

This Report will be made public on 6 December 2022

Report Number **C/22/73**

To: Cabinet
Date: 14 December 2022
Status: Key Decision
Responsible Officer: Susan Priest, Chief Executive
Cabinet Member: Councillor David Monk, Leader of the Council

SUBJECT: PRINCES PARADE PROJECT - OPTIONS

SUMMARY: In November 2022, due to the significantly changed and difficult economic climate, the decision was taken to pause spending on the Princes Parade Project and for officers to re-evaluate available options and to propose a way forward (Report C/22/56). This report outlines a small number of headline options for consideration.

REASONS FOR RECOMMENDATIONS:

The Princes Parade Project is currently paused pending further review. A decision is needed on the future of the project to inform the council's budgeting and MTFs process and provide clarity for residents. For these reasons, this report focuses on the limited number of options that are realistically available at this stage.

RECOMMENDATIONS:

1. To receive and note report C/22/73.
2. To consider the options outlined in the report and agree to either:
 - Option A. Continue with the project, noting the changed financial package;
 - Option B. Do just the necessary works to implement the planning permission; or
 - Option C. Stop the project, while future land uses are considered.
3. To note that under Option B or C the site will remain secure with hoardings in place until more detailed work has concluded.

1. BACKGROUND

- 1.1. In January 2022, cabinet agreed to proceed with the Princes Parade Project (Report C/21/75) and a budget was agreed by Full Council in February (Report A/21/27).
- 1.2. In November 2022, the decision was taken to pause spending and review the project (Report C/22/56). The decision report details the reasons for the pause, which in summary are:
 - A high degree of economic uncertainty, coupled with exceptionally high inflationary pressures that have impacted on the council's overall ability to absorb modest funding pressures and financial risk within its budget and Medium Term Financial Strategy (MTFS).
 - Significantly increased project costs from successive delays caused by external factors, inflationary pressures on supply chains and the development market, scheme refinements to improve the performance of the leisure centre, unexpected additional costs some of which were borne from legislative changes, and the need for a sufficient financial contingency. These factors combined to increase the estimated costs of the full project to between £47m-£49m.
 - Recent significant and unforeseen increases in council borrowing costs which have risen within a short period of time from 2% to nearly 5%.
 - Substantial increases in utility tariff costs resulting from the war in the Ukraine and the potential impact on future revenue budgets if tariffs remain at this level when the new leisure centre becomes operational.
- 1.3. The decision report included the recommendation that '*officers re-evaluate available options in light of the current economic climate and propose a way forward.*'
- 1.4. There was also a need to complete this work within a relatively short period of time to inform the council's capital programme, budget, capital & investment strategies and MTFS process and provide clarity for residents. For these reasons, this report focuses on the limited number of options that are realistically available at this stage.
- 1.5. A petition related to the Princes Parade Project was presented at Full Council on 30 November 2022. It was agreed that the petition be referred to Cabinet, for consideration alongside the options report, and that stopping the project be included as an option for consideration. This is included as Option C in the report.

2. OBJECTIVES & CRITERIA

- 2.1. To support members' decision-making, officers identified a few broad objectives related to the interests of the council in achieving the Corporate Plan. These four objectives were defined as:

- *Affordability* – the overall financial affordability and necessity to minimise financial pressure on the MTFS.
- *Community Benefits* - delivery of the community and placemaking benefits from the project as outlined in the current Corporate Plan, i.e. to:
 - Build and open a new, modern leisure centre at Princes Parade.
 - Complete construction project for new Leisure Centre.
 - Secure a new operator & operating structure for the Leisure Centre.
 - Secure residential and commercial land sales for the remaining site and on South Road site to part-fund the scheme.
- *Compliance* – with legal, planning and environmental obligations with regards to site conditions.
- *Risk Management & Mitigation* - Understanding the risk profile of each option in order to minimise legal challenge or contractual dispute that could give rise to financial or reputational harm.

2.2. From these four objectives, more detailed considerations were identified to support decision-making:

- **Financial**
 - Minimising the financial pressure on the MTFS.
 - Minimising financial losses.
 - Compliance with Value for Money accounting considerations.
- **Deliverability**
 - Securing value in the land.¹
 - Complying with existing contractual and procurement parameters.
 - Complying with external funding offers and requirements.
 - Achievable within a reasonable² timeframe.
 - Achievable with the current level of internal management capacity.
- **Environmental**
 - Compliance with contaminated land requirements under Part 2A Environmental Protection Act 1990.
- **Community & Placemaking Benefits (Corporate Plan)**
 - Delivering a new leisure centre.
 - Improving overall amenity value - an accessible public space including a widened promenade, leisure facility and open parkland.
 - Delivering up to 150 new homes, 30% of which will be affordable.

