



**REPORT TO
THE COUNCIL
TO BE HELD ON
9 JANUARY 2017**

<p>Corporate Plan:</p> <p>Place - to protect and improve our environment, now and for the future.</p> <p>Prosperity – to develop a prosperous and innovative borough, with a highly skilled and aspirational workforce.</p> <p>Council – to be an efficient and effective council which is financially sustainable for the future.</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Key Decision</td> <td style="text-align: right;">YES</td> </tr> <tr> <td>Forward Plan Ref No</td> <td style="text-align: right;">2</td> </tr> <tr> <td colspan="2">Cabinet Portfolio Holder</td> </tr> <tr> <td>The Leader</td> <td style="text-align: right;">Cllr Derek Bastiman</td> </tr> <tr> <td>Finance, Procurement and Legal</td> <td style="text-align: right;">Cllr Helen Mallory</td> </tr> <tr> <td>Project Leadership, Harbours, Coast and Flood Protection</td> <td style="text-align: right;">Cllr Mike Cockerill</td> </tr> </table>	Key Decision	YES	Forward Plan Ref No	2	Cabinet Portfolio Holder		The Leader	Cllr Derek Bastiman	Finance, Procurement and Legal	Cllr Helen Mallory	Project Leadership, Harbours, Coast and Flood Protection	Cllr Mike Cockerill
Key Decision	YES												
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REPORT OF THE CHIEF EXECUTIVE AND DIRECTOR (NE) - 17/5

WARDS AFFECTED: ALL

SUBJECT: DEMOLITION OF THE FUTURIST THEATRE AND ADJOINING BUILDINGS AND STABILISATION OF THE CLIFF

RECOMMENDATION (S):

Council is requested to approve the allocation of £4m for the demolition of the Futurist Theatre and adjoining buildings and the stabilisation of the cliff.

REASON FOR RECOMMENDATION (S):

Following Cabinet’s decision to the ‘in-principle’ demolition of the Futurist Theatre and adjoining buildings and Council’s subsequent allocation of £4m for the redevelopment of the Site, this report seeks confirmation of the funding from Council to proceed with the next stage of redevelopment being the demolition of the Futurist Theatre to provide a cleared site for redevelopment.

HIGHLIGHTED RISKS:

The key risks are included in the Risk Register as set out in **Appendix A**.

1. INTRODUCTION

- 1.1 The future of the Futurist Theatre and adjoining buildings has been a longstanding issue for the Council. Details of past reports are set out in the background papers at the end of this report with web-links to the publicly accessible reports.
- 1.2 In summary the potted history of the more recent developments that support this report's recommendations are as follows:
- In 2013 Cabinet accepted that the continued operation of the Futurist Theatre was unsustainable and the preferred option was to redevelop the Town Hall and wider site to support the ongoing economic regeneration of Scarborough. Officers were instructed to offer the site for tender.
 - In December 2013 terms to continue providing entertainment at the Futurist Theatre as an interim measure with the operator at that time could not be agreed. The operator deemed the financial risk too great to continue operating with a Council subsidy even if this increased to £180k per annum and would only consider operating the Theatre should the Council take full financial risk and the operator be paid a management fee. The Leader of the Council at that time rejected this proposal as unviable and authorised the temporary closure of the Theatre for a three month period to enable alternate potential operators to come forward with a valid offer. No suitable offers came forward and subsequently the Theatre was closed.
- 1.3 In September 2014 Flamingo Land were appointed as the preferred bidder for the site.
- 1.4 In September 2015 Cabinet requested Officers to seek funding options for the Futurist site clearance.
- 1.5 In February 2016 Council approved a budget of £4m.
- 1.6 This report brings forward a proposal for the demolition of the Futurist, as requested by Cabinet.

2. CORPORATE PLAN

- 2.1 The recommendations support the following key aims in the Corporate Plan:
- **Place** - to protect and improve our environment, now and for the future.
 - **Prosperity** – to develop a prosperous and innovative borough, with a highly skilled and aspirational workforce.
 - **Council** – to be an efficient and effective council which is financially sustainable for the future.

3. BACKGROUND AND ISSUES

- 3.1 The key previous reports are all listed in the background papers at the end of this report, with web links to access these reports.

