

## **REPORT TO EXECUTIVE**

Date of Meeting: 29<sup>th</sup> November 2022

## **REPORT TO COUNCIL**

Date of Meeting: 13<sup>th</sup> December 2022

Report of: Deputy Chief Executive and the Director of Culture, Leisure and Tourism

Title: Major capital projects budgets: Edwards Court Extra Care Scheme and Exeter Bus Station and St Sidwell's Point programme.

### **Is this a Key Decision?**

No

### **Is this an Executive or Council Function?**

Council

### **1. What is the report about?**

This report seeks approval of additional funding in connection with recent major capital projects of 'Exeter Bus Station & St. Sidwell's Point programme' and Edwards Court Extra Care Scheme. The progress of the projects and discussions with key suppliers / contractors are at a stage whereby the forecast outturn total costs can be confidently confirmed. Additionally, a request for fund £2,166,921 of costs in connection with Covid payments are also covered in this report.

### **2. Recommendations:**

That Executive recommends that Council approve the following:

2.1 Additional funding of £1,164,049 in connection with the assessed contractual entitlement costs on the Exeter Bus Station and St. Sidwell's Point programme – 2.15% of the original programme budget;

2.2 Funding of £1,750,000 in relation to the 'Covid Settlement' payment in relation to St Sidwell's Point;

2.3 Additional funding of £363,385 in connection with the assessed contractual entitlement costs on the Edwards Court Extra Care scheme – 2.55% of the original programme budget;

2.4 Funding of £416,921 in relation to the 'Covid Settlement' in relation to Edwards Court Extra Care scheme; and

2.5 Provided that Kier agree the sums set out above are in full and final settlement of all/any claim they may have against the Council in relation to their accounts for the Exeter Bus Station and St.Sidwells Point programme and Edwards Court Scheme and formalised by way of settlement agreement signed by both parties, then payment to Kier as set out in paragraph's 2.1-2.4 above can be made before the 24 December 2022.

### **3. Reasons for the recommendation:**

**Contractual Entitlements:** To finalise contractual entitlement costs on the 'Exeter Bus Station & St. Sidwell's Point programme' and on the Edwards Court Extra Care scheme.

**Covid Settlement:** To agree a final settlement to terms adopted with the contractor(s