

REPORT TITLE: REPLACEMENT GP SURGERY - UPDATE

17 JULY 2019

REPORT OF CABINET MEMBER: Cllr Kelsie Learney Cabinet Member with responsibility for Housing and Asset Management

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WARD(S): TOWN WARDS

PURPOSE

The report identifies that after extensive negotiation with the Clinical Commissioning Group (CCG) and the Practice, it has been possible to provisionally agree terms for the letting of the new Doctors Surgery the Council propose to construct on the Upper Brook Street Car Park in Winchester.

The report seeks formal approval to proceed with the scheme whilst updating Members on the cost of the project, identifies the budget requirements, includes the financial appraisal and identifies that Lloyds Pharmacy have now decided not to take a lease of the space allocated for a new pharmacy.

The development of a purpose built surgery will have significant health care benefits for the 17,250 patients who attend the St Clements Surgery.

RECOMMENDATIONS:

It is recommended that:

1. The development appraisal set out in Exempt Appendix B is noted.
2. The provisionally agreed terms for the letting of the proposed new surgery set out in Exempt Appendix C be approved and the Corporate Head of Asset Management be authorised to finalise the terms of the agreement and leases.

3. The development of the Surgery is proceeded with, noting the revised financial implications as set out in Exempt Appendix D.
4. Members approve an increase to the capital budget and expenditure of £250,000.

Subject to approval of 3 and 4 above:

5. The Service Lead - Legal be authorised to enter into a Building Agreement and Lease with the St Clements Doctors Practice.
6. The “Pharmacy” space is let for a Health related use; that the Strategic Director: Place be authorised to agree the use in consultation with the Cabinet Member for Housing and Assets and that the terms of any letting are agreed by the Corporate Head of Asset Management.
7. The Corporate Head of Asset Management be authorised to seek statutory consent for any amendment to the planning consent resulting from the letting referred to in 5 above.
8. Subject to approval of 5 above, the Service Lead - Legal be authorised to enter into a Building Agreement and Lease with a prospective tenant of the “Pharmacy” space and thereafter to complete the lease.
9. Architecture PLB be retained as architects and Scott White Hookins be retained as Structural engineers to develop the design of the new surgery up to RIBA Stage 4 to facilitate the tendering of the construction work and accordingly a direction to this effect be made under Contracts Procedure Rule 41.1 e and f).
10. The Corporate Head of Asset Management be authorised to appoint the consultant team required to carry the project forward in accordance with Contracts Procedure Rule 13; to include Project Manager, Cost Consultant, Structural and Mechanical and Electrical Engineers, BREEAM advisers and such other consultants as are necessary from time to time.
11. The Corporate Head of Asset Management be authorised to select the procurement procedure to be used (including the evaluation model and the selection of any frameworks if appropriate) and to seek tenders for the construction of the property taking account of appropriate advice from Cost Consultants and in compliance with Contract Procedure Rules.
12. The Corporate Head of Asset Management be authorised to accept tenders received and to appoint and award contracts to enable the works to proceed in accordance with the Contract Procedure Rules following their assessment by the Cost Consultant and subject to the tenderers being able to undertake the works in the required timescale.

13. The Corporate Head: Regulatory be authorised to implement and complete the process for closure of a car park with effect from 9 January 2020 (or such later date as is appropriate in the circumstances) and appropriation of the land to enable the transfer from Off Street Parking to Planning purposes.

IMPLICATIONS:

1 COUNCIL STRATEGY OUTCOME

- 1.1 The development of a new health facility in the city centre helps deliver a number of outcomes identified within the Council Strategy 2017-2020. These outcomes include the application of an entrepreneurial approach to the efficient delivery of public services by developing a Council asset to deliver an income stream; the health and happiness outcome by working with partners to improve the health of residents in central Winchester, while helping to improve the quality of the districts environment by the construction of a modern building with high environmental standards.