3. SUMMARY OF OPTIONS

3.1. There are many potential options and variations of such. There was a need to focus on the realistic options available now to inform the current budgeting

¹ Land value expected to increase with an implemented planning permission (see Option B).

² 'Reasonable' in this context means within the period of the next MTFS four-year period.

process and to provide clarity for residents. For the purposes of the report the following options were considered:

- Option A – Continue with the project with a changed financial package;
- Option B – Do just the necessary work to implement the planning permission; and
- Option C – Stop the project while future land uses are considered.

3.2. **Option A – Continue with the project with a changed financial package** – this would see the project continue as planned with the delivery of the new road, new leisure centre, housing, and the public space improvements. This option would need the scheme to become affordable for the council by reducing the overall cost of the project either by reducing the build costs, increasing land sales receipts, or reducing borrowing requirements (or a combination of these factors).

3.3. **Option B – Do just the necessary work to implement the planning permission** – this would require all outstanding pre-commencement planning conditions to be satisfied and the permission implemented. This option considers what in practice would need to be done to affect this, and the potential added value arising.

3.4. **Option C - Stop the project while future land uses are considered** – this would immediately stop the project while more detailed work is undertaken. This option considers the extent of the immediate financial impact on the council of terminating the project and an assessment of any legal requirement to remediate the known land contamination.

3.5. Importantly, all of the three options above need to fall within a tolerable level of risk for the council at this time when there is continuing economic uncertainty, the extent of other delivery challenges in the corporate plan remain high, and the council's overall medium-term financial position has worsened.

3.6. Members can, of course, suspend their decision and ask officers to explore a further range of specified options. This however should be contemplated with a high degree of caution as:

- Input to the budget strategy, capital programme, capital & investment strategies for 2023/24 is required in January to prepare a balanced budget for members to consider.
- Input to the MTFs for the period 2024/25 to 2027/28 is required to inform the most significant financial document of the council.
- Satisfying the remaining planning requirements to protect the council's interests are on a critical path and need to be concluded and the planning permission implemented before expiry on the 18 July 2023.
- Clarity in communications is needed to reassure the local community, residents across the district and other stakeholder groups.

- External funding allocations, need to be managed proactively and with integrity to protect the council's reputation.

4. OPTION A – PROJECT CONTINUES

4.1. Option A is for the project to continue as planned. This option requires a significant change in financing to make the project viable within a tolerable level of risk. This would mean the council entering into contract(s) as soon as possible and committing to the sale of the land for residential and commercial development, and to the construction of the leisure centre, road and other works. The construction of the new leisure centre is integral to the delivery of the residential development and there is a financial and planning dependency on the land sale to partly fund the construction of the new leisure centre.

4.2. The current estimated cost of the project including a 3-5% contingency is £47-49m. The additional capital borrowing required, the impact of financing this borrowing on general fund revenues, and the council's overall financial position were the main factors supporting the decision to pause and review the project (Report C/22/56). The decision report summarised the financial position as follows:

- In January 2022, the project initially budgeted for capital borrowing of £6.625m, based on an interest rate of 2% (Report C/21/75).
- Financing of the capital borrowing in January was anticipated to be offset by operational savings from the closure of the existing Hythe Pool (around £165K p/a) and the average income expected from the new leisure operator (around £175K p/a).
- Scheme costs are now estimated at £47-49m. This would result in capital borrowing increasing to some £10.7m in total, which is further impacted by borrowing rates increasing to round 5%.
- There is also greater uncertainty in the income that could be expected from the leisure operator if the significant increases in utility costs experienced this year continue.
- The overall impact of the project on General Fund revenue budget within the period of the next MTFS (2024/25 to 2027/28), is now estimated as a pressure of £0.7m per annum, which totals a £2.7m pressure over the period of the MTFS. In the context of the council's overall financial position, this is not considered affordable or a prudent use of council resources and raises concerns about the high level of risk the council would be adopting.

4.3. For the project to proceed on an affordable basis, the capital financing element of the project cost would need to be eliminated, and associated delivery risks minimised. The initial focus was on reducing the additional capital borrowing requirements from those agreed in the January 2022 budget. Following advice from the council's Finance team in view of changing

project requirements, and emerging MTFs, it is considered necessary to in effect remove the assumed earlier capital financing element. The following actions were considered and discussed with relevant external parties:

- Reducing construction costs through further value engineering and/or supply chain contractor savings.
- Increasing the value of existing linked land sale receipts.

