

CABINET

24 MAY 2024

ADDENDUM TO REPORT A.6 - FURTHER UPDATE ON SPENDELLS HOUSE AND REVIEW OF BUDGET AND REFERENCE UNDER SECTION 5 OF THE LOCAL GOVERNMENT AND HOUSING ACT 1989

COMMENTS OF THE ASSISTANT DIRECTOR FINANCE AND IT & SECTION 151 OFFICER

The main report (Item A.6) references that the Section 151 officer had not been able to provide comments within the timeline allowed for the report and a further written update will be provided in advance of the meeting as a published addendum report considering the financial implications and other matters arising within their remit. This report is therefore the addendum report referred to.

INTRODUCTION AND BACKGROUND

The issues set out in the main report emerged during Q4 2023/24 and was referenced within the financial performance report that was considered by Cabinet on 19 April 2024.

Since the issue emerged, the Council's Senior Management Team / Leader and Housing and Planning Portfolio Holder have been working with the Service to better understand the situation and the level of potential overspending / unauthorised expenditure.

Given the wider financial risks, such as the consequences of potentially suspending the on-going refurbishment works, and as the scale of the issue has only recently been established as part of the 2023/24 outturn review, the project continuing in the interim period was acknowledged.

The report considered by Cabinet in April referred to above indicated that the matter would be revisited as part of finalising the outturn report for 2023/24. However, the work associated with finalising the outturn position for 2023/24 has now been completed and given the scale of the issue, a separate report is being presented to this meeting of Cabinet rather than wait for the wider outturn report to be presented to Cabinet in July to ensure the matter can be addressed as timely as possible.

In terms of the background and the most up to date position, it is helpful to first summarise the key financial elements set against the overall scheme budget, which in turn underpins the further commentary set out later in this addendum report:

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A. Approved Scheme Budget	£1,477,700
B. Actual Expenditure to the 31 March 2024	£1,234,867
C. Balance of the value of 'binding' instructions issued to contractor to date	£629,368.12
D. Total spent to date @ 21 May 2024 (including value of instructions given to contractors)	£1,864,235.12
E. Unauthorised Expenditure (D minus A)	£386,535.12
F. Estimated Further expenditure to complete the project (including further potential instructions not yet given to contractor / external providers)	£388,465
G. Contingency	£75,000
H. Additional Estimated Furniture Cost	£10,000
I. Total Revised Scheme Cost (D+F+G+H)	£2,337,700*
Total Additional budget required to complete the Project (I minus A)	£860,000

*Differs to the figure of £2.249m within the main report as includes furniture costs and earlier budget adjustment initially omitted.

In addition to the above it is also worth highlighting the associated key elements of Financial Procedure Rules included within the Council's Constitution relating to incurring expenditure and budget management as follows: *[key elements highlighted in blue]*

Part 5.46 Para 7.2 (Financial Management of the Budgets During the Year)

Responsibility for the control of capital and revenue expenditure (including the award of grants) and income for a service or function shall rest with the appropriate Head of Department. **Each Head of Department shall notify the Chief Financial Officer of any actual or prospective overspending of expenditure or shortfall in income in excess of the budget which cannot be met by virement as set out in these Financial Procedure Rules.**

Part 5.50 Para 9.5.4 (Certificate and Payment of Invoices)

Before certifying an invoice the certifying officer must be satisfied, within the tolerances specified by the Chief Financial Officer, that:

- (a) The invoice confirms with the official order

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- (b) That the goods have been received, examined and approved for quality and quantity and that any services have been rendered or any work done satisfactorily and receipted on the approved ordering system
- (c) That the prices charged are correct
- (d) That the expenditure is, to the best of the certifying officer's belief, lawful and has been duly authorised.
- (e) That no invoice for the same goods, service or work has previously been passed for payment
- (f) The invoice is arithmetically correct
- (g) That the expenditure has been properly analysed to the appropriate accounting code(s)
- (h) That the allocation of VAT has been correctly made
- (i) That the expenditure can be financed from within the appropriate approved estimate.

Part 5.38 Para 5 (Authority to Incur Expenditure)

In relation to all expenditure both revenue and capital, however funded, and in accordance with delegated powers an approved scheme is one where there is:-

- (a) Provision of a service consistent with an historic nature and level that is, and has in prior years, been specifically allocated and defined within the ongoing base Budget;
- (b) Any change to a service set out in (a) above where the appropriate authority to the change has been obtained in accordance with delegated powers;
- (c) Otherwise, a scheme that has the necessary approval from Council, Cabinet, Portfolio Holder or Officer in accordance with delegated powers.

