

Cabinet

Date: **12 August 2024**

Time: **2.00pm**

Venue: **Council Chamber, Hove Town Hall**

Members: **Councillors:** Sankey (Chair), Taylor (Deputy Chair), Alexander, Burden, Daniel, Muten, Pumm, Robins, Rowkins and Williams

Contact: **John Peel**
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Chief Executive
Hove Town Hall
Norton Road
Hove BN3 3BQ

Date of Publication - Wednesday, 31 July 2024

AGENDA

Part One

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46 PROCEDURAL BUSINESS

- (a) **Declarations of Substitutes:** Where councillors are unable to attend a meeting, a substitute Member from the same political group may attend, speak and vote in their place for that meeting.
- (b) **Declarations of Interest:** Statements by all Members present of any personal interests in matters on the agenda, outlining the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

Note: Any item appearing in Part Two of the agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the press and public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls and on-line in the Constitution at part 7.1.

47 CHAIR'S COMMUNICATIONS

48 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:**
To receive any petitions presented by members of the public.
- (b) **Written Questions:**
To receive any questions submitted by the due date of 12 noon on the 7 August 2024.
- (c) **Deputations:**
To receive any deputations submitted by the due date of 12 noon on the 7 August 2024.

49 ISSUES RAISED BY MEMBERS

To consider the following matters raised by Members:

- (a) **Written Questions:**

To consider any written questions submitted by the due date of 12 noon on the 7 August 2024.

50 MATTERS REFERRED TO THE EXECUTIVE

51 REPRESENTATIONS FROM OPPOSITION MEMBERS

To consider representations from Opposition Group Leaders (or their nominated representative) submitted by the due date of 12 noon on the 7 August 2024.

52 MADEIRA TERRACE PROCUREMENT UPDATE

7 - 14

Contact Officer: Katharine Pearce

Tel: 01273 292553

Ward Affected: Kempton

PART TWO

53 MADEIRA TERRACE PROCUREMENT UPDATE - PART 2

15 - 22

Contact Officer: Katharine Pearce

Tel: 01273 292553

Ward Affected: Kempton

54 PART TWO PROCEEDINGS

To consider whether the items listed in Part Two of the agenda and decisions thereon should remain exempt from disclosure to the press and public.

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The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

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Further information

For further details and general enquiries about this meeting contact John Peel, (01273 291058, email john.peel@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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Brighton & Hove City Council

Cabinet

Agenda Item 52

Subject: Madeira Terrace Procurement Update

Date of meeting: 12 August 2024

Report of: Cabinet Member for Finance and City Regeneration

Contact Officer: Name: Sam Smith, Head of Regeneration
Email: sam.smith@brighton-hove.gov.uk

Ward(s) affected: All Wards

Key Decision: Yes

Reason(s) Key: Expenditure which is, or the making of savings which are, significant having regard to the expenditure of the City Council's budget, namely above £1,000,000.

For general release with Not for Publication Part 2 report.

Note: Urgency

By reason of the special circumstances below, and in accordance with section 100B(4)(b) of the 1972 Act, the Chair of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency.

Note: Reasons for urgency

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that ongoing negotiations and pricing of the contract for Madeira Terraces have required this late report. The Corporate Director cannot exercise her delegated authority to proceed with the award of the contract contemplated by this report until Cabinet agrees the recommendation in this report which is a Key Decision.

1. Purpose of the report and policy context

1.1 The history of attempts to repair and restore the Madeira Terrace since it closed in 2014 is complex. A plethora of options and configurations have been explored to find an affordable route for restoration. The former Policy & Resources Committee delegated authority to the Executive Director (now Corporate Director of City Services) in July 2021 to procure and appoint a construction partner for Phase One of the Madeira Terrace restoration.

1.2 Planning permission was granted in 2022 and the council started the second stage procurement process in December 2023 (after contractors were

shortlisted earlier in the year). This was based upon a project which was considered by the project cost consultants to be achievable for the budget allowed and included the restoration of 28 arches, a decked area, and a new lift. The number of arches to be delivered in phase 1 has changed several times to respond to the evolving design.