4. CONSULTATION

- 4.1 As noted above, this has been a longstanding matter for the Council. There has been extensive public consultation during the work undertaken by the Futurist Task Group, the development of the Futurist planning brief and the Town hall accommodation review. In addition there have been numerous reports presented to members through Committees, Cabinet and full Council on this subject.
- 4.2 Additional details of consultation are set out in the background papers to this report.

5. ASSESSMENT

Method of Demolition

- 5.1 At its meeting on 16 September 2014 (ref 14/312), Cabinet noted that a condition of Flamingo Land's proposal was that the Council take responsibility for the demolition of the Futurist building, site clearance and stability of the slope to the rear. Cabinet resolved to :
- approve in principle that the Council take responsibility for the demolition of the Futurist building, site clearance and stability of the slope to the rear;
 - noted that Officers would proceed to obtain appropriate permissions for the potential demolition, and competitive quotes for the demolition and stabilisation works;
- 5.2 At its meeting on 15 September 2015 (ref 15/252) Cabinet received a progress report on the Futurist and noted that Officers were exploring the suitable delivery and funding options for the site clearance, and resolved that a further report should be presented to Cabinet in due course.
- 5.3 Initial surveys had identified that the Futurist building provided support to the slope behind it, and all surveys recommended that further and more extensive investigations should be carried out to confirm the assumptions made and to enable a technically safe design solution to be developed for the demolition of the building.
- 5.4 Members are aware from the September 2015 report that one solution being considered for the provision of a larger development footprint was to install an arrangement of concrete filled steel piles tied back into the retained ground using ground anchors. The piles would penetrate approximately 9.5m below

ground and vary above ground by up to 10m in height and the ground anchors would penetrate 30m into the ground.

- 5.5 However this option proved would also have been intrusive and potentially disruptive to adjacent properties, and more difficult to construct with higher associated risks and costs. Officers were tasked with working with leading consulting engineers to come forward with proposals which would provide the best solution for this scheme. The paramount concern has always been to ensure the stabilisation of the cliff.
- 5.6 Consequently an alternative, less intrusive solution was progressed which would provide a smaller development footprint which is easier to construct with less risk, but still has ample space for development.
- 5.7 Notwithstanding that the estimated value of the demolition contract value was below the EU procurement threshold for Works, the Council is still proposing to engage a Contractor from an EU compliant public sector framework.
- 5.8 The Council therefore approached Willmott Dixon to prepare a feasibility study into the demolition and stabilisation. Willmott Dixon have partnered with Arup as their principal designer.
- 5.9 Members will be aware that Willmott Dixon are already engaged on the design and construction of the Leisure Village in Weaponness that is progressing excellently and gives confidence in the ability of the same contractor to also deliver the Futurist project to the same high standards. Arup are an independent firm of designers, planners, engineers, consultants and technical specialists offering a broad range of professional services and are acknowledged as world leaders in their field which provides confidence in the engineering solution for slope stabilisation.
- 5.10 The Council can appoint Willmott Dixon through the use of the Scape Public Sector Framework. Willmott Dixon is the construction framework partner for major construction works under the Scape Framework therefore the Council is able to make a direct appointment in compliance with both its Constitution and EU procurement rules.
- 5.11 The Scape Framework offers best value for the Council because it is a national framework that has previously been tendered in competition. The rates and fee percentages used within the framework are very competitive. Furthermore, works packages are tendered to sub-contractors, including local suppliers, in competition to ensure further value for the construction cost.
- 5.12 **Willmott Dixon**
 - 5.12.1 As it is known that the demolition of the Futurist Buildings in isolation will trigger instability in the slope above, the method of demolition is critical.
 - 5.12.2 Willmott Dixon's feasibility study proposes to remove the mass of the slope by excavating 4m deep within King Street car park to create a development

platform, and then a second slope at 45 degrees to form a lower development platform. It is assumed the material removed is taken off site to be stored or disposed of with it being likely to be classified as non-hazardous waste.