Construction Costs

4.4. The council met with the main construction contractor (BAM Ltd) to outline the financial concerns and to review the potential of reducing construction costs. A process of value engineering had already taken place through the earlier design phases of the project, however BAM responded with four possible options:

1. A revised contract price of £ 41,032,874, equivalent to £153,065 saving; OR
2. A further £1.6 million in potential value engineering savings. However, many of design changes proposed would need referral back to Planning and, in some instances, would potentially diminish the final build quality, OR
3. Re-phrasing the project with the road, drainage and services completed first, with the leisure centre delayed to coincide with the housing development to take advantage of expected lower cost supply chain work packages. To comply with the planning conditions linking the residential development to the building of the leisure centre (see para 5.11) this option would still require the council to commit to the construction of the leisure centre; OR
4. To remediate the contaminated land and return to green wildflower. This was costed at an estimated £7.6m. The extent of remediation if the project did not proceed is discussed more fully under Option C (paras 6.11 and 6.12).

4.5 The revised offers from BAM show that costs can be reduced but it does not fundamentally remove the overall financial strain nor risk from the project or reduce the need for borrowing.

Land Sale

4.6 Further discussions were held with Sunningdale as the prospective residential and commercial developer for the site with the intention of securing further value from the land sale receipts. An offer of an additional £5m was made (making a total land sale value of £25m for the Princes Parade site). The additional payment of £5m would be subject to the following conditions:

- The additional payment of £5,000,000 would only be payable on the third anniversary of the completion date.³
- The additional payment is in lieu of any overage provision agreed or sought by the Local Authority.

4.7 This revised offer is welcome. However, the revised land sale offer would still require the council to borrow £5m to complete the project and it does not fundamentally remove the overall financial risk from the project or reduce the need for borrowing to an acceptable level. In addition, it increases the council's exposure in terms of the proportion of the total funding package being associated to a single housing developer in a volatile economic market.

Financial

4.8. There are a number of financial risks associated with the project proceeding. When the project was originally approved on the 13 February 2019 it was estimated to cost £29m. The total estimated funding required for the scheme was £31.2m, which allowed for a modest contingency. The intended sources of funding for the project were:

- Capital receipts from the sale of residential land at Princes Parade and South Road in Hythe.
- Section 106 receipts.
- Community Infrastructure Levy.
- Brownfield Land Release Fund through One Public Estate.

This was therefore proposed as a fully funded scheme which was self-financing, allowed for a contingency for cost overruns, and required no direct capital or revenue financing support from the council. Cabinet approved the project on this basis on the 13 February 2019. The future capital receipts were estimated and subject to market risk, equally the S106 receipts were anticipated and subject to market risk and indexation.

4.9. As a result of this decision more detailed site work was undertaken and portfolio holders were regularly briefed prior to the further report to Cabinet on the 26 January 2022, which identified that additional expenditure would be required to implement the project. Additional funding of £15.2m was approved by cabinet and then council. The increase in costs were due to delays and inflationary cost pressures (of some £5.6m), additional site remediation and external works to address contamination (totalling some £6.8m), and other costs (of some £2.8m).

4.10. The relevant portfolio holders were advised in July 2022 that the sub-contractors' costs had further increased with regular updates provided in their meetings leading up to October 2022. The cumulative impact of these cost increases was to reduce the project contingency allowance to just £0.284m.

³ If Option A was agreed the completion date for the land sale agreement would likely be in January 2023 making the three-year anniversary January 2026.

- 4.11. In addition, the proposed leisure centre operator confirmed that the current increases in utility prices, if projected forward to when the new leisure centre opened, would result in a potential revenue cost of £0.175m per annum averaged over the period of the contract (Report C/22/56). This would be an unbudgeted ongoing pressure on the General Fund.
- 4.12. The overall rise in the level of interest rates also gives rise to a further unbudgeted ongoing pressure on the General Fund in the order of £0.200m per annum.
- 4.13. In addition to the known pressures there are a number of other financial, delivery and operational risks which may potentially impact on the project because of the continuing uncertainty in economic conditions:
- Inflation, mortgage rates and recessionary factors impacting on household budgets may also impact negatively on the future level of demand for leisure activities.
 - Inflationary pressures in the economy may continue to impact significantly on the build costs and the supply chains needed to deliver the project.
 - The impact of the recession and higher interest rates are impacting on the housing market, and this may adversely affect anticipated capital receipts, Section 106 receipts, and Community Infrastructure Levy receipts undermining external capital funding for the project.

The table below summarises the financial position of the project at key decision points:

Princes Parade Capital Project	Business Case	Revised Budget	Latest Estimate
	13/2/2019	26/1/2022	1/11/2022
	£m	£m	£m
Capital Expenditure	28.929	44.085	46.730 ³
Contingency	1.211	1.215	2.300 ⁴
Estimated Spend	30.140	45.300	49.030
Capital Financing			
Capital Receipts	20.785	26.600	26.600 ¹
Section106	6.192	6.725	6.802
CIL	1.185	3.150	3.150
Seapoint Canoe Club	0	0.200	0.200
Brownfield Land Grant	1.978	2.000	2.000 ²
Climate Change Reserve	0	0	0.100
External Funding	30.140	38.675	38.852
Net Borrowing required	0	6.625	10.178

Revenue Impact (MTFS)			
(Full Year Equivalents)			
Financing Costs	0	0.210	0.556
Freedom Leisure (Average)	(0.175)	(0.175)	0.288
Hythe Pool (Saving)	(0.165)	(0.165)	(0.165)
Annual Cost to MTFS	(0.340)	(0.130)	0.679

¹ As outlined in para 4.6 the residential developer has indicated that they would be able to increase the offer by £5m, subject to some conditions. The full impact of this, and any of the revised BAM proposals, have not been included in the calculations above. They will not however materially affect the overall affordability of this option at this time.

