


<p align="center"><b>London Borough of Hammersmith &amp; Fulham</b></p> <p align="center"><b>CABINET</b></p> <p align="center"><b>9 JULY 2018</b></p>		
<b>WEST KING STREET RENEWAL</b>		
<b>Report of the Cabinet Member for the Economy and the Arts: Councillor Andrew Jones</b>		
<p><b>Open report</b> A separate report on the exempt part of the Cabinet agenda provides financial information.</p>		
<p><b>Classification:</b> For decision <b>Key Decision:</b> Yes</p>		
<p><b>Consultation:</b> Housing, IT, Property, Legal, Finance, Local Residents, Strategic Leadership Team</p>		
<p><b>Wards Affected:</b> Hammersmith Broadway</p>		
<p><b>Accountable Director:</b> Jo Rowlands, Strategic Director, Growth and Place</p>		
<p><b>Report Author:</b> David Burns, Assistant Director Growth</p>	<p><b>Contact Details:</b> Tel: 020 753 6090 <a href="mailto:David.Burns@lbhf.gov.uk">David.Burns@lbhf.gov.uk</a></p>	

## 1. EXECUTIVE SUMMARY

- 1.1. The Cabinet Report of the 17<sup>th</sup> April 2017 King Street Regeneration Project: Termination of Development Agreement and Agreement for Lease Dated 19 March 2008 with King Street Developments (Hammersmith) Ltd, instructed officers to develop alternative proposals for the sites involved, in light of the Council's decision to end the previous arrangements.
- 1.2. The Cabinet Report of the 5<sup>th</sup> March 2018 West King Street Renewal, authorised the Council to enter into Heads of Terms with A2 Dominion Housing Association for a conditional land sale to enable the regeneration of the Town Hall site and West King Street. It also authorised several enabling actions to progress the regeneration.
- 1.3. The proposals, which are subject to the grant of planning permission and listed building consent, as well as to a business case and affordability, will if approved, provide a new civic and community campus, including new fit for

purpose office accommodation for the Council, 204 new homes 50% of which will be affordable housing for local residents, new B1 office and start up space, a new four screen cinema, shops, cafes and restaurants, a new public square and improved public realm (referred to as the Project in this report). A separate part of the Project will see the existing town hall refurbished.

- 1.4. The report explains the details of the legal structure and the enabling actions the Council needs to take for the project to be progressed. It sets out the risks associated with these decisions, including the possible financial costs (up to £2.85m based on approved and expenditure proposed in this report) as set out in the financial implications.
- 1.5. A further report in September 2018 will be presented to Cabinet with recommendations and the final business case for the approval of the contractual arrangements with A2 Dominion. Enabling budget approvals are included in paragraphs 2.6 to 2.8.

## **2. RECOMMENDATIONS**

### **That Cabinet agrees:**

- 2.1. To delegate authority to the Strategic Director, Growth and Place, in consultation with the Cabinet Member for the Economy and the Arts, the Cabinet Member for Finance and Commercial Services, the Chief Executive and the Strategic Director, Finance and Governance, to complete negotiations with A2 Dominion Housing Association and their subsidiary companies A2 Dominion Homes Ltd and A2 Dominion Developments Ltd with regard to the West King Street Renewal in order to enter into a Conditional land sale agreement, the conditions for which are set out in the exempt part of the report, paragraphs 4.8 and 4.9. This is subject to:
  - The approval of a satisfactory business case for the Project that demonstrates the value for money, affordability, and financial benefits of the project
  - A review of the business case by external Financial Advisors on the project (Deloitte)
  - Receipt of tax advice from Deloitte
  - Satisfaction of Best Consideration, approved by the Borough Valuer
- 2.2. To note that the land to be included in the CLSA is set out in Appendix 1.
- 2.3. To note that satisfying the conditions in the conditional land sale agreement and set out in the body of the report will require a future approval of budgets and business case for those budgets in accordance with the Council's constitution and financial regulations.
- 2.4. To delegate authority to the Chief Executive and Strategic Director, Growth and Place, in consultation with the Cabinet Member for the Economy and the Arts, the Cabinet Member for Finance and Commercial Services, and the Strategic Director, Finance and Governance, to identify suitable decant

accommodation and pursue negotiations for the lease or purchase of this accommodation following which recommendations will be made to Cabinet for approval.

- 2.5. To note completion of a lease or purchase is subject to a future Cabinet or Full Council approval as appropriate including approval of the necessary budgets, and satisfaction of the business case process set out in 2.1.
- 2.6. To approve a budget of £276,000 for the Decant Accommodation Team, to prepare for the decant of staff.
- 2.7. To approve a budget of £100,000 for financial advice on the development of the final business case and to delegate authority to the Strategic Director, Growth and Place, to extend the contract with Deloitte for Financial Advice as required.
- 2.8. To approve a budget of £100,000 for the completion of survey and technical work on the existing Town Hall.

