

**Teignbridge District Council**  
**Executive Committee**  
**12 September 2022**  
**Part i**

**Future High Street Fund – Notice of Motion update**

**Purpose of Report**

To provide an update on the progress of actions agreed by Council in considering the Notice of Motion relating to the Future High Street Fund projects on 26 July 2022, and to agree on-going actions and budget to complete the work.

**Recommendation(s)**

The Committee RESOLVES to:

- (1) Agree the actions set out in section 2 of this report; and
- (2) Allocate £64,000 from the Executive's general reserve balance to fund the additional work required to complete the actions as set out in section 2.

**Financial Implications**

Section 2 sets out the costs of undertaking the work requested by the Notice of Motion which amount to £64,000 and detailed in section 3.1. There is no allocated budget for this work, and it cannot be funded from the Future High Street Fund award, which is for capital expenditure only.

The Executive has authority to access the general reserve balance of up to £100,000 to meet unexpected expenditure in addition to the revenue budget agreed by Council.

The most significant financial concern is delaying the project further and the inability to use Future High Street Funds which would require TDC funding as an alternative and the potential risk to the business case. See 3.3 below.

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**Legal Implications**

There are no specific legal implications arising out of this report save those referred to at paragraph 3.2 below and those identified in the report.

Head of Legal Services and Monitoring Officer  
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## **Risk Assessment**

The risks resulting from this report are set out in section 3.3 of this report and the Project Risk Assessment are attached as Appendix 1 to this report.

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## **Environmental/ Climate Change Implications**

Environmental and climate change implications have been identified in Section 3.4 of the report.

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## **Executive Member**

Executive Member for Economy and Jobs, Cllr Nina Jeffries

## **Appendices/Background Papers**

Appendix 1: Risk Assessments

Background papers

1: Notice of Motion: Agenda item 13 [Agenda for Full Council on Tuesday, 26th July, 2022, 10.00 am - Teignbridge District Council](#)

2: Community Right to Bid policy and guidance: [Community Right to Bid - Teignbridge District Council](#)

### **1. Introduction**

At Council on 26 July 2022 the Leader of the Council put forward a Notice of Motion requesting that officers investigate six actions in relation to the Future High Street Fund project. The Notice of Motion was supported by Council.

This report sets out how officers are investigating those actions, identifying indicative timescales, costs and the impact on the overall programme.

### **2. Review of actions**

1. Commission such external professional advice as is necessary to provide a detailed report to the next Council meeting on the costs of the Future High Street Fund projects and projections over the period to planned delivery.

The Council has received independent advice on costs from the start of the projects from Aecom, a multi-disciplinary consultancy. The agreed business case and budget contains contingencies which cover estimates of construction costs, taking account of current expected construction cost inflation.

The Section 151 Officer's Budget Monitoring Report to the Executive on 4 July 2022 did not raise concerns over the funding of the scheme having considered the issues of cost inflation and potential impact on rents and leases. The provision and contingencies within the funding package and business case, agreed at Full Council in February 2022, currently allow for cost inflation and economic uncertainty as could be reasonably assessed.

**Action:** Officers will continue to regularly review the business case as the costs become more certain and will report back to Council as and when estimated or actual costs exceed the agreed budget.

2. Continue discussions with the Government (including the Member of Parliament for Newton Abbot) to extend the period in which the £9.2m Future High Street Funds can be used and to;

The Future High Street Fund team have confirmed that there will be no extension to the time period. The £9.2m Future High Street Fund grant will need to be drawn down and spent by March 2024, in line with the programme originally approved. The programme and Council contributions can continue after this deadline, and this is already part of the project spend profile.

Discussions have taken place with the Member of Parliament for Newton Abbot, who has expressed a willingness to support the Council but will require greater clarity on what is being proposed.

**Action:** Further discussions will take place with the Future High Street Fund team and Member of Parliament in relation to the actions associated with the Notice of Motion.

3. Negotiate with Government for a variation in the approved Future High Street programme, which allows the council to respond more flexibly to local needs and minimises exposure to potentially rising construction costs.

The process for variations to projects is to submit a 'Project Adjustment Request'.

A Proposal Adjustment Request would only be submitted once the evidence has been completed and business case has been updated to demonstrate that there is a viable alternative project, and Full Council approval has been secured.

The alternative proposal will also need to be appraised against the original 'gateway criteria' including assessment against the requirements of HM Treasury's Green Book appraisal. The Green Book appraisal includes demonstrating that a project represents value for money, has a strategic case, is viable, is affordable and is achievable within the timeframe of the grant funding.

The process for a Project Adjustment Request includes a 6-week decision period, with that date to start after we have a properly costed and evaluated alternative scheme that has been approved by Council. An extraordinary meeting of the Council will be required for this.

**Action:** Subject to the work related to Actions 4 and 6 to establish if a viable alternative project can be developed and delivered in the funding timeline, a Project Adjustment Request will be presented to Council for approval to submit.

