

# Finance & Governance Cabinet Advisory Board

14 January 2020

Is the final decision on the recommendations in this report to be made at this meeting?

No

## Calverley Square Development Closure

<b>Final Decision-Maker</b>	Cabinet
<b>Portfolio Holder(s)</b>	David Scott, Portfolio Holder for Property, Major Projects and Strategic Engagement Tom Dawlings, Portfolio Holder for Finance and Governance
<b>Lead Director</b>	Lee Colyer, Director of Finance, Policy and Development
<b>Head of Service</b>	David Candlin, Head of Economic Development and Property
<b>Lead Officer/Report Author</b>	David Candlin, Head of Economic Development and Property
<b>Classification</b>	Non Exempt
<b>Wards affected</b>	All

### This report makes the following recommendations to the final decision-maker:

1. To approve the final expenditure figures related to the development and delivery of the Calverley Square project in accordance with Full Council decisions.
2. To note the closure of the Calverley Square project and that the planning permission remains valid until 14 June 2021 and the CPO remains valid until 9 May 2022 in accordance with the statutory requirements.
3. Resolve not to implement the planning or CPO consents that are in place.
4. To note that Mid-Kent Audit Services have been invited to undertake a review of the Calverley Square project.

- A Prosperous Borough
- A Green Borough
- A Confident Borough

The proposals that comprise the Calverley Square project supported the delivery of priorities contained within the Council's Five-Year Plan through the development of a new enhanced theatre, the provision of new office space and a new car park, and improvements to the public realm at the entrance to Calverley Grounds.

### Timetable

<b>Meeting</b>	<b>Date</b>
Management Board	3 January 2020
Discussion with Portfolio Holder	7 January 2020
Cabinet Advisory Board	14 January 2020
Cabinet	6 February 2020

# Calverley Square Development Closure

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Full Council on 8 October 2019 decided to terminate the Calverley Square project. The report provides an update on the consequences of the decision and the financial sums involved.
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## 2 INTRODUCTION AND BACKGROUND

- 2.1 Full Council took the decision on the 8 October 2019 to terminate the Calverley Square project. The project as developed was for the Great Hall Car Park and Mount Pleasant Avenue Car Park on the edge of Calverley Grounds to be redeveloped for:
- A new 1,200 seat theatre that would be able to stage high quality touring shows;
  - A new shared-use building including accommodation for civic functions and offices for TWBC and third party organisations;
  - An underground car park (approximately 260 car park spaces) partly under the office building and extending under part of Calverley Grounds; and
  - Local remodelling of the public realm associated with the above buildings and car park.
- 2.2 The project was rooted in the Council's Five-Year Plan and was taken forward in a staged approach with the decision to proceed to each stage being ratified by Full Council.
- 2.3 The development was proposed to release the Town Hall, Assembly Hall Theatre and 9/10 Calverley Terrace for alternative uses to provide economic, environmental and social benefits for the town centre and for the Borough as a whole. As a result of October decision, steps have been taken to close it down. This report provides information on the consequences of the Council decision.

## 3 FULL COUNCIL DECISION

- 3.1 The report considered by Full Council contained eight recommendations. The first recommendation which was taken in isolation was:
- “That, given the importance of culture and leisure to the town's economy and social environmental and economic wellbeing, and in recognition of the planned growth to the Borough's population, this Council endorses the principle that it wishes to provide a theatre that meets the needs of residents, visitors and producers”.
- 3.2 This recommendation was rejected by Full Council. The implication of the decision is essentially that Full Council does not endorse the need for a theatre that meets the needs of visitors, residents or producers meaning that a theatre is not required.
- 3.3 The remaining recommendations (recommendations 2-8) sought approval for the project to be approved for funding and delivery. These recommendations were also rejected meaning that approval to fund and deliver the Calverley Square was not given

and that no approval was given to work on alternatives for the Civic Complex. Given that the project.

