associated with Options 2A and 2B, which have together been colloquially referred to as the “Mothball” options.

Option 2B makes clear the cost of stopping and terminating contracts. It is assumed that any decision as to the future of the building should the project not be restarted would be the subject of a separate process and decision.

Table 2 of this Briefing Paper provides an assessment of the implications of all three Options.

## **2.0 Programme Update for Option 1**

The option to refinance the project and complete it to the current programme and contractual obligations is predicated on a series of key measures.

At the time of the Deed of Variation signed in April 2021, the programme anticipated that Wilmott Dixon would achieve completion of their contractual obligations by the 18<sup>th</sup> April 2023, providing access to Bristol Music Trust to begin their mobilisation period. At that time it was anticipated that BMT would require 22 weeks to prepare their operations ready to open at the end of September 2023.

For reasons described elsewhere, Wilmott Dixon will be entitled to and awarded an extension of time to their programme of 17 weeks, with an updated completion date of the 14 August 2023.

The PMO team have been working closely with BMT / Wilmott Dixon and other stakeholders over the course of the last several weeks to determine whether or not there is an opportunity to overlap the BMT mobilisation activities with the Wilmott Dixon contract to target the retention of the planned BMT opening date of the end of September 2023.

The outcome of that review and workstream is that the PMO with BMT and Wilmott Dixon, have identified an opportunity to integrate the completion of the Contract works with BMT integration and mobilisation activities. The programme overlap is identified below in figure 1.

To ensure that the integration proposal is contractually embedded into the Wilmott Dixon programme, a second Deed of Variation has been prepared that addresses the substantive outstanding matters relating to the completion of the Construction Contract, and BMT integration plan.

The PMO team have also worked with BMT and stakeholders to mitigate the commercial risk associated with the commencement of events post opening. Recognising that it will be prudent to create contingency to the date at the end of September 2023 which is the target date by which it is hoped that events may be held in the new facilities. A strategy has been agreed with BMT, that they will not make any contractual commitments to commercial events and activities prior to the end of November 2023, that could have any commercial or reputational consequences if further events delay the opening between those two dates. The Option 1 cost model, includes a contingency allowance for this scenario.

### **Deed of Variation 2**

Working with external legal advisors, Burges Salmon, the PMO team and Wilmott Dixon agreement has been reached and a 2<sup>nd</sup> Deed of Variation Agreement has been prepared to address the following critical issues:

1. Agreement to the BMT Integration Programme, with a set of defined key and access dates to meet the requirements of BMT and their contractors / suppliers. Each key date has a specifically defined set of conditions to secure the date, and these are agreed between the parties.
2. Clarification on the intent of the parties to work together to achieve the proposed integration plan, and in particular, clarifying expectation on collaboration, training, commissioning, and engagement.
3. Further clarifying design responsibility as it relates to the internal fabric of the building and transferring more clearly that responsibility to the Contractor.
4. Clarification of the Works Information as it relates to matters that have evolved since the previous Deed of Variation.
5. Further deals with subcontractor warranties, bonds and such like as they relate to the current Contract, and in particular to align with funder requirements.
6. Updating and clarifying Provisional Sum requirements.

The 2<sup>nd</sup> Deed of Variation, provides clarity for the parties in terms of cost, variations, responsibilities, programme, access and BMT integration, and removes substantive risk going forwards towards the completion of the current Contract.

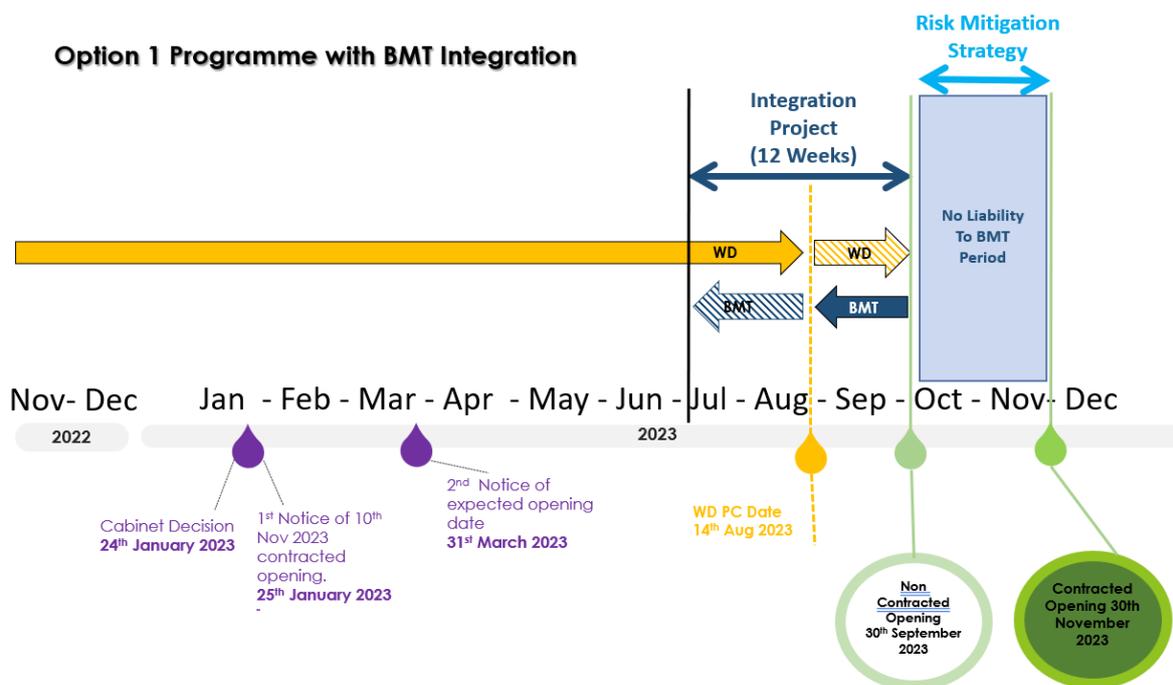


Figure 1

### 3.0 Programme Implications for Option 2A / 2B

This report presents a series of programme assumptions that have been used to determine the implications on Options 2A and 2B as noted in the summary below and identified in Figure 2.

