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**Exempt from the Press and Public**

*An exemption is sought for Appendix 1 – Forge Island DFA Supplemental Agreement under Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A of the Local Government Act 1972 is requested, as this report contains sensitive commercial information with regards to commercial agreements which could disadvantage the Council in any negotiations if the information were to be made public.*

*It is considered that the public interest in maintaining the exemption would outweigh the public interest in disclosing the information, as the parties' commercial interests could be prejudiced by disclosure of commercial information.*

## **1. Background**

- 1.1 Further to the Cabinet decision on 28<sup>th</sup> March 2022 to approve the acquisition of a number of properties in Rotherham town centre the Council has acquired 4 Corporation Street as part of the wider development of the Culture & Leisure Quarter using the Levelling Up Fund. 2. At the Asset Management Board March 2023 approval was granted to demolish the building and remediate the site to open views of Forge Island and create a future development site.
- 1.2 In the short term the site is required for use as a compound to support delivery of the Riverside Gardens and Corporation Street regeneration projects. There is therefore a requirement to demolish the building quickly, so that the short-term use can be put into action and these schemes can progress into delivery.
- 1.3 Acquisition of the property also provides the opportunity to address design constraints resulting from level differences between Site B on Forge Island and 4 Corporation Street enhancing the connectivity between Forge Island, Riverside Gardens, Corporation Street and the wider town centre. Specifically, this includes removal of a retaining wall from the design, regrading of levels and the creation of more attractive accessible footpath routes. This cannot be achieved without the removal of the building, and the remediation of the site to allow the works area of the Forge Island scheme to extend beyond its current northern boundary. Both projects will benefit from the proposed works improving the overall outcome for the Town Centre.
- 1.4 The main Forge Island scheme is progressing to plan. The Council and Muse have agreed the scheme design and funding arrangements and tenants have been secured. The arrangements are detailed in a Development Funding Agreement which sets out a maximum funding commitment for the Council

and the terms on which that funding commitment can be drawn down by Muse to deliver the Forge Island development.

## **2. Key Issues**

- 2.1 The site was acquired with the intention of creating a development site within the Culture and Leisure quarter. There is a strong and critical connection between the Forge Island and 4 Corporation Street sites due to their key location and importance within the Councils Town Centre Masterplan
- 2.2 There are no plans for re-use of the building in its current state and it provides an unattractive elevation to the rear, directly facing the Forge Island development.
- 2.3 Holding costs to maintain the property, and keep it safe and secure, are in of £1,000 (one thousand pounds) per week. Antisocial behaviour has been reported to the rear of the property, and there have been attempts at forced entry.
- 2.4 The demolition of 4 Corporation Street also enables betterment of the landscape design for the Forge Island scheme. This betterment is achieved through regrading of levels across the two sites, addressing a weaker element of the original design. Regrading of levels will also help the Forge Island scheme better connect with any future scheme to the North. The creation of more accessible footpath routes through the site, linked to the River Walk, and a more attractive landscape around the café unit on site B of the Forge Island scheme are also made possible.
- 2.5 The compound this site will provide in the short term is needed to facilitate the delivery of Riverside Gardens and improvements to Corporation Street on schedule. The immediate demolition and site remediation is seen as critical in the timeline for development in this area.
- 2.6 To carry out the demolition works safely and as efficiently as possible, access from Forge Island (site B) is required. Introducing a new contractor within an existing work area is often problematic, generating risks related to coordination and conflicting priorities that ultimately impact on cost and programme. The betterment of the landscape design cannot be achieved without a contractor having access both sites.
- 2.7 Potentially including these works as part of the Forge Island scheme will allow for a more straightforward demolition methodology to be undertaken and mitigate the risk of delay to the wider programme. It will also allow for betterment to the landscape design solution for site B, with alterations to the landscaping enabling the creation of a better solution for the café pod and access to the Riverwalk.
- 2.8 Utilising the existing Forge Island contract will help mitigate programme and cost implications associated with; engaging contract negotiation, site welfare and compound set up, and Principal Designer and Health & Safety considerations.

### **3. Options considered and recommended proposal**

- 3.1 It is proposed to include the demolition of 4 Corporation Street within the Forge Island development and the main contractors work package. This is the preferred delivery approach. It will enable the contractor to oversee the demolition process from start to finish, allowing access from site B which is critical to avoid potential delays and adverse impact on the wider programme. It will allow for a more straightforward demolition methodology to be undertaken, mitigating risk of delay, and therefore achieving better value for money.
- 3.2 Including the works in the Forge Island development will also allow the additional works of betterment to the main scheme to be delivered alongside the main development. This will avoid the need to retro-fit changes to the built scheme through the award of a separate contract or addition to a contract yet to be let. Retro-fitting will cause disruption and is likely to result in additional cost.
- 3.3 This approach includes delivery of the demolition works through a subcontractor., Five contractors have been invited to price for the works, with four returning proposals for consideration. All submissions were assessed based on price, with capacity and availability to undertake the works within the available window a consideration.
- 3.4 It should be noted that costs will also include remediation of the site, landscape works, as well as a range of fees associated with these works, including a developer fee for the Councils Forge Island Development partner.
- 3.5 An alternative option was explored, to undertake these works with a third party. On investigation, the preferred access is from the South, site B, part of the existing Forge Island scheme. Substantiated concerns have been raised that there is a real danger of both delays to the main works programme, and a risk to health and safety, if another contractor is active in the same works area as the main works are progressing, therefore after early engagement with third parties to clarify this, this option was not progressed and is not recommended.
- 3.6 It is recommended that:
1. The Council include the demolition and remediation of 4 Corporation Street within the Forge Island development main works contractor package and the existing DFA is varied as required.