- 3.4 Following the failure to endorse the recommendations within the report, a motion without notice was tabled and agreed by Full Council as follows:

*“The Full Council recognises and supports the workings of the Cross-Party Group to date and asks that it continue its work, specifically to examine the business case and other aspects for options for the 4 key sites owned by the Council (the Town Hall, Assembly Hall Theatre, Mount Pleasant Car Park and the Great Hall Car Park) together with other sites which might become available.*

*“The Full Council asks that the Cross-Party Group should report to the Full Council meeting on 18th December 2019 and provide interim reports to Cabinet, Cabinet Advisory Boards and the Development Advisory Panel”.*

#### **4 CONSEQUENCES: PLANNING**

- 4.1 Planning Committee approved the Calverley Square project on 9 May 2018 with planning permission being granted on the 15 June 2018 (when the Memorandum of Understanding was signed). The planning permission remains extant until it expires (in accordance with the Planning decision and legislation) on 14 June 2021. In deciding not to progress with Calverley Square the identified wider economic benefits to the town and region will not be delivered. Potential economic benefits of delivering up to 362 new jobs and up to an annual £33.2m of net Gross Value Added to the economy will not be delivered from 2022 onwards.
- 4.2 All discussions with the planning department on addressing the planning conditions and other matters have ceased following the Council decision not to proceed with the Calverley Square project. No further discussions have taken place on the project since this date. The planning department were informed of the Council decision and any costs related to fulfilling planning conditions up to this date have been settled.
- 4.3 The Local Planning Authority will need to consider wider impacts on the preparation of the Local Plan going forward. In addition, the financial budget set aside to meet the cost of the planning conditions including noise mitigation measures has been returned to the general reserve.

#### **5 CONSEQUENCES: EXPENDITURE**

- 5.1 Across all workstreams for the Calverley Square Development overall expenditure up to the end of Stage 3 was £4,380,555. This includes work undertaken on sites such as Crescent Road Properties and Mount Pleasant Avenue as part of the Development Programme. On approval of the Assembly Hall feasibility study, work being investigated on these sites ceased and they became part of a consideration of Council owned assets within the feasibility study. The work up to the end of Stage 3 therefore includes all work approved by the Council up to and including the delivery of the planning application and meeting all requirements including design, planting and economic assessments to enable a positive outcome.
- 5.2 Full Council approved an overall development cost of £90m for the Calverley Square development which formed the planning application. In the delivery of Stage 4 the Council had entered into contract with Avison Young (formerly GVA) for the Design and Project Management and with Mace to deliver the Pre-Construction Management

Agreement (PCSA). The budget for both of these elements was set out as part of the development costs (Fees) reported to Full Council in December 2017.

#### **Stage 4 Expenditure**

Project Management	£ 1,139,766
Mace	£ 3,601,242
Acquisitions	£ 532,053
CPO Inquiry	£ 731,586
Legal	£ 221,698
Civic Complex Placeshaping	£ 144,361
Calverley Grounds Management Plan	£ 13,201
Enabling Works	£ 12,056
Other	£ 31,867
<b>Total</b>	<b>£ 6,427,831</b>