2 FINANCIAL IMPLICATIONS

- 2.1 This project was last considered in September 2017 (CAB2964 refers). Due to unintentional delay since the original approval, the estimated costs to implement the project have increased and officers assess it necessary to increase the overall capital budget by £250,000. In addition, as a consequence of the delay the forecast position for 2020/21 will be a net deficit position and not a net surplus as originally forecast; it may be necessary therefore to consider funding this shortfall from earmarked reserves as part of the budget setting process.
- 2.2 The development will result in a loss of net income from the existing car park on the site which will be partially offset by increased usage of other city car parks where there is existing capacity.
- 2.3 Further details are provided in Exempt Appendix D.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Council has powers under the Local Authorities (Land) Act 1963 to erect and maintain buildings for the improvement of its area. To enable the development approval is requested to appropriate the land to planning purposes through the exercise of section 122 (1) Local Government Act 1972 (LGA 1972). Appropriation is a statutory process that enables the Council to reallocate property within its ownership from one purpose to another. Appropriation of land is an executive function under section 9D of the Local Government Act 2000.
- 3.2 Section 122(1) of the LGA1972 provides a local authority with the power to appropriate land from one function to another subject to complying with two conditions that the:
- (i) land which is the subject of the appropriation is *no longer required* for the purpose for which it is held immediately before the appropriation; and

- (ii) the purpose that the land is to be appropriated to is a purpose for which the Council is *authorised to acquire land*.
- 3.3 In determining whether or not the land is no longer required for the purpose for which it is currently held, case law is clear that the Council is the sole judge of the question. Required has been held to mean is no longer necessary in the circumstances. The purpose of the request is to enable regeneration on the subject land. The land is required to be appropriated in order to enable the delivery of the development.
- 3.4 As to the second criteria, authorised to acquire, local authorities are authorised to acquire land for planning purposes pursuant to s277 of the Town and Country Planning Act 1990. It is considered that the second criteria and therefore the criteria in s122 of the LGA 1972 are met.
- 3.5 The power to appropriate land for planning purposes operates to facilitate the carrying out of development on the land and the public interest is qualified in that the proposed development is likely to contribute to economic, social or environmental well-being of those within the Council administrative area. The report details above how it is considered that the proposed development to be enabled through the appropriation will contribute to the economic, social or environmental well-being of residents and employees.
- 3.6 It is therefore considered reasonable for the Council to use its powers in this case to appropriate, as the appropriation will facilitate the carrying out of development and improvement to the land and contribute to the promotion of the economic, environmental or social well-being of the Borough.
- 3.7 In order for the development to proceed the procedure for closing a public car park will have to be implemented. Separately notice will have to be served on an occupier of an adjoining property making use of parking spaces on the site under a licence. In order to facilitate the proposals set out in the report the Council should ensure that the statutory procedures set out in the Local Authorities Traffic Orders (Procedure)(England & Wales) Regulations 1996 (SI 1996/2489) ("Regulations") are complied with. The Regulations require publication and provision of notices to those affected; a 21 day period for receipt of representations before a decision can be taken on implementation.
- 3.8 Section 122 RTRA 1984 imposes a general duty on local authorities when exercising functions under the RTRA. It provides, insofar as is material, to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway. This statutory duty must be balanced with any concerns received over the implementation of the proposals. In considering any consultation responses, the Council must balance the concerns of any objectors with the statutory duty under section 122 RTRA 1984.

- 3.9 The current known estimated construction costs and all consultant contracts are understood to be below the thresholds which would require EU procurement processes; consequently the contractors and consultants can be procured in accordance with the Councils Contract Procedure Rules and Financial Procedure rules.

