

Hereford Museum and Art Gallery progress update and recommendations

Decision maker: Cabinet Member Environment; Deputy Leader of the Council

Decision date: Wednesday 21 August 2024

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

Central;

Purpose

To approve the procurement of a contractor to complete the remaining elements of RIBA stage 4 (construction design), and subject to the outcome being within the available budget, the construction phase of the project thereafter (up to RIBA stage 7). To accept and approve expenditure of the additional £750,000 from Arts Council England.

Recommendation(s)

That:

- a) **The Corporate Director Community Wellbeing, in consultation with the Cabinet Member for Community Services and Assets, be given delegated authority to procure and award a contract to a contractor to complete the remaining elements of RIBA stages 4 (construction design) of the Hereford Museum and Art Gallery project and then**

commission up to RIBA stage 7 (practical completion) up to the project budget as defined in the capital programme;

- b) accept £750,000.00 funding offered from Arts Council England and approve expenditure of the grant funding following the amendment to the capital programme budget for the Hereford Museum and Art Gallery project;
- c) the Corporate Director Community Wellbeing, in consultation with the Cabinet Member for Community Services and Assets be delegated authority to make all operational decisions required, including the expenditure of all remaining capital funding (including any additional funding secured from external providers), to progress the Hereford Museum and Art Gallery project to RIBA 7; and
- d) the S151 Officer be delegated authority, to accept any additional funding and adjust the capital programme for Hereford Museum and Art Gallery redevelopment project if additional funding is secured from external providers.

Alternative options

1. Not to progress the project. This is not recommended as it would mean the significant economic challenges identified in the Hereford Town Investment Plan would not be addressed, and the city/county would lose the additional £10.8 million external funding that has been secured.

Key considerations

2. The redevelopment of the Hereford Museum and Art Gallery is a key priority for Herefordshire Council and local partners. It will establish a high quality museum and art gallery visitor experience, attracting high profile exhibitions, provide additional space to display local heritage artefacts including the Herefordshire Hoard, will include a café and shop and provide opportunities for corporate hospitality. Key features will be a fully accessible building with roof-top terrace allowing views across the city including Hereford Cathedral opposite, it will also be to EnerPhit standards where possible. The business case (previously considered) set out the key objectives and outcomes of the project including:
 - Establish a high quality visitor attraction within the city centre increasing visitor numbers and increasing spend (attract 210,000 visitors within the first 3 years)
 - Provide access to education/skill development
 - Enhance the sense of place regenerating the city centre
 - Contribute significantly to the regeneration and diversification of the city
 - Create 20 jobs and apprenticeships
3. The Stronger Town Board have identified the project as one of the flagship Stronger Town Investment projects for the city and have committed £5 million of funding to the capital works.
4. National Lottery Heritage Fund (NLHF) have recognised the significant ambitions and important outcomes of the project and have provided their support for the project with £5.08 million for the exhibition and gallery design and fit out as well as a wrap-around activity plan to engage the community in the development of the museum collections and outreach projects.

5. The Arts Council England (ACE) have recently announced a commitment of £750,000 to the project to support the capital build works. Further funding bids are also being explored to other alternative funders.
6. This decision also seeks approval for the procurement of, and award of contract, to a contractor to undertake the remaining elements of RIBA 4 (construction design) through to practical completion of the project (RIBA stage 7). This would include a two phased approach, inclusive of a break clause at the completion of RIBA 4b (prior to construction) should the project be considered to be unachievable within the available budget. It is vital that we seek a contractor at this stage of the project in finalising the design and to identify a tendered construction cost to implement the project.
7. The project is currently at stage RIBA4a – much of the detailed design work has been completed with intrusive surveys having been undertaken. This has determined, as far as possible, the construction related risks associated with the project prior to the involvement of a contractor.
8. Through the procurement and RIBA 4b this will enable the council to work with the contractor to maximise the deliverable outcomes to be achieved by the project.

Community impact

9. The museum and art gallery redevelopment is of significant benefit to the local community. The museum and gallery will be welcoming, playful and, fun. The county's rich science, history and arts collections will be used so that visitors will be able to explore stories, people and things of Herefordshire in imaginative ways and from multiple perspectives.
10. The Activity Plan prepared for the NLHF grant uses the collections and cultural activities to connect with people who might not ever have thought of engaging with heritage, or who are physically isolated across Herefordshire. There is a strong focus on wellbeing through creativity, heritage activity and connecting with nature.
11. Additional positive community impacts were set out in the business cases submitted to the Stronger Towns Board in 2022 and covered in previous governance decision. On a national level, the project contributes to the missions in HM Government's White Paper proposals on levelling up. Local it will deliver on priorities in the County Plan 2020-2024 to 'Use council land to create economic opportunities and bring higher paid jobs to the county', and to 'Invest in education and the skills needed by employers'. The redevelopment support the ambitions detailed in Herefordshire Council's Delivery Plan priorities, specifically community (CO0.1), economy (EC2.1, EC5.1) and environment (EN5.1, EN5.2).