- 5.3 Detailed discussion has taken place with Mace regarding the PCSA and the final costs related to this phase of work. Mace have highlighted and waived a significant aspect of their losses as a result of the termination of the project. Full and final settlement has now been reached though final invoice is awaited. The final figure includes savings made as a result of cancellation of a number of committed workstreams detailed below. The final figures also include agreement on design and management team costs covering programme extension, change costs related to the delivery of planning conditions and final designs of the Square and the detailed ground engineering design works undertaken to reduce contract risks. Mace had offered a commercial discount in the PCSA subject to the award of the overall contract. With the termination of the project this has now been reclaimed by Mace as no award of contract was forthcoming.
- 5.4 During the negotiations for the acquisition of the land and rights required for the project the Council reached agreement to acquire the freehold ownership of the Lodge at the entrance of Calverley Grounds with a dental surgery as a tenant. This building will now be managed as part of the Council's wider asset portfolio.
- 5.5 The CPO Inquiry was successfully delivered with the CPO being confirmed by the Secretary of State. The fees include the costs of the Planning Inspectorate, hire of the Mercure Hotel, legal and consultancy engagement in the Inquiry including Counsel. The CPO remains live until the 9 May 2022. As a result, the Council may incur some costs linked to the CPO up to this date. The reality is low risk however during this timeframe if any costs related to compensation and legal costs are incurred these can be addressed from General Reserves.
- 5.6 The legal costs cover a number of areas including the advice and guidance related to the planning, negotiation of site assembly, the procurement of contracts and their closure through the Southern Construction Framework, and the Housing & Communities Agency Framework.
- 5.7 Further costs during Stage 4 include the delivery of the Calverley Grounds Management Plan and the Civic Complex placeshaping study. The Calverley Grounds Management Plan was focussed on the future management of the park regardless of whether the Calverley Square project progressed and will inform future management of the park, while the placeshaping study should help to inform some of the work now being undertaken by the Cross-Party Group.
- 5.8 The Enabling works included preparatory works including work for the relocation of the Dowding Memorial to a more prominent place in the Grounds and works to provide a temporary access route and toilets in Calverley Grounds during the construction period. Other costs include planning fees during Stage 4, fund raising advice and work linked

to the assembly of the site including the initial work carried out on party walls and the BBC technical support related to the delivery of the agreements with the BBC.

- 5.9 The Stage 4 expenditure is broken down between the different costs in Appendix A. The table also includes all expenditure from early work predating the AHT feasibility, the Civic Complex feasibility itself and then the various RIBA stages over the development timeframe of the project. A number of known final invoices are outstanding but have been included in the anticipated outturn. In addition an estimated figure is included related to two minor pieces of legal work yet to be billed. Final expenditure is estimated as a total of £10,808,385. Of this total £10,627,960 is on the RIBA stages 0 - 4. Finalised figures will be verbally reported.

## **6 CONSEQUENCES: FINANCIAL TREATMENT**

- 6.1 Following the decision not to proceed with the Calverley Square project, the associated Funding Strategy and the Calverley Square Reserve have been closed down with funding restored to the base budget and useable reserves respectively. Details have been set out within the Council's Draft Budget report for 2020/21.
- 6.2 The expenditure which had been treated as capital will need to be charged to revenue and this will be set out within the Financial Report and Statement of Accounts for 2019/20. The planning consent remains valid and this will be taken into account when revaluing those Council owned assets that were part of the Calverley Square project.

## **7 CONSEQUENCES: LEGAL**

- 7.1 Simultaneously to the design development of the project, the Council continued site assembly negotiations with a view to using its compulsory purchase powers if necessary, as endorsed by Full Council. These powers were exercised and the Tunbridge Wells Borough Council (Calverley Square) Compulsory Purchase Order 2018 ("the Order") was confirmed on 10 May 2019. This order has not expired and remains capable of being implemented before 10 May 2022 in accordance with compulsory purchase legislation.
- 7.2 The Acquisition of Land Act 1981 ("the 1981 Act") provides the statutory basis for the CPO. Once a CPO has been made it is possible to withdraw it prior to its confirmation by the relevant Secretary of State. However, once it has been confirmed by the Secretary of State and a six-week challenge period has expired (which is the case with Calverley Square), there is no power under the 1981 Act to revoke a confirmed CPO. The CPO therefore remains capable of being implemented within three years of the date of advertising.
- 7.3 The legislation provides that compensation may be payable in specific circumstances if properly demonstrated by a claimant and such compensation is subject to assessment as set out in a compensation code. The claimant would be required to satisfy certain criteria depending on the compensation being claimed.
- 7.4 Where land is blighted, a blight notice requiring purchase of the land may be lodged. The legislation defines blighted land and the criteria that must be satisfied before an owner of land may serve a blight notice. Only land that falls within the CPO is blighted land and the criteria that must be satisfied are that the owner/occupier of business premises are able to serve blight notices provided the annual rateable value of their premises does not exceed a prescribed limit (£36,000 outside Greater London) and the owner must have made reasonable endeavours to sell his/her land but because of the blight (s)he has not been able to do so except at a price substantially lower than might reasonably have been expected. There is a prescribed form to complete and the ability

