City of Westminster

Cabinet Member Report

Decision Maker:	Councillor Paul Swaddle OBE, Cabinet Member for Finance and Smart City
Date:	`12 August 2021
Classification:	General Release (apart from Appendices 1 and 2, which are exempt from publication)
Title:	Huguenot House – Delivery Route
Ward(s) Affected:	St James's
City for All Summary:	The redevelopment of Huguenot House has the ability to play a fundamental part in meeting Westminster's City for All commitments. A major redevelopment project in the heart of the West End will contribute to our *Thriving Economy* priority and will deliver wider public realm benefits. Through the physical re-development, there is an opportunity to deliver a *Smarter, Greener and Cleaner* building at the heart of the city. By working with residents and stakeholders to ensure the project meets their requirements, we can ensure a *Vibrant Community*.
Key Decisions:	Key Decision
Financial Summary:	The Capital Strategy approved by Full Council in March 2021 contains a budget of £94.016m (net £25.265m) for the redevelopment of Huguenot House. This includes an allocation set aside for the acquisition of residential flats. The preferred option identified in the report is redevelopment of a leisure led scheme with mixed use in line with the Council's strategic objectives. This report requests approval for £200k to carry out soft market testing and take the scheme to Outline Business Case Part 2 stage.
Report of:	Gerald Almeroth, Executive Director of Finance and Resources.

1.0 Executive Summary

1.1 In March 2021 the Cabinet Member for Finance and Smart City agreed the preferred way forward for Huguenot House following a rigorous and lengthy options consultation and review process. The approved preferred way forward is for the redevelopment of the whole site.

1.2 Officers have been considering the delivery strategy for the redevelopment of the site and this report sets out potential delivery options. It recommends that market engagement in the form of a soft market testing exercise is carried out to inform the preferred delivery route.

2.0 Recommendations

2.1 That the Cabinet Member for Finance and Smart City:

2.2 Approves the Outline Business Case (Part 1) on the basis that there is an opportunity to deliver a mixed-use leisure led scheme in line with the Council's strategic objectives.

2.3 Approves reclassification of £0.2m of spend to carry out soft market testing and to take the scheme to Outline Business Case Part 2 stage.

2.4 Notes that the soft market testing exercise will be undertaken to assess potential delivery routes and gauge the interest of the market in working with the Council to deliver the scheme, the result of which will be presented in an Outline Business Case Part 2.

2.6 Note that Appendix 1 and 2 of this report be exempt from disclosure by virtue of the Local Government Act 1972, Schedule 12A Part 1, paragraph 3 (as amended), in that these documents contain information relating to the financial or business affairs of any particular person (including the authority holding that information).

3.0 Reasons for Decision and Justification

The Preferred Way Forward report was approved in March 2021 with development being approved. This report sets out the next stage of the project, namely to start the work to consider the best delivery route. This report also presents the Outline Business Case Part 1 for approval.

4.0 Policy Context

4.1 The Council's City for All Strategy is the context for the consideration of delivery route options. In particular the Thriving Economy pillar sets out a programme of work to reinvigorate the West End and attract sustainable investment to the city.

4.2 As well as ensuring that the Smart City and Greener and Cleaner pillars of City for All are reflected in the detailed delivery plans, the Council is mindful that Huguenot House is home to a number of long standing and more recent residents and has developed a bespoke rehousing offer for Huguenot House resident leaseholders and tenants. Consultation with resident leaseholders and tenants has commenced to ensure that the policy meets their needs.

4.3 The approved preferred way forward report considered a raft of other pertinent policies including the City Plan, the Greater London Authority's (GLA) London Plan

and affordable housing policies. Going forward, the Council or any other delivery vehicle/arrangement would be required to act in accordance with these key policies and any future relevant policies including any changes to Planning and Building Regulations.

5.0 Project Background

5.1 Huguenot House is a freehold investment property, held in the General Fund and managed by the Corporate Property Investment Team. It comprises a cinema, offices, carpark and 35 flats. The income generated supports wider Council service delivery.

