

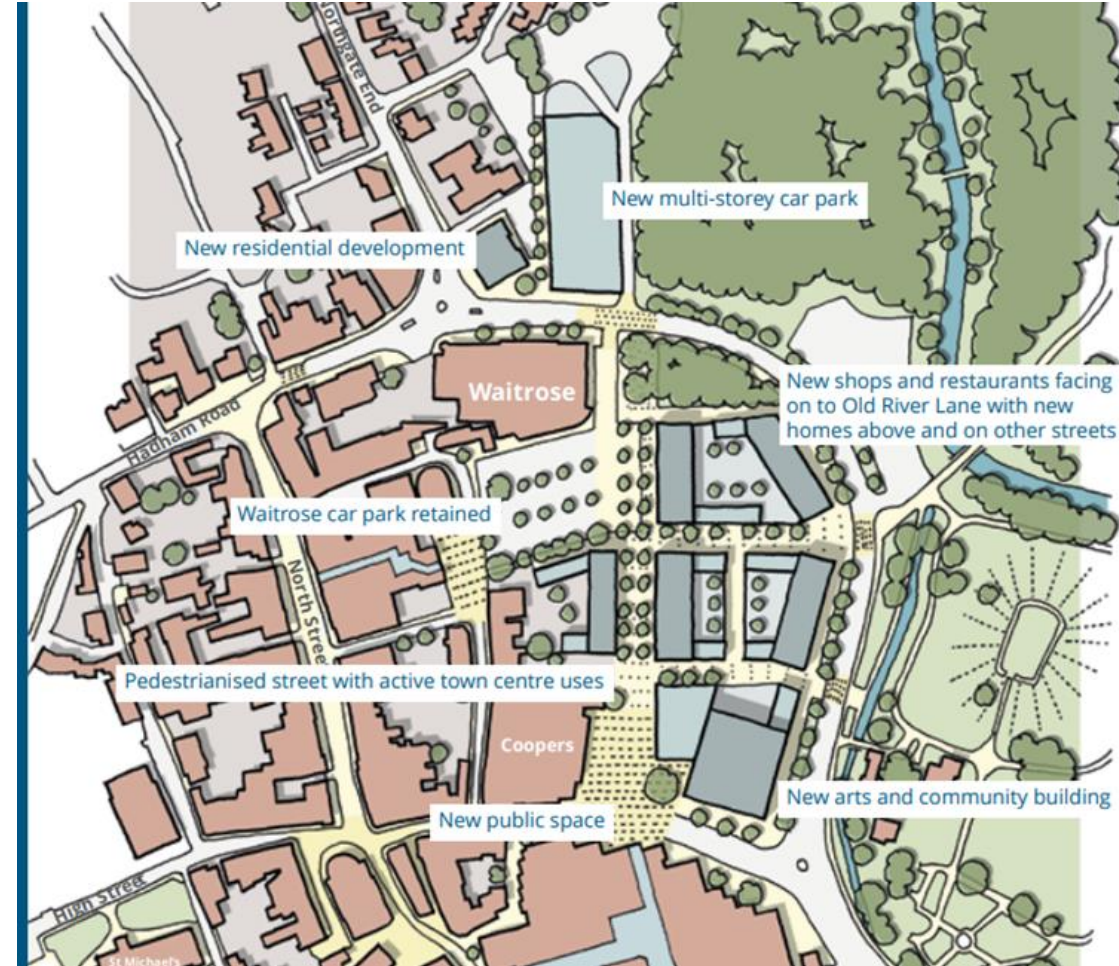
Old River Lane

Member Briefing 15 June 2023



Brief history – planning context:

- Town centre planning framework (adopted July '17), underpinned by consultation with the public (town centre face to face events)
- BISH8 in District Plan (adopted Oct '18) - more consultation (eg with schools)
- Silverleys and Meads Neighbourhood plan
- All Set out need for a mixed development including arts housing and retail, leisure and community use to meet housing growth needs in and around BS
- SPD (adopted Nov '22) - sets out design principles and a strategic masterplanning framework



Brief history - delivery:

A New Destination



Delivery plan agreed by Council July '18

- Appoint developer for ORL site (developer takes on long lease of land and is responsible for planning application through to completion). Capital receipt to council of £2.77m

District Council maintains ownership of the land earmarked for the arts centre.

Developer will build on our behalf (along with everything else on site) but to our specification

Executive approve appointment of Cityheart in Feb '19 after negotiated tender process

- LEP grant and loan for enabling works and land assembly

Brief history – Arts Centre:



- Approved by Council March '19
- 500 seat auditorium, 3-4 cinema screens
- Flexible space inside for gallery use, civic hub, café, dedicated performance space outside
- Joint approach with Rhodes Trust (as it was called) - transfer of majority of theatre programming to ORL
- BSTC to consider a capital contribution to build and on-going revenue contributions to its operation
- Build cost c. £30m, subsidy requirement £673k yr 1, reducing over 30 years
- Total Return on Investment c. -£10m

Brief history – challenges:

- Analysis of parking demand and supply meant a new MSCP would be needed to make the site viable. Planning application submitted Feb '18 but construction didn't begin until Feb '20 after 2 JRs, completes May '22.
- Land assembly takes more time than expected (eg. Waitrose car park lease & URC purchase for demolition, restrictive covenants on 1,2,3 ORL, re-location of UKSPN sub-station)



- HCC not supportive of 4 way junction to north of the site, meaning entrance/ egress from East of site only feasible option (compounded by presence of surface water culvert and foul sewage pumping main which can't be built over in any case)

Brief history – challenges:

- Arts offer agreed in Mar '19 had to be revised as Council no longer willing/ able to provide an on-going revenue subsidy
- Revised offer without auditorium agreed by Council Mar '21
- Focus on high end cinema offer (5 screens), 1x flexible room & live performance space in gallery/ foyer
- Dedicated public realm for mixed use



- Borrowing requirement £15.5m, total subsidy of £693k over 7 years before making a return
- £6.9m ROI over 30 years

Brief history – challenges:

Costs escalate further between March '21 and now due to impact of Covid and inflationary pressures. Arts centre scheme needed to be revisited to bring it within agreed budget envelope. Revised design shared with ORL Board Members in March '23, same specification but different materials

2021



2023



What is the position with regards to Cityheart?

