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**To: All Members of the Cabinet**

**Bath and North East Somerset Councillors:** Tim Warren (Cabinet Member), Charles Gerrish (Cabinet Member), Vic Pritchard (Cabinet Member), Paul Myers (Cabinet Member), Karen Warrington (Cabinet Member), Paul May (Cabinet Member), Bob Goodman (Cabinet Member) and Mark Shelford (Cabinet Member)

**Cabinet: Wednesday, 6th February, 2019**

Please find attached a **SUPPLEMENTARY AGENDA DESPATCH** of late papers which were not available at the time the agenda was published. Please treat these papers as part of the agenda.

Papers have been included for the following items:

19. **BATH QUAYS NORTH, APPOINTMENT OF DEVELOPMENT PARTNER (Pages 3 - 96)**

Yours sincerely

Jack Latkovic  
for Chief Executive

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Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Cabinet	
MEETING/ DECISION DATE:	6 <sup>th</sup> February 2019	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3122
TITLE:	Bath Quays North - Appointment of Development Partner	
WARD:	Abbey, Kingsmead	
AN OPEN PUBLIC ITEM CONTAINING EXEMPT APPENDICES		
<p>List of attachments to this report:</p> <p>LGA 45 19 Exemption Form (E3122 BQN Appointment of Development Partner)</p> <p>Appendix 1 - Exempt BQN EDF Full Business Case</p> <p>Appendix 2 - Exempt Addendum Financial Business Case</p> <p>Appendix 3 - Exempt BQN Procurement Board Summary</p> <p>Appendix 4 - BQN Indicative Plan of the Site</p>		

## 1 THE ISSUE

- 1.1 The Council is in receipt of Final Bids from 3 shortlisted bidders following conclusion of an OJEU competitive dialogue procurement, each of which is capable of being proceeded with. To progress the development of the Bath Quays North site the Council will appoint a preferred bidder (and reserve bidder) and finalise the terms of a Development Agreement with the preferred bidder or, if negotiations are not successfully concluded with the preferred bidder, the reserve bidder, on the most economically advantageous terms possible.
- 1.2 The Full Business Case (FBC) annexed in Appendix 1, provides Cabinet with a management tool for evidence-based and transparent decision making. The FBC sets out a Treasury Green Book compliant 5 case business plan for the

public intervention and role in delivering Bath Quays. Sections of the report relevant to this decision comprise:

- a. The Strategic case (sections 1-5), where we are now and rationale for investment
  - b. The Economic case (section 10), summary of benefits
  - c. The Financial case (sections 11-12), summary of costs and payment mechanisms
  - d. The Commercial case (section 13), procurement approach and legal arrangements
  - e. Operation and Viability (section 14), existing and future operational arrangements
  - f. The Management case (section 15), programme management and governance structures
  - g. Other sections cover options appraised (section 6), State Aid (section 7) Equality & Diversity (section 8), Environmental Sustainability considerations (section 9) and Monitoring and Evaluation.
- 1.3 The Council submitted (in November 2018) the Full Business Case to WECA for the application of £30.8m of WECA funding to support the implementation of BQN infrastructure in order to realise growth in the Bath Enterprise Zone. An approval decision from WECA is expected in February 2019.

## **2 RECOMMENDATION**

The Cabinet is asked to;

- 2.1 Review the Full Business Case and approve the recommendations to award the contract to the preferred bidder as the Council's development partner for the Bath Quays North site (the Site) (as shown edged red on the indicative plan at Appendix 4) having submitted the most economically advantageous bid in accordance with the Council's evaluation criteria as explained in the exempt Appendix 3, and in the event the Council is not able to conclude final negotiations with the preferred bidder it appoints the reserve bidder as the Council's development partner.
- 2.2 Delegate authority to the Director of Economy & Growth in consultation with the Leader, Chief Executive, the Council's S.151 Officer and Monitoring Officer to take all necessary acts to:
  - a. Agree final terms with the Council's development partner including entering into the Development Agreement and all other ancillary documents to facilitate the carrying out of the redevelopment of the Site.
  - b. Appropriate for planning purposes the Site under section 122 of the Local Government Act 1972 and to exercise the power (refer Section 4 of this

report), if required, under Section 203 of the Housing and Planning Act 2016 (“Section 203”) to facilitate the carrying out of the redevelopment of the Site.