² As outlined in para 5.9 this sum may fall away if option B is selected.

³ The Council's main contractor BAM has put forward a number of suggestions ranging from: a reduction in costs from tendering of £0.153m, a £1.6m reduction by value engineering the Leisure Centre and a rephrasing of the project element none of these are believed by Officers to significantly address the affordability problem of Option A.

⁴ Based on a contingency at 5%.

4.14. Therefore, the estimated annual impact on the Council's revenue budget in a full year if Option A is implemented would be an additional cost of £0.679m per annum which would be £2.716m over the 4-year period of the MTFS (assuming full year impacts and averaged sum for the leisure operator tariff). There is no revenue budget for these revenue costs in the General Fund budget and if members are minded to progress Option A, then compensating savings would need to be identified within the revenue budget. The additional Freedom Leisure costs are based on the average over the initial 3.5 years.

4.15. In summary, the Princes Parade project due to many factors, has moved from a project which was conceived and planned on a self-financing basis with no impact on the council's revenue budget, to a project which is heavily supported by council borrowing and for which leisure operating costs would (if tariffs remain high) need to be supported by the council's revenue budget. Increases in interest rates and inflation also increase the level of risk and have reduced the council's overall ability to absorb financial risk within its General Fund budget. The improved costs and offers from both BAM and Sunningdale are welcome, but it does not change the overall financial risk from the project or reduce borrowing to an acceptable level.

Deliverability

4.16. The pre-commencement planning conditions requiring conclusion are well advanced, but there are a small number of outstanding issues on a critical path that need to be resolved before the main works contract with BAM could be signed and construction could begin.

- The final project budget needs to be determined including the contingency estimate. If there remains a requirement for an additional budget provision above that agreed by council in January 2022, then

further council approval will be needed. As there is no planned meeting of Council until 22 February 2023 an extraordinary meeting would be needed as soon as possible to allow contracts to be signed and to avoid any further cost increases pre-contract.

- The contract for the residential sale would need to be concluded before the main works can be signed. This is now well advanced.
 - The pre-commencement planning conditions (application Y17/1042/SH) would need to be discharged. There are two outstanding conditions – conditions 17 and 25 parts b and c. These conditions need to be discharged and ‘material’ works started onsite by 18 July 2023 when the current planning permission lapses. For clarity:
 - Condition 17 relates to the approval by the Local Planning Authority of a habitat creation plan. The details relating to Phase 1, which is for the initial ground preparation works, have been submitted and approved by the LPA. Details for the remainder of this condition relating to phases 2a and 2b of the project need to conclude, to be submitted and be determined.
 - Condition 25 relates to contamination and is split into several different parts. Some parts of this condition have been applied for and considered by the Planning & Licensing committee but only in respect of the access road. To implement the planning permission, it would also be necessary to submit further details for this condition relating to the leisure centre part of the site, and for the matter to be determined.
 - The license application to the Marine Management Organisation to discharge surface water run off onto the beach remains outstanding. This is now close to completion. For practical reasons this would need to be granted before the main construction commences.
- 4.17. Finalising the leisure operator contract has been paused whilst options for the main project are prepared and decisions made. In the meantime, the council has received a legal challenge from one of the potential bidders that withdrew at an early stage in the tender process. They are objecting to the proposed contract modification to the cap and transfer the utility tariff risk considered by Cabinet (Report C/22/24).
- 4.18. The merits of this challenge are being considered by the council’s legal team and if the project proceeds a decision would be made whether to continue with the existing contract award or to re-run the leisure operator procurement process during the build process. This potential requirement to re-procure would not prevent the main works contract with BAM being signed but a further procurement exercise would need to be concluded in sufficient time before operation of the facility.

Environmental

- 4.19. As outlined above in para 4.16 planning conditions 17, 25b and 25c need to be discharged. The MMO license application would need to be granted for the surface water run-off. Ecology onsite would continue to be monitored and the land managed. During all phases of the project, contamination would be monitored, and the approved mediation plans and works fully implemented.
- 4.20. Air Monitoring would continue as works onsite progress and as per the site remediation plans.