It is assumed that, following the January 2023 Cabinet meeting, if a decision is made to proceed with either Option 2A or 2B, then the PMO will work with all parties, including the Contractor to bring works on site to a stop as quickly as possible. There are mechanisms within the Contract to allow Bristol City Council to do that, and those matters are discussed later in the report.

The PMO team have made an initial assessment with the Contractor, and it is anticipated that it will take in the order of 4 months to bring the Contract to a stop and to leave the building in such a way that it is safe during the period through which it is ‘mothballed’.

Under the scenario of Option 2A, whereby the Contract remains with Wilmott Dixon, but has been stopped, it is expected that the Contractor will retain control of the site until such time as the building contract is resumed. As will be discussed later, there is a risk to Bristol City Council under the terms of the Contract, because Wilmott Dixon have a unilateral right to terminate the Contract if the Contract Administrator does not instruct the resumption of the works within 13 weeks of a ‘stop notice’ being issued, on behalf of Bristol City Council. To preserve the intention of option 2A, essentially to retain the ability to remobilise the existing Contractor at a future time to suit Bristol City Council, it will be necessary to execute a further Deed of Variation, which will need to be negotiated between the parties. These discussions have not commenced between BCC and the Contractor.

The programme for both options 2A and 2B, assume that any decision to resume or re-procure the Contract will not be made until after a new council administration is in place in May 2024, and that a period of 5 months is required by the new administration to arrange for appropriate governance prior to issuing instructions to move forwards.

Line Of Enquiry	Option 2A – Negotiated Suspension/Pause	Option 2B – Termination and restart
<b>Description/ Definition of Option</b>	A negotiated <b>SUSPENSION</b> of the works (Wilmott Dixon instructed in accordance with the Contract to Stop, and then remobilised at a later date)	Wilmott Dixon contract would be <b>TERMINATED</b> , and remaining works would reprocured & retendered at a later date, with BCC to control the site until such time as it is completed under a new construction contract.
<b>Assumptions</b>	<b>Based on an estimated timeline of:</b>  - A cabinet decision in January 2023 - A notice to resume the project made in November 2024	<b>Based on an estimated timeline of:</b>  - A cabinet decision in January 2023 - A notice to resume and re-procure the project made in November 2024

	<ul style="list-style-type: none"> <li>- PC: Circa Dec 25</li> <li>- 12 Week BMT Opening Period</li> <li>- Opening Date Circa Mar 26</li> </ul>	<ul style="list-style-type: none"> <li>- PC: Circa Apr 27</li> <li>- 12 Week BMT Opening Period</li> <li>- Opening Date Circa July 27</li> </ul>
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### Option 2A / 2B Programme Assessment

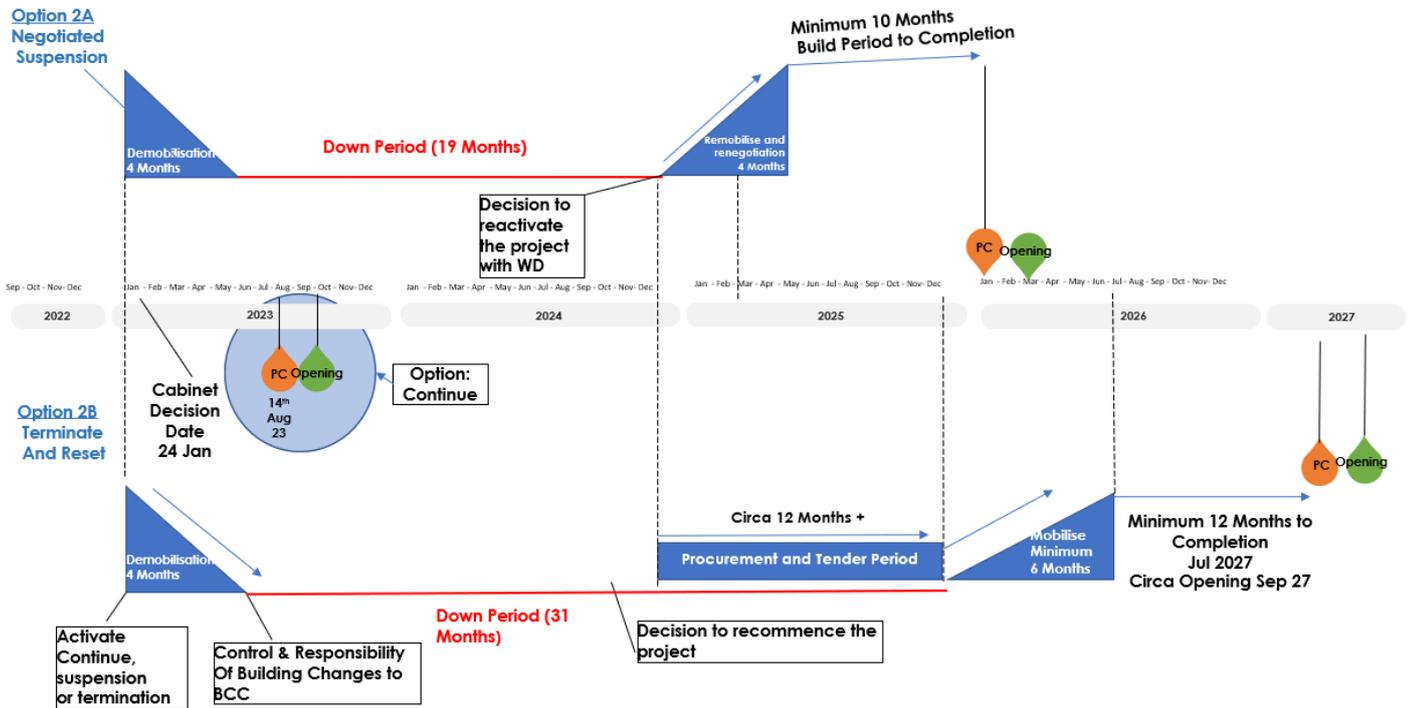


Figure 2

## 4.0 Wilmott Dixon Contract

With reference to the options associated to either suspend or terminate the Wilmott Dixon Contract it is necessary to assess the implications with regards to the existing Contract. The section below assesses the implications for options 2A and 2B to determine options available, and implications to Bristol City Council and associated stakeholders.