5.2 The approval of the preferred way forward report in March this year was the culmination of a long running public consultation which commenced formally in 2017. Residents and the wider community were consulted on the following options, with Option 7 becoming the preferred option:

5.3 Option 1 – maintenance
Option 2 – refurbishment
Option 3 – sale of the site
Option 4 – conversion from office to residential
Option 5 – extension of the residential via redevelopment of the podium
Option 6 – redevelopment with residential, cinema and retail
Option 7 – redevelopment with residential, offices, retail, and hotel/casino

5.3 The preferred way forward report in March 2021 committed officers to carrying out a thorough examination of the delivery strategy and noted that there would be a further Cabinet Member report to examine in more detail the delivery strategy options. This is that report and it benefits from market analysis, a risk appraisal, legal and financial advice.

5.4 This report sits alongside the Outline Business Case Part 1 attached at Appendix 2.

5.5 The proposed delivery strategy will be subject to consultation with residents and wider stakeholders once the proposed soft market testing has been completed. This follows the extensive consultation that was carried out with residents and wider stakeholders and which informed the Preferred Way Forward.

6.0 Vision & Objectives

6.1 The project objectives that underpinned analysis of the different options are as follows:

6.2
1. Create new, local employment opportunities.
2. Improve the quality of the built environment.
3. Enable the development of a smart city.
4. Preserve and enhance local communities.
5. Provide a mix of homes across all tenures including affordable.
6. Deliver a carbon efficient strategy that is environmentally sustainable.
7. Develop a financially viable option which considers the duty of the Council to deliver value for money.
8. Facilitate the improvement of the public realm and reduce anti-social behaviour.
9. Minimise disruption for existing residents as much as possible.

10. Ensure that homes meet modern standards.
11. Provision of modern leisure, commercial facilities and homes.

6.3 These are still valid and will underpin the project going forward. However, now that the preferred way forward is approved, the Council can now develop these objectives to address the specific nature of the agreed redevelopment option. This will also ensure that there is a shared understanding of the project's strategic objectives and that these underpin our delivery approach.

6.4 Due to the age and configuration of the building, the security of the Council's financial return is uncertain. The Council needs to renew this ageing asset and ensure that the financial return is secured to continue to contribute revenue funding to support essential Council services.

6.5 In line with the preferred option, the development of a mixed-use scheme, capitalising on the area's international significance for leisure and entertainment destinations, is a key part of our vision. The site currently does not maximise the potential of its location for either the Council or the wider area. A destination building with leisure uses at its heart, will have a broad, positive impact, enhancing the area's vibrancy. This is particularly important in the current environment where there is a degree of uncertainty caused by the global COVID-19 pandemic.

6.6 The redevelopment of this strategic site can drive wider physical improvements, in particular to the public realm and enhance connectivity through the area to both Leicester Square and Trafalgar Square. This wider potential was cited as the primary reason for such vocal support for the preferred option by wider stakeholders including the Heart of London Business Alliance (HOLBA).

6.7 Although over time the demand for particular uses may change and consequently the final detail of the redevelopment plans may need to be updated to reflect end-user demand, changes to building regulations or planning policy etc., this vision and the objectives will remain constant. They will underpin the Council's strategic approach to the delivery of the project.

7.0 Delivery Options: Risks & Rewards

7.1 *Self-Delivery*

7.1.1 The financial allocation for this project within the capital strategy assumes that the Council redevelops the site. However, given the complexities of the preferred option and the risks associated with delivery, self-development is not regarded as the optimum delivery approach.

7.1.2 With self-development the Council would provide all of the capital investment funding for all development costs, engage the professional team, secure an implementable planning consent, secure vacant possession, possibly needing to utilise CPO powers, secure end operators and occupiers in line with market demands and negotiate commercial leases. The Council would need to manage the residential elements and the full demolition and construction programme, procuring an experienced contractor for this constrained site. The Council would be responsible for marketing and sales, including but not limited to the residential flats.

7.1.3 The Council does not have the experience, resource or expertise in-house to manage all of these project elements, due to the scale of this project and its

complexity. The Council does not currently have the highly specialist knowledge in-house to manage a project incorporating leisure uses including a hotel and commercial offices. The hotel market in particular is nuanced with a range of brands and operators and the Council needs the input of external specialists to ensure that the end product is the best it can achieve. The self-delivery approach represents a significant delivery risk for this project including but not limited to the underachievement of value.

7.1.4 The Council budget for this project, based on self-delivery, is currently £94.016 million but total costs are likely to exceed £100 million. In addition to the complexity of delivery, the question is whether the Council wishes to commit such a significant capital resource to this project when there are other, arguably more pressing calls on the capital programme where alternative sources of funding are not available. It is the case that, given the location of the site and the commercial focus of the preferred option, this opportunity is likely to be an attractive proposition in the market and the Council will be able to secure investment funding to realise it's vision for the site and the surrounding area. Such an option does not exist for many of our regeneration projects where public funding is the only available route.

