

CABINET MEETING

Agenda Item 223

Brighton & Hove City Council

Subject:	New Historic Records Office & Resource Centre		
Date of Meeting:	7 April 2011		
Report of:	Strategic Director Communities		
Contact Officer:	Name:	Janita Bagshawe	Tel: 29-2840
		Mark Jago	29-1106
	E-mail:	janita.bagshawe@brighton-hove.gov.uk	
		mark.jago@brighton-hove.gov.uk	
Key Decision:	Yes	Forward Plan No. CAB19907	
Wards Affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Council Procedure Rule 7, Access to Information Rule 5 and Section 100B (4) of the Local Government Act as amended (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that the partners needed to complete negotiations.

1. SUMMARY AND POLICY CONTEXT:

1.1 This report advises Cabinet of progress in developing the New Historic Records Office & Resource Centre project ('The Keep'); a partnership project between East Sussex County Council ("ESCC"), the University of Sussex and the city council, with ESCC acting as project manager. It updates Members on the main advances since the July 2010 report to Cabinet, presents proposals for long-term partnership and governance arrangements and seeks approval to the council's total financial contribution towards development and capital build costs, and future running costs.

2. RECOMMENDATIONS:

- 2.1 That Cabinet note progress since July 2010, particularly that relating to scheme design and the positive outcome of the planning application.
- 2.2 That Cabinet note the contents of the detailed report presented to the Joint Project Board on 15 February 2011 (attached as Appendix 1 to the Part 2 report), particularly the Board's recommendations, which have been referred to partners for agreement.
- 2.3 That Cabinet confirms the council's commitment to 'The Keep' and supports continued partnership working with ESCC and the University of Sussex in moving forward to the construction phase.
- 2.4.1 That Cabinet note the request for a higher level of funding from the city council, and the basis of this request as set out in Section 3.30 of this report, and

- 2.4.2 Confirm the council's agreed contribution of £5.345m towards the project's capital costs to practical completion, with 'in principle' agreement to up to an additional £0.270m to be met from the capital financing costs budget, subject to effective management of the project contingency budget, which is expected to reduce the level of additional funding required.
- 2.5 That Cabinet support the main principles set out in the draft Partnership Collaboration Agreement covering the period through to practical completion (attached as an Appendix to the Part 2 report), and agree that the partners should seek to conclude this as a matter of urgency.
- 2.6 That Cabinet delegates authority to enter into the Partnership Collaboration Agreement to the Strategic Director Communities and the Head of Law in consultation with the Cabinet Member for Culture, Recreation & Tourism, and agree that the agreement should be signed by all three partners prior to ESCC entering into the construction contract.
- 2.7 That Cabinet note the letter of intent submitted by the University of Sussex attached as Appendix 2 to the Part 2 report.
- 2.8 That Cabinet note the anticipated annual running costs of the Keep, together with the currently anticipated apportionment between the three partners, and agree that the partners should continue to refine this as part of the Partnership Collaboration Agreement; where delegation to enter into that agreement is covered in 2.6 above.
- 2.9 That Cabinet note the next stages of development and the timetable associated with this as set out in Section 3.61 of this report.
- 2.10 That Cabinet note the Heads of Terms for the long-term governance agreement, the final form of which will return to a future Cabinet meeting for approval in good time to enable all partners to enter into it prior to practical completion of the building.
- 2.11 That Cabinet recommends to the Project Board, that it review current project management, Board membership, and reporting arrangements to reflect full partner engagement and that appropriate changes are agreed between the partners.
- 2.12 That for the reasons set out in the Part 2 report if it is agreed with ESCC that the site should be transferred by ESCC to the Council, to agree that the Head of Legal Services is authorised to complete that transaction.
- 2.13 That if it is agreed with ESCC that the land should be appropriated for planning purposes, to authorise officers to advertise the intention to appropriate the land shown on the appended plan for planning purposes and to delegate to the Strategic Director Communities in consultation with the Cabinet Member for Culture, Recreation & Tourism the consideration of any objections and the final decision whether or not to appropriate the land for planning purposes.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Problems with existing Record Office

- 3.1 ESCC has been responsible for the city council's archives and records since 1949. Brighton & Hove has held contracts with ESCC for the provision of an historic records and archives service since 1997 when Brighton and Hove's unitary status gave it archive responsibilities.
- 3.2 The current arrangements for the care and access to the collections do not meet the standards of The National Archives ("TNA"), the regulating body for historic archives and public records. In addition to this, the current building lacks sufficient space for the collections and as a result, some of the archives / collections are housed remotely, including at a store in Newhaven.
- 3.3 In 2003 and 2006 inspections by TNA were highly critical of the current accommodation for records, researchers and staff and the licence to hold public records was granted only on condition that progress towards a new record office on a single site was made within 5 years.

