

<b>Committees:</b>	<b>Dates:</b>	
<b>Streets and Walkways</b>	10/04/2018	
<b>Projects Sub</b>	16/05/2018	
<b>Resource Allocation Sub</b>	03/05/2018	
<b>Subject:</b> <b>Issue Report #11 – Aldgate Highway</b> <b>Changes and Public Realm Improvements</b>	<b>Issue Report:</b>  <b>Complex</b>	<b>Public</b>
<b>Report of:</b> Director of the Built Environment <b>Report Author:</b> Steve Presland		<b>For Decision</b>

### Summary

#### Dashboard

- Project status: Red (practical completion of the project extended to May 2018)
- Timeline: Construction Phase
- Approved Spend: £23.4M (excluding ongoing revenue implications)
- Spend to Date: £19.6M spend and £1.87M commitments = £21.57M
- External funding secured: £20.4M
- Underwriting fund agreed: £10M [£7.0M returned, £3.0M remaining]
- Overall Project Risk: Red (cost: risk of pavilion cost increase and delay)

#### Project description

1. The scope of this project was to remove the dangerous and inefficient Aldgate gyratory system and create a new high quality public square. In doing so the intention was to support regeneration of the area and create a new 'go to' destination in the City. To help reduce vandalism and anti-social behaviour, as well as enlivening the new space, it was agreed that a new pavilion with catering facilities and publicly accessible toilets would also be introduced within the new square.

#### Last Gateway approved

2. Gateway five was approved under urgency by Court of Common Council on 30 June 2014. In October 2016, Court of Common Council increased the approved budget from £21,371,350 to £23,389,612 as the procurement of the pavilion cost more than estimated.
3. This is the eleventh issue and/or progress report in relation to the project.

#### Progress to date including resources expended

##### Overall Construction Progress

- i) Public Highway Work
4. Work commenced on 28 July 2014 and the public realm works were due to complete in September 2016. However, whilst the Aldgate gyratory system removal and new highway layout were completed in April 2016, delays to the completion of the pavilion have resulted in overall project delays. Therefore, the project build is now expected to complete in May 2018. Despite the delay to the public realm works, the build costs are profiled to remain within the originally approved budget.

ii) The Pavilion

5. The Pavilion is being constructed within the new public square. It will accommodate a social enterprise café and will be essential in enlivening the new public space. Once completed it will be the remit of the Department of Community and Children's Services (DCCS) to manage and DCCS have tendered for and are negotiating the lease for the social enterprise café operator.

6. The Pavilion work commenced in January 2017 and was due to complete on 15 December 2017. Due to unforeseen work and contractor delays it is currently estimated that the Pavilion work will not now be completed until April 2018.

7. The approved budget for the pavilion is currently £4.4M however there is a further risk exposure of £0.5M given unresolved early warning notices and compensation event requests made by the contractor. These claims are currently being negotiated by the City Surveyor.

8. The City Surveyor will be submitting a report for Members' consideration setting out the current position for the Pavilion project.

9. A joint Lessons Learnt report, from both the City Surveyor and Director of the Built Environment, will follow the completion of the construction. This will be provided to Members in Summer 2018. The Gateway 7 will be provided a year later as communications and monitoring conclude.

Financial implications

10. This project was approved at Gateway five under urgency provisions by the Court of Common Council on 30 June 2014. The cost of the project as set out in this report, as follows (see Appendix 1):

**Scheme costs**

Project spend to Gateway five	£3.3M
Construction cap	£18.35M*
Five year maintenance costs	£1.26M**
<b>Total</b>	<b>£22.91M</b>

Notes:

\*Since Gateway five approval the construction budget has increased to meet the additional pavilion costs and the total approved costs for construction, as agreed by Members in October 2016, have increased from £18.35M to £20.1M. With the project spend to Gateway five of £3.3M, this provided a total approved budget of £23.4M.

\*\*The maintenance costs have always sat outside, and been additional to, the main project design and construction costs.

11. The Gateway five report identified potential funding streams totalling £25M which exceeded the total estimated design, build and maintenance costs of the project. These funding streams were as follows.

**Scheme funding**

Received funds to date (from TfL and s106)	£10.85M
Additional TfL funding expected	£2.75M <sup>†</sup>

S106 deemed 'easier' to deliver	£5.00M
Potential s106 funds waiting to trigger	£6.40M
<b>Total</b>	<b>£25.00M</b>

Notes:

\*Of the anticipated TfL funding of £2.75M, £1.4M was secured.