### **3. REASONS FOR RECOMMENDATIONS**

#### **Previous Cabinet Decisions**

- 3.1. This report is making recommendations in keeping with earlier Cabinet approvals. The Cabinet Report of the 17<sup>th</sup> April 2017 King Street Regeneration Project: Termination of Development Agreement and Agreement for Lease Dated 19 March 2008 with King Street Developments (Hammersmith) Ltd, which authorised the Council to end the previous arrangements and instructed officers to develop alternative proposals for the sites involved.
- 3.2. The Cabinet Report of the 5<sup>th</sup> March 2018 West King Street Renewal, authorised the Council to negotiate with A2 Dominion for heads of terms for a conditional land sale to enable the regeneration of the Town Hall site and West King Street. It also authorised several enabling actions to progress the regeneration.

#### **Planning Submission**

- 3.3. A2 Dominion submitted their planning application for the whole site on 25<sup>th</sup> April 2018 (the site is identified in Appendix 1). Their submission includes:
  - Demolition of Town Hall Extension, 181 King Street, Friends Meeting House, and former Registry Office.
  - Construction of 204 residential units, of which 99 will be either Private rented units and 105 genuinely affordable homes. Of that 104, 69 are social rented and 36 are for shared ownership.

- An additional 5,896m2 GIA of B1 office space constructed on top of the town hall, which is to replace the Council's current accommodation in the Town Hall Extension.
- Refurbishment of the existing town hall, which provides a total space of 10,425sqm office, ancillary and civic spaces
- Additional 5,836 m2 of B1 office space for a third-party occupier.
- 641m2 of B1 space allocated as affordable workspace
- 707m2 commercial uses in A1-A3 class.
- A new four screen cinema, totalling 2171m2 and including a bar/café use
- A new public space in front of the town hall which can be used for programmed events

### **Conditional Land Sale Agreement**

- 3.4. The Council is in negotiations with A2 Dominion for the conditional land sale agreement and to deliver the West King Street Renewal. Decision making following the completion of negotiations will need to be in accordance with the Council's financial regulations and constitution.
- 3.5. An application for Planning permission has been submitted to the Council. A decision on the planning applications has not been yet been made. It is anticipated that the application will be considered by the Council's Planning Committee in October 2018.
- 3.6. An application has also been submitted for Listed Building Consent which will also be required to implement the proposals. Permission for this application is also pending.
- 3.7. The Conditional Land Sale Agreement will set out the key obligations of each party and when these obligations need to be satisfied. A2 Dominion will be responsible for delivering all the new build elements of the project, while the Council will be responsible for the separate refurbishment element of the project.
- 3.8. Key conditions will need to be satisfied before the Council is required to commit funding to the project and, and the Council will also need to satisfy its own business case process before signing the Conditional Land Sale Agreement.
- 3.9. The project will also produce several additional benefits, the full detail of which will be assessed as part of the business case. This includes:
  - An improved Town Hall asset, with its long-term future secured
  - Additional revenue generation from improved town hall facilities and the opportunity for marketable space on the roof of the new town hall extension
  - Additional Business Rates from the offices, cinema, retail, and café uses, and affordable workspace being created

- Additional Council Tax revenue from the new homes being created
- Cost avoidance on temporary accommodation costs through the creation of genuinely affordable housing
- A regenerated West King Street, with increased footfall supporting the businesses on this part of the high street

### **Conditions of CLSA**

- 3.10. A primary condition will be the granting of an implementable planning permission, and listed building consent and the signing of a section 106 planning agreement, and either party will not be obliged to proceed without planning or listed buildings consent.

### **Delivery Teams Required**

- 3.11. To deliver the project and the Council's obligations under the land sale agreement, operational resources will be required, the details of which are set out in the financial implications section. The resources identified are short term for this financial year to deliver the decant process and to secure the necessary technical advice

## **4. PROPOSALS AND ISSUES**

### **Key Terms of the Conditional Land Sale Agreement**

- 4.1. These are set out in the exempt part of the Cabinet agenda, paragraph 4.1 to 4.9.

### **Council's Obligations**

- 4.2. The Council will have responsibility for acquiring all land and providing vacant possession of the site to A2 Dominion and for funding all the decant costs.
- 4.3. The Council will be responsible for funding the refurbishment of the town hall, the design elements and the category B fit out.

