London Borough of Hammersmith & Fulham FULL COUNCIL 23 JANUARY 2019	h&f hammersmith & fulham
WEST KING STREET RENEWAL PROGRAMME	
Report of the Cabinet Member for the Economy and the Arts – Councillor Andrew Jones	
Open report Appendix 2 to this report is exempt from disclosure because it contains information relating to the financial or business affairs of a particular person (including the authority holding that information) under Paragraph 3 of Schedule 12A of the Local Government Act 1972	
Classification: For decision **Key Decision:** Yes	
Consultation: Housing, IT, Property, Legal, Finance, Procurement, HR, Strategic Leadership Team	
Wards Affected: Hammersmith Broadway	
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1. EXECUTIVE SUMMARY

1.1. On 3rd December 2018 Cabinet approved the Strategic Outline Business Case, and delivery strategy for the West King Street Renewal (WKSR) Programme, a significant regeneration programme which will transform the western part of King Street.

1.2. The purpose of this report is to obtain authority from Full Council to acquire an interest in the joint venture with A2 Dominion Developments Ltd., approve development funding, and to amend the approved capital and revenue budget as required by the Council's Financial Regulations to enable the project to move forward.

1.3. In order to provide vacant possession of the Town Hall site and enable delivery of the WKSR Programme, the Council is required to decant staff and services currently based in the Town Hall and Town Hall Extension to alternative premises during the three to four-year development period. This report sets out details of the proposed decant strategy and the associated costs of entering into lease agreements for decant properties during the development period.

BACKGROUND

1.4. This report follows the 3rd December Cabinet approval, and the the April 17th 2017 Cabinet decision to terminate the previous development agreement signed in 2008. This decision followed the failure of the previous scheme approved in 2013 and a series of unsatisfactory proposals from the developer, made up until 2016, which would have been costly to the Council, failed to meet Council's requirements and would not have delivered the regeneration of West King Street.

1.5. It also followed the 5th March 2018 Cabinet decision to progress plans for the regeneration of West King Street, in partnership with A2Dominion Housing Group Ltd (A2D - a Charitable Co-operative & Community Benefit registered society and the parent company).

1.6. The previous failed scheme would have resulted in a cost to the Council estimated at up to £22m, as it would have required the Council to acquire or permanently rent alternative office accommodation. In the absence of development proposals, doing nothing to the existing buildings is not an option as they have reached the end of their useful life, and would require investment from the Council of up to £53.5m, at least £2m on professional fees, and up to £10m in decant cost just to bring offices up to a basic standard. Therefore, officers were instructed to develop alternative proposals that would deliver better value to the Council and the community.

1.7. Since that time, proposals have been developed to regenerate and energise the western part of King Street, which will deliver more affordable housing, a new four-screen cinema, and good quality flexible staff accommodation. Officers consider that the new proposals, with a mix of office, retail and restaurant uses and a high quality design for the Town Hall, will regenerate this part of King Street and create an iconic destination for the borough

1.8. The proposed regeneration scheme developed in partnership with A2D will, subject to planning and listed building consent, deliver a new civic and community campus for the borough. This will include:-

- new fit-for-purpose, inclusively designed office accommodation for the Council;
- 204 new homes (52% of which will be affordable housing for local residents);
- new B1 office and start-up space;
- a new four-screen cinema;
- shops, cafés and restaurants;
- a new public square and improved public realm, including study space for students and young people; and

- A separate part of the scheme will see the existing Town Hall fully refurbished and heritage elements restored.

1.9. The December 2018 Cabinet report included a number of recommendations to Full Council relating to the approval of:

- the proposed Joint Venture (JV) partnership with A2Dominion Developments Ltd. (A2DD);
- the subsequent conditional sale of Council land to the JV partnership;
- the provision of development funding to the JV partnership;
- budgets to fund the refurbishment and fit out of the Town Hall;
- the leasing of commercial properties in Hammersmith to facilitate a full decant of the Town Hall site; and
- budgets to fund the furniture and fit out works required in the decant properties (including contingency allowances).

1.10. The Council has prepared a Strategic Outline Business Case (SOBC), which was approved by Cabinet on 3rd December 2018. The SOBC outlines the options that the Council considered for progressing the regeneration of the Town Hall site and West King Street, including the option to do nothing or to simply refurbish the existing buildings, which do not produce the commercial and economic benefits of the preferred scheme.

1.11. The SOBC demonstrates that there are significant benefits for the Council entering into a 50:50 Joint Venture (JV) partnership with A2D's development arm, A2Dominion Developments Ltd. (A2DD) for the purposes of delivering the WKSR Programme; namely greater control over the wider development costs, quality and delivery timescales.

1.12. This delivery approach would entail the Council entering into a conditional land sale agreement with a corporate JV formed of the Council and A2DD. In this scenario, the JV vehicle will carry out and fund all elements of new build works, under the terms of the conditional land sale agreement. The conditional land sale agreement has a number of conditions precedent; until these conditions are satisfied, the contract does not become unconditional.

1.13. The Council will be responsible for the refurbishment of the existing Grade II Listed Town Hall building and fit out of the building (including the proposed extension).

BENEFITS OF THE PROPOSALS

1.14. The WKSR Programme will act as a catalyst for change in the western end of King Street. The development will attract more diversity of shops thereby improving the retail offer on the High Street. This will create the opportunity for associated economic benefits, including increased footfall for local businesses, as well as wider commercial opportunities for businesses in the borough.

1.15. It will create a vibrant community hub within the Town Hall, repurposing it as a mixed-use, cultural and social destination, serving the greater community.

1.16. By incorporating some of the Council's accommodation requirements in the WKSR development, the Council benefits from efficiencies in delivering modern, inclusively designed and fit-for-purpose office and civic accommodation for its staff and visitors, as well as for small and start-up businesses.

1.17. It also avoids the need for significant capital investment in the existing Town Hall and Town Hall Extension, which in 2017 was estimated at between £29.2 million and £53.5 million for both buildings, depending on the extent of refurbishment works undertaken. These figures exclude professional fees (estimated to be at least £2 million to tender stage) and the cost of decanting staff to allow works to take place.

2. RECOMMENDATIONS

That Full Council agrees:

2.1. That the Council enters into a Joint Venture (JV) partnership with A2Dominion Developments Ltd. (A2DD), for the purposes of delivering the WKSR Programme;

2.2. That the Council approves the conditional sale of Council land shown in the plan attached at Appendix 1 to the JV partnership (Council and A2DD), in exchange for a 50% share in the JV, subject to approval of the final best consideration valuation report by the Chief Executive, as recommended by the Head of Asset Strategy and Property Portfolio and advised by the Strategic Director, Finance and Governance;

2.3. That the Council approves development funding of up to £90 million to the JV partnership (Council and A2DD), in accordance with state aid compliant market terms following receipt of state aid advice from professional advisors, to be funded from an increase in the Capital Financing Requirement until the loan is repaid;

2.4. That the Council approve a capital budget of up to £45.6 million for the refurbishment and fit out of the Town Hall building and delegate final confirmation of funding to the Strategic Director, Finance and Governance, in consultation with the Leader of the Council and Cabinet Member for Finance and Commercial Services; and

2.5. To approve additional decant budget of up to £27.3m to enable the leasing of properties in Hammersmith to be funded from revenue reserves and delegate final confirmation of funding to the Chief Executive, as advised by the Strategic Director, Finance and Governance, in consultation with the Leader of the Council, the Cabinet Member for the Economy and the Arts and the Cabinet Member for Finance and Commercial Services.

3. REASONS FOR DECISIONS

Previous Cabinet decisions

3.1. On 3rd December 2018 Cabinet approved the SOBC and delivery strategy for the WKSR Programme. This followed the April 17th 2017 Cabinet decision to terminate the previous development agreement signed in 2008, and the 5th March 2018 Cabinet decision to progress plans for the regeneration of West King Street in partnership with A2Dominion Housing Association (A2D). This report is making recommendations in keeping with these Cabinet decisions.

Joint Venture partnership with A2DD

3.2. The SOBC, which was completed in line with the principles of HM Treasury's Green Book Guidance on public sector business cases, demonstrates that by entering into a 50:50 JV partnership with A2DD and a conditional land sale agreement to the JV vehicle for the purposes of delivering the WKSR Programme, the Council will retain more control over the wider development costs, quality and programme delivery timescales.

3.3. As per the Council's Financial Regulations, Full Council approval is required for the Council to enter into a JV partnership with A2DD and to authorise disposal of Council land (shown in the plan attached at Appendix 1) via a conditional land sale agreement forming its equity in the JV vehicle.