- c. Dispose of the Site to the appointed development partner under the terms of the Development Agreement.
  - d. Complete contemporaneously, with the Development Agreement, a grant funding agreement with the West of England Combined Authority.
- 2.3 To approve the uplift to the provisional Innovation Quay - Economic Development Funding Enabling Infrastructure budget to £30.8m to bring in line with the additional grant funding WECA have allocated through the EDF and LGF funding programmes.
- 2.4 To fully approve Capital of £6.647m from the provisionally approved Bath Quays Delivery capital budget as set out in Section 3.3 of the report.
- 2.5 To fully approve Capital of £30.8m from the provisionally approved Innovation Quay - Economic Development Funding Enabling Infrastructure capital budget as set out in Section 3.3 of the report.

### **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 Decision E2838 provided an initial capital budget of £1m for the delivery of a partner procurement exercise to set up a delivery vehicle for the development of Bath Quays North. A further £5.92m was provided to fund enabling infrastructure on and off site (refer section 5.3 of this report).

#### **3.2 Financial Amounts for Scheme Delivery**

The forecast total Project cost of BQN is currently estimated at £191m funded from the sources summarised below:

<b>Funding Source</b>	<b>£000's</b>
B&NES short term Council funding (borrowing)	13,101
WECA - LGF	8,313*
WECA - EDF	23,878
Developer funding	145,727
Total Funding	191,019

\* This includes £1.359m already approved and allocated to the Odd Down P&R project; the remaining balance of £6.954m being subject to the FBC submitted as follows.

A full business case has been submitted to WECA and determination of our submission is expected in February 2019.

## Scheme Funding

The LGF grant is received from WECA as a grant on a quarterly basis to fund costs incurred so there is a negligible impact on the Council's borrowing costs.

The EDF is paid to the Council on completion of milestones, which is usually on Practical Completion (PC) of the project. As the size of the grant is large and the timescale to PC long (2-3 years), the cost of borrowing to meet infrastructure payments will be significant. Borrowing costs can be claimed as part of the EDF grant but still have an impact on the financial returns of the project. To mitigate these costs the full business case has requested that regular milestone payments are claimable throughout the project term.

### 3.3 Council Budget Requirements

The table below sets out the capital budget for the scheme which is included in the current 2018/19 to 2022/23 Council Capital programme, profiled by financial year, assuming the Council receives approval of the submitted WECA full business case.

	<u>Budget</u>	<u>18/19</u>	<u>19/20</u>	<u>20/21</u>	<u>21/22</u>	<u>22/23</u>
	<u>£000's</u>	<u>£000's</u>	<u>£000's</u>	<u>£000's</u>	<u>£000's</u>	<u>£000's</u>
B&NES*	£10,799	£4,226	£3,928	£1,592	£1,053	
LGF	£8,313	£1,359	£6,954			
EDF	£23,878		£1,792	£14,445	£5,356	£2,285
Total	£42,990	£5,585	£12,674	£16,037	£6,409	£2,285

\* This excludes £2.302m already approved previous years expenditure from Bath Quays North Delivery budgets.

The capital programme funding requires;

1. Approved B&NES Bath Quays Delivery budget of £4.152m and a further additional funding requirement of £6.647m from the provisional budget of £17.174m to fund the £10.8m for scheme delivery in the above table.
2. Approval of the uplifted provisional budget for Innovation Quay - Economic Development Funding Enabling Infrastructure of £30.8m, funded by WECA LGF & EDF grant sources subject to receiving approval of the submitted FBC.