## **5. OPTIONS CONSIDERED**

### **Business Case Process and Developing Funding Options**

- 5.1. A report to Cabinet is expected in September to confirm whether the business case process has been satisfied and to recommend approval of budgets so that Council can satisfy the conditions and progress the project.
- 5.2. Ahead of this decision and as part of the business case process, the Council is developing the specification and cost plan for the refurbishment of the Town Hall. This will involve:

- a) reviewing the condition surveys that have identified the need for investment
  - b) reviewing individual room data sheets that set out the detail for specific rooms in the building
  - c) testing the proposed solutions from the design team for affordability and long-term performance, including M&E proposals, window design, and conservation items
  - d) carrying out value engineering on proposals
  - e) eliminating risk items for this stage.
- 5.3. This will be an ongoing process for the refurbishment as the design is developed to RIBA stage 4, and as the employer's requirements for a contractor procurement are developed in detail. The Council will be working with A2 Dominion's consultant team but is also appointing its own independent consultants to advise on the costs and the technical aspects of the project.
- 5.4. The Council is undertaking work with the aim of reducing its decant requirement through a combination of its desktop and workforce strategies, which mean that the Council will require less physical space and workstations. This has been factored into the town hall and the roof top extension design. Further details on this are provided below.
- 5.5. The Project will result in increased revenue generating opportunities for the Council through the provision of higher quality space that can be let out, and through the roof top space creating something that can be let out for events and weddings.
- 5.6. The business case process also includes testing the way the Council's obligations (town hall refurbishment and decant costs) are funded and the affordability of this before the Council commits to funding the Project.

### **Reducing Decant Requirement**

- 5.7. The terms of the development agreement mean that the Council will have to provide vacant possession of the current buildings. The buildings that will require decanting are the town hall and the town hall extension, 181 King Street, and the Old Registrars. A detailed options appraisal on how best to achieve this will be carried out by officers under the delegations in this paper.
- 5.8. The decant team have identified opportunities to move some teams and functions to alternative locations within the Council's estate to remove them from the decant requirement. 145 King street is being fully utilised following the recent 'moving on' moves.
- 5.9. The key services that will not be accommodated in the temporary decant accommodation are:
- The Registrar's Office
  - Community CCTV

- Parking wardens and CCTV
- Hammerprint
- Careline
- The ICT Communications hub (in the town hall)
- Customer Services Centre (relocating to 145 King Street)

5.10. Projects are already underway to decant these services, and approval was given at 5<sup>th</sup> March Cabinet for most budgets. Further budgets will be required and will be captured during the business case process, and included in future cabinet approvals.

5.11. We are continuing to look at opportunities to reduce the Council's decant costs. We are investigating the feasibility of using Council owned properties as touchdown locations to reduce the decant space requirements (or to relocate services to).

5.12. Specific locations for testing have been identified as:

- White City Housing Offices
- Shepherds Bush and Hammersmith Libraries
- Cobbs Hall
- Bagley's Lane
- Lila Husset

5.13. It is proposed that we investigate a selection of satellite buildings distributed through the borough that could have small-scale interventions undertaken to turn them into 'touchdown' locations that complement the central, principle office buildings.

5.14. The chosen satellite buildings would have unallocated perch work settings installed for staff visiting from other buildings; Wi-Fi, cabling, live utilisation feed and security/access arrangements that are identical to the standard workspace; and shared kitchenette and resource areas based on common standard principles, so visiting staff know what they will find there.

5.15. Once the feasibility of this is tested and approved under delegations, an investment of £100,000 would enable a project to:

- a) Identify and assess properties with potential to be incorporated into a network of workspaces
- b) Make basic improvements so that these locations are accessible to staff and offer a common standard and experience
- c) A communications exercise to ensure staff are aware of and equipped to make use of touch down opportunities.
- d) Deployment of a system which allows building users to check desk availability using any device (smart phone, tablet, laptop, PC, digital signs etc. As used by university libraries etc.)

- 5.16. Officers expect this will deliver a limited desk capacity of c.50 desks, potentially reducing decant accommodation demand by c.500sqm.
- 5.17. There are no substantial office buildings in the portfolio other than 145 KS, HTH and THX. The accommodation strategy over the last 5-8 years has been to exit leasehold properties.

### **Decant Options**

The Town Hall can't be occupied while the works are completed as it's not possible to create a safe working environment. Therefore, if works are to start on the town hall it must be vacated. The extension must be vacated to enable its demolition. This report seeks delegated authority to complete an options appraisal and assess the best route to decant, (full, partial, staggered) and best property option (lease or freehold purchase) and to pursue suitable decant accommodation. Further approval will be needed for any lease or purchase of office accommodation.

## **6. CONSULTATION**

- 6.1. As part of the pre-planning application process the Council has consulted with stakeholders including residents. Several stakeholders' engagement meetings have been carried out during this pre-application period. This includes meetings with the design review group. Public consultation meetings which includes design exhibitions were held between November 2017 and April 2018. The consultation exercise has been carried out jointly by the Council and A2Dominion.
- 6.2. Officers have consulted and engaged with stakeholder groups around the proposals and designs, these groups include:
- LB Hammersmith & Fulham Staff
  - Local Interest Groups – Hammersmith Society
  - Local residents

## **7. EQUALITY IMPLICATIONS**

- 7.1. Key equalities issues are considered below for different aspects of the project.
- 7.2. The Council has given due regard to its duties under Section 149 of the Equalities Act 2010 and key equalities issues are considered below for different aspects of the project.

### **Design & Planning Stage**

- 7.3. *Understanding the needs of disabled people:* The design team has actively engaged Disability Planning Forum and members of the Disabled People's Commission (a key stakeholder group) using the Council's new co-production approach to planning. This requires the design team to work hand in hand with the forum to ensure that special needs considerations are given high priority as the scheme develops.



