

Report of: Planning Services Business Manager

**To: Executive Board - 10th September 2007
Council - 19th November 2007**

Item No:

Title of Report : Bonn Square: Authority to commence on site



Summary and Recommendations



Purpose of report: To inform Executive Board of progress with the project, to present the outstanding risks associated with the project, including proceeding on the basis of a 20 year management agreement with the Baptist Church, and to seek authority to proceed to let a contract for phases 1a, 1b and 2.

Key decision: Yes

Portfolio Holder: Councillor John Goddard



Scrutiny Responsibility: Finance

Ward(s) affected: Carfax

Report Approved by:



Councillor John Goddard- Portfolio Holder

Sharon Cosgrove - Strategic Director, Physical Environment



Isay Cane and Emma Griffiths – for Head of Legal Services

Sarah Fogden - Head Financial and Property Services



Policy Framework:



Improving environments where we live and work.

Making Oxford a safer city

West End Area Action Plan

Recommendation(s):

The Board is asked to agree:



To enter into an appropriate management agreement with the Baptist Church based on the drafted approach appended to this report, which enables full public access and integrated management of the Square.



2. To use the restricted tender procedure for Phases 1a, 1b and 2. to increase the calibre of contractors for this high quality, city centre scheme
3. To recommend to Council that £300k of the Council's capital resources are allocated to Bonn Square to forward fund the £500k contribution from the Westgate project, until the capital can be repaid from other sources and allow the refurbishment of New Inn Hall Street to be included in the first contract.
4. To instruct the Strategic Director, Physical Environment to work to close the resource gap, which will be funded by the supplementary capital allocation in 2006/07 until the funding is in place.
5. The Executive Board note and accept the recommendations concerning the risks identified in the risk register appended to this report and instruct the Strategic Director, Physical Director to report back to the Executive Board should any risk mitigation measures that do not effectively manage the financial risks to the Council.

Introduction

1. The Executive Board gave Major Project approval to proceed with Bonn Square on 29th January 2007 up to £1,912,000, subject to a number of limitations:
2. The minutes of the meeting state:

BONN SQUARE REDEVELOPMENT – MAJOR PROJECT APPROVAL AND ASSOCIATED ISSUES

The Planning Services Business Manager submitted a report (previously circulated and now appended).

Resolved that: -

- (1) Major Project Approval be granted for the redevelopment of Bonn Square conditional upon Council approving the request to increase the capital budget to £1,912,000 on 12 February 2007 but recognising that implementation will be phased in line with the receipt of funding;
- (2) Tendering for Phases 1a, 1b and 2 be commenced but contractual commitment be restricted only to those items of work which can be financed from available funds;
- (3) The Strategic Director, Physical Environment, in consultation with the Portfolio Holder, be authorised to amend the order in which

elements of the scheme are progressed should either or both of the outstanding statutory 'planning' consents be refused;

(4) Subject to approval of a grant of £750,000 from the New Growth Points Fund, to waive paragraph 11.09 of the Contract Regulations and authorise the Strategic Director, Physical Environment, to accept the most economically advantageous tender for such phases of the scheme as are determined under resolution 3 above;

(5) An appropriate interest be taken in the Baptist Church forecourt to enable the approved scheme to be built;

(6) A Highways Agency Agreement be entered into with the County Council under s278 of the Highways Act 1980 to enable works to the highway to be carried out and for highway maintenance;

(7) Council be RECOMMENDED to approve the increase in the capital budget to £1,912,000, conditional upon the funding being received.

Negotiations with the Baptist Church

3. Following the resolution of the Executive Board in January, City Council officers sought to enter into a lease over the forecourt of New Road Baptist Church. However, the Elder acting as the representative of the Church is firm that the church will not grant a lease to the City Council. As a result, officers have had a management agreement prepared that provides for full public access and integrated management of the Square for a term of 20 years, with the possibility of extending the agreement for a further 20 years. It proposes setting up a joint management committee to facilitate day-to-day liaison between the Church and the City Council. It also places a few reciprocal covenants on the Church. The Church has indicated that it is willing to agree to these arrangements subject to some clarification around a couple of points. The form of agreement that they are content to sign up to is attached at exempt from publication Appendix 1; this will be subject to all the usual legal checks and procedures.
4. In order for the Bonn Square Project Board to recommend to the Executive Board that the Management Agreement is an "appropriate land interest" as set out in the January resolution of the Executive Board, the Project Board has analysed the outstanding risks (exempt from publication Appendix 2). The Board considers that the risks are acceptable to the Council, should the agreement contain certain minimum levels of protection. Officers will be able to elaborate further at the meeting.
5. In negotiations the Church have also requested a number of other items not directly related to the main project. These are directly related to the implementation of this project and include works to the entrance

door to improve security and works to improve soundproofing to their windows that face the square. The Project Board is recommending that the Executive agree to these, as they do not have significant financial implications.

6. Officers in recommending that the risks on the appended risk register are acceptable with the identified mitigating actions, wish to draw to Members' attention to the risks associated with having no registerable interest in the land itself and instead holding only contractual rights as set out in the proposed management agreement. The risk register is informed by a letter received from the Council's legal advisors on this particular matter (exempt from publication Appendix 3).
7. The Project Board considers that, on balance, there can be a considerable measure of trust between the City Council and the Church as both are responsible organizations with a long-term interest in the city. The Board is therefore recommending that the risks can be managed and the residual risks are not sufficiently substantial in this instance to prevent this important city centre project from proceeding.