### 3.4 Benefits to the Council

There are four main benefits of the proposed scheme to the Council:

1. Tenders from all three bidders identified that they would pay a capital receipt to the Council.
2. They would replace the existing Avon Street Car Park with a new basement car park.
3. The scheme will build office units which will create income from business rates and jobs for Bath.
4. The scheme will revitalise the Bath Quays area with retail units and residential properties bringing an increased community spirit to the Bath waterfront.

### 3.5 Financial Implications

There are capital and revenue financial implications that need consideration for the development and implementation of this scheme, these are summarised below:

#### Capital Financing Implications

Section 3.2 specifies the Council scheme funding required in delivering the programme.

#### Council Borrowing requirement

Council funded borrowing of £13.1m is required to deliver the scheme with the approval of £6.647m to fund the further delivery phases.

#### LGF Grant Funding

The scheme will utilise LGF funding of £6.954m, this is subject to full approval from WECA. The financial model assumes that LGF funding will be claimed on a quarterly basis and be utilised in the delivery of the initial development works.

#### EDF Funding

The scheme requires £23.878m EDF funding to deliver the infrastructure works, drawdown of EDF funding will require agreement of practical completion milestones through the WECA grant offer. Under the EDF funding agreement the Council will need to fund the cost of capital up to the agreement on the achievement of the practical completion milestones, following this EDF will pay for the capital repayment and interest over the life of the assets borrowing period.

Capital costs have been robustly assessed and have built in contingency for build works and an overall project risk factor of £2.679m.

#### Revenue Implications

The Scheme revenue implications are included in the financial model in Appendix 2 and are also summarised below with a summary of key assumptions built into the financial model.

The following table shows Council annual revenue budgets impacted from the proposal.

Revenue Budget Description	£000
Parking Revenue (net)	1,674
Operating Costs	200
Interest Payments	541

#### Parking Revenue

The Council budget is generating annual net revenue income of £1.674m from the Avon Street Car Park site. To manage the impact on the Council's revenue budget

during and after the development phases of the programme, the following assumptions have been made:

Assumption 1: Revenue income will remain consistent with current levels up to the commencement of works and closure of the Car Park

Assumption 2: During the development phase there is a site operator wide licence fee that will generate an annual income to the Council; in addition the financial model has assumed that there will be additional income generated from displacement to other Council parking locations.

Assumption 3: The model assumes that the proposed parking solution will perform at optimal capacity. These assumptions have a 10% risk factor built in, within a risk tolerance of 35-40% vacancy rates before impacting negatively upon revenue.

#### Business Rates and Council Tax

In addition the proposal will generate future growth through business rates and increases to the Council tax base. These projections will be included in the Council's future Medium Term financial plans and a share of the business rate uplift will also contribute towards the West of England Economic Development Fund via City Deal, which is part funding the infrastructure in the Bath Quays project.

## **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 The following section explains the need to appropriate the Site for planning purposes, the effect of Section 203 Housing & Planning Act 2016 Powers and details the powers used to enter into the Development Agreement.
- 4.2 Third party legal rights and easements (e.g. rights of way or of light) exist to benefit neighbouring land and will impact the Site at the time the redevelopment of the Site commences. However, if prior to commencement of the development, the land is appropriated formally to planning purposes (as defined in s.246 (1) of the Town & Country Planning Act 1990) under Section 122 Local Government Act 1972, then Section 203 of the Housing & Planning Act 2016 ("Section 203") will be enabled.
- 4.3 Section 203 of the Housing & Planning Act 2016 provides that where land has been appropriated for planning purposes then existing rights which could prevent the development of that land from being carried out in accordance with the planning permission can be overridden, subject to payment of compensation to the affected parties. The benefit of overriding easements and other rights can be transferred by the Council to the Council's development partner who will develop the Site in line with the scheme (as set out in this report).
- 4.4 The only power under which a local authority may dispose of land (including by the granting of any interests in that land, such as a lease), which it has acquired or appropriated for planning purposes, is under Section 233 Town & Country Planning Act 1990 ("Section 233"). Section 233(1) expressly provides, that the authority may dispose of the land "to such person, in such manner and subject to such conditions" as appear to the authority expedient to secure the best use of the



land, or the construction or carrying out of any buildings or works needed for the proper planning of the area.