to service a counter-notice on the part of the relevant authority, which can be referred to the Upper Tribunal (Lands Chamber). Only one party may potentially be entitled to statutory compensation. The CPO legislation does not require the Council to make compensation based on other claims for generalised blight.

## **8 CONSEQUENCES: CONTRACTS AND PROCUREMENT**

- 8.1 The Council has formally closed down the various contracts that were in place. The Civic Complex placeshaping study had been carried out under the Crown Commercial Services contract RM3816. With the publication of the report in the October Full Council papers this commission came to a natural closure.
- 8.2 The Two Stage Design and Build Contract for the Construction of the project, procured through the Southern Construction Framework (SCF) provided for confirmation from the Council to the contractor to enter into the second stage of the two stage contract at the end of the PCSA period, following completion of RIBA Stage 4. Full Council decided not to enter into the second phase of the Two Stage Design and Build Contract. The contract under the SCF is therefore now terminated.
- 8.3 The project management services and specialist compulsory purchase services for the project were procured through the Homes and Communities Agency Framework. These services have been terminated.

## **9 CONSEQUENCES: ENABLING WORK AND TRAFFIC REGULATION ORDERS**

- 9.1 A number of key preparatory works, Traffic Regulation Orders and the s278 works had been undertaken to enable the delivery of the main construction programme or to comply with conditions given in letters of undertaking as part of the CPO public Inquiry process. Detailed Work orders that have now been terminated include:
- Temporary path through Calverley Grounds to ensure accessibility
  - Installation of temporary public toilets during the construction period
  - Relocation of the Dowding Memorial to a more prominent place in the Grounds
  - Cancellation of all rerouting of utility supplies to ensure no disruption of services
  - Phased implementation of the raised table on Mount Pleasant Road
  - Temporary roadworks in place to minimise the traffic disruption
  - Relocation of the taxi rank and disabled parking on Mount Pleasant Road
  - The consultation with the bus companies in the design of a replacement bus stops on Mount Pleasant Road
  - Further detailed archaeological work and trial pits were cancelled
  - Planned Great Hall Arcade slab testing
  - The planned relocation of the badger sett in Calverley Grounds
  - Planned and timetabled party wall surveys
  - Planned additional asbestos surveys
  - Relocation of the BBC vehicles and charging points
  - A number of wider contractors were stood down including JC Decaux, Brand Technology and DMA Signs

## **10 CONSEQUENCES: ASSET MANAGEMENT**

- 10.1 The Calverley Square project included proposals for the redevelopment of the Civic Complex and other Council-owned properties. A feasibility study was published with the Calverley Square report. This was considered and rejected alongside Calverley Square, so no further work has been undertaken. However, with no immediate

prospect of any redevelopment of assets associated with the Calverley Square project (including the Civic Complex), the Council will need to consider the consequences in terms of planned and responsive maintenance for the following assets:

- Town Hall
- Assembly Hall Theatre
- 9/10 Calverley Terrace
- Great Hall Car Park
- Mount Pleasant Avenue Car Park

