

Cabinet: 19 September 2023

Addendum to Cabinet Report number: CAB/WS/23/041

(for inclusion with the full report (CAB/WS/23/041) within the 'Referrals report of recommendations from Cabinet' to Council (COU/WS/23/014) – 26 September 2023)

Western Way Project – summary of identified opportunities, risks and financial implications.

Analysis by Council's statutory officers

The Cabinet paper issued for 19 September 2023 is a summary of issues and risks associated with the recommendations made regarding stopping the Western Way (WW) project and was prepared by the lead councillors and officers for the project on behalf of the lead cabinet members.

However, to assist councillors in their decision on this major project at Council on 26 September 2023, the Council's three statutory officers (the Chief Executive, s151 (Chief Financial) Officer and the Monitoring Officer) have carried out a subsequent analysis of the paper to ensure that it already contains all of the necessary information on opportunities, risks and financial implications. This addendum summarises that analysis.

The risks associated with the decision have been listed in the following table, cross-referenced to the relevant sections of the Cabinet/Council report. These are separated into: (A) risks associated with carrying on with the current project and; (B) risks associated with changing the approach. This is to show the balance of risks considered by Cabinet when reaching their recommendation to Council.

A. Risks already identified in the report(s) associated with carrying on with current WW project (default position)

Risk	Summary of issues and any mitigation highlighted in report	Reference in report
1	<p>The condition of Bury Leisure Centre (BLC) must be addressed as there is no do-nothing option</p>	<p>Para 3.2 and background papers</p>
2	<p>The previous comparison made between the newbuild option and refurbishment options in the approved WW business case did not include the 'essential maintenance only' option</p>	<p>Para 3.10 and background papers</p>

Risk	Summary of issues and any mitigation highlighted in report	Reference in report	
3	New revenue impacts such as interest rates and inflation impact on the viability of the project and wider impacts on the Council's borrowing budgets.	These new revenue pressures have increased the risk profile of a large investment supported by projected future income at a time of wider pressure on council budgets. Mitigation of new revenue pressures on the project since December 2022 (interest rates, inflation, energy market disruption, etc) will therefore be needed alongside further value engineering to ensure the project is still viable.	Paras 1.3 to 1.9 and Appendix 1
4	The spending power of the revenue generated by the WW project is diminished by higher than previously forecast interest rates	This risk would be factored into the final gateway test and assessed against the Council's wider borrowing budgets (and the project adjusted accordingly). The s151 Officer will also continue the work to date to secure cheaper forms of borrowing from national or local schemes to support investments in renewable energy (although these will only offer marginal benefits compared to normal Public Works Loans Board loans).	3.4 and 3.6. Background papers
5	Impact of scale of borrowing in wider context of council finances	Even when viable, the scale of the project, and the ongoing borrowing cost/risk (estimated today at £2.7m per annum, based on net borrowing of £43 million @5.5% interest for 40 years) and income risk associated with it, will be significant. Pressures on council finances, particularly among authorities with high debt to spending ratios, have featured heavily in the national media in recent weeks. WSC is not in this situation at the current time and the investment in WWD would not have restricted the Council's ability to deliver other capital projects.	Para 1.5 and Appendix 1 plus an update to the earlier estimate in background papers.
6	The current phase 1 project is not yet viable.	Second stage tenders from sub-contractors have been received for the phase 1 scheme and are still being evaluated and value-engineered by the contractor and project team to reduce their cost to a viable level.	Paras 1.3–1.6
		The project to date has been managed through a series of gateway reviews, and contractors and external advisors have been commissioned accordingly, to limit the financial exposure to the Council. Hence Cabinet being able to recommend a change in approach at this stage.	Paras 1.1 and 9.2 and background papers