3.4. The proposed form of development JV involves both parties contributing equity funding on an equal basis, with equal risk and rewards. The Council will contribute its land as equity into the JV and A2DD will contribute an equal proportion of equity. This will then be used to fund the development cashflow up to the point that the equity is exhausted.

3.5. It is proposed that the remaining funding is provided by securing project finance (estimated at £90m) and that, subject to approval by Full Council, this funding is loaned to the JV by the Council. The current financial modelling for the scheme has been undertaken on the basis that the Council would on-lend to the JV at state-aid compliant terms (i.e. market rate and terms).

3.6. On completion of the development, each party would share 50:50 in the benefits produced by the JV either in distribution of profits or the assets developed. It is proposed that the Council will receive the new extension to the Town Hall building, as well as a share of any JV profits from the scheme. The JV agreement will include an equalisation process so that each party contributes and benefits equally, depending on the profit or assets returned on completion and the price paid.

Refurbishment of the Town Hall

3.7. The refurbishment of the Town Hall sits outside of the proposed conditional land sale to the JV vehicle, which means that the Council is responsible for its direct delivery. However, it is proposed that procurement of the refurbishment contractor is aligned with the new build contractor so that the two processes work seamlessly together, and the Council can benefit from efficiencies in terms of procurement and management processes.

3.8. The estimated cost of refurbishing the Town Hall is up to £46 million. This figure includes inflation, contingency and a proportion of scheme-wide professional fees but excludes fit out of the Town Hall and new extension. The refurbishment construction costs are based on estimated rates for key elements of the refurbishment works plus a proportion of site-wide works from which the Town Hall refurbishment benefits (i.e. demolition, external works, the basement and energy centre), as well as those works shared between the refurbishment and the extension (i.e. lifts, bridges and works to the Town Hall internal courtyard).

3.9. The current specification, which is being developed in detail in preparation for RIBA Stage 3, is to provide fit-for-purpose office/civic accommodation in line with current building regulations and other relevant standards, whilst sensitively restoring the listed building elements; to ensure future running costs for the Council are minimised; and to avoid the requirement for any further major investment into the building for at least 25 years following the refurbishment.

3.10. There is currently an allocation of £7.4 million within the Capital Programme to fund the refurbishment of the Town Hall. Additional capital funding will therefore need to be allocated in the Council's Capital Programme in order to fund the proposed refurbishment works. A further allocation will be required for the fit-out of the Town Hall building including the new extension.

Proposed decant strategy

3.11. The March 2018 Cabinet report gave authority for officers to progress decant of specialist accommodation and functions and other matters and allocated a budget of £1.5 million to achieve this.

3.12. The 9th July 2018 *West King Street Renewal* Cabinet report authorised officers to identify suitable decant accommodation and pursue negotiations for the lease or purchase of this accommodation in order to facilitate delivery of the WKSR Programme by providing vacant possession of the Town Hall site.

3.13. The approach to identifying suitable office decant accommodation for staff relocating from the Town Hall site is set out in paragraphs 5.10–5.12 below. It should be noted that the proposed lease costs include the FM service delivery and IT infrastructure associated with the Council's use of the decant space. The proposed budget also includes the requirement for the furniture and fit out works in the decant properties, which will be undertaken by the landlords on behalf of the Council in order to meet the timescales necessary to provide vacant possession of the Town Hall site by Summer 2019.

3.14. In order to achieve the decant, a programme of activity to declutter the existing office accommodation, prepare staff for the moves, and plan and undertake the physical moves will be required between now and the anticipated decant period. The cost of this programme of activity, staff resources required to effectively deliver it within the timescales proposed and the increased revenue costs of moving to the decant accommodation (including additional network and residual FM costs) for a period of up to four years is included in the proposed budget together with a contingency.

3.15. In accordance with the Council's Financial Regulations, Full Council approval is required for the proposed amendments to capital and revenue budgets, including use of reserves, as a result of the decant lease, programme and contingency costs.

4. PROPOSALS AND ISSUES

Council office accommodation requirements

4.1. At 47 years old, the Town Hall Extension is already at the end of its useful life. The majority of the building's services, fixtures and fittings are original and have been maintained well past their intended lifespan. Customers and visitors are frequently affected by the failure of lifts, escalators and other building services; the working environment is poor, and staff experience failing plumbing, heating and cooling and other services on a regular basis.

4.2. In 2014, detailed condition surveys identified the poor state of the building both internally and externally, having only had minimal and essential works or holding repairs carried out since the mid-1990s and as a result, there is a growing backlog maintenance requirement. This means there is no option available to the Council to continue using the building in its current condition without incurring significant costs, estimated at c.£20 million to address critical maintenance items.

4.3. Given the age of the building and the scale of repairs necessary, even a basic refurbishment would require enhancements to the building design and fabric to ensure compliance with current legislation such as Part L of the Building Regulations (re. energy efficiency and thermal insulation), the Asbestos Regulations and Part M of the Building Regulations (re. accessibility).

4.4. In 2017, the cost of addressing urgent and critical refurbishment items only within a one-year programme and requiring a full decant of the building, was estimated at £19 million including decant costs (approximately £15 million excluding decant costs). Key items which would be in scope for essential and urgent works, based on a 2014 condition statement, include:

- repairs to external mosaic tiles, which have to be regularly tested at present due to the public health and safety risk;
- repair/replacement of windows and surrounding panels, many of which have failed leading to rain penetration;
- roof repair/replacement due to regular leaks;
- repair and refurbishment of external areas (i.e. staircases and link/podium to Town Hall) to prevent further water penetration through the structure;
- upgrade of the original lifts and escalators, which do not currently meet current Building Regulation standards;

- refurbishment/replacement of the heating, cooling and ventilation systems, which are all in poor condition;
- removal of asbestos panels, which are becoming damaged through normal wear and tear and could become a risk to health and safety;
- upgrades to the lighting and power, which do not meet current standards for energy efficiency and struggle to meet the demands of the building;
- replacement of ceilings to office areas, which have become loose in their fixings requiring wires to be installed to provide restraint;
- IT and telecoms upgrades; and
- replacement of toilets and kitchens, including the main soil stack, which is undersized, poorly aligned and prone to blockages.

4.5. The full cost of refurbishing the building internally and externally in order to provide fit-for-purpose, modern office accommodation was estimated at £35 million in 2017. These figures exclude any public realm improvements or demolition of the adjoining structures between the Town Hall and Town Hall Extension.

4.6. If these figures were inflated to the present day, the cost estimates would be in the order of £15.5 million for urgent and critical refurbishment items and £36.1 million for a full refurbishment (excluding professional fees and decant costs).

4.7. The Facilities Management (FM) team have estimated that keeping the building occupied and safe in its current configuration for longer than 6-12 months would require immediate investment of a minimum of £1 million. This would be purely to avoid the risk of systems failures, which may present such a severe health and safety risk that the building may need to close. In this circumstance, alternative working accommodation for staff would need to be identified in line with the Council's business continuity plans.

4.8. The FM team have estimated that the minimum cost of maintenance works and likely asset renewals required to keep the Town Hall Extension building running over the next four years is approximately £2.1 million, which would need to be funded from the Council's revenue budgets. However, this figure does not include potential costs of infrastructure services such as heating and refrigerant pipework, controls and heat emitters, lighting and associated wiring, therefore the figure is likely to be higher.

4.9. Whilst the Town Hall itself provides a more fit-for-purpose working environment, it does not have sufficient space in its current form, to accommodate staff from the Town Hall Extension and is in need of repair/refurbishment and reconfiguration to maximise the amount of flexible workspace and meet statutory compliance requirements. The estimated cost of maintenance works to keep the Town Hall building running over the next four years is approximately £1.3 million, which would also need to be funded from the Council's revenue budgets. This figure excludes associated infrastructure works, which could be required, and is therefore also likely to be higher.

4.10. In 2017, the cost of addressing backlog maintenance items, repairing/replacing elements of key infrastructure and creating additional flexible workspaces in the Town Hall was estimated at between £13.3 million (assuming a full decant but excluding decant costs) and £16.9 million (assuming the building were to remain occupied).

4.11. If these figures were inflated to the present day, the cost estimates would be in the order of £13.7 million (assuming a full decant but excluding decant costs) and £17.4 million (assuming the building were to remain occupied). It should be noted that these figures exclude professional fees, which were previously estimated at approximately £1.2 million to tender stage.