For any expenditure to be incurred the necessary budget must also be in place. Where the necessary budget is not in place then amendments to the budget agreed by Council can only be made in accordance with section 6.

KEY ISSUES

Set against the background above and the information set out in the main report, the following provides further commentary / observations on the associated issues.

Internal Controls and Governance

There are two key internal control / governance elements associated with the issues raised in the main report and it is important to deal with them separately as follows:

1. **Expenditure / Legally Binding Instructions given without the necessary budget being in place.**

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In respect of the situation set out in the main report, the key 'trigger' point is the instructions given to the contractor that legally bound the Council to the associated expenditure that led to the existing budget being exceeded by **£387k** as highlighted in the earlier table. Although the reason for giving instructions to contractors as set in the main report is acknowledged (i.e. to prevent the project from stalling) these instructions were given in contravention of the existing internal controls highlighted earlier.

For completeness:

- a) The Chief Finance Officer was not notified of prospective overspending; and
- b) the necessary checks that the binding commitments made could be met from within the approved estimate and therefore the necessary budget was in place before expenditure was incurred were not undertaken.

It is also understood that the instructions were given to the contractor verbally and were later confirmed in writing. In terms of the written confirmation, the majority of these do not include any pricing information, although many refer to attached quotations or email confirmations which have not yet been seen. Further clarity is therefore required as to how the variation orders and financial aspects of the project are being managed. At the present time it is accepted that the instructions given to date are legally binding as confirmed by the Service.

Although the risks to the Council are inherently bound to individual Officers following existing internal control arrangements, it is acknowledged that this can be strengthened and be proportionate to the level of expenditure involved. In terms of providing additional assurance around this issue, especially in light of the major projects the Council has already commenced or will be commencing later in the year (e.g. LUF/ CRP), further actions are set out later on in this report.

2. The Cost of the Project Significantly Escalating Beyond the Existing Budget

This is broadly addressed in the main report, which also sets out a number of helpful measures that the Service are putting in place. The main report also acknowledges that although some of the additional works were unforeseeable when the specification was written, some items were erroneously omitted.

The direct actions of the Service will be complemented by the on-going work of Internal Audit highlighted within the main report along with additional proposed actions set out later on in this addendum report.

The Scheme and the Proposal to Continue

In terms of other elements of the main report such as the recommendation to continue to deliver the scheme and the proposed funding approach, some additional observations / comments are as follows:

Value for Money

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The main body of the report sets out a value for money case for continuing the project and includes a helpful comparison with the risks associated with potentially ceasing the project.

It is also important to highlight that the Council can take a long term view. With this in mind, the demand for temporary accommodation is expected to remain high in the medium to long term and set against the expected continuing shortfall in alternative / cheaper temporary accommodation, the project is still anticipated to provide value for money over its life, which includes providing more suitable accommodation for families instead of using hotels and B&B's.

It is acknowledged that there is still a risk that the above factors could change that may result in significant void periods within Spendells House. Although this is a risk that must be taken into account in making the decision, there is no evidence at the present time that suggests that the demand for temporary accommodation will reduce or that there will be an increase in the supply of cheaper accommodation within the district in the foreseeable future.

In taking a pragmatic view, the total spent / contractually committed expenditure to date is **£1.864m** as highlighted in the table above, which therefore has to be met regardless of the consideration of potential alternative options. An additional **£473k** is required to complete the project (including contingency and additional furniture costs), which is therefore the underlying consideration as to whether to continue to project or not rather than necessarily revisiting the previous business plan. As set out in the main report, alternative options have all been given an indicative estimate by the Service at a price in excess of this sum, which supports the decision to continue with the project.

Use of HRA Reserves to Fund the Additional Costs

The main report sets out the pragmatic approach of using HRA Reserves to fund the additional required budget of **£860k**. The current estimated HRA Reserve at the end of March 2024 totals **£3.350m**. This would therefore reduce to **£2.490m** after meeting this additional cost. This clearly puts pressure on the remaining balance in the context of supporting the ongoing delivery of a sustainable HRA in the medium to long term and the potential opportunity cost impacts. However, given the urgency of the decision, it would be appropriate to use the HRA Reserve, although this will remain under review during the remainder of the year where it may be possible to apply a more advantageous mix of funding including the use of capital receipts or refocusing existing capital and/or revenue budgets. If such a change was to be made, it would be subject to a separate decision as necessary.