Risk	Summary of issues and any mitigation highlighted in report	Reference in report
7	<p>The project does not achieve the projected new income streams/savings required to support borrowing (thereby increasing the cost of running the leisure centre in council revenue budgets)</p> <p>The WW business case is built on significant revenue savings and new income from the leisure centre, renewable energy plus some rents and other savings. Estimates made at the time of the final gateway test will therefore have to be first achieved and then maintained over the life of the borrowing. These new income and saving risks would have then formed part of the Council's budgets and medium-term financial strategy, and would have been managed and taken into account when setting annual budgets and in the s151 officer's annual assessment of reserves and balances report.</p> <p>Gateway 2 for the WW project required sign-off by the s151 Officer and Cabinet Member for Resources that break-even tests against existing revenue budget provisions would be likely to be met based on the latest forecasts. This was supported by external advice. But see risks above.</p>	<p>Paras 1.5–1.6 and background papers</p> <p>Paras 1.1 and 3.1–3.3 and background papers</p>
8	<p>Whilst we are working through the final gateway there continues to be a delay in and uncertainty over the decision on the investment of leisure facilities in Bury and surrounding areas</p> <p>See risk 6 above for process to be followed. As explained in the main report, carrying on with viability work will also involve extra time and cost. A reasonable estimate of that for the purposes of this addendum/decision would be 3-6 months, with a requirement to release a further £100,000 a month from the existing capital project budget to fund this work (which would need to be recovered through the value engineering/savings).</p>	<p>Paras 1.4-1.7 and 3.9 plus new information in this addendum</p>
9	<p>Essential maintenance is kept to a minimum pending the new leisure centre opening - avoiding abortive costs but affecting user experience</p> <p>Whilst the WWD project is being developed works to the existing site have been kept to a minimum to avoid abortive costs. The Cabinet's recommendation means that the current maintenance budget can be released to offset some of the essential maintenance cost now proposed to the existing site.</p>	<p>Para 3.1</p>
10	<p>There is uncertainty over whether other facilities will also be delivered (archive, pre-school and health facility)</p> <p>As per risk 8, any delay to achieving viability on the project creates uncertainty for partners in respect of other facilities in the hub.</p>	<p>Para 1.4</p>

Risk	Summary of issues and any mitigation highlighted in report	Reference in report	
11	There is uncertainty that the Council's Anglian Lane site can be released for commercial uses (and generate income for taxpayers)	The planning consent for the current WW project still requires the Anglian Lane site for off-site parking in phase 2. The new feasibility study for Olding Road will consider this matter in more detail but there is a greater chance under the essential maintenance approach that it can be released permanently for re-use. The site would be available for re-let under either option in the short to medium term.	Paras 4.1-4.2
12	The Olding Road building is currently empty and incurring holding costs of £300,000 a year	These costs would be passed to the contractor on their occupation of the site for redevelopment, thereby mitigating this risk. These costs currently show within the in-year budget outturn as a pressure pending them becoming the contractor's liability.	Para 2.3
13	Pending any transfer of the site to a contractor, holding costs of vacant properties are not kept to a minimum e.g. security.	There is an existing approved budget authority for enabling works which add value to the assets and are required whether the project proceeds or not.	Paras 2.5 and 9.5 and background papers
14	National grants only available to existing buildings (and specifically existing swimming pools) are not obtained	It would have proven difficult to access currently available energy-efficiency grants on a new build.	Para 3.5
15	Risks involved in the current project are not properly identified and mitigated	A full risk appraisal of the current project was prepared and implemented for all previous decisions	Para 8.1 and background papers
		The current project had financial safeguards and gateway tests in relation to a final decision to proceed	Para 1.1 and 9.2 and background papers

B. Risks already identified in the report associated with stopping the current project (as per recommendations)

Risk	Summary of issues and any mitigation highlighted in report	Reference in report
1	<p>The condition of Bury Leisure Centre (BLC) must be addressed as there is no do-nothing option</p> <p>Under the new recommendations, immediate maintenance issues (amount afforded within existing budgets) for BLC will be addressed to secure its operation in the short to medium-term. The Cabinet's proposal is essentially to replace the risks of a very large and complex capital project, and the revenue risks of it being underwritten by new savings and income, with the risks of a smaller and simpler capital project, which will be funded entirely within existing revenue budget commitments. So as not to put further pressure on the Council's budget in the short term. These two sets of risks are summarised in this report.</p>	Rec 2 Para 3.2 and Appendix 1
2	<p>The Western Way (WW) project is cancelled even though it is viable</p> <p>The recommendation is not being made by Cabinet because of a view on the likely viability of project, as this viability work is not completed. It is based on an appraisal of the other risks in section A of this addendum i.e. it is assumed the project could still be viable but the other risks are felt to be too great at the current time.</p>	Paras 1.3-1.9 and Appendix 1
	<p>Further work is required to ensure that the project meets the approved viability/gateway tests (see ancillary risks in section A)</p>	Paras 1.3-1.6
3	<p>Refurbishment of the leisure centre does not stay within available budgets meaning the project increases the cost of running BLC above what is currently provided for in budgets</p> <p>The budget for the essential works have to be limited by what is already budgeted in the Council's MTFs/maintenance budgets (plus external funding) to mitigate this risk. Delegated authorities being proposed are subject to these budgets not being exceeded. If this becomes the case the matter will be referred back to councillors.</p> <p>Essential maintenance may need to be prioritised to achieve this. Cabinet asks that the risks of deferring some of these works is acknowledged and accepted by members when considering this change in approach. (Also see risk 16 below)</p>	Rec 2 Paras 3.1-3.8 Para 3.13

