	REPORT TO CABINET TO BE HELD ON 17 JANUARY 2017								
	Key Decision Forward Plan Ref No 2								
Corporate Priority 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.	<table border="0"> <thead> <tr> <th data-bbox="762 741 1082 808">Cabinet Portfolio Holder</th> <th data-bbox="1123 741 1299 775">Cllr's Name</th> </tr> </thead> <tbody> <tr> <td data-bbox="762 853 927 887">The Leader</td> <td data-bbox="1123 842 1267 909">Cllr Derek Bastiman</td> </tr> <tr> <td data-bbox="762 931 1075 999">Finance, Procurement and Legal</td> <td data-bbox="1123 954 1267 1021">Cllr Helen Mallory</td> </tr> <tr> <td data-bbox="762 1043 1059 1144">Project Leadership, Harbours, Coast and Flood Protection</td> <td data-bbox="1123 1066 1251 1133">Cllr Mike Cockerill</td> </tr> </tbody> </table>	Cabinet Portfolio Holder	Cllr's Name	The Leader	Cllr Derek Bastiman	Finance, Procurement and Legal	Cllr Helen Mallory	Project Leadership, Harbours, Coast and Flood Protection	Cllr Mike Cockerill
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REPORT OF THE CHIEF EXECUTIVE AND DIRECTOR (NE) - 17/18

WARDS AFFECTED: All

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

RECOMMENDATION (S):

Cabinet is recommended to:

1. Approve the outsourcing of the project management, contract administration and supervision of the Futurist demolition works and establish a budget of £90k to be funded from the capital development reserve.
2. Delegate authority to the Director (LD) in consultation with the Portfolio Holder for Project Leadership, Harbours, Coast and Flood Protection to award a contract for the project management, contract administration and supervision of the Futurist demolition works to a consultant procured from the YORconsult Framework offering the most economically advantageous tender.
3. Approve the appointment of Willmott Dixon Construction Limited from the Scape Framework and agree to enter into a Delivery Agreement in the sum of up to £416,000 to prepare a detailed design and quotation for a contract price for the

demolition and stabilisation work.

4. Authorise the service of Party Wall Notices to relevant adjacent properties and the appointment of Party Wall Surveys as required.

REASON FOR RECOMMENDATION (S):

To enable the safe and cost effective demolition and redevelopment of the Futurist site following Council's decision to confirm the funding to proceed with the next stage.

HIGHLIGHTED RISKS:

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

1. INTRODUCTION

- 1.1 At its meeting on 9 January 2017, Council allocated £4m funding to proceed with the next stage of redevelopment of the Futurist Theatre, being the demolition of the building to provide a cleared site for redevelopment, together with stabilisation of the adjoining cliff.
- 1.2 Cabinet now needs to consider its project management arrangements and also provide the necessary authorities to enable officers to implement the decisions of the Council.

2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY 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 the report to Council on 9 January 2017, with web links to access these reports.
- 3.2 The background and issues relevant to these decisions are also provided in the Council report.

4. CONSULTATION

- 4.1 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 Council.

5. ASSESSMENT

Appointment of Willmott Dixon

- 5.1 Willmott Dixon have prepared a Feasibility Study on the demolition and stabilisation works and are recommended to be appointed for the next stage of the project.
- 5.2 The Council can appoint Willmott Dixon through the use of the Scape Public Sector Framework. Willmott Dixon is the sole 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.
- 5.3 The Scape Framework 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.
- 5.4 The framework offers the following benefits :
- **Time savings** - a minimum of 200 days are saved compared to traditional procurement. 100% of projects delivered on time and budget since 2006
 - **Cost savings** - currently an average of 14p for every £1 spent is saved across all projects through procurement, supply chain and early risk reduction savings.
 - **Robust validated costs** - the cost plan will be market informed: 65% at feasibility, 85% at planning and 100% at contract to ensure robustness. 100% of the final price is market informed and verified to achieve value for money.
 - **Demonstrable performance** - performance is monitored and captured by Scape on at all stages of the project. Audited KPIs are reported direct via a web based link.
 - **National delivery, local growth** - procured nationally, the framework secures huge economies of scale. Delivered locally, it also drives social and economic benefits for communities throughout the UK.
 - **Low contractor fees** - low contractor fees, set at 1.75.
- 5.5 The next stage of the project is for Willmott Dixon to undertake pre-construction services as follows :
- 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.

