

BARNSLEY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the council's definition and has been included in the relevant Forward Plan

Joint report of the Executive
Director Core Services & the
Executive Director Place

The Glass Works- Further Investment in the Town Centre

1. Purpose of report

- 1.1. To set out options for the delivery and governance for the next stages of the Glass Works project

2. Recommendations

It is recommended that:

- 2.1 Cabinet agrees an additional investment in the Glassworks Phase 1 scheme of £8.3M as a result of an increase in the size of the scheme together with the accelerated works programme.
- 2.2 Cabinet agrees to a number of movements of individual work packages between the two phases as highlighted in paragraphs 5.6 to 5.8 of the report.
- 2.3 Cabinet agrees the alignment of resources (£5.1M) previously set aside for the wider Public Realm Works into the overall Glassworks scheme budget as highlighted in paragraph 5.9.
- 2.4 Cabinet note the option appraisal work undertaken on the future delivery and governance of the Glass Works project.
- 2.5 Cabinet approve the use of a design and build form of contract for the construction of Phase 2 as set out in paragraphs 5.1 to 5.5.
- 2.6 Cabinet approve the on-site project management and cost consultancy arrangements for the construction of Phase 2 as set out in sections 5.10- 5.12 of the report.
- 2.7 Cabinet approve the revised Glass Works governance arrangements as set out in sections 5.13- 5.17 of the report.

3. Introduction

- 3.1 This report summarises the current position in relation to phase 1 of the Glass Works scheme along with procurement and design development of phase 2. The report then goes on to outline options for the future delivery, management, and governance of the project.

- 3.2 In March 2017 Council approved the funding of phase 2 of the Glass works scheme along with a series of procurement exercises to:
- Progress the design of the scheme
 - Secure development management services beyond the existing Turner and Townsend /Queensberry contract which is due to expire in October 2017
 - Secure a works contractor to build phase 2

Current Position

- 3.3 There have been a number of changes to the phase 1 development. These include an increase in the size and scope of the development with the size increasing by circa 25%.
- 3.4 The opening timescales for key retail and leisure operators has impacted on the development timeline for phase 2. As a result the works programme for phase 1 has had to be accelerated to accommodate the revised phase 2 timeline.
- 3.5 There is an increased cost associated with the above phase 1 changes. This cost is to be funded from funds previously set aside for the Phase 2 development together with deprioritising a number of other capital schemes.
- 3.6 The next phase of design work has commenced with the existing design team being used to develop the design of the phase 2 scheme up to RIBA stage 4. This design activity will feed into detailed tender specification for the procurement of the phase 2 works contractor.
- 3.7 Work has also commenced on the procurement of additional development management (DM) services. The existing contract with Turner and Townsend and Queensberry ends in October 2017 and the procurement process will secure DM services through to October 2021. This time period reflects the need to complete the leasing of the scheme post opening in spring 2020 and cover the construction defect period. The OJEU notice was posted 23rd June with a successful market briefing event held on Wednesday 5th July
- 3.8 Work has also been continuing with design integration between the two phases of the scheme and in particular understanding how the construction activity between phase 1 and phase 2 can be delivered. The output has been the realignment of a number of elements of the scheme between the two phases to ensure that two contractors can work efficiently on adjacent parts of the scheme.
- 3.9 The increased costs identified in phase 1 along with the ongoing process of aligning the two phases have required a review of the future delivery, management and governance arrangements of the Glass Works. Focussing on experience to date and key delivery timescale and budget risks the review has identified options to ensure robust and appropriate mechanisms for the scheme moving forward. The review has focused on:-

- The most appropriate form of contract for the phase 2 works contractor
- Management and cost control mechanisms of the phase 2 works contractor when on site
- Future project Governance arrangements for phase 1 and phase 2 of the Glass Works Scheme

3.10 Decisions on these elements are now required in order for the scheme design and procurement to progress in a timely manner. Specifically decisions on the form of contract and future on site management arrangements are needed to finalise the specification of both the works and DM procurement exercises. The form of contract will also influence the outputs of the RIBA 4 design works.

4.0 **Consideration of Alternative Approaches**

Form of contract for phase 2 works contractor

4.1 The overarching objectives of any works contract are to be able to manage and control construction so that the completed scheme is delivered:

- On time
- On budget
- To the specified level of quality

As important however, are the specific elements and constraints of the Glass Works scheme.

