

This Report will be made public on 6 February 2023



Report Number **OS/22/08**

To: Overview & Scrutiny
Date: 14th February 2023
Status: Non-Key Decision
Responsible Officer: Dr Susan Priest, Chief Executive
Cabinet Member: Cllr Monk, Leader of the Council

SUBJECT: PRINCES PARADE – MOTION FROM COUNCIL

SUMMARY:

This report responds to the motion referred by council and outlines how expenditure on the Princes Parade project reached an estimated £4-5m in November 2022 from the £2.56m reported to cabinet in January 2022 and reflects on lessons learned.

REASONS FOR RECOMMENDATIONS:

The matter has been referred to this committee following the council meeting on 30th November 2022 and council has asked OSC to consider the lessons arising.

RECOMMENDATIONS:

1. To receive and note report OS/22/08.
2. To offer reflections and lessons for consideration in the future management of large complex projects.

1. BACKGROUND

1.1 On 30th November 2022 council considered the following motion:

“Council notes the decision on 1 November 2022 by the Leader to pause all spending on the Princes Parade project to allow officers to reevaluate the project.

Council notes report C/22/56 and the potentially serious impacts on the council's finances of stopping the project and the likely even worse impacts of continuing with the project.

Council notes the vote of the council meeting of 26 June 2019 to withdraw the planning application.

Council believes that in order to avoid a similar situation arising again, there should be an investigation into how expenditure on the project was allowed to reach £4-£5m from the £2.56m that had been spent by January 2022 despite the fact that the capital receipts had not been secured. This investigation should include a detailed timeline including when problems were first identified in order to establish if there was an earlier point at which the project should have been paused, plus the extent to which the details and risks of the project were adequately communicated to councillors.

Council therefore proposes that the Overview & Scrutiny Committee should consider this issue.

Council understands that the priority of the officers needs to be re-evaluating the project and securing the council's financial position but that it is vital to now capture the lessons learned from Princes Parade, particularly given the severe financial implications for the council and taxpayers of decisions that were made.

Council proposes that OSC invites the three councillors for the Hythe ward to take part.”

1.2 Council resolved that *“Overview & Scrutiny be asked to consider capturing the lessons learned from Princes Parade, particularly given the severe financial implications for the council and taxpayers of decisions that were made, and that the three ward members for Hythe be invited to take part”* (minute 48/2022).

2. PROJECT ARRANGEMENTS & OVERSIGHT

2.1 The Princes Parade project has been extensively documented over many years as a complex project bringing forward the provision of a new leisure centre, housing and public open space for the benefit of residents across the district.

2.2 A number of formal reports have been made to support decision-making and a dedicated area of the council's website has been established and

updated to act as the primary channel for information relating to the project
<https://www.folkestone-hythe.gov.uk/princesparade>

- 2.3 Numerous reports have been made to Cabinet and the recommendations, and associated minutes, show the extent of decision-making by the Executive and those matters that have been delegated for decision to Officers. The recent reports and recommendations of particular note are:

C/21/75 – Princes Parade

<https://www.folkestone-hythe.gov.uk/moderngov/documents/q4950/Public%20reports%20pack%2026th-Jan-2022%2017.00%20Cabinet.pdf?T=10>

C/22/24 – Variation to the Leisure Operator Agreement (restricted)

<https://www.folkestone-hythe.gov.uk/moderngov/documents/g5087/Public%20reports%20pack%2020th-Jul-2022%2017.00%20Cabinet.pdf?T=10>

C/22/56 – Princes Parade Project Update

<https://www.folkestone-hythe.gov.uk/moderngov/ieDecisionDetails.aspx?ID=2717>

C/22/73 – Princes Parade Options

<https://www.folkestone-hythe.gov.uk/moderngov/documents/g5136/Public%20reports%20pack%2014th-Dec-2022%2017.00%20Cabinet.pdf?T=10>

- 2.4 To support the day-to-day delivery of the project there is a dedicated project board and officers hold regular (generally monthly) project meetings involving contractors deployed on the project. The terms of reference for the group are:

- To oversee the project from the perspective of the council;
- To be kept updated as to the progress of the scheme and to be informed of any issues arising;
- To take a view across the council as to any remedial actions which are required to address any issues;
- To review the overarching project plan to monitor progress of the scheme;
- To provide continuity as the scheme progresses through to delivery stage;
- To give a wider corporate perspective on issues arising out of the project;
- To monitor key risks of the project; and
- To review the communications plan and any issues arising out of this.

