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| Subject: | Brighton i360 | | |
| Date of Meeting: | 6 March 2014 | | |
| Report of: | Executive Director, Finance & Resources Executive Director, Environment Development & Housing | | |
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| Ward(s) affected: | Regency/ALL | | |

Note: The special circumstances for non-compliance with Council Procedure Rule 23, Access to Information Rule 5 and Section 100B (4) of the Local Government Act as amended (items not considered unless the agenda is open to inspection at least five days in advance of the meeting), are that officers were unable to complete the review of draft documentation and consideration of the financial and legal implications of the recommendations until the 28th February.

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report seeks agreement for an increase in loan financing from that agreed by the council in July 2012 to enable the Brighton i360 to commence construction and spur the wider renewal and regeneration of the city's seafront.

2. RECOMMENDATIONS:

- 2.1 To agree that Option A referred to in this report is the preferred option, so that the Council will borrow from the Public Works Loan Board (PWLb) and lend a further £21.4M to Brighton i-360 Ltd in addition to the £14.8M agreed in July 2012.
- 2.2 To authorise the Executive Directors of Finance & Resources and Environment, Development & Housing, after consultation with the Chair of Policy and Resources Committee, to finalise the revised terms and enter into the proposed loan agreement with Brighton i360 Ltd with a target of financial close by May 2014 and to take all steps necessary or incidental to the completion and implementation of the agreement.
- 2.3 To authorise the Head of Legal and Democratic Services to complete all necessary documentation and take all necessary action to effect completion of the proposed loan agreement.

- 2.4 To approve the inclusion of the loan agreement to Brighton i360 Ltd in the Capital Resources and Capital Investment Programme 2014/15 (and the following two years' capital programmes) to be funded through unsupported borrowing.
- 2.5 Allocate resources generated by the i360 towards reinvestment in the wider development of the seafront and its infrastructure.

3. BACKGROUND

3.1 In July 2012, Policy and Resources Committee authorised officers to finalise terms and enter into a loan agreement with Brighton i360 Ltd. This was on the basis that the council, as the senior lending partner provided £14.8m to the project alongside investment from other partners as set out in Table 1 below.

3.2 Table 1: i360 Project Financing July 2012

| | Senior Loan Finance | Equity Finance | Total |
|----------------------------------------------------|---------------------|----------------|--------|
| BHCC (through the Public Works Loans Board - PWLB) | £14.8m | | £14.8m |
| Marks Barfield | | £6.0m | £6.0m |
| Coast to Capital LEP | £3.0m | | £3.0m |
| Equity Partner | | £15.0m | £15.0m |
| Total | £17.8m | £21.0m | £38.8m |

- 3.3 At the end of November 2012, Marks Barfield were informed that their principal equity partner could no longer commit to the project. Council officers and Coast to Capital LEP agreed to provide time and advisory support to Marks Barfield and their financial advisors to secure a replacement investor.
- 3.4 As reported to Economic Development & Culture Committee in September 2013, a number of alternative leisure equity investors expressed considerable interest in the project. However, in the current economic climate, equity investors (specialising in leisure and tourism) have considerable choice in terms of shorter loan term periods and potentially higher returns than the i360 project. Consequently, without a council underwrite, an equity funding partner has not been secured. Marks Barfield, Coast to Capital LEP and their respective financial advisors remain committed to the project and alongside council officers have been active in exploring alternative financing options.
- 3.5 For the project to go forward in 2014, a deliverable funding solution would need to be found by the end of the current financial year. This would allow a start on site in spring 2014, and an opening in spring 2016 in time for the commencement of the peak visitor season.

New Funding Options

- 3.6 Three revised funding options emerged since September 2013 and these are set out below:

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| Option A Preferred | Increased PWLB & Coast to Capital LEP 'Growing Places' Loan Funding To significantly increase the senior loan made by the council and the length of the loan to 27 years. The LEP remain fully behind the project and are prepared to treat their funding as junior to the council loan for a higher return and to increase their loan. |
| Advantages | <ul style="list-style-type: none"> • The amounts received by the council in terms of the one-off arrangement, commitment fees, annual risk margin on the loan are commensurate with the risk associated with the larger loan and the longer period of the loan. • With this option, the council does not take any interest rate risk and by borrowing from the PWLB accesses the cheapest form of loan finance available. • The council as senior lender has first call on the assets and can exercise step in rights should the project be significantly less successful than anticipated. • This option affords the lowest risk of a state aid challenge. • The council receives 50% of any surplus in order to repay debt early if the attraction does better than expected. • There is an option for early refinancing should the i360 be more successful than anticipated. The council would be compensated for loss of margin on commercial terms and would benefit from an annual increase in the percentage of the ticket income from 1% to 2.5% which would continue for the life of the attraction. |
| Risks | <ul style="list-style-type: none"> • There is increased risk to the council because the loan is larger, for a longer period of time and the finance at greater risk than the council's loan (i.e. the equity and junior debt) is smaller. However, the project can still afford to make the payments due to the council in full with a 40% reduction in the anticipated (Base Case) visitor numbers. |