- They are the preferred developer following the tender process; however, the formal development agreement has not yet been signed
- They have continued to work on the scheme in good faith that it will go ahead
- Given the length of time that has occurred since the tender process and the changes made to the scope of the scheme, we have sought independent legal advice on whether we can proceed to sign the development agreement.
- This advice highlighted a risk that the scheme changes to date could leave us open to challenge from other bidders
- One other organisation bid as part of the final round, they were approached in April and confirmed they did not wish to see the project delayed and would not seek to challenge the appointment of Cityheart as developer.
- Legal advice has also confirmed risk of any further material changes to the scheme could leave us in breach of procurement contract regulations
- In summary... we do not have a signed DA with Cityheart however we would need to re-procure if we want to change any commercial aspect of the current scheme (with the exception of the arts centre offer)

What is the position with regards to the planning application?

- Distinction between Council as developer and Council as LPA..
- Planning application is validated, no date for DMC set
- Planning have written to Cityheart asking for a number of areas to be addressed, including:
 - Quality of some supporting documents (including technical information on drainage/flooding)
 - Re-provision of community space
 - Massing (height) and fit with local character
 - Impact on highway network
 - Overall package of sustainability measures
 - Extra care provision as affordable housing



What is the position with regards to the rest of the site?



- NGE open
- Residential units on sale, commercial space on ground floor occupied by Launchpad
- Rest of site vacant due to planning conditions attached to NGE
- URC hall lease extended so groups can continue to hire in the short term

Break for Questions.

Scenario 1: continue with the current scheme

This would mean proceeding to sign the DA with Cityheart and moving ahead with the revised arts centre design.

| RISKS | COMMENTS |
|--------------|--|
| Financial | No additional risks above those already agreed at Council in March 2021 |
| Legal | None. Legal advice is that we are ready to sign the development agreement with Cityheart |
| Reputational | Difficult to quantify however it is clear there is opposition to the current scheme as indicated by planning application comments. |

Scenario 2: scrap the current scheme and consider new proposals

This would involve not progressing with the current development agreement, ending the relationship with Cityheart and starting the process of finding a new development partner again as well as reconsidering the arts centre

It is worth noting that any new proposals for the site would still need to be within the context of BISH8 and the SPD

| RISKS | COMMENTS |
|--------------|--|
| Legal | We would not be immediately liable for any costs as we have no development agreement in place with Cityheart. However, given the investment they have made to date, albeit at risk, it is likely they would attempt to recover their lost costs by commencing legal action against the council. |
| Reputational | Difficult to quantify from a public perspective. However, reputational damage in terms of withdrawing from an agreement with a company appointed to develop the site on our behalf is likely to discourage others from wanting to work with us. At this stage it is uncertain whether, if we re-tendered for this work, any reputable companies would be willing to risk entering into a partnership. They would want to minimise their exposure by asking for financial guarantees (ie. More money) |

Scenario 2: scrap the current scheme and consider new proposals

| RISKS | COMMENTS |
|-----------|--|
| Financial | <p>These would be highly significant. We have spent about £4m on the project to date (including land assembly and professional support).</p> <p>This has been charged to our capital budget but would need to be charged to our revenue budget (effectively meaning we would be £4m overspent this year).</p> <p>To cover this Council would have to approve transferring £4m of reserves, effectively reducing our reserves to nil.</p> <p>We would have no flexibility to deal with overspends and should any be forecast we would probably need to issue a Section 114 report</p> |

Scenario 3: "pause" and review the arts centre offer

This would mean the current arts centre proposals would be paused. We could then undertake public consultation to review the provision of facility they would like to see in this anchor part of the development.

It may also be a good idea to re-engage with BSTC and South Mill Arts so we can ensure provision on site is complimentary to offers in the rest of the town

A new design and business case can then be developed. This will still need to fit within the available budget envelope and be viable (ie. Be affordable and not make an ongoing loss).

We would move ahead with signing the DA with Cityheart so they can progress development on the rest of the site. With the final arts centre offer being confirmed six months later.

However... this does not change anything in regards to their current planning application. All the issues raised by us as a planning authority need resolving before the application can be considered

Scenario 3: "pause" and review the arts centre offer

| RISKS | COMMENTS |
|--------------|---|
| Financial | Low (apart from having to undertake further design and consultancy work on the arts centre to date). Consultation itself would be low/ nil cost assuming it is done in house. Any re-designed arts centre would still need to fit within the existing financial requirements |
| Legal | These change should be legally permissible however advice would be sought to confirm once we know the extent of any proposed changes to the arts centre |
| Reputational | Public reaction is difficult to quantify but officers feel the impact would be moderate to low. Consultation with the public would enable us to confirm and validate the type of community and leisure provision that residents want. We would need to carefully direct the consultation to ensure expectations around what can be delivered are realistic and manageable |

Break for Questions.