- 2.5 Membership of the project board involves the:

- Chief Executive;
- Director of Transition & Transformation (until April 2022);
- Director for Housing & Operations;
- Director Corporate Services & S151;
- Director of Place;

- Assistant Director, Governance, Law & Monitoring Officer; and
 - Other officers as required.
- 2.6 The purpose of the project board is to monitor the direction, progress and decision-making of the council by:
- Monitoring the direction of the project and its budget, taking corrective action where necessary;
 - Monitoring the progress of the project against its objectives, project plan and programme;
 - Monitoring the governance arrangements relating to this project;
 - Identifying issues and addressing any decision-making requirements;
 - Monitoring protocols for working arrangements between the applicant and LPA roles of the council; and
 - Promoting and encouraging innovative solutions and efficient and effective ways of working.
- 2.7 In addition, officers regularly discuss aspects of the project with consultants and contracted expert advisers and these take a variety of formats and frequencies ranging from daily telephone conversations through to weekly / fortnightly meetings.
- 2.8 As executive responsibilities span several Portfolios, a dedicated programme of regular (i.e., largely monthly) portfolio holder briefings are held with officers and external consultants to update and advise Members of progress on all aspects of the project.
- 2.9 During 2022, seven joint portfolio holder meetings were held which involved the following councillors:
- Cllr Monk – Leader of the Council
 - Cllr Mrs Hollingsbee – Deputy Leader and Portfolio Holder for Communities
 - Cllr Godfrey – Portfolio Holder for Housing & Special Projects
 - Cllr Collier - Portfolio Holder for Property Management & Grounds Maintenance
- 2.10 Portfolio holder briefings involve officers drawn from the project board and external consultants and cover issues such as:
- Programme related matters
 - Project costs and funding related matters
 - Planning related matters
 - Carbon / Net Zero related matters
 - Leisure Centre Operator related matters
 - Project risks
- 2.11 In addition, regular formal questions are asked by councillors and members of the public at Council meetings. Through the period in question (Jan 2022 to Nov 2022) 16 formal questions regarding Princes Parade were put with all responses made publicly available. An extensive number of project-related questions continue to be asked by ward members with written responses given to address those queries where appropriate. A total of 12 FOI / EIR project-related requests (i.e. 7 EIR and 5 FOI) were also made

and addressed during the 2022 period. These are available on the website in a searchable format at

<https://folkestonehythedc.force.com/pr/s/information-requests-register>

- 2.13 Members are also reminded that CLT requested a review of Princes Parade project arrangements, and it was a matter included in the EKAP work plan to the period 30th September 2021, and formally reported to A&G on the 21st December 2021 (report AuG/21/16). No recommendations were made at that time.

3. EXPENDITURE TIMELINE

- 3.1 Appendices 1-3 of the December 2022 cabinet report C/22/73 details the Project Cost Schedule. It includes:
- Appendix 1 - a summary of capital costs incurred on the project analysed between transactional expenditure payments and committed expenditure made prior to 31/12/2021, and transactional expenditure payments and committed expenditure made after the 1/1/2022 (figures were current at the time of writing);
 - Appendix 2 - a detailed breakdown of transactional expenditure payments for the period from 1/1/2022 to the 17/1/2022;
 - Appendix 3 - a breakdown of expenditure made under the BAM – PCSA preconstruction agreement.
- 3.2 Members may also wish to note that report C/21/75 which approved the additional budget for the project in January 2022 clearly identified that significant capital expenditure would be required within the coming few weeks of that decision, and specifically in para 2.3.3 of that cabinet report noted:

“2.3.3 It is anticipated that should a favourable decision be made for the Council by the end of January, then approximately £2 million of further investment delivering the scheme will be spent in the ensuing 6 week period (for example on utilities) without the process having been fully closed. Moreover, during this period should a JR of the decision be allowed, there will be a significant amount of further spending as the scheme progresses. In order to maintain progress delivering the scheme, Cabinet is asked to confirm their intentions to maintain momentum and to press ahead while accepting this risk, with further legal advice being taken and reported to the Leader and relevant portfolio holders, depending on the outcome of the Secretary of State’s decision and if any further challenge is lodged and progressed. Not to progress the scheme at risk will mean further delays with the potential loss of planning due to permissions effectively being “timed out” in particular in relation to the residential planning permission.”

- 3.3 In the motion presented to Council, reference was made to the project proceeding before capital receipts were secured. The important issue for a project of this magnitude is that funding and contracts align and, in this case the planning conditions constrain the developer’s ability to fully develop the residential development without simultaneous construction of the Leisure Centre by the Council – thus securing the public benefit in perpetuity. Linking delivery of the leisure centre with the residential

development through the use of planning conditions has made this alignment more challenging to secure asset sales value early so it was intended that the exchange of contracts for the residential element would have taken place simultaneously with the entering into the Works Contract for the Leisure Centre.