Community and Placemaking

- 4.21. Option A is the only option that would fully deliver the current Corporate Plan aspiration and objectives of delivering a new leisure centre, widened promenade, and improved open public space and new homes, 30% of which would be affordable homes.

5. OPTION B – NECESSARY WORK UNDERTAKEN TO IMPLEMENT PLANNING PERMISSION

- 5.1. Option B considered whether just the necessary works could continue in the short term in order to give time for more favourable market conditions to emerge before the council enters any of the main contracts.
- 5.2. As a minimum under this option, the council would need to lawfully implement the planning permission to ensure it remains extant. All pre-commencement conditions attached to the detailed permission would need to be approved and 'material' works on site would be needed to implement the planning permission. This could secure an enhanced land value for the council while keeping the intent to deliver open for the future

Financial

- 5.3. This re-phased option would reduce the imminent pressure on the revenue position in the MTFs and could potentially minimise financial losses from terminating the project in this financial year although, subject to final-end use, these may only be deferred to some future point. External audit opinion has not yet been sought and so care is needed in considering this element in decision-making.
- 5.4. There is a financial risk for the council if the project were to be ended permanently rather than re-phased to enable it to continue when conditions become favourable as proposed in this option. In those circumstances any capital expenditure which does not create an asset or enhance or extend the useful life of existing asset (i.e. the council's land) could not be treated as capital expenditure and met from capital resources. It would then be necessary to meet any capital expenditure incurred on the project, to the council's General Fund revenue budget.

5.5. The table below sets out the council's total spend since 2016/17 on the project and the current split between charges to the revenue budgets and the capital budgets.⁵ Attached as Appendix 1 is breakdown of the project costs showing the main categories of spend.

Year	Capital Spend £	Capital funded £	Revenue funded £
2016/17	368,952		368,952
2017/18	237,140		237,140
2018/19	104,326		104,326
2019/20	456,879	456,879	
2020/21	140,416	140,416	
2021/22	2,093,353	2,093,353	
2022/23	1,706,757	1,706,757	
Total	5,107,823	4,397,405	710,418

5.6. The council has spent in total £5.1m on this project. However, of this spend £0.7m has been charged in previous years to the General Fund revenue budget. Therefore, the risk to the Council specifically relates to the capital funded element of £4.4m. The detailed figures are set out in the table. It should be noted that the figures for 2022/23 are a combination of what the Council has spent to date plus the Council's best estimate of what outstanding payments and commitments still may yet be rendered.

5.7. There are external economic factors that would support a re-phase option:

- The impact of high inflation.
- The continued war in the Ukraine and its impact on energy costs.
- Interest rates at 5-6%.
- Indications of a downturn in the housing market.

5.8. In the current circumstances there are considerable financial benefits from taking a strategic pause and doing just the necessary works to implement the planning permission. This would reduce the immediate financial risks to the council whilst enabling the development value and community benefits of the project to be retained within the extant planning permission.

5.9. It should be noted that if the project is re-phased, the Brownfield Land Release Fund (BRLF) of £2m would need to be repaid to the One Public Estate programme (Cabinet Office) as it is only allocated for a specific purpose to enable the release of local authority owned land for housing by end March 2024 or earlier and must address market failure.

⁵ It was not possible in the time available to prepare this report to present an analysis of spend prior to this date.

- 5.10. In the time available to prepare the report, care has been taken to identify all possible costs but there may be some additional unexpected cost pressures from a decision to delay or re-phase the project.

Deliverability

- 5.11. A general re-phasing of the project would need to take account of the site planning conditions (application Y17/1042/SH). Conditions 38 and 48 closely link the housing development to the construction and opening of the leisure centre. As it stands, re-phasing the development on the basis that the residential development progressed (and possibly completed) before the deferred construction of the leisure centre, is not possible under the existing the planning conditions.

- Condition 38 – *“No construction works on any dwelling or other building hereby permitted by the outline part of the planning permission shall commence until the foundations for the leisure centre have been completed.”*
- Condition 48 – *“No more than 50 dwellings of the residential development hereby permitted shall be occupied until the leisure centre building hereby permitted is open to the public.”*

- 5.12. Other deliverability issues include whether a new procurement exercise would be required to comply with the Public Contract Regulations 2015, and it is prudent at this stage to anticipate that a new procurement exercise would be needed in whole or in part.

Environmental

- 5.13. The environmental considerations from this option would relate to discharging the pre-commencement planning conditions.

- 5.14. Princes Parade was not previously listed on the Public Register of contaminated land for the purposes of Part 2A of the Environmental Protection Act 1990. Extensive site testing was carried out in the preparatory stages of the project to discharge the planning conditions for site remediation for contamination. With this new data, there is a need to reassess the land and whilst this is completed, as a precaution the site hoarding should remain in place to secure the site.