- 5.12.3 The slope is then regraded to a profile of no steeper than 27 degree angle of repose. At the bottom of the slope the existing retaining walls to the rear of the Futurist Buildings are retained. The removal of the mass from the upper slope allows the first phase of the safe demolition of the buildings with the additional retaining walls not being required until after that first phase of demolition.
- 5.12.4 Strip out of soft fixtures and fittings and removal of asbestos can take place through the front of the building.
- 5.12.5 The completion of the careful demolition by hand and machine of the rear of the building can then safely take place until the majority of the building is removed.
- 5.12.6 New concrete retaining walls, 4m high are then constructed within the footprint of the existing building with the walls supported on concrete piled foundations.
- 5.12.7 The area between the existing retaining wall and the new retaining wall is then backfilled to form a final slope either with new imported fill material or re-used fill and demolition materials if possible.
- 5.12.8 This will provide a lower tier development site on Foreshore Road of approximately 50m x 15.4m, onto which a three storey leisure shell of approximately 2300 m² gross floor area can subsequently be developed. Full details of the drawings and design are shown at **Appendix B**.
- 5.12.9 The feasibility costs estimates proposed for the demolition and stabilisation, which Willmott Dixon considers to be “robust” are :

Stage	Cost £m
Pre-construction services	£0.416
Demolition	£3.046
Sub Total	£3.462
Contingency	£0.501
Internal Professional Fees	£0.025
Total	£3.988

*Full details of these costs can be found at **Appendix B**.*

- 5.12.10 There are a number of important assumptions regarding the feasibility proposals which have been included in the risk matrix and will require resolution during the next pre-construction stage.

5.13 Assessment

5.13.1 The Council has not yet paid any monies to Willmott Dixon other than for the current ground investigation, however if the Council approves the appointment of Willmott Dixon to carry out pre-construction services, the Council will begin to incur costs and the Council will become liable to pay up to £416,000. In return for this, Willmott Dixon will undertake the following services during pre-construction:

- Completion of ground investigations already committed (final report available end January 2017);
- Other site investigations (services, drainage, asbestos etc.);
- Detailed design of retaining walls;
- Detailed design of piles;
- Detailed design of cut and fill, regrading and slope stabilisation;
- Detailed design of drainage;
- Develop detailed methodology for demolition;
- Obtain statutory consents (Planning prior notification, NYCC highways, Party Wall Act etc);
- Sub-contractor procurement;
- Prepare construction contract documentation.

5.13.2 Up to £416,000 will be expended at risk over a period of 30 weeks. However the Council can terminate these services at any time without any liability other than the cost incurred or committed to date, such as at the end of the January 2017 when the results of the further ground investigation are available.

5.13.3 On completion of the pre-construction services, if the proposed contract sum is within the £3.559m budget approved (being £4m less pre construction and internal professional fees costs), the Council will have the option to enter into a construction contract with Willmott Dixon for the delivery of the demolition and slope stabilisation.

5.13.4 The model form of construction contract within the Scape Framework is the NEC3 Engineering and Construction Contract which allows the Council to contract with Willmott Dixon on the basis of either a lump sum or a target cost basis.

5.13.5 This is a standard form of construction contract with which the Council is familiar, and most of the Council's construction contracts are awarded on this form. The risks related to cost movement within this form are stated as compensation events, and details of the major ones have been included in the risk register.

5.13.6 Cabinet will need to consider in due course either to use internal project management staff resource or appoint a consultant to undertake the roles of project manager and supervisor, to ensure the project is properly managed with the correct allocation of resources and expertise required to carry out a project of this nature safely and ensure best value. If Cabinet are minded to

externalise the project management arrangements (currently estimated to be £90k), this would be funded from the Capital Contingency Reserve.

- 5.13.7 Should Council support the report recommendations, then a further report will be presented to Cabinet to seek authority to enter into contract with Wilmott Dixon, using the Scape Framework, and decide upon the project management arrangements and other operational issues.

5.14 Ground Investigation Update

- 5.14.1 The initial findings of the recent ground investigation following its completion on site in early December are that the ground conditions have confirmed the findings of the previous investigations upon which the current design is based. The samples have been sent for laboratory testing and a final factual report of the findings is expected to be available by the end of January which will then feed in to the detailed design during the pre-construction period

POST DEMOLITION/CLEARED SITE

5.15 Flamingo Land Proposal

- 5.15.1 September 2014 Flamingo Land were appointed as the preferred bidder for the redevelopment of the Futurist Theatre and wider site. Flamingo Land's offer was conditional upon the Council taking responsibility for demolishing the Futurist Theatre and providing a cleared site for redevelopment.
- 5.15.2 During the studies to conclude the most appropriate method to demolish the Theatre site, Flamingo Land's commitment to redevelop the site and regenerate the area has remained strong.
- 5.15.3 The proposed method of demolition accords with Flamingo Land's revised proposals for the site.
- 5.15.4 Members should note that whilst Flamingo Land's commitment to the site remain strong, the final terms of the agreement need to be concluded and reported to Members for approval.