4.2 There are specific contractual timescales with long stop dates that the Council are now committed to. The agreement to lease with Cineworld includes:

- Confirmation of Council funding- 8th March 2018
- Construction to have started by the 8th March 2019
- Works end date of 8th September 2020

The confirmation of Council funding is important. A key milestone in informing this decision is having a price from a contractor for the phase 2 works and to deliver this, a timely procurement process has to take place.

4.3 The phasing and inter linking elements of the two phases of the Glass works projects are complex and have required programme and design changes to date . The overall scheme is a combination of refurbishment and new build and this takes place over a number of levels. The basement area stretches over both phases 1 and 2 and is a mix of new build and refurbishment with a need to keep it operational to service the market and associated retail units. In addition, adjacent to the main scheme is the potential construction of a new

bridge over Jumble Lane crossing. Although separate from the main scheme the construction programme has the potential to impact on the construction of the block containing the cinema.

- 4.4 The individual work packages that could be included in the works contract are at different design stages. The new retail and leisure elements are currently being designed to RIBA Stage 4, elements of public realm design on Cheapside are at RIBA stage 2 whilst other elements such as outside the Interchange / Midland Street have not started.
- 4.5 The review of contracts has primarily focused on a partnering and design and build form of contracts although it is recognised that other less appropriate arrangements such as management contracting could be available. The partnering contract is the mechanism used for the current phase 1 contract.
- 4.6 A partnering contract involves early appointment of a contractor to assist as a task team member in budget, design, programming and planning the project build. There is a shared risk/reward arrangement where a capped 'Guaranteed Maximum Price (GMP)' is agreed for the 'Works Tasks' and the contractors actual costs are paid up to this GMP. Under this arrangement the Employer (BMBC) and its designers (Architects / Engineers) maintain full control of the design and implementation of the project but may, where appropriate, instruct the Contractor to carry out design works. This provides full flexibility.
- 4.7 The design and build (D and B) form of contract is essentially a fixed lump sum contract. It is procured using an Employers Requirements document (ER) which usually contains basic plans, elevations, site layout and a specification of works covering all the elements of the project the client requires to be fixed. Contractors submit tenders on this information making their own assumptions on any un-designed elements at their own 'risk'. Once the contract is let, the contractor is free to develop the design to increase its profitability, buildability etc. provided the design development and the final building complies with the ER.
- 4.8 The table below summarises the key strengths and weaknesses of these two forms of contract against key procurement objectives for the Glass works scheme

Criteria	Partnering	Design and Build (D and B)	Key Risks/ Mitigations
Price	Less price certainty. Although based on detailed RIBA 4 design information the price will still be based on Guaranteed maximum prices rather than a fixed price.	More price certainty. A fixed price can be achieved. This can only be guaranteed if the design and programme do not change	Lack of design certainty on certain elements of public realm increase the risk of price increase with D and B option Lack of design and buildability certainty on phase 2 basement works increase risk of price increase with D and B option
Programme	Less certainty. There is less ability to control the delivery programme of the contractor. Risk of delays with the design process sits with the Council rather than contractor	More certainty. The Council has the ability to apply damages if the contractor does not meet programme.	However the Contractor can also request damages if Council does not meet its obligations under the programme
Procurement Programme	Less certainty. Timescales to deliver full RIBA 4 design make it difficult to secure price in advance of date for Cineworld funding condition	More certainty. Less RIBA 4 design work is required. Certain design elements will be delivered by the successful contractor	Timescales risks with partnering contract can be mitigated by using a combination of RIBA 3 and 4 Cineworld timescale could be met by using indicative prices from submitted tenders
Ability to manage change	More certain-partnering approach allows collaborative approach to jointly solve buildability and programme issues	Less certain - changes in programme or design requirement increase the risk of increases in price	Certain Risks to D and B contract can be mitigated Money is already built into the financial model to pay for changes required by incoming operators
Ability to maintain design quality	More certain-partnering approach allows collaborative	Less certain- design quality can be compromised by the	D and B design quality risk mitigated by ensuring key quality features are designed

approach to jointly manage design quality	contractor driving down price	to RIBA stage 4 and contained within the employers requirements
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On site management and cost control mechanisms of the phase 2 works contractor

- 4.9 In order to support efficient project delivery there is the need to have robust on site management and cost control mechanisms. These will help mitigate the risk of additional cost pressures and support the timely report of information to the project governance structures. The build cost of phase 2 is currently estimated at £53m with specific delivery requirements likely for 40 individual leisure and retail operators across the scheme.
- 4.10 At present the main contractor for phase1 provides project management resource to the BMBC/ NPS team. Alongside this professional cost consultancy input is provided by NPS Barnsley. An option exists where similar arrangements to phase 1 could be put in place. An in house resource could be used to provide on-site project management of the contractor and cost consultancy through NPS Barnsley.
- 4.11 A further option exists to procure the on-site project management of the phase 2 works contractor and cost consultancy works as part of the current DMO procurement process. As part of the overall DMO contract, on site project management would feed upwards into the Governance structures and would also provide the link to the other elements of the DMO contract such as leasing and retail delivery.
- 4.12 A further option exists where project management is separate from the phase two contractor with structures put in place so that overall project management is delivered across both phases of the Glass Works. This would allow for a different approach to what is currently used and potentially support the further integration of the two phases of the project.
- 4.13 A variant across the previous two options could be introduced whereby the cost consultancy element of the project could be retained in house be delivered by NPS Barnsley in line with Phase 1.

Future Governance Arrangements

- 4.14 Currently both phase 1 and phase 2 of the project have their own project board that report directly into the Town Centre Programme board that is chaired by the Executive Director for Place. Coordination is maintained between the two boards with joint membership of key officers with further task groups supporting this coordination. An audit review of the phase 2 governance arrangements was undertaken in February 2017. The arrangements were found to be adequate. Recommendations have been acted on with a target date for final sign off of recommendations by 31st July 2017. The report is attached in appendix B

- 4.15 An option exists to maintain this arrangement of two separate boards with the phase 2 contractor reporting to the phase 2 project board when appointed later on this year.
- 4.16 An option exists whereby the two boards merge. This approach supports the continued integration into one project. In order to do this project management arrangements would need to be refined to ensure clear reporting lines and avoid potential duplication of resources. Central to this, decisions would also need to be taken on the lead accountable officer for the project.
- 4.17 Decisions on timing of the merger of the two boards would also have to be taken. There is an option that this is done now to give the earliest alignment of resources or alternatively this could be done to coincide with the appointment of the phase two works contractor and/or the new DMO contractor later on in the year

5. Proposal and justification

Form of contract

- 5.1 Members need to be aware there is no one perfect form of contract with risk in both options. The most appropriate form of contract is the one that gives the best fit to deliver the complex circumstances of the Glass Works and delivers against the core objectives of price, time and quality.
- 5.2 The preferred option is that the primary form of contract used for the phase 2 works is design and build as this is the mechanism that gives greatest certainty over price and programme.
- 5.3 This approach is also supported by advice from the current DMO team. Both Turner and Townsend and Queensberry feel that the D and B approach is most appropriate for the Glass Works scheme moving forward. Separate notes on procurement are attached in appendix C.
- 5.4 Members need to note that this is a change to the previously recommended procurement strategy. Design and build replaces a partnering approach because of the emerging uncertainty on phase 1 and also the delivery timescales associated with the Cineworld lease.
- 5.5 There is however risks to the D and B approach and these need to be managed. A partnering form of contract does give greater control over the design process however by including detailed RIBA 4 designs as part of the D and B specification the risk of a contractor not delivering the Council's design and quality aspirations is reduced.

Phase Re-alignment

- 5.6 During the completion of the Phase 1 construction together with the design stage for Phase 2, it has become apparent that a realignment of work packages between the two phases is required.
- 5.7 Currently the Phase 1 development includes the construction of the retail units to the side and rear of the Metropolitan Centre. It is now considered more

appropriate that these works be included within the procurement contract for the Phase 2 development. The total estimated costs associated with these elements is circ. £4M.

- 5.8 It was originally thought necessary to transfer the basement works required following the demolition of the multi-storey car park together with the necessary statutory utility diversions to create the new retail boulevard currently included within the Phase 2 development into Phase 1. Following further discussions with NPS working on behalf of the Council it is considered that this is no longer necessary although this position may change as construction progresses. A further update will be provided if required.
- 5.9 Finally in addition to the above construction of the new town square public realm works is included as part of the Phase 1 contract. Resources have also previously been set aside for wider public realm works on Cheapside / Queen Street / Midland Street and Peel square. It is proposed to align these resources into the whole budget envelope for the “Glassworks” scheme with completion by the most appropriate contractor (Phase 1 or Phase 2 contractor / combination of both) to be decided following the final design of the whole public realm works.

Management and Cost Control Mechanisms

- 5.10 In order to deliver robust on site project management and cost consultancy services the preferred option is to procure these services as part of the ongoing DMO procurement process. This option gives the opportunity to procure specialist services with costs already included in the financial model for the scheme. The DMO will control the works contractor on site acting as an employer’s agent reporting directly back to the Council as part of the project governance structures. Provision for the services has been made in the OJEU contract notice and a detailed specification can be set out at full tender stage.
- 5.11 The delivery of phase 2 has differing on site project management requirements from phase 1 and as a result using the current arrangement was discounted. Primarily the phase 2 requirements are driven by the need to manage the coordination of approximately 40 incoming retailer and leisure operators and liaison with the retail delivery and leasing elements of the DMO are therefore crucial. In addition there is the need to coordinate construction activity with the shop fitting teams of the operators. Cineworld for example, have a contractual requirement for when and how the fit out of the cinema needs to take place.
- 5.12 The option of separating out project management to a structure that sits above both phase 1 and two is also discounted. Phase 1 is now in the early stages of on site delivery and is under time pressure to deliver to programme to ensure that phase 2 can commence on time. Although overall project resources could be enhanced and it could fit well with a modified governance structure there is a significant risk that changes to project management structures at this time could impact on the delivery of both phases of the project.

Future Governance Arrangements

- 5.13 The preferred option is to merge the boards to form one Glass Works programme board. The board will have overall responsibility for the project and focus exclusively on the Glass Works. The overall aim is to have a single point of contact, with senior officer level attendance, that will have responsibility for the commercial, risk and financial aspects of the project.
- 5.14 Specific terms of reference will need to be developed, however the initial structure will need to be flexible enough to adapt as the project develops. Specifically there will be future requirements to take asset management decisions when the Glass works becomes operational. The board could be the vehicle for this. The diagram is set out in appendix E.
- 5.15 The new board will need to receive the necessary management information to make decisions. Underneath there will be the need to develop the necessary reporting structures. A key element will be an operational / delivery meeting that will manage and control the works contractors of the two existing phases. As part of these structures there will be the need to deliver the partnering requirements of the existing phase 1 contractor.
- 5.16 Appropriate upward reporting structures also need to be put in place reflecting the requirement for timely information being made available to Members and the Council's Senior Management Team. As the senior responsible officer for the Glass Works board the Executive Director for Place will be key to this. Risk escalation processes on cost, and programme issues and associated quality issues will be put in place with direct reporting to SMT if necessary.
- 5.17 Exact timing of the merger of the two boards needs to be determined however structures need to be put in place in order to effectively manage the new DMO and the phase 2 works contractor. This timeline suggests that work on board membership and new terms of reference should start as soon as practically possible.

Next Steps

- 5.18 Work will need to be completed to ensure that the chosen procurement approach is robust and in line with current guidance and legislation. Solicitors Walker Morris have been retained to support the works contractor procurement process and they are currently reviewing the various stages of the procurement programme. As part of this, formal procedures are being built into the timeline and contract notices put in place to ensure that elements of negotiation can take place with shortlisted bidders.
- 5.19 Following decisions on the procurement process the scope of the RIBA 4 design process needs to be confirmed. Work has commenced on the preliminary elements of the design stage however the amount of design information and the presentation of this information will vary depending on the procurement route.

6. Implications for local people / service users

- 6.1 The creation of new retail and leisure facilities will create significant job opportunities for the local people. The scheme will provide a number of part time and full time opportunities within the local economy and with a mix of employment opportunities help people find varied employment based upon their work life balances.
- 6.2 In the short term there could be some adverse impacts on existing businesses and potential redundancies as a consequence of the site assembly, demolition, refurbishment and redevelopment requirements of the proposed scheme.
- 6.3 There will be significant construction over a period of time which will cause some disturbance to the town centre. The scheme will be managed to minimise impact on existing businesses and the public including those businesses whose premises are close to the development area. Significant emphasis will also be placed on maintaining a vibrant town centre throughout any construction works. Central to this will be the development of a promotion and events programme to support retail footfall to the Town Centre. The selected DMO has committed to working with the Council on a joint communications and marketing strategy.

7. Financial implications

- 7.1 Consultations have taken place with the Service Director Finance (S151).
- 7.2 The Phase 1 development includes the redevelopment of the Metropolitan Centre to house a new market together with the provision of a new library, a new public square and additional town centre car-parking, with the Phase 2 development providing approximately 272,000sq ft of retail and leisure units.
- 7.3 Total resources of £50.1M have previously been approved for Phase 1 of the “Glassworks” scheme with a further £73.3M being earmarked for approval for the Phase 2 scheme.
- 7.4 The revised estimated costs of Phase 1 now totals £54.388M. This is as a result of an additional investment in the Phase 1 scheme of £8.3M following an increase in the scope of the development. This additional investment is to be funded from monies previously earmarked as a contingency for the Phase 2 development together with a de-prioritisation of other capital schemes identified for completion.
- 7.5 It is also proposed to transfer the resources for construction of the retail units (estimated to be in the region of £4M) to be situated on the new Boulevard from the Phase 1 scheme into Phase 2 - this being a net nil financial transaction. The Phase 1 scheme has therefore seen a net increase of £4.3M from the original budget (£50.1M) approved.
- 7.6 Finally a further £5.1M of resources have also been earmarked within the 2020 Capital New Starts programme for the wider public realm works required in the Town Centre. It is proposed to align this funding to the whole

Glassworks programme budget, with final release of funding and allocation to phases being subject to a further report.

8. Employee implications

8.1 There are no employee implications arising from this report.

9. Communications implications

9.1. There are significant communication implications for the scheme. An integrated communications strategy for the Better Barnsley scheme has been developed by BMBC and the current DMO. The key messages to be communicated at the current stage of the development include:

- The scheme will deliver a new retail and leisure destination for Barnsley, providing the type of offer that a town the size of Barnsley deserves.
- The unique characteristics of Barnsley will be retained by adding in high street names and restaurants alongside the strong independent offering epitomised by the historic markets and Victorian Arcade.
- A key priority of the scheme is to create a family-friendly evening destination, served by the cinema, other leisure facilities and family-oriented restaurants.

10. Consultations

10.1 Consultations have previously taken place with elected members via an all member briefing on overall progress with the Better Barnsley scheme and the next steps in terms of delivering new leisure and retail units.

10.2 Consultation has taken place with representatives from the Service Director (Finance) regarding the financial implications and risk issues.

10.3 Consultations have taken place with the Executive Director Core on legal implications

11. Community Strategy and the Council's Performance Management Framework

11.1 The proposals in this report are consistent with Council's Corporate Plan 2017-20 as it directly contributes towards the aspiration of delivering a thriving and vibrant economy. A specific outcome of this objective is a vibrant town centre with clear linkages to the further outcomes of creating more and better jobs and increasing skills to get more people working.

12. Tackling Health Inequalities

12.1 The creation of new jobs reduces overall worklessness which provides a significant contribution to addressing inequalities in health and developing a healthy productive workforce.

13. Climate Change & Sustainable Energy Act 2006

13.1 Action to improve the energy efficiency of buildings constructed as part of the project will help to reduce carbon emissions.

14. Risk Management Issues

14.1 There are comprehensive risk registers in place for both the Phase One Programme ('Better Barnsley') and the Phase Two programme ('Glassworks') which is reviewed at the relevant monthly project board meetings. The current register for the Glassworks Programme is attached at appendix E.

14.2 In line with the recommendation relating to the future governance of the Glass Works project a single approach to risk management is to be developed. The new Glass Works board will need to take ownership of all project risks either through the consideration individual registers for the two phases or one new combined register.

15. Health & Safety Issues

15.1 None arising directly from this report although there is the need to ensure all relevant staff are trained up on health and safety issues.

16. Compatibility with the European Convention on Human Rights

16.1 There are no matters of relevance arising from this report.

17. Promoting Equality & Diversity and Social Inclusion

17.1 There is an understanding that anyone with disabilities can face all kinds of challenges using the town centre. The goal is that the finished scheme is a destination of choice for anyone with disabilities to visit, shop, eat and have the facilities they need to fully enjoy their day.

17.2 The Town Centre delivery team have put significant emphasis on consulting with local access groups as the scheme has developed to outline planning stage. There has been engagement with local disabled people to ensure that the re-developed town centre is fully accessible and the existing town centre remains accessible for the duration of the work period. This detailed work will continue as the scheme develops and detailed designs emerge for the new retail and leisure facilities created by the scheme.

18. Reduction of Crime & Disorder

18.1 The Council is collaborating with the Police to address anti-social behaviour across the town centre. Good, safe design principal will help and assist this work going forward.

19. Conservation of Biodiversity

19.1 There are no matters of direct relevance arising from this report.

20. Glossary

OJEU- Official Journal of the European Union

DMO- Development Management Organisation

D and B- Design and Build

21. List of Appendices

Appendix B –Phase 2 Audit Report

Appendix C- Procurement Review Turner and Townsend and Queensberry

Appendix D- Public Realm phases

Appendix E- Suggested Governance Structure

Appendix F- Phase 2 Risk Register

22. Background Papers

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