4.5 The disposal of land under Section 233 includes the sale of freehold interest, granting of lease, assignment of unexpired term of lease or granting of easements. The Council is required to obtain the best consideration that can be reasonably obtained.

4.6 However, before the land can be appropriated, the land must no longer be required for the purpose for which it was held immediately prior to appropriation. Therefore, this report seeks authority to delegate the decision to appropriate parts of the Site until such time as each phase comes forward (when conditions precedent for the development agreement have either been satisfied or waived).

4.7 The power contained in Section 203 does not remove the legitimate rights of those persons taking the benefit of the easements or other rights to compensation arising from the interference with such rights, but it does remove the potential for such persons to frustrate the development by obtaining an injunction to prevent interference with their rights.

4.8 However, having regard to the potential interference with private rights, local authorities, in order to use Section 203 of the Housing & Planning Act 2016 should have regard to the following factors:-

- (i) whether the appropriation will facilitate the carrying out of the redevelopment of the Site;
- (ii) whether the appropriation will contribute to the promotion or improvement of the economic, social or environmental well-being of the Site and the area;
- (iii) whether it is in the public interest that the redevelopment of the Site as proposed in the planning permission should be carried out; and
- (iv) whether the use of section 203 is proportionate with any interference with the human rights of those persons affected.

4.9 As indicated, when making the future decision(s) to exercise s.203 powers the Council will need to be satisfied that regard has been had to the factors as set out in this paragraph.

4.10 The Council will enter into the Development Agreement pursuant to its powers contained in section 1 of the Localism Act 2011, and section 111, 120 and 123 of the Local Government Act 1972.

## **5 THE REPORT**

5.1 The Bath Quays North site is owned (freehold) by the Council. The site is strategically located to the immediate west of the Bath city centre and lies within the Bath Enterprise Zone. There is a master plan vision for the Enterprise Area, endorsed by the Council's Cabinet on 12 November 2014. The Bath Quays area (comprising the area north and south of the river) is a key regeneration site

within the Enterprise Zone. The site currently comprises the 639 space Avon Street Carpark and Riverside coach park.

- 5.2 The site is at the heart of Bath's Enterprise Zone and supports the Council's adopted Local Plan for the provision of employment space in the heart of the city. Outline Planning Consent was delegated to permit in August 2018 for an office led mixed use scheme of up to 38,000 sq m. The proposed scheme provides for the replacement of a Multi Storey public parking to a modern underground basement car park.
- 5.3 The Council has already undertaken a number of enabling infrastructure projects to make the site available for development. Flood mitigation, road realignment, the creation of Bath Quays Waterside and new coach parking at Odd Down has already been completed to enable the comprehensive regeneration of the site to proceed. Other infrastructure projects to increase short stay parking at Charlotte Street, relocate tourist coach drop off/pick up and re-house the Council's Street Cleansing Team are all ongoing to provide full vacant possession of the site in advance of development.
- 5.4 The Project is strategically important to the Council as it will assist in meeting a number of council policies linked to economic regeneration in the central area of the city. In particular the Project is a catalyst for employment growth, particularly in Bath's successful high value digital, technology and financial and professional sectors. It will provide replacement car parking and contribute significantly to the Council's place making agenda. In addition the Project is expected to provide secure long-term revenue to the Council through car parking income and business rate growth that support the provision of front line services.
- 5.5 This decision builds upon previous decisions made by the Council in promoting and progressing design and procurement activity and enabling infrastructure under Decisions;
- (1) E2538 West of England Local Enterprise Partnership (LEP) : Revolving Infrastructure Fund (RIF)
  - (2) E2680 Bath Enterprise Area: Innovation Quay Capital Approval
  - (3) E2838 Bath Quays Delivery.