7.1.5 The upside of the self-delivery approach is that the Council would have full control over the specification, delivery, programme and outputs. The Council would own the completed scheme in its entirety and all future income and value. However, the Council would take all risk: planning, site, construction and sales. A contractor could assume some site and construction risks (at a cost to the Council) and could engage an experienced Development Manager to facilitate delivery and identify end users but ultimately most would rest with the Council with little risk transferred. An internal or external Development Manager would provide expert management and de-risk the project to a certain extent, in particular with facilitating delivery and supervision of the construction team, and the identification of end operators and occupiers and the negotiation of commercial leases. However, the Council would still need to fund all of the development finance and so this approach still arguably channels financial resources away from the Council's core business and away from projects where the ability to secure external funding is limited or non-existent.

7.1.6 It is concluded that the risks associated with self-delivery outweigh the benefits of owning outright the completed scheme. Accordingly, officers have been examining alternative delivery options and the next section of this report examines these.

7.2 ***Property Partnerships***

7.2.1 Property Partnerships encompass a wide range of potential arrangements from relatively simple Development Agreements right through to more complex Joint Venture Companies. This section of the report examines the options and recommends that structured informal market engagement is undertaken to assess potential developer partner enthusiasm for this delivery route.

7.2.2 A **Development Agreement** would entail a legal agreement with a developer to deliver the project. The Council can impose obligations on the procured private sector developer partner regarding specification, delivery, programme and outputs but there would be limited Council participation in the project. The Council could establish a 'steering group' with the developer or similar arrangement, but this would be an advisory and monitoring body. In addition, there is the potential for a capital receipt and overage (participation in excess profit over and above that forecast) if the development performed above expectations in financial terms. The Council

could terminate the Agreement if the partner were not delivering and recover the site.

7.2.3 Any Development Agreement would be conditional on the partner securing planning permission, demonstrating scheme financial viability and obtaining funding. The Council would still need to retain responsibility for securing vacant possession of the building as this would represent a risk that the private sector partner could not assume. Officers are working with leaseholders to acquire their interests but ultimately it may be necessary to pursue a Compulsory Purchase Order as these powers are only available to public bodies.

7.2.4 This Development Agreement approach is not likely to be the best option as it provides very limited ongoing involvement for the Council in the project. The project's objectives are significant and potentially transformative for this important part of the West End. It is crucial that the Council continues to play an active role in ensuring that the project meets its wider objectives as well as providing a financial return. However, it is recommended that this approach is explored with potential partners as part of the soft market testing exercise.

7.2.5 The pros and cons of a Development Agreement are captured below.

Development Agreement Pros	**Development Agreement Cons**
Can incorporate a Steering Group to ensure good governance and decision making	Difficult to cater for project changes.
Simpler, quicker and cheaper to put in place and administer.	In practice it *may* be difficult to get transparency on profit share and any overage.
Well understood by the market.	Inherently inflexible if the parties wished to extend the remit of the Agreement.
Can secure a capital receipt and a share of generated profit.	Generally does not facilitate improvements to the wider area.
Can secure a 'clean' exit.	
Developer takes greater financial risk	

7.2.6 A **Joint Venture** with a developer partner. This section of the report refers to the potential creation of a separate legal entity: i.e., a company or an LLP registered at Companies House. This is generically described as a Joint Venture Company (or "JVCo."). An independent JVCo. could be established with a private sector developer partner. Equity is normally invested equally in return for 50:50 control and share of the returns. The Council's equity could take the form of the site which would be transferred into the JVCo. once vacant possession is secured. The partner could be required to match the value of the site by paying cash to the JVCo, thus endowing the JVCo with land and cash to enable it to deliver redevelopment.

7.2.7 The Council would be required to participate in the JVCo. decision making for the life of the project as the JVCo. exercises control over the entire development including programme and planning. This would be an adaptable model that can flex

as the market changes although ultimately the Council would retain the power to terminate the agreement if the JVCo. is failing to deliver. The model is based on equal equity investment but can more easily accommodate additional Council investment in the form of debt finance to the JVCo. should the Council decide at the outset that it wishes to stipulate the ability in principle to do this.