**Table 1.**

<b>Line Of Enquiry (WD CONTRACT)</b>	<b>Option 2A – Suspension</b>	<b>Option 2B – Termination</b>
<b>Does the contract allow for a suspension/termination?</b>	<p>Yes. The PM may instruct the Contractor to stop work and may subsequently instruct that the work be restarted. However, in the absence of agreement to extend the period, if work is not restarted within 13 weeks, the Contractor may terminate its further obligations.</p> <p>In the context of the Programme assumptions, it is apparent that the ‘stop work’ period will be significantly longer than the 13 week period and accordingly it would be a recommendation that to avoid Wilmott Dixon undertaking a unilateral termination, a specific legal agreement with Wilmott Dixon should be agreed that covers their involvement during the extended ‘stop work’ period and associated remobilisation and completion.</p>	<p>Yes. The NEC 3 allows the Employer to terminate the Contractor’s obligation to Provide the Works for any reason.</p>
<b>Clause Procedure</b>	<p>Clause 34.1 enables the PM to instruct that work be stopped.</p>	<p>Clause 90.2 allows the Employer to terminate for any reason.</p>

	<p>Clause 60.1(4) makes this a compensation event (“CE”).</p> <p>Clause 61.2 can be used to request a quotation prior to issuing the instruction but it will be impossible for the Contractor to provide a quotation unless the period of suspension is known.</p> <p>Clause 61.6 enables the PM to introduce an “assumption” regarding the period of suspension which will enable the Contractor to provide a quotation. If the assumption turns out to be incorrect, clause 60.1(17) enables it to be corrected, resulting in a separate CE.</p> <p>Clause 91.6 enables the Contractor to terminate if work is stopped for more than 13 weeks – unless otherwise agreed.</p>	<p>The clause 90.2 Termination Table provides that this would be a termination for “A reason other than R1-R21”.</p> <p>Accordingly, procedures P1 and P2 would apply and the Contractor would be entitled to payment of amounts A1, A2 and A4.</p> <p>P1: the Employer may complete the works using its own materials.</p> <p>P2: the Employer may require the Contractor to assign to the Employer all relevant subcontracts and supply contracts.</p> <p>A1: payment for the value of work done to date plus materials already delivered or for which the Contractor is committed to pay.</p> <p>A2: payment for removing equipment.</p> <p>A4: damages for lost Fee on works which will NOT be completed.</p>
<p><b>Time Implication &amp; Impact</b></p>	<p>The delay to Completion and additional cost incurred by the Contractor would be assessed in accordance with clause 63.</p> <p>Accordingly, WD would be granted an extension of time (“EOT”) and the Prices would be increased to address the additional cost incurred as a result of the period of demobilisation,</p>	<p>Completion will be achieved significantly later as a result of the need to retender or negotiate terms with a contractor to complete works (Circa 12 months).</p> <p>The construction period would be significantly longer due to the need for familiarisation and investigation of previous works by any replacement</p>

	remobilisation and renegotiation.	Contractor. (Circa 12 Months).
<b>Cost Implication &amp; Impact</b>	<p><b>Controlled Process</b></p> <p>Quote will be submitted including all fair and reasonable costs.</p> <p>All cost liability is Employer's including costs of stopping, maintenance, security, heating, any restart cost and inflation to recommencement at a future date.</p> <p>Any initial quotation based on an assumed period of suspension is likely to be revised when the work is restarted because it will only be at that point in time that the true period of suspension will be known.</p> <p>Legal Costs</p> <p>The Employer would be responsible for its own legal costs incurred in documenting the negotiated terms of the suspension and, in the event of disputes with Third Parties, potentially liable for its opponents' legal costs also.</p>	<p><b>Uncontrolled liability</b></p> <p>Initially, the Employer would be liable for the above amounts A1, A2 and A4 from the Contractor (WD) and equivalent costs and compensation which WD would be liable to pay to all sub-contractors.</p> <p>Subsequently, the Employer would be liable for the cost of maintenance, insurance, security, procurement, and restart costs, all likely to be incurred at the inflated rates applicable to the period of delay.</p> <p>Legal Costs</p> <p>The Employer would be responsible for its own legal costs incurred in documenting the termination and, in the event of disputes with the Contractor or Third Parties, potentially liable for its opponents' legal costs also.</p>
<b>Quality Implication &amp; Impact</b>	The Contractor would remain responsible for all protection of the building, albeit all at the Employer's cost	The Employer would be responsible for arranging all protection for the building at its own cost.
<b>Liabilities &amp; Responsibilities</b>	<p><b>Activities in the suspension period (WD Responsibility at BCC Cost)</b></p> <p>Operational</p>	<p><b>Activities in the suspension period (BCC Responsibility at BCC Cost)</b></p> <p>Security</p>

