

	REPORT TO CABINET TO BE HELD ON 17 OCTOBER 2017						
<p>Corporate Priority</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 border="0"> <tr> <td>Key Decision</td> <td>YES</td> </tr> <tr> <td>Forward Plan Ref No</td> <td>2</td> </tr> <tr> <td>Cabinet Portfolio Holder</td> <td>LEADER</td> </tr> </table>	Key Decision	YES	Forward Plan Ref No	2	Cabinet Portfolio Holder	LEADER
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REPORT OF: DIRECTOR (NE) – 17/233

WARDS AFFECTED: CASTLE

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

RECOMMENDATION (S):

Cabinet is recommended to :

1. Note, that the final cost for the demolition of the Futurist Theatre and adjoining buildings (the Futurist Theatre Site) including stabilisation of the cliff is £3.913m, which is within the £4m budget allocated and approved by Full Council.
2. Subject to obtaining planning permission for the works, authorise entering into a supplemental agreement with Willmott Dixon Construction Limited (Willmott Dixon) to proceed with the demolition of the Futurist Theatre Site.
3. Approve that a £200k (5%) contingency budget be earmarked within the

Capital Contingency Reserve to mitigate any potential cost overruns on the scheme to be funded from the remainder of the £4m committed budget (£87k) and the Capital Contingency Reserve (£113k) which is allocated for such purposes;

4. Subject to obtaining planning permission for the works, approve the Council entering into a s278 agreement with North Yorkshire County Council relating to the carrying out of alterations to Foreshore Road on terms to be approved by the Director (NE) in consultation with the Leader.

REASON FOR RECOMMENDATION (S):

To seek approval from Cabinet to proceed with the demolition of the Futurist Theatre Site now that the final contract price submitted by the contractor for the works is within the allocated budget of £4m.

HIGHLIGHTED RISKS:

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

1. INTRODUCTION

- 1.1 On 9 January 2017 Council allocated (report ref: 17/5) £4m towards the demolition of the Futurist Theatre Site. This allocation had been previously approved as part of the 2016/17 Financial Strategy.
- 1.2 The commencement of the works is subject to the final detailed design and the final contract price submitted by the contractor for the works being within the £4m allocated budget.
- 1.3 On 17 January 2017 Cabinet approved (report ref: 17/18) both the external project management arrangements for this project and the appointment of the contractor, Willmott Dixon, to prepare a detailed final design and final contract price for the demolition of the Futurist Theatre Site.
- 1.4 The final design and contract price is now complete. The design is attached at Appendix B and is subject to planning permission and a S278 agreement. The final contract price proposed by Willmott Dixon is £3.888m.
- 1.5 Proposals to deal with the Futurist Site have been the subject of numerous reports to members and these reports are referred to as background papers to this report set out in Appendix C.

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 background papers are set out in Appendix C.

4. CONSULTATION

4.1 The demolition of the Futurist Theatre Site has been subject to extensive public consultation.

4.2 More recently Willmott Dixon, in conjunction with officers, held a drop-in session to consult with neighbouring residents, business and those properties affected by the requirements of the Party Wall Act.

5. ASSESSMENT

5.1 Following the decision of Cabinet on 17 January 2017 the Council subsequently entered into contract with Willmott Dixon using the Scape Public Sector Framework.

5.2 If the final price submitted by Willmott Dixon is not considered acceptable the contract allows the Council to terminate the contract paying for costs incurred up to that point only, which would be anticipated to be £396,000.

5.3 The final design for the demolition of the Futurist Theatre Site has been varied slightly from the initial proposals presented to Members in January. The changes reflect feedback received from neighbouring residents following the consultation event and project cost efficiencies.

5.5 Previously the project showed two development platforms, one at the lower level and a second at the upper level. Development of the engineering solution determined that it was not necessary to remove all of the bulk from the top of the slope. It was also considered preferable to create a 10m exclusion zone adjacent to the properties in King Street and Prospect Place. An outline of the current proposal is set out in Appendix B; the solution creates one single development platform at the lower level and a gradual slope from King Street to the lower level rather than the step down shown previously.