- 1.3 The procurement process is now ending, and the preferred bid has come in significantly over the allocated budget. Officers have been working with the project's professional team and the preferred bidder to agree a price and scope that can progress. This report, and the accompanying Part 2 report, requests agreement on a revised budget to award the contract.
- 1.4 This project aligns with the Council Plan 2023-2027, particularly Outcome 1 A city to be proud of and the commitment to 'Protect and manage Brighton & Hove's unique coastal environment and invest in the seafront'.

2. Recommendations

- 2.1 Cabinet agrees an additional £3.0m budget to be included within the general fund Capital Investment Programme to complete the Phase 1 Madeira Terrace Project.
- 2.2 Cabinet delegates authority to the Corporate Director – City Services to take all steps necessary to procure and appoint a Construction Partner for the Phase 1 Madeira Terrace Project as outlined in the body of the report.

3. Context and background information

- 3.1 The first phase of Madeira Terrace restoration aims to provide proof of concept and restore a section of the Terrace, deliver new public space for the city and de-risk future phases. This approach could help provide confidence to future funders and contractors of a solution which can conserve the Grade II* listed structure.
- 3.2 The council team has worked with a professional design team of Purcell (conservation architects), Atkins Realis (project managers), HOP (structural engineers), MGAC (cost consultants) and Stantec (mechanical engineers). The project has been developed to include 3-000 sq. metres of new event space (30% under cover), new public realm, a new 24hr public lift creating equally accessible connectivity between Madeira Drive, the deck level and Marine Parade (A259), as well as protecting the green wall behind the Terrace, a designated Local Wildlife Site.
- 3.3 There is strong public support for the restoration among city residents and businesses, as well as from heritage organisations such as Historic England and the Victorian Society. The first restoration phase of the Terrace will also provide a catalyst, in tandem with Black Rock, for the regeneration of the wider Eastern Seafront.
- 3.4 The procurement for a main contractor started in early 2023 from which contractors were shortlisted and invited to a second stage of the tender in

December 2023. In response to an evolving design and significant inflationary pressures the number of arches initially envisaged was reduced to 28 at the final tender stage. The expectation was that the scheme would be deliverable within the available budget.

- 3.5 Tender responses were received at the end of February 2024. The leading bid scored high on quality, although it came in significantly over budget. Based upon an assessment of both quality and cost a preferred bidder was identified. Detailed discussions have subsequently taken place to better understand how the bid values compare to the pre-tender cost estimates, including careful comparison of how risk has been accounted for in the pricing to ensure it is not double counted or missed off altogether. Officers have been working closely with the professional team to analyse the tenders and agree on a tender award.
- 3.6 The team also examined the cost to fulfil the commitment to the 28 arches with a reduced scope (i.e. loss of some seating, replacement of items, phased introduction of planting). The potential of removing the lift was considered, however this was disregarded as improved access for all to the eastern seafront is a key element of the project. It would also require a material change to the planning permission (with a new application). The associated timescale would also prevent the ability to achieve costs at current prices. The lift is key to providing vertical connectivity on the eastern seafront between the A259 and Madeira Drive, which has been a particular issue since the Shelter Hall/Concorde 2 lift ceased operation in 2022.
- 3.7 Some cost savings have been found through value engineering and scope reduction, and the proposal is to raise the budget to make 28 arches, including the lift, deliverable. If these changes and a final contract price cannot be agreed, there is a risk that the council will not be able to enter contract with the preferred bidder. Value engineering and scope reduction changes are set out below:
- Amended concrete deck deconstruction methodology (streamlines dismantling into a single operation)
 - Replacing cast iron facing plate to edge beam with mild steel (concealed behind guttering, facing to new mild steel beam)
 - Gutters fabricated in mild steel and not cast iron (consistent with approach previously adopted on the Terrace replacing heavy and brittle cast iron gutters with a lighter material)
 - Fixed cost for cast iron repairs (advanced works have provided confidence in supply chain to operate to a fixed cost and improving workflow)
 - Paint system change away from a licensed applicator model (permit single supplier for cast iron repair and paint application improving workflow and logistics)
 - Remove benches below deck (integrated wall benches retained)
 - Remove deck planters and back-to-back seating (provides more flexibility of use along the covered walkway)