4. Review proposals for the existing Market Hall in order to improve the market offer to draw in new traders and more customers.

In reviewing this action consideration has been given to Action 6 and alternative plans for the Alexandra Cinema building.

It has been assumed that this Action excludes the Alexandra Cinema from the plans for the Market Hall.

It has also been assumed that the work being undertaken by the Steering Group formed at the request of Council in February 2022 will not now be completed, unless alternative plans are not considered to be achievable.

To complete a review of the plans for the Market Hall, excluding the Alexandra Cinema, further work needs to be undertaken by Aecom, architects and the market consultants who have been advising the Council. This will ensure a like for like comparison of the submitted scheme and any alternative option.

Once that work is completed a review of costs can be undertaken in comparison to the submitted scheme and, if the finances are equal or favourable, an appraisal against the HM Treasury Green Book will be required. The consultants who previously undertook that work have advised that they have available resource to complete this task and that it will take at least 1 month to complete from the date of commission.

A budget of £52,000 is required for consultants to undertake this additional work, along with a review of the strategy for the delivery of mechanical and electrical equipment and utilities, and redesign of the plant room to serve the building as two separate entities.

**Action:** A budget of £52,000 be approved by the Executive from the general reserve balance for additional consultancy work required to complete this action.

**Action:** Confirmation that the work of the Market Hall steering group will not be completed unless no viable alternative proposals are brought forward.

**Action:** Confirmation that this action excludes the Alexandra Cinema building from the plans.

5. Commission a season of 'street performances' to help draw more people into town.

There is no dedicated officer resource currently available to commission a season of street performances. If earlier action is required budget will need to be agreed to bring in additional staff resource.

The Council's UK Shared Prosperity Fund Investment Plan contains provision for contributions to the arts and towns centres. Once confirmation of the Council's bid is received later this year this would be the opportune time to consider this part of the Notice of Motion.

**Action:** It is recommended to await confirmation of the Shared Prosperity Fund bid before progressing conversations on this part of the Notice of Motion.

6. To consider afresh options for the Alexandra Cinema/Theatre building

Work on this action has progressed on the basis that the Notice of Motion instructs officers to consider uses for the Alexandra Cinema building outside of the Future High Street Fund project. The consideration of options would depend on what the Council is seeking to achieve. This work would also operate on a different timeline to the rest of the Future High Street Fund work due to the limited staff resource to undertake the work.

The consideration of alternative options can only be progressed if it can be demonstrated that there is a suitable, viable and deliverable proposal for the Market Hall.

If the requirement is to include the Alexandra Cinema building as a theatre and community space, then this work would require additional budget and quotes would need to be sought to develop the plans. However, given the likely timescales to undertake the design work, secure appropriate consents and implement a scheme, it is not considered to be deliverable within the grant funding timescale and would require the Council to fund more of the work.

On this basis, the proposed approach in line with this action is to look at marketing the building for lease or sale. The Alexandra Cinema is listed as an Asset of Community Value so any sale would need to follow the Council's policy, included as Background Paper 2 to this report. This would include a 6-week interim moratorium for community or voluntary sector groups to express their interest, followed by a 6-month full moratorium to enable a bid to be put together.

The Council is required to seek best consideration when disposing of public assets under Section 123 of the Local Government Act 1972, ensuring as far as reasonably possible that public assets are not disposed of at an undervalue.

The exception to this is where the authority considers that the purpose of the disposal at less than best consideration will achieve the promotion or improvement of the economic, social or environmental well-being for the area and/or local residents. Valuation advice will need to be reported to set out the unrestricted (best price

obtainable) and restricted values. This will ensure that the monetary value to the authority can be taken into account.

Following the receipt of quotes from local agents a budget of £12,000 is required for market appraisal, valuation and advertising the opportunity.

The options to enable proper consideration of options include:

1. Advertise the freehold on the open market with no restrictions and sell to the highest bidder;
2. Advertise the freehold on the open market restricting its use as an arts and culture centre and sell to the highest bidder;
3. Enter into an 'off-market' deal with a community group to transfer the freehold to them for use as arts and culture centre;
4. Undertake any one of the above three options but grant a long lease, as opposed to the freehold.

Subject to approval of this approach the next step would be to seek quotes for:

- A) A marketing appraisal setting out the various options; the likelihood of securing a purchaser or tenant on the open market; and who may be interested. The appraisal will include an estimate of any capital receipt / premium / rent, as appropriate;
- B) An informal 'non-Red Book' valuation, should Members wish to consider an 'off-market' deal with a community group so that 'best value' can be demonstrated; and
- C) If it is deemed necessary, a formal Red Book valuation of any deal set out in B above.

**Action:** Confirmation that the Alexandra Cinema building is excluded from the Future High Street Fund project if a viable case for a revised Market Hall scheme can be demonstrated.