**5.6 THE STRATEGIC CASE - WHERE WE ARE NOW AND RATIONALE FOR INVESTMENT (Summarised from Appendix 1 – BQN EDF Full Business Case)**

- 5.6.1 Over the past 20-30 years, the Bath market has failed to develop sufficient modern office accommodation within the City. The constrained supply is continuing to have a significant effect on the economy and the City now faces a tipping point in terms of maintaining a viable and attractive office sector.
- 5.6.2 The Council proposes to exercise its public function to revitalise the city and overcome the longstanding market failure in the provision of office space.

- 5.6.3 The Council has elected to intervene in the Bath office market and utilise its strategic land asset at Bath Quays North to enable delivery of a new Business District in the heart of the city.
- 5.6.4 The Council were successful in achieving Outline Planning Consent (OPC) in August 2018 (subject to s106 agreement finalisation) for the comprehensive redevelopment of the Avon Street multi-storey (MSCP) carpark & Riverside coach park.
- 5.6.5 The planning permission can deliver up to a total combined floorspace of up to 38,000sqm gross investment area (GIA) and critical infrastructure (basement carpark & highway improvements) and demolition of the existing MSCP.
- 5.6.6 The consent permits delivery of up to 25,000sqm of B1 Grade A office space in a single critical mass. The site is identified in both PMP Policy SB4 & B&NES Enterprise Area Masterplan as the optimal regeneration site to deliver a new business district for the City.
- 5.6.7 At present, the site is operated by B&NES as one of the City's principal public car parks providing 639 spaces servicing the city's retail offer and generating a substantial revenue stream each year. Car parking revenue is a key income stream to be safeguarded to provide front-line services by the Council. Consequently, the ability to develop the site is significantly fettered by the high abnormal infrastructure costs associated with re-provision of public car parking which renders the consented office-led scheme unviable without provision of public sector funding.
- 5.6.8 B&NES Council established Enterprise Zone status for an area of central Bath in 2014 as part of the West of England's combined offer to government. Through this, WECA pool business rates income within the EZ's into a combined Economic Development Fund for the express purpose of funding projects that will deliver employment and economic growth in our region. Bath Quays is B&NES principal generator of future economic growth and therefore a key priority for the application of EDF funding.
- 5.6.9 WECA funding has been applied for to overcome the viability hurdle by the provision of economic development funding required to de-risk & unlock the BQN site in line with the Council's planning permission.
- 5.6.10 Through provision of front-end public investment in development infrastructure the scheme is able to leverage substantial private investment and make an office-led development viable.

## **5.7 THE ECONOMIC CASE- SUMMARY OF BENEFITS**

- 5.7.1 As part of the West of England Combined Authority (WECA), B&NES shares its combined Authorities' ambitions for promoting sustainable growth across the sub-region. The LEP's Strategic Economic Plan sets an ambitious baseline for delivering 65,000 jobs and 2.6% GVA growth in the

West of England by 2030. B&NES' Economic Strategy is seeking, in line with sub-regional growth plans and the Core Strategy, to increase the number of jobs in B&NES by 11,500 by 2030. Taking into account job losses, this will require some 16,900 new jobs to be created across the area.

- 5.7.2 Bath plays a crucial role in the B&NES economy, providing 70% of the area's employment and 75% of knowledge based and priority sector employment. The principal constraint to further future growth in the City's knowledge economy is the lack of appropriate office stock and workspace. Adopted policy defines the need for provision of some 40,000sqm of centrally located office space to facilitate growth and drive inward investment. The Economic Strategy emphasises that delivering the Bath EZ is central to achieving the City's economic potential. Enabling development of BQN and the creation of a new Central Business District for the city is the principal underpinning intervention to deliver this strategy
- 5.7.3 Detailed economic analysis undertaken as part of the FBC has shown the infrastructure phase works to support 220 construction jobs, and 1,665 direct on-site jobs once completed. Over the FBC Treasury Green Book 30 year appraisal period, BQN will achieve a Gross Value Added (GVA) Net Present Value (NPV) of between £309.1m to £329.8m for a £30.8m spend. This demonstrates that every pound of public funding spent will return between £10.0 and £10.7 of GVA. Public investment sought therefore demonstrates a strong Benefit-Cost-Ratio (BCR) of 10.7.