- 3.4 Members are reminded that the Finance Officer Comments in the January cabinet paper specifically identified this risk and asked members to note it: *"The identified funding for the scheme includes £26.6 million from residential land sales with further details outlined in section 2.6. Officers are working on Heads of Terms with the developers, but Members should note the financial risk of progressing with the main contractual commitments without secured capital receipts."*
- 3.5 Members are also advised that it was necessary to align signing the Works contract at a point when the council had:
- (1) cleared the pre-commencement conditions;
 - (2) put in place the MMO License;
 - (3) agreed the road design, s.38 and s.278 agreements; and
 - (4) secured Radnor Estates agreement to entering into a license for the outfall sewer.
- 3.6 The necessary sequencing was discussed amongst officers and understood by members and, in terms of lessons learned it is clear that future projects would need to consider the implications of planning conditions and delivery mechanisms/options in greater detail to promptly realise and achieve best value in its asset disposals is best avoided.
- 3.7 It is also well documented that this scheme was funded from a wide range of capital receipts/asset disposals, with some being generated in the form of secure Section 106 receipts representing 26% of the funding. The majority of funding was to be provided by residential land sales at the Princes Parade and the Hythe Pool sites and it should be noted that whilst the Motion refers to £2.56m spent prior to 31/12/2022, deeper analysis shows actual capital expenditure made up to 31/12/2022 was lower at £1.996m with a further £2.251m spent and committed after this date.

4. RISK MANAGEMENT & OVERSIGHT

- 4.1 The project has had numerous risk logs and registers, both detailed and strategic in nature, created and maintained over time that are regularly reviewed both at project board, at joint portfolio holder briefings and reported to various committees. The logs include various details including:
- Risk identification number
 - Current status
 - Date
 - Risk description
 - Risk owner
 - Project impact
 - Project risk stage
 - Risk response strategy

- Contingency plan
- Risk probability
- Risk impact
- Overall score

4.2 In addition, the project risk was escalated to have a dedicated entry on the council's corporate risk register which was reported to Audit & Governance Committee in report AuG/22/11 on 28th July 2022. The covering report to the corporate risk register noted "Failure to Deliver Strategic Project Princes Parade – this new risk recognises the critical phase of the project, and the key license and contract agreements required to secure the delivery of this project".

4.3 Furthermore, Audit & Governance committee meeting in December 2022, report AuG/22/18 notes a further escalation by re-scoring risk from high to extreme, while noting "the change is necessary given the current review of the scheme and future options, along with the updated MTFs and wider economic landscape".

4.4 Members of A&G with risk oversight are:

- Cllr Mrs Berry (Chairman)
- Cllr P Martin
- Cllr Davison
- Cllr Fuller
- Cllr Mullard
- Cllr Shoob
- Independent Member Andy Vanburen

4.5 In addition, at key decision-making points in the project external specialist consultants were intentionally invited to participate in committee meetings to support members and to address questions of concern or identified risk. At the January 2022 cabinet meeting the following consultants were extensively involved:

- Stephen Jepson, Hadron, Project Management
- Dan Brenchley - BAM, Construction
- Dean Lucas – Faithful and Gould, Quantity Surveyor
- Seamus Lefroy-Brooks - LBHGEO, a remediation expert
- Simon Molden – The Sports Consultancy, leisure advisor

4.6 Risks facing the project continue to be considered, with portfolio holder briefings and relevant committee reports giving details as the current decision relating to the project progresses, i.e., option B – do just the necessary works to implement the planning permission.

5. REFLECTIONS & CAPTURING LESSONS

5.1 The following section includes broad reflections from the officers and members most closely involved in the project to date in order to capture transferable lessons. They have been grouped for ease into two categories of: (a) Project Management & Oversight; and (b) Risk Management & Risk Communication.

