

Key Decision Required:	Yes	In the Forward Plan:	Yes
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CABINET

8 OCTOBER 2021

JOINT REPORT OF THE PORTFOLIO HOLDER FOR BUSINESS & ECONOMIC GROWTH AND THE PORTFOLIO HOLDER FOR HOUSING

A.4 JAYWICK SANDS COVERED MARKET AND MANAGED WORKSPACE (Report prepared by Tom Gardiner and Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek authority to make a direct award to COLBEA as Operating Partner for Jaywick Sands Covered Market and Managed Workspace, based on a Licence to Occupy and Service Contract, and to increase the Council's financial contribution for enabling works and the operating costs of the facility for year one. In addition the report sets out the current status of the project delivery.

EXECUTIVE SUMMARY

At its meeting on 21st May 2021 Cabinet approved the development of a Covered Market and Managed Workspace facility at Jaywick Sands, and made associated decisions to enable the development to proceed.

Cabinet agreed to seek approval from the Secretary of State under Section 12 of the Housing Act 1985 to use the land (which is held in the Housing Revenue Account – HRA) for non-housing purposes and to seek approval under Section 32 of the Housing Act to dispose of the land by way of a lease to the Council's Operating Partner. COLBEA is already identified as the Council's preferred Operating Partner through a procurement exercise undertaken earlier in the year, the specification set out the Council's contribution to the operating costs and referred to a lease arrangement in Modules 3 and 4.

Following feedback from MHCLG, officers reviewed the options of a lease, a licence, and a service contract, considering the financial implications for the Council and the sharing of risk with the COLBEA, our Operating Partner, to enable successful project delivery. The details of this review are included in the finance section of the report. COLBEA also requested changes to the provisions in the Heads of Terms of the lease.

The review leads officers to recommend that a Service Contract for Management of the Facility and Business Support Service and Licence to Occupy would enable the most effective project delivery for the benefit of the community, better share risk between the Council and COLBEA, and avoid an accounting anomaly that would lock up the land value of the project (£300,000) in an unusable reserve, and keep the land for the project within the Housing Revenue Account (HRA).

A Service Contract and Licence to Occupy, in addition to the new provisions proposed by COLBEA the Operating Partner, differ from the original procurement sufficiently that it is no longer viable to continue with the previous procurement exercise in its entirety. One of the options would be to commence a fresh procurement tender to select an Operating Partner against the new terms, however, at this stage, this process would impact on the project's

tight delivery timetable. Given we only received two bids for the original procurement, and the successful Operating Partner was the only applicant with deep experience of managed workspace delivery, it is proposed a direct award is made to COLBEA for this part of project.

At the Council's request COLBEA reviewed running costs for the centre in detail based on the original tender documentation and as a result have requested a further £45,000, in addition to the previously agreed £45,000 for year one operating costs. Changing from a full repairing lease to a Service Contract and Licence to Occupy will reduce COLBEA's financial risk. Subject to Cabinet's decision, the Corporate Director, Project Delivery in consultation with the Business and Economic Growth Portfolio Holder, will negotiate with COLBEA on the terms and conditions of the Service Contract, Licence to Occupy and any changes to the agreed operating subsidy within the parameters of this report.

At its meeting on 21st May 2021 Cabinet were presented with two development scenarios (Scenario A – a development proposal based on the original concept design and structured within the funding allocation of £2,127,535; and Scenario B – a development based on an updated design and requiring additional funding in the value of £300,000 resulting in a total scheme value £2,427,535).

Construction material costs have been seen to increase as the country unlocks and once tender prices come in for construction, there is a potential risk that the current budget is insufficient to deliver the project as planned. Cabinet will be updated with options if this occurs and seek any necessary approvals.

Cabinet determined to endorse the submission of a Planning Application for the Scenario B scheme given that Essex County Council had indicated that it was minded to find a further £300,000 in support of the enhanced scheme. Subsequent to Cabinet's meeting in May 2021, Essex County Council confirmed that this funding would be made available (as funding of last resort) and officers have received a draft funding agreement for approval.