5.6 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.

5.7 On completion of the pre-construction services, the Council will have the option if the proposed contract sum is within the Council's budget), to instruct Willmott Dixon to proceed with the delivery of the demolition and slope stabilisation works.

Project Management Arrangements

5.8 The construction contract with Willmott Dixon will also require a Project Manager to administer the NEC3 Engineering and Construction contract and a Supervisor to approve the quality of the works.

5.9 The Council has a small in-house Projects Team consisting of eight staff carrying out various roles, each with differing levels of professional qualifications and experience.

5.10 The Council also has an ambitious multi million pound programme of major capital projects which this team are managing which includes :

- Scarborough Leisure Village
- Scarborough Spa Cliff Stabilisation
- Whitby Piers Refurbishment
- Filey Flood Alleviation Works
- Runswick Bay Coast Protection
- Various phases of the Sands
- Numerous other smaller projects

5.11 The Construction (Design and Management) Regulations 2015 require Clients undertaking design and construction works to ensure those working on a project have the skills, knowledge and experience, and most importantly, the organisational capability to carry out the work in a way that secures health and safety.

- 5.12 The reality of the situation is that the in-house Project Team of eight, whilst having the expertise, do not have the level of resources required to manage and deliver each of these projects themselves in-house, and the adopted delivery strategy for most projects is to act as 'intelligent client' and outsource resource hungry or specialist roles to external consultants, who the team then use their qualifications, skills and experience to manage to ensure a high quality of service and good value for money is being provided to the Council.
- 5.13 The demolition of the Futurist is not an easy project. It is a high risk project which will involve constant attention and management, a high level of supervision, and specialist geotechnical knowledge if it is to be delivered successfully.
- 5.14 For this reason, it is strongly recommended that the Council should outsource the Project Management, Contract Administration and Supervision to a specialist consultant. In due course, the Planning and Development Committee will be asked to approve the method of demolition, and it is therefore proposed that design approval and provision of independent structural / geotechnical advice to the Local Planning Authority is also included within this contract.
- 5.15 Whilst the cost of the services, at circa £90,000 are estimated to be below the EU procurement threshold for Services, the Council is able to procure a suitably qualified and experienced consultant through the EU compliant YORconsult Framework, and it is recommended that a mini tender competition be held to provide the services required by the Council and authority be delegated to the Director (LD) in consultation with the Portfolio Holder for Project Leadership, Harbours, Coast and Flood Protection to award an NEC3 Professional Services Contract to the consultant offering the most economically advantageous tender.

6. IMPLICATIONS

(a) Policy

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

(b) Financial Implications

- 6.2 Up to £416k will be committed to Willmott Dixon to provide pre-construction services over a period of 30 weeks.
- 6.3 Up to a further £90k will also be committed towards the employment of a consultant to project manage, administer and supervise the Willmott Dixon contract. It is recommended that this is funded from the capital development reserve.

(c) Legal

6.4 The legal implications are set out within the report.

(d) Risk

6.5 Detailed in the attached Risk Matrix.

(e) Planning Implications

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

6.7 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.

6.8 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.

6.9 The independent consultant employed by the Council to project manage and supervise the project will also provide independent advice to the Planning and Development Committee on the suitability of the stabilisation design and the acceptability of the method of demolition.

(f) Crime and Disorder Implications

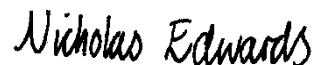
6.8 None

(g) Environmental Implications

6.9 None



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Background Papers:

Please give details of all publicly accessible (non private) background papers applicable to the report.

Council – 9 January 2017 (17/5)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT CHRIS BOURNEON 01723 2322447 e-mail chris.bourne@scarborough.gov.uk

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

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
								costs.
	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 	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

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
				<p>intactness and architectural interest which would merit</p> <ul style="list-style-type: none"> • designation in the national context. • Planning advice received stated planners would be extremely surprised if the building was to be listed. 				issued.
	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 	<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

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
			business.					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 demolition programme over a full year. Particularly seasonal disruption.	<ul style="list-style-type: none"> Claims for compensation. Possible legal action. 	<ul style="list-style-type: none"> Considerate contractor employment Project management 	A3	A3	Projects Manager	<ul style="list-style-type: none"> Considerate contractor employed. 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
Action Plan

The Service Unit or Officer responsible for managing the risk
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