Environmental Impact

12. The redevelopment projects supports delivery of the council's [environmental policy commitments](#) and aligns to the following success measures in the County Plan for:
 - Reduce the council's carbon emissions
13. The development of this project has sought to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance by designing to EnerPhit standards where possible. The environmental impact of this proposal

has been considered through the service specification and includes appropriate requirements on the contractor/delivery partner to minimise waste, reduce energy and carbon emissions and to consider opportunities to enhance biodiversity. This will be managed and reported through the ongoing contract management.

14. A key aim of the project is to achieve the highest possible environmental and energy efficiency standards possible. It centres environmental approaches, drawing on the latest sustainable technologies and design, and looking at innovative ways to discuss our impact on the world around us today.

Equality duty

15. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

16. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.
17. The redevelopment is based on the principles of inclusive design and has put people at the heart of the design process. We recognise that access is not only physical but also cultural, intellectual and sensory. The building and activities that take place in it are being designed so that everyone can enjoy them confidently and independently with choice and dignity – regardless of disability, age, gender, sexual orientation, race or faith.
18. An Equality Impact Assessment has been completed as part of the development of the project.

Resource implications

19. Through previous governance decisions the council has approved and spent up to £2.6m in undertaking the detailed design of the building up to the midpoint of RIBA stage 4, the development and submission of a successful planning application and listed building consent, the required building surveys to inform the project, and completed the heritage statement, successful application of a number of funding bids, planning application, building control application and related works. The level of spend has been necessary due to the complexity of a heritage Grade 2 listed building and the scale of the ambitious project.
20. To progress the project from mid point RIBA 4b to RIBA stage 7 the decision seeks approval to delegate expenditure of the remaining project budget to the Corporate Director Community Wellbeing in consultation with the Cabinet Member. This will allow the procurement and appointment of a contractor to complete RIBA4b (detailed design elements) and identify a final

target construction cost subject to the project being within the available budget, and delivering the outcomes required by the various funders, the council will then commission the procured contractor to move into construction (RIBA5) completion (RIBA6) and handover (RIBA7).

21. The project will only progress beyond RIBA stage 4b if the project is deliverable and within the approved budget.
22. Procurement will be carried out in accordance with the Council Contract Procedure Rules,.
23. It should be noted that the cost plan produced by the cost consultants at the end of the RIBA stage 4A design estimates the total cost of the project as c. £21.8m. The increased costs are within the design and construction elements of the project only. This costs can be attributed to the discovery of limpet asbestos, higher scaffolding costs, greater prelims (following advice from market engagement), and the need for a new substation due to insufficient network capacity in the city.
24. It is anticipated that these costs can be reduced through working with a contractor. This will be the focus of the contractor's work as they develop the RIBA4b detailed designs which will ensure that accurate target costs are provided for RIBA5.
25. There are no changes to the revenue operational costs, or projected income, at this stage than reported in the previous decisions. The table below shows the funding forecast over the life of the project.

FUNDING	Years						TOTALS
	21-Mar-24	24/25	25/26	26/27	27/28	28/29	
HC Capital	435,236.76	464,879.97	1,848,396.84	6,680,385.38	1,524,322.06	-	10,953,221.01
NLHF	77,000.00	191,461.17	415,197.29	3,400,928.15	780,651.95	296,226.45	5,161,465.01
Str. Towns	1,496,103.81	662,537.58	2,783,412.60	-	-	-	4,942,054.00
ACE		100,000.00	650,000.00	-	-	-	750,000.00
	2,008,340.57	1,418,878.72	5,697,006.73	10,081,313.54	2,304,974.01	296,226.45	21,806,740.01

26. The table below shows the indicative cost plan provided at the end of RIBA4a:

Project Element	Indicative Cost
Construction including fit-out	£14,583,936
Professional Fees	£2,911,727
Client Fees	£538,109
Construction Inflation/Contingency	£2,305,073
NLHF Design and Activity Costs	£1,467,895
TOTAL	£21,806,740

Legal implications

27. The procurement must be undertaken in accordance with the Council's Contract Procedure Rules and the Public Contract Regulations 2015 and all conditions of funding from external providers must be adhered to.

Risk management

28. The following are the key risks associated with decision;

Risk / Opportunity

Unsuccessful procurement – there is a risk that the procurement for principle contractor will be unsuccessful resulting in no tenders received. This would increase programme length and risk funding agreements.

The RIBA4a cost plan produced including all aspects of the project, concluded a whole project cost of £21.8m (£3.4m above the current budget, or £2.65m above the budget with additional ACE funding). There is a risk that a contractor will be unable to provide the savings needed to the construction element of the project to bring the costs back in line with the budget.