Risk	Summary of issues and any mitigation highlighted in report	Reference in report
4	There is uncertainty over what the available budget will deliver	The report explains why it is not possible at this stage to identify what sum will be available, and therefore what works might be commissioned. Instead, it is only possible to identify what will eventually determine that budget if work on the project is authorised to start. Therefore, to avoid any further delay in works to BLC (see risks in section A) it is proposed to progress with the project under delegated authority, on this basis.
5	Expectations are raised about what may be possible to achieve with the available budget	Rec 2 Paras 3.1-3.14
6	It is clearly stated in the report that this new approach will address immediate issues only and secure the continued operation of BLC in the short to medium-term.	Paras 3.9-3.14
7	There is disruption to service levels during essential maintenance works, affecting user access to BLC and revenue budgets.	Disruption will be kept to a minimum and any that there is will require mitigation which will be funded from the existing budgetary provision. The level of works required will also not be as significant as the upgrade works previously proposed to councillors as alternative options to a newbuild.
8	Sporting clubs and organisations who use BLC will be impacted by the change in plans/refurbishment works	Paras 3.4 and 3.10 and background papers
9	The Council will liaise closely with Abbeycroft (ACL) to ensure that the new approach to BLC is implemented smoothly. As our strategic partner for leisure, ACL will also liaise with users of the current centre and local and national sporting organisations to explain the change in approach and engage them in any changes.	Para 5.2
8	The net revenue impact of mitigating disruption to BLC during refurbishment and of staying in the existing building diminishes what is left in the £724,000 MTFS provision to support borrowing for capital works	Rec 2 Paras 3.4-3.8
9	The spending power of the £724,000 budget is	Only the balance of the £724,000 funding after deducting revenue impacts will be available to support borrowing. This is a key part of the financial safeguards in the recommendations in the new approach to ensure there is no additional impact on taxpayers. And this sum will be established with ACL before any construction contracts are entered into. This sum can also be supplemented by existing maintenance budgets and any external funding obtained. If the cost of the required works exceeds available budgets a new report will be presented to councillors for them to decide next steps.
9	This is a risk applicable to the existing WW project too and will be factored into the appraisal of the available capital spending (and plans adjusted	Paras 3.4 and 3.6

Risk	Summary of issues and any mitigation highlighted in report	Reference in report
	diminished by higher than previously forecast interest rates	
10	The spending power of the £724,000 is diminished by being unable to borrow for longer than the expected life of any investment in an ageing building.	Para 3.4
11	Energy efficiency improvements will not be delivered	Paras 2.8, 3.5 and 3.11 and background papers
12	Ability to reduce ongoing maintenance cost through a move to a newer building is lost	Para 3.1
13	The ability to spend Section 106 (developer funding) secured by the local planning authority to address the impact of new housing growth may be impacted.	Para 3.5
14	The requirements identified in the latest needs	Para 3.5

Risk	Summary of issues and any mitigation highlighted in report	Reference in report
	assessment for leisure facilities are not met by essential maintenance only	
15	Longer-term refurbishment proposals which included upgrades of the existing facilities to reflect changed market conditions/different community need are not affordable within existing budgets. Including provision of an 8-lane competition pool.	Paras 3.5 and 3.10-3.11 and background papers
16	Further investment may also be required after 5-10 years to address subsequent planned maintenance issues (as would be the case in any building of this age).	Paras 3.11-3.13