Legal Obligations for Public Records

- 3.4 The Public Records Act 1957 established the legal framework by which the public have a statutory right to access public records (health, magistrates etc) transferred to the Public Record Office/TNA or to a place of deposit elsewhere appointed by the Lord Chancellor. With the 1967 Public Records Act, records over 30 years old had to be made available and the Freedom of Information Act 2000 has replaced the restriction of 30 years, except in specified circumstances. The management of these public records needs to conform to TNA standards, which include standards for access, storage and preservation, acquisition and staffing.
- 3.5 County and unitary records are governed by separate legislation, the Local Government Act 1972, under which arrangements for the storage and access to these records need to be made. The guidance for these arrangements assumes a similar standard as those advocated for public records. As both public records and local government records are generally housed in the same accommodation and run through the same service, it is expected that the TNA standards are applied to both.

A New Historical Resource Centre

- 3.6 The Keep project sets out to develop a new resource at Woollards Field in Falmer, to re-house the archives in a purpose built facility that will meet the sector standards including BS 5454:2000 the British Standard for Archives. It will accommodate archives, local studies and historical resources and will provide a repository for safe keeping whilst also offering much improved public access and hands-on learning opportunities.
- 3.7 It will house the extensive archives and historical resources of the County of East Sussex and the City of Brighton & Hove together with the Special

Collections of the University of Sussex, including the internationally renowned Mass Observation Archive. It will therefore be a high profile facility that aims to be a vibrant community resource that will open up access to all of these collections in a one-stop shop for all aspects of the historic environment. The building will conform to national standards and will include adequate space for future growth.

Background to City Council commitment and decision making

- 3.8 The city council has been actively engaged in 'The Keep' project since early 2007; becoming a full partner in April 2008 following a report to the Policy & Resources Committee. That Committee also agreed an initial tranche of funding to support project development costs and gave 'in principle' approval to the council's maximum contribution of £5.345m to support the scheme subject to progress and further reports to Members.
- 3.9 At the time of the council's original decision the total project cost stood at £23.636m, as it assumed a £5m contribution from the Heritage Lottery Fund, the application to which was submitted in September 2008. Despite positive feedback, the application was unsuccessful and the partners therefore took time to review options for a revised scheme within a reduced budget of approximately £19m.
- 3.10 The outcome of the review was reported to Cabinet in September 2009. That report advised Members that, having considered a range of options, the partners had concluded that a financially viable scheme was still achievable and on that basis Cabinet approved revised funding arrangements to support the projects continued development. Cabinet also reconfirmed 'in principle' agreement to the council's maximum contribution of £5.345m.
- 3.11 The preferred scheme was then developed to RIBA Stage D (detailed design), following which a further report was presented in July 2010 when Cabinet:
- (a) supported the work to date, particularly progression of scheme design (RIBA Stage D - detailed design), and noted that the project remained within budget.
 - (b) noted that the Joint Project Board approved the Kier – Atkins RIBA Stage D report at its 7 June 2010 meeting.
 - (c) confirmed the city council's commitment to 'The Keep' and supported continued partnership working with ESCC and the University of Sussex to further develop the project.
 - (d) agreed to a Memorandum of Understanding as the basis for continued partnership working through to RIBA Stage F (early 2011) – this to be signed by all three partners prior to submission of the planning application.
 - (e) supported the submission of the planning application in early August 2010, subject to the satisfactory completion of pre-application discussions.