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| Option B | Underwritten Pension Fund Annuity Funding & Increased Coast to Capital LEP 'Growing Places' Loan Funding Corporate Pension Funds providing the funding (for a minimum period of 35 years) with the council acting as guarantor. |
| Advantages | <ul style="list-style-type: none"> • Option B provides the highest payments to the council because the annual risk margin payments are indexed to inflation rather than a fixed amount as in option A and the payments are over a longer period. |
| Risks | <ul style="list-style-type: none"> • Option B presents a range of tax issues that make the structure overly complex, restrictive and the financing more expensive. • Payments to the Pension Fund are linked to RPI which is an unknown variable adding to risk which together with the more expensive borrowing puts a greater overall strain on the finances of the project. Therefore the risk is increased that the council would receive insufficient income if visitor numbers are far lower than anticipated compared to option A. • The agreement with the Pension Fund would be fixed for the period of the loan and could not be refinanced. • Option B has a slightly higher risk of challenge under state aid. |

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| Option C | BHCC Underwritten Private Bank Loan Financing The council underwrites the visitor numbers for a period of time until the project can be re-financed providing certainty for a bank to provide the loan finance in the interim. |
| Advantages | <ul style="list-style-type: none"> • The risk could be lower than option A and for a much shorter period assuming the project is successful. |

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| Risks | <ul style="list-style-type: none"> • The payments to the council for risk guarantee are the lowest of the 3 options and are for a potentially much shorter period. • The council will not receive arrangement and commitment fees. • There is a higher risk of state aid challenge because the benefits to the council are lower. • The bank will have first call on the assets and step in rights should the project be significantly less successful than anticipated. • The borrowing costs are likely to be higher than option A. |
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Business Case Considerations – Preferred Option A

3.7 From the table above the balance of risk and return and the added flexibility make Option A the preferred option. By pursuing Option A, the proposed senior loan from the council is £36.2m which represents 78% of the total revised costs of the project. The period of the proposed loan is 27 years, approximately half the expected life of the i360 of at least 50 years.

Table 2: i360 Project Financing December 2013

| | Senior Loan Finance | Equity Finance & Junior Loan | Total |
|----------------------|---------------------|------------------------------|--------|
| BHCC | £36.2m | | £36.2m |
| Marks Barfield | | £6.0m | £6.0m |
| Coast to Capital LEP | | £4.0m | £4.0m |
| Equity Partner | | | n.a. |
| Total | £36.2m | £10.0m | £46.2m |

3.8 A table showing a breakdown of the increase in project costs since the July 2012 report is shown at paragraph 7.5.

3.9 The i360 remains a priority investment for the Coast to Capital LEP. It meets its criteria for moving ahead swiftly and thereby having a direct economic benefit in the short to medium term and the project is also included within their draft Strategic Economic Plan. The LEP have converted their initial £3m senior loan to a £4m junior loan. They have also now agreed Heads of Terms for the loan with Marks Barfield and the council. Final determination was agreed at their Infrastructure Meeting on 27th February 2014.

Benefits for the City Council of pursuing option A.

3.10 Pursuing Option A offers the following benefits for the city council:

- The council would receive £0.985m per annum for 25 years in a fixed risk premium to reflect the commercial nature of the loan, £0.060m uplift in business rates and £0.070m in Section 106 payments. The fixed risk premium equates to £21.2m in total at today's prices.
- The council would receive a further £1.1m in one-off arrangement and commitment fees.
- A significant increase is expected of up to £0.3m per annum in the current £1.0m income per annum from Regency Square car park.
- Increased income is also expected from council owned Seafront properties

- The i360 would act as a catalyst for new businesses in the area generating increased business rate income e.g. Preston Street.
 - The council would receive 50% of any surplus created if the attraction does better than expected in order to repay debt early.
 - There is an option for early refinancing should the i360 be more successful than anticipated. The council would be compensated for the loss of margin on commercial terms and will benefit from an annual increase in the percentage of the ticket income from 1% to 2.5% (which would continue for the life of the attraction).
- 3.11 A key benefit of the revised funding proposal is the opportunity for the i360 to act as a catalyst for the wider renewal and regeneration of the city's seafront. The new revenue stream secured of £1.1m per annum, plus additional parking income and business rate revenue would place the city council in a better position to address urgent and essential maintenance and repair works to the Seafront infrastructure as outlined in paragraphs 3.24 to 3.27 below.

