

JAMES STREET REGENERATION: PRE-DECISION SCRUTINY

Appendices 4-9 of the Cabinet Report are not for publication as they contain exempt information of the description contained in paragraph 14 of Part 4 and paragraph 21 of Part 5 of Schedule 12A of the Local Government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 regeneration at James Street, Butetown, Cardiff, which is due to be considered by Cabinet at their meeting on 14 October 2021.
2. Members should note that **Appendices 4-9** 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 14 October 2021, the Cabinet will consider a report that seeks cabinet authority to dispose of a collection of buildings known as Merchant's Place/ Cory's Buildings, situated on the corner of James Street and Bute Street, and to appropriate Council owned land at James Street, Butetown, to the Housing Revenue Account.
4. During this scrutiny, Members have the opportunity to explore:
 - i) The proposal to dispose of the buildings at Merchant's Place/ Cory's Buildings and specifically:
 - i. The proposed approach to proceeds and costs arising

- ii) The proposal to appropriate Council owned land at James Street to the Housing Revenue Account (HRA) and the implications of this for the HRA, specifically:
 - i. Any changes required to the agreed HRA 5-year capital programme
 - ii. The implications of the proposed approach re Royal Stuart Workshops and Douglas Buildings
 - iii. Any risks, costs, or benefits to the HRA arising from the appropriation
- iii) Whether there are any risks to the Council
- iv) The timeline and next steps for delivering the proposals
- v) 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 4-9**.
- 6. Members will hear from Councillor Russell Goodway (Cabinet Member – Investment and Development) and Neil Hanratty (Director of Economic Development). There will be a presentation taking Members through the proposals and recommendations to Cabinet, followed by 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 January 2020, Cabinet agreed a refreshed Capital Ambition that set out the key priorities and commitments for Cardiff for the remainder of the administration's term. This includes a commitment to support regeneration of heritage buildings and to '*writing a new chapter in Cardiff Bay's regeneration story*'. These echo

similar commitments in the Council's Local Development Plan and a report to Cabinet in 2018, titled '*Securing the Future of Cardiff's Heritage Buildings*', with consequent £2M capital in the 2019-20 Budget to support this. Capital Ambition also sets out the Council's target to deliver at least 1,000 new council homes by 2022 and to have a development programme capable of delivering over 2,000 council homes in the longer term.

9. In March 2020, Cabinet gave authority to appropriate land situated on the corner of James Street and Adelaide Street in Cardiff Bay to enable a high-quality mixed-use development extending to and including the restoration and improvement of the Council owned Royal Stuart Workshops and Douglas Buildings. These workshops accommodate circa 35 businesses in one of the city's most important creative clusters¹.

10. In November 2020, Cabinet gave authority to acquire the freehold interest in the land and buildings at Merchant Place/ Cory's Building, undertake a marketing process to engage a development partner to bring forward the regeneration of the site and engage with Welsh Government and other relevant organisations to secure grant funding.

11. 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.

12. In February 2021, the Council commenced a soft market exercise to seek development proposals for both sites.

13. The draft report to Cabinet entitled 'James Street Regeneration' is attached at **Appendix A** and has **nine** appendices:
 - **Appendix 1** - Site Plan
 - **Appendix 2** - Marketing Brochure (Merchants Place)

¹ Members of the Innovation and Workshop Inquiry visited these buildings in August/ September 2018.

- **Appendix 3** - Marketing Brochure (James Street)
- **Confidential Appendix 4** - Surveyors Recommendation Report (Merchants Place)
- **Confidential Appendix 5** - Offer letter (Merchants Place)
- **Confidential Appendix 6** - Proposed Heads of Terms (Merchants Place)
- **Confidential Appendix 7** - Scheme proposals (Merchants Place)
- **Confidential Appendix 8** - Enabling Works (James Street)
- **Confidential Appendix 9** - Market Value Report (James Street).

Issues identified in the Cabinet Report

14. At **point 9**, the report to Cabinet states the Council's interventions '*seek to simplify opportunities and provide confidence to the market*' to accelerate bringing properties back into effective use.

15. The soft market testing exercise undertaken for Merchant Place/ Cory's Building and the Council-owned land at James Street resulted in a significant number of offers, so the Council's agents advised inviting second bids and to use a framework to compare and assess these bids. The framework scoring matrix was included in the marketing material, with key considerations being to recoup the Council's initial investment and to deliver a mixed-use scheme contributing to the Council's strategy for the area. Bidders were given clear guidance not to specifically link the two sites.

16. At **point 14**, the report to Cabinet states that four bids were received. However, **point 15** highlights that some developers required both sites to deliver their proposals. **Confidential Appendix 4** contains an independent report reviewing each bid and providing professional opinion on the recommended Preferred Bidder.

Merchant Place/ Cory's Building

17. The Preferred Bidder is Dukes Education. A formal offer letter has been received from them and Heads of Terms agreed in principle; these are available at **Confidential Appendix 5 and 6**. The report to Cabinet sets out that the Council will fully recover the capital expended in acquiring the site and that the historic buildings will be reclaimed and upgraded for use as teaching accommodation,

with ground floor activity including a coffee shop. The site at the rear of the buildings will be developed to provide residential accommodation for the school's students, with further provision planned at a site on Pierhead Street.

