

<b>Subject:</b>	<b>Royal Pavilion Estate Capital Project</b>		
<b>Date of Meeting:</b>	<b>28 April 2016</b>		
<b>Report of:</b>	<b>Assistant Chief Executive Executive Director Finance &amp; Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Richard Davies</b>	<b>Tel: 29-6825</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Royal Pavilion Estate was bought by Brighton Corporation in 1850 and today is Brighton & Hove's cultural heart, uniquely combining a historic Royal Palace and Regency Garden, a museum, art gallery and three performing arts spaces at Brighton Dome. Brighton Dome & Festival Ltd (BDFL) has a lease on the Brighton Dome, Corn Exchange and Studio Theatre.
- 1.2 The council and BDFL signed a Memorandum of Understanding on 18 August 2014, to formalise the joint working with the Royal Pavilion & Museums (RPM) and underpin the delivery of the phased capital works to the Royal Pavilion Estate that aim to secure its long term future and financial viability. This will be achieved through phased works across the Royal Estate. A fundraising campaign has been started including successful bids to Arts Council England (ACE) Stage 2 and the Heritage Lottery Fund (HLF) Round 2.
- 1.3 This report summarises the progress made to date on the project, seeks agreement to proceed with tendering and appointment of the main contractor and proposes options to underwrite the project expenditure while identifying the risks of not proceeding.

**2. RECOMMENDATIONS:**

- 2.1 That Policy & Resources Committee notes the progress made to date on the Royal Pavilion Estate capital project Phase 1, which has an estimated cost of £19.1 million, and the successful bids for ACE Stage 2 and HLF Round 2 match funding totalling £10.8million towards these Phase 1 capital works.
- 2.2 That Policy & Resources Committee delegates authority to the Assistant Chief Executive and Executive Director, Finance & Resources to procure and appoint the main contractor to carry out the Phase 1 capital works to the Corn Exchange and Studio Theatre where the tender price is within the project budget.

- 2.3 That Policy & Resources Committee delegates authority to the Assistant Chief Executive and Executive Director Finance & Resources to procure and appoint consultants to carry out the works required to satisfy the conditions of the HLF and ACE grant funding where these costs are identified within the project budget.
- 2.4 That Policy & Resources Committee notes the financial implications set out in paragraph 7.1 and agrees that the Executive Director Finance & Resources may implement the option of borrowing to mitigate financial risks and that if this risk does not materialise during Phase 1 the risk provision may be rolled forward to support Phase 2 of the Royal Pavilion Estate improvement works.
- 2.5 That Policy & Resources Committee resolves that the City Council appropriates the land for planning purposes identified as Phase 1 on the plan 'Phasing of Capital Works to the Royal Pavilion Estate' at Appendix 1 and on 'Royal Pavilion Estate Phase 1 Site Plan' at Appendix 2 under sections 226 and 227 of the Town and Country Planning Act 1990 (TCPA1990).

### **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 The Memorandum of Understanding signed by the council and BDFL on 18 August 2014 proposes to redevelop and improve the Royal Pavilion Estate as a world class cultural and heritage site by reconnecting the Royal Pavilion, Brighton Dome, Brighton Museum & Art Gallery, Corn Exchange and Studio Theatre with their historic setting, improving the world class centrepiece of Brighton & Hove's cultural quarter. To also include in these improvements the Old Courthouse in Church Street. This redevelopment will seek not only to upgrade buildings on the Estate and the Garden, but also restore some of the connectivity between the Dome, Brighton Museum & Art Gallery and the Royal Pavilion, which will enable further future co-working on the delivery of cultural events and celebration of the parties' unique heritage.
- 3.2 The proposed capital improvement works prepared through this initiative aim to significantly enhance the quality of the Estate's visitor offer and the heritage in its care, delivering a legacy of sustainability and resilience, which will safeguard its future.
- 2.6 In January 2015 Policy & Resources Committee agreed to appoint the architect led design team for Phase 1 to carry out the detailed design, prepare contract documentation and procure a main contractor.
- 3.3 The Phase 1 capital works will provide much needed improvements to the Dome, including the Corn Exchange and Studio Theatre, back of house facilities for artists and staff and new public spaces to improve the audience experience and heritage interpretation. These areas of the Dome were missed out of the previous improvements completed in 2002 and as a consequence require considerable works to address their poor condition.
- 3.4 Planning permission and listed building consent have now been granted for the Phase 1 works.