7.4. This active engagement is done through regular workshops. These disability workshops cover the new design for newly refurbished Town Hall, private office blocks, residential units consisting of over 200 flats, shops, the cinema/bar/restaurant facility, and the public spaces.

7.5. *Public Consultation & Stakeholder Engagement:* Staff, residents and over 20 local stakeholder groups have been consulted as part of the consultation process. A 3-day public exhibition took place in early November 2017. Over 400 residents attended the exhibition. More than 70% of those who responded to a survey were in favour of the new scheme.

7.6. *The Neighbourhood Area* – Special discussions have taken place with the Riverside Gardens Estate TRA (a Council estate of 180 flats next to the Town Hall). Estate walkabouts with the TRA are planned this New Year. The aim is to promote good neighbourliness and to help ensure that the scheme does not impact negatively on the surrounding areas.

## Construction Phase

7.7. *Local Labour, Employment & Training Initiatives* - During the construction phase, there will be local labour and employment opportunities through the main contractor's supply chain. There will also be training initiatives such as the apprenticeship and graduate training schemes for young adults living in the area.

7.8. *Accessibility* – Contractors will be required to ensure that, during the construction phase, disruption of footpaths and other pedestrian thoroughfares is kept to a minimum and that alternative access routes to existing facilities and services are made accessible for groups with protected characteristics, such as disabled people.

7.9. *Implications verified by: Peter Smith, Head of Policy, and Strategy, tel 020 8753 2206.*

## 8. LEGAL IMPLICATIONS

8.1. It is noted that legal advice on this project including procurement options is being provided by Gowling WLG (UK) LLP ("Gowling"). Legal implications provided by Gowling, which are legally privileged and/or commercially sensitive, are contained in Appendix 2 to this Report in accordance with Schedule 12A of the Local Government Act 1972.

8.2. The part of the site shown shaded purple on the attached plan (Appendix 2) is held in General Fund and the relevant power of sale would be S123 Local Government Act 1972.

8.3. The part of the site shown shaded yellow on the attached plan (the Old Registrars Building) was acquired under Housing Act powers and so the relevant disposal power for that would be S32 Housing Act 1985. Secretary

of State consent is usually required for a disposal of housing land. Such consent can either be a specific consent or under one of the following General Consents:

- a) General Consent A3.1.1 provides that a local authority may dispose of land for a consideration equal to its market value so no such specific consent would be needed if that is the case with this disposal. BNP Paribas are carrying out a financial analysis and paragraph 9.3 below notes that the delegated authority (if approved) will be subject to best consideration sign off;
- b) General Consent A3.2 permits the disposal of “vacant land” being land on which no dwelling has been built. If the Old Registrars Building has never been used for housing it would fall within this definition and so no specific consent under S.32 of the Housing Act 1985 would be required as the Council could rely on the general consent. In the event that: (i) the General Consent referred to at paragraph 8.3(a) is not available; and (ii) the Council decides not to apply for specific consent then confirmation will be provided as to whether this General Consent applies to the land.

- 8.4. Where the Council engages with one purchaser (A2 Dominion) without a wider tender exercise, it will seek confirmation from BNP Paribas that its duty under section 123 (and if appropriate its relevant duties under the Housing Act 1985) have been satisfied. The Council must also ensure that it does not breach state aid law. Provided the Council can demonstrate that it has achieved best consideration there is no state aid. Commission Guidance<sup>1</sup> has established this principle in the context of disposals of land. Whilst the guidance is not binding law, it is useful evidence as to how the Commission will approach the issue. The land should not be sold at less than the level evidenced by an independent valuation.
- 8.5. The requirement under S.123 of the Local Government Act 1972 that assets disposed of at the best consideration reasonably obtainable applies, although there is a general consent (**The Local Government Act 1972: General Disposal Consent 2003**) which permits disposal at an undervalue provided the **undervalue is £2,000,000 or less**. There is also a regulation permitting *de minimis* State Aid although the level is limited to EUR200,000 over three years. As noted at paragraph 9.3 below, the delegated authority (if approved) will be subject to best consideration sign off and it is this assessment by BNP Paribas which will identify whether there is any undervalue and, therefore, any State Aid.
- 8.6. The disposal is to be by way of a 250-year lease rather than freehold so its use can be restricted to affordable or intermediate properties and so prevent private sales where this is appropriate. The lease will also provide for

---

<sup>1</sup> [Commission Notice on the notion of State aid as referred to in Article 107\(1\) TFEU](#)

provision for its surrender in the event of the works approved under the Planning Permission not having been commenced or completed by agreed dates to ensure that the agreed scheme is built out.

