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TO	Commercial Ventures Executive Sub-Committee
DATE	Thursday, 17 November 2022
EXECUTIVE MEMBER	Portfolio Holder for Investment and Companies

KEY DECISION REQUIRED	Yes
WARDS AFFECTED	(All Wards);

SUBJECT	Project Baseball closure, November 2022
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RECOMMENDATIONS
(i) To note the operational decision to formally close Project Baseball.
REASONS FOR RECOMMENDATIONS
To provide a project review and rationale for the decision to cease any further work on, and to formally close Project Baseball. The project review serves to provide an account of the project approach, and how it was anticipated to support the Council's Corporate Plan objectives.
EXECUTIVE SUMMARY
<p>This report seeks to formally record the Council's operational decision to to close Project Baseball. It provides an account of the project, and details how it was anticipated to support the delivery of the Council's Corporate Plan objectives through its future use, and income generation potential.</p> <p>As a strategic project, risk management was considered in significant depth, both prior to and throughout the life of the project, and as a result, appropriate mitigation measures were</p>

implemented, as required. Executive Members took account of the possible risks and potential benefits and made a judgement on the appropriate considerations as part of their decision to pursue the project.

In addition, the project's performance was reviewed, and both the positive and negative experiences associated with its delivery were documented, with the objective to capture, analyse and utilise the findings to improve the planning and delivery phases of future projects.

Formal approval of the recommendations by the Commercial Ventures Executive Sub-Committee is not required, as the report serves to note an operational decision.

STATUTORY POWERS

1. Section 2 of the Local Government Act 2000 gives Local Authorities a general power of competence to act in the furtherance of the economic, social or environmental wellbeing of their area. The exercise of that power is specifically linked, in section 4 of the act, to works required in the furtherance of community and corporate plan objectives.
2. The project was anticipated to provide economic, social and environmental enhancements to the wellbeing of the area.
3. Had the opportunity been realised, the anticipated enhancements would have contributed towards the objectives of the Council's Corporate Plan.
4. The planning application associated with the project was considered and subsequently refused at Planning Committee under the Town and Country Planning Act 1990.

BACKGROUND

5. The Council's Corporate Plan contains a number of objectives aimed at ensuring the borough is a great place to live and work. Pursuance of the project would have supported the delivery of these objectives
6. In addition to supporting the Council's Corporate Plan Objectives the project offered strong potential to generate income to support other Council services.

KEY INFORMATION

Project overview

7. The overarching aim of the project was to construct a crematorium within the borough that would provide a much needed and greatly improved level of service to the residents and offer the Council access to a strong and growing business sector. This was due to the fact that the Council currently provides a directly delivered burial service, with no cremation facilities available in the borough.
8. Cremation has become increasingly popular across the UK, with over 80% of the deceased being cremated as at 2021. It was identified that local families wishing to

opt for cremation had no option but to use crematoria in neighbouring boroughs. However, due to high (and growing) demand, these existing facilities were noted to be operating far in excess of their quantitative capacities, and were not considered to serve customers, and particularly local people, well at a difficult time of life, either in terms of service, cost, environment and location/accessibility.

9. The Council's aim was to deliver a higher quality facility and service than the nearest competitors, in a more accessible location to our residents and those living near to the borough, and at a price that was competitive, whilst also generating new income streams that could support the Council's overall financial self-sufficiency.
10. In December 2019, the proposal was presented to the Commercial Ventures Executive Sub-Committee ('CVESC'), and it was considered that in addition to providing a social benefit, the facility had the potential to generate a sizeable income stream for the Council (in excess of £1.5m per annum, operating at full capacity). The recommendation to approve the funding required to undertake the feasibility activities, along with the appointment of a suitably qualified project manager was subsequently supported.
11. Further to CVESC approval being received, specialist contractors were sought and appointed, and feasibility activities were progressed by both the Council's internal project team, and the external Design Team.
12. Pre-application planning advice was also received from the Local Planning Authority ('LPA'), and shortly thereafter an Executive report seeking approval for the submission of the planning application was brought forward for a decision at formal CVESC in mid-October 2020. The recommendation was approved, and activities commenced as per the planned approach.
13. Throughout the planning consultation period, various matters were identified as requiring either further investigation or resolution to enable determination to take place- many of which suffered delays due to awaiting clarifications and further information from external parties.
14. The additional work resulted in a notable protraction to the programme, and in August 2021 a point was reached where the LPA confirmed that it had sufficient information to enable the application to be tabled at Planning Committee for determination in September 2021.
15. Prior to Planning Committee, the Planning Officer's report was published, and this made the recommendation to approve the application. However, the Committee subsequently took the decision to refuse it on the grounds of it not meeting the very special circumstance of being able to evidence a clear need for development in the Metropolitan Green Belt.
16. Further to the application's refusal, potential options were considered, including:
 1. Appealing the decision – further to investigation, it was identified that a mechanism does not exist which would enable the Council to appeal its own planning decision.

2. Re-submitting a second application – the majority of requirements for a second application could be transferred from the initial application. The evidence base would need to be re-examined, such as the needs assessment and alternative sites assessment. However, it was identified that it was not guaranteed that a second application would be successful.
 3. Pursuing a Joint Venture – this would involve entering into an arrangement with a third party to re-submit an application. It was identified that dependent on the arrangement and the entity making the application, that the option to appeal a refused application may not be an automatic entitlement.
 4. Sale of IP rights to a private sector operator – this would involve the sale of intellectual property rights to the application and associated information assets to a private sector operator, along with granting an option on the site to enable them to bring the scheme forwards.
17. Having investigated the aforementioned options, it was established that all were unviable due to a number of factors, including cost, market demand and compliance with legal requirements. Consensus was subsequently reached on the project's future viability and Portfolio Holder agreement was received to proceed with investigating the approach to close the project.