5.6 The design proposals are subject to planning permission. Full details of the whole design, as submitted for planning permission can be viewed on the following link

<http://planning.scarborough.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OTR7S6NSGBM00>

- 5.7 As part of the demolition works the County Council as Highways Authority requires the Council to enter into a s278 agreement. The s278 agreement relates to the carrying out of alterations to Foreshore Road to facilitate traffic management during the demolition works. The County Council may require payment of a bond of £50k; this will be refunded to the Council upon completion of the works provided the alterations are carried out by Willmott Dixon in accordance with an agreed specification. The s278 agreement is only in relation to this first phase of works and a second s278 agreement regarding any reinstatement proposals may be required once further details of the redevelopment proposals are known.

6. IMPLICATIONS

(a) Policy

- 6.1 There are no policy implications as a result of this report.

(b) Financial

- 6.2 The financial implications are detailed within the body of the report.
- 6.3 The £3.913m budget proposed for the schemes includes the cost of the Willmott Dixon contract (£3.89m) and an allowance for internal capital salaries (£25k).
- 6.4 The risks associated with the contract have been discussed with the Council's independent external project manager, and they have advised that it would be prudent to establish a 5% contingency to mitigate against any unforeseen cost overruns on the scheme. It is proposed that this contingency budget be funded from the remainder of the £4m budget already committed for the scheme (£87k) and the Capital Contingency Reserve (£113k). The allocated contingency sum will be held outside the overall Futurist project budget and be separately retained within the Capital Contingency Reserve.
- 6.5 The uncommitted balance on the Capital Contingency Reserve currently stands at £684k. The above proposal will reduce the uncommitted reserve balance to £571k, which is above the predetermined minimum of £0.5m. It should also be noted that the £200k contingency budget earmarked for the Futurist scheme may not be required; in which case the balance will be retained in the Capital Contingency Reserve.

(c) Legal

- 6.6 The legal implications are set out within the report.
- 6.7 Willmott Dixon has been procured using the Scape Public Sector Framework. The Scape Public Sector Frameworks is compliant with EU procurement regulations.

(d) Risk

6.8 The risks are set out in Appendix A.

(e) Environmental and Sustainable Development

6.9 There are no environmental and sustainable development implications as a result of this report.

(f) Planning

6.10 The proposed design for the demolition of the Futurist Theatre Site is subject to approval by the Planning and Development Committee.

6.11 Cabinet is asked to note that the National Planning Casework Unit have written to the Council to advise that subject to obtaining planning permission, the final decision notice cannot be issued until the Secretary of State has chance to consider any application for call-in.

6.12 The Secretary of State may decide to allow the decision to be issued, which could take approximately three weeks or alternatively may decide to hold a public enquiry into the decision in which case this could take from six months to one year.

(g) Others

6.23 I have considered whether the following implications arise from this report and am satisfied that there is no adverse identified implications that will arise from this decision to proceed with this scheme.

Staffing, Equalities and Diversity, Crime and Disorder, Health and Safety

7. ACTION PLAN

7.1 The action plan is as follows:

	Timetable
Party Wall Notices Issued	7 August 2017
Planning submitted	10 August 2017
Planning approval	20 October 2017
Party Wall Awards	October 2017
Cabinet decision to proceed	17 October 2017
Demolition start	November 2017
Majority of demolition work undertaken	June 2018
Works completed	December 2018

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Background Papers:

The background papers are set out 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
1	5.12.16	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. Findings of most recent GI confirmed previous findings. 	B3	A3	Projects Manager	
2	5.12.16	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	
3	5.12.16	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
4	5.12.16	Delays and cost over-runs (compensation events) caused by risks which the Council accepts. Major Council risks that would be compensation events at this time are : <ul style="list-style-type: none"> Ground conditions; Weather conditions; Statutory consents Others outside the control of the contractor. 	<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	