- 5.15. Air Monitoring would only be undertaken when works necessitate excavation of the site and monitoring is required as per the site remediation plans.

- 5.16. The Seabrook Bridge / footpath could remain open until works necessitate its closure.

Community and Placemaking

- 5.17. This option could deliver the community and placemaking benefits in the longer term through securing the planning permission. Delivering the remaining community benefits would be delayed from the original

programme, but the intention would still be to deliver them at a future point in time.

- 5.18. Delaying works on this allocated site would challenge our ability to satisfy our five-year land supply and other alternative sites may have to be found.

Securing the Planning Permission

- 5.19. A re-phased option based on the original delivery programme is not possible, but it is potentially viable to discharge the remaining pre-commencement planning conditions (condition 25b and 25c) and to undertake the necessary works to secure value and legally implement the planning permission. Members should note however that there is a critical path which would need to be followed and this does not allow for any slippage, delay, or process frustration. Delivery remains an extremely high-level risk. The deadline to implement planning permission (application Y17/1042/SH) is 18 July 2023.

- 5.20. The advantages of implementing the planning permission are:

- It keeps options open about the future development of the site within the terms of the existing planning permission and allows for possible variations.
- It would deliver value for the council in the development of the site, as land with planning permission will hold a greater value.

- 5.21. The actions needed to secure the planning permission on the site are as follows and under this option the site would need to remain secure with the existing hoardings in place, ecology managed, and ground cleared periodically.

- Habitat creation plan for phases 2a and 2b submitted and approved by the LPA (Condition 17).
- LPA approves the remediation plan for the 'road' phase of the project (Condition 25c).
- Site investigations carried out for the main site and site remediation plan prepared and approved (Condition 25b).
- LPA approves remediation plan for 'main site' phase (Condition 25c).
- 'Material' operations completed onsite sufficient to implement the planning permission. A material operation can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land (Section 86.2 Town and Country Planning Act 1990).

- 5.22. The costs of completing the actions are split between ongoing maintenance costs and the cost of implementing the planning permission. Costs are estimated as below.

Ongoing Maintenance Costs

- Ecology management and surveys - £17,000 (up to 2024)
- Flailing the land £12k every two months - £72,000 p/a
- Securing hoarding and fencing estimate - £30,000 p/a
- Total £ 119,000

Implementing Planning Permission

- Implementation of planning and material works estimated - £250,000

5.23. A revenue budget would need to be allocated for the ongoing site maintenance. If option B is selected, then the detailed budget being presented to Cabinet in January will incorporate this growth item. The planning implementation cost could be funded from the Princes Parade capital budget.

5.24. There is a high level of risk in delivering all the actions needed. The timetable is tight, and it would be critical that the LPA discharges its statutory functions efficiently in reviewing site remediation plans and providing technical advice, etc. Members should note that under accounting regulations it is not permissible to delay the project indefinitely to avoid capital write off to revenue. If members choose Option B they will re-visit the decision within the next accounting period.

6. OPTION C – PROJECT STOPS & SITE FUTURE IS REVIEWED

6.1 Option C would see the current project immediately stopped at Princes Parade. It became clear when scoping this option that any decision to end the project would automatically lead to further decisions about the future uses of the land with the associated costs and necessary budget.

6.2 In the time available it was not possible, in any significant detail, to examine options on the future use of the site. It is therefore recommended that if the decision is taken to stop the current project, then the site should remain secure with hoardings in place, ecology managed, and ground cleared periodically until the council has had the opportunity to fully consider the possible options in relation to the future of the site. Modest revenue costs would be incurred. This will take some time considering the resource available and the imminent local elections. It is therefore unlikely that options will be able to be put before members for decision before the autumn of 2023. There are also the environmental considerations related to the site and legal obligations as landowner to be considered as described in para 6.11.

6.3 If this is the chosen option, more detailed and specialist work will need to be commissioned from a range of external parties to consider what might be in the council's best interest to pursue on the site, for example:

- The potential use of the site in the national biodiversity credit scheme.
- The whole site landscaped as an accessible open public park.

- The whole site remediated and returned to wildflower meadow, or similar.
- Residential and commercial development with local amenity value.
- Disposal of the complete Princes Parade site.

This activity will require a new dedicated project budget, which would be the subject of a separate report.