7.2.8 As with the Development Manager and self-development delivery routes, the Council would still need to retain responsibility for securing vacant possession of the site and this may result having to compulsorily purchase properties.

7.2.9 There are different approaches to a Joint Venture with some private sector partners providing investment funding solely whilst others are restricted to the provision of an enabling role for future disposal. It is proposed to carry out soft market testing to gauge the reaction of potential partners who would provide both equity funding and development management capacity and capabilities. Under this approach, any JVCo. would normally develop the site with equity from the Council in the form of the site (and potentially senior debt) with a developer partner providing its equity in the form of funding together with development and delivery expertise and capacity.

7.2.10 It is vital that the Council tests the market to assess whether there are potential developer partners who understand the Council's objectives for the site and can align with its vision. If this becomes the preferred delivery route, the Council will want a partner who is willing to share risk as well as reward and who embraces the Council's desire to have an equal role in ongoing control and influence.

7.2.11 The Council's retained commercial adviser has confirmed that there would be significant market interest in such an opportunity, but further structured early market engagement is required to inform the nature of the opportunity and in particular the financial profile and the timing of advertising the opportunity. The soft market testing exercise would also seek feedback from the market in relation to potential procurement routes that are available to the Council's in order to identify an appropriate partner with whom to form a JVCo. This will inform the final development of the procurement strategy if this route is confirmed as the preferred delivery route.

7.2.12 The pros and cons of a JVCo are captured below.

Joint Venture Pros	**Joint Venture Cons**
Flexible structure; can adapt to changing requirements and circumstances.	Assuming that the JV is successful, it will have exclusivity over the whole project and thus the choice of a private sector partner is critical.
Full scrutiny over financial matters.	If the supply chain is part of the JV, it can be challenging to demonstrate value for money over time.
Equal returns for equal contributions.	Complex and costly to establish although the Council's Procurement Team have the necessary experience in-house. The establishment of a company will also need external resource including legal advice.

As the Council would be half of the company, it can exercise real influence (and veto) over company decisions as well as landowner controls.	Higher running costs once established compared to a Development Agreement approach because the additional corporate governance requires officer resource.
Does not necessarily require a cash investment.	Disagreements may lead to deadlock which could halt progress.
Can facilitate improvements to the wider area	

8.0 Procurement

8.1 Under either a Development Agreement or a Joint Venture approach a formal procurement process would still be required to select a developer partner. Our Procurement team have experience in this area and have worked with the project to outline key areas for success. This includes market engagement to understand the procurement route, commercial relationships and to help define the overall requirement before a tender process commences. It is vital that the Council understands the potential suppliers' appetite to bid, robustness in the medium and long terms and if the prospective project is attractive at its current stage. This is flagged in our project timetable which will include two early rounds of market engagement for a more efficient procurement process and allow potential development partners to align with Westminster's City Council's visions and objectives.

8.2 A procurement strategy will be developed for consideration and will encompass the project's overall strategic objectives. Due to the project cost the Council must comply with the Public Procurement Regulations 2015 (PCR2015). However, where possible, the process should not be a long and costly procurement exercise for bidders and the Council. It is anticipated that due to the complexity of the project that a Competitive Dialogue (CD) or Competitive Procedure with Negotiations (CPN) may be required with the overall timetable of up to 12 months in total. It is vital that the project learn from the market engagement and develop a clear set of requirements, commercial model, evaluation criteria and only allow dialogue or negotiations on elements that are critical to develop the overall requirement. A strict timetable, experienced resources and clear deliverables for the both the project and bidders will amount to an efficient procurement.

9.0 Finance Implications

9.1 The Capital Strategy approved by Full Council in March 2021 contains a budget of £94.016m (net £25.265m) for the redevelopment of Huguenot House. This includes an allocation set aside for acquisitions. This budget reflects the position under a self-delivery model whereby the full capital cost of the scheme is incurred by the Council.

9.2 The Outline Business Case appended to this report (Appendix 2) sets out the financial case for the scheme, exploring the leisure mixes which achieve the Council's strategic objectives whilst remaining affordable. The financial implications are also summarised in Appendix 1.

9.3 Up to the end of financial year 2020/21, a total of £3.212m has been spent on redevelopment. This is primarily made up of legal, procurement and professional fees.

9.4 Cabinet Member approval of £5.3m has been obtained to date, the last Cabinet Member Report being approved for £1.8m in July 2020 to take the scheme to preferred way forward stage. As the Preferred Way Forward report was approved in March 2021, with £1m of the £1.8m utilised, £0.2m will now be re-directed. This will enable the team to procure a soft market testing exercise and take the scheme to Outline Business Case Part 2 stage.