Risk	Summary of issues and any mitigation highlighted in report	Reference in report	
17	Taking this approach to secure the medium-term future of BLC does not change the need to ensure that the asset management plan continues to address the long-term condition of all leisure centres.	In the long-term (to be assessed again after 10years – depending on the final essential maintenance project) further investment in the existing or in a new BLC is still likely to be needed given the age of the current BLC. This will continue to be referenced in budget-setting processes and Cabinet feels the short-term benefits outweigh the long-term costs of taking this approach.	Para 3.14 and background papers
18	Partnership working to date may be lost	The report is clear that the Council will continue to work with all the previous partners to address their estate needs under the One Public Estate Programme. Including looking at options on the Olding Road site as well as elsewhere in the town.	Paras 5.1-5.4
19	A pre-school will not be delivered	A pre-school has always been part of the WW project because of a deficit in places in the local area, and s106 funding is available to put towards it in this part of Bury St Edmunds. We have indicated to SCC that we are keen to continue to work on this element of the project in the ongoing scheme and/or identify an alternative solution.	Para 5.3
20	A new archive will not be delivered	The proposal to replace the current West Suffolk branch of Suffolk Archives at WW was confirmed by SCC earlier in 2023 after a business case process. We have indicated to SCC that we are keen to continue to work on this element of the project in the ongoing scheme and/or identify an alternative solution.	Para 5.3
21	A new community health facility will not be delivered	The small health facility in phase 1 of WW was being built by WSC at commercial risk, ancillary to the leisure centre. The Integrated Care Board (ICB) had expressed a potential interest in taking this phase 1 facility but no formal agreement had been signed with the NHS. Meaning there is no immediate impact of this proposed decision on confirmed NHS estate plans. Again, WSC will now work with the ICB to support their estates needs under the OPE Programme and look at all potential options.	Para 5.4
22	An upgrade to the skatepark will not be delivered	The revised phase 1 plans for WW already delayed any changes to the skatepark until phase 2. So, to an extent, the proposed new approach has no	Para 5.5

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	effect on previous aspirations to upgrade this facility, funding dependent. It will remain as it is for the time being and future options can then be explored alongside new plans for Olding Road in close consultation with the Bury Skatepark Experience user group charity.	
23	Equalities benefits of the WW project will not be delivered. These benefits will now be superseded by equality and accessibility considerations for successor projects. The benefits of the previous project (and therefore the equality impacts of not proceeding) were clearly explained in the previous business cases.	Para 9.4 and background papers
24	Decisions on the future of Olding Road are delayed and the asset is un-used	Rec 3 Paras 2.1-2.2
25	The Olding Road building is currently empty and incurring holding costs of £300,000 a year	Para 2.3
	Short-term uses for the site will also be considered to try and minimise these holding costs during the options appraisal work. Some of the proposed enabling works may also assist with holding costs, for instance in reducing current security costs	Para 2.4
26	Holding costs of vacant properties are not kept to a minimum	Rec 4 Paras 2.5-2.7
	Early market-testing of options for the Anglian Lane are part of the proposals.	Paras 4.1 – 4.2
27	Unavoidable works as site owner of Olding Road (e.g. remediation of external areas) are delayed increasing the impact of inflation	Rec 4 Paras 2.5-2.7