Wider economic and regeneration benefits to the City

- 3.12 The West Pier site is located in a part of the city which has long been recognised as in need of renewal. The final regeneration of the West Pier site and delivery of i360 will be hugely beneficial for the existing businesses in Preston Street and along the Seafront as well as the many small and large hotels which rely upon tourism for their income. It is estimated that the i360 will attract 700,000 to 750,000 visitors in a stable year, including an increase of new visitors to the city of 165,000-305,000. These additional visitors to this part of the city will encourage new businesses to set up which will have knock-on positive benefits in the wider area.
- 3.13 The Seafront is regarded as of vital importance to the tourism industry and plays a major role in attracting business visitors and the promotion of the wider city region. The i360 will support the delivery of an estimated 25 of the 35 key objectives within the draft Seafront Strategy including making best use of the remaining seafront development sites and ensuring they deliver balanced, high quality development which meet the needs and aspirations of the city.
- 3.14 The i360 will generate activity all year round, providing new impetus and support for retail, catering, and hotels by attracting an estimated 27,000 to 49,000 additional overnight visitors to the city. Overnight visitors spend 8 times more than day visitors and it is estimated this new additional spending alone will create a potential 52 new jobs.
- 3.15 The i360 will act as a focal point around which other businesses can begin to thrive and this in turn will support growth for the city's tourism economy. The overall job impact of regeneration proposals can depend upon a number of variables, but has been calculated as delivering from 169 full time equivalent jobs (excluding jobs created by additional tourism income) to a maximum of 440 jobs, if jobs created by wider additional tourism spend (of between £13.9m to £25.4m per annum) are included.
- 3.16 In summary, the economic and regeneration benefits of the Brighton i360 will:

- Provide a high-quality visitor attraction for an estimated 700,000 -750,000 people each year, making it the most visited paid for attraction in Brighton and Hove;
- Draw additional investment into its immediate vicinity acting as a catalyst for regeneration of the Seafront;
- Offer spin-off benefits to the local economy by attracting between 165,000 to 305,000 additional visitors to Brighton & Hove, representing a 2% to 3.6% increase in visitor numbers;
- Increase tourist revenue by between £13.9 million to £25.4 million per annum from year 1 onwards;
- Help deliver high value overnight stays worth eight times more to the local economy than day visitors;
- Help deliver high value business tourism visitors - conference delegates spend on average 2.5 times as much as leisure visitors;
- Operate all year round, helping to even out fluctuations in tourism revenue;
- Raise Brighton & Hove's profile as a vibrant, modern city;
- Help to deliver the vision of the draft Seafront Strategy to “.....create attractive, sustainable, high quality environments for residents, businesses and visitors throughout the year”.

Community benefit package

3.17 The developers have also committed to a number of community benefits. These include:

- Percentage of ticket revenue in perpetuity to the city council to be used for community benefit.
- Discounts for local residents (except peak season).
- Free entry for Brighton & Hove state schools to ensure that every child can visit once during their school career.
- An allocation of free tickets for local charities and community groups.
- Percentage of revenues to West Pier Trust for heritage works.

Ticket Pricing

3.18 Ticket pricing has been set by drawing upon comparable attraction pricing and research conducted by MSB Consultancy to produce a lead admission price of £14.00 by today's values (£15.00 for adults in 2016 values rounded or £12.50 exclusive of VAT). This price is comparable with local and benchmarked attractions. Children under 5 will not be charged and a range of concessionary prices for groups and pre-booked tickets will apply, including the discounts outlined above.

| 2014 Admission price at relevant attractions | Adult £ | Child £ |
|-----------------------------------------------------------|----------------|----------------|
| London Eye | 19.20 | 12.30 |
| Blackpool Tower Eye | 12.95 | 9.95 |
| Spinnaker Tower | 8.55 | 6.75 |
| Brighton Sealife Centre | 17.40 | 17.40 |
| Brighton i360 | 14.00 | 7.00 |
| Brighton Royal Pavilion (from 1 st April 2014) | 11.00 | 5.90 |

MANAGING RISK TO THE COUNCIL

3.19 As part of the further due diligence work undertaken since September 2013, the underlying business case for the project has been re-reviewed and audited by D and J International Consulting. Risk to the council has also been mitigated in the following ways:

- Independent commercial legal advice to ensure the council's interests as senior lender are fully protected.
- Independent auditing of the financial modelling to ensure this is of industry standard and all assumptions are correctly catered for within the model.
- Technical monitoring and due diligence from Gardiner & Theobald, a world renowned company who specialise in independent checks and oversight for major government departments and agencies as well as the banking sector.
- A separate and independent due diligence on the part of the Coast to Capital Local Enterprise Partnership.
- Financial advice from GVA, advisers to many public sector clients including Croydon Council and others, providing expertise in brokering partnership agreements between the private and public sectors.
- Independent review of visitor numbers from Aecom (2011) in terms of comparator attractions in the UK and worldwide as well as the methodology for assessing visitor projections.
- Fixed price contracts with lead contractors, built in contingencies and cost over run guarantee of £1m.
- An established team with a proven track record to deliver the Brighton i360.
- The Council and the LEP will also be represented on the Board of Brighton i360.

3.20 With regard to the council's position, the preferred option increases the council's exposure from £14.8m to £36.2m. Hence the business case has also been further evaluated taking into account a range of key factors. These include the construction risks, projected income earning performance, management and maintenance, and also the wider economic implications and investment opportunities for the city's seafront.