## **5.8 THE COMMERCIAL CASE - PROCUREMENT APPROACH AND LEGAL ARRANGEMENTS**

The Council commenced a procurement process in July 2017 to procure a development partner via a formal OJEU tender process. Through external legal due diligence and state aid advice the Council have undertaken a Competitive Dialogue procedure. The procedure, methodology and recommendations for the selection of the Council's preferred bidder are set out in Appendix 3 – Exempt BQN Procurement Evaluation Report summary, recommendations and officer delegated approval.

The Three Stage process comprised;

### **Stage One** Selection Questionnaire ("SQ").

The SQ process was used to derive a shortlist of bidders that had the requisite financial and economic standing and were able to demonstrate relevant experience and a track record of delivering similar projects. The SQ was based on the SQ guidance developed by Crown Commercial Services ("CCS").

### **Stage Two** Invitation to Submit Outline Solutions (ISOS).

Bidders were required to submit a Mandatory Bid that set out specific requirements in relation to meeting minimum Masterplan requirements (in terms of mandated use classification and minimum floor space requirements ('GIA')), a minimum of 320 new basement public car parking spaces with predetermined phasing of the build-out of the scheme. Bidders were also permitted to submit a

Variant Bid that allowed for alternative phasing and build-out of the project, subject to committing to the delivery of a minimum (8,000 sq m GIA) of Grade A office accommodation in any initial phase of work.

**Stage Three** Invitation to Submit Final Tenders (ISFT).

Bidders were provided with the draft Masterplan that was to form part of the Council's planning application for the project. All three Bidders chose to pursue their Variant Bid submission. The Bidders were also provided with a Draft Development Agreement. Further dialogue meetings were held with all three Bidders in order to refine their proposals with the aim of developing solutions that meet the Council's needs.

Final Tenders were received from all three Bidders on 16/11/18 and have been evaluated. B&NES is seeking to appoint a preferred bidder in February 2019 and exchange contracts (sign the Development Agreement) by the end of March 2019, subject to the required standstill period and Council sign off

The full Procurement Evaluation Report produced complies with Regulation 84 of the Public Procurement Regulations 2015 and details the process by which the preferred bidder has been selected and requests authorisation to proceed with the award of the contract.

## **5.9 THE FINANCIAL CASE - SUMMARY OF COSTS**

As outlined earlier, the BQN scheme forms an integral part of the wider Bath Quays regeneration project. The development of the Bath Quays project involves several phases of infrastructure work that must be delivered as part of a co-ordinated package to make the site ready for development.

The total public sector intervention of £32.2m leverages a further £145.8m of private sector investment. It should be noted that £21.6 million of the private sector investment will be invested at risk as part of its contribution towards the cost of the Initial Development Works (IDW) which is completed prior to construction. The private sector is therefore at all times very much incentivised to build out the full scheme to time and budget to recover its initial investment in the IDW of £21.6 million.

## **5.10 THE MANAGEMENT CASE - PROGRAMME MANAGEMENT AND GOVERNANCE STRUCTURES**

The Bath Quays project forms part of the Bath City Riverside Enterprise Zone programme. This programme ultimately reports to the Council's Directors Group. The programme's governance links to the Council's corporate capital, risk and decision making processes in the normal way.

Delivery of the EZ Programme is governed by;

**Programme Management Board (PMB)**

Strategic Programme Leadership Board with cross directorate and strategic partnership attendance to assist the delegated decision makers in directing Programme and Project Delivery.