- (f) noted the costs of developing the scheme through the next stages and agreed to the council's additional contribution of £0.421m (representing a 1/3 share) to support scheme progression to Stage F, thus bringing the council's committed contribution to £0.929m.
- (g) supported the commencement of Stage E work following the successful completion of pre-application discussions with the Local Planning Authority.
- (h) noted the key areas to be addressed as part of the next phase of development and the timetable associated with this.
- (i) reconfirmed 'in principle' agreement to the council's longer-term funding commitment, to a maximum of £5.345m (inclusive of the development funding shown in (f) above), to support the capital cost of delivering The Keep, with the final decision returning to Cabinet.
- 3.12 At the time of the July 2010 report to Cabinet it had been anticipated that a further report would return to Cabinet in December 2010. This had been agreed on the basis that, with the planning application to be submitted in August and with a planning decision expected in November, coupled with continued good progress on other fronts, this would support a final council decision on the approval of the capital sum.
- 3.13 The main areas agreed as in need of progress and resolution at that time were:
- Satisfactory completion of pre-application planning discussions
 - Submission and determination of the planning application
 - Securing partner commitment to financial arrangements
 - The Business Plan, revenue costs and apportionment between the partners
 - Long-term partnership agreement through to practical completion
 - Governance and ownership issues
- 3.14 In the event, pre-application planning discussions were completed in early October and the planning application was submitted on 15 October. Delay to the submission of the planning application had a knock on effect on subsequent stages, resulting in a slight delay in reporting back to Cabinet.
- 3.15 Good progress has continued during the past 6 months and a detailed update report was considered by the Project Board at its meeting on 15 February (attached as Appendix 1 to the Part 2 report).

Joint Project Board and 'Project Update Report'

- 3.16 The Project Board, chaired by Cllr Robert Tidy (ESCC), is the main partner forum and it includes senior officer representatives from ESCC, the University of Sussex and the city council. The city council is represented by Cllr David Smith, Cabinet Member for Culture, Recreation and Tourism, David Murray, Strategic Director Communities, Angela Dymott, Head of Property and Design, and Janita Bagshawe Head of Royal Pavilion and Museums, as an observer. The Project Board has no delegated authority to

act on behalf of the city council, i.e. it can only make recommendations to be duly considered by officers and Cabinet in accordance with the council's constitution. ESCC has confirmed that the Board has the necessary authority to make decisions on The Keep on its behalf, to manage the funding and to enter into the construction contract.

- 3.17 The Project Board supported the ESCC Programme Manager's 'Project Update Report – Stage E/F' and referred its recommendations to partners for formal agreement. That report, which is attached as Appendix 1 to the Part 2 report, sets out full details of the project and supports the recommendations in this Part 1 report.
- 3.18 The city council has been on the Project Board since 2008. As the project is moving into a different phase (i.e. building works and future governance and management arrangements as a focus), it is considered that all partners will want to review membership and working arrangements. In moving forward it is therefore recommended that the Board is asked to review current arrangements and ensure appropriate changes are agreed between the partners.

Scheme Development since July 2010

- 3.19 During the past 6 months the partners have continued to work together to resolve the outstanding issues and the following provides a brief update from the city council's perspective.

Planning Application and Appropriation of the land for planning purposes

- 3.20 At the time of the previous report to Cabinet, pre-application discussions were on-going, with a number of issues still to be resolved before the planning application could be submitted. It was for this reason that Cabinet agreed that Stage E (technical design) work should only commence following the successful completion of pre-application discussions and with confirmation that the planning application was valid. In this way potentially abortive work would be minimised. The pre-application process was concluded in early October and the planning application was submitted on 15 October 2010. Kier (the appointed contractor) commenced Stage E on 1 November 2010.
- 3.21 The application was considered at the Planning Committee meeting on 15 December 2010. The committee were 'Minded to Grant' planning permission subject to conditions and the entering into of a Section 106 agreement. The S106 agreement was signed on 14 January 2011 and planning permission was duly granted. There are 29 conditions attached to the decision and the process to discharge these is underway; particularly those relating to pre-commencement conditions. The revised project cost plan takes full account of the costs associated with the various conditions.
- 3.22 Full details of the design amendments (site and building), planning conditions and the process for discharging these are shown in the 'Project Update Report' which is attached as an Appendix to the Part 2 report.

- 3.23 As stated above, the outcome of the planning application was among a number of critical factors central to the city council’s final decision on funding arrangements. Securing planning permission is a very positive development, one that not only achieves a key milestone but which provides far greater certainty.
- 3.24 The council acquires and holds land and property for various statutory purposes. “Appropriation” is the term used in legislation to define the process under which councils can indicate the purposes for which their land is held. The council is authorised by section 122 Local Government Act 1972 to appropriate land in its ownership for any purpose for which it is authorised to hold land by agreement.
- 3.25 It is proposed that, subject to the agreement of ESCC, the land is (a) transferred back by ESCC to the council immediately and (b) given the planning position, so as to facilitate the carrying out of development which is required in the interests of the proper planning of the area and is likely to contribute to the economic, social or environmental well being of the area, appropriated for planning purposes. The legal and procedural implications are set out in part 5 of this report.