Other Matters

The main report states the following:

In light of this increase in costs, it is impossible to confirm that the financial appraisal / business case that was set out within the original report to Cabinet in June 2020 to determine if value for money can

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still be reasonably demonstrated owing to the potential for changing circumstances during an elongated pay-back period.

This could be seen as contradictory to other comments elsewhere within the main report that suggest that the business case has been reviewed and it remains advantageous to continue the project through to completion.

With the above in mind, the key value for money considerations have been set out in the main report and earlier in this addendum report which broadly take into account the key financial risks that the Council now faces rather than a reliance on a revised detailed business case. It is therefore important to repeat an earlier point that the Council can take a long term view and given there is no current evidence that the demand for temporary accommodation will reduce or conversely that the supply of cheaper alternative temporary accommodation will increase, the continuation of the Spendells House project is still expected to provide value for money in the long term as well as providing more suitable accommodation for families within the local area. This is especially important when compared with the alternative options that have all been estimated by the Service as potentially being more expensive.

CONCLUSIONS AND PROPOSED ACTIONS

The main report sets out a pragmatic approach that seeks to regularise the budget / unauthorised expenditure issue as timely as possible along with recommending the continuation of the Spendells House project. The latter point being based on a number of value for money considerations including the comparison with alternative options such as ceasing the project. The issue that has been identified is therefore not about the value or the need to undertake the project but about the governance arrangements required as part of the Council's budget framework. As highlighted earlier the main report also sets out a number of useful changes to internal practices and processes that the Service are seeking to implement directly.

This issue has been discussed informally with the Council's External Auditor and it should be seen as a significant value for money / governance issue for the Council that will be reflected in their associated value for money commentary that will be provided during 2024.

It is also a significant reputational issue for the Council, especially in light of the major projects the Council has already commenced or will be commencing shortly such as the various Levelling Up Projects. Going forward, the Council will need to undertake the necessary actions / steps to provide adequate assurance around the management of budgets and delivering value for money both internally and to our external partners. This will include ensuring that officers who authorise invoices / give legally binding instructions to service providers and contractors on behalf of the Council are at an appropriate senior level and that they clearly understand the Council's financial procedure rules. This must also be complemented by regular reviews at Director / Assistant Director Level along with regular reconciliations to the Council's primary financial systems to reduce the inherent risks of using secondary information when managing projects via spreadsheets or other similar approaches.

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Following the main report being published, there have been ongoing discussions involving the Chief Executive, Monitoring Officer, S151 Officer and Head of Internal Audit, and as initial first steps, the Chief Executive:

- a) Has instructed that a formal review to be undertaken to provide further clarity on how the issue arose and developed (including the governance arrangements associated with issuing verbal orders), which in turn can inform any further actions along with informing decision making and project delivery in the future;
- b) is finalising a directive to all Senior Managers relating to financial and budget management, which explains the consequences and expectations of them in their roles and will be supported by further collective meetings with Senior Officers over the coming weeks / months; and
- c) has commenced arrangements for the implementation of a Senior Officer Project 'Board' that in turn will report directly to the Council's Senior Management Team on a regular basis.

Once the review set out in a) above has been concluded, further actions may emerge which will be implemented as necessary along with the outcome being reported to Members accordingly.

In terms of successfully completing the Spendells House project within the proposed revised budget, the following commitment by the Service that is set out in the main body of the report is noted:

The construction of the project is substantially under way and officers consider that it is unlikely that any further unknown issues will be uncovered. The project team will continue to seek ways in which to reduce the overall expenditure.

In light of the above, the following ADDITIONAL RECOMMENDATIONS to those set out in the main report (Item A.6) are proposed:

“That Cabinet:

- (h) notes and endorses the instructions and actions of the Chief Executive as set out within the Addendum Report;**
- (I) subject to h) above, requests that Officers provide an update against the instructions and actions taken by the Chief Executive as soon as practicable; and**
- (J) acknowledges the potential alternative to using HRA Reserves highlighted within the Addendum Report and requests that the S151 Officer keeps the options under review during the year and reports back to Cabinet as necessary.”**