	<p>Maintenance of plant</p> <p>Security</p> <p>Presence on site</p> <p>Protection of external fabric</p> <p>Site accommodation</p> <p>Temporary heating/venting</p> <p>Temporary internal drainage</p> <p>Dilapidation survey</p> <p>CCTV</p> <p>Hoarding</p> <p>Extended warranties</p> <p>Signage</p> <p>Out of hours services</p> <p>Access and ingress provision</p> <p>Additional fire protection</p> <p>Installation of fire extinguishers and alarms</p> <p>Revised internal security plans</p> <p>Redundant materials storage or removal</p> <p>Drainage survey &amp; cleaning upon restarting the work</p> <p>Ongoing Traffic Management</p> <p><b>Other Liabilities</b></p> <p>Losses for Special Construction Products ("SCP") (% of remaining value)</p> <p>Termination</p> <p>Loss &amp; Expense claims from third parties</p> <p>Retainer or additional consultants' fees</p>	<p>Presence on site</p> <p>Protection of external fabric</p> <p>Temporary heating/ venting</p> <p>Temporary internal drainage</p> <p>Dilapidation survey</p> <p>CCTV</p> <p>Hoarding</p> <p>Loss of Warranties</p> <p>Signage</p> <p>Out of hours services</p> <p>Access and ingress provision</p> <p>Additional fire protection</p> <p>Installation of fire extinguishers and alarms</p> <p>Revised internal security plans</p> <p>Redundant materials storage or removal</p> <p>Drainage survey &amp; cleaning upon restarting the works</p> <p>Testing and Inspection of completed partially completed and temporary facilities.</p> <p>Ongoing Traffic Management</p> <p><b>Other Liabilities</b></p> <p>Losses for SCP (% of remaining value)</p> <p>Termination</p> <p>Loss &amp; Expense claims from third parties</p> <p>Retainer or additional consultants' fees</p>
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	Remobilisation Council rates Liability for the later performance of unfinished works Defects liability period extension Retention release Conservation Party Wall / Neighbours	Fees for new procurement and retendering activities Radically different procurement route Council rates Liability for the later performance of unfinished works Defects liability period extension Retention release Conservation Party Wall / Neighbours
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## 5.0 Whole Project Impact

This section considers the impact of all three options on the following key criteria:

1. Impact on Opening
2. BMT Legal, Finance and Delivery
3. BCC, PMO and Consultant
4. Quality, Continuity and Compatibility Issues
5. Third Party and External Funding
6. Reputational Matters
7. Regulatory Matters
8. Environmental Issues
9. UK and World Affairs

**Table 2.**

Impact Assessment	Continue	'Mothball'	
	Option 1 Continue to Completion on current contract	Option 2A Negotiated pause/suspension	Option 2B Terminate and restart via negotiation with new tenders
<b>1. Impact on Opening</b>	-Programme has some risk of overrun -BMT's capacity to deliver their operation plan on time -Effectiveness of the integration project -Ability of WD to maintain their programme against the pressures of the national economic climate	<b>Opening Date:</b> -PC: Circa Dec 2025 -12 Week BMT Opening Period -Opening Date Circa Mar 2026  -Integration Project  -BMT Funding  -BCC Funding	<b>Opening Date:</b> -PC: Circa Apr 2027 -12 Week BMT Opening Period -Opening Date Circa July 2027  -Integration Project  -BMT Funding  -BCC Funding
<b>Confidence RAG</b>			
<b>2. BMT Legal, Finance and Delivery Implications</b>	-Programme has some risk of overrun  -Mitigation measures to manage the commercial and reputational risk associated with late opening could be necessary.	-Threatens the existence of the organisation in both Capital and Revenue unless the council intervenes to support.  <b>-Leases</b> BMT would continue to operate the foyer under the conditions of the existing lease until the project was	Threaten the existence of the organisation in both Capital and Revenue unless the council intervenes to support. (Same as option a but for a longer period of time)  <b>-Leases</b> No impact. BMT would continue to operate the foyer under the conditions

	Additional contingency has been included within the updated total project cost to provide mitigation for BMT costs in the event of further delay to the Contract	completed and ready to handover. <b>-Collaboration Agreement</b> Failure to agree delay with BMT beforehand could amount to a material breach of contract on which BMT could seek legal recourse. BCC would be liable to cover BMT costs associated with a delayed completion date. <b>Entrustment Agreement</b> BCC provides BMT with revenue funding. BCC would be liable to cover BMT costs associated with a delayed completion date.	of the existing lease until the project was completed and ready to handover. <b>Collaboration Agreement</b> Failure to agree delay with BMT beforehand could amount to a material breach of contract on which BMT could seek legal recourse. BCC would be liable to cover BMT costs associated with a delayed completion date. <b>Entrustment Agreement</b> BCC provides BMT with revenue funding. BCC would be liable to cover BMT costs associated with a delayed completion date
<b>Confidence RAG</b>			
<b>3.Consultant, BCC, PMO Implications</b>	-Managing existing contracts and renegotiating fees for extensions	-Fees required to cover Demobilisation and Remobilise -Down Period -Keep the consultants in contract and have them on a nominal sum / retainer -15% of fees for Consultants -25%BCC/PMO Fees	-Fees required to cover - Demobilisation -Down Period -Termination of consultant appointments -Fees for procurement, re tender an due diligence. -Radically different procurement route. -15% of fees for Consultants -50%BCC/PMO Fees
<b>Confidence RAG</b>			
<b>4.Quality, Continuity and Compatibility Implications</b>	-Require ongoing management and NEC Supervision	-Some degradation of unfinished construction works -Loss of knowledge/experience of the site within the current WD team. (Potential new WD Team as and when existing WD team members are allocated to other jobs?) -WD Supply chain disruption -Consultant team disruption -Risk loss of staff & continuity benefits -Retains the current WD D&B contractual obligation / responsibility	-Significant degradation of unfinished construction works -Incompatibility -Loss of knowledge & potential new main contractor and supply chain -High risk of ill-informed future decisions new contractor and subcontractors -Loss of design knowledge and design models (Resurveying the whole building) -Loss of the WD D&B contractual obligation/