12. Within the figures above Members were advised that officers would have to renegotiate with developers to allow certain s106 funding to be used to fund the Aldgate project. In recognition of the time delay associated with such negotiations Members approved a sum of £10M from the On-Street Parking Reserve (OSPR) to provide cash flow for the project. The understanding was that this sum would be repaid through renegotiated s106s and the external funding as set out above.

13. Further, in the Gateway five report to Committees, officers highlighted the risks around securing the funding:

*"Whilst Officers consider it likely that the bulk of the S106 funds will come forward in a timely manner, it is possible that in some instances S106 funds will not be available in time for them to be used on the project. It is proposed, therefore, that the On-Street Parking Reserve should be made available as an underwriting fund to temporarily fund the project until the appropriate S106 funds become available, or, as a fall-back, to fund permanently in the event of a shortfall".*

14. The Court of Common Council approved the use of OSPR as a 'short term loan', however made no specific consideration in the event of a shortfall.

15. To date £7.0M has been identified to repay the OSPR. It is considered the remaining sum of £3.0M is unlikely to be fully achievable within the life of the project. There are a number of reasons for this and they include:

- TfL did not fund the project to the level that had been indicated;
- an anticipated major development did not commence therefore the anticipated s106 contribution will not be available within the life of the project; and
- Unsuccessful negotiations with developers to allocate s106 funding to Aldgate.

16. However, the project has in total successfully secured £20.4M of S106 and other external funding. There are also a number of s106 negotiations with developers being finalised which might enable the £3.0M to be further reduced.

17. The following table sets out the details referred to above.

**Table 1. Summary of success of the various funding sources.**

Source / Element	Amount Not secured	Amount secured
Successful TfL funding		£9.46M
Anticipated TfL funding that was not forthcoming	£1.35M	
Secured S106 not requiring negotiation		£8.04M
Secured S106 through negotiation		£2.94M
Negotiation of S106 in progress	£2.71M	
Unsuccessful negotiation for S106	£5.51M	
Amount not triggered	£2.06M	
<b>Total unsecured amount</b>	<b>£11.63M</b>	

**Total secured amount****£20.44M****Summary of Issues**

18. There are now three issues in relation to this project which require Member decision. The first two relate to funding and the third relates to the Streets and Walkways Sub Committee decision on 14 October 2013 to develop Option 1 which included gating the church gardens to prevent access at night. This was in order to protect the amenity created and to design out (with gates) anti-social behaviour from this area during the hours of darkness.

**Proposed way forward**

19. It is proposed that OSPR be used to fund any shortfall in secured funding for the capital project. The final sum will not be known until all s106 negotiations have been completed and there is a resolution of the City Surveyor's claim negotiations for the pavilion. It is intended that all s106 negotiations are concluded within a deadline of 6 months from build completion. The maximum expected shortfall will be £3M. The final sum that needs to be met from the OSPR would be met from a reduction in the All Change Bank Scheme.

20. It is proposed that the estimated revenue costs for Open Spaces of £40k pa and Highways of £75K are met from the OSPR.

21. It is proposed that the City use its powers under S.115B Highways Act 1980, to enclose the amenity provided on the highway within the area referred to as the 'church gardens'.

**Total estimated cost**

22. It is not expected that the capital cost of the project will increase from the current £23.4M (subject to City Surveyor pavilion negotiations). Until negotiations conclude it is unknown whether the current project budget can cover this.

**Recommendations**

23. It is recommended that Streets and Walkways and Projects Sub Committees approve the following:

- i. Note the overall project update, and be advised that the City Surveyor's Department will be submitting a report associated with the Pavilion;
- ii. Approve that any remaining funding shortfall, which is not expected to exceed £3M, be met from the OSPR, off set from the provision set aside for the All Change Bank project;
- iii. Approve the increase of annual departmental base budgets for Highways (£75k) and Open Spaces (£40k), from the OSPR, to provide for the revenue implication of the Aldgate project;
- iv. Note that a joint Lessons Learnt report will follow in Summer 2018 and the Gateway seven report will be provided a year later, as communications and monitoring conclude; and
- v. Agree that the gates, provided in the enclosure around the extended church garden area, would be closed at night time using the City's powers under S.115B of the Highways Act 1980.