ALTERNATIVE OPTION

- 5.16 If Council do not support the allocation of funding in the report, since Cabinet have already made the decision based on experts' reports that the operation of the Futurist Theatre as a theatre is not sustainable, then the Theatre and adjoining buildings will remain in their current state of repair, with only minimum repairs being carried out to ensure compliance with health and safety requirements.
- 5.17 The Council is already facing financial challenges due to austerity. Members would need to be mindful of the impact of any ongoing budgetary requirements in respect the Theatre.

6. IMPLICATIONS

(a) Policy

6.1 The proposal is in accordance with the Council's policy framework.

(b) Financial Implications

6.2 As part of the 2016/2026 Financial Strategy, Council approved £4m towards the redevelopment of the Futurist Theatre site.

6.3 The estimated cost of demolishing the Futurist and adjoining buildings, including a contingency provision, and internal professional fees is estimated to be £3.988m.

6.4 Subject to the approval of this report Cabinet will be asked to enter into contract with Willmott Dixon for the demolition and also consider the project management and supervision arrangements for this contract.

King Street Car Park

6.5 The King Street Car Park will be no longer be available as a consequence of the less intrusive design for the demolition of the Futurist Theatre. Financial provision has already been made within the budget for the loss of car parking income.

6.6 Pending the decision to demolish, consultation will commence with the users of the car park with suitable alternative options to be considered.

(c) Legal

6.7 The legal implications are set out within the report.

(d) Risk

6.8 Detailed in the attached Risk Matrix.

(e) Planning Implications

6.9 At its meeting on 11 December 2014, the Planning and Development Committee considered an application for the prior notification of demolition.

6.10 The Planning Committee resolved:

The Local Planning Authority has determined that Prior Approval is required for the proposed demolition. Before the application can be formally determined additional information shall be submitted relating to:

- (i) A proposed method statement to ensure that slope stability is maintained during and after the demolition.

- (ii) The appearance of the site following demolition, notably in respect of retaining walls.

Once the method statement and appearance information has been prepared by Willmott Dixon during the pre-construction period, this will be submitted to the Planning Committee for consideration.

(f) Crime and Disorder Implications

6.11 None

(g) Environmental Implications

6.12 None

7. ACTION PLAN

7.1 The action plan is as follows:

Council decision on demolition	9 January 2017
Cabinet approval of contractor appointments	17 January 2017
Preparation for Demolition	Spring 2017
Planning approval	Summer 2017
Demolition	Summer 2017 – Summer 2018



Jim Dillon
Chief Executive



Nick Edwards
Director

Background Papers: The background papers are listed at **Appendix C**

APPENDIX A

Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
	Dec16	Council reject proposal to demolish the building.	<ul style="list-style-type: none"> • The Futurist remains as a redundant site. • Building continues to deteriorate. • Costs of ongoing maintenance of the building. • Loss of development opportunity. • Difficulty in safeguarding the building. 	<ul style="list-style-type: none"> • Approve demolition of the building. 	C4	C4	Director (NE)	
	Dec 16	Preconstruction services are approved and completed but proposed demolition contract cost is above budget.	<ul style="list-style-type: none"> • Higher budget may be required to be approved. • Budget may not be approved. • £416k preconstruction costs expended may be abortive. 	<ul style="list-style-type: none"> • WDC consider feasibility costs to be "robust". • Level of contingency included. 	B3	B3	Projects Manager	<ul style="list-style-type: none"> • Commence pre-construction services. • Monitor cost plan as it progresses
	Dec16	Ground conditions prove to be different from those indicated by previous investigations.	<ul style="list-style-type: none"> • Design is required to be more robust. • Steel piles or mass concrete foundations may be required. • Possible costs increase. • Possible increase in programme duration. 	<ul style="list-style-type: none"> • Ground investigation carried out. • Early indications appear to confirm previous WYG investigation. • Final results available at end January 2017. 	B3	A3	Projects Manager	<ul style="list-style-type: none"> • Await findings of GI. • Confirm design assumptions early to prevent excessive expenditure of pre-construction costs.