			responsibility which would revert to the client.
<b>Confidence RAG</b>			
<b>5.Third Party Contracts, Agreements and Funding</b>	<p><b>-Funding</b> BMT related funders are expected to accept the proposed revised opening timetable, and this is managed by BMT.</p> <p><b>-Party Wall</b> Cost of repair and remedial works may increase. Obligation to complete party wall works.</p> <p><b>-Third Parties</b> No further changes expected</p>	<p><b>-Funding</b> Without prior approval the principal funders WECA, ACE, HLF could recover the funding they have paid to date or may withdraw future payments. Circa £39M at risk. Other funders could withdraw their pledges and the further funding which is due to be paid under existing arrangements could be re allocated to other projects. Circa £9M at risk.</p> <p><b>-Party Wall</b> -Damaged relationships with adjoining owners.</p> <p><b>-Third Parties</b> Organ: Harrison &amp; Harrison would not be able to install the organ. A delay would incur inflationary costs associated with installation and Voicing. Storage of organ off site at additional cost.</p>	<p><b>-Funding</b> Without prior approval the principal funders WECA,ACE,HLF could recover the funding they have paid to date or may withdraw future payments. Circa £39M at risk. Other funders could withdraw their pledges and the further funding which is due to be paid under existing arrangements could be re allocated to other projects. Circa £9M at risk.</p> <p><b>-Party Wall</b> -Party wall surveyors moved to be more adversarial and increased risk of a potential enforcement position</p> <p><b>-Third Parties</b> Organ: Harrison &amp; Harrison would not be able to install the organ. A delay would incur inflationary costs associated with installation and Voicing. Storage of organ off site at additional cost.</p>
<b>6.Reputational Implications</b>	Negative media and press attention due to increased cost and time Distraction of management and resource onto any FOI Requests	Negative media and press attention due to increased cost and time Distraction of management and resource onto any FOI Requests	Negative media and press attention due to increased cost and time Distraction of management and resource onto any FOI Requests

<b>Confidence RAG</b>			
<b>7.Regulatory Implications</b>	<p><b>Planning Conditions</b> Obligations to close/comply with planning conditions to continue</p> <p><b>Listed Building/Heritage</b> Nonspecific nature of the requirement</p> <p><b>Building Control</b> Interpretation of regulations</p> <p><b>Ground Conditions</b> Potential Utility Diversions associated with HMV</p>	<p><b>Planning Conditions</b> Obligations to close/comply with planning conditions would continue No obligation to complete works within a defined timeframe</p> <p><b>Listed Building/Heritage</b> Degradation of unfinished construction works</p> <p><b>Building Control</b> Changes to regulations that would apply to an extended completion date</p> <p><b>Ground Conditions</b> Potential Utility Diversions associated with HMV</p> <p><b>Insurances</b></p>	<p><b>Planning Conditions</b> No obligation to complete works within a defined timeframe</p> <p><b>Listed Building/Heritage</b> Some risk of enforcement action if extended termination threatens fabric of listed building (ML)</p> <p>Changes to regulations that would apply to an extended completion date</p> <p><b>Building Control</b> Changes to regulations that would apply to an extended completion date</p> <p><b>Insurances</b></p>
<b>Confidence RAG</b>			
<b>8.Surrounding Environment</b>	Measures in place to continue	<p><b>Public Perception</b> Traffic Management to continue -Retain Site Compound and ownership of the site WD would continue with site Security (WD to keep responsibility)</p>	<p><b>Public Perception</b> Traffic Management /Suspend TRO and reinstate the highway? Site compound would be removed by WD Security would be removed by WD and picked up by BCC (BCC take on responsibility)</p>
<b>Confidence RAG</b>			
<b>9.UK and World Economy</b>	<p>Good control over the controllable but high risk on the uncontrollable elements of the national financial situation. WD supply chain under significant pressure. Material shortages</p>	<p>Prices influenced by inflation pressures Future public spending cuts Local residents and businesses objecting to continued disruption Remove existing highways closures and reinstate in the future</p>	<p>Prices influenced by inflation pressures Future public spending cuts Local residents and businesses objecting to continued disruption Remove existing highways closures and reinstate in the future</p>
<b>Confidence RAG</b>			

## 6.0 Cost Assessment

The PMO team have undertaken a review of the likely costs associated with Options 2A and 2B to provide an order of magnitude of the possible costs to Bristol City Council if either of these two options are selected. In preparing the likely impact to the project, the PMO team have also engaged with Wilmott Dixon to seek their views and have obtained their inputs into both the cost headings and likely quantum. The PMO team have also made an assessment of the overall budget that is recommended that Bristol City Council make provision for, to deliver the Contract and with an identified risk and contingency.

The costs identified below in Table 3 do not include the risk of needing to repay BMT funders, and in making any decision to pursue either Option 2A or 2B, Bristol City Council should also consider the additional financial burden to having to repay grant funding and any associated legal costs attributable to themselves and BMT.

The cost estimate for the three options is based on the programme assumptions identified earlier in the report, and an assessment for future inflation has been included.

The cost estimate also includes allowances which have been assessed as being required for both options, and these headings and the details are included in table 3 below.

The assessment demonstrates that whichever Option is chosen there is a significant requirement for additional budget. It is clear that due to unprecedented volatility and uncertainty in the construction sector the estimates for Options 2A and 2B carry a high level of uncertainty and risk.

- a. Option 1 – Complete the project as planned - £131.9m total anticipated cost to complete and an anticipated opening between end of September to end of November 2023.
- b. Option 2A - Pause the scheme and restart in October 2024 - £165.5m total anticipated cost to complete. Opening by March 2026. (Includes anticipated costs to pause of £4m, and a running cost of £9m)
- c. Option 2B - Stop the scheme – £203.5m total anticipated cost to complete. The assumed programme to commence re-procurement in October 2024 and an opening by September 2027. Total cost to stop anticipated at £12.5m and anticipated running costs of £12m.