Financial

- 6.4 The council has incurred significant expenditure over a number of years on the project to date. This was broadly estimated in the decision notice report (Report C/22/56) in the region of £4m-£5m. An updated exercise has been carried out to review the costs incurred on the project following the decision. The table in para 5.5 and Appendix 1 provides the latest estimate of the impact on the council's General Fund if it is decided to terminate the project. This is anticipated to result in £4.4m of costs being met from the revenue budget.
- 6.5 Several indicative alternatives are set out in para 6.3 above. If it is decided to pursue alternatives/changed uses for the Princes Parade site such as para 6.3 sets out, then not all the work which has been carried out on the site to date may be abortive work. In that case some or part of the related costs already incurred could still be able to be charged as capital expenditure. However, it is not possible to estimate this at this stage as it would be dependent on decisions about any future planned use of the site and the work required to implement those decisions.
- 6.6 Therefore, at this time the worst-case scenario for ending the project under this option is that the estimated accumulated capital spend of £4.4m which has been or planned to be met from capital resources will have to be met from the council's revenue budget. As with Option B, a revenue budget of £119k would need to be allocated for the ongoing site maintenance. If Option C is selected, then the detailed budget being presented to Cabinet in January will incorporate this growth item (see 5.22).
- 6.7 It should be noted that if the project is stopped, the Brownfield Land Release Fund (BRLF) of £2m would need to be repaid to the One Public Estate programme (Cabinet Office) as it is only allocated for a specific purpose to enable the release of local authority owned land for housing by end March 2024 or earlier and must address market failure.
- 6.8 In the time available to prepare the report, care has been taken to identify all possible costs but there may be some additional unexpected cost pressures from the decision to stop the project.

Deliverability

- 6.9 The immediate actions needed to keep the site secure are outlined in para 5.22 and are relatively simple to enact.

- 6.10 The deliverability of other options, or uses of the site post terminating this project, would require detailed consideration and further reporting through 2023 and beyond.

Environmental

- 6.11 Princes Parade was not previously listed on the Public Register of contaminated land for the purposes of Part 2A of the Environmental Protection Act 1990. Extensive site testing was carried out in the preparatory stages of the project to discharge the current planning conditions for site remediation for contamination. With this new data, there is a need to reassess the land and whilst this is completed as a precaution the site hoarding should remain in place to secure the site.
- 6.12 There is a risk that the land may require more extensive remediation to deal with the contamination than considered previously, but this depends on the proposed end-use of the land. For example, BAM have provided a provisional quote estimate of £7.6m on the basis that the site may need to be remediation, re-capped and re-graded, but the extent and associated cost of the works would depend on the nature of the end uses and the required remediation to support those land uses.
- 6.13 Air Monitoring would only be undertaken when works necessitate excavation of the site and monitoring is required as per the site remediation plans
- 6.14 The Seabrook Bridge / footpath could remain open until works necessitate its closure.

Community and Placemaking

- 6.15 The community and placemaking objectives as set out in the Corporate Plan would not be achieved. Stopping works on this allocated site would give rise to concerns about satisfying our five-year land supply and other sites, as a substitute, may have to be found.

7. CONCLUSION

- 7.1. The Princes Parade Project is a complex project that has been developed over many years and it is now facing numerous risk areas triggered by external economic pressures. Specifically, in this financial year alone, the project has needed to contend with significant inflationary pressures on project costs and supply chains, the rapid rise in utility tariffs, and increased cost of borrowings. At the same time these factors have also greatly impacted on the council's own budgets and its ability and resilience to absorb any financial risk within its General Fund. The cumulative and compounded impact of these factors has necessitated the project pause while options are considered.
- 7.2. A presentation will be given to cabinet to elaborate on matters contained within this report.

8. RISK MANAGEMENT ISSUES

8.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
The costs of the project places an unsustainable pressure on the MTFS.	High	High	<p>Option A would present a high risk of placing an unsustainable pressure on the MT which would be difficult to mitigate and can currently not be sustained.</p> <p>Option B and C would not place the same level of pressure or risk on the MTFS.</p>
The impact of costs incurred on the general fund revenue budget.	High	High	<p>All options present a risk in this regard. Option A in terms of the ongoing financial commitment to the Council, which with its current MTFS gap it is unable to meet unless a compensating saving is identified. There are smaller revenue consequences of option B and C, which relate to ongoing maintenance requirements.</p> <p>For Option B the broader implications would depend on the scope of a re-phased project and its timeline.</p> <p>For Option C depending on the</p>

			resulting decision on the use of the land, it is likely that significant capital costs would need to be met from the council's revenue reserves.
The scheme is unable to be delivered within the agreed capital programme budget within the timescale.	High	Medium	<p>This is only relevant for Option A.</p> <p>It is recommended if Option A was to proceed then it should have a contingency of 5%.</p> <p>Extensive work has already taken place to determine the full costs of the project.</p>
The Council proceeds with a scheme with insufficient contingency available.	High	Medium	Under Option A contingency has been set at 5%.
The risk of community benefits of the project not being achieved.	High	High	<p>Only Option A continuation of the project would see the corporate plan objectives being delivered.</p> <p>Option B would re-phase the project but this would depend on economic factors being favourable in the future.</p> <p>Option C would end the project and the community benefits would not be delivered although other options may be considered.</p>