- 3.8 Additional sources of funding continue to be sought. An application has been submitted to Historic England for a grant. This grant is available for heritage assets on their 'at risk' register, such as the Terrace. Initial feedback on the bid has been positive though the outcome cannot be guaranteed.
- 3.9 Under the JCT Building Contract 2016 there is no mechanism to hold risks that could increase costs jointly outside the contract. Therefore, the contractor will include the risks they hold their pricing schedule, and therefore their risk provision remains a part of the overall contract sum.
- 3.10 The council has made financial provision if some cast iron requires recasting rather than repairing. Repair of cast iron on this scale is an innovative approach that will significantly reduce carbon emissions, whilst retaining the original fabric of this important heritage asset. The tensile tests to date and the reporting from the Conservation Engineers, Morton Partnership, all support the strategy of repair for the Terrace. CIWS (the sub-contractor responsible for repairs) also supports this approach. Recasting is therefore considered not to be a likely or common occurrence. However, a large sum remains in the event of this being required.
- 3.11 Whilst this approach reduces risk, it is important to acknowledge there is still risk involved in the project; it is a heritage restoration of a complex and unique structure. The condition of the cast iron may vary across different sections of the Terrace, and ground conditions are not known in all locations of the first phase restoration.

4. Analysis and consideration of alternative options

- 4.1 Three alternative options have been assessed:

Alternative option 1 - Award with different scope that is within the previous budget

- 4.2 This option has been extensively investigated; however, it would significantly reduce the number of arches that could be delivered. Any reduction is not pro-rata for a number of reasons i.e. half the money does not deliver half the number of arches. This disproportionate effect is driven by the following contributory factors:
- Fixed costs such as the lift and patterns for the cast iron
 - Funding reductions from Transport and other partners
 - Requirement for additional design work that will incur fees and most importantly take time
 - The additional time to undertake further design work would increase tender prices.
 - Loss of economies of scale
- 4.3 It is also worth noting that this option creates more financial risk to the Council for significantly deviating from the tendered scope of works. This option would also compromise future funding bids for adjacent phases. It

has therefore not proposed to pursue this option as it would not demonstrate good value for money and increases risks.

Alternative option 2 - Re-procure with different scope

- 4.4 A re-tender of the existing project could prove costly and is likely to take a minimum of 8 months. Inflation could also result in a higher cost per arch than that set out by the preferred supplier at present.

Alternative option 3 – Delay or stop

- 4.5 Halting the project at this stage also has implications for the council. This is due to the sunk costs to date, the loss of possible future funding (HE and NHLF and Private Sector) and the reputational damage which could impact the capacity to bid for future funding. The Terrace also remains on the National Heritage at Risk Register with evidenced structural problems for which the council remain liable.
- 4.6 Do nothing is not an option for the retaining wall for the A259 and will shortly require works. By not proceeding at this time, it will also jeopardise future phases. This first phase is intended to provide vital information to refine the design approach and enable risks to be better understood. Risks that are better understood can be managed on future phases to reduce costs.
- 4.7 The project could be put on hold or stopped, however there are significant risks with a further delay including, increasing market uncertainty/lack of confidence, additional costs to update key reports/investigations, potential for planning permission to expire (two years remain), reputational damage, concern of national heritage bodies and further costs associated with a managed decline.

5. Community engagement and consultation

- 5.1 The Madeira Terrace restoration project is borne out of an energised community passionate about bringing the Terrace back into reuse. This is evidenced by the impressive crowdfunding initiative that is contributing almost £0.5M to the project's delivery. As such, engagement with the community has been central to the evolution of the project.
- 5.2 From an early stage an Advisory Panel was established to help guide the project. The panel is constituted of committed individuals that together provide a voice for local residents, businesses, and organisations. They have helped influence many aspects of the design, from phasing of the project, to elevating the status of the greenwall.
- 5.3 An extensive public consultation was undertaken over two days prior to the submission of the planning application. These events were well attended, and the constructive feedback received, helped shape the proposals as they appear today. Of significant note is the redesign of the new fully accessible lift that followed feedback. The Southeast Design Review Panel were engaged as a critical friend to refine this important aspect of the scheme.