Capital Project Costs

- 3.26 In April 2008, when the city council first become a partner, the total project cost stood at £23.636m, a figure that included an assumed £5m from the Heritage Lottery Fund. Since 2009, following failure to secure HLF funding, and the partners subsequent evaluation of reduced funding options, the scheme has been working within a total cost envelope of £19m i.e. a figure based on committed and ‘in-principle’ committed funding between the three partners as follows:

ESCC	- £12.548m
B&HCC	- £ 5.345m
UoS	- £ 1.130m
Minor grants	- <u>£ 0.029m</u>
	£19.052m

- 3.27 An additional £90,000 of grant funding towards photo-voltaics in 2010 increased the total project cost to £19.142m.
- 3.28 The project has now completed RIBA Stage E (technical design), with the current cost plan reflecting the latest design and the outcome of market testing of key cost components, and also taking account of additional costs associated with planning conditions. The current cost plan prepared by Robinson Low Francis (the client cost consultant) and Kier (contractor) shows the project can be delivered within the overall budget of £19.142m. This figure continues to include an appropriate level of contingency funding. Full details of the development budget and capital project costs are shown in Appendix 1 to the Part 2 report.
- 3.29 Progress during the past 6 months has provided greater certainty about both project delivery and project costs. There is more cost certainty than

ever before and the Project Board is now seeking full partner commitments to enable the project to move into the construction phase.

Request for additional city council capital contribution

- 3.30 The city council's maximum 'in principle' capital contribution of £5.345m was agreed in April 2008 when the council first became a partner. Subsequent reports to Cabinet in 2009 and 2010 reconfirmed this sum and this has been the basis on which the partners have developed the scheme to this point.
- 3.31 Until very recently it had been anticipated that the city council would be asked to finally commit to the agreed 'in principle' sum. The Project Update report considered by the Project Board on 15 February 2011 included a recommendation to "rebalance" the local authority partners' capital contributions. Recommendation No.10 of that report asked the Board to "Note the full cost of developing the scheme through to practical completion is £19.1m. Partners' current indicative contributions are set out in section 6.4 but must take into account an adjustment to address the capital funding shortfall using the tax basis between the two local authorities (see section 6.5 of Project Update report attached as Appendix 1 to the Part 2 report."
- 3.32 The consequence of this recommendation is that the council's capital contribution could increase by up to £0.270m in order to bring the ESCC and BHCC percentage contributions in line with their respective council tax base. The original proposal from ESCC was to use the 2010/11 tax bases to calculate contributions as described in the Project Update report resulting in an additional contribution of up to £0.300m from the city council. This has since been reviewed and agreement to use the 2011/12 tax bases reached which slightly reduces the proportion to be paid by the city council to £0.270m. This assumes full use of the contingency budget.
- 3.33 As shown in the previous section, the total project cost has remained unchanged, with the exception of a modest increase of £90k in grant funding, since early 2009. The latest Project Board report confirms that "the scheme remains within budget." This remains the case, and it should be emphasised that the request for additional city council funding does not result from increased costs.
- 3.34 In asking for an additional £0.270m from the city council ESCC is seeking to bring the local authority contributions in line with their respective council tax bases. This was not the basis on which the city council originally agreed to its financial contribution and the city council has undertaken its financial planning on the basis of a fixed sum. The council tax base is however the agreed method of cost allocation between the two local authorities under the existing Archives SLA.
- 3.35 At the 15 February Project Board meeting the above recommendation was discussed at length. The council has invested considerable time, money and effort to support the project to this point and it remains a committed partner. City council officers therefore considered the funding request with a desire to find an equitable solution, one that enables the project to move forward.