These headline risks are mitigated in the following ways:

| Risk | Mitigation |
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| <p>Construction risk.</p> <p>Risk that the construction does not complete to timetable and runs over budget</p> | <ul style="list-style-type: none"> • Gardiner and Theobald (G&T) will act as the Technical Monitor for the project and their remit is to ensure that risk mitigation in relation to the construction process has been properly addressed. Before final contract signature a thorough due diligence process and review of contractual terms and costs will be finally completed. Throughout the construction process a formal monitoring process will also be set up which will inform contract payments to Brighton i360, to be released only after sign off by G&T. G&T's responsibility is to ensure that all aspects of cost and technical risk on the project are adequately managed. Sign off by G&T will be a Condition Precedent to the final loan agreement. The council has already worked with G&T and they are familiar with the project to date. Fixed Price Contracts will be in place with each contractor and the lead |

| Risk | Mitigation |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Proven technology and design risk | <p>contractor, will be taking overall cost risk allowing little scope for variation. As well as contingencies within the budget, David & Julia Marks have also provided a £1m fund to call upon should costs overrun.</p> <ul style="list-style-type: none"> • Brighton i360 is an innovative design but uses tried and tested technology. Built by one of Europe's leading steel manufacturers the tower follows standard construction for the modern design of tubular steel wind turbine towers. • The pod, built by POMA (who also built the London Eye pods) is driven by tried and tested cable car technology. • Ground conditions have already been subject to significant testing with on-site boreholes. • The design and construction team for the i360 project have worldwide experience in design and engineering. The design proposals are well developed and are being signed off on behalf of the council as part of the due diligence from G&T. • G&T are a world renowned company with involvement in a number of high level infrastructure projects in the UK and abroad including: Cross Rail, London Olympic Stadium Legacy Conversion, Greenwich Peninsula Regeneration, Great Ormond Street Hospital and heritage projects such as the Cutty Sark Conservation Project. |
| Risk that income projections fall | <ul style="list-style-type: none"> • The projected visitor numbers and visitor pricing level are fundamental to the business case and have remained robust over the life of the project. Updated visitor numbers (December 2013) have been supplied as part of the overall refresh of the Business Case and these are accompanied by latest pricing figures. Appendix 1 (D&J International Consulting – Brighton i360 Business Review) contains latest information on visitor numbers and methodology. Appendix 10 [Part 2] contains information on all revenues including catering, ticketing, merchandising and other income streams, all of which have been updated since July 2012. • It is also important to note that the Business Case for i360 relies upon several sources of funding in addition to ticketing receipts. A significant guaranteed annual rental per annum from a catering concessionaire, income from the hire of the pod for events, retail spending, package deal commissions, and sponsorship all contribute to revenue streams. These have been carefully reviewed as part of the due diligence process by council officers and officers at the Local Enterprise Partnership. LEP members are experienced business leaders in their own right and accustomed to reviewing business proposals from an industry perspective. • The project is able to continue to operate and pay the council both the margin <u>and</u> the amount due to the PWLB even if visitor numbers are 40% less than anticipated. There would be sufficient money to pay the PWLB even if visitor numbers were 55% less than anticipated. • Project reserves will also be set aside to provide a buffer should income for any reason in future years not be as high as anticipated. • If the i360 does better than expected then the additional cash will be swept into a reserve and the council will receive 50% of this cash |

| Risk | Mitigation |
|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>reserve as an early debt repayment. Using the PWLB funding option also enables the project to be refinanced early using private sector finance. Also, the draft loan agreement contains protection clauses providing for the financial protection of the council should this opportunity arise.</p> |
| <p>Risk to management and maintenance</p> | <ul style="list-style-type: none"> • Life Cycle (long term) and day to day maintenance costs are built into the business plan costings. Operational Expenditure to replace capital items, fit out and systems elements has been calculated at 5% (equivalent to £38,000 per annum). A maintenance contract will be entered into with POMA the manufacturer of the pod. POMA are a well established international company and will have contractual obligations in relation to ongoing maintenance requirements. • A “Term Service Contract Agreement” with POMA will also require 98% of planned operating time to be made available in any one calendar month. A Maintenance Reserve Account will also be formed as a condition of the loan with the council. This will serve to ensure a secure funding mechanism for maintenance remains in place for the period of the loan. • The design life of the i360 is presently set at 50 years for the purposes of all contract documentation. This is a design life, and therefore it is expected that if the attraction continues to perform well its lifespan can exceed this. All moving parts and structural components are capable of replenishment. |
| <p>PWLB Loan Funding Risk – Interest rate risk</p> | <p>The financial implications for the council are set out elsewhere in this report.</p> <ul style="list-style-type: none"> • Equity and junior loan funding will be used to fund the capital costs prior to the senior loan being called upon. The council will then enter into a number of fixed rate loans from the PWLB to meet the expenditure incurred as and when it is approved by an independent surveyor employed by the council. The council will be reimbursed the costs of the actual loans entered into and therefore will not take any interest rate risk. |
| <p>State Aid</p> | <ul style="list-style-type: none"> • To ensure state aid compliance the loan from the council must be at a market interest rate and be subject to a suite of terms and conditions which do not offer any more favourable terms than those offered by a commercial lender. The council is working with legal advisers Osborne Clark to ensure it maximises the commercial nature of the deal and therefore mitigates this specific risk. Final terms will be negotiated which balance this risk with the overall requirements of the project, with comparator projects also used to limit any possibility of meaningful challenge of the final terms. |