- 3.5 The project has secured ACE funding of £5.603million and HLF funding of £4.823million for the Phase 1 capital works to the Dome. This is in addition to £0.2m previously awarded by ACE to prepare the granted planning application. If the Phase 1 project does not proceed, this investment will be lost to the city.
- 3.6 HLF funding includes a contribution towards implementing the Interpretation Strategy, Brand Identity & Wayfinding and Evaluation and consultants will have to be procured and appointed to carry out these works.
- 3.7 The phased approach to the capital works responds to current issues and funding opportunities. The total cost of all three phases is estimated at £41.6 million. It should be noted that if other funding streams become available for future phases of works then this may alter the phasing.
- 3.8 PHASE 1: Restoration of the Corn Exchange and Studio Theatre together with development of the Estate-wide Interpretation Strategy, Brand Identity and Management & Maintenance Plans. Estimated cost of £19.1 million.
- 3.9 PHASE 2: Upgrades to the Royal Pavilion Garden, establishment of new interpretation, activity and Wayfinding, creation of a new Visitor Welcome Facility, and refurbishment and re-interpretation of the Royal Pavilion. Estimated cost £16.9 million
- 3.10 PHASE 3: Refurbishment and some updated interpretation of Brighton Museum & Art Gallery, new interpretation and activity within Brighton Dome and creation of new learning facilities within the Old Courthouse and part of Northgate House. Estimated cost of £6.0 million.

### **Procurement Strategy**

- 3.11 The procurement process will be overseen by the council's Procurement Team to achieve the project objectives and will adhere to the council's procurement guidance, Contract Standing Orders and best practice.
- 3.12 The project involves significant Grade I and II listed buildings and the Garden (grade II listed). As these are of local, national and international importance it is essential that the procurement process ensures that full control is maintained by the client team over design and construction works at all times. For this reason, procurement will follow a traditional route. The council appointed Feilden Clegg Bradley Studios (FCBS) in July 2015 to lead the design team who will complete the design process and prepare the tender documentation. FCBS provide architectural services and is the project's conservation architect. It is proposed that a main contractor is procured and appointed to carry out the building works through an open process where FCBS will be responsible for contract administration.
- 3.13 The contract value for the construction appointment will exceed the current OJEU thresholds for Works and the Public Contracts Regulations 2015 and the Council's Contract Standing Orders will be adhered to.
- 3.14 The Council is currently the lead organisation and therefore accepts the risks associated with being the recognised accountable body.

- 3.15 As well as fulfilling all legal requirements, adhering to the OJEU formal procurement process will ensure effective competition and therefore secure Value for Money and best consideration.
- 3.16 Following the successful Stage 2 ACE and Round 2 HLF funding bids, it is proposed that the main contractor for Phase 1 will now be procured and appointed to proceed with the works as well as other consultants required to deliver against ACE and HLF funding requirements including areas of work such as Interpretation, Branding & Wayfinding, Activity and others as required.
- 3.17 The Interpretation Strategy, Brand Identity & Wayfinding and Management & Maintenance Plan for the Royal Estate will also be prepared within Phase 1 and procurement of consultants or direct employment to undertake these pieces of work will be carried out.
- 3.18 The Procurement Advisory Board confirmed its support of this report on 11 April 2016.

### **Funding**

- 3.19 Funding for the phased works will be split between public sector, trusts and institutions, and private donations. The project funding targets for the overall phased capital improvement works over the next four years are set out in the following table.

<b>Capital Improvement Works</b>	<b>£m</b>
Government Grants	24.9
External Contributions / fundraising	14.7
BHCC	2.0
<b>Capital Improvement Works income requirements</b>	<b>41.6</b>

- 3.20 The Phase 1 total project budget to the end of the delivery phase is £19.1m, which has been established through design to part RIBA Work Stage 4 Technical Design (previously RIBA Work Stage E) and is being tested by the project cost consultants. The combined ACE and HLF funding provides £10.8 million of the total Phase 1 project cost.
- 3.21 For Phase 1 the secured funding and funding targets are set out below. These are to be confirmed and up-dated following a value engineering exercise currently underway. The Stage E cost plan received from the design team on 14 March 2016 estimates the build cost at current day costs to be approximately £1.8m above the previous budget. With a start of works now programmed for January 2017, cost inflation can be expected to add an additional £650k to the total cost.