- 3.36 Having considered a number of possible options, it is recommended that Cabinet confirm the previously agreed in principle sum of £5.345m, and that Cabinet give 'in principle' agreement to up to a further £0.270m, subject to effective management of the project contingency budget, which is expected to reduce the level of additional funding required.
- 3.37 The requirement for additional funding will therefore be reviewed as the project progresses, and any reduction in the use of the contingency budget will reduce the project costs and the split of contributions by tax base will be recalculated. The revenue costs for this can be met within the sums set aside in the Medium Term Financial Strategy for capital financing.
- 3.38 The total contribution has been included in the council's Medium Term Financial Strategy (MTFS) funded from borrowing and the financing costs have been included as a commitment within the revenue budget.
- 3.39 When the city council originally became a partner in the project it was agreed that the sale of surplus land at Woollards Field, to which the council would receive a third of the value, would assist the city council in meeting its financial contribution to the project. This remains the intention and the council is keen to see progress in developing the remainder of the site. This would go towards reducing the council's financial commitment to the project.
- 3.40 The precise arrangements and timings of future payments are yet to be finalised but this will form part of the Partnership Collaboration Agreement that is currently being prepared.
- 3.41 With Cabinet's agreement to the recommendations in this report, this should be the final report to Brighton & Hove Council Members for some time. As stated earlier in this report, with the project moving into a different phase and with the main responsibility for future decisions resting with the Project Board, it will be necessary for full and detailed financial reports to be presented to all future Board meetings. The Board will therefore ensure proper financial management, including management of the contingency funding.

Business Plan and revenue costs

- 3.42 As reported to Cabinet last July, the Business Plan for the completed facility was showing annual running costs in the region of £1.1m - £1.2m. This was known to represent a significant increase on the partners' current costs of running their existing services. However, it has been recognised from the outset that costs would increase as the new facility will have the correct environmental conditions, provide appropriate expansion space and will operate much improved services.
- 3.43 During the past 6 months the partners have continued to examine the method for sharing the ongoing costs between partners. More details are shown in the Board Report in section 9 (Appendix 1) to the Part 2 report.

- 3.44 Future revenue costs for the city council towards the operation of the Keep from 2013/14 are estimated at £0.323m per annum. This is based on the business plan and a split of revenue costs as described in the Project Board report paragraph 9.14. The revenue costs include a contribution towards a sinking fund to build up capital for asset replacement in the longer term.
- 3.45 The estimated revenue costs are within the range previously reported to Cabinet and Cabinet is therefore asked to support the proposed method for allocation of the annual running costs and agree this as the basis for moving forward with the details to be refined as the Partnership Collaboration Agreement is finalised. Agreement needs to be reached on how to deal with any unexpected increases in the running costs and this will be developed as part of discussions on the Partnership Collaboration Agreement and Governance Agreement. Options to minimise future revenue cost increases will be considered as part of ongoing work and an update will return to a future Cabinet meeting.

Partnership Arrangements

- 3.46 The previous report to Cabinet secured agreement to a Memorandum of Understanding as the basis for continued partnership working through to RIBA Stage F. This was agreed as an interim measure that would enable the project to proceed and which gave the partners more time to work up long-term partnership arrangements.
- 3.47 The Memorandum of Understanding (“MoU”) was entered into by all three partners on 5 August 2010. With the project nearing the end of RIBA Stage F, the MoU is almost at an end. Subject to Cabinet’s agreement to the recommendations in this report, the partners should now enter into a new Partnership Collaboration Agreement (PCA) covering the period from Stage G through to practical completion.
- 3.48 The draft PCA sets out the partners’ responsibilities, joint working arrangements, financial commitments including capital contributions, an agreement on the principles of ownership and Heads of Terms for governance of the building and an agreement to draw up and enter into the main management agreement for The Keep.
- 3.49 At the time of the 22 July 2010 Cabinet Report it had been anticipated that by this point a final version of the draft PCA would have been agreed by the Project Board for referral to partners for formal agreement. However, whilst considered to be an advanced draft, the agreement is still in need of further work and, at the time of preparing this report, it is yet to be seen by the University’s lawyers.
- 3.50 The fact that the PCA agreement is still work in progress means it is not possible to present the Partnership Collaboration Agreement in its final form for approval by Cabinet. It is therefore considered appropriate to seek Cabinet’s agreement to delegate authority to enter into the PCA to the Strategic Director Communities and the Head of Law in consultation with the Cabinet Member for Culture, Recreation & Tourism. Subject to further work and the outcome of the University’s legal advice, it is hoped that the

agreement will be ready for signature by all three partners before ESCC enters into the construction contract.

- 3.51 If ESCC were to sign the construction contract without full and final partner commitment (city council and University of Sussex), as demonstrated by the PCA, it would be doing so at considerable risk.