4.12. In summary, to remain in the current Town Hall and Town Hall Extension buildings longer term and provide fit-for-purpose working accommodation would require a total capital investment of between £29.2 million and £53.5 million for both buildings, in addition to any professional fees (estimated to be at least £2 million to tender stage) and the cost of decanting staff to allow works to take place (estimated at approximately £10 million for up to two years).

4.13. By incorporating the Council's accommodation requirements in the WKSR development, the Council benefits from efficiencies in delivering modern, fit-for-purpose office and civic accommodation for its staff and visitors, as well as avoiding the need for significant investment in its current office accommodation in the short to medium term. In doing so this helps ensure the Council's business resilience and continuity of public service provision.

4.14. Furthermore, the WKSR and Town Hall programme provides the potential opportunity to create a new consolidated civic campus for Hammersmith & Fulham, by potentially allowing for the co-location of customer-facing services (currently located at 145 King Street) at the renewed Town Hall site. The programme will provide enhanced facilities for the community and workspace opportunities.

Current WKSR scheme proposals developed by LBHF and A2Dominion

4.15. The current WKSR scheme has some key enhancements to the previously approved King Street Developments (KSD) scheme, which are summarised below:

- Construction of 204 residential units, of which 99 will be either private rented or private sale units and 105 affordable units (69 affordable rent and 36 shared ownership). Due to including larger family units in the affordable mix, the overall tenure split by floorspace will be 52% affordable to 48% private. The previous KSD scheme was 100% private for sale;
- Demolition of the Town Hall Extension, 181 King Street, Quakers Meeting House, and the former Registry Office;

- 3,102sqm NIA of B1 office space constructed on top of the Town Hall, to replace the Council's current accommodation in the Town Hall Extension;
- Refurbishment of the existing Town Hall, which provides c.5,900sqm of office and civic spaces. Combined with the new extension this will be able to accommodate all existing staff and staff returning from WCC and RBKC as part of the 'Moving On' process;
- 6,011sqm NIA of B1 office space for a third-party occupier and 523sqm NIA for office start-up units;
- 649sqm NIA commercial uses in A1–A3 use class;
- A new four-screen cinema totalling 1,283sqm NIA and cinema restaurant at 335sqm NIA; and
- A new public plaza in front of the Town Hall, which can be used for programmed events and regenerate this end of King Street.

4.16. An application for planning permission and listed building consent for the above has been submitted to the Council. It is anticipated that the application will be considered by the Council's Planning Committee in February 2019.

Delivery strategy for the WKSR Programme

4.17. Following the termination of the previous Development Agreement and Agreement for Lease with King Street Developments (Hammersmith) Ltd., the Council considered a number of options for developing revised proposals, which were set out in the 17th April 2017 Cabinet report.

4.18. The April 2017 Cabinet report recommended engaging directly with a partner either through a land disposal and associated contract and/or through forming a joint venture, on the basis that it:

- offers the faster timetable and most secure delivery;
- minimises the cost risks to the Council;
- has a limited short-term budget requirement; and
- offers the opportunity for the Council to share in benefits.

4.19. The SOBC has been completed by senior officers with input from Deloitte and other external advisors to demonstrate the case for the proposed public spending proposals. It has been completed in line with the principles of HM Treasury's Green Book Guidance on public sector business cases.

4.20. The SOBC demonstrates the strategic case for delivering the WKSR Programme in line with the Council's priorities set out in 'The Change We'll Bring Together Business Plan for 2018 to 2020'. The strategic drivers include:

- the urgent need to intervene in the failing existing Town Hall office buildings, whilst creating an opportunity for improved ways of working in order to be ruthlessly financially efficient and address the financial challenges faced by the Council;

- contributing to the borough’s housing ambitions by increasing the supply of good quality, genuinely affordable housing for local residents to meet local housing need;
- creating pride in H&F by transforming King Street into a new civic and cultural destination; improving the public realm and Grade II listed Town Hall, providing new local amenities for residents, including a new four-screen cinema, café/restaurant, retail and public event spaces; and
- promoting economic growth in line with the H&F Industrial Strategy, *Economic Growth for Everyone,* through the creation of new retail and commercial space, including affordable space for start-up businesses to combat High Street decline.

4.21. The SOBC also demonstrates that by entering into a corporate JV with a development partner, the Council retains a high degree of control and influence over the costs, design, delivery timescales and other key decisions associated with the development. This structure also allows the Council to take a greater share of the proceeds to reflect its additional financial risk.

4.22. The proposed partner for the 50:50 corporate JV is A2DD, the development arm of A2Dominion Housing Association; a West London based housing association with a strong record of accomplishment of affordable housing and mixed-use delivery. A2Dominion Housing Association owns and manages around 37,000 homes in the South East, with an annual development plan of more than 1,000 homes per year.

4.23. A2DD is currently delivering new homes at Queen’s Wharf, in partnership with Mount Anvil and are also working with the Council on the development of Lavender Court for affordable housing. A2D have committed to the Council that any surpluses realised on this scheme will be re-invested within the borough on new affordable housing. They have also committed to re-invest any further surpluses generated from new developments in the borough.

4.24. Given the scarcity and value of land in the borough, working with the Council on local authority owned land provides an opportunity for these surpluses to be used in delivering more affordable housing. A2D have committed to using some of their surpluses to deliver the affordable housing element of the WKSR scheme. This is included in the current financial modelling, with A2D providing a total subsidy of £10.4 million for the affordable rent and shared ownership residential units.

4.25. The Council will work with A2DD as its partner in the JV to ensure that the value generated from the project (and so any land payment and profit share that the Council receives), is maximised. It is Government policy that should local authorities dispose of surplus land, that land should be sold for the best consideration. It is recognised that there may be circumstances where an authority considers it appropriate to dispose of land at an undervalue in which case the consent of the secretary of state is required (and although a general consent at a discount of up to £2,000,000 exists for disposals made under section 123 Local Government Act 1972, the general consent does not apply to the anticipated disposal of land at King Street in reliance on powers under s233 the Town and Country Planning Act 1990).

4.26. The Council is supported in the process by BNP Paribas who are advising the Council on the best consideration valuation based on current information. The best consideration valuation will be subject to repeated review until scheme costs and scope are fixed, just prior to the procurement of a contractor. BNP Paribas will either certify that best consideration is achieved or alternatively, the consent of the secretary of state will be needed.

Conditional Land Sale Agreement (CLSA)

4.27. The CLSA does not oblige the JV to develop out the scheme but contains a number of commercial incentives and protections. These are:

a) The ability for the Council to terminate the lease and take back ownership of the property in the event of non-delivery. The price to be paid by the Council will be the cost or value of the property, and the mechanism for this set out in the CLSA.

b) An obligation on the JV to pay liquidated and ascertained damages for each week of delay in the delivery of the new Town Hall Extension. The amount of this will relate directly to the cost to the Council of not being able to return to the new Town Hall Extension, plus the cost of borrowing.

c) An obligation on the JV to pay an amount should it deliver the new Town Hall extension to less than the required floor space.

d) An obligation on the JV to make a degree of progress on the Town Hall extension before it is entitled to draw down the lease.

4.28. Furthermore, the CLSA has a number of conditions precedent; until these conditions are satisfied the contract does not go unconditional.

4.29. Both the Council and the JV are required to co-operate and use their reasonable endeavours to satisfy the conditions; however, they all have to be satisfied within certain long stop dates or the contract fails. This means the Council does not have to sell the land nor does the JV have to develop out the scheme.

4.30. The JV limited liability partnership agreement will also contain provisions to ensure that A2D (as guarantor of A2DD, the JV partner) maintains its financial and governance standing with the regulator, Homes England. Should they be downgraded below acceptable levels (i.e. lower than V2 and G2 ratings that the regulator uses for viability and governance, for example) then the Council would have the right to review the CLSA and the management arrangements.

Transfer of assets to the JV vehicle

4.31. Assets acquired by the Council and included in the proposed land transfer to the JV vehicle are the former Cinema Site at 207 King Street and the Quaker Meeting House on Nigel Playfair Avenue.

4.32. The March 2018 Cabinet report delegated authority to the Strategic Director of Growth and Place and the Director of Building and Property Management, in consultation with the Cabinet Member for Economic Development and Regeneration and the Cabinet Member for Finance, to complete asset transactions in connection with the Quaker Meeting House at Nigel Playfair Avenue and land of the Former Children's Centre at Bradmore Park Road.

4.33. The former Cinema Site was acquired by the Council in September 2018. The Council is discussing with the Quakers to undertake a land swap of the land at the site of the Bradmore Park Road Children's Centre with the Quaker Meeting House. The Bradmore Park Road Children's Centre site will be sold a specific community use in accordance with the planning conditions.