<b>Development Phase</b>	<b>£m</b>
Arts Council England (ACE)- secured ( Stage 1)	0.199
Heritage Lottery Fund (HLF) development grant- secured	0.176
External Fundraising	0.020
BDFL contribution	0.154
<b>Development income</b>	<b>0.549</b>
<b>Delivery Phase</b>	<b>£m</b>
Arts Council England (ACE)- secured ( Stage 2)	5.603
Heritage Lottery Funding- secured (Round 2)	4.823
Other government grants (LEP Application now anticipated post March 2016)	2.000
External Fundraising	5.230
BHCC	0.750
BDFL	0.102
<b>Delivery income</b>	<b>18.509</b>
<b>Total Phase 1</b>	<b>19.058</b>

- 3.22 In addition to the ACE and HLF contributions of £5.802 million and £4.999million respectively, circa £5.2million will need to be raised through public funding and private contributions. It is a requirement before ACE releases most of its match funding (£5m) that 90% of fundraising for the project has been raised or pledged.
- 3.23 The RIBA Stage E cost plan now completed indicates that the current day project cost is approximately £1.35m over the Stage D budget. A value engineering exercise is underway and has so far identified approximately £0.75 million of savings. This exercise is continuing in order to identify the further savings of £0.6 million that are required to bring the project within budget.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The joint Stage 1 HLF bid that was submitted in November 2013 for the whole of the Royal Pavilion Estate was unsuccessful. HLF advice was to phase the capital works and submit smaller bids for each phase. This approach is now being adopted instead of carrying out all the works together.
- 4.2 The option of doing nothing is untenable as major investment and, in some cases, a sustainable business model are required to protect the historic fabric of the buildings and the Garden for future generations.

- 4.3 Doing nothing would also result in increased planned maintenance demands requiring further investment, as well as major refurbishment works to parts of the Dome such as the Corn Exchange roof.
- 4.4 User-feedback collected by BDFL suggests that the changes and improvements throughout the building are definitely required to enhance the audience experience and to encourage further visits and spend in the venues. The proposed works will contribute to creating a world-class cultural destination in the heart of Brighton & Hove and deliver a strong model for long term financial resilience, not only to the Estate itself but through job creation and impact on the visitor economy, to the City as a whole.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The initial HLF submission was informed by a series of consultation and engagement sessions, which included workshops, presentations and surveys undertaken with a variety of stakeholders. In relation to the Garden, which will be phase 2 works, three stakeholder workshops have been held with a fourth solely for young people held in December 2014. A public exhibition took place in Jubilee Library in November 2014 to gather further feedback along with an online survey on the council's consultation portal.
- 5.2 The planning application and listed building consent application for Phase 1 works included statutory consultation.

## **6. CONCLUSION**

- 6.1 Successful ACE and HLF funding bids for Phase 1 works provides the basis for the private fundraising campaign alongside other funding sources, and this opportunity must now be taken to advance achievement of the project to ensure the long term future of the historic fabric of the buildings and the Garden.
- 6.2 The request from HLF for the project to be phased is considered sound and allows programming of resources and fundraising in a measured way over the project lifetime. This approach has been supported by the successful ACE and HLF funding approvals for Phase 1 works.
- 6.3 Detailed design for the Corn Exchange and Studio Theatre, construction works, Interpretation Strategy, and Brand Identity & Wayfinding will form the Phase 1 works. This phase will demonstrate the ambition of the parties' approach to the Royal Pavilion Estate to create transformational change. This ambition will underpin future fund raising for subsequent phases.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 The main financial considerations are as follows:

- Funding of £12.460 million ( 67% of total) has been secured for the delivery phase of Phase1 of this project through grants from Arts Council England and Heritage Lottery Fund, fundraising commitments, and through BHCC and BDFL.
- Funding of this capital scheme is subject to the award of LEP funding of £2million. The delay in the application and award process is impacting on the council's cashflow for the scheme. If the award is not achieved then a further report to Policy & Resources Committee will be required setting out options for replacement funding or reductions in costs.
- The 3 year fundraising campaign is on target. At March 2016, commitments totalled £1.482 million against the first year target of £1.300 million. The fundraising campaign will continue to be resourced and monitored. However, there is a residual risk to the council against the balance of £3.748 million remaining of the fundraising campaign target of £5.230 million. A risk assessment has been undertaken in relation to fundraising and indicates a potential financial risk of up to £0.800 million for which the council, as accountable body, will need to consider risk cover. This cover could be provided through borrowing at a cost of approximately £0.050 million per annum. If activated, the objective will be to share this risk cover with BDFL. The Arts Council grant conditions require 90% of fundraising for the project to have been raised or pledged before most of its match funding can be released.
- It should be noted that the fundraising campaign target may need to increase to cover the costs of the fundraising campaign.
- The council has set aside £0.750 million in the capital programme towards the Phase1 Delivery Phase; of this 50% can be funded by the council directly and 50% through the Dome sinking fund for maintenance assuming that there will be reduced maintenance in the build period. This is subject to agreement with BDFL.
- Both ACE and HLF require regular progress and financial reports and have key stage requirements before an instalment of grant can be released.
- The council, as accountable body, must also consider the risk of cost overruns and this exposure is regularly monitored.
- Value engineering is currently underway to address the increased cost estimates at Stage E. If the tender price exceeds the construction elements of the agreed project budget then Policy & Resources Committee approval will be required and appropriate funding resources identified.
- The expected start date for the build has slipped, however it has been agreed that the risks to BDFL of programme overruns and subsequent income streams fall to BDFL to manage.
- An update of the legal structure is required to formalise the relationship between the Council and BDFL to cover off financial risks referred to in the report and VAT arrangements.