The Workspace is accessed via Lotus Way and abuts un-adopted highway (called 'Brooklands'). Essex County Council has carried out a visual inspection of the highway and requested £25,000 project costs to enable them to complete works on the road and associated drainage in support of delivery of the Workspace project.

Subsequent to Cabinet's meeting in May 2021, the Council's Planning Committee has assessed, reviewed and determined the Council's Planning Application and in so doing the Scenario B scheme was approved for development at the beginning of July 2021.

Securing planning consent by the end of July 2021 was one of two conditions placed on the award of GBF funding by the South East Local Enterprise Partnership (SELEP) and was an impediment to the Council being issued with a Funding Agreement. The SELEP (via its Accountable Body – Essex County Council) has now issued the Council with a formal Funding Agreement for signature (to be completed in accordance with the delegation set out in the May Cabinet report). This will allow the Council to draw down funds from the SELEP's GBF pot in support of project costs already incurred and against future project expenditure. The Agreement will be signed in accordance with the delegation set out in the May Report.

RECOMMENDATION(S)

Cabinet is asked to:

- (a) note the feedback from the Ministry for Housing, Communities and Local Government (now the Department for Levelling Up, Housing & Communities) regarding the Council retaining ownership of the Jaywick Sands Covered Market and Commercial Space once constructed;
- (b) grant an exemption to the Council's Procurement Procedure Rules following the recommendation from the Council's Section 151 Officer and the Monitoring Officer allowing a direct award to the Council's Operating Partner, COLBEA, to enter into a Service Contract for the Management of the Facility and to provide a Business Support Service;
- (c) subject to (b) authorises the Interim Corporate Director (Project Delivery), to agree terms and conditions of the Service Contract, within the context of the principles set out in the report, in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth;
- (d) endorse the granting of a Licence to COLBEA to occupy the property on terms to be agreed by the Interim Corporate Director (Project Delivery), in consultation with the Portfolio Holder for Housing and the portfolio Holder for Business and Economic Growth; and
- (e) endorse the allocation of up to an additional £70,000 from the budget set aside to support housing in Jaywick to the Jaywick Sands Covered Market and Managed Workspace project, with the final amount being agreed by the Interim Corporate Director (Project Delivery), in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth.
- (f) agree a delegation to the Council's Section 151 Officer, in consultation with the Portfolio Holder for Corporate Finance and Governance, to make the necessary changes to the GF and HRA budgets to reflect the decisions made.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Corporate Plan (2020-2024)

The Covered Market and Managed Workspace development responds directly to the corporate priorities identified within the Council's 2020-2024 Corporate Plan and accords with the Community Leadership and Tending4Growth themes, which are central to that Plan.

The development responds to a number of priorities in the Corporate Plan as set out below:

- Support existing businesses
- More and better jobs
- Develop and attract new businesses
- Maximise our coastal and seafront opportunities

The Project has been identified by Cabinet as a Key Priority Action for 2021/22 (Reference D1) with milestones to deliver against the Corporate Plan and will be included within its corporate performance monitoring report.

Back to Business (2021)

The Council's Back to Business Plan seeks to support the district's recovery from the Covid-19 pandemic.

The Plan seeks to target action that will secure improvements to the environment and the quality of life, and to provide support for the district's residents, businesses and the wider economy in order to support Tendring's recovery from the challenges of the pandemic.

The development is identified as a priority project within the Back to Business Delivery Plan.

Tendring Economic Strategy (2020 – 2024)

The Tendring Economic Strategy was updated in 2020. The Strategy uses evidence from Office of National Statistics to demonstrate that there have been some important changes in the district's economy in recent years which require a change in approach.