4.34. A valuation report has been prepared by BNP Paribas and approved by the Head of Asset Strategy and Portfolio Management in relation to this transaction, given the obligation on the Council to secure the best consideration reasonably obtainable where it is disposing of land under s233 Town and Country Planning Act 1990.

4.35. As landowner, the Council will dispose of the assets that it owns or is acquiring by way of a single long-term lease of 255 years (250 plus the development period of up to five years) to the JV vehicle, and the JV will pay a consideration by way of the issue of a 50% share in the JV (which will entitle the Council to a 50% share of any development profit). The construction of the extension to the existing Town Hall will satisfy as the return of the Council's equity. A separate lease (but on similar terms) of the Quaker site may be required if vacant possession of this is secured after the main headlease is granted.

5. OPTIONS CONSIDERED

Commercial delivery options for the WKSR Programme

5.1. The SOBC sets out the commercial options available to the Council for the delivery of the WKSR Programme include:

- **A conditional land sale agreement**, whereby the Council enters into a land sale agreement with a developer, in return for a capital receipt, which the Council can use to fund any public works it wishes to undertake; for example the Town Hall refurbishment / extension;
- **A Development Agreement**, whereby the Council enters into a Development Agreement with a partner to redevelop the whole site and the partner is tasked with undertaking public works at its risk; and
- **A 50:50 corporate JV with a development partner**, whereby the Council sells its land to the JV, the JV partner matches the value of the land with equity of equivalent value and the proceeds and risks of the development are shared equally between the partners.

5.2. By entering into a corporate JV with a development partner (A2DD), the Council retains a high degree of control and influence over the design, costs, delivery timescales and other key decisions associated with the development. This structure also allows the Council to take a greater share of the proceeds to reflect its additional financial risk.

5.3. So that the JV vehicle acting as developer can complete the extension to the top of the Town Hall, the Council will grant a licence.

Decant options

5.4. Officers considered the overall programme impact of remaining in occupation of either the Town Hall or Town Hall Extension during the construction period with phased moves into completed buildings, as shown in the table below:

Option	Town Hall occupied	Project completed
1. Decant both sites	May 2022	Jan 2023
2. Decant Town Hall first, followed by Extension once new extension and refurbishment of Town Hall is complete	July 2022	Mar 2025
3. Decant Town Hall Extension first, then Town Hall	Jan 2024	Jan 2024

5.5. The prolonged construction periods are expected to increase the construction costs by approximately £12.1 million in option 2 and approximately £7.5 million in option 3, thereby reducing overall scheme viability. Furthermore, both options 2 and 3 would require a degree of off-site decant, which would need to be funded from the Council's revenue budgets. There would also be a requirement for ongoing maintenance and repairs to be carried out to the Town Hall Extension (in option 2) and Town Hall (in option 3) whilst they remain occupied.

5.6. It should be noted that under the planning application under consideration, it is proposed to complete the affordable rent units prior to the sale and occupation of the private homes. This would not be possible in option 2 as the proposed affordable rented block (Block C) is located on the site of 181 King Street and the Town Hall Extension. A revised planning submission would therefore be required.

5.7. Any option which does not provide full vacant possession of the Town Hall and Town Hall Extension simultaneously would present extreme logistical challenges (due to restricted site access and the requirement to work in close proximity to occupied buildings), which could further impact on the construction programme and costs.

5.8. Therefore, in order to achieve the proposed programme for delivery of the WKSR and Town Hall Programme, as well as ensure a safe and suitable working environment for staff and visitors, both the Town Hall and the Town Hall Extension must be fully decanted at the same time.

5.9. The accommodation requirements to enable the decant of the Town Hall and Town Hall extension are as follows:

- min. 60,000 sqft office accommodation (assumes 5:10 desk to staff ratio);
- BT Openreach lease line to the building(s) with minimum 1GB bandwidth (with a preference for two independent lease lines for backup purposes);
- good mobile phone reception;
- good WIFI reception;
- core network hub;
- network provision for Emergency Services and Careline alarms;
- Registry Office;
- CCTV provision for the borough and the Parking service;
- 4 x car parking spaces;
- electrical car charging points; and
- ability for the landlord to carry out the fit-out process on the Council's behalf including structured cabling (in order to meet the required timescales for the decant).

5.10. Since the Council does not have sufficient property holdings to accommodate these requirements, the Council used an external agent, BNP Paribas, to consider freehold and leasehold accommodation opportunities in the Hammersmith area. BNP Paribas have also advised on negotiations and undertaken valuations in respect of the decant accommodation options.

5.11. An extensive search of the market identified a number of potential options to meet the decant accommodation requirements. These were reviewed by officers from the Council's Property, Finance and WKSR Programme team, supported by BNP Paribas, and were also considered by the WKSR Programme Board. These options include two properties that are available to the Council to purchase (off-market), as well as a number that are available to lease.

5.12 Final approval of the decant sites will be subject to approval by the Chief Executive. Final approval of legal documents necessary to enter into the agreements for the decant properties has been delegated to the Strategic Director, Growth and Place, in consultation with the Assistant Director of Legal and Democratic Services.

6. CONSULTATION

6.1. Consultation for the wider WKSR programme has been outlined in previous reports to Cabinet.

6.2. Consultation with key stakeholders in relation to the Town Hall refurbishment including IT, Facilities Management and the Events team has commenced and will continue throughout the project.

6.3. Consultation on the suitability of the identified decant accommodation options for the Council's use has been undertaken with key officers and the Director for Corporate Services. Engagement with the Superintendent Registrar has been undertaken to check the viability of relocating the Register Office to one of the chosen sites and the proposed design of the space.

6.4. Consultation with key stakeholders in the delivery and operation of the proposed decant sites has been undertaken, including with Facilities Management and IT. Engagement will continue throughout the decant programme and will commence with a wider staff audience once a decision about the decant locations and detailed timescales have been confirmed.

7. EQUALITY IMPLICATIONS

7.1. The Council has given due regard to its duties under Section 149 of the Equalities Act 2010 and a full Equality Impact Assessment has been carried out.

7.2. The WKSR design team has actively engaged the 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 for the WKSR Programme and Town Hall refurbishment.

7.3. *Implications completed by Peter Smith, Head of Policy & Strategy, tel. 020 8753 2206.*

8. LEGAL IMPLICATIONS

8.1 Gowling WLG have been retained by the Council to provide advice on:

(a) the entry into a joint venture (JV) partnership with A2Dominion Developments Ltd. (A2DD);

(b) a tripartite arrangement between the Council, A2DD and the Quakers for the exchange of land and for the delivery of new accommodation for the Quakers;

(c) the entry into a conditional agreement for lease under which Council land will be leased to the JV partnership;

(d) the provision of funding of up to £90 million from the Council to the JV partnership; and

(e) the ability of the Council to rely upon the A2Dominion framework for the letting of the contracts relating to the Town Hall refurbishment works.

8.2 The advice relating to each of these points is set out below.

Joint Venture

8.3 The Council has the opportunity to form a joint venture through:

(a) a corporate JV (for example a company limited by shares, a limited partnership or a limited liability partnership); or

(b) a contractual JV – for example a lease or an investment agreement.

8.4. We recommend a corporate joint venture because, although it requires greater resources, it has the benefits of greater transparency and control. Also, a third party investor could acquire a share in the JV so, in that sense, it is a more liquid structure. We understand that A2DD's preference is to form an LLP and, subject to the point made at paragraph 8.5(b) below, this is acceptable.

8.5. The Council should be aware:

(a) that conflicts of interest will need to be managed to ensure that Council officers can make recommendations / decisions on behalf of the Council and that alternative officers can represent the Council at LLP level; and

(b) that an LLP is not an attractive structure for a pension fund, should either party wish to sell its interest in the partnership in future, however this is not currently anticipated.

Tripartite agreement with the Quakers

8.6. The Council's role under the tripartite agreement will be limited to the acquisition of the existing Friends Meeting House and to the disposal of the Bradmore Park Road Children's Centre once the new accommodation has been completed. The development obligations will be the responsibility of A2DD.

8.7. The acquisition of the Friends Meeting House will be pursuant to section 227 of the Town and Country Planning Act 1990.

8.8. The disposal of the Bradmore Park Road Children's Centre will be pursuant to section 233 Town and Country Planning Act 1990 as it has been confirmed that the land is held for planning purposes. BNP Paribas have been appointed by the Council to advise on best consideration.