### **Project Steering Group (PSG)**

Project specific leadership group that governs delivery of individual projects and administers contracts, agreements and partnerships contracted for the delivery of the Project. Chaired by the nominated Project Sponsor(s) and assisted by the lead Cabinet Member for Growth and Enterprise, Cllr Paul Meyers; the Cabinet Member for Finance and Efficiency, Cllr Charles Gerrish; the Client Lead Officer and the Project Director/Manager.

### **Project Board**

The Project Board has maintained oversight of the entire procurement process and obtained a range of professional advice to support it. Throughout the process the Board has worked with Lambert Smith Hampton (Real Estate Advisor) and EY (Financial & Commercial Advisor) in developing a robust financial and operating model for the BQN scheme. In addition, Trowers & Hamblins LLP has provided legal advice with regard to the procurement process and reviewed the State Aid implications of the project. The core team of advisors outlined above has advised B&NES from the initial OBC stage and continue to do so.

## **6 RATIONALE**

- 6.1 City Deal agreement with the West of England Authorities have set out their growth ambitions. Bath City Riverside EZ is expected to contribute up to 9,000 jobs. Securing existing businesses in Bath maintains a healthy business community, underpinning the ambition to create a vibrant critical mass of commercial employment space on Bath Quays.
- 6.2 Over the past 20-30 years, Bath has failed to develop modern office accommodation within the city. This is continuing to have a significant effect on the economy of Bath and the city now faces a tipping point in terms of maintaining a viable and attractive office sector. Neighbouring centres are increasingly proving more attractive to businesses due to the delivery of attractive, affordable and modern office schemes.
- 6.3 The private sector has failed to respond to demand, choosing instead to deliver more profitable residential accommodation in locations required for office delivery. This has resulted in the gradual decline in quality of Bath's office stock meaning that the city now has very little, if any, Grade A office stock which caters for the needs of modern office occupiers. Furthermore, the city's existing office stock is also coming under increased pressure from developers seeking to secure change of use to residential.

Bath is currently failing to offer suitable business accommodation and this is resulting in the loss of existing Bath-based businesses to surrounding localities where more modern, flexible office buildings can be secured and means that Bath is failing to attract new occupiers. This is having a direct impact upon the city's ability to retain and increase job provision and is affecting the city's ability to maintain its position as a location for high value added, low carbon and high-tech creative businesses.

## 7 OTHER OPTIONS CONSIDERED

7.1 The site is allocated in Policy as the city's prime location for 'B1' class office led mixed-used development set out in Policy SB4 Bath Quays North and Bath College, identifying it as the only location capable of delivering a critical mass of employment space in close proximity to the city centre and excellent public transport connectivity. Post the selection of the Site as the preferred location for an office led development no other site options have been considered.

A range of development options have been considered in detail set out in the FBC. In summary the selection of the preferred option was determined in line with Government best practice adopting Treasury Green Book Business Case methodology;

Option	Benefits	Risks
<b>Do Nothing</b>  Assume site continues to operate in current form	<ul style="list-style-type: none"> <li>Site continues to provide parking</li> <li>Parking revenue income preserved</li> <li>No disruption to the City through development</li> <li>No public sector cost for intervention</li> </ul>	<ul style="list-style-type: none"> <li>Fails to meet business needs for office supply, undermining economic prosperity of Bath</li> <li>No meaningful development of prime site – contrary to Planning Policy</li> <li>No additional jobs delivered on site</li> <li>No economic benefits delivered</li> <li>Risk of revenue reversion</li> </ul>
<b>Low Intervention</b>  Assumes disposal of site on open market to highest bidder	<ul style="list-style-type: none"> <li>Site comes forward for development with minimal public sector intervention and risk</li> <li>Maximise capital receipt for B&amp;NES through highest permissible land uses</li> </ul>	<ul style="list-style-type: none"> <li>Likely to deliver development focused on residential and retail with minimal employment space</li> <li>Loss of parking revenue and provision</li> <li>Reliance on private sector leads to reduced certainty of economic output delivery</li> </ul>
Option	Benefits	Risks
<b>Moderate Intervention –</b> Assumes B&NES proactively de-risks site by enabling and appoints delivery partner to build-out majority of scheme	<ul style="list-style-type: none"> <li>Can mandate certain employment space requirements and economic outputs</li> <li>Continued provision of parking and preserve income stream</li> </ul>	<ul style="list-style-type: none"> <li>Greater cost and development risk to public sector</li> <li>Challenge to enable State Aid compliant delivery with a private sector partner</li> </ul>