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
	Dec16	Arup design assumptions at feasibility stage do not prove to be correct.	<ul style="list-style-type: none"> Design is required to be more robust. Steel piles or mass concrete foundations may be required. Possible costs increase. Possible increase in programme duration. 	<ul style="list-style-type: none"> Ground investigation carried out 	B3	A3	Projects Manager	<ul style="list-style-type: none"> Await findings of GI. Confirm design assumptions early to prevent excessive expenditure of pre-construction costs.
	Dec16	Delays prior to start on site due to : <ul style="list-style-type: none"> Party wall awards/issues with adjacent owners. Highways consents Services consents Planning consents 	<ul style="list-style-type: none"> Project may be delayed. Additional costs. Possible loss of tenant. Project may not proceed in extreme circumstances 	<ul style="list-style-type: none"> Early discussions with highways and services providers already held. 	D3	B3	Projects Manager	<ul style="list-style-type: none"> Serve Party Wall notices early. Appoint Party Wall Surveyors
	Dec16	Certificate of Immunity from Listing is refused.	<ul style="list-style-type: none"> Building may become listed. Unable to demolish. Project does not proceed Loss of development opportunity. Costs of ongoing maintenance of the building. 	<ul style="list-style-type: none"> Previous three applications for listing in 2002, 2011 and 2014 have been unsuccessful. Previous two appeals in 2012 and 2015 against decision not to list have been unsuccessful. Overall, The Futurist, does not display the level of intactness and architectural interest which would merit designation in the national context. Planning advice received stated planners would be 	B5	A5	Projects Manager	<ul style="list-style-type: none"> Await outcome of application. Application does not prevent demolition. Appeal procedures available if certificate not issued.

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
				extremely surprised if the building was to be listed.				
	Dec 16	Delays to the project caused by risks which the contractor accepts.	<ul style="list-style-type: none"> • Delivery of the scheme may be delayed. • No financial risk to the Council 	<ul style="list-style-type: none"> • Detailed and robust investigations carried out and site information provided. 	C4	C4	Projects Manager	None
	Dec16	Delays and cost over-runs (compensation events) caused by risks which the Council accepts.	<ul style="list-style-type: none"> • Additional cost incurred. • Extended programme. • In the first instance the project contingency will be utilised to fund any cost over-runs. • The Council will be required to meet all additional costs. 	<ul style="list-style-type: none"> • Detailed and robust investigations carried out and site information provided. 	C4	C4	Projects Manager	<ul style="list-style-type: none"> • Proposal to pass majority of high cost risks to the contractor.
	Dec.16	Catastrophic slope collapse	<ul style="list-style-type: none"> • Uncontrolled loss of Futurist building. • Loss/damage to Town Hall. • Disruption to Council services. • Disruption to highway transport. • Disruption to sea front business. 	<ul style="list-style-type: none"> • Business continuity plans. 	A5	A5	Projects Manager	<ul style="list-style-type: none"> • Competent consultant and contractor employed. • Slope stability analysis carried out. • PI insurance. • Site supervision.
	Dec 16	Legal challenge to decision to demolish.	<ul style="list-style-type: none"> • Possible legal action. • Delay to the project. • Additional costs incurred. 	<ul style="list-style-type: none"> • Legal services review of decision making process. 	A3	A3	Director (LD)	None
	Dec 16	Disruption to sea front businesses caused by	<ul style="list-style-type: none"> • Claims for compensation. • Possible legal action. 	<ul style="list-style-type: none"> • Considerate contractor employment 	A3	A3	Projects Manager	<ul style="list-style-type: none"> • Considerate contractor

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
		<p>demolition programme over a full year.</p> <p>Particularly seasonal disruption.</p>		<ul style="list-style-type: none"> Project management 				<p>employed.</p> <ul style="list-style-type: none"> Less disruptive methods of work being pursued.
	Dec 16	Disruption to traffic movement caused by	<ul style="list-style-type: none"> Traffic congestion. 	<ul style="list-style-type: none"> Early discussions with Highway Authority. 	D3	C3	Projects Manager	<ul style="list-style-type: none"> Attempt to reduce vehicle movements. Traffic management in place.

Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
		A	B	C	D	E
	Likelihood					

Likelihood:

A = Very Low
 B = Not Likely
 C = Likely
 D = Very Likely
 E = Almost Certain

Impact

1 = Low
 2 = Minor
 3 = Medium
 4 = Major
 5 = Disaster