Risk and Opportunity Register

- 3.21 The key risks are outlined in the main body of the report. Appendix 4 also itemises all the areas of due diligence.
- 3.22 Council officers have also updated the Risk and Opportunity register for the project which is attached as a Part 2 Appendix 11 and applies the council’s approved Risk Management Strategy methodology.
- 3.23 It should also be noted that the Seafront Structures are an item on the council’s Strategic Risk Register.

Generating new income to invest in Seafront renewal

- 3.24 The Seafront anchors our economic, cultural and community identity and well-being and is a symbol of our city's confidence. The preferred funding option generates an anticipated revenue stream for the city council of £1.1m per annum for 25 years which can be used to help finance essential capital investment in wider Seafront renewal. Much of the Seafront is currently in a fragile condition and in need of repair and urgently requires a programme of major renewal and sustained investment.
- 3.25 The overall condition of the seafront structures, which support the A259 road and upper promenade, has been gradually declining over many years. The majority are over 100 years old and are at or beyond their serviceable life. Current estimates indicate that approximately £70 million worth of investment could be required to repair and strengthen all the arch structures, other structural items such as retaining walls, and Seafront railings.
- 3.26 Current examples of restoration work include the reconstruction of the arch structures that are located either side of the i360 site (programmed to link with the i360), and the need to close and undertake urgent structural work to the former Shelter Hall at the junction of the A259 and West Street. The most recent example (December 2013) is the need for closure of sections of the Madeira Terraces which are no longer considered suitable for public access and will require very significant expenditure to resolve.
- 3.27 These examples demonstrate that failure to invest at an appropriate level in our Seafront infrastructure results in lost business opportunities, potential closure for occupiers and members of the public, reduction in the level of rent attainable from existing premises and a potentially further blighted Seafront in future years. Areas of boarded up shop fronts or fenced off closures will become more commonplace without the right investment.

Project Plan - Timescales

- 3.28 A timetable for financial close and public opening of the i360 has been agreed by all the parties and is attached as Appendix 2. A Financial Close by May 2014 should lead to a planned site commencement date in June 2014 and an opening to the public in June 2016. In the event of the Committee agreeing the recommendations, a letter of intent will be issued to the main contractor to allow for final detailed design to commence *before* financial close is achieved in May 2014. Although this will attract a cost for the developer (estimated to be in the region of £100k) it will ensure site commencement in June 2014, which in turn will allow for an opening to the public in June 2016.

Monitoring and reporting

- 3.29 Policy and Resources will be provided with regular TBM monitoring reports on construction progress based upon reporting from the council's own technical monitor Gardiner and Theobald. General progress reports post opening will also be reported as part of TBM reporting. In addition, project updates will be given to the Economic Development and Culture Committee as part of the regular Major Projects Update reports to each meeting of that committee.

Audit

- 3.30 A report on the original loan structure was considered by the Audit and Standards Committee on 26 June 2012. This set out the approach being taken to risk management and due diligence and set out the assurance role for Internal Audit over the project. The revised project will continue to be overseen by Internal Audit who will undertake more work leading up to Financial Close in May 2014. Internal audits will then be scheduled throughout the project lifecycle.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Officers together with the Coast to Capital LEP and expert financial advisers have considered a range of options that might enable funding to be raised to allow the i360 project to move forward and these are set out in the main body of the report.
- 4.2 At present no alternative preferred funding options have been identified, other than those explored in paragraph 3.6 above.
- 4.3 If the council determine not to proceed, it is likely that the starting date would continue to remain uncertain until the economic recovery allows new investors to be secured. As a consequence the West Pier site could remain sterilised for the foreseeable future with consequences for the vitality of the seafront which anchors the city's visitor and tourism economy.
- 4.4 Implications of a further delay to the development, might include:
- Higher project financing costs.
 - Increased construction costs.
 - Deferred/loss of, future income to the city council.
 - No new "investment pot" to protect seafront infrastructure and to protect and grow business and investment income for future years.
 - Loss of business rates income.
 - Loss of funds to implement permanent landscaping scheme.
 - Existing scarce resources have to be re-prioritised from current and future revenue and capital service budgets.