Council owned land at James Street

18. At **point 16**, the report to Cabinet states that '*following further consideration, the Council decided to remove the James Street site from the market*'. Following feasibility work by the Council's Housing Department, the proposal is to appropriate the James Street site into the Housing Revenue Account so that a council led redevelopment of the site can be delivered.

19. **Point 28** of the report to Cabinet sets out the high level of housing need in Cardiff and **Point 30** summarises the need for inter-generational family housing in Butetown.

20. The report to Cabinet sets out that enabling works to prepare the site will commence over the next few months, as set out in **Confidential Appendix 8**, including the demolition of remaining structures on the site and relocation of the sub-station as agreed with Western Power. This includes the Council providing a long-term lease for a new sub-station site.

21. A detailed planning application will be prepared for the full scheme. Initial feedback from the Local Planning Authority indicates the need for active, commercial ground floor frontages on James Street and Adelaide Street. Economic Development will work with Housing to develop a solution to enable delivery of the required ground floor uses.

22. **Confidential Appendix 9** contains an external valuation of the whole development site. The report to Cabinet states, at **point 34**, that a '*commensurate accounting transaction will take place between the Housing Revenue Account and the General Fund accordingly. In addition, the transaction will address the reasonable costs already incurred by Economic Development in preparing the site for development, as well as the programmed costs set out in Confidential Appendix 8.*'

23. The financial implications section of the report to Cabinet, at **points 36-46**, highlight the following:

- i) Merchant Place/ Cory's Building - the Economic Development revenue budget will need to absorb any income losses resulting from disposal of Merchant Place/ Cory's Buildings. Any proceeds from disposal will be earmarked and available for further re-investment in Economic Development initiatives or for re-investment as part of the Council's Investment Property Strategy. Any disposal must charge VAT in accordance with HMRC process.
- ii) James Street appropriation – the valuation must demonstrate best value for the site as well as site acquisition and total development costs – further due diligence is required, as set out in Confidential Appendices 8 and 9. HRA funding can be re-prioritised from within the overall 5-year capital programme approved in the HRA budget setting proposals in March 2021. Following appropriation, the HRA will incur interest and be liable for holding costs and all subsequent capital and revenue costs, benefits, and risks. Due Diligence must include consideration of the ability to use HRA funds to pay for and operate commercial elements of the development and the VAT implications for the Council.

24. The legal implications section of the report to Cabinet, at **points 47- 57**, highlight:

- i) The Council has the power to appropriate land for any of its statutory functions where that land is no longer required for the purpose for which it is currently held
- ii) The Council has the right to dispose of land and is required to obtain best consideration reasonably attainable. Council procedures require consideration of advice from a qualified valuer to ensure value for money
- iii) The Council must have regard to the Council's duties under the Equality Act 2010, Socio-Economic Duty, Welsh Language (Wales) Measure 2011 and the Welsh Language Standards, as well as the Well-being of Future Generations (Wales) Act 2015
- iv) Proposals must be within the Policy and Budgetary Framework.

Proposed Recommendations to Cabinet

25. The report to Cabinet contains the following recommendations:

- (i) Delegate authority to the Director of Economic Development, in consultation with the Cabinet Member for Investment & Development, the Section 151 Officer and the Legal Officer to:
 - a) Conclude the disposal of the property known as Merchants Place/Cory's Building marked red on the site plan attached at Appendix 1 to the Preferred Bidder set out in this report and in line with the Heads of Terms set out in Confidential Appendix 6.*
 - b) Appropriate land at James Street marked blue on the plan attached as Appendix 1 to the Housing Revenue Account in line with the valuation attached at Confidential Appendix 9.**

Previous Scrutiny

26. In March 2020, this Committee undertook pre-decision scrutiny of a report to Cabinet seeking approval to appropriate land situated on the corner of James Street and Adelaide Street in Cardiff Bay to enable a high-quality mixed-use development extending to and including the restoration and improvement of the Council owned Royal Stuart Workshops and Douglas Buildings.

27. Following the meeting, the Chair, Councillor Howells, wrote a confidential letter to Councillor Russell Goodway, Cabinet Member - Investment and Development; the letter included a recommendation. A response has been received from Councillor Goodway and the recommendation has been accepted. Both letters have been emailed to Members ahead of this meeting.

28. In November 2020, this Committee undertook pre-decision scrutiny of a report to Cabinet seeking approval to acquire the freehold interest in the land and buildings at Merchant Place/ Cory's Building, undertake a marketing process to engage a development partner to bring forward the regeneration of the site and engage with Welsh Government and other relevant organisations to secure grant funding.

29. Following the meeting, the Chair, Councillor Howells, wrote a confidential letter to Councillor Russell Goodway, Cabinet Member - Investment and Development; the letter included a recommendation. A response has been received from Councillor Goodway and the recommendation has not been accepted. Both letters have been emailed to Members ahead of this meeting.

Way Forward

30. Councillor Russell Goodway (Cabinet Member – Investment and Development) will be invited to make a statement. Neil Hanratty (Director of Economic Development) will attend to give a presentation and answer Members' questions on the proposals detailed in the report to Cabinet.

31. All Members are reminded of the need to maintain confidentiality regarding the information provided in **Appendices 4-9**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

32. 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

33. 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 14 October 2021, and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

6 October 2021