**Table 3.**

	<b>Option 1</b>		<b>Option 2A</b>		<b>Option 2B</b>	
	<b>Proceed with full scheme to current programme</b>	<b>Cost</b>	<b>Negotiated Pause/suspension</b>	<b>Cost</b>	<b>Terminate and Restart</b>	<b>Cost</b>
<b>Base cost of all options</b>	<b>Total emerging cost</b>	<b>£m</b> <b>£131.9</b>		<b>£m</b> <b>£131.9</b>		<b>£m</b> <b>£131.9</b>
<b>1. Impact On Opening</b>		<b>£0.0</b>	-Inflationary effect on Contract and Consultants  -Closing down project - WD cost -Closing down project - Fees and PMO -Ongoing inspections, fire alarm measures -Ongoing maintenance and security during suspension - WD Cost -Ongoing inspections during suspension - fees -Inspections etc prior to re-start Remobilisation	<b>£9.5</b>	-Inflationary effect on Contract and Consultants  -Cost premium on Termination contractor -Closing down project - WD cost -Closing down project - Fees and PMO -Ongoing inspections, fire alarm measures -Ongoing maintenance and security during suspension - BCC Cost -Ongoing inspections during suspension - fees -Inspections etc prior to re-start Remobilisation -Loss of profit and Contractor Claims	<b>£23.0</b>
<b>2. BMT Legal, Finance and Delivery Implications</b>		<b>£0.0</b>	BMT ongoing costs to new opening dates  Legal Fees Warranties	<b>£4.5</b>	BMT ongoing costs to new opening dates  Legal Fees Warranties	<b>£7.5</b>
<b>3. Consultant, BCC, PMO Implications</b>		<b>£0.0</b>	Prolongation costs of non WD	<b>£5.0</b>	Prolongation costs  Re-tendering process under Termination	<b>£14.5</b>
<b>4. Quality, Continuity and Compatibility Implications</b>		<b>£0.0</b>	Degradation of unfinished works Maintenance Testing and inspection Insurance requirements	<b>£4.2</b>	Degradation of unfinished works Maintenance Testing and inspection  Insurance requirements	<b>£6.5</b>
	<b>Option 1 - Proceed with full scheme to current programme</b>	<b>Cost</b>	<b>Option 2A</b>  <b>Negotiated Pause/suspension</b>	<b>Cost</b>	<b>Option 2B</b>  <b>Terminate and Restart</b>	<b>Cost</b>
<b>5. Third Party Contracts,</b>		<b>£0.0</b>	Funding risk	<b>£0.2</b>	Funding risk Party Wall risks - further fees degradation	<b>£0.2</b>

<b>Agreements and Funding</b>			Party Wall risks - further fees degradation			
<b>6.Reputational Implications</b>		£0.0	PR and management resources	£0.2	PR and management resources	£0.4
<b>7.Regulatory Implications</b>		£0.0	Planning conditions Listed building enforcement risk Alterations to comply Building Control requirements change	£0.2	Planning conditions Listed building enforcement risk Alterations to comply Building Control requirements change	£1.1
<b>8.Surrounding Environment</b>		£0.0	Ongoing traffic management Compensation of neighbours Hoarding maintenance	£0.3	Ongoing traffic management Compensation of neighbours Hoarding maintenance	£0.4
<b>9.UK and World Economy</b>		£0.0	Effect considered under risk	Inc	Effect considered under risk	Inc
<b>10.Additional Risk and Contingency</b>		£0.0		£9.5		£18.0
<b>Total Estimate</b>		<b>£131.9</b> (circa)		<b>£165.5</b> (circa)		<b>£203.5</b> (circa)

## Option 1 - Assessment of Risk

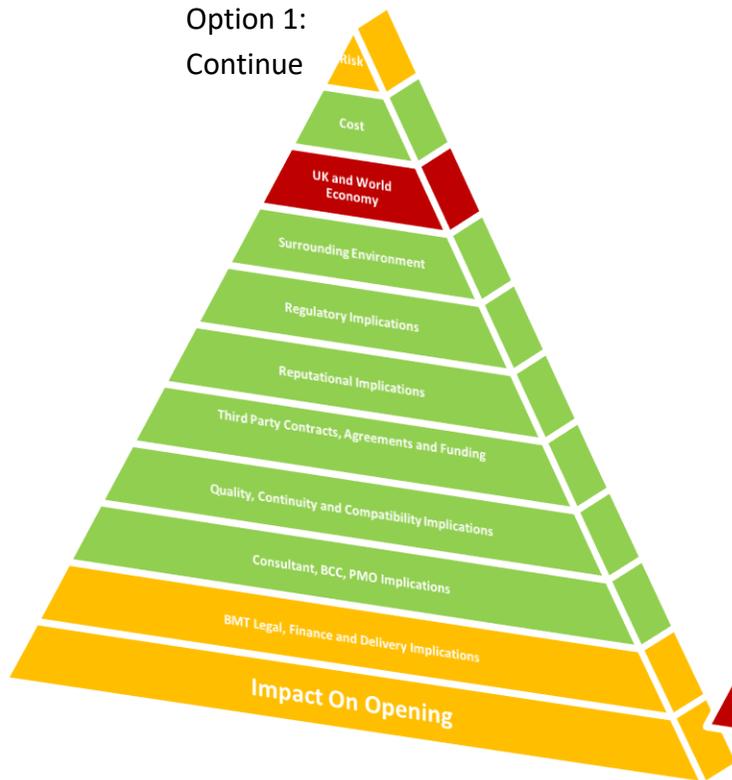
Ref	Risk	Mitigation	Responsibility
1	Integration of BMT programme with Wilmott Dixon works.	The 2 <sup>nd</sup> Deed of Variation makes express provisions for the overlap of the BMT integration programme with the Wilmott Dixon works.	WD/ BMT
2	Delivery of the compressed main contract programme by 14 <sup>th</sup> August 2023, ie site coordination, logistics, integration of specialists and commissioning.	The main contractor have appointed an external lean methodologies consultant, BBI Services, to support coordination and integration of key packages, to maximise site efficiency and effectiveness, to improve flow and productivity, and reducing risk of abortive works.	WD
3	Mechanical and Electrical Package Completion.	MEP is a critical subcontract package and runs through the critical path to completion. The PMO and contractor team are working together to convene thematic workshops focussing on commissioning, testing, and training, and integration with other systems. Coordination with the existing building systems is also a risk, and the team are undertaking appropriate inspections and preparatory works well ahead of works taking place to minimise risks.	WD
4	Insolvency of key subcontractors.	The main contractor undertakes regular reviews of the financial status of key sub-contractors to monitor risks. The PMO have supported the main contractor in advance purchase of key equipment and vesting this with BCC ahead of requiring on site, further helping to reduce risk.	WD
5	Commissioning and regulatory approval of life safety / building evacuation systems.	Critical to opening of the facility to the public. The main contractor, with their key sub consultants, the design team and BMT have a focussed working group to test the design and prepare for commissioning and regulatory approval. This activity remains high on the risk register and will be	WD / PMO / BMT