- 8.7. Planning permission and Listed Building Consent will be required to implement the proposals set out in the report. Applications for both matters are currently under consideration by the Council in its role as Local Planning Authority. Even if permission is granted it is possible that legal challenges may be brought to the grant of permission which may lead to delays in the implementation of the proposals set out in the report which will lead to increased costs.
- 8.8. The legal implications relating to the liability of the Council in the event of a default of the CLSA are dealt with in paragraphs 9.2 – 9.8 in the exempt part of the report.
- 8.9. *Implications verified by Adesuwa Omoregie, Principal Solicitor (Planning & Highways), TBD Regeneration, tel. 020 8753 2297.*

## **9. FINANCIAL IMPLICATIONS**

- 9.1. The proposals in this report are subject to a full business case including:
  - a value for money and affordability assessment by our external financial advisors, Deloitte
  - a best consideration assessment by the Council's advisors BNP Paribas. The best consideration valuation will need to be approved by the borough valuer. This should take account of the subsidy A2 Dominion will put into the project (amount to be confirmed with A2Dominion) and any level of Right to Buy 141 grant funding from the Council.
- 9.2. The full business case will need to be reviewed by the Council's external Financial Advisors for this project, Deloitte.
- 9.3. This report asks for delegated authority to finalise negotiations on in order to enter a CLSA with A2Dominion subject to:
  - The production of a satisfactory business case for the project that demonstrates the value for money, affordability, and financial benefits of the project
  - A review of the business case by external Financial Advisors on the project (Deloitte)
  - Receipt of tax advice from Deloitte
  - Satisfaction of Best Consideration, approved by the Borough Valuer
- 9.4. And noting that satisfying the conditions in the CLSA will require future approval of budgets and business case for those budgets in line with the Council's constitution and Financial Regulations.

9.5. It also asks for delegated authority to:

- agree the basis on which decant accommodation will be sought,
- identify suitable decant accommodation and pursue negotiations for the lease or purchase of this accommodation, agree heads of terms and thereafter to conclude documentation for the lease or purchase of decant accommodation.

9.6. This is to enable the decant of both the Town Hall and the Town Hall Extension.

9.7. Completion of a lease or purchase for the decant accommodation will require a future approval of budgets and business case for those budgets in accordance with the Council's constitution and financial regulations

### **Cost exposure in the event of default on the CLSA**

9.8. These are set out in the exempt part of the Cabinet agenda under paragraph 9.2 to 9.8

### **Existing budgets and Immediate Budget requirements**

9.9. The leader's urgency decision of 17 April 2017 authorised the use of £250,000 from the King Street Regeneration Reserve for use on the project.

9.10. The Cabinet Report of 5<sup>th</sup> March 2018 authorised a further budget of £360,000 for project costs and the following enabling budgets, with a delegated authority being given to determine the exact split of the budgets:

- IT Projects manager and IT Network consultant: £171k
- Specifications Manager (decant and new office specification) £79k
- Relocation of ICT infrastructure hub £700k
- CCTV Relocation £240k
- Parking Wardens and CCTV relocation £150k
- Customer Services Centre Consolidation £350k
- Careline relocation £20k
- Parking relocation and rationalisation £50k

9.11. Giving total budgets agreed to date of £2.37m. Actual expenditure to 31 March 2018 was £233,450. The March 2018 Cabinet Report set out the funding source for the total expenditure would be a combination of reserves and / or s106.

9.12. This report seeks approval for additional budget below of £476,000 to enable the next stages of the decant preparations to progress:

<b>Enabling Budgets</b>	<b>Value</b>
Programme Management for enabling project: June to March 2019	£116,000
Transition Co-ordinator (Moves and declutter): Aug to March 2019	£80,000
Moves and Logistics Manager: Aug to March 2019	£80,000
<b>Total decant enabling costs requested</b>	<b>£276,000</b>

Financial advice on development of final business case	£100,000
Completion of survey and technical work on existing Town Hall	£100,000
<b>Total budgets requested in this report</b>	<b>£476,000</b>
Budgets approved in previous cabinet reports: project costs	£610,000
Enabling projects for decant previously approved by Cabinet on 5 <sup>th</sup> March 2018	£1,760,000
<b>Total budgeted costs to date</b>	<b>£2,846,000</b>

- 9.13. This means that total budgets agreed to date on this project, assuming the approval of this report, will be £2.846m. It is proposed that the extra budgets of £476,000 now required be funded from the Corporate Demands and Pressures Reserve.
- 9.14. Provision to fund the full £2.846m will thus be initially set aside from Reserves. Assuming the project progresses some costs, subject to compliance with Capital Finance Regulations, may be capitalisable as they enable vacant possession<sup>2</sup>. All expenditure and funding sources, including section 106,<sup>3</sup> will be reviewed following agreement of the business case.
- 9.15. However, should the project not progress (for example if a satisfactory unchallengeable planning permission was not achieved) all costs will need to be written off against Reserves save where they potentially relate to the permanent relocation of a service, such as that for elements of the ICT infrastructure and the CCTV. If there is a challenge to the planning permission or it is called in project costs would increase.
- 9.16. The capital costs cannot be funded from Housing Capital receipts<sup>4</sup>, however the Housing Revenue Account can be recharged for an appropriate share of the revenue costs. The amount rechargeable will depend on the space occupied at the time by staff who are charged to the HRA but is likely to be between 9.5% and 12% of the revenue costs.<sup>5</sup>
- 9.17. Total project costs are still fluid as a number of different elements, such as the refurbishment of the Town Hall, are being worked up in more detail. The final land receipts and estimated profit share under the agreement are also still being fully assessed.
- 9.18. The overall costs, funding for, receipts from and affordability of the project will be considered as part of the approval of the business case and budgets in accordance with the Council's constitution and financial regulations prior to