Wider Implications of not proceeding

- 4.5 If the council were to consider not proceeding with the i360 project for the foreseeable future there would be significant implications for the Seafront, for the city and also for the owners of the site, the West Pier Trust. These impacts are listed more fully in Appendix 8 but would include:
- The Seafront, as the shop window of the city, and a key economic driver for tourism, remains blighted by a derelict site at its centre and all that this entails in terms of image, income and amenity issues.
 - Resolution of the site remains uncertain, and the council is faced with the possibility of having to manage this decline. Urgent maintenance works to the derelict arches are still required and also works to the root end of the West Pier (owned by the West Pier Trust).

- There is an adverse impact upon Seafront businesses due to exposure to closure and/or business interruption. The former Shelter Hall at West Street and Madeira Terraces are recent illustrations of the impact of closure and costs associated.
- The loss of circa 700-735,000 visitors to the western seafront area impacts upon the ability to create thriving new business's here, particularly within the western arches.
- Seafront landscaping remains unresolved for the old boating lake (west of the site) and paddling pool area (east of the site). There is a risk of potential closure of the section of Upper Promenade above the redundant arches in the future if they are not able to be restored. The cost for this would most likely be required from council budgets instead of being funded as part of the i360 overall building works.

5. COMMUNITY ENGAGEMENT & CONSULTATION

Business Consultation

- 5.1 Marks Barfield Architects remain active in the city and have attended many business events to provide talks and information about the i360 project. The Economic Partnership and the business community in general remain very supportive of the i360 proposals. Many businesses will derive a direct economic benefit from the presence of the i360, and these include the businesses in Preston Street and the immediate surrounding area as well as hotels and other tourism related businesses who will see a direct benefit from the additional estimated 165,000 – 305,000 new visitors each year and the increase in higher spending overnight visitors.

Pre-Construction

- 5.2 Marks Barfield have continued to work behind the scenes whilst funding is secured to ensure that all licences and permissions are in place to achieve a start on site within weeks should a funding resolution be secured (Appendix 9). Consultation will continue with all businesses affected by the construction process including with the council team in relation to proposals for sections of the i360 tower to be delivered by sea. Discussions relating to future works such as installation of the temporary beach access road and ongoing arches re-instatement works will continue up to and including a start on site.

6. CONCLUSION

- 6.1 Alternative funding options have been fully explored by all parties but at the present time no alternative option is available to enable a start on site in 2014.
- 6.2 It is judged that an alternative quality project would take several years to put in place taking into account scheme design, public consultation and a planning process. A new proposal would in all likelihood still need to address a potential private-public funding arrangement. Were an alternative future scheme to be achieved, the council will still be faced with having to find a resolution to the derelict arches and Seafront landscaping, potentially from its General Fund. There are no cheap or short term options for this challenging Seafront site.

- 6.3 A 'do-nothing' option has considerable negative reputational, physical and financial impacts on the city long term and the regeneration, business uplift and job impacts will not occur. The current proposal meets important objectives for the city that are included within the Economic, Tourism and draft Seafront Strategies.
- 6.4 There remains a serious underfunding of Seafront Infrastructure which sits on the council's Strategic Risk Register and which this proposal could assist with resolving.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications

- 7.1 The council can undertake borrowing under the prudential regime if the loan repayments are affordable. The i360 is projected to generate a net income stream that is sufficient to cover the Public Works Loans Board (PWLB) borrowing costs approximately 3 times over and therefore meets the affordability test. The loan to the i360 must be on commercial terms and principally to achieve this the council will receive a margin over and above the cost of borrowing from the PWLB.
- 7.2 As the loan is self financing it does not limit the council in terms of other investment decisions such as providing new school places and in fact provides a significant new net income stream which Members can decide how to use. Earmarking this income for investment in essential works to the Seafront means that existing scarce resources do not have to be re-prioritised from current and future revenue and capital service budgets.
- 7.3 The proposal does not come without risk but everything has been done to mitigate those risks and thorough due diligence has been carried out on the business case and the supporting financial model has been subject to independent checks.
- 7.4 All the external costs incurred by the council of developing the funding arrangements of this project to date and in the future have and will be met in full by the developer.

Cost of the scheme

- 7.5 The total cost of the scheme is £46.2m an increase of £7.4m in the 18 months since the July 2012 report. The table below explains the cost increase.

| | |
|-------------------------------------------------------------------|---------------|
| Estimated project cost July 2012 | £38.8m |
| Inflation on construction costs and impact of currency movements | +£3.0m |
| Increases in fees | +£0.5m |
| Net changes in arrangements fees* | +£0.5m |
| Net changes in financing costs* | +£2.4m |
| Overall project contingency | +£1.0m |
| Revised project cost December 2013 | £46.2m |
| *Most of the increase reflects the higher payments to the council | |

Proposed Funding

- 7.6 An analysis of the different funding options explored by officers is included in the body of the report and the senior loan route preferred. The proposed senior loan from the council is £36.2m which represents 78% of the total costs of the project. The period of the proposed loan is 27 years which is approximately half the expected life of the i360 of at least 50 years. The senior loan takes precedence over all other funding streams should the project run into financial difficulty. The funding of the project would be as follows.

