



Operational Officer Decision Record

Where the decision has a financial value of between £100k - £350k and does not have a **significant** impact on two or more wards

1. Subject and details of the matter (to include reasons for the decision and detail of any previous cabinet decision)

Cabinet made the following decision on the 21st September 2022 (DN.47):

1. That the completion of acquisition of Freshney Place be noted.
2. That delegated authority be given to the Executive Director Environment, Economy, and Resources, in consultation with the Leader of the Council authority to develop the Freshney Place Leisure Scheme as the sole developer and conclude negotiations with third party landowners.
3. That the Executive Director Environment, Economy, and Resources be authorised in consultation with the Leader of the Council to take all preliminary actions in connection with the exercise of compulsory purchase powers in connection with property interests in the vicinity of Freshney Place required for overall delivery of the scheme and its wider regeneration aims, if the Council is unable to agree terms through the ordinary course of negotiations, accepting that the final decision of completion of any such order rests with Cabinet and will be subject to a further report.
4. That the Executive Director for Environment, Economy, and Resources be authorised to submit a planning application in support of the Freshney Place Leisure scheme.

5. That delegated authority be given to the Executive Director for Environment, Economy, and Resources in consultation with the Leader of the Council to commence the procurement of a professional delivery team, including the demolition and building contractor to implement Phase one of the scheme (subject to planning consent) and (having regard to recommendation 6) to deal with all matters to award, implementation, and mobilisation.
6. That delegated authority be given to the Executive Director for Environment, Economy, and Resources in consultation with the Leader of the Council following the procurement process to appoint a contractor for phase one and enter into a Pre-Construction Services Agreement, noting that the further appointment for phase two of the works will rest with Cabinet and be subject to a further report.
7. That the Assistant Director Law, Governance and Assets (Monitoring Officer) be given authority to execute and complete all requisite legal documentation in relation to the matters outlined above.

2. Decision being taken

That the Executive Director Place and Resources (formerly Executive Director Environment, Economy, and Resources) in consultation with the Leader of the Council terminates the work of the contractor engaged to undertake the Pre-Construction Services contract as outlined in recommendation six above and approves the direct appointment, via an approved procurement framework, of additional support to supplement the professional delivery team highlighted in recommendation five of the Cabinet decision outlined above, to conclude phase one.

This will enable completion of Phase one of the scheme, as outlined in recommendation six of the Cabinet decision outlined above, which has been extended due to unforeseen factors connected with this element, including, but not restricted to, additional asbestos being found which delayed surveying and investigative works, and supply chain issues in obtaining information required.

In addition, this will enable the Council to progress towards seeking Cabinet approval to a further contractor appointment regarding the second phase of the scheme, as described in recommendation six of the Cabinet decision outlined above.

3. Anticipated outcome(s)/benefits

The additional support will enable the Council and its professional delivery team to expedite the remainder of Phase one and enable Cabinet to take an informed decision regarding phase two, as highlighted within recommendation 6 of the Cabinet decision, outlined above.

4. Details of any alternative options considered and rejected by the officer when making the decision

The Council has already commenced Phase one works, and the appointed contractor has completed RIBA Stage four design work, but the Council feels that additional work is required to complete this and further increase certainty around cost and programming.

The alternative would be not to proceed with the additional support, however, doing so would mean that further detailed analysis work could not be undertaken and therefore, the end of phase one would still retain an element of risk costed into it, meaning the cost plan would not be as robust.

Therefore, it is prudent to undertake both elements to provide greater cost certainty and programme delivery.

5. Background documents considered (web link to be included or copies of documents for publishing)

Cabinet Decision (DN.47) Freshney Place Leisure Scheme.

Officer Decision Record – Freshney Place Leisure Scheme Contractor Appointment.

6. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons.

No

7. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)

N/A

8. Monitoring Officer Comments (Monitoring Officer or nominee)

The above is consistent with the will of Cabinet and such termination is contractually permitted.

The procurement of additional support via a framework is seen as good practice and has the benefits of approved suppliers already meeting certain benchmarks and flagging agreement in advance to appropriate terms and conditions.

There are further advantages of assurance in that any such framework by necessity must be compliant with Public Contracts Regulations 2015.

9. Section 151 Officer Comments (Deputy S151 Officer or nominee)

The termination of the existing Pre-Construction Services contract and approval of a direct appointment via an approved procurement framework is supported on value for money grounds. It is acknowledged that these works need to proceed as soon as practically possible to mitigate the impact of continued construction inflation and supply chain issues. However any significant variations from agreed budget would need to be subject to further due diligence.

10. Human Resource Comments (Head of People and Culture or nominee)

There are no HR implications.

11. Risk Assessment (in accordance with the Report Writing Guide)

The key risks associated with progressing the works outlined in this report are:

- additional cost & delivery risk relating to the development arising;
- scheme designs not being achievable;
- delays to the scheme putting funding at risk; and,
- loss of occupants of the leisure scheme due to delays and costs.

The Council has appointed a professional delivery team to support this project who have experience of developing and delivering schemes such as this. Supplementing

this team with additional expertise will further enhance its capacity and technical expertise and enable completion of phase one.

Further analysis of the scheme, supplementing the work already undertaken will further inform the final scheme designs and cost plan, which will be presented to Cabinet at the end of phase one. However, it is important that these works proceed as soon as possible because delays will enhance the Council's risk of increased costs, should inflation and supply chain issues continue to increase.

As outlined above, the Council has procured a professional delivery team to support the development of the project who are continuing to analyse costs and programme, however the works outlined in this report will provide greater certainty for consideration by Cabinet. Issues such as inflation and interest rates are still risks facing the project although contingency for these issues have been included. However, given the wider economic pressures facing projects such as, again, primarily inflationary risks and interest rates, it is recommended that the Council undertake the works outlined in this report as soon as possible to provide further assurance that the scheme will progress according to plan. Also, this will support the scheme's wider aspiration of helping dilute the current over-reliance on retail space within Freshney Place, providing a more diverse offer, which would enable it to tap into the leisure and food & beverage market and open it up to different tenants, therefore provides greater opportunity to attract and retain tenants.

12. If the decision links to a previous one taken by Cabinet, has the Cabinet Tracker been updated?

Yes.

13. Decision Maker(s):

Name: Sharon Wroot

Title: Executive Director Place and Resources

Signed: REDACTED

Dated: 11.04.24

14. Consultation carried out with Portfolio Holder(s):

Name: Cllr Philip Jackson

Title: Leader of the Council

Signed: REDACTED

Dated: 11th April 2024