<sup>2</sup> Note this would only include the costs of moving services and would not include any ongoing rental or running costs

<sup>3</sup> This may also include reviewing the s123 CIL list

<sup>4</sup> As the capital costs are for Council Offices not Housing but the HRA can pay a share of the capital financing charges

<sup>5</sup> Note this is likely to change in future years as the proportion of staff Council staff who are charged to the HRA varies over time.

the Council entering into the CLSA. This will include satisfaction of best consideration, approved by the Borough Valuer.

### **Taxation**

9.19. While the lawyers have been giving thought to the tax implications when structuring the draft agreement, the council will need to obtain detailed tax advice before finalising any conditional land sale agreement. This will need to be considered as part of the value for money and affordability assessment in the full business case. Therefore, Deloitte, who are acting as our Financial Advisors for this project, have been asked to provide advice on:

- The direct tax, VAT, and stamp duty land tax (SDLT) implications and
- liabilities for the Council of the proposed Land Sale Agreement. This will include advice on any tax leakage in the structure as well as advice on the impact on the council's VAT partial exemption position.
- The reasonableness or otherwise of the tax assumptions and, if relevant, refer to potential alternative structuring ideas which may improve the tax efficiency.

9.20. Their advice will need to be considered and addressed before the conditional land sale agreement is entered into.

9.21. In addition to the advice provided that directly relates to this Cabinet decision Deloitte's will be advising on the SDLT and other taxation implications on the opportunity for the Council as a side transaction to acquire a portfolio of private rented and / or commercial property

### **Financial stability and financial strength of the contracting party**

9.22. The Homes and Communities Agency in their most recent judgement dated 20 December 2017 rated A2Dominion Housing Group Limited V1 for viability and G1 for Governance. These are the highest viability and governance ratings that can be awarded under these assessments.

9.23. The judgement also covered A2Dominion Homes Limited (who we understand will contract for the affordable housing elements). It does not cover the main contracting party A2Dominion Developments Limited (which is a subsidiary of A2Dominion Housing Group). The CLSA proposes to cover this risk by ensuring that A2Dominion Homes Ltd have step in rights over A2Dominion Developments Ltd if there is any failure on their part as well as by ensuring that continued financial stability and strength is one of the conditions in the land sale agreement.

9.24. As set out in this report the CLSA will also contain provisions that ensure A2 Dominion maintain its financial and governance standing with the regulator (Homes England) – should they be downgraded below acceptable levels (lower than G2 for governance and V2 for viability) then the Council would have the right to review the CLSA and the management arrangements.

- 9.25. A Creditsafe check has also been completed on A2Dominion Developments Ltd which currently has a rating of 77. A2 Dominion Homes Ltd has been rated A+ by Fitch ratings for local currency transactions with a stable outlook. The group of which these companies form a part had turnover for the year ended 31 March 2017 of £372m and net assets showing on their balance sheet of £836m. Their 2017/18 accounts are expected to be published by the end of July 2018.
- 9.26. These checks, especially the creditsafe score, rely on historic performance, which isn't necessarily a guide to the future.
- 9.27. Our Financial Advisors for this project, Deloitte, have been asked to comment on the financial stability and strength of the contracting party and a full report should be fully considered before and form part of the delegated decision to enter into the CLSA.
- 9.28. This must cover:
- The suitability and financial stability and financial strength of the proposed contracting party including looking at other forward commitments.
  - The methodology and structure of any guarantee arrangement and the potential risks to the Council.
- 9.29. This report should be refreshed on a regular basis on an annual basis and ad hoc as required.

### **Financial Risks**

- 9.30. The main risks are set out in the risk management section of this report, however a lot of these potentially have a financial impact.

#### Risk of scheme not proceeding

- 9.31. As set out in [paragraphs 9.2 to 9.8] in the exempt Cabinet agenda and [9.9 to 9.18] as set out above, there are cost risks to the Council should the scheme not proceed. At the time of writing these are limited to the amounts spent to date which as at 31st March 2018 were £255k. However, this risk will increase as the scheme progresses and as more budgets are agreed and commitments entered into. These risks should continue to be carefully managed.
- 9.32. Cost exposure based on the budgets proposed in this report and those already agreed is £2.846m.
- 9.33. If the scheme didn't progress although the Council would retain control of the design information if the CLSA was signed, it's likely that in some circumstances all or part of these costs would be a revenue charge to the

Council. For this reason, it is currently proposed to fund the initial budgets of £2.846m from reserves as set out in 9:19 and 9:20 above.