24. Resource Allocation Sub Committee approve:

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| <ul style="list-style-type: none"> <li>i. the use of OSPR to fund up to £3.0M of the project's construction, to be off set from the provision set aside for the All Change Bank project; and</li> <li>ii. that the revenue implications of the scheme are met by an increase to the the annual departmental local risk budgets of Highways (£75k) and Open Spaces (£40k) from the OSPR.</li> </ul> |
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## **Main Report**

<b>1. Issue description</b>	<p><u><i>Issue one: Funding of the capital project</i></u></p> <p>25. With construction scheduled to complete in May 2018, there is still £3.0M of OSPR within the project. It is considered unlikely to be able to repay this sum within the life of the project and Members are therefore requested to authorise that a sum up to a maximum of this amount, from the OSPR, be made permanent. If agreed, it is proposed that this allocation is offset from the OSPR provision that has been set aside for All Change Bank project.</p> <p><u><i>Issue two: Revenue implications of the capital project</i></u></p> <p>26. The authority to proceed with construction was agreed at Gateway five by the Court of Common Council under urgency (see appendix one). The Court report set out the project costs as per paragraph 10 above.</p> <p>27. The Gateway five report set out estimates of revenue cost increases, by department, that would result from the scheme. It was estimated that revenue costs would increase by £157k pa. It is also important to note that Open Spaces Committee only agreed to the scheme on the basis that the revenue implications for 20 years were allocated to the Open Spaces Department.</p> <p>28. Officers have been working with the impacted departments and revenue costs associated with the scheme have been driven down significantly across the life of the maintenance period. The revised annual additional cost, by department, is as follows:</p> <ul style="list-style-type: none"> <li>• DBE [Highways]: £75k pa</li> <li>• Open Spaces: £40k pa</li> <li>• Community and Children's Services (DCSS): Building maintenance, management of the Café Operator and/or activation of the space, to be met from the pavilion rent.</li> </ul> <p>29. It is proposed that the annual departmental base budgets for Open Spaces and Highways are increased accordingly, utilising funding from the OSPR.</p> <p><u><i>Issue three: Access to the Church Gardens</i></u></p> <p>30. The extended area around St Botolph's Churchyard and associated gardens has been designed to ensure the reconfigured spaces provide a range of amenities which can be enjoyed by all sections of the local community, including those</p>
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	<p>seeking quieter spaces with seating and planting. As previously reported, the extended garden area is enclosed with railings and gates, which it has been agreed by Streets and Walkways Sub-Committee, shall be closed during night time. This is to enhance the amenity, help identify it as an area for less active recreation, and safeguard the facilities. It is proposed that the City may close the gates within the enclosure during the night time under its powers to provide services and amenities on the highway (S.115B Highways Act 1980).</p>
<b>2. Last approved limit</b>	<p>31. The last approved limit for the project is £23.4M.</p>
<b>3. Options</b>	<p><u>Issue one: Funding of the capital project</u></p> <p>32. Options to fund the capital project include:</p> <ul style="list-style-type: none"> <li>A. Approving a maximum of £3.0M of OSPR to fund the capital project; and/or</li> <li>B. Instructing officers to seek further s106 negotiations and funding sources. Whilst this may prove possible, this is unlikely and would require other additional legal and staff costs. If this approach is agreed it is suggested that a cut-off date, of six months from the completion of the build, be agreed.</li> </ul> <p><u>Issue two: Revenue Implications</u></p> <p>33. Options, in regard to the revenue implications generated by this project, include:</p> <ul style="list-style-type: none"> <li>A. Approving the increase of annual departmental local risk budgets for Highways (£75k) and Open Spaces (£40k), from the On-street Parking Reserve, to provide for the revenue implication of this scheme; or</li> <li>B. Approving a variation to option A. above, where the water features are not activated. This would reduce the annual revenue implication for Highways from £75k to £52k; or</li> <li>C. Making no allowance for the known revenue implications. If funding is not allocated now or in the future, it is likely that elements of the new space at Aldgate Square will not be maintained to the expected quality, or that local risk revenue funding will need to be found from existing budgets that are already fully committed. This could mean the maintenance of other locations within the City would be affected.</li> </ul> <p><u>Issue three: Access to the Church Gardens</u></p> <p>34. The Gateway five report suggested restricting access to the church gardens to daytime only using a Public Space Protection Order (PSPO) which has now been discounted. A PSPO requires a statutory consultation. Whilst the Home Office agreed this would have been an appropriate use of the then developing legislation, it would incur costs and has attracted negative</p>

	<p>publicity across the Country. Therefore, officers have looked at a different approach. The options include:</p> <ul style="list-style-type: none"> <li>A. Members agreeing to use of the City's powers under S115B of the Highway Act 1980 to gate the church gardens during night time; or</li> <li>B. Deciding to not gate the space, leaving it at risk of vandalism and other anti-social behaviour.</li> </ul>
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### **Appendices**

<b>Appendix 1</b>	Court of Common Council (urgency) report June 2014
<b>Appendix 2</b>	(Non-public) Funding sources detail

### **Contact**

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