<p>Statutory obligation to remediate contaminated land.</p>	<p>High</p>	<p>High</p>	<p>Option A would have a implemented a site remediation plan.</p> <p>Option B and C would need further work on the current status of the site in terms of assessment under Part 2A EPA 1990.</p> <p>As a precaution, the site should remain secured and hoarding remain in place until any outstanding assessment of contamination is concluded looking at current use and future use of the site.</p> <p>The cost of remediation will depend on the extent of works required. BAM have provided a provisional cost of £7.6m for a capping scheme.</p>
<p>Planning permission lapses – increased asset value is not secured.</p>	<p>High</p>	<p>High</p>	<p>Option A would see this risk mitigated if permission was enacted before 18/7/23.</p> <p>Option B would see this risk mitigated if permission was enacted before 18/7/23.</p> <p>The assumption under Option C is that planning permission would not be implemented and</p>

			increased asset value not fully secured.
Planning permission lapses – delays in compliance with pre-commencement conditions or starting 'material' works onsite.	High	High	<p>Implementation timetable drawn up.</p> <p>Proposal to engage with current planning/ecological consultants with site knowledge.</p> <p>Works specification to be prepared and procured at an advanced stage.</p>
Volatility in the housing market leads to residential developer withdrawing or renegotiating leading to funding gap in scheme.	High	Medium	Offer would be secured by legal agreement.
Repayment of the Brownfield Land Release Fund (BRLF) if the scheme is delayed beyond March 2024.	Low	High	<p>If the project does not proceed, then the funding would need to be re-paid.</p> <p>There are no additional penalties.</p>
Utility costs continue to rise and the Operator Management fee rises further before the centre is able to open, creating a further revenue pressure to the general fund.	High	Medium	<p>Financial assessment of the project has been revised to remove any dependency on the leisure operator income to fund borrowing.</p> <p>The cost of the ongoing operation, on the assumption that utility tariffs remain at current levels, would</p>

			be paid from the saving achieved from closing the current pool and transferring operations to the new facility. The saving is estimated at £165K p/a.
Leisure Operator Contract – Challenge to current contract award and the need to potentially re-tender.	Medium	Low	Legal review of the contract modification. If necessary, the contract will be re-tendered. If there is insufficient competition in a re-tender process, then options to run the service in-house may need to be considered.

9. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

9.1 Legal Officer's Comments (AK)

Some of the potential Legal implications are outlined in the main body of the report. Legal advice and support will be required and should be sought by officers leading this project regardless of which option is selected by the Council.

9.2 Finance Officer's Comments (CS)

The financial considerations of the various options are detailed in the main body of the report. Members must take the decision on which option to proceed with, in the context of the Council's Medium Term Financial Strategy and the broader economic climate.

Significant market volatility and the associated risks cannot be underestimated at this time. Many of these risks are relevant to this specific project as well as the Council's broader financial landscape. The Chancellor's fiscal statement did not significantly change the Council's financial position from that previously reported through the MTFS, and limited information remains available in terms of the future of Local Government funding.

In addition, the markets are showing significant inflation, challenges for the leisure and housing markets and interest rate increases. All of which have a direct impact upon this project at this time.

Members should consider their fiscal responsibilities to the Council in determining the decision placed before them. Whilst all options have a financial consequence, to proceed with Option A at this time would be unsustainable for the council financially, without significant structural changes.

Members are reminded that the council has limited and finite reserves available. The earmarked reserves are projected to have a balance of £14.9m at 31 March 2023, however there are a number of existing commitments against these. In addition, £6.1m is projected to be in the General Fund reserve at 31 March 2023. Should Option C be the preferred option, detailed work would need to be carried out to determine the necessary sum of reserves required to cover the resulting write off.

9.3 Diversities and Equalities Implications (AR)

There are no diversities or equalities implications from this report.

9.4 Climate Change Implications (CS)

The climate change implications of Option A (project continues) were first reviewed in Report C/21/75. Overall, there would be positive climate change impact from the development of a new leisure centre, provided low carbon technologies are incorporated in running of the leisure center in particular the new swimming pool as it would replace the existing facility which has no carbon reduction measures in place mainly due to the age of the facility.

The climate change implications of Option B assuming the project was successfully re-phased would be similar to Option A.

The climate change implications of Option C would depend on the future options for use of the land and would need to be considered at that point.

10. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Andy Blaszkowicz, Director – Housing & Operations
Telephone: 01303 853684
Email: andy.blaszkowicz@folkestone-hythe.gov.uk

Andrew Rush, Chief Officer - Place & Regulatory Services
Telephone: 01303 853271
Email: andrew.rush@folkestone-hythe.gov.uk

Simon Baxter, Chief Officer – Development
Telephone: 01303 853772
Email: simon.baxter@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

Appendices:

Appendix 1: Princes Parade Project Costs Schedule