Conditional Agreement for Lease with JV

8.9. An agreement can be entered into direct with the JV, and without procurement, provided that this is on the basis of a property transaction (that is not a public works contract). The CLSA will not contain any positive development obligations on the JV but a set of commercial incentives/protections for the Council (as landowner) given that it is disposing of a significant land interest. The Council will have a degree of control over development through its role as lender and JV partner.

8.10. The statutory requirement to achieve best consideration must be observed (section 233 Town and Country Planning Act 1990 applies where land is held, acquired or appropriated for planning purposes) and a viability condition has been included within the draft conditional agreement. BNP Paribas have been appointed to advise on best consideration and this should be kept up to date (typically, we suggest no more than 6 months old) and must be updated if the underlying assumptions change.

8.11. If the Council will be directly subsidising the works contract to be let by the JV by more than 50%, the Council is required to ensure compliance with the competition requirements of the PCR by the JV.

Funding

8.12. In providing the proposed funding to the JV, the Council must comply with the law on state aid.

8.13. It is advised that the terms of the funding must satisfy the Market Economy Investor Principle such that the terms are 'market facing'. Deloitte have been appointed to confirm this from a finance perspective and GWLG will review the terms from a legal perspective.

8.14. A failure to comply with the law on state aid could mean that the Council is fined and the unlawful aid would be repayable by the recipient (i.e., JV) together with a penal rate of interest.

Refurbishment works and reliance on A2D framework

8.15. The Council will let a separate contract for the Town Hall refurbishment works.

8.16. Gowlings have reviewed the A2D framework and can confirm that LBHF may use the A2D framework1 to appoint the Town Hall refurbishment contractor, if desired.

Legal Implications drafted by Gowlings WLG.

8.17. It is to be noted that paragraph of 2.15 and 2.7 of the Cabinet report dated 3rd December 2018 are duplicate recommendations. The decision to enter into the leases for the decant properties is an executive decision which was delegated by Cabinet to the Strategic Director of Growth and Place and accordingly such a decision has not been included in this report. Additionally paragraph 2.14 of the Cabinet Report is not included in this report as this decision will be taken at a later date by the Executive following a procurement decision.

8.18 Implications drafted by Rhian Davies, Assistant Legal and Democratic Services.

9. FINANCIAL IMPLICATIONS

9.1. These financial implications are based on the current drafts of the legal agreements and reports received from advisers to date. Any changes to the draft agreements may change the financial implications as set out in this report. Officers will ensure that the financial implications of any changes are fully understood.

Summary of Outline Business Case and key financial information

9.2. As with any financial undertaking, the Council must ensure that this project represents Value for Money. To this end, the Strategic Director for Growth and Place, and the Strategic Director for Finance and Governance jointly procured specialist advice from Deloitte to provide financial advice on this project, input into the Outline Business Case and advise the Council on whether the deal provides value for money for the Council. As set out in 4.26 above, the best consideration valuation will be subject to review until scheme costs and scope are fixed. This valuation is an important input into the value for money assessment and therefore a final assessment will be sought and considered alongside the final valuation before the land is sold.

Financial overview of the proposed Joint Venture

9.3. The Council will enter into a Joint Venture with A2DD forming a development vehicle which will deliver the WKSR scheme.

Site assembly and disposal of land into the JV

Cinema site

9.4. The Council's 2018-2022 capital programme provided an additional budget envelope of £50 million, from 2017/18 onwards, to provide operational flexibility, for taking forward major projects.

9.5. The expert determination process determined that the purchase price for the cinema site should be £15 million and total initial capital cost of this transaction including transaction costs, taxes and fees was £15,963,395. Ongoing building control monitoring of the existing structures and site security is estimated at £2,330 per month until the end April 2019, bringing the total capital budget requirement to £15,982,035.

9.6. The Council also had to pay VAT of £3 million on the transaction which has been reclaimed from Her Majesty's Revenue and Customs. The Council has opted to tax the Cinema site to protect its own tax position.

9.7. The purchase of this site increases the general fund Capital Financing Requirement (CFR) by £16 million. To avoid incurring immediate borrowing costs, the transaction was completed using internal borrowing against cash balances. However, a Treasury Management Strategy decision will need to be made on the longer-term funding of this acquisition in the wider context of the Council's Treasury Strategy.

9.8. Using cash balances to fund this purchase has an impact on revenue in the form of foregone interest income of £132,651 per year based on interest rate in December 2018 of 0.83% earned on balances.

9.9. The increased CFR will result in an increase to the Council's MRP of £517,818 per year from the year after the scheme completes and the site is transferred to the JV, the MRP charge will continue until such time that the CFR is paid down by the MRP or other capital receipts.

Quakers - Friends Meeting House

9.10. In compiling the site for onward disposal to the JV, the Council have agreed Heads of Terms with the Quakers for a land swap of their Friends' Meeting House and the Council's Bradmore Park site. This site is held as a surplus asset and was recorded at fair value in the Council's asset register at a value of £1.734 million at 31st March 2018.

9.11. The Council must dispose of any assets in line with the best consideration. Although this is a land swap, best consideration must still be obtained. A best consideration valuation is being obtained by BNP Paribas. This needs to be considered by the Strategic Director of Growth and Place as advised by the Council's Head of Asset Strategy and Property Portfolio before the conclusion of the land swap.

9.12. This asset will become part of the site which will be sold to the JV in exchange for its share of the JV and will be included in the overall land value.

Vacant possession of Hammersmith Town Hall and Extension

9.13. As set out in 5.4 to 5.12 above, to fully assemble the site the Council will need to deliver vacant possession of the existing Town Hall Extension.

Conditional land sale agreement to the joint venture - best consideration

9.14. The Council must ensure that when disposing of land, it achieves best consideration. Due to changes in market conditions, a final valuation will need to be obtained once all conditions of the land sale agreement have been met, to ensure the Council obtains best consideration at that point in time. In the meantime, a draft best value consideration has been obtained from BNP Paribas to provide assurance on the assumed value in the development appraisal. The development appraisal model currently assumes a value of £25.3 million, the draft best value consideration based on the restricted value provides assurance that the figure used is reasonable. Any changes to this value may affect the financial implications for both the Council and/or the JV.

9.15. The Council's Head of Asset Strategy and Property Portfolio, having been advised by BNP Paribas, will need to confirm that the transaction achieves best consideration for the Council, or secretary of state approval will need to be obtained.

9.16. The Council land will be sold to the JV, subject to a conditional land sale agreement, in exchange for 50% "member capital" in the JV. This share in the JV entitles the Council to 50% of the JV profits. Any profits could be applied to replenish reserves utilised by the decant accommodation costs.

Town Hall decant – associated costs and savings

9.17. As set out in paragraphs 5.10 to 5.12, officers, as advised by BNP Paribas, have identified potential options to meet the Council's decant requirements. After previously approved enabling budgets, further budget of up £27.3 million is requested to be funded from revenue reserves. The budget requirement is based on 5 year leases, however these costs will reduce should the Council be able to exercise break clauses.

Hammersmith Town Hall refurbishment and fit-out (including extension fit-out)

9.18. The capital costs of the Town Hall refurbishment and the fit out of the Town Hall and new extension will be met by the Council. A capital budget for the scheme of £45.6m is requested in this report.

Taxation implications

9.19. The proposed scheme carries various taxation implications (primarily VAT and Stamp Duty) for both the Council individually and the Joint Venture, however the prevailing view is that these can be managed to a tax-efficient position. The tax implications and risks to the Council are set out in the tables 1, 2 and 3 below.

Table 1: VAT implications

Project stage	VAT implications to the Council
Site assembly	• The Council has incurred VAT input tax of £3 million on the purchase of the Cinema site as the previous owner had elected it for VAT. This and the wider site have been opted by the Council to protect its own VAT position. • The Council and A2DD are still in discussions with the Quakers to mitigate the risk of additional VAT costs (estimated at £600,000) being borne by the Council or JV.
Land Transfer to JV	• The Council has opted to tax the land. The default position is that all land should be opted. The Council will need to carefully consider whether to opt to tax the Friends Meeting House, once the land swap has completed. • The land transfer will be in exchange for equity ("member capital") in the JV rather than cash. Where the Council has opted-for-VAT

	some or all the land being transferred, it will be necessary to issue the JV with a VAT only invoice which the JV will need to settle in cash.
Outputs from the JV to the Council	• The provision of the new Town Hall extension will constitute a supply from the JV to the Council. Under self-supply rules this is expected to be a standard rated supply. The new extension will be in exchange for the Council's share in the JV (repayment of its equity share) however the Council may be required to pay a VAT-only invoice. • In the first instance the Council will be able to reclaim this VAT however it will need to carefully consider future supplies it makes from the new Town Hall Extension. Were the Council to make exempt supplies, for example, the leasing of office space, this could mean that the input tax incurred at point of transfer impacts on the partial exemption position. This will need to be carefully managed and approach agreed with the HMRC.