4 WORKFORCE IMPLICATIONS

- 4.1 The project will be managed by the Corporate Head of Asset Management and will require input from Legal, Finance, Development Management, Building Control, Procurement and project management. In addition external consultants and contractors will be appointed to progress the project.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 The new premises will be constructed on the site of the Upper Brook St Car Park in central Winchester. The closure of the car park will result in a loss of income from parking tickets which will be partially offset by a reduction in rates and maintenance costs as well as increased income at other city centre car parks where there is sufficient capacity.
- 5.2 The development of the new surgery will generate a significant income stream. The security of the income stream makes the development a highly attractive investment in the market and over time there is the potential for the income to rise. As with all investments however it must be remembered that asset values can both rise and fall over time as they reflect market conditions and investors economic sentiments.
- 5.3 Following the withdrawal of Lloyd Pharmacy from the project the space which was to have been occupied by them will need to be let. Discussions are already underway with the NHS to use the space for a health related activity which will be complimentary with the principal use of the property as a Surgery. A letting of this space will improve the financial performance of the development.

6 CONSULTATION AND COMMUNICATION

- 6.1 There has been extensive public consultation about the development proposals over a long period of time. There have been numerous reports to Cabinet on the subject and detailed negotiations have been held over the terms of the agreement with the St Clement's practice, their agents, the District Valuer and the NHS.
- 6.2 Members have been briefed on the subject during the extended period of negotiations. The Cabinet Member with responsibility for Housing and Asset Management has been briefed.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 The existing Surgery building in Tanner Street was built in the 1970's when the environmental performance of buildings was given very limited consideration. The NHS requires new buildings to deliver a high environmental performance.
- 7.2 The location of the health facility in the City Centre will mean that it remains accessible to a wide section of the local community. During the design process careful consideration was given to the impact of the design on the neighbouring environment.

8 EQUALITY IMPACT ASSESSEMENT

- 8.1 Location of the proposed health premises in the City Centre will enable health services to be accessed by a wide range of the local community, including those who have to rely on public transport.
- 8.2 In relation to Article 1 of the First Protocol of the European Convention of Human Rights, there is a case in the public interest to continue to facilitate this development and, as demonstrated by the Council the delivery of improved health facilities in the city centre and the procuring of a delivery partner to deliver the health facilities is important to the continued well-being of residents both within the immediate community and those with access to and reliant upon public transport.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None required. Data protection is important to the Council and will be reviewed against the project throughout the process. Legal support will be requested if required.

10 RISK MANAGEMENT

- 10.1 The following risks have been identified and considered.

Risk	Mitigation	Opportunities
Property-There is a risk that construction inflation increases between today and the point of construction.	Estimated inflation increases have been built into the budget estimate used in the viability appraisal	
There is a risk that the prospective tenant is unable to proceed.	A building agreement and Agreement for lease will be entered into with the St Clements Doctors Practice prior to any start on site.	That a tenant for the space allowed for the Pharmacy is secured,

<p>There is a risk that unanticipated ground conditions or services are found in the ground resulting in increased costs.</p>	<p>An appropriate construction contingency is built into the cost assessment.</p>	
<p>Community Support There is the risk that if the project did not proceed that there would be public concern raised about the condition of the existing premises.</p>	<p>The Doctors Practice has a Patient Participation Group which is updated quarterly on progress with the proposed development. The Practice sends newsletters to patients updating them on the development at all material times. There is wide support from patients for the new development.</p>	<p>If the project is progressed there would be broad public satisfaction with the investment in critical healthcare services.</p>
<p>Project capacity The Estates Team are involved in a significant number of projects and there is the risk that there would not be sufficient resources to manage the project.</p>	<p>The project will largely be managed by external consultants the cost of which has been included in the scheme budget.</p>	
<p>Financial / VfM There is a risk that the space provided for a Pharmacy will not be let.</p>	<p>Discussions are being held with a compatible NHS use which would enable the space to be let at the market rent when the development was completed.</p>	
<p>Legal There is a risk that objections are received to the proposed closure of the Upper Brook St Car Park</p>	<p>Implement the closure procedure appropriately in accordance with the Regulations.</p>	
<p><i>Innovation</i></p>		