Finance Officer Consulted: Anne Silley

Date: 13/04/16

#### Legal Implications:

- 7.2 The Council is bound by its Contracts Standing Orders and the Public Contracts Regulations 2015 as set out in part 3 of this report.
- 7.3 It should be noted that as the accountable body for the funders (Arts Council England and Heritage Lottery Fund) the Council will have financial exposure to costs and claw-back in the event of failure to deliver the project outcomes or

breach of the funders' terms. Arts Council England reserves in its terms and conditions the right to "withhold or demand repayment of all or part" of funds in the event of breach of the terms of the grant. The Heritage Lottery Fund terms and conditions will be considered in due course.

- 7.4 In light of the above, in the event that the architects or any other part of the project team become aware of the need to change the design/ layout, extra works required, or any over or under-spend it is imperative that Arts Council England are properly notified in accordance with their terms and conditions.
- 7.5 Arts Council England will require a legal charge over the Council's interest in the property which will subsist for 30 years from the date of the grant. The Council will require the Arts Council England's consent before any disposal of the property (e.g. a lease to successor body to BDFL). Other funders (including Heritage Lottery Fund) may require further security.
- 7.6 The Town and Country Planning Act 1990 (TCPA1990) allows local authorities to appropriate land for planning purposes. Under sections 226 and 227 a local authority can appropriate land "if the authority think that the acquisition will facilitate the carrying out of a development, redevelopment or improvement on or in relation to the land" (section 226(1)(a) TCPA1990).
- 7.7 Appropriating land gives various powers to local authorities to override easements and other rights in land including rights to light over land that has been appropriated for planning purposes under section 237(1) and (1A) TCPA1990.
- 7.8 The owner of any such third party right will have a claim for compensation which will be assessed on the basis of the loss in value of the claimant's land as a consequence of the interference or breach (s237(4) TCPA1990)."

*Lawyer Consulted: Oliver Asha*

*Date: 04/02/16*

Equalities Implications:

- 7.9 In preparing the capital works proposals, an extensive range of stakeholders were consulted to identify issues of access to facilities and activities in order that these may be addressed through the project works. Improved educational space will be provided within the overall project that will further increase access for schools and others to the Royal Pavilion Estate activities. The capital works will provide a dedicated space to deliver the BDFL Learning and Access Programme.

Sustainability Implications:

- 7.10 The project's Phase 1 sustainability consultants, as part of the integrated design team, undertook a detailed evaluation and consideration of the use of sustainable technologies and where possible these have been incorporated into the developed design. The project is using a specialised matrix approach to target areas of design that can offer the best opportunities for improving environmental performance of listed buildings. At present, the project is anticipated to achieve the equivalent of a BREEAM rating assessment of Good.



- 7.11 The proposed capital works will result in the historic buildings being more energy and water efficient, both of which will contribute to reduced operating costs.

Any Other Significant Implications:

Risk and Opportunity Management Implications:

- 7.12 A risk register for the project is maintained by the project manager and is a requirement of both ACE and HLF. The risks and mitigating actions will be considered by the project team and escalated to the Royal Pavilion Estate & Cultural Governance Steering Group where necessary.
- 7.13 Currently the risk register identifies fundraising as a key risk. A detailed Fundraising Strategy has been developed and well researched, and an experienced Campaign Director has been appointed to implement the strategy.

Corporate / Citywide Implications:

- 7.14 This project is part of Brighton & Hove City Council's Cultural/City Centre Investment Programme within the council's Regeneration & Investment Programme. This brings together a number of regeneration and investment projects and programmes into an over-arching co-ordinated programme that is overseen by the Corporate Investment Board formed of the Executive Leadership Team.
- 7.15 The project is included in the Greater Brighton Investment Programme project pipeline, which has been confirmed in both October 2014 and October 2015.
- 7.16 The project is investing in premises to promote economic activity and support growth of the local cultural and tourist economy. The flagship Brighton Festival attracts 150,000 visitors during May each year with year round visitors to the Brighton Dome of 600,000.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Phasing of Capital Works to the Royal Pavilion Estate
2. Royal Pavilion Estate Phase 1 Site Plan

### **Documents in Members' Rooms**

1. None

### **Background Documents**

1. None

Phasing of Capital Works to the Royal Pavilion Estate