**Action:** A budget of £12,000 be approved by the Executive from the general reserve balance for additional consultancy work required to complete this action.

### **3. Implications, Risk Management and Climate Change Impact**

#### **3.1 Financial**

The additional costs required to explore these options will amount to £64,000 to be funded from the general reserve balance. Following completion and publication of the draft accounts for 2021/22 the general reserve balance has increased by £46,000 to £2,106,000 at 31 March 2022. The accounts are still subject to audit.

Any alternative proposals for the Market Hall and Alexandra Cinema building needs to make at least a 1% return on investment.

#### **3.2 Legal**

In considering options for the Alexandra Cinema the Council is required to seek best consideration of public assets under Section 123 of the Local Government Act 1972, ensuring as far as reasonably possible that public assets are not disposed of at an undervalue.

### 3.3 Risks

**Delay caused by the work required to investigate the Notice of Motion and 'at risk' decisions.** The agreed project plans for the Future High Street Fund schemes contain the actions, workstreams, timescales and key milestones. The project plans require ongoing action to meet the deadlines.

The work to investigate the Notice of Motion has required reconsideration of the approved schemes and for some work to be paused to avoid potentially wasted costs on elements of the project that may no longer be taken forward.

The programme of works was based on progressing the new cinema and Market Hall elements together and some decisions need to be made now regarding the new cinema to ensure that the timeline can still be met. However, in the absence of Council or Future High Street Fund approval for a revised approach some decisions will need to be made 'at risk' or the project will be unacceptably delayed and undeliverable within the funding timescales. An Emergency Council meeting will be called to obtain necessary approvals if a viable alternative proposal can be developed.

**Funding could be withdrawn.** The Memorandum of Understanding with the Department for Levelling Up, Homes and Communities (DLUHC) requires the Council to provide regular project, financial and risk reporting to DLUHC. This is to demonstrate expenditure of funding, and that outputs and outcomes are being met in line with the approved application.

DLUHC may make appropriate adjustments to payments or withhold payments if there are significant concerns over delivery. This could affect any unspent money from the agreed budget of £5m for 2022-23 and the proposed budget of £2.75m for 2023-24.

If the project cannot be funded from the Future High Street Fund there will need to be a very quick decision made on whether the Council seeks to fund the work itself. If not, then the consideration would need to focus on the future of the Market Hall, which has an annual operational loss that incurs unsustainable on-going costs to the Council.

**Business case for alternative options not justified.** The alternative options may not work financially and fall below the minimum 1% return on investment, cost more than the Council is prepared to accept, or fail to meet the minimum target criteria in the Green Book appraisal. If there is no alternative the delays to the original programme will be significant, currently estimated to be at least 6 months at present and potentially make it undeliverable.

**Change agreement not signed off by Future High Street Fund.** If a business case can be developed that the Council is happy to support, there is no guarantee that the Project Adjustment Request will be accepted. If the Project Adjustment Request is not accepted there is also a risk that the whole project and funding will be reviewed.

**Work undertaken to date not completed or required but still have a cost.**

Following Council approval in February 2022 a series of actions and activities were instigated to bring the projects forward. Some of the activities include engaging consultants and companies to undertake design and construction work, negotiations relating to existing tenancies, arranging interim or permanent alternative accommodation for businesses required to move during construction work, the diversion of utilities and demolition of existing buildings.

If the project stalls or stops some of these elements won't be required but will have incurred costs, and contracts would still need to be honoured.

**Impact on future funding bids.** Alongside the immediate impact of any project failure, the Council's reputation will be severely damaged with Government and would make future funding bids more challenging when looking to demonstrate the ability to deliver.

**Impact on relations with existing tenants.** The plans require relocation of several existing tenants within the Market Hall and Market Walk complex. Changes to the design and timescale will require relocations to be brought forward much sooner and without the phased approach originally proposed. This could affect the ability to allow for continuous trading of some businesses.

There are also relocation discussions taking place now that may have to change due to the change in approach. Any uncertainty is unwelcomed for businesses and could also impact on trade.

### **3.4 Environmental/Climate Change Impact**

The risks identified within Section 3.3 of the report have environmental implications whereby if Future High Streets funding is withdrawn, or if alternative business cases cannot be justified, there is a risk to the delivery of projects aligning with the decarbonisation agenda, including the provision of enhanced walking and cycling infrastructure, and the provision of modern amenities for local businesses and communities in a sustainable town centre location.

## **4. Alternative Options**

This report relates to a request from Council to investigate six specific actions. Alternatives will be considered within each action, but there is no alternative option to undertaking the investigations as requested.

## **5. Conclusion**



Further work is required to fulfil Council's request. Executive are requested to agree to the budget, proposed actions and next steps as set out in this report, with further updates to be reported before Council considers the alternative options and a Project Adjustment Request can be submitted.