University of Sussex

- 3.52 The University of Sussex has been a partner for a similar period of time as the city council, and has to date been represented on the Board by the Deputy Vice-Chancellor who has the authority to act for the University. The University has therefore played an active part in developing the scheme to this point and has been party to and supportive of all decisions taken by the Project Board.
- 3.53 Unlike the city council and ESCC, which have at key stages secured formal resolutions through Policy & Resources / Cabinet and the Project Board respectively, the University's commitment has been less formal. The University, while fully supportive, has not been required to commit in the same way to this point. This is in part a consequence of the fact that it has been the two council's that have met the development costs to this point.
- 3.54 The partners acknowledge that the project has reached a point where formal confirmation of financial commitments is required. As stated elsewhere in this report, it had been hoped that the Partnership Collaboration Agreement would be more advanced, thus enabling the final version to be agreed by Cabinet, immediately following which all partners would enter into it. This would have provided all partners an appropriate level of commitment before moving into the construction phase.
- 3.55 As this has not been possible, the University has helpfully provided a letter of intent that demonstrates commitment to the scheme, agreement to the planned financial arrangements, particularly the capital and revenue commitments, and that it will take a lease for its part of the building. The letter of intent is attached as Appendix 3 to the Part 2 report.

Heads of Terms for Governance

- 3.56 In addition to the Partnership Collaboration Agreement that will see the project through to practical completion, the partners have begun to consider the longer-term management and governance arrangements that will apply to the shared facility once operational. This work remains in its relatively early stages but Heads of Terms have been prepared and are attached to the draft PCA. Their inclusion in the PCA confirms that the partners will enter into a long-term management agreement in due course and that they will use their best endeavours to agree its final form at the earliest opportunity; certainly not later than practical completion.
- 3.57 The main areas that will need to be resolved to each partners satisfaction during the coming year include:
- Collections Ownership, Management and Acquisition Policy

- Staffing Management and Structure including roles and responsibilities decision making process, HR and training (based on the proposed staffing of 19 (FTE) in the Business Plan)
 - ICT requirements, equipment and software applications
 - Intellectual Property Rights Agreement
 - Agreements for the maintenance and management of the building, security, insurance, assets, fixtures and fittings
 - Agreement on marketing and branding and communications policy
- 3.58 Future governance and management arrangements are central to the success of the new combined service and all partners will be keen to ensure that their organisational requirements are satisfied. It is important that the partners make headway in developing these important aspects of the longer-term project. Although it is accepted that this will be in place by the time of practical completion, the partners should seek to make more rapid progress as it is important to bottom out a number of issues fundamental to the partners' final commitments. It is therefore suggested that the Project Board commit to this important work as a matter of urgency.
- 3.59 As this report is the final one to Cabinet before the building contract is let, the council will need to agree appropriate decision making arrangements to secure agreement to enter into the Governance agreement.
- 3.60 The Project Board will firstly consider the agreement in its final form and will then refer it to partners. It is anticipated that the Governance agreement will return to Cabinet in early 2012. In this way it will be possible for all three partners to enter into it prior to practical completion.

Timetable

- 3.61 With Cabinet's agreement to the recommendations in this report, the timetable for future phases of work is as follows:

Event	Timescale
1. Report to Cabinet to secure agreement to continued partnership working, confirmation of the council's capital contribution and agreement to revenue funding costs and apportionment.	7 April 2011
2. ESCC transfer site to BHCC (subject to agreement)	April 2011
3. Advertise proposed appropriation and consider any objections	April 2011
4. Partners enter Partnership Collaboration Agreement	April /May 2011
5. Contractor confirms final contract sum	April 2011
6. Report to Project Board to secure agreement to ESCC entering the construction contract	April 2011
7. Construction contract signed	May 2011
8. Start on site (subject to adherence to above)	June 2011
9. Governance and Management arrangements agreed	Mid 2012 (prior to practical completion)
10. Building completed (contract practical	End 2012

completion)	
11. Open to the public (following transfer of archives and moving in)	Mid 2013