The Strategy recommends:

- A greater focus on Clacton and Jaywick, noting a decline in economic performance in these locations. This focuses specifically on local participation within communities and addressing long term prosperity; and specifically for Jaywick Sands recommends:
- A need for long term investment in both the physical and human assets of the area to enable a positive economic future for Jaywick Sands. Bold new approaches, built around citizen participation and the building of community capacity, are needed. The response should be locally focussed and long-term, building upon the aspirations of the Jaywick Sands Coastal Community Team to develop a more sustainable and resilient community;
- The Council should identify property assets within public ownership which can be transformed to offer low-cost or free space to support new businesses and positive social activities, particularly in Clacton and Jaywick, to maximise their social value. Map spaces owned by Tendring DC, looking at where there is a stronger case (lower opportunity cost) of making them available for free or low-cost use by residents with ideas. Provide meanwhile space in perpetuity, with advice and guidance to support 'graduates' into more permanent spaces;
- That local people should be given a prominent role in developing and delivering projects within their community as part of a continuum of positive activity towards improved qualifications and employment. The strategy recommends first piloting this approach in Jaywick, particularly around the emerging Place Plan;
- Using the 2019 Employment Land Review, identify priority space to support 'move on' and growth space, actively promoting this amongst the local business population. This type of development should be encouraged through the use of cross-funding through the delivery of mixed-use sites. There are a number of proposed or allocated sites which have the potential to accommodate this type of development alongside residential and other uses and it should be ensured that these are treated favourably;

- Over the next five years, it will be particularly important to improve dialogue with local companies to support them in their growth ambitions and encourage them to innovate and diversify their offer; and that
- A key element of this offer will be the provision of spaces to support new companies to grow within a flexible and supportive environment. This includes thinking about how managed workspace and incubation space could be used to support new businesses in Tendring.

Tendring Local Plan (2013 – 2033)

The development aligns with the strategic vision for the Council's emerging Local Plan (2013 – 2033) which seeks to create resilient, successful mixed communities that address issues of deprivation and support a thriving local economy.

Jaywick Sands is identified under Policy PP14 Priority Areas for Regeneration as a priority for focused investment in “social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.”

Under Policy PP3 Village and Neighbourhood Centres three areas of Jaywick Sands – Broadway, Tudor Parade and the junction of Tamarisk Way/Broadway are defined as neighbourhood centres to be protected and enhanced. Under Policy PP11 Holiday Parks the caravan park to the west of Jaywick Sands is identified as a safeguarded site protected against redevelopment.

North Essex Economic Strategy

At a sub-regional level the development corresponds with the aims and objectives of the North Essex Economic Strategy (NEES). This articulates a vision in which citizens live in new and established communities that are well connected and inspire innovation and creativity. The NEES has four Missions, which seek to:

1. Drive innovation and technological adoption;
2. Develop a skilled and resilient workforce;
3. Create a network of distinctive and cohesive places; and
4. Grow a greener, more sustainable economy.

The development is particularly well aligned with objectives 2 and 3 within this strategy. Objective 2 stresses the importance of supporting those who are already in the labour market to access new skills and adapt to changing working practices. The scheme will deliver against this objective by supporting locally based businesses and potential entrepreneurs to develop viable and sustainable businesses. Objective 3 includes the need to invest in the infrastructure to support distinctive, adaptable and creative places, particularly within coastal towns. This scheme, as an ‘anchor’ development to kick-start wider regeneration in Jaywick Sands will deliver exactly this infrastructure. It highlights the sharp spatial inequalities within North Essex and the need to improve outcomes in all communities.

SELEP Local Industrial Strategy

At a regional level the development aligns with the emerging themes of the Local Industrial Strategy currently being prepared by the South East Local Enterprise Partnership (SELEP),

and with its Coastal Prospectus, which was approved by the SELEP Board at its meeting in March 2020.

N.B. Government has indicated that country-wide the LEPs Local Industrial Strategies may be dropped from the national agenda.

UK Government Industrial Strategy

At a national level the development aligns with the Government's Industrial Strategy, which focusses on supporting the UK economy to become more productive and seeks to drive stronger, resilient and more balanced growth. The Industrial Strategy argues that there are five foundations of productive economy: ideas; people; business environment; infrastructure; and places. At a micro level, the proposed responds positively to these themes.

FINANCE, OTHER RESOURCES AND RISK

As discussed in the report to Cabinet in May, the arguments were made for the project being based on holding the land and newly developed commercial property within the HRA.