A PROJECT MANAGEMENT & OVERSIGHT

- a. Robust project management arrangements have been in place, with dedicated Project Managers (Hadron) contracted to support the council. As the project has taken so long to deliver, there has been several changes of internal project leadership at Director and Chief Officer level. Three Directors and two Chief Officers have been involved since the major decision to proceed was taken in February 2019 (report C/18/69). For large complex capital projects of significance, securing the continuity of senior-level resource with development expertise is worthy of future consideration.
- b. There has been a willingness by officers to draw on relevant experts in developing and delivering this complex project, including direct support to Members through their attendance at Committees etc., to provide information on matters of technical detail. Access to this expertise has been through contractual relationships. Demands have been higher than expected and specifying the need for responses to technical queries should be considered in future large contract awards to ensure timely responses and broader communications on progress.
- c. In July 2022 at the portfolio holder briefing Members were advised that there were serious financial and operational concerns being reported from significant changes in the economic climate. At that stage the impact was not able to be fully quantified as matters were dynamic. As many of the council's large complex capital projects span several years, it is appropriate to factor in changes to the economic cycle and context when planning and budget setting.
- d. In July 2022 Cabinet was advised (report C/22/24) that due to the extent and nature of the changing economic climate the leisure operator was unwilling to contract under the full terms of the procurement exercise undertaken in the autumn of 2021. Members made the decision to alter the award and the impacts on the broader leisure operating environment at that time were unclear. Gathering intelligence on broad market and competitor performance may have resulted in a larger section of analysis in the cabinet report, but with limited options available it is difficult to conclude a different decision would have been made, but the value of horizon scanning is clear.
- e. In July 2022 Members were advised that BAM would not commit at that time to the original contact offer, but the overall costs could be contained within the contingency allowance. However, the council was not in a position to enter a contract with BAM at that time due to delays in securing the relevant license from the Marine Maritime Organisation (MMO) and the residential land sales contract committing the council to delivering the leisure facility. The need to align these matters was clear to protect the council's interests. Extensive work was done on costings but some unforeseen costs, e.g. the necessity to meet new legislative requirements since January budget decisions were made, had now to be included. In future, consideration to be given to the level of

contingency budgeted at the start of large complex capital programmes where delivery spans several years.

- f. Between August and October 2022 it became apparent that the operating context was increasingly putting intolerable pressures on various aspects of the project and in September 2022 it was clear that the project budget was insufficient with the contingency significantly depleted. In future consideration should be given to the level of contingency in budget setting for large capital projects spanning several years as in this case, the advice from consultants was that 3-5% would be sufficient. However, extreme inflationary pressures experienced by the council during 2022 of some 10% and interest rate increases from 2% to 5% for council borrowing had not been forecast in January 2022 at the time the council's budget, including contingency, for this project was set.
- g. During September and October 2022 the Council's MTFS was being prepared and the scale of financial pressures on the council was increasingly being understood. It is not possible to substantially conclude the MTFS earlier in the year and in September CLT concluded the need to consider the feasibility of continuing with all strategically significant council projects. Strategic reviews of a wide range of projects are currently underway to consider affordability, value for money etc., as reported in the Budget Strategy 2023/24 in report C/22/69
<https://www.folkestone-hythe.gov.uk/moderngov/documents/g5136/Public%20reports%20pack%2014th-Dec-2022%2017.00%20Cabinet.pdf?T=10>
- h. In October 2022 Members were formally advised that officers were recommending a pause to the project. A decision notice was drafted to that effect (report C/22/56) recommending that officers re-evaluate available options in light of the current economic climate to propose a way forward. The project was paused on 1st November 2022.

B RISK MANAGEMENT & RISK COMMUNICATION

- a. Risk management has been taken seriously throughout the project, documented and reported at various levels, including being formally escalated to Audit & Governance in reports throughout 2022. The Risk Register was not considered by A&G at its September meeting meant so there was a period between July to December without this reporting oversight. As a consequence, the escalation from high to an extreme level of risk could potentially have been reported earlier at the September meeting, however it is usual for the corporate risk register not to be considered at September A&G meetings. In future quarterly reporting of the corporate risk register to A&G should take place.
- b. Financial risks were regularly reported as part of the project management arrangements and to joint portfolio holders and through the range of formal reports. Each cabinet report includes extensive Finance Officer's comments and relevant officers attended every meeting to address queries or questions. The financial pressures were

identified as being unbearable, in the context of the emerging MTFs, in October and reported to members that same month through an individual decision notice considered by the Leader. This was in advance of formal MTFs reporting to cabinet and was done as soon as CLT were confident in the analysis being robust enough to be relied upon. Members agreed the MTFs in November 2022 (report C/22/61).

- c. On 14th December 2022 Cabinet was presented with three options to consider (report C/22/73) and an extensive risk management section was included in the report. As the decision has now been made to progress option B, the risk registers will continue to be updated regularly through 2023 and reported through the normal channels.

6. RISK MANAGEMENT

- 6.1 Matters of risk and risk management are the subject of the report and reflections included in the main body of the report.

7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer's Comments (AK)

There are no direct legal implications arising from this report. Having said this, it is essential to continue to obtain legal advice during every stage of this project.

7.2 Finance Officer's Comments (CS)

There are no direct financial implications of this report or the recommendations made.

7.3 Diversities and Equalities Implications (CS)

There are no direct implications arising from this report.

7.4 Climate Change Implications (AT)

No climate change implications arising directly from this report - the report provides a review of the project to provide lessons for future development schemes.

8. 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
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Simon Baxter – Chief Officer Development
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Appendices:

- Appendix 1- a summary of capital costs incurred on the project analysed between transactional expenditure payments and committed expenditure made prior to 31/12/2021, and transactional expenditure payments and committed expenditure made after the 1/1/2022 (figures were current at the time of writing).
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