4. CONSULTATION

- 4.1 There has been consultation on the need for a new archive building since 2002. There have been feasibility studies, an Audience Development and Access Plan, Activity Plan and Business Plan and each of these has involved consultation with potential partners, stakeholders, users, community groups, disability groups and local residents.
- 4.2 Between April and May 2010 a series of public consultation events were held. This included a one day exhibition at Jubilee Library, individual exhibitions stands and information leaflets and questionnaires were made available across the city and an on-line questionnaire was hosted on the ESCC web with links to BHCC consultation portal. ESCC has also provided briefings to local Ward Members and local community groups.
- 4.3 Consultation through the planning application process took place between October and December 2010. In February 2011 a workshop with local access and disability groups was held. The participants will continue to be engaged as part of a long-term Access User Group.
- 4.4 Further consultation is planned through the next phases as greater detail of the internal lay outs and services are developed.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The New Historic Record Office report to Cabinet on 17th September 2009 reconfirmed the councils 'in principle' agreement to a longer term funding commitment of £5.345m, including development costs, to support the capital cost of delivering the Keep. The total project cost across the 3 partners is estimated at £19.142m and the latest project cost plan shows the project is progressing within the budget estimate. ESCC have confirmed that the costs associated with the various planning conditions and Section 106 commitments can be contained within the project costs.
- 5.2 To date a total of £0.929m has been approved to support the development to Stage F.
- 5.3 The additional contribution of £0.270m now sought following representations by and negotiations with ESCC would bring the Council's contribution towards the project to £5.615m and represent 31.38% (based on tax base for 2011/12) of the capital costs of the project £17.983m after deducting the elements funded by the University of Sussex £1.130m and grants £0.119m (total capital project costs are estimated at £19.142m).
- 5.4 Detailed arrangements and payment schedules have yet to be confirmed however this will be at the end of the project once all contingencies have been applied as discussed in paragraph 3.37 above. The requirement to

contribute the additional £0.270m would be reduced by the Council's share of the proceeds from the potential sale of surplus land as described in paragraph 3.39. The revenue financing costs of this additional contribution can be met within the sums set aside in the Medium Term Financial Strategy.

- 5.5 Agreement is now sought to the council's capital contribution of up to £5.615m towards the project's capital costs to practical completion. The arrangements and timing of the release of payments will form part of the Partnership Collaboration Agreement. The total contribution has been included in the council's Medium Term Financial Strategy (MTFS) funded from borrowing and the financing costs have been included as a commitment within the revenue budget.
- 5.6 The Project Board will continue to monitor the budget as the scheme moves forward. The Board will have responsibility for ensuring effective budget management, for monitoring use of the contingency funding and for managing the risk of cost overruns.
- 5.7 The business plan for the ongoing operation of the new facility is unchanged since the Cabinet report of July 2010.
- 5.8 The Project Board has considered options for sharing the ongoing costs of the facility which provide a range of potential additional costs for Brighton and Hove. It is proposed that the ongoing costs include an annual contribution to a sinking fund and agreement is reached between the parties on what the sinking fund would cover and an associated maintenance schedule and the arrangements for drawing against this fund. The sinking fund will enable the build up of capital for asset replacement in the longer term.
- 5.9 The council's potential contribution to the new facility is estimated at £0.323m per annum from 2013/14, an increase of £0.150m over the current service level agreement with ESCC. However, if the Council were to manage the archive service directly the increase above the current £0.232m resources could be between £0.180m to £0.280m and therefore the partnership approach with ESCC and UoS offers the best value for money.
- 5.10 Final agreement to the annual running costs will be achieved through the principles laid out in the long term Governance Agreement which will be returning to Cabinet in 2012.

Finance Officer Consulted: Anne Silley

Date: 10.03.11

Legal Implications:

- 5.11 The contractual arrangements with Kier are as set out in section 8 of the Board report, which is appended to the Part 2 report.
- 5.12 This Part 1 report proposes that the Council agrees to take a transfer back of the site and that it advertises a proposal that the site be appropriated for planning purposes.

- 5.13 The council's power to appropriate land under section 122 of the Local Government Act 1972 is exercisable upon a determination that the Site "is no longer required for the purpose for which it is held immediately before the appropriation". By virtue of the planning permission and partnership arrangements, the council has clearly signalled that it is of the view that the site is no longer required for its previous use.
- 5.14 The council must satisfy the requirements of s122(2A) of the Act, which involves twice placing an advertisement in a local paper and then considering any objections made to the proposed appropriation. Provided any objections are properly considered, the council may proceed to appropriate the land for planning purposes on the basis of facilitating the carrying out of development which is required in the interests of the proper planning of the area and is likely to contribute to the economic, social or environmental well being of the area.
- 5.15 It is proposed that the final decision on appropriation is delegated to the Strategic Director Communities in consultation with the Cabinet Member for Culture, Recreation & Tourism.
- 5.16 Section 237 of the Town and Country Planning Act 1990 provides that where land is held for planning purposes and work is done in accordance with planning permission, third party rights are overridden. Thus an effect of appropriation for planning purposes is to protect the council and its partners from the risk of the development process being stopped once it has started. The rights of third parties whose private interests may be affected by development are protected to the extent that they will have a right to compensation.