Footnote: VAT Partial Exemption Overview

Under normal circumstances, VAT registered bodies:

- ***can*** *reclaim from HMRC the VAT they have incurred in the course of making Vatable supplies.*
- ***cannot*** *reclaim VAT incurred in the course of making VAT exempt supplies.*

Special rules apply to Local Authorities which allow them to reclaim the VAT incurred in the course of making exempt supplies, providing this VAT does not exceed 5% of all VAT (the total input tax) incurred by an Authority in a given year.

If this threshold is breached, ***all*** *the VAT incurred in the course of making exempt supplies is repayable to HMRC (not simply that in excess of the threshold). As such an unmitigated breach could cost the Council between £2-3m in the year of a breach.*

Typical exempt supplies for a local authority include some commercial activities, such as halls lettings, and land and property transactions. The latter requires particular attention because:

- *transactions can be of significant value; and*
- *very often the determination of relevant inputs incurred – such as capital works – need to be considered over many years.*

An option to tax may be available which allows an authority to elect land and buildings for VAT, thereby managing the partial exemption position; however, an option:

- *may not be automatically granted depending on historic land-use;*
- *may be disapplied by future purchasers under certain circumstances;*
- *needs to be carefully managed by the to ensure that any future supplies it makes from opted land and buildings are appropriately taxed;*
- *once invoked, remains in place for 20 years.*

Table 2: SDLT implications

Project stage	SDLT implications to the Council
Site assembly	• The Council has incurred Stamp Duty of £889,500 on the purchase of the Cinema site. This can be capitalised under existing guidance. • SDLT costs will be payable on the barter transaction to obtain the Friend's Meeting House in line with the SDLT exchange provisions. The Council and A2DD are still in discussions with

	the Quakers to finalise the landswap terms. There are risks that this may result in additional costs to the Council or the JV of an estimated £300.000.

Table 3: Corporation tax implications

Project stage	Corporation tax implications for the Council
Outputs from the JV to the Council	For corporation tax purposes, LLPs, such as the proposed Joint Venture, are fiscally transparent and are not taxable entities. The members of the LLP are allocated their profit share and the tax treatment follows the members' tax status. Accordingly, any profits and gains from the LLP to the Council would not be subject to corporation tax on the basis that the Council is exempt from Corporate and Income tax.

Tax Implications for the JV

9.20. The development model of the JV currently makes assumptions with regards to the requirement to pay tax. Further discussions are being held with A2DD, as the JV partner, to understand the tax implications of the scheme with a local authority as a joint venture partner so that they can update their development appraisal model. Our tax advice has been shared (by agreement with Deloitte) with A2DD for discussion and as a basis for updating the model.

9.21. Any changes to the tax and cashflow assumptions in the model could either positively or negatively impact on the development viability and the Council's expected profit share.

Other budget requirements

9.22. To date, enabling budgets of £9.398million have been approved in previous Cabinet reports as set out in table 4 below. As previously approved, reserves need to be set aside for these costs although some costs may be capitalisable to the extent that they enable vacant possession or are directly attributable, bringing the capital assets *to the location and condition necessary for it to be capable of operating in the manner intended*. A detailed review of these costs will determine which costs can be capitalised, but as a default these will need to be funded from reserves.

Table 4: WKSR approved budgets to date

	Value £m
Enabling projects for decant	1.760
Programme management for decant enabling project	0.116
Transition co-ordinator (moves and declutter)	0.080
Moves and logistics manager	0.080

Financial advice on development of final business case	0.149
Completion of survey and technical work on existing Town Hall	0.100
Technical advisers	0.261
Client-side programme delivery team	1.700
Specialist decant costs	2.511
Additional decant programme costs	2.031
Other project costs	0.610
Total approved budgets to date	**9.398**

Financial strength of the JV partner

9.23. The Regulator of Social Housing judgement in October 2018 regraded its viability assessment of A2Dominion Housing Group Limited from V1 for viability and G1 for Governance to V2 for viability whilst maintaining G1. V2 continues to comply with the HCA requirements in that *the provider meets our viability requirements. It has the financial capacity to deal with a reasonable range of adverse scenarios but needs to manage material risks to ensure continued compliance*.

9.24. The judgement does not cover the main contracting party A2Dominion Developments Limited (which is a subsidiary of A2Dominion Housing Group). The JV agreement 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.

9.25. The conditional land sale agreement will include provisions that ensure A2Dominion Housing Group Ltd 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 agreement and the management arrangements.

9.26. A Creditsafe check for A2Dominion Developments Ltd. has been re-run on 18th November 2018 and resulted in a rating of 77, which is a good rating. However, these checks, especially the Creditsafe score, rely on historic performance, which isn't necessarily a guide to the future.

Provision of Development Funding to the Joint Venture

9.27. The report requests approval to provide development funding (a loan) to the JV of up to £90 million. The current development appraisal shows a need for £87 million of development finance, however there are a number of options being pursued in relation to provision of funding for the office block element of the development. Should either of these options progress, this would reduce the need for the Council to provide development funding by c£50 million.

9.28. The loan would be for the life of the JV and would be repaid in line with agreed repayment terms and at the point of it being wound-up after all sales were completed. Further cashflow analysis is required in compiling the final development appraisal model which would inform the detail of the JV borrowing requirements, and to consider what borrowing the Council would need to undertake from the Public Works Loan Board (PWLB) to meet these requirements and will be provided by A2DD. The Council may use internal borrowing but it is expected it will need to borrow from the PWLB to on-lend to the JV if the full £90 million is required and these arrangements are likely to be fixed term loans. The Council's borrowing would therefore be for a medium-term period of up to 5 years.

9.29. Depending on the amount borrowed and the length of the loan, the Council will incur interest charges on its borrowing based on the rates available when the loan is taken out. In on-lending to the JV, the Council will need to ensure that it does so on state-aid compliant terms, considering the terms of the agreement including the interest rate. Given that the Council can borrow relatively cheaply from the PWLB, it is likely that the Council will obtain a margin from on-lending to the JV. That margin will be determined by both the interest rate obtained from the PWLB and the state-aid compliant rate charged to the JV.

9.30. Under accounting rules, loans to third parties must be treated as capital expenditure (and the repayment considered a capital receipt) by the Council and considered under MRP regulations. Regulations require that MRP is charged based on the life of the underlying assets being created by the party to whom the loan is granted. This spreads the impact of any impairment of the loan that may be required to the JV.

9.31. The Council will also need to be mindful that, if the Council were to externally borrow to manage the cash flow associated with this loan, it should likewise borrow for commensurate terms, otherwise there is a risk the Council's external loans could exceed the CFR (when the loan is repaid to the Council), which is not permitted under the Prudential Code.

9.32. As the total value of the development finance, the PWLB loan rate and the on-lending rate cannot yet be determined, the detailed financial implications are not yet available.

Financial risks and sensitivities

9.33. The scheme viability and profit to the Council from the JV will be sensitive to a number of factors primarily:

i. construction cost overruns; and
ii. fluctuations in the housing market and commercial property market.

9.34. As set out previously, further discussions are progressing between the Council, A2DD and the Quakers with respect to the land swap to obtain the Quakers Meeting House. There is a risk that the Council or the JV will incur addition costs of an estimated £600,000 VAT and £300,000 SDLT risk identified cannot be mitigated. These may result in additional project costs, thereby reducing the expected profit of the scheme, or may be an additional cost to the Council in putting together the site.

9.35. The Town Hall refurbishment and fit-out, is the responsibility of the Council – therefore any cost overruns and increased costs will need to be met by the Council. There are also uncertainties with regards to the timing and receipt of potential CIL funds to fund the capital costs, where CIL cannot be applied to fund these, the Council will need to borrow with consequential annual revenue costs.

9.36. Whilst the conditional land sale agreement includes penalty clauses which seek to mitigate financial risks to the Council should the Town Hall and new extension not be ready for occupation as planned, these penalties will be payable by the JV and therefore reduce the profits available for distribution to the Council.

9.37. In addition, where the Council provides development funding to the JV, there is a risk of default should the JV be unable to repay the Council. The funding will be provided on state-aid compliant terms which will include mitigations such as a charge on the assets of the JV.