LESSONS LEARNED

18. Further to agreement being received to investigate the project's closure, Officers considered the project's performance, and documented both the positive and negative experiences associated with its delivery. The objective in this case was to capture, analyse and utilise the findings to improve the planning and delivery phases of future projects. Key findings included:

What went well

- The project's business case was thorough. This was, in part, due to aligning its completion with the Council's Commercial Governance framework, which ensured that key considerations around objectives, viability and governance were evidenced.
- Establishment of a project steering group that was effective, well-managed and well-attended with representation and buy-in from appropriate teams across the Council.
- Ethical walls were put in place to mitigate potential conflicts of interest and ensure separation between the Local Planning Authority and the project. The Council is considered to have exceeded both the technical and perceived requirements of maintaining the separation between entities.
- Selection of a multi-disciplinary professional design team with extensive experience of delivering similar projects elsewhere.
- Maintaining and enhancing access to the local countryside as part of the design proposal.

What could have been improved

- Greater time allowance and/or contingency for planning stage could have been included in the project timeline.

- Public consultation event suffered from ICT issues. A more intuitive format, such as a webinar or an in-person event could have proven more beneficial and interactive for the public. However, the event format was largely dictated by the prevailing COVID restrictions.
- Consideration of alternative ways to engage with local stakeholders to overcome concerns about the development perhaps through the involvement of the council's Community Development team and the local community development worker (within the restrictions of COVID).
- It was established that where the Council is determining its own planning application, no right of appeal exists if it is refused. As such, greater consideration could have been given to delivery models which presented a higher likelihood of planning consent being achieved.
- Earlier involvement from Place Delivery colleagues, could have helped shape business case and feasibility stage approach to enable it to have progressed faster in terms of appointment of external PM and professional team.

OPTIONS

19. Two options are presented for consideration, and these are to:
1. Accept the report and note the recommendation that the project should follow the Council's formal, internal project closure process; or
 2. Reject the report and seek further information.

LEGAL IMPLICATIONS

20. As identified in the Statutory Powers section of this report, the Council has the power to act in the furtherance of the economic, social or environmental wellbeing of the area.
21. There was no legal duty to consult the public on any commercial terms of the project. These are matters for the authority. The Commercial Ventures Executive Sub-Committee is entitled to determine them at its discretion, notwithstanding any previous decisions it has made, having considered the contents of this report.
22. Legal advice was sought as necessary throughout the pursuance of the project.
23. No residual legal implications have been identified that may extend beyond the closure of the project.

FINANCIAL IMPLICATIONS

Financial Sustainability

24. The project offered the potential to generate a significant financial return for the Council which would have made a material contribution towards addressing the forecast revenue budget gap over the medium term.
25. The inherent financial risks were noted and considered as part of the decision made by Executive Members to support the pursuance of the project.
26. Further to an initial business case review by a specialist consultant in the field of crematorium planning and development, funding was allocated for feasibility and planning work in December 2019 from the Corporate Plan Delivery Fund Reserve, to a total value of £0.333m.

27. The project budget allocation was later revised as part of the recommendations in the Executive report dated 11 May 2020, where it was substituted by an allocation from the Capital Schemes (Feasibility Studies) Reserve.
28. Actual project expenditure incurred as part of the feasibility and planning stage was £0.337m, resulting in a minor £4k adverse variance against forecasts in the Project Initiation Document ('PID') estimate. This was largely caused by the protraction of the planning process, specifically the requirement for additional studies, ecological surveys (intended to be conditioned and undertaken in the next project stage), and additional work undertaken by the planning agent as part of the consultation process.
29. The combined total project spend from initial business case review to November 2022 is £0.357m, and was all funded through a call on Reserves.

EQUALITIES IMPLICATIONS

30. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
 - Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
 - Advance equality of opportunity between people who share those protected characteristics and people who do not;
 - Foster good relations between people who share those characteristics and people who do not.
31. The three parts of the duty applies to the following protected characteristics: age; disability; gender reassignment; pregnancy/maternity; race; religion/faith; sex and sexual orientation. In addition, marriage and civil partnership status applies to the first part of the duty.
32. The Committee should ensure that it has regard for these duties by considering them through the course of its work. This should include considering:
 - How policy issues impact on different groups within the community, particularly those that share the nine protected characteristics;
 - Whether the impact on particular groups is fair and proportionate;
 - Whether there is equality of access to service and fair representation of all groups within the Borough;
 - Whether any positive opportunities to advance equality of opportunity and/or good relations between people, are being realised.
33. It is important to note that as part of the planning and delivery of the project, relevant considerations were made in relation to equalities impacts, to ensure our duties were met.

COMMUNICATION IMPLICATIONS

34. Implications relating to communications were investigated and appropriately actioned as part of the pursuance of the project.
35. No residual communications implications have been identified that may extend beyond the closure of the project. It is intended that the project-related content on the Council's website will be updated to reflect the latest position, and that relevant pages will be deleted at an appropriate point in future.

RISK MANAGEMENT CONSIDERATIONS

36. As a strategic project, risk management had been considered in significant depth, prior to and throughout the life of the project, and resulted in appropriate mitigation measures being implemented, as required.
37. No residual risk management implications have been identified that may extend beyond the closure of the project.

CONSULTATION

38. The Leader of the Council and Executive Members with responsibility for Investment and Companies, Finance and Governance, and Corporate Policy and Resources have been consulted with regard to the recommendations of this report.

POLICY FRAMEWORK

39. As identified, the project was anticipated to support the delivery of the Council's Corporate Plan objectives through providing enhancements to the local area.
40. The project was in line with the Council's Capital Investment Strategy 2022/23 to 2027/28.