Lawyer Consulted: Bob Bruce, Principal Solicitor

Date: 10.03.11

Equalities Implications:

- 5.17 Development of The Keep provides the opportunity to greatly improve access to the archives and historic records for learners, researchers and the public. The current public record office at the Maltings does not comply with DDA standards; this purpose built facility will comply with DDA. To assist with this process, the partners appointed an experienced Access Consultant to review the building designs as they develop. An Access Workshop, facilitated by the Access Consultant, was held on 3 February 2011 with local access and disability groups. This provided helpful feedback and suggested areas for consideration as part of the schemes development.
- 5.18 In addition, the Activity Plan has focused on all of the activities associated with The Keep including audience development and participation taking into account the needs of differing audiences.

Sustainability Implications:

- 5.19 The current storage of the archives does not conform to TNA standards for archives, which means that the long term conservation and sustainability of

these collections is at risk. Purpose built accommodation will ensure the long-term care of the archives and historic records.

- 5.20 The Keep is on target to be the most sustainable archive building of its type in the country. The partnership has from the outset been clear in its desire to achieve a BREEAM 'excellent' rating. The latest BREEAM pre-assessment achieved a rating of 74.4%, which provides a good deal of confidence that the project is capable of achieving an 'excellent' rating.

Crime & Disorder Implications:

- 5.21 There are no direct implications for the prevention of crime and disorder contained within this report.

Risk & Opportunity Management Implications:

- 5.22 A detailed project risk register is maintained by ESCC's appointed Project Managers (Faithful & Gould) and is subject to regular review at client team meetings. The risk register is also presented to the Project Team and Project Board at each meeting and updated accordingly. In addition to which, ESCC's Programme Manager maintains a wider risk register covering the non-capital elements of the scheme e.g. the operational and partnership aspects including revenue costs and fundraising.

Corporate / Citywide Implications:

- 5.23 The Keep project at Woollards Field is one of 4 significant projects to be delivered in the Falmer area, the others being the Community Stadium, Falmer Academy, and the SEEDA funded infrastructure works. Effective coordination between the respective projects is important and appropriate lines of communication have therefore been established. These arrangements are further aided by the fact that Kier is the appointed contractor for both Falmer Academy and The Keep. The project will provide improved services to B&H residents who will no longer need to travel to Lewes where there is sub-standard facility.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The city council has considered alternative options at each stage of the projects development and as part of every previous report to Cabinet and its predecessor bodies. It has previously been acknowledged that to do nothing is not an option given that historic material would continue to deteriorate and lead to loss of public records and historically important archives.
- 6.2 On each occasion it has been concluded that the partnership approach offers the most cost effective solution and that it is consistent with the government's National Archives Policy, where the focus is on delivering fewer, bigger and better facilities.
- 6.3 As set out in the July 2010 report to Cabinet 'The Keep' is considered to be the best and most cost effective solution for the city council to the problem of meeting the council's responsibilities for managing the historical records

and will ensure that both legal obligations and TNA standards are met. For the council to consider going it alone could potentially result in two facilities within the city, a duplication of services which would create a negative perception around value for money and would in the future lead to public confusion and competition for grant funding for archive projects within the city.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The Keep will address the acknowledged problems of long term storage and preservation of the city's historic records and archives. The current facilities are completely inadequate and unsustainable, even in the short to medium term. Failure to address the problems could result in The National Archives removing the licence to hold public records and seek to place the collections elsewhere. The new centre will overcome these problems and will represent the next generation of archive buildings in the UK.
- 7.2 The council has been involved in the project's development over the past 4 years and has made a significant financial investment to support the project to this point. Good progress has been made and the development of the scheme to RIBA Stage F means there is far greater confidence about financial viability. The project has reached a point where ESCC requires partner commitment before it is able to enter the construction contract; something that would support start on site in the summer of 2011.

SUPPORTING DOCUMENTATION

Appendices:

1. Plan of Woollard's Field identifying land to be appropriated for planning purposes.

Documents In Members' Rooms

None

Background Documents

1. Report to Cabinet – 22 July 2010
2. Report to Cabinet - 17 September 2009
3. Report to Policy & Resources Committee - 3 April 2008
4. Reports to Culture, Recreation & Tourism – 13 June & 12 September 2007
4. Report to Culture & Tourism Sub-Committee – 28 March 2007