Option	Benefits	Risks
<b>Maximum Intervention</b> – Assumes B&NES takes on full development works	<ul style="list-style-type: none"> <li>• Significant development profit upside</li> <li>• Guarantees delivery of sought quantum of employment space &amp; economic outputs</li> <li>• Continued provision of parking to support city and preserve income stream</li> </ul>	<ul style="list-style-type: none"> <li>• Full cost &amp; development risk borne by public sector</li> <li>• Lack of B&amp;NES expertise in delivery of scale, and possible market nervousness to participate</li> <li>• Lack of market engagement may result in development not reflecting market requirements</li> </ul>

## 8 CONSULTATION

This report has been prepared in consultation with the Leader of the Council, the Cabinet Member for Economic & Community Regeneration; the Cabinet Member for Finance and Efficiency; the Section 151 and Monitoring Officers; the Corporate Director and the Director for Economy & Growth.

Consultation with ward councillors, statutory and non-statutory consultees has been undertaken as part of the development of the scheme proposals leading to the submission of the planning application.

A screening discussion with the Council's Corporate Equality Officer has confirmed that previous stages in the Bath Quays North project (including design, approvals and delivery) have already been considered in relation to the Equality Act and accessibility standards. Therefore there is no requirement at this stage for an Equality Impact Assessment to be undertaken purely in respect of this decision being entered.

## 9 RISK MANAGEMENT



9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

<b>Contact person</b>	<b>Simon Martin</b>
<b>Background papers</b>	Previous Single Member Decisions;  E2538 West of England Local Enterprise Partnership (LEP) : Revolving Infrastructure Fund (RIF)  E2680 Bath Enterprise Area: Innovation Quay Capital Approval  E2838 Bath Quays Delivery.
<i>Please contact the report author if you need to access this report in an alternative format</i>	

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## **Access to Information Arrangements**

### **Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA 45/19

Meeting / Decision: Cabinet

Date: 6<sup>th</sup> February 2019

Author: Simon Martin

Report Title: Bath Quays North - Appointment of Development Partner

**Exempt Appendix 1 - BQN EDF Full Business Case**

**Exempt Appendix 2 - Addendum Financial Business Case**

**Exempt Appendix 3 - Procurement Evaluation Report Preferred Bidder &  
Recommendation to proceed to contract**

**Appendix 4 - Indicative Plan of the Site**

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Exempt appendices be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

#### **PUBLIC INTEREST TEST**

If the Cabinet wishes to consider a matter with press and public excluded, they must be satisfied on two matters.

Firstly, they must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972.

The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about property transactions being disclosed into the public domain. Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;

Weighed against this is the fact that the exempt appendices contain strategic and financial information which could prejudice future negotiations and as a result, prejudice the commercial interests of the Council, if disclosed at this time. The exempt appendices also include the observations and opinions of officers regarding the proposal. It would not be in the public interest if advisors and officers could not express in confidence opinions which are in good faith and on the basis of the best information available. We can also confirm that the Procurement Report is commercially sensitive at this current time, as public procurement exercise has not yet been concluded.

The Council's funds are in essence public funds and there is an obligation to obtain best value for money. Disclosure of this information would prejudice the Council's ability to ensure it obtains best value in this matter. It is in the public interest that the Council is able to deliver cost-effective solutions. This depends partly on the Council being able to protect its commercial position at this particular time.

It is considered that the public interest is best served in this matter by not releasing this information at this time and that a significant amount of information regarding the matter has been made available on these issues – by way of the main report. Relevant information will be put in the public domain at the appropriate time. Therefore it is recommended that exemption 3 applies. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A).

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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