| | |
|-------------------------------------------|---------------|
| Senior loan from the council | £36.2m |
| Junior loan from the LEP | £4.0m |
| Equity from Marks Barfield and associates | £6.0m |
| Total funding | £46.2m |

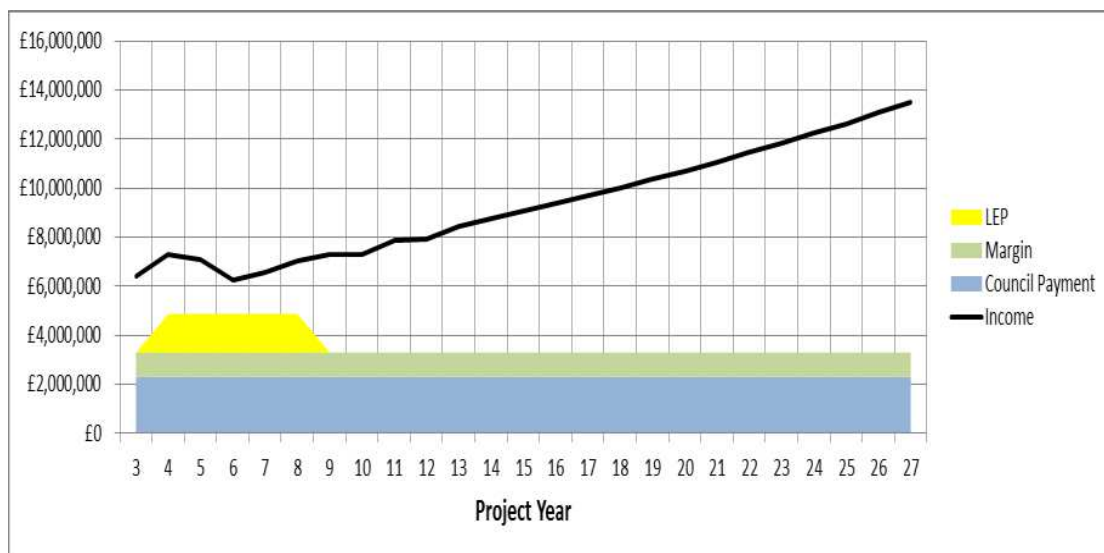
- 7.7 The equity and junior loan funding would be used to fund the capital costs prior to the senior loan being called upon. The council will enter into a number of fixed rate loans from the PWLB to meet the expenditure incurred as and when it is approved by an independent surveyor employed by the council. The council will be reimbursed the costs of the actual loans entered into and therefore will not take any interest rate risk.
- 7.8 A risk contingency has been provided for in the construction costs and a further contingency of £1 million has been provided in the overall project budget. The council loan will be limited to £36.2m and any projected overspend in cost over and above the contingency provisions must be valued engineered out of the project or will be met by a cost over run guarantee of £1m from Marks Barfield.

Income streams and financial risk mitigation

- 7.9 The council will charge a margin to the project on top of the cost of the PWLB loan to reflect the commercial nature of the loan to the i360. The other terms and conditions associated with the loan have been negotiated on commercial terms using independent external legal advice. The table below shows an income stream based on the agreed 3.75% margin.

| | |
|------------------------------------------------------------------------------------------------|---------------|
| Annual revenue streams | |
| Agreed margin of 3.75% | £0.96m |
| S106 income share from 1% of ticket sales | £0.07m |
| Council share of i360 business rates | £0.06m |
| | |
| Total per annum | £1.09m |
| | |
| Total over the 25 year loan at today's prices assuming an inflation discount of 2.5% per annum | £21.20m |
| | |
| Administration Costs | £0.02m |
| | |
| One-off income | |
| Arrangement and commitment fees | £1.09m |

- 7.10 The council can use the arrangement and commitment fees to complete the refurbishment of the Seafront around the i360 at the same time as the construction works are taking place.
- 7.11 In addition the council should be able to generate higher rents and therefore additional business rates from the Seafront arches and additional car parking income of up to £0.3m per annum from increased usage of the Regency Square car park. Further business rates should be generated by new and expanded businesses setting up in the surrounding area for example an uplift in business rates of 20% from Preston Street would generate a council share of about £0.05m per annum.
- 7.12 The following chart compares the total projected income stream from the i360 with the payments due to the council based on the most likely estimate of visitor numbers with an average attendance of 739,000 per annum. Note project years 1 and 2 cover the construction period of the i360.



- 7.13 The project is able to continue to operate and pay the council both the margin and the amount due to the PWLB even if visitor numbers are 40% less than anticipated. There would be sufficient money to pay the PWLB even if visitor numbers were 55% less than anticipated and it is only if numbers fall below this level would there be any possible contribution from local council taxpayers.
- 7.14 Project reserves will also be set aside from operational income to provide a buffer should income in future years not be as high as anticipated.
- 7.15 Using PWLB funding option also enables the project to be refinanced early using private sector finance and the draft loan agreement contains protection clauses providing for the financial protection for the council should this opportunity arise.
- 7.16 If the i360 does better than expected then the additional cash will be swept into a reserve and the council will receive 50% of this cash reserve as an early debt repayment. In this circumstance, the council would also be compensated for loss of margin on commercial terms and will benefit from an annual increase in the

percentage of the ticket income from 1% to 2.5% which would continue for the life of the attraction.