Risk	Summary of issues and any mitigation highlighted in report	Reference in report	
28	Future options for Olding Road are constrained and/or the existing planning consent is invalidated before a new decision is taken	The current section 73 application (and the original planning consent) will remain on hold pending a decision on the future of Olding Road by councillors	Rec 6 Paras 5.10-5.11
		Decisions on Olding Road and Anglian Lane will be informed by market-testing of Anglian Lane in autumn 2023 and/or the feasibility study for Olding Road	Rec 3
29	New decisions on the future of the Olding Road site will not be evidence-based and/or properly considered	A new feasibility study will be prepared and submitted to councillors. A budget to obtain external advice for the report is provided.	Rec 3 Paras 1.7-1.8 and 2.1-2.2
		All options are open at this stage except immediate replacement of leisure centre	Paras 1.8, 2.1-2.2
30	The ability to maximise the value of renewable energy generated on the Olding Road site is lost	The new feasibility study will look to preserve these benefits. A contract has been entered into with UKPN funded by existing project costs to secure export capacity from PV panels and battery.	Paras 2.1–2.2 and 2.8
31	The potential value of the Anglian Lane site is not maximised	The Anglian Lane site will be marketed to test demand and the potential investment needed to maximise the value of the asset to the Council, in the short to long-term.	Para 4.1-4.2
32	Abortive costs are incurred as a result of the new approach and are not addressed in budgets	If the current construction stage of the project is cancelled, we will be able to establish what has already been spent of its previously approved total capital budget of up to £75 million (for phase 1 and the remainder of the site). A current estimate is around £2.4 million pounds and provision will be made in the Council's reserves (strategic priorities and MTFS reserve) to address this.	Rec 5 Paras 5.6-5.9
		SCC will not incur any of these abortive project costs under the terms of the collaboration agreement with WSC as WSC has made the decision to cancel the project. Due to the nature of the phase 1 scheme, the core design for the spaces allocated to SCC for its archive and pre-school would have been required whatever their end use. So the abortive costs which could be solely	Para 9.2 plus new information in this addendum

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	<p>attributed to the specialist SCC requirements is not pro-rata to the relative size of those facilities in the overall scheme (which in itself was quite small).</p> <p>Members have already noted that project costs of £4.2 million pre-dating the construction stage have been addressed and funded from the Council's revenue budgets; mainly met through grants and partner contributions. This means there is no new impact on revenue budgets from those earlier costs associated with this decision</p>	<p>due to queries received since publication.</p> <p>Para 5.6</p>	
33	<p>Abortive costs are not kept to a minimum</p>	<p>As with the earlier developmental stages of the project, not all of this sum will be abortive because some of the work relates to the current BLC (to provide alternative options to WW in business cases) or to enabling works and site and building surveys for Olding Road and Anglian Lane which would have been required whatever happened with the sites. Ultimately, until the new options for the Olding Road site are agreed, it will be hard to identify how much of the work-to-date can be carried forward or not. The planning consent obtained for WW in 2020 has some value, even if the specific scheme it covers is not taken forward and a new application is needed.</p>	<p>Para 5.8</p>
34	<p>Loss of existing knowledge of contractor and consultant team/loss of pace in project resulting in additional costs</p>	<p>Authority given to appoint consultant and contractor team immediately, allowing retention of existing team where applicable</p>	<p>Rec 7 and Paras 5.12-5.15</p>
35	<p>Best value may not be achieved for any new appointments</p>	<p>Contract procedure rules will be followed</p>	<p>Paras 5.12-5.15 and 9.2.</p>
36	<p>Impact on the contractor and their supply-chain from loss of potential earnings if phase 1 scheme does not go ahead.</p>	<p>It would be logical, provided that best value is achieved for taxpayers, to capitalise on the existence of a mobilised project team and contractors with a good understanding of the sites if those partners themselves wished to continue to be part of the scheme. This could also minimise the socio-economic impact of the current WW scheme not going ahead in full for the</p>	<p>Rec 7 and Para 5.13</p>

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	local supply-chain, which was an important strategic consideration for the original project.	
37	Risks involved in the current project are not properly identified and mitigated	Once approved, new projects will have new risk management processes developed as part of normal project governance Para 8.1
38	Adequate provision is not made in the Council's budgets in respect of the decisions	The Council's Section 151 Officer would be authorised to make the necessary changes to the Council's prudential indicators. Budgets for meeting new costs are identified in the report. Recs 2-5 and 8 Sections 2-5
39	Councillor oversight of new decisions is not robust	Key recommendations are subject to oversight by Cabinet members before they can be implemented Recs 2 and 4
		Delegations contain safeguards in terms of outcomes and spending limits. Where these cannot be met, it is implicit that the matter must be referred back to councillors under the constitution Recs 2-5 and 7
		Officer actions are covered by the existing delegations in the constitution and council policies and procedures. Again, where actions are not within these defined restrictions, the matter will be referred back to councillors. Recs 1-8
		Decisions on the Olding Road site require a further council report Recs 3 and 6 Para 2.2
40	Lack of awareness that decisions would be taken about project during this meeting cycle.	Cabinet announced its intention in Spring 2023 to carry out a review alongside completion of second stage of tendering in summer 2023, and this was widely communicated externally and internally. Para 1.2