9.38. Additional financial implications are contained within exempt Appendix 2.

9.39. *Implications completed by Emily Hill, Assistant Director Corporate Finance, telephone 0208 753 3145 and Hitesh Jolapara, Strategic Director Finance and Governance.*

10. PROPERTY IMPLICATIONS

10.1. The Council has appointed external property advisors that have provided valuation advice on the search for decant accommodation and are also working with Deloitte on specialist advice on SDLT and VAT aspects. Draft lease terms have been agreed for offices within the Hammersmith locality that provide modern ways of working. In addition, a property for specialist accommodation uses has been located through a site search. The external agents negotiated terms that provide flexibility for a seamless and prompt decant away from Hammersmith Town Hall and Town Hall Extension and also a return to the new Town Hall scheme.

10.2. Property Services have worked with Deloitte and Gowling WLG on the conditional land contract as well inputting into the JV structure.

10.3. BNP Paribas have provided a best consideration report under s233 Town and Country Act 1990. The scope of the advice required was agreed by Deloitte, external solicitors and internal colleagues. The report provides advice on restricted value, voluntary conditions and unrestricted value of the assets included within the proposed conditional land contract. The initial findings of the report support the scheme and show that it provides best consideration based on the restricted value. The report will be reviewed by internal colleagues and then a formal application will be submitted to the Secretary of State (SOS) for consent to proceed with the conditional land agreement. The normal timeline for SOS to consider consent is around 6 weeks. The Strategic Director of Growth and Place will approve the final valuation report for best consideration. The best consideration valuation will be updated as necessary in line with recommendation 2.2.

10.4. Property Services has also assisted in the project team securing specialist advice by Deloitte to ensure VAT and SDLT tax implications on the property transactions are fully understood.

10.5. *Implications completed by Nigel Brown, Head of Asset Strategy and Property Portfolio, Commercial Team, tel. 0208 753 2835.*

11. IMPLICATIONS FOR BUSINESS

11.1. This is a significant commercial opportunity for businesses in the borough, with c.£140 million of commercial contracts expected to be available. The Local Planning Authority through the s106 agreement would 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.

11.2. The current proposals also include affordable studios and workspace which will be targeted at Small Medium Enterprises, as well as an additional 65,000 sqft of B1 office space, which will support business generally in the Hammersmith Town Centre area.

11.3. 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 and avoid empty shop fronts during construction.

11.4. *Implications verified by Albena Karameros, Programme Manager – Growth, tel. 020 793 8583.*

12. COMMERCIAL AND PROCUREMENT IMPLICATIONS

12.1. 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 statutory requirements (PCR 2015) and the Council's Contract Standing Orders (CSOs).

12.2. While the demolition contractor will be appointed by the newly formed JV, the programme delivery team and contractor for the works to the Town Hall refurbishment will be appointed by the Council in accordance with 12.1, following a regulated procurement exercise.

12.3. The £2 million decant programme providers will be appointed following compliant procurement processes, in accordance with the CSOs and PCR (2015), by calling off from compliant framework agreements or conducting open tender exercises.

12.4. A separate procurement strategy for the Town Hall refurbishment and fit out projects will need to be presented to Cabinet 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.

12.5. A waiver from the CSO requirements to seek competitive tenders was obtained at cabinet in December so as to directly award the landlords of the decant properties for furniture and fit out works. The estimated values of the direct awards is under the statutory threshold for works, £4,551,413. Therefore, a fully regulated procurement is not a statutory requirement. However, under the Council's Contract Standing Orders ("**CSOs**"), where no suitable existing contract or framework agreement can be used in respect of the required works, an open tendering procedure (i.e. without a pre-qualification stage), shall be sought.

12.6. CSOs require the use of an established framework agreement or an open tender procedure and a procurement strategy for all contracts over £100,000. These requirements can be waived by the Appropriate Persons (in this case the appropriate Cabinet Member(s) and the Leader of the Council) if they are satisfied that a waiver is justified because:

- the nature of the market for the works to be carried out, or the goods to be purchased, or the services to be provided has been investigated and is demonstrated to be such that a departure from these CSOs is justifiable; or
- the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
- the circumstances of the proposed contract are covered by legislative exemptions; or
- it is in the Council's overall interest; or
- there are other circumstances which are genuinely exceptional.

12.7. All contracts resulted from this strategy shall be placed on the Council's Contracts Register.

12.8. With regards to the establishment of the JV and the land sale, the legal advice received will be followed.

12.9. *Implications completed by: Andra Ulianov, Procurement Consultant, tel. 0208 753 2284, verified by Simon Davis, Assistant Director for Contracts and Procurement, 07920503651*

13. IT IMPLICATIONS

13.1. The decant from the Town Hall and Town Hall Extension will be enabled by the delivery of the new Desktop Strategy (Tech-tonic). 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.

13.2. This new technology will enable officers to work from any location and provide maximum flexibility to staff. The decant workspace has been designed in line with these principles of flexible and mobile working, offering a range of work settings to accommodate different workstyles enabled by the Desktop Strategy roll-out.

13.3. The new laptops replace the current end of life white boxes (VDI) and backend infrastructure. The Desktop rollout programme is coordinating its rollout with the WKSR programme, but it has a wider remit in that all staff across the estate will be moved to the new flexible working solution to minimise the on-going use of poorly performing white boxes. To meet Health and Safety requirements, the laptops need to have the capability of being connected to separate monitors, keyboards and mice. If there is a significant gap between completing the laptop rollout and moving officers to the new decant locations, then the new monitors will be installed in HTH and HTHX and these will be moved at the time of the decant.

13.4. It will be necessary to move the Council's network hub out of the 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 Town Hall.

13.5. New network connections to the decant sites will be required and termination of the circuits in the Town Hall and Town Hall Extension. Project and Network Management resources have been allocated to the project to ensure that the work is completed appropriately and in accordance with the WKSR Programme milestones.

13.6. New resilient network links will be required in the decant locations. Network links are provided by third parties and these normally take at least six months to commission and implement. IT recommend that orders are placed ahead of full approval because there is no financial cost until after the site surveys have been completed by the third party. This will reduce the elapsed time for implementation.

13.7. The migration of network links to new multiple sites will result in increased running costs compared to current costs. These costs are estimated to be up to £45k for the two proposed decant locations, plus possible additional smaller links for CCTV, Parking, Emergency Services and Careline.

13.8. As part of the relocation and building closure, there will be a considerable reduction in the level of paper records held on site. Information Asset Owners and their teams will be responsible for systematically reviewing their paper records, updating information asset registers and implementing GDPR compliant treatment of records through the decant period and as business-as-usual thereafter. This will also necessitate the completion of Data Protection Impact Assessments (DPIAs) as appropriate to ensure (a) existing records are catalogued and securely stored or destroyed in compliance with the GDPR and statutory retention periods; and (b) that appropriate assessment has been made with regard to any different working practices and record management resulting from mobile working.

13.9. *Implications completed by: Veronica Barella, Chief Information Officer, tel 020 8753 2927.*

14. RISK MANAGEMENT IMPLICATIONS

14.1. These risk implications are based on the current drafts of the legal agreements and reports received from advisers to date. Any changes to the draft agreements may change the risk implications as set out in this report. Officers will ensure that the risk implications of any changes are fully understood. There are a number of risks associated with the proposed delivery of the WKSR Programme, including the relocation of staff to alternative decant sites during the development period.

14.2. A summary of the key risks and mitigation measures for the WKSR Programme and Town Hall refurbishment set out by officers is provided below:

Risk and impact	**Mitigation measures**
Selection of the right JV model to ensure that the Council and its partners have the best possible vehicle to ensure the successful delivery of the project.	The proposed strategy for delivering the WKSR and Town Hall programme is through a 50:50 JV partnership with A2DD, for the reasons set out in the Outline Business Case.
Proposed JV arrangements are found to be in breach of Public Procurement Regulations, leading to legal challenge.	Legal advice has been provided by Gowling WLG to confirm that the arrangements can be legitimately structured as a Conditional Land Sale Agreement (CLSA) and JV Agreement, without the need for an OJEU procurement process.
A2Dominion or its development subsidiary goes into administration, meaning the scheme cannot be delivered.	The Council has commissioned a review of A2Dominion Group's financial strength, including A2Dominion Developments. A Parent Company Guarantor will also be sought for A2Dominion's and A2 Dominion Developments share of obligations under the JV agreement.
The scheme does not secure development funding and therefore cannot be delivered.	The Council and A2Dominion are reviewing a range of funding options, including use of private senior debt, Public Works Loan Board