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
		<ul style="list-style-type: none"> Archaeology 						
5	5.12.16	<p>Disruption to sea front businesses caused by demolition programme over a full year.</p> <p>Particularly seasonal disruption.</p>	<ul style="list-style-type: none"> Claims for compensation. Possible legal action. 	<ul style="list-style-type: none"> Legal services review of decision making process. 	A3	A3	Projects Manager	<ul style="list-style-type: none"> Considerate contractor employed. Less disruptive methods of work being pursued.
6	5.12.16	<p>Disruption to traffic movement caused by construction vehicles.</p>	<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. S278 agreement proposed.
7	5.12.16	<p>Flamingo Land withdraw</p>	<ul style="list-style-type: none"> Loss of tenant Loss of quality principal visitor attraction. Site remains vacant after demolition 	<ul style="list-style-type: none"> Development site available for others. Interpretation proposals being discussed with Historic England. 	B2	B2	Director (NE)	<ul style="list-style-type: none"> Progress heads of terms and contract for sale.
8	8.12.16	<p>More asbestos is found within the building than indicated by previous surveys.</p>	<ul style="list-style-type: none"> Additional cost of asbestos removal. Previously occupied retail units have not been surveyed before due to tenant occupation. 	<ul style="list-style-type: none"> Previous surveys carried out. Contingency available for unforeseen asbestos. 	E2	E2	Projects Manager	
9	8.12.16	<p>Claims for compensation for damage to buildings from adjacent owners.</p>	<ul style="list-style-type: none"> Claims for compensation. Possible legal action. 	<ul style="list-style-type: none"> Risk held by Contractor. Public liability insurances in place. Actions carried out under Party Wall Act. Internal and external surveys of adjacent properties prior to 	C3	C3	Director (LD)	<ul style="list-style-type: none"> Considerate contractor employed. Monitoring of activities on site.

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
				<p>commencing works.</p> <ul style="list-style-type: none"> Less disruptive methods of work. 				
10	19.9.17	Planning approval is called in by Secretary of State	<ul style="list-style-type: none"> Delay to the project. Decision may be to ratify granting of permission; or Hold a public enquiry. 	<ul style="list-style-type: none"> Robust planning advice received. Heritage statement prepared Business case prepared for removal of Futurist. 	E5	E1	Planning Manager	
11	19.9.17	Legal challenge to planning permission	<ul style="list-style-type: none"> Delay to project. Decision may be overturned. Project does not proceed. 	<ul style="list-style-type: none"> Robust planning advice received. 	B3	B3	Director (LD)	
12	3.10.17	Follow on redevelopment is late or does not proceed at all.	<ul style="list-style-type: none"> Second S278 agreement is required. Highway reinstatement works to Foreshore Road are required to be carried out. £50,000 bond held by NYCC may not be repaid, and could be used by NYCC to reinstate Foreshore Road. 	<ul style="list-style-type: none"> Development site available to others. 	B2	B2	Director (NE)	
13	3.10.17	Further challenges under Party Wall Act	<ul style="list-style-type: none"> Additional Party Wall Awards may be required to be prepared 	<ul style="list-style-type: none"> One Party Wall 'dispute' completed satisfactorily. Not very onerous process Unable to prevent the works proceeding. 	A1	A1	Projects Manager	<ul style="list-style-type: none"> Party Wall notices issued.

Glossary of Terms

Risk
 Consequences
 Mitigation
 Current Risk Score
 Corporate Objectives
 Target Risk Score
 Service Unit Manager
 Action Plan

An event which may prevent the Council achieving its objectives
 The outcome if the risk materialised
 The processes and procedures that are in place to reduce the risk
 The likelihood and impact score with the current mitigation measures in place
 An assessment of the Corporate Objectives that are affected by the risk identified.
 The likelihood and impact score that the Council is aiming to achieve
 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

Design Proposals

Appendix B

Background Papers

Appendix C