- 9.34. Any amounts written off to revenue could be shared with the HRA, as set out previously in this report, this could account for between 9.5% and 12% of the costs. If the design information and some of the work benefited a future scheme then relevant amounts currently capitalised would remain capitalisable.
- 9.35. Therefore, it's important the Council carefully assesses and controls costs at each stage of the process. Total project costs are still fluid as a number of different elements, such as the refurbishment of the Town Hall, are being worked up in more detail. The final land receipts and estimated profit share under the agreement are also still being fully assessed. While it's understood there's a desire to ensure speedy delivery of the project this needs to be carefully balanced with moving at too fast a pace and incurring too many costs at risk. For example, if the Council were to sign up to rent decant accommodation (and therefore incur rental costs) before there was an unchallengeable planning permission including listed building consent the Council could be exposed to significant revenue costs.
- 9.36. *Financial Implications Completed by Kathleen Corbett Director of Finance (Growth & Place), tel. 020 8753 3031,*

## **PROPERTY IMPLICATIONS**

- 9.37. H&F have appointed external property advisors that have provided valuation advice for the proposals. In addition, BNP Paribas will provide advice on best consideration for the scheme as well as valuations under s123 Local Government Act 1972.
- 9.38. BNP Paribas will also advise the Council on the detailed conditional land sale agreement
- 9.39. The property team will manage with Frost Meadowcroft, heads of terms for decant accommodation and provide expertise and advice that will help shape the final lease terms for a future Cabinet report.
- 9.40. *Implications verified by Nigel Brown, Head of Asset Strategy and Property Portfolio, Commercial Team, tel. 0208 753 2835.*

## **10. IMPLICATIONS FOR BUSINESS**

- 10.1. This is a significant commercial opportunity for businesses in the borough, with c.£140m of commercial contracts expected to be available. The Local Planning Authority through the S.106 agreement could secure a commitment to partner with the economic development team and the local supply chain programme to ensure that local companies are able to bid for opportunities.



- 10.2. The current proposals also include affordable studios and workspace which will be targeted at SMEs, as well as an additional 50,000 sq.ft. of B1 office space which will support business generally in the Hammersmith Town Centre area.
- 10.3. As the proposals involve the temporary decant of staff from both buildings this could reduce the footfall in the area for local businesses. While the presence of a significant number of construction workers will compensate for some of this, the Council will develop a mitigation strategy to support businesses on West King Street during construction.
- 10.4. *Implications verified by David Burns, Assistant Director – Growth, tel. 020 8753 6090.*

## **11. COMMERCIAL AND PROCUREMENT IMPLICATIONS**

- 11.1. The legal advisors Gowling WLG have advised the council that the decision to engage with a partner through a property transaction where the land is sold to a developer partner and they undertake the construction work but without an obligation to do so, will not be classified as a public works contract and in accordance with the Public Contracts Regulations (PCR) 2015.
- 11.2. However, the town hall itself never transfers to the partner and as stated in 4.7 of this report, the costs for the refurbishment of the existing town hall remain the Council's costs therefore any procurement under that element of the project will need to comply with legislative requirements and the Council's Contract Standing Orders.
- 11.3. A separate procurement strategy for the refurbishment project will need to be presented to cabinet by the project lead in a timely manner and build in sufficient time to undertake any procurement process required. Commercial and Procurement will offer support and guidance throughout any procurement process.
- 11.4. *Implications verified by: Joanna Angelides, Procurement Consultant, tel. 0208 753 2586 on behalf of Simon Davis*

## **12. IT IMPLICATIONS**

- 12.1. The decant from HTH and HTH extension will be enabled by the delivery of the new Desktop Strategy, which is due to complete by end April 2019. The new strategy will provide each member of staff with a mobile device, such as a convertible tablet or a laptop, and a mobile phone. This will enable Officers to work from any location, both on and away from the council's network.
- 12.2. The programmes for the West King Street Renewal and the Desktop Strategy recognise the interdependencies that exist between them. It has been agreed that a single joined-up change management programme will support both programmes of work and the Senior Responsible Officer for

both programmes is the Director for Corporate Services. This will drive a consistency of approach and joined-up management of the interdependencies.