This had a number of advantages given the housing led regeneration that was one of the drivers behind the earlier purchases of land within the Jaywick Sands area. This was in addition to the workspace proposals being an interim use of the land for between 10 to 15 years before wider housing development took place. In addition, it is also worth highlighting that future housing development proposals on or adjacent to the site may compliment or be able to incorporate the proposed covered market and managed workspaces on a more permanent basis. This is especially true, given the flood risks in Jaywick Sands that require housing to be built above a certain height to respond to potential flooding risks. Therefore, retaining the land within the HRA better reflected this approach.

Also from a financial perspective, holding the land and property within the HRA avoids an accounting anomaly where any loss on the purchase price of the land compared to the value if appropriated to the General Fund (GF) would 'crystallise' within the HRA. It could also be argued that the HRA is better equipped to respond to property risks such as maintenance costs, given its relatively significant repairs and maintenance budgets already in place.

The basis the above argument remains unchanged but needs to be revisited following the Secretary of State's indication that although they would be likely to approve the land and property to be held in the HRA for non-housing purposes for the reasons previously set out in detail, they did not feel comfortable agreeing for the land to be disposed by way of a lease to a third party if the land were to remain within the HRA.

Following the MHCLG's feedback and overall support to the project, the Council is faced with the following three alternative options:

The first being to revisit the proposed arrangements with COLBEA. The Council could revert to a managing agent approach rather than COLBEA being leaseholders, this allows for the relationship and objectives to continue but prevents disposal of the land to a third party, whilst the Council retained ownership and control. This would however require the procurement exercise to be revisited, as such a change would be outside the scope of the original tender exercise where COLBEA were originally appointed and it would transfer full property ownership risks back to the Council.

The second option is for the lease arrangements with COLBEA to remain in place but following the MHCLG's feedback, this would require the land and property to be held in the GF with the land appropriated from the HRA where it is currently held. This has a number of disadvantages which have been highlighted above and in the earlier Cabinet report in May, which relate to the accounting anomaly issue along with property ownership / management risks falling to the GF. It would also require a minimum revenue provision to be charged to the GF (based on 4% of the market value of the land at date of appropriation), although this would not be expected to be significant (e.g. less than £20,000 per year).

The third option would be somewhere in the middle of the two options outlined above and would involve COLBEA occupying the property under a licence arrangement but a service contract setting out the deliverables. This would enable some property ownership risks to remain with COLBEA which more closely aligns with the scope of the original procurement exercise where a lease arrangement was proposed.

Under such an arrangement, the land and property could remain within the HRA and therefore still provide the practical advantages that this would bring (e.g. avoid the accounting anomaly associated with the land appropriation). This would be in addition to also providing the flexibility associated with managing the property within the wider property management arrangements undertaken by the HRA which are supported by existing repairs, maintenance and refurbishment budgets.

Therefore based on the review required following the feedback of MHCLG, this report therefore provides an update to the original decision set out in the report to Cabinet in May and proposes the third option outlined above to be progressed. It is important to state that the proposals do not undermine the original case for retaining the land with the HRA for non-housing purposes, as set out in the May Cabinet report and consequently, the application to the Secretary of State under Section 12 of the Housing Act 1985 will continue.

The third option above would be outside the scope of the original procurement exercise undertaken to appoint COLBEA. However, it is proposed to directly award a revised contract to COLBEA coupled with a licence to occupy via seeking an exemption from the Council's Procurement Procedure Rules as set out elsewhere in this report.

In terms of the value for money considerations associated with a direct award, the arguments set out above provides such a response. How much property ownership risk is transferred to COLBEA under the proposed Licence to Occupy agreement remains subject to negotiations with them under the delegations previously agreed. However this still provides a more advantageous outcome than moving to a solely managing agent approach with them. It also avoids the accounting anomaly if the land was appropriated to the GF as under such a scenario, up to £300k could become 'locked' in an HRA unusable reserve until such time as it was possible to reverse this out.

In terms of this accounting anomaly, it is worth highlighting that there is no current accounting mechanism to correct this. In such a scenario, the Council would have to work with CIPFA / External Audit to identify a way of dealing with this unfortunate accounting issue and place the HRA back into the position of being able to use the money as part of its 30 year Business Plan, rather than being held within an unusable reserve for an unknown period of time.

In terms of some property ownership risks falling to the HRA under the proposed Licence to Occupy, this will be considered as part of the review of the 30 year HRA business plan.