- 10.2 **Town Hall and Assembly Hall Theatre** – following the decision not to proceed with the Calverley Square project, there are a number of urgent works that will need to be undertaken on the Town Hall and Assembly Hall Theatre. Accordingly, capital sums have been included within the 2020/21 budget for £625,540 in respect of the Town Hall and an additional sum of £56,350 to deal with access controls. In addition, a capital allocation for £180,210 has been set aside for works to the Assembly Hall Theatre. Details of longer-term costs are being worked up as part of the Asset Management Plan.
- 10.3 **9/10 Calverley Terrace** – a decision had been taken to mothball the building so as to enable it to be incorporated within the wider redevelopment of the Civic Complex. Further thought will now need to be given to the building. The cost of bringing the building back into use would be in the region of £1m but the future of the building should continue to be considered alongside the wider Civic Complex (including the Town Hall, Assembly Hall Theatre and the Police Station). In the absence of a decision on its longer-term future, £211,600 has been allocated in the 2020/21 budget to repair the main fabric of the building.
- 10.4 **Great Hall Car Park** – Planned and responsive maintenance of the Great Hall car park has been on the basis that it would be demolished by 2020 so little to no investment has been made. Whilst it is likely that the building will remain a development opportunity in the medium to long term, immediate investment is required to keep it operational for the short-term (to 2025) and this will require £850,000 have been identified of which £580,000 is required in 2020/21.
- 10.5 **Mount Pleasant Avenue Car Park** – Discussions had taken place with AXA/PPP regarding the future of this site. Whilst, as a surface car park, ongoing maintenance will not be significant, the Council will need to clarify its future plans for the site so as to inform discussions with AXA/PPP.
- 10.6 To meet the operational needs of these civic sites additional investment of £1,923,700 is required of which £1,653,700 is planned in 2020/21 and will be considered as part of the budget setting for the Council.
- 10.7 An additional consideration on the assets is the impact of a valid planning permission on both the Great Hall car park and the Mount Pleasant Avenue car park. Both assets will require a revaluation for the accounts with in particular the planning permission for a significant office development on Mount Pleasant Avenue car park likely to have the greatest impact.

## 11 INTELLECTUAL PROPERTY

- 11.1 A full set of all the files related to the design and development of the Calverley Square project is being provided. In total there are around 3,000 files including all the detailed drawings undertaken at Stage 4. These will remain the intellectual property of the

Council and this information is available to support the work of the cross-party working group. It is anticipated that these will be received from Mace by the end of January 2020.

## **12 COMMUNICATIONS**

- 12.1 The Council have closed down the CPO Public Inquiry website which was hosted by Persona Associates. The closure of this website had been timed for the end of September on the basis of a Council decision on the 25 September. While a slight delay in the Council taking a decision the website was closed at the end of September.
- 12.2 The Council managed Calverley Square website has been closed down together with social media accounts related to the project. Stage 2 report information held on the AY website has now been closed. All information is held by the Council but there is no intention to republish this information.
- 12.3 Local businesses in close proximity to the site have received a letter advising of the Full Council decision and that the Council would not be taking the project forward. A council contact for those businesses impacted by the CPO has been provided.
- 12.4 The statutory objectors to the CPO have been sent a letter advising them of the Full Council decision but advising that the Order remains capable of being implemented until May 2022 in accordance with the legal position.
- 12.5 As a result of a freedom of information request and with the termination of the Calverley Square project the Development Advisory Panel minutes for the period between July 2013 through to June 2018 have been made publicly available. The DAP minutes include open, completed and closed projects Only those either completed or closed have been released with some minor redaction. Live projects remain confidential and have been redacted.

## **13 Review**

- 13.1 Following a request from the Cabinet Member and the Audit and Governance Committee, a review into the Calverley Square project has been commissioned from Mid Kent Audit Services. The Chairman of the Audit and Governance Committee has been consulted on the terms of reference for the review and it is anticipated that the review will be completed in the middle of 2020. The review will be reported to Cabinet, the Finance and Governance Cabinet Advisory Board and the Audit and Governance Committee.

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## **14 AVAILABLE OPTIONS**

- 14.1 The report provides information on the close down of Calverley Square as a project. It is for noting and no alternative options are required to be considered.

## **15 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 15.1 The views of F&G CAB Committee will be reflected in the minutes of the meeting which will be published on the Council's website.