### **4. Consultation on proposal**

- 4.1 The report relates to the agreement of commercial terms and includes information that is commercially sensitive. Public consultation is not applicable in this context.

### **5. Timetable and Accountability for Implementing this Decision**

5.1		Date	Responsibility
	Internal RMBC approval	24 March 2023	Strategic Director of Regeneration & Environment
	Demolition works to begin	10 April 2023	Muse Developments Ltd

## 6. Financial and Procurement Advice and Implications

- 6.1 The total cost of the proposed works outlined within this report is £397k, split between the Phase 1 demolition works £160k and the site remediation and landscaping works in Phase 2 of £237k. This proposal will be funded from the Levelling Up Fund - Strategic Acquisitions and Demolitions programme. A Cabinet report was approved in March 2022 setting out how the £1.689m strategic acquisitions fund would be used, indicating the properties/sites that the Council aimed to acquire. 4 Corporate Street was one of those acquisitions, with the remaining funding earmarked for other acquisitions, though the programme would be subject to change.
- 6.2 The Cabinet report did not specify that the LUF funding would be used to cover any demolition costs or remediation works. Therefore, officers in Regeneration and Environment will need to draft a specific business case for the Strategic Acquisitions programme setting out how the fund will be used, making way for the inclusion of these additional works and clarifying which acquisitions will now not be possible.
- 6.3 For LUF the Council has to use its own internal business case process to approve schemes, but they should still broadly adhere to the purpose and scope that the LUF bid was approved for. Whilst it is believed that this change in scope will be supported as a variation to the LUF programme, there is a risk that DHLUC may not agree. If this was the case the Council would need to fund these works from the wider Regeneration and Environment capital programme.
- 6.4 Whilst the proposal is to amend the Forge Island main contract, the works outlined with the report are predominantly on site B (former Wilkinson's site). As such the project variation will be treated as a change in scope to the LUF Strategic Acquisitions programme rather than a change in scope to the Forge Island development. As such the Forge Island budget and financial implications will stay the same.
- 6.5 It should be noted that the Council have not directly sought quotes for the demolition or remedial works from potential contractors due to the issues outlined in the report, as it is believed that the proposed route provides the most efficient route to the delivery of both schemes, whilst keeping to the tight timeframes and ensuring synchronisation between the output of both sites.
- 6.6 The variation to the Forge Island main contract, will be undertaken in compliance with Regulation 72 of the Public Contracts Regulations 2015 (as amended).

“... (5) This paragraph applies where the value of the modification is below both of the following values:

- (a) the relevant threshold mentioned in regulation 5, and
- (b) 10% of the initial contract value for service and supply contracts and 15% of the initial contract value for works contracts

Provided that the modification does not alter the overall nature of the contract or framework agreement.

- 6.7 (6) For the purposes of paragraph (5), where several successive modifications are made, the value shall be the net cumulative value of the successive modifications.”

- 6.8 The proposed modification satisfies all the above grounds. The value of the modification is £397,000, which is significantly below the works threshold (£4,447,448 net of VAT), the nature of the contract has not been altered and as this is the first modification to the main contract, the cumulative effect represents 0.85% of the initial contract value (including enabling works).

- 6.9 It is important to note that the Council is still within the 6-month challengeable period for ineffectiveness claims regarding the proposed approach to the award of the Forge Island contract. This period expires on 7 May 2023, therefore modifications during this period carry a heightened risk.

## **7. Legal Advice and Implications**

- 7.1 There are no implications as Procurement Advice has satisfied legal queries and raised any points that legal would have made.

## **8. Human Resources Advice and Implications**

- 8.1 There are no known implications.

## **9. Implications for Children and Young People and Vulnerable Adults**

- 9.1 There are no known implications.

## **10. Equalities and Human Rights Advice and Implications**

- 10.1 No further equalities and human rights implications identified in addition to those covered by EIA undertaken for October 2022 Cabinet Report.

## **11. Implications for CO<sub>2</sub> Emissions and Climate Change**

- 11.1 No further emissions and climate change implications identified in addition to those demonstrated for October 2022 Cabinet Report.

## **12. Implications for Partners**

- 12.1 There are no direct impacts from this decision on the delivery of services by partners.

### 13. Risks and Mitigation

- 13.1 The main works contractor has demonstrated a wealth of experience in completing demolition and refurbishment schemes and would be looking to commence the works as soon as possible to minimise the impact to the substation installation programme and planned works around the site entrance. Logistically, it would be able to incorporate the demolition whilst carrying out works on site B north, which will mitigate the risks of delay to delivery allow the current programme and returned costed tender packages to be secured.

#### **Accountable Officer(s)**

Tim O'Connell, Head of RiDO

Approvals obtained on behalf of:

	<b>Name</b>	<b>Date</b>
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	23/03/23
Assistant Director of Legal Services (Monitoring Officer)	Phillip Horsfield	22/03/23
The Strategic Director with responsibility for this report	Paul Woodcock, Strategic Director of Regeneration and Environment	23/03/23
Consultation undertaken with the relevant Cabinet Member	Cabinet Member for Jobs and the Local Economy - Councillor Lelliott	22/03/23

*Report Author:*            *Tim O'Connell, Head of RiDO*  
*tim.o'connell@rotherham.gov.uk*