As part of the on-going discussions with COLBEA, they have indicated that the project may need to be supported via an increase in the first year management / operational costs – from £45,000 to £90,000. The level of actual contribution required is subject to the business plan which includes a number of variables, such as the pace that workspace units are occupied and generating rental income. This risk is acknowledged but rather than agree an additional contribution at this stage, it is proposed to work with / support COLBEA during the mobilisation phase to limit wherever possible the increased contribution that may be required. However, a recommendation is included above to enable an additional contribution of up to £45,000 to be made to COLBEA in consultation with the Portfolio Holder for Business and Economic Growth.

As set out elsewhere in this report, Essex County Council (ECC) have requested that as part of the project, consideration is given to undertaking road / drainage works on the road that runs alongside the site that would therefore support the overall workspace project. The estimated cost of these works is £25,000, which could be funded by reprioritising this amount from within the £350,000 that ECC have already committed to the wider workspace project. This approach would reflect the fact that ECC are the responsible highways authority and therefore they would in effect be meeting the full costs of these remedial works. However, this would require a compensating contribution from Tendring District Council to ‘back fill’ ECC’s original contribution now that it has been reprioritised to undertake the road works. A recommendation is therefore included above to increase the Council’s contribution to the project by £25,000.

Taking the above two items into account, the total contribution required by the Council would increase from the originally intended amount of £105k to a total potential contribution of £175,000. Given the original contribution of £105k was funded from the £500k budget set aside to support Housing in Jaywick, it is proposed to also meet this additional contribution of £70k from the same budget.

As it is proposed to keep the land and property within the HRA, the project will form part of the HRA Capital Programme and revenue account going forward. The use of the £500,000 budget set out above to support a project within the HRA is allowable as although the money is currently held within the GF, it was created from new homes bonus money receivable in prior years, which can be used for any purpose. Given a number of technical accounting / budget adjustments will be required, a recommendation is therefore also set out above to enable the S151 Officer to make the changes to reflect the proposed approach, in consultation with the Portfolio Holders for Housing and Corporate Finance and Governance.

LEGAL

There are key differences between a lease and a licence with regards to property occupation. The former establishes a legal interest in the land and the latter is to provide permission to do something with that land such as occupying it. A Licence to Occupy does not confer exclusive possession of the land to the licensee because ownership and control remains with the Council. The review undertaken by officers had to ensure that the original case for retaining the land within the HRA for non-housing purposes, as required by Section 12 of the Housing Act 1985 was not undermined through consideration of the proposed options.

The objective of the project remains an ‘anchor’ development to kick start wider regeneration in Jaywick Sands and highlights the sharp spatial inequalities within North Essex and the need to improve outcomes in all communities. Improving employment opportunities through

the provision of a managed work space and targeted business support (information, advice and guidance) will positively impact on the health and wellbeing of local people. The scheme seeks to improve the public realm and will include a community garden as well as space for outdoor markets and other events. Improved walkability of the area and road safety will also improve the environmental conditions in Jaywick Sands.

It is important to demonstrate any buildings and land held in the HRA serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided. Changing the legal basis on which COLBEA will occupy and use the property does not compromise this objective, it does however move from a formal Landlord and Tenant relationship to one of Licensor and Licensee, which is more flexible and produces a greater risk to the Council. With this risk in mind the objectives of the Scheme were revisited and the intention was for COLBEA to manage the facility as a work space as an Operating Partner, therefore through the third option (as set out in the Financial Implications Section) this element of the project can be regularised and established through a service contract, setting out the necessary terms and conditions.

The Council must ensure that all procurement tender exercises are carried in accordance with established principles whether set out in legislation, case law or internal Procurement Procedure Rules. The original specification was very clear that the tender covered 4 modules, modules 3 and 4 related to management of the facility and business support. The Cabinet Report in May 2021 confirmed that these two modules required further negotiation, due to the Heads of Terms to enable a lease to be completed, for the reasons set out in this report, it is recommended that the Council no longer proceeds with this approach.

