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**MERCHANT PLACE/ CORY'S BUILDING: PRE-DECISION SCRUTINY**

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*Appendices 2, 3 and 4 of the Cabinet Report are not for publication as they contain exempt information of the description contained in paragraph 14 of Part 4 and paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972. It is viewed that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.*

**Purpose of the Report**

1. To give Members background information to aid the scrutiny of the draft report to Cabinet regarding Merchant Place/ Cory's Building, which is due to be considered by Cabinet at their meeting on 19 November 2020.
  
2. Members should note that **Appendices 2, 3 and 4** of the Cabinet report are exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct and the Cardiff Undertaking for Councillors.

**Scope of Scrutiny**

3. At their meeting on 19 November 2020, the Cabinet will consider a report that seeks authority to:
  - i) acquire the freehold interest in the land and buildings at Merchant Place/ Cory's Building;
  - ii) undertake a marketing process to engage a development partner to bring forward the regeneration of the site;
  - iii) engage with Welsh Government and other relevant organisations to secure grant funding.

4. During this scrutiny, Members have the opportunity to explore:
  - i) The proposal to acquire land and buildings at Merchant Place/ Cory's Buildings;
  - ii) The proposed approach to fund these acquisitions and holding costs;
  - iii) The proposed approach to enable development of this site;
  - iv) How these proposals fit into wider proposals for the area;
  - v) Whether there are any risks to the Council;
  - vi) The timeline and next steps for delivering the proposals;
  - vii) The recommendations to Cabinet.

### **Structure of the meeting**

5. The Chair will move that this item be considered in two parts: an open session, where Members will be able to ask questions on the issues and papers that are in the public domain; and a closed session, where members of the public will be excluded, where Members can ask questions that pertain to **Appendices 2, 3 and 4**.
6. Members will hear from Councillor Russell Goodway (Cabinet Member – Investment and Development) and Neil Hanratty (Director of Economic Development), Giles Parker (Head of Property), Chris Barnett (Operational Manager – Major Projects) and Eirian Jones (Principal Surveyor) who will give a presentation and be available to answer Members' questions.
7. Members will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

### **Background**

8. In July 2017, the Council's 'Capital Ambition' included a commitment to work with partners to secure the required level of investment to protect the city's heritage assets, echoing a similar commitment in the Council's Local Development Plan. In 2018, the Cabinet approved a report titled 'Securing the Future of Cardiff's

Heritage Buildings' and, in 2019-20, the Budget included £2M capital to support this. The Council's Economic Strategy prioritises the continued regeneration of Cardiff Bay to establish it as a premier UK visitor destination.

9. Merchant Place/ Cory's Buildings are Grade II listed properties considered important and iconic heritage assets in Cardiff Bay. They are currently vacant, boarded up and in a state of disrepair. They occupy a prominent position in Cardiff Bay, opposite the Wales Millennium Centre and adjacent to the site of the Atlantic Wharf regeneration project.

### **Issues Identified in the Cabinet Report**

10. The draft report to Cabinet entitled 'Merchant Place/ Cory's Buildings' is attached at **Appendix A** and has **four** appendices:

- **Appendix 1** - Site Plan
- **Confidential Appendix 2** - Heads of Terms
- **Confidential Appendix 3** - Independent Valuation Report
- **Confidential Appendix 4** - Acquisition Costs including land tax.

11. The report to Cabinet identifies the issues at **Points 8 – 15**. These include:

- i) Significant investment is required to bring the buildings back into effective use;
- ii) It is proposed the Council acquire the site via private treaty for the terms set out in **Confidential Appendix 2**, in line with independent valuation attached at **Confidential Appendix 3**, with the costs of acquisition set out in **Confidential Appendix 4**;
- iii) Detailed structural surveys will be undertaken prior to completing acquisition and the negotiated terms remain subject to a satisfactory outcome of this process;
- iv) The Council understands that proposals for the refurbishment of the property are likely to qualify for an element of grant funding, subject to normal application process and due diligence
- v) It is proposed that the Council undertake a soft market exercise to determine market interest and commercial feasibility and engage a development partner.

12. The report to Cabinet sets out, at **point 12**, that the end use of the buildings could include a mix of offices, residential, hotel and food & beverage.

13. The Financial Implications are set out at **points 18-22** of the report to Cabinet and include:

- i) details of the funding sources available to be used to acquire the site;
- ii) that no capital funding is required to ensure the building remains safe or to undertake emergency preservation works;
- iii) that holding costs – including insurances, security and utilities but not Non-Domestic Rates - will be incurred and will need to be met from existing budgets;
- iv) that there is no capital funding included in the Council's capital programme to redevelop the site.

14. The Financial Implications highlight that, if it takes longer than anticipated to secure a development partner, this may result in unforeseen costs. They also highlight the need to, prior to any agreed completion of the site, opt respective parts of the site for tax in accordance with the process set out by HMRC.

15. Legal Implications are set out at **Points 23-30** and include:

- i) The legal basis for the local authority acquiring land
- ii) The need to obtain independent valuation advice and bear in mind the Council's fiduciary duties
- iii) Equalities, Wellbeing of Future Generations and Welsh Language duties.

16. Property Implications at **Point 31** clarify that day-to-day holding costs will be low, as the building is weather tight and secure, NDR exempt, with low utility costs.

## **Proposed Recommendations to Cabinet**

17. The report to Cabinet contains the following recommendations:

*'The Cabinet is recommended to delegate authority to the Director of Economic Development, in consultation with the Cabinet Member for Investment and Development, the Monitoring Officer and the Section 151 Officer to:*

- 1. Complete the acquisition of the property in accordance with the Heads of Terms attached at Confidential Appendix 2 and the independent valuation attached at Confidential Appendix 3 and subject to any further legal or property due diligence deemed necessary.*
- 2. Undertake a soft market exercise to determine the appropriate delivery strategy.*

## **Previous Scrutiny**

18. This Committee has undertaken several related scrutinies, as follows:

- i) November 2018 – *'Securing the Future of Cardiff's Heritage Buildings'* – pre decision scrutiny of report to Cabinet
- ii) November 2018 – *'Harbour Drive'* - pre decision scrutiny of report to Cabinet
- iii) January 2020 – *'Coal Exchange'* – confidential pre-decision scrutiny
- iv) March 2020 – *'James Street'* – confidential pre-decision scrutiny
- v) Various – *'Indoor Arena'* and *'Dumballs Road'* - pre decision scrutinies of reports to Cabinet.

19. The over-riding theme emerging from these scrutinies has been Members' wish for the Council to take a proactive role in enabling the protection and regeneration of Cardiff's historic buildings, enhancing the built environment and promoting Cardiff's economy, without exposing the Council to risk or additional cost burdens.

## **Way Forward**

20. Councillor Russell Goodway (Cabinet Member – Investment and Development) will be invited to make a statement. Neil Hanratty (Director of Economic Development), Giles Parker (Head of Property), Chris Barnett (Operational Manager – Major Projects) and Eirian Jones (Principal Surveyor) will give a presentation and be available to answer Members' questions.

21. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendices 2, 3 and 4**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

### **Legal Implications**

22. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

### **Financial Implications**

23. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

## **RECOMMENDATION**

The Committee is recommended to:

- i) Consider the information in this report, its appendices and the information presented at the meeting;
- ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter in time for its meeting on 19 November 2020; and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

**DAVINA FIORE**

**Director of Governance & Legal Services**

**12 November 2020**