- 12.3. Office 365 has already been implemented and provides collaborative tools for email, calendars, shared Notebooks, shared working areas such as Team areas; and a wide variety of MS Office applications including Word and Excel.
- 12.4. Skype for Business will support video conference calls, as well as the voice conference calls that are already available.
- 12.5. The mobile devices and collaborative tools will support the council's ambition to deliver services in a more agile way from different locations and reduce the need to go back to base.
- 12.6. It will be necessary to move the council's network hub out of Hammersmith Town Hall to minimise disruption to services during any building work. The hub will be moved to 145 King Street as suitable permanent links already exist and the hub can be left there once staff have moved back to the refurbished HTH.
- 12.7. The increased dependency on 145 King Street from a network point of view as well as higher density of staff will require an update to existing IT infrastructure.
- 12.8. As described in the paper, other critical services will also need to be moved from HTH and nearby buildings. These services include CCTV; Parking Wardens and Parking CCTV; Cashiers; Registrars; Hammerprint.
- 12.9. All moves relating to services, such as the network hub and CCTV, should be moved as soon as practical to minimise the risk of decanting HTH and HTH extension at the point the people need to move to the new decant locations.
- 12.10. Privacy Impact Assessments for each service areas decant and subsequent relocation will be carried out by the services to avoid loss or accidental disclosure of information.
- 12.11. *Implications completed by: Veronica Barella, interim Chief Information Officer, tel 020 8753 2927.*

### **13. RISK MANAGEMENT IMPLICATIONS**

- 13.1. There are several risks associated with a scheme of this size and complexity.
- 13.2. The primary risk at this stage in the process is obtaining planning consent. An application has been submitted to the Council's planning service and the listed building element will be referred to Historic England for consultation.

Historic England have the right to object and could direct refusal of the listed building consent if they are not happy with the proposal. This could result in changes to the design, which would delay the programme.

- 13.3. The Council and A2 Dominion are mitigating this through careful consultation with Historic England and regular review of planning risks. Client and planning officer meetings have been established to work through any issues that Historic England may make.
- 13.4. Resident consultation has been very successful with over 500 attendees at the planning consultation events. Learning from the objections to previous schemes, the scheme design, height, and mass has been adapted to recognise those concerns.
- 13.5. If changes are required, the design team is ready to amend the planning applications and the project team will keep the programme under review to ensure project delivery. It is possible for the non-listed elements of the permission to move forward if there any issues to resolve with the listed building element.
- 13.6. Some of the other key risks highlighted below are:

Risk	Impact	Mitigating Action
Programme delay in construction prevents delivery of the addition to the town hall and opening of refurbished offices	Council must continue in temporary accommodation with additional costs accruing to the Council	The CLSA includes LADs for delivery failure against the programme, and costs are passed on to A2 Dominion
Historic England object to detailed refurbishment proposals and delay scheme completion	Costs escalate and programme is delayed	A specific technical consultant is being procured to specify the detailed works, and who will work closely with Historic England and the contractor on the detail of the design
The Council agrees to lease temporary accommodation but does not complete the CLSA, and the proposed scheme does not begin	Council has expenditure on a temporary office with no clear replacement office	The Council will have developable assets in the form of a vacant THX, Cinema site and Car Park which it can progress through demolition and implementation directly should it need to
The scheme is not financially viable due to cost increase or value falls	Scheme cannot proceed	CLSA includes provisions for resolving viability problems, but also sets a minimum acceptable land value against which the Council will not proceed with the sale and will seek alternative arrangements

A2 Dominion are unable to find purchasers for the cinema and the office site	Financial viability of scheme is impact and profitability reduces	Advance negotiations with cinema operator and with office purchasers have already started. As a back stop the Council can choose to purchase the cinema and the office as an investment asset.
Brexit or other world financial events affect the sales market	Unable to dispose of units undermining financial viability	The units will be bulk sold as PRS, eliminating the sales risk.
The Quakers meeting site is not delivered on programme, preventing land swap from happening	Construction on the site of the Quakers meeting house is delayed and financial viability is affected	The Quakers site is discrete and the remainder of the development can proceed unhindered, with simply a delay to completion of the block in that location.

13.7. **Measures to mitigate Risk:** Officers have considered the risks associated with the various stages of this programme, as set out above, and sought to put in place appropriate mitigations. It is recommended that they continue to review, monitor, and escalate as appropriate until the programme objectives have been delivered and ensure that new risks identified are assigned to risk owners.

13.8. Officers have obtained and followed appropriate external legal advice to assure those approving this report that the proposed approach would enable the Council to achieve its objectives for this programme and should not be subject to procurement challenge by following the recommended course of action.

13.9. The report sets out the future reports to Cabinet which will be required to approve completion of a lease or purchase, and to approve necessary budgets to enable the programme to be delivered, subject to the demonstration of a viable business case which will incorporate external financial and technical advice. The future business case to be provided to Cabinet, Members will set out the costs and benefits associated with the proposals including an assessment of the costs associated with the key risks to completion of the programme.

13.10. Given the significance, value and complexity of the proposed programme, officers should set out the officer and member governance arrangements which will provide programme oversight and assurance and ensure that costs are appropriately controlled and key actions taken once appropriate consents and approvals have been confirmed.

13.11. *Implications completed by: David Hughes, Director of Audit, Fraud, Risk and Insurance, tel. 020 8753 2927.*

#### 14. **BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

No.	Description of Background Papers	Name and contact details of responsible officer	Department/ Location
	None		

**LIST OF APPENDICES**

- APPENDIX 1. Red Line Plan**
- APPENDIX 2. Housing Land**