Therefore, it is the advice of the Council's Monitoring Officer for the Council to ensure maximum openness and transparency and declare the second element of the original procurement, whereby the intention was to grant the Operating Partner a lease of the premises and provide a financial contribution of £45,000 for the first year void. Secondly, that a direct award is now being proposed with COLBEA for a revised arrangement as set out within the context of this report following exemptions from the Council's Procurement Procedure Rules being granted. It must be recognised that this approach is not without risk as a third party could challenge the Council's decision however, due to the value of the contract the Council and the limited interest in the original tender exercise the risk is minimal. In addition, the Council can make a direct award in accordance with the Procurement Procedure Rules upon establishing justification to do so, the reasons of which are set out within the body of this report. The Council's Procurement Procedure Rules set out in Part 5 of the Council's Constitution (Part 5.68) permit the Corporate Finance & Governance Portfolio Holder to grant an exemption upon the recommendation from the Chief Financial Officer, with a formal Portfolio Holder decision being made. In this instance, Cabinet are being requested to make the decision following its decision made in May 2021.

As part of the first procurement exercise for a Market and Commercial Space Operating Partner, it was Council's expectation that COLBEA would manage and promote the facility whilst maximising revenue from the lettable/revenue earning space to provide a return on the capital investment made by the Council and its partners, to be reinvested in Jaywick Sands and/or the community. A Service Contract will be negotiated ensure that COLBEA are incentivised to deliver on these principles, which remain unchanged. Understanding the Business Case will be crucial to these negotiations and therefore, no contract will be finalised without the agreement of the Portfolio Holders for Housing and Business and Economic Growth. The Business Support elements to be delivered by COLBEA in the May Cabinet Report also remain unchanged.

The Property Dealing Procedure contained within Part 5 of the Constitution delegates agreeing terms and conditions of Licences to Occupy for longer than 12 months to the relevant Corporate Director however, in this instance it is proposed that these are finalised in consultation with the relevant Portfolio Holders to ensure the Cabinet's objectives are fully met.

OTHER IMPLICATIONS

**Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.
Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.**

Area or Ward

This project will be located within the West Clacton and Jaywick Sands Ward, but has the potential to impact on the entire District.

Health Inequalities

18% of Wards in Tendring were ranked among the top 10% most deprived in England in 2019, with four of those ranking among the top 1% (including West Clacton and Jaywick Sands). Further to this, the proportion of residents experiencing employment deprivation in Clacton (including Jaywick Sands) was measured at 20.72%. As employment is one of the most important determinants of health inequalities within a community, this project has the potential to impact positively following completion.

Improving employment opportunities through the provision of managed work space and through targeted business support (information, advice and guidance) will positively impact on the health and wellbeing of local people.

It is hoped that the Covered Market may provide the means through which local people can more readily access fresh fruit and vegetables, thereby providing the opportunity for healthy living with improved health outcomes.

Improved public realm including a community garden, outdoor market/events space and a safe pavement connecting the two main residential areas of Jaywick Sands, will have a positive impact on the quality of life currently experienced by residents.

Consultation/Public Engagement

Extensive community and stakeholder engagement and research over the last few years has shown that growing local jobs and the local economy is a key priority for stakeholders and is viewed as an essential part of regenerating Jaywick Sands and lifting it out of the bottom decile of the Index of Multiple Deprivation.

An on-line public consultation has been initiated in order to engage with residents on proposals for the development. Feedback from residents will inform the work of the Council's Professional Team led by HAT Projects.

Ancillary to, but in support of the managed workspace project, the Council's Project Team (comprising TDC/ECC Officers, HAT Projects, and COLBEA) is currently considering two community projects that if supported would enable closer engagement with the Jaywick Sands Community. The projects under consideration are:

- Community Arts Project – Officers are assessing the merit and the cost of supporting a community arts project that would result in the site hoarding being used to display

art work created by the community. This could take the form of drawings/paintings, graphics and/or poetry; and

- Community Garden Project – Officers are assessing the merit and the cost of supporting a project that would enable local people to participate in the design, construction and planting of the community garden, which is to be included in the landscaping for the managed workspace project.

N.B. The cost of these projects is thought to be in the region of £35,000. This cost is not included in the financing arrangements for either development scenario. If these projects were to proceed they would require separate and dedicated funding.