	(PWLB) and potentially a forward funding arrangement with an institutional investor.
Brexit has a detrimental effect on the supply chain, construction workforce, interest rates, borrowing and inflation, thereby affecting scheme viability.	The Council and its partners will continue to monitor the implications of Brexit making any reasonable adjustments to the programme delivery strategy and reviewing scheme viability prior to go live.
Residential market deteriorates leading to lower sales values, thereby affecting scheme viability.	Sensitivity analysis has been undertaken as part of the business case development and both parties will continue to monitor viability.
Letting risk of the B1 Office Block affects scheme viability.	The CLSA includes the "Office Condition", which requires the grant of an underlease for the office building.
Town Hall Extension is not delivered by the JV, leading to increased costs for the Council.	Under the proposed JV arrangements, the Council can better control delivery of the scheme. Gowling WLG have also considered appropriate security packages.
Town Hall Extension and/or refurbishment construction costs increase, (for example due to heritage constraints) thereby affecting scheme viability.	The Council's cost consultant has reviewed the cost estimates provided by A2Dominion's cost consultant, Silver. The JV will seek to let fixed price construction contracts to aid cost certainty. For heritage related matters, the Council is able to rely on the consultants appointed by the JV. In addition, Currie and Brown are also advising the Council in this matter.
The Council's business resilience is compromised by the decant occurring at the same time as other major programme implementation, leading to a negative impact on the quality of services residents receive.	The WKSR Programme team will liaise with major corporate programme leads to manage risks and business resilience. Major Programmes Board to provide oversight and assurance of risk.
Protracted contract negotiations / prolongation of fit-out works cause delays to decant and subsequent	Heads of Terms and key milestones have been agreed in principle with landlords to ensure no unforeseen delays to securing and fitting out the decant accommodation.

vacant possession of the Town Hall site.	A dedicated Decant Programme Manager is overseeing the programme of work involved, reporting regularly to the WKSR Programme Board to ensure the impact of any delays can be mitigated.
Decant properties are leased to alternative tenants and no longer available to the Council.	The Council has negotiated commercially advantageous terms on the decant accommodation. Prompt legal completion of the decant accommodation is needed post Cabinet.
CCTV services, emergency services and Careline are not decanted to a new location in time for the programme deadline, leading to delays to the overall scheme.	Proposed relocation site identified and migration of services to be replanned to support overall programme timescales. Further mitigation measures to be explored as part of the decant programme.
Delay in network links to decant sites delays decant, leading to delays to the overall scheme.	Network links take six months or more to implement. Links have been pre-ordered as there is no penalty for cancelling the links if this is done ahead of actual installation.
Implementation of Desktop Strategy is impacted by delay in timing of successful decant, leading to cost increases.	New monitors, with keyboard and mice, would be implemented in HTH/HTHX if the decant is delayed. There will be additional cost of moving the monitors to decant locations, which can be accommodated within the decant budget.

14.3. 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. The financial implications section in this report identifies a number of key financial risks which will need to be closely monitored

14.4. The Strategic Outline Business Case sets out four main risks, listed below, which could significantly impact on the feasibility and affordability of the scheme. In recommending the Strategic Outline Business Case and recommendations in this report to Members, officers need to demonstrate that they have detailed plans and contingencies prepared to mitigate the risks identified or to take alternative courses of action in the event that one or more of these risks materialises.

14.5. The main risks identified in the Strategic Outline Business Case were:

- Macroeconomic factors such as an economic downturn in the housing market could result in lower sales values and a slower sale of units;
- Macroeconomic factors such as material price inflation, post-Brexit wage inflation, etc could result in an increased build cost;
- Microeconomic factors including the assessment of the value of the land “Best Consideration”; and
- Any change from previously agreed specifications during later stages of design and delivery will impact on both cost and time constraints.

14.6. The Strategic Outline Business Case also makes it clear that the Council is yet to receive a best consideration report for the value of its land and as a result, the JV Financial Model, including associated equity contributions and the ultimate profitability of the proposed delivery model, are all draft and subject to material change. Given the sensitivity of this value to the project’s viability, this poses a significant and material risk to the project.

14.7. On receipt of the best consideration report, officers, with support from external advisers will need to consider the impact on the feasibility and affordability of the programme and make appropriate recommendations to Members in terms of progressing the programme.

14.8. 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, subject to the final best consideration report, and should not be subject to procurement challenge by following the recommended course of action.

14.9. Officers will need to ensure that final legal advice in respect of ensuring compliance with state aid regulations is received in respect of the provision of development funding to the proposed JV partnership and that this advice is followed to ensure that the funding is provided in accordance with state aid compliant market terms. This will mitigate the risk of potential future challenge.

14.10. Officers will need to ensure that the remaining external reports/advice, including the final Best Consideration report, are received in advance of the final delegated decision being taken by the Chief Executive.

14.11. Officers will then need to ensure they act on all final advice/reports received when progressing the relevant transactions and provide appropriate assurances to the Chief Executive and Members that this has been done. This will mitigate the risk of challenge or potential qualification by the Council’s external auditor as part of their audit procedures.

14.12. The report identifies some uncertainty around the sources of funding, in particular the use of and collectability of CIL to fund the Town Hall refurbishment and the sensitivity analysis regarding potential JV margins which are expected to contribute to the cost of the programme. The potential impact on revenue, in terms of additional borrowing which may be required if these risks materialise, is included in the report. Ongoing reporting to Members will need to provide assurance regarding the management of these risks and any impact on the Council's financial position.

14.13. The report sets out a number of significant delegations to officers in terms of decisions required to progress the programme. Officers should ensure that all decisions are appropriately documented, retained and reported to Members to demonstrate that decisions have been taken in line with delegations granted.

14.14. 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.

14.15. *Implications validated by: David Hughes, Director of Audit, Fraud, Risk and Insurance, tel: 0207 361 2389*

15. HUMAN RESOURCES IMPLICATIONS

15.1. The Council's ***h****ello* ***f****uture* programme aims to fundamentally transform how services are delivered to residents and the way the council works. The programme is underpinned by the roll-out of new technology planned for early 2019 as part of the Tech-tonic programme; the new Integrated Business Centre (IBC) system (for finance, payroll, HR and procurement); and the refurbishment of the Town Hall to create a modern, fit-for-purpose working environment for council staff, start-up businesses and visitors, making maximum use of the space available.

15.2. The ***h****ello* ***f****uture* programme will allow staff to work from anywhere, at any time and with the environment and equipment they need to do their jobs well, whilst also ensuring that the Council makes the best use of its resources and budgets. It will enable the Council to make more flexible use of the space available, allowing it to make better and more value generating uses of assets in prime locations. Proposals in this report encourage mixed use of spaces in keeping with modern and successful organisations. This, together with the proposed decant of the Town Hall site and move to alternative office accommodation during the three to four-year development period, will have implications on staff, particularly those within scope of the decant currently based within the Town Hall, Town Hall Extension and 181 King Street.

15.3. There is a risk of increased staff turnover and sickness levels as a result of the move, as well as reduced productivity. Furthermore, the loss of on-site car parking will have implications on staff with current parking permits, including potential outcomes for custom and practice and a potential increase in grievances.

15.4. As part of the decant programme, Occupational Health are being consulted regarding new equipment to establish any potential impact on reasonable adjustments. Any reasonable adjustments required for individuals will be made and/or specialist equipment provided.

15.5. It should be noted that the Council is planning to TUPE transfer staff employed by Mitie. It is proposed that transfers may take place in March/April 2019 prior to the proposed decant from the Town Hall site. There are c.70 members of Mitie staff, subject to the sign off of due diligence.

15.6. Given that the majority of FM services (excluding cleaning and post room services) will be provided by the landlord in the proposed decant sites under the terms of the leases, fewer FM staff are likely to be required during the decant period. The implications of this are set out in paragraph 15.2 of the exempt part of the Cabinet agenda dated 3rd December 2018.

15.7. The Mitie TUPE transfers, as well as any bi-borough service restructures taking place prior to the decant, may have an impact on the overall staff numbers expected to work out of the decant accommodation. This will continue to be monitored by the Decant Programme Manager to ensure the decant accommodation provides sufficient space, in line with the proposed desk to staff ratios and agile ways of working.

15.8. *Implications validated by: Tina Dempsey, Head of People and Talent, tel 07813 146254*

16. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name and contact details of responsible officer	Department/ Location
1	West King Street Renewal Programme: Approval of Business Case and Delivery Strategy Cabinet Report – 03.12.18	David Burns	Growth Directorate

LIST OF APPENDICES

Appendix 1 – Conditional Sale of Land Plan (Open)
Appendix 2 – Exempt Financial Implications (Exempt)