- 5.4 Engagement will continue to be an important part of the project going forward. This will include keeping local residents and businesses informed of progress and attending forums to maintain an active dialogue. A key focus of the project team is to bring more young voices into the conversation – one such initiative has involved students using the Terrace for one of their design projects. They have produced some excellent presentations that it is hoped can be shared shortly - a further indication of the interest and pride people have in the Terrace.

6. Financial implications

- 6.1 The Madeira Terrace project is to be funded through a combination of corporate funding, capital borrowing, Carbon Neutral Fund contributions, Local Transport Plan capital contributions, crowdfunding donations and bequests and grant contributions from Historic England.
- 6.2 The full year effect of the currently approved borrowing of up to £9.235m will require annual repayments of £393,700. The Carbon Neutral Funding (CNF) of £300,000 would be paid back over 15 years (in line with all Carbon Neutral Fund projects) at a projected cost of £26,000 per annum. Both costs have been built into the Council's Financing Costs budget. The total annual cost of the total project borrowing will therefore be £419,700 pa for the first 15 years and reduce to £393,300 once the CNF costs are paid off. This assumes current interest rates will settle at an average of 3.5% with the main capital borrowing repaid over a 50-year period.
- 6.3 The financing costs to meet the additional £3.0m borrowing will be £127,900 based on a 50-year repayment at an estimated 3.5% interest rate. This will be built into the Medium-Term Financial Strategy. The borrowing costs repayments will be included in the financial year that the asset is completed.

Name of finance officer consulted: Rob Allen Date consulted: 24/05/24

7. Legal implications

- 7.1 These are set out within the Part 2 report.

Name of lawyer: Siobhan Fry

Date: 30/7/2024

8. Equalities implications

- 8.1 Access is one of three cornerstones of the restoration design approach to Madeira Terrace. Step free access forms a key part of the strategic approach to the whole structure. Phase 1 aspires to introduce a new increased capacity lift close to Royal Crescent steps.

9. Sustainability implications

- 9.1 A sustainable future for the whole of Madeira Terrace is at the heart of the

restoration intention, all design interventions seek to low carbon/carbon neutral options and Circular Economy principles adopted and integrated where feasible & practical. Carbon Neutral Funds amounting to £300,000 have been invested into the project to promote low carbon options for repair and restoration of the heritage materials.

10. Health and Wellbeing Implications

- 10.1 A key ambition for the Madeira Terrace Restoration Phase 1 delivery team is to see the Terrace used as a year-round place for local people, sustainable tourism, leisure, recreation and culture. A core focus of the project is to enable greater access for all to the Eastern Seafront by providing step free access to tie in with existing pedestrian facilities on Marine Parade.

11. Procurement implications

- 11.1 Procurement advice is that the project team should proceed with caution to ensure all matters are revised and detailed account is taken of all value engineered elements before the award. This is because value engineering alters the tender submission and the contract sum.
- 11.2 Value for money is complex to assess, however the recommendation to proceed with the full scheme (28 arches) offers better value than a truncated scheme with fewer arches. A detailed pre-tender cost estimate was prepared prior to issuing the tender documentation. This has proved an invaluable tool to aid discussions with the preferred bidder.

12. Crime & disorder implications

- 12.1 The project provides an opportunity to improve and regenerate the eastern seafront and positively influence the rate of crime and disorder as well as the quality of life for residents and visitors.

13. Conclusion

- 13.1 Work on the restoration of Madeira Terrace has been in high public demand since the Terrace closed to public access in 2014.
- 13.2 Agreeing to the increased budget to enable the contract to be awarded for the current scheme provides the best opportunity to progress the project, following at least ten years of options being considered to enable restoration to begin. This first phased of work will help demonstrate proof of concept and increase the potential for successful funding bids for future phases of the restoration.

Document is Restricted