Crime and Disorder

The proposed development will be designed in line with good practice guidelines, limiting the opportunities for crime and disorder. Subject to approval, the building and its external spaces will be actively managed by the Council's Operating Partner and the development will create the opportunity to host internal/external activities and events thereby encouraging footfall – animated spaces are generally safer places given the presence of natural/passive surveillance. The building will also be subject to CCTV surveillance, which will be managed (subject to approval) by the Council's Operating Partner.

Equality and Diversity

The proposed development responds to the government's levelling up agenda and seeks to provide a covered market and affordable business space on a gateway site in Jaywick Sands. This will support the local economy, increase opportunities for local entrepreneurship, and grow and retain economic activity and job creation in the local area - the most deprived in the country.

The project forms part of a wider regeneration initiative that aims to lift Jaywick Sands out of the bottom decile of the Index of Multiple Deprivation, improving poor quality housing, stimulating economic growth and maximising the potential of the beach for tourism.

Environment and Carbon Neutrality

In all aspects the proposed development will respond to the requirements of the Building Regulations 2010. The building's design will seek to limit its impact on the climate via the use of green technologies. The building's design seeks to ensure that it can be demounted and re-erected on another site, thereby making best use of the materials used in its construction.

The scheme seeks to improve the public realm and will include a community garden as well as space for outdoor markets and other events. Improved walkability of the area and road safety will also improve the environmental conditions in Jaywick Sands.

As part of the ecological arrangements for the development, reptiles will be trapped and translocated to Brook Country Park.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

In October 2018 the Council commissioned HAT Projects Ltd to prepare a Place Plan for Jaywick Sands with the ambition that this should become a framework for development in that area.

The draft Place Plan identified the need to attract and stimulate commercial/economic activity in Jaywick Sands, and recommends the provision of affordable space for business use and social enterprise. During the winter and early spring of 2020 this recommendation was the subject of further investigation.

In January 2020 HAT Projects Ltd were appointed via a competitive process to examine the feasibility of providing new workspace in the Jaywick Sands area.

At the beginning of August 2020, and subsequent to the completion of the Feasibility Study, Government launched its Getting Building Fund (GBF) – a £900 million fund to deliver jobs, skills and infrastructure across the country, targeted on areas facing the biggest economic challenges as a result of the COVID-19 pandemic.

In partnership with Essex County Council and HAT Projects and utilising the Feasibility Study referenced above, the Council led work to prepare and submit a detailed application for funding under the Government's GBF scheme. In the South East of England the scheme was managed and administered by the South East Local Enterprise Partnership (SELEP). The Council's GBF application sought funding in the value of £1.972 million and estimated the total scheme cost to be £2.12 million.

The GBF application identified the scheme as being highly deliverable, relatively quick to implement, and as a catalyst to unlocking future opportunities in Jaywick Sands.

On the 20th November 2020 the Council were advised that its GBF application had been successful, albeit the SELEP Accountability Board attached two key conditions to its award. The conditions required the Council to secure detailed planning consent for the project by the end of June 2021 (later extended to the end of July 2021), and also required the Council to have spent its full allocation of GBF funding by March 2022. Failure to meet these conditions would/could result in the forfeiture and repayment of the funding awarded.

In January 2021 the Council appointed HAT Projects as its principle designer to work with the Council and its Operating Partner (see below) to refine and develop the outline proposals for the facility in full, secure the relevant statutory consents and approvals, procure a building contractor in line with the Council's procurement processes, and to oversee all construction works and associated hard and soft landscaping through to completion.

Subsequent to HAT Projects appointment, officers appointed Daniel Connal Partnership to provide client-side Construction Design Management (CDM) services in response to the requirements of the CDM Regulations 2015.

In February 2021 the Council appointed COLBEA (as its intended Operating Partner) to work with HAT Projects and the Council to shape the design and layout of the building and associated landscaping, and then on completion (subject to future agreement) manage the facility on the Council's behalf subject to the terms of a lease, the detail of which is yet to be agreed.