		monitored carefully through to completion.	
6	Design Status.	<p>The PMO provide design management support, with the aim of supporting the main contractor with design coordination, package procurement, assurance and review.</p> <p>This role acts as an interface between the retained Technical Advisory team and the main contractor.</p> <p>The PMO created a Package Responsibility Schedule which is used to manage contractor interface on design. The 2<sup>nd</sup> DOV deals with further clarification on design associated with the building fabric, which is transferred substantively to the main contractor. The team are working to a Design Charter, which confirms the working principles between the primary role holders, thus further mitigating design risk.</p>	WD / PMO / TA (Designers)
7	Programme Contingency – BMT Opening Date.	The current Option 1 programme identifies the target opening date of the 30 September 2023. As a result of the current pressures on programme, and the introduction of the integration programme concept, the PMO have identified a ‘shock absorber’ BMT programme contingency, which essentially sees agreement that BMT will not book events until the end of November 2023, that could have a commercial liability in the event of an unplanned delay to the main contract, or the BMT integration and mobilisation programme. The 8 week programme buffer, includes associated cost allowances within the forecast completion costs.	PMO / BCC / BMT
8	Fabric Risk.	The design risk for external fabric has remained with BCC through the contract, and this was further clarified in the 1 <sup>st</sup> DOV with the Inner / Outer Box concept. As the works to the external box fabric are substantively complete, there are	WD

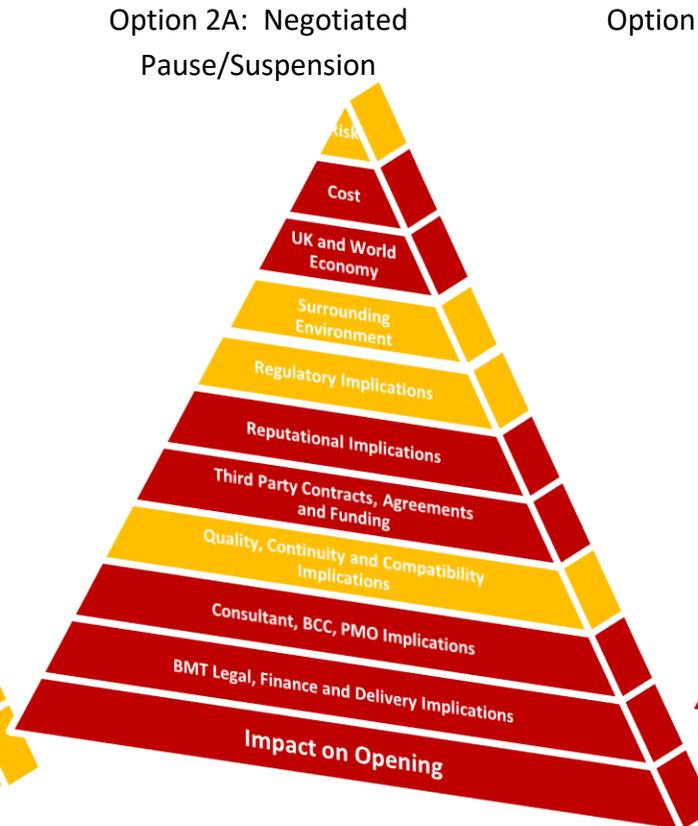
		some residual risks relating to design, and the ownership of these are substantively passed to the main contractor through the 2 <sup>nd</sup> Deed of Variation	
9	Integration of BMT Operations.	As noted through the integration programme, additional resources have been allocated to the project to support the integration of the BMT mobilisation operations into the main Contract. In addition, and alongside the regular engagement between the PMO and BMT, the project has scheduled and budgeted additional resources to support BMT with a 'soft landings' approach, that is designed to further minimise risk to the integration and opening mobilisation works	BMT / PMO
10	Works Information, and scope definition.	The 2 <sup>nd</sup> Deed of Variation incorporates updates to the Works Information to provide clarity on the remaining scope of the works and the new obligations of the main contractor.	WD / PMO
11	External Factors / Inflation Risk.	The PMO team have defined an updated contingency budget against the risk register, to support the requested budget to complete the project. Further mitigating measures include further risk transfer to the main contractor through the 2 <sup>nd</sup> Deed of Variation, and BCC commission of an assurance review through the Strategic Delivery Partner (reported elsewhere)	PMO / BCC