9.5 An Outline Business Case Part 2 will be produced once the soft market testing has been undertaken. This will financially appraise the potential delivery routes and the impact on the Council depending on the results of the soft market testing exercise and reaction from the market.

11.0 Legal Implications

The Council has the “General Power of Competence" or "GPOC” under Section 1 of the Localism Act 2011. This states that a local authority may do anything that a person generally may do. A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others. In exercising this power, a local authority is still subject to its general duties (such as the fiduciary duties it owes to its rates and local taxpayers and to the public law requirements to exercise the general power of competence of a proper purpose).

The Council also has the power under Section 111 of the Local Government Act 1972 to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions. Furthermore, Section 3 of The Local Government Act 1999 (“LGA 1999”) places local authorities under a general Duty of Best Value to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”.

Under this duty, therefore, authorities should consider overall value, including economic, environmental and social value, when reviewing service provision. As a concept, social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, above and beyond the benefit of merely the goods and services themselves.

The Public Contracts Procurement Rule 2015 which regulates public procurement provides that *‘public bodies may conduct market consultations with a view to preparing the procurements and informing economic operators of their procurement plans and requirement’* providing that it does not have the effect of distorting competition and does not hinder the principles of *‘non-discrimination and transparency’.* Any future procurement will be undertaken in accordance with the Public Contracts Regulations 2015 and in accordance with the Council’s Contract Procedure Rules.

Therefore, the powers noted above allow the Council to carry out the recommendations within this report. The soft market testing will allow the Council to obtain market intelligence in order to allow an assessment and comparison as to

what delivery route it should take thus enabling the Council to continue to fulfil its duty under section 3 LGA 1999 above.

12.0 Equalities Impact Assessment

12.1 An Equalities Impact Assessment (EqIA) was completed for consideration of the Preferred Way Forward report in March. This assessment concluded that redevelopment, whilst causing some negative impacts, was judged to be the most sustainable. It was acknowledged that redevelopment will create temporary disruption and disturbance to residents in terms of relocation. However, the overall outcome is likely to be most beneficial for residents. There are no changes to the EqIA as a consequence of taking these decisions. The EqIA is attached at Appendix 3.

13.0 Consultation

13.1 Since the conclusion of the consultation on the options for the future of the building and approval was obtained for the Preferred Way Forward, consultation and engagement with residents has continued. Residents have been consulted about the planned maintenance works and a meeting held with officers and the building management company.

13.2 A policy for resident leaseholders and tenants has been reviewed by the Cabinet Member for Finance and Smart City and is currently subject to consultation with resident leaseholders and tenants at Huguenot House.

13.3 The Ward Councillors have been informed that this report and Outline Business Case are being presented to Capital Review Group.

14.0 Next Steps

14.1 The Cabinet Member for Finance and Smart City will be presented with a further report outlining the results of the soft market testing exercise. The report will include detail of the proposed delivery route including procurement (if required), governance arrangements and financial commitment. The stages leading up to this further report are outlined below.

15.0 Programme Milestones

- Issue brief for market advice/tender period/evaluation and award of contract: July and August 2021
- Compilation of soft market testing brief: September 2021
- Soft market testing phase 1: October 2021
- Evaluation and changes to proposals: early November 2021
- Soft market testing phase 2: late November 2021/early December 2021
- Cabinet Member report on soft market testing outcome; confirmation of delivery route and procurement route (if required): late February 2022

16.0 Background Documents

Huguenot House – Conclusion of Consultation and Decision on Preferred Way Forward and appendices March 2021.

17.0 Appendices

Appendix 1 - Financial Implications
Appendix 2 - Huguenot House Outline Business Case
Appendix 3 – Equality Impact Assessment

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Claire Nangle
cnangle@westminster.gov.uk

For completion by the Cabinet Member for Finance and Smart City

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: Date

NAME: **Councillor Paul Swaddle OBE,** Cabinet Member for Finance and Smart City

State nature of interest if any
……
……
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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled *Huguenot House – Delivery Route* and reject any alternative options which are referred to but not recommended.

Signed ……

Cabinet Member for Finance and Smart City

Date ……

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comments:
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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Head of Legal and Democratic Services, Chief Operating Officer and, if there are resources implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.