In May 2021 Cabinet approved the development of a Covered Market and Managed Workspace facility at Jaywick Sands, and made associated decisions to enable the development to proceed. One of the decisions endorsed a development scenario (Scenario B) based on an updated and enhanced design, which required additional funding in the value of £300,000. This scenario has a total scheme value of £2,427,535, the additional cost being supported via additional funding to be provided by Essex County Council.

In May 2021 HAT Projects submitted (on the Council's behalf) a detailed Planning Application based on Development Scenario B, which was subsequently determined and approved by the Council's Planning Committee at its meeting on 6th July 2021.

Approval is required from the Secretary of State under Section 12 of the Housing Act 1985 to use the land (which is held in the Housing Revenue Account – HRA) for non-housing purposes. In May Cabinet was advised that to dispose of land with the HRA to a third party Secretary of State approval was required under Section 32 of the Housing Act 1985. Following the Cabinet meeting, informal feedback was sought from MHCLG on the objectives of the overall project, which was positive however, MHCLG considered disposing of land in the HRA to a third party should be reviewed.

Officers have reviewed the options of a lease, a licence, and a service contract, considering the financial implications for the Council and the sharing of risk with the COLBEA, our Operating Partner, to enable successful project delivery. The details of this review are included in the finance section of the report. COLBEA also requested changes to the provisions in the Heads of Terms of the lease, which also indicated that the disposal as originally intended may no longer be a viable way to proceed.

The review leads officers to recommend that a Service Contract for Management of the Facility and Business Support Service and Licence to Occupy the property would enable the most effective project delivery, better share risk between the Council and COLBEA, and avoid an accounting anomaly that would lock up the land value of the project (£300,000) in an unusable reserve, and keep the land for the project within the Housing Revenue Account (HRA).

A Service Contract and Licence to Occupy, in addition to the new provisions proposed by COLBEA the Operating Partner, differ from the original tender exercise sufficiently that the procurement for modules 3 and 4 is deemed to have failed. One of the options would be to commence a fresh procurement exercise to select an Operating Partner against the new terms. However, this process would impact on the project's tight delivery timetable. Given the Council only received two bids for the original tender, and the successful Operating Partner was the only applicant with deep experience of managed workspace delivery, we propose making a direct award to COLBEA.

At the Council's request COLBEA reviewed running costs for the centre in detail based on the original tender documentation and as a result have requested a further £45,000, in addition to the agreed £45,000 for year one operating costs. Changing from a full repairing lease to a service contract and licence will reduce COLBEA's financial risk. Subject to Cabinet's approval it is proposed that the Corporate Director, Project Delivery in consultation with the Business and Economic Growth Portfolio Holder, will negotiate with COLBEA on costs and any changes to the agreed operating subsidy.

The Scenario B development endorsed in May was based on an updated design and required additional funding in the value of £300,000 resulting in a total scheme value £2,427,535.

Construction material costs have been seen to increase as the country unlocks and once tender prices come in for construction there is a potential risk that this budget is insufficient to deliver the project as planned. Cabinet will be updated with options if this occurs seeking any necessary approvals.

Cabinet determined to endorse the submission of a Planning Application for the Scenario B scheme given that Essex County Council had indicated that it was minded to find a further £300,000 in support of the enhanced scheme. Subsequent to Cabinet's meeting in May 2021, Essex County Council confirmed that this funding would be made available (as funding of last resort) and officers have received a funding agreement to be completed in accordance with the delegations authorised by Cabinet in May 2021.

The Workspace is accessed via Lotus Way and abuts un-adopted highway (called 'Brooklands'). Essex County Council has carried out a visual inspection of the highway and made a request of £25,000 to enable them to complete works on the road and associated drainage in support of delivery of the Workspace project.

FURTHER HEADINGS RELEVANT TO THE REPORT

None

CURRENT STATUS

The planning permission was considered at committee on 6 July 2022 and the application was approved and granted in full. Work has continued subsequently to prepare the detailed design proposals for the project.

Consultants are currently preparing the tender pack through which to procure a lead building contractor. The procurement is scheduled to commence in October 2021. The overall project is now programmed to complete in early summer 2022.

BACKGROUND PAPERS FOR THE DECISION

Cabinet Report and decision 21st May 2021

APPENDICES

None