<p>Reputation</p> <p>The Council has publicly committed to the development of a new surgery for central Winchester. The Council may suffer reputational damage if it should decide not to proceed with the development at this late stage.</p>	<p>A viable business case has been developed and subject to the completion of legal agreements with the prospective tenant, the Council would be able to proceed with the development.</p>	
<p><i>Other</i></p>		

11 SUPPORTING INFORMATION:

- 11.1 Historically the Silver Hill scheme required the relocation of the St Clements surgery so that the site could be redeveloped. The proposals for the regeneration of the area known as Saxon Gate anticipate the relocation of the St Clements Doctors Practice although the building itself is in third party ownership and it will be for that owner to decide its future use. The owner is an elected Member of Winchester City Council.
- 11.2 A design for a new surgery was prepared by Architecture PLB and planning permission was granted for this in 2012. The protracted nature of the negotiations for the development of Silver Hill meant that the planning permission expired. A more cost effective design was prepared and planning consent was granted for this in 2016.
- 11.3 Authority was given to the capital expenditure required for the scheme in CAB2709 of 17 September 2015. Following the termination of the Silver Hill development agreement in 2016, Members resolved to continue with the development of the new surgery (CAB 2786 refers).
- 11.4 Under CAB 2964 of 12 September 2017, Cabinet authorised: the development of the surgery, the grant of leases to the Practice and Lloyds, the appointment of Architecture PLB to design the surgery up to RIBA Stage 4, the appropriation of the land to planning purposes, the closure of the car park, the appointment of consultants and contractors and to accept tenders for the construction works.
- 11.5 Negotiations were held with the agent acting for the Practice and with Lloyds Pharmacy to seek to agree terms for the lease of the new accommodation to them. Terms were provisionally agreed with Lloyds for the lease of that accommodation, but an agreement could not be put in place with the Practice until such time as they had secured agreement for the rent reimbursement with the NHS.

- 11.6 The St Clements Practice is an extremely important provider of primary healthcare conveniently located in the city centre and serving 17,250 patients who live within a five mile radius. Patients from the rural areas who rely on public transport to access healthcare facilities are able to get to the surgery via a single bus journey, which would not be possible if the facility was located outside of the city centre.
- 11.7 The surgery building is showing its age and the accommodation is reflective of NHS requirements from an earlier time; for example the consulting rooms are approximately half the size of those required by today's standards. Health care today is now organised very differently than when the surgery was built, with greater emphasis being placed on the treatment of minor complaints within the practice rather than in hospital as was the case in the past.
- 11.8 The development of Kings Barton will, when completed, add considerably to the population of Winchester. Consequently it was considered to be appropriate to make provision for extra consulting rooms in the Surgery as it was anticipated that there would be a need for additional health care facilities in the City as the population expanded. To reflect the potential population growth it was decided to add three additional consulting rooms to the development. The Practice have agreed to lease these additional rooms to enable the range of healthcare services they offer to be expanded.
- 11.9 As the planning permission was due to expire in March 2019, it was necessary to make a material start on the work to enable the consent to be implemented. Osbornes were appointed to construct a retaining wall and to install part of the underground drainage system. Following the completion of the works the Planning Officer confirmed that the permission has been satisfactorily implemented.
- 11.10 Where a Pharmacy is co-located with a surgery, although there is no legal relationship between them it is common for these services to be arranged in this way for the obvious convenience of patients should they choose to utilise them. Regrettably Lloyds have now decided not to open a new pharmacy within the scheme. Enquiries have been made of the company to try and establish what their intentions are toward the existing outlets in the city centre.
- 11.11 PROPOSALS
- 11.12 Cost consultants were instructed to review the scheme cost and following the receipt of the revised cost assessment, GVA produced a revised valuation to establish if the scheme of development remained viable. The valuation confirmed that with the reduced rent the Pharmacy were then seeking, that the scheme was marginally commercially viable. Discussions were held with the CCG and a revised funding package was put in place. The funding delivered a commercially viable scheme but relied on the letting to Lloyds proceeding.
- 11.13 Lloyds were subsequently unable to approve the acquisition of the lease, citing the impact of the internet on their business. It may in theory be possible

to secure an alternative Pharmacy for the premises, however the licencing regime may make this difficult to achieve in the short term. As an alternative the premises might be let to another NHS service provider.