There is a risk that any value engineering exercise could risk the funding already agreed.

Increase in capital funding - further funding bids are succesful

Programme is delayed – delay to the draft programme is likely to increase cost

Mitigation

Procurement strategy has been carefully considered by external consultants, Mace, and discussed with internal commercial team manager. Soft market testing with a Tier 1 contractors and frameworks has informed the process. TA draft procurement strategy is currently being finalised.

If RIBA5/6 costs cannot be brought back in line with the budget then either an increase in budget would be requested through Council for an amendment to the capital budget or a value engineering exercise would be required which is likely to increase costs and programme length further. These mitigations would be carried out in consultation with the Cabinet Member for Community Services and Assets.

This risk is also mitigated by a break clause at the end of RIBA4b enabling the council to halt the project without further penalty at this stage if further value engineering is either not possible or will substantially reduce the aims and ambitions of the project. Although should the project not proceed at all, there is the potential that development costs incurred to date (up to £2.6m) would need to be found from revenue funding and repaid to associated grant funders.

Value engineering aspects of the project has potential to make cost savings, however, funders may not agree to the revised scope and could terminate funding agreements which could lead to clawback of development costs incurred to date..

A pipeline of funding bids has been identified for additional funding opportunities. Should the bids be successful and added into the total capital budget it is likely that: HC capital can move into contingency or value engineering could be reduced.

External consultants and industry experts have developed the programme on a multi disciplinary basis. The procurement for principle contractor will be based on that draft programme. Robust contract and

<p>3rd party negotiations increase cost – negotiations with 3rd parties to provide access for temp works, necessary infrastructure and equipment etc</p>	<p>project management will ensure that programme is followed.</p>
<p>Construction risks including presence of asbestos increase cost - Intrusive surveys through RIBA4a stage have identified eg asbestos within the building, however there is a risk that further construction ‘unknown’ risks may materialise during construction.</p>	<p>Negotiations are being held however, if a compromise cannot be accommodated, this could increase costs beyond the reasonable expectation of the project capability.</p>
<p>There is a risk that a NEC4 Option C contract results in an increase in target cost and/or pain-share</p>	<p>A soft strip and asbestos removal will be provided in stage 1 of the 2 stage procurement (ie within RIBA4b) allowing design team to investigate the building further and to be agile in response with the design prior to construction work commencing in stage 2 (ie RIBA5).</p>
<p>NEC4 Option C contract could result in receipt of gain-share should the out-turn costs be lower than the target value.</p>	<p>The cost consultant and project management contractor for the council will be required to robustly manage the principle contractor to ensure that the defined target cost is accurate and that pain share is mitigated wherever possible.</p>
<p>ACE’s Standard Terms and Conditions Capital Investment includes repayment and stop clauses due to issues including, changes to the agreed project without prior agreement and breaching the conditions of the grant.</p>	<p>Gain share would be retained until the end of the total project at which point it could be fed back into the council’s capital programme for redistribution.</p>
<p>Each funder has their own terms and conditions that include repayment and stop clauses due to issues related to progress of the programme and changes to the project.</p>	<p>ACE has robust reporting schedule in place that the project team will adhere too.</p>
<p>Each funder has their own terms and conditions that include repayment and stop clauses due to issues related to progress of the programme and changes to the project.</p>	<p>The project team are working with legal and estates to ensure that the grant conditions of each funding partner can be met. There are regular reports and discussions with the funding partners to keep them updated and informed of progress.</p>

29. The above risks will be managed via the project team and escalated as required through the delivery boards as per the council’s adopted project management processes. The recommended decision to provide delegated authority to Corporate Director for Community and Wellbeing allows strategic oversight of the project in the context of the wider council aims and ambitions.

Consultees

30. A political group consultation has been held where those attended recognised and supported the ambition of the project and what it would bring to the city and wider county. Concerns were raised as to the achievability of the project within the available budget and how the council will secure interest from a contractor given the risks related to an ambitious project in a grade 2 listed building. The council and the appointed design team have undertaken extensive soft market testing through the development phase of the project, and Mace (Project Managers) have developed an extensive procurement strategy for the project.

Appendices

Appendix 1 ACE Standard Terms and Conditions Capital Investment (grants up to £750,000)

Background papers

'None identified'

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	Jen Preece	Date 30/07/2024
Finance	Karen Morris	Date 25/07/2024
Legal	Emma-Jane Brewerton	Date 24/07/2024
Communications	Luenne Featherstone	Date 23/07/2024
Equality Duty	Harriet Yellin	Date 25/07/2024
Procurement	Carrie Christopher	Date 30/07/2024
Risk	Jessica Karia	Date 30/07/2024
Approved by	Hilary Hall	Date 01/08/2024

[Note: Please remember to overtype or delete the guidance highlighted in grey]

Please include a glossary of terms, abbreviations and acronyms used in this report.