- 7.17 Para 4.3 to 4.5 sets out the likely consequences, financial and otherwise, if the project does not proceed. Broader Implications are also set out in Appendix 8.

Finance Officer Consulted: Mark Ireland

Date: 28/02/14

Legal Implications:

Council's Statutory Powers

- 7.18 As per the previous report, the Local Authorities (Land) Act 1963 will be relied on in terms of the main power for the proposed loan and Section 111 of the Local Government Act 1972 and the general power of competence under the Localism Act 2011 will be relied on in respect of the incidental arrangements.
- 7.19 Section 3 of the 1963 Act provides that a local authority may advance money for building works, where it is satisfied that it would be for the benefit or improvement of its area. Such an advance, together with interest thereon, must be secured by a mortgage of the land and the amount of the principal of the advance must not exceed nine-tenths of the land's value or nine-tenths of the estimated value of the completed building. This requirement will be satisfied as will the other standard loan provisions set out in the Act.
- 7.20 In deciding whether and how to exercise its powers in relation to this proposal, the committee must consider the council's fiduciary duty to conduct its administration in a fairly business-like manner with reasonable care, skill and caution, and with a due and alert regard to the interest of the council tax payers. However, it is in the council's discretion to determine what the interests of the council tax payers are and how they are best served following its analysis of the relevant costs and benefits. Thus in considering this matter, in terms of fiduciary duty, the council must disregard all irrelevant matters and have regard to issues such as the burden of the terms of the arrangement and the expenditure involved for the council tax payers, as well as the benefits it will bring. This needs to be considered both generally and specifically to those who will directly gain or suffer from the proposal. This balancing exercise is for the council to determine after having given due consideration to the appropriate weight to be afforded to the relevant factors.

State Aid

- 7.21 To ensure state aid compliance the loan from the council must be at a market interest rate and be subject to a suite of terms and conditions which do not offer any more favourable terms than those offered by a commercial lender. These requirements are considered to be met, so that no state aid is involved in the proposed transaction.

The Brighton Wheel

- 7.22 The legal agreements relating to the Brighton Wheel at Daltons Bastion allow for the council to give 6 months notice to the wheel's operators, Paramount, to

cease operation of the wheel once works start on site for Brighton i360. Without notice, the current lease will expire on 30.08.2016. Consideration as to the implications of concurrent operation of the two attractions is not considered pertinent to the present purpose of this report, and it is therefore proposed that at the present time, the current lease is left to run its course with Paramount, as planned. If Paramount choose to ask for an extension to their lease and the i360 is operational, a decision will need to be made at this time with regard to any renewals or extensions by the council.

Lawyer Consulted:

Bob Bruce

28/02/14

Equalities Implications

- 7.23 The i360 will be accessible throughout to people with disabilities and will improve access to the seafront lower promenade. A new lift to the east of the Heritage Centre will make the development easily accessible and accessible toilets are located at the upper prom entrance area and also below in the Heritage Centre and cafe area. Toilets in the lower area have recently been redesigned to ensure they comply with the council's aspirations for public WC's and will be open to members of the public who are not necessarily using the centre or visiting the attraction. Marks Barfield have also committed to a system of concessions for local residents and specific promotions to be offered to local schools and colleges. They will build upon this in partnership with the West Pier Trust who already have packages for schools that take place at the West Pier site and the Fishing Museum (which also houses a collection of West Pier memorabilia).

Sustainability Implications

- 7.24 The sustainability implications have been thoroughly documented and reviewed as part of the planning process for the i360 project. The i360 is a low energy use solution which is assisted in its drive mechanism by energy supplied from the wind turbine (20% estimated). The installation of heat pumps provides air heating and cooling in the pod and heritage centre and will provide an estimated 30% of the total thermal heating energy use. Grey water and rainwater recycling is included within the design.

Any Other Significant Implications

- 7.25 All significant implications are dealt with in the main body of the report.

SUPPORTING DOCUMENTATION

Part 1 Appendices:

1. D&J Consulting Business Review Ch.1 to Ch.5
2. Timescales
3. Target Visitors/Capacity
4. Due Diligence & Council Advisors
5. Revised Loan Structure
6. West Pier Trust Position Statement
7. UK Local Authority PWLB funded projects
8. Implications of not proceeding
9. Work Undertaken to Date by Marks Barfield Architects

Part II Appendices:

10. D&J Consulting Business Review Ch. 6
11. Risk and Opportunity Register

Documents in Members' Rooms

1. Policy and Resources Committee report: July 2012

Background Documents

None