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## **16 CROSS-CUTTING ISSUES AND IMPLICATIONS**

Issue	Implications	Sign-off
<b>Legal</b> including Human Rights Act	<p>The Local Government Act 1972, section 111(1) empowers a local authority to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.</p> <p>The Council relied on the Town and Country Planning Act 1990, section 226(1)(a) to make the CPO which was subsequently confirmed by the Secretary of State following the public inquiry.</p> <p>The additional legal implications are incorporated within the report.</p>	Patricia Narebor, Head of Legal Partnership
<b>Finance</b> and other resources	Full Council had approved the financial budgets for the delivery of Calverley Square at each stage of the project. The report sets out the costs incurred and final account at the end of Stage 4 when a decision was taken to terminate the project.	Lee Colyer, Director of Finance, Policy and Development
<b>Staffing establishment</b>	Staff will be impacted in a number of ways by the closure of the project. Considerable work had been undertaken to ready the workforce to be able to operate in a smaller, more flexible footprint and investment in the Town Hall had been limited. Investment decisions and ways of working will be dictated in part by the Council's future office accommodation strategy which will need clarification now that the proposed move to One Tunbridge Wells is no longer taking place.	Report Author
<b>Risk management</b>	<p>The Council had developed a number of 'gates' to manage the allocation of resources and introduce a phased approach to development. This approach has been followed on this project with the RIBA Workplan stages, authorised throughout the project by Full Council, forming the break points. The decision by Full Council on 8 October 2019 being the conclusion of Stage 4.</p> <p>Risks for the Calverley Square development had been identified at three levels: project, operational, and strategic risk. All risks identified were recorded on a risk register, using a risk policy framework which directs that risks are assessed for impact and likelihood. The risk registers were regularly reviewed, updated and reported to either the Calverley Square Steering Group</p>	Report Author

	(Management Board), Leadership Board.	
<b>Data Protection</b>	The Council takes data protection seriously, and where necessary will apply the principles of the Data Protection Act 2018, and the GDPR 2016 to information held on the Calverley Square development.	Report Author
<b>Environment and sustainability</b>	<p>The aim of the council is to influence place shaping, recognising its responsibility for civic leadership.</p> <p>Following the declaration of a Climate and Biodiversity Emergency in July 2019 the Council agreed an ambition to make the Council's operations carbon neutral by 2030. The future assessment of the redevelopment of the Council's existing assets will therefore be critical to enable the delivery of the best possible environmentally sustainable buildings, include energy efficiency, exploring use of renewables, and keeping the use of resources such as water to a minimum.</p> <p>Thereby, ensuring long term, the Council meets its ambition to be carbon neutral by 2030. With the added benefit of corporate energy bills being minimised and resources used as sustainably as practicable.</p>	Karin Grey, Sustainability Manager
<b>Community safety</b>	There are no specific community safety issues arising from this report.	Terry Hughes, Community Safety Manager
<b>Health and Safety</b>	There are no specific H+S issues with the closure of the project. Capital submissions have been made to address property maintenance and H&S issues on individual assets into the future no longer part of the Calverley Square development. Approval of budgets will be in accordance with normal decision making.	Mike Catling, Corporate Health and Safety Advisor
<b>Health and wellbeing</b>	No issues are identified.	Report Author
<b>Equalities</b>	At the time that Full Council took the decision to terminate the Calverley Square Scheme, Members were provided with an equality impact assessment on the design and construction of Calverley Square. This report recommends that the decision of Full Council is noted and makes no further recommendations in relation to alternative approaches. Therefore, no further equality impact assessment is required at this stage and no further implications have	Sarah Lavallie, Corporate Governance Officer

	<p>been considered.</p> <p>With regards to the Compulsory Purchase Order, an equality impact assessment was carried out and presented to Cabinet on 19 July 2018. A range of actions were proposed to reduce or mitigate any potential negative impacts which will not be required if it is resolved not to implement the CPO consents that are in place.</p>	
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**17 REPORT APPENDICES**

Appendix A: Calverley Square Development Expenditure