- 11.14 The scheme drawings are set out at Appendix A. Exempt Appendix B contains the valuation report from Osmond Tricks. Exempt Appendix C contains the provisionally agreed terms of the proposed lettings to the Doctors Practice. The revenue consequences for the Council if it decides to proceed with the project are set out at Exempt Appendix D.
- 11.15 The financial appraisal identifies that there is a positive out turn on the project if the Pharmacy letting income is excluded. An improved return will be delivered if the “pharmacy” space can be let and this is assessed in Exempt Appendix C. Given the length of time it has taken to get the parties to agree to the proposed letting it is considered to be appropriate to proceed with the development. Authority is sought to let the “Pharmacy” space to a health related user and if necessary to seek statutory approval if a change of use is required for this space.
- 11.16 The pharmacy forms a small part (127 sq m) of the development; while it is disappointing that the Pharmacy has decided not to proceed at this late stage, the space vacated by them is in a prominent location which should be attractive to a number of health related uses.
- 11.17 If Members do decide to proceed to accept the recommendations, the Service Lead - Legal will be instructed to proceed with drafting the lease documentation. If momentum is to be maintained the architect and structural engineers will need to progress the development of the tender drawings while the legal agreements are being put in place. It will be necessary to appoint mechanical and electrical and other consultants to assist the Architects in developing the designs to tender stage. Consequentially, the expenditure incurred in progressing the design drawings will be at risk until the lease documentation is completed.

CONCLUSIONS

- 11.18 The development of a new surgery for central Winchester was delayed firstly by the termination of the Silver Hill Development Agreement and subsequently by the need for the Practice to secure sufficient funding from the NHS. The delivery of the new surgery will be eagerly awaited by patients and would allow the Practice to deliver higher standards of healthcare for City residents. In addition the surgery will secure an improved use of land in the Council’s ownership and will deliver a secure income stream.
- 11.19 The principal risk is that it will be necessary to find a new tenant for the pharmacy space. Ideally this should be from a health related service and a short term letting is likely to be required.
- 11.20 If Members approve the project, the architect will be appointed to progress the design of the drawings to RIBA stage 4 to allow the tender documentation to

be prepared. The consultant team will be procured, the lease and legal documentation will be finalised with the practice before a start on construction would be made. If the legal documentation is completed by the end of October, it is anticipated that the construction work could begin early in 2020, with the works anticipated to take 13 months to complete.

12 OTHER OPTIONS CONSIDERED AND REJECTED

- 12.1 The option of not proceeding with the project was considered and rejected because the benefits to residents of improved healthcare facilities and the advantages of relocation for the future redevelopment of Saxon Gate are significant and the financial impact of the project positive for the Council.
- 12.2 The option of removing the space allocated to the Pharmacy was considered. This option was rejected because it would result in the need to redesign the whole property and it was considered to be possible to let the space to another medical use.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB 2964 Replacement Doctors Surgery, Winchester 12 September 2017

CAB 2786 St Clements Doctors Surgery, Winchester - 29 March 2016

CAB 2709 St Clements Surgery, Winchester - 17 September 2015

CAB 2609 Silver Hill Update - 10 September 2014

Other Background Documents:-

Confirmation that the Planning Consent has been implemented

APPENDICES:

Appendix A - the scheme drawings

Exempt Appendix B – Valuation report from Osmond Tricks – to follow

Exempt Appendix C - Provisionally agreed terms of the proposed lettings to the Doctors Practice

Exempt Appendix D - Financial implications – to follow