## Options Confidence Rating

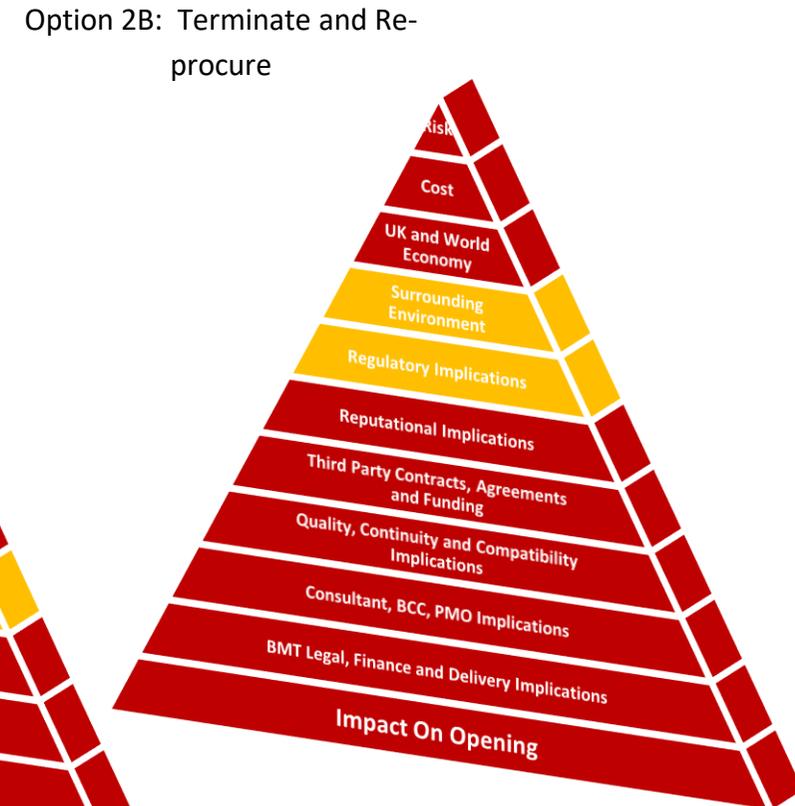
The overall risk ratings and associated certainty of outcomes assessed for the three options is illustrated in the images below.



Overall Confidence Rating: 90-95%  
(Time:85% (Assuming Shock Absorber)  
(Cost:95%)  
Overall RAG: **GREEN**



Overall Confidence Rating:  
55%  
(Time: 60%)  
(Cost: 50%)  
Overall RAG: **RED**



Overall Confidence Rating:  
30%  
(Time: 40%)  
(Cost: 20%)  
Overall RAG: **RED**

## **7.0 Potential Impact on BMT Grant Funding ref Options 2A and 2B**

The implications and potential impact on funding through the BMT grants, gifts, and donations is assessed elsewhere, and in making a decision to proceed with either Option 2A or 2B, Bristol City Council will need to consider those amounts in addition to the cost implications identified above.

## **8.0 Project Options Summary**

### **Option 1 – Fund the main Contract**

The PMO team have secured a robust programme for the construction works together with a viable commercial position which has delivered agreement with Wilmott Dixon on Compensation Events, Extension of Time Claims, and associated matters, and these are documented within the 2<sup>nd</sup> Deed of Variation.

The contract is in a more stable state than has previously been the case but is still not without risk.

As a result the PMO considers that Option 1, continuing with the project is the most predictable option, albeit there will remain risks associated with time pressures; however, this option does further mitigate against the influences of the external economic environment and the global market.

### **Option 2A – Suspension of main Contract**

The low levels of predictability and certainty associated with Option 2A (Suspension) would give rise to an extended EOT for Wilmott Dixon involving demobilisation, maintaining the building and a remobilisation. This option retains the contractual status quo and therefore is more predictable than option 2B however it still contains many variables and complexities.

Although Wilmott Dixon have been consulted this option still contains many assumptions involving a myriad of variables. It will also be necessary to negotiate a further Deed of Variation with Wilmott Dixon to remove their right to terminate the contract in the event that the suspension continues for more than 13 weeks, and there will be further risks associated with this.

### **Option 2B- Terminate the main Contract and Reprocure, Retender, Recontract**

The extremely low levels of predictability and certainty associated with Option 2B (Terminate) are driven by the volatility of the current market together with the high level of complexity of the technical, contractual and regulatory/managerial issues. There is a significant shift in liability, and Bristol City Council will take direct responsibility of all the issues associated with managing, securing and keeping safe the existing part completed building until such time that a new contractor is appointed.

There is also a significant risk that the construction market and potential supply chain will not respond favourably to a requirement to take on responsibility for completing works that have been partly constructed by another contractor. It may not be possible to secure a new contractor at a future date at a price that would ordinarily be considered commercially acceptable.

## Summary

Under either Option 2A or 2B, the future cost risk to Bristol City Council, BMT and their funding partners will be extremely high. There is significant volatility in the construction markets, and the future costs are very unpredictable. There are several factors associated with both Option 2A or 2B that should be taken into account.

Firstly, under either option it will be necessary to instruct the PMO and professional team to plan and design the works necessary to 'mothball' the project, and the necessary works will then need to be instructed to the main contractor.

Secondly, under option 2A, to protect BCC against the main contractor unilaterally terminating the Contract, it will be necessary to negotiate and agree a voluntary Deed of Variation in which the main contractor waives its right to terminate if the works have not been restarted within 13 weeks and agrees to remain under contract until such time as BCC are ready to instruct a remobilisation.

Finally, in the event that a decision is made to pursue Option 2B, it should be noted that BCC will be responsible for the security, operation, and maintenance of the building until such time as a decision is made to appoint a new contractor to complete the works. It is likely to be very difficult to find a suitable contractor and design team to complete the works at an economic cost, and to obtain appropriate warranties, etc, that protect BCC, BMT and their partners in a satisfactory way. Option 2B will be fraught with difficulty. It should be considered to be the least preferable option.