Listed Building Consents.

8. The necessary consents have been received from the Church of England. The local church's representative has advised that the Baptist Church's consents will be forthcoming when the management agreement has been signed.

Progress with the Tender for phase 1a, 1b and 2.

9. The Strategic Director, Physical Environment was granted authority at the January meeting of the Executive Board to enter into an agreement with the contractor who is selected to undertake this scheme. Following a restricted tender procedure, the invitation to tender was sent to 5 companies on 6th August. The closing date for receipt of the tenders is 7th September. It is hoped to be able to report verbally to Committee on the response to this exercise.
10. The January committee report explained that at the time it was intended to use the open tendering procedure. However the professional advice from the Council's external Project Manager was that with a high quality, city centre scheme such as this, the restricted tender procedure would be more likely to attract a higher calibre of contractor. In procurement terms this is a fairly minor change but one that needs to be agreed by the Executive Board before the contract is let. The Executive Board is asked to confirm that it agrees with this decision.

Shortfall in funding

11. The January Executive Board report explained that the estimated cost of the total scheme is £1,912,000. As explained at that time, £1.5m of funds has been secured leaving a funding shortfall for the whole project of £400,000. The project's total costs and sources of funds are set out in the table below.

Estimated cost		Sources of funds	
Design competition	31,500	New Growth Points Fund	750,000
Pre-tender surveys and research (to mitigate risk and inform the design)	27,500	Capital Shopping Centres	500,000*
Consultancy for public realm art	7,500	City Council Capital Programme	231,700
Hard Landscaping	1,090,000	Arts Council via Oxford Inspires	30,000
Soft landscaping	12,500	Oxford Preservation Trust	1,400
Street furniture	134,500		
Lighting	234,500		
Arts Totem	109,500		
Signage (Baptist Church)	5,500		
Bronze sculptures	137,000		
Net additional costs for phased scheme	122,000		
Total Cost	£1,912,000	Total Funds	£1,513,000

* Capital shopping centre funding anticipated summer 2008

12. The Executive Board will recall that the square will be constructed in phases and that the Council now holds sufficient funds to construct Phase 1a (the current square and Baptist forecourt) but is short of £300k funding necessary to construct Phases 1b (street furniture) or 2 (New Inn Hall Street). The Council is expected to receive a

contribution of £500,000 towards the costs of the square in mid 2008 when Capital Shopping Centre implements its planning permission for the redevelopment of the Westgate Shopping Centre. These funds would make an important contribution to the total scheme

13. A number of initiatives have been undertaken to fill this resource gap and work will continue to attract further funds. However the Project Board recognizes that there would be financial and public amenity benefits of constructing phases 1a (the current square and Baptist forecourt), phase 1b (street furniture) and phase 2 (New Inn Hall Street) at the same time; consequently, it is this scheme that companies have been asked to tender for. If the scheme start is delayed, the project may never be able to be implemented because the £750,000 from central Government could be withdrawn if it is not spent in this financial year. If the Council were to only part implement the scheme now, the benefits of a new public space would be lost until the scheme is completed and letting two contracts instead of one would offer poorer value for money, increase disruption to the public and local businesses over a longer period.
14. There are three ways in which the £300k shortfall could be covered now to allow construction of the main part of Bonn Square to proceed at the same time as the repaving on New Inn Hall Street:
 - Central Government is assessing spending on its New Growth Point Programme in early September. It is known that other capital schemes are behind schedule and it is anticipated that surplus funding from the programme that will be available to Councils that are able to ensure spend within the financial year 2007/08;
 - The City Council could meet the shortfall itself;
 - The City Council forward fund the shortfall in anticipation of other funding coming forward, in particular Capital Shopping Centre's £500,000 contribution that would be forthcoming once they have started on site next summer. The forward funding would only be required towards the end of this financial year as the Bonn Square scheme draws to an end and until Capital Shopping Centre's funding is released. In the interim, the Strategic Director, Finance has indicated that there will be enough unspent capital receipts at the end of this financial year to cover the allocation, however it will be need to be repaid through the sources indicated, other S106 monies for from general fund capital receipts in 2008/09.
15. Officers will update Members at the meeting in relation to these options.
16. The Council at the January committee meeting has already granted Major Project approval and increased the capital budget for the overall project to £1,912,000. This increase in budget was conditional on

funding being in place. Executive Board is now asked to recommend to Council that Council agree to allocate £300k of the Council's capital resources to Bonn Square until such point that the capital can be repaid from other sources.

Timetable

17. The January committee report suggested that it should be possible to let the contract and be on site in May 2007 with completion by the end of November.
18. The project has been delayed by the protracted negotiations with the Baptist Church in regard to the inclusion of their land into the project. There have also been some delays in completing the S 278 agreement with the County Council. The amount of specific technical information required by the County Council for the highway elements of the scheme only emerged part way through the discussions.
19. Should the Executive Board agree with the recommendations it is now programmed that the contract can be let by the end of September. This will facilitate a start on site being made by late October. Work will need to proceed on the main square behind the hoardings through the Christmas trading period but it is not anticipated that this will unduly disrupt this period. Completion is programmed for late April. Of particular importance is that this will still enable a substantial part of the project to have been completed and paid for by the end of the financial year, thus enabling the City Council to claim back the full grant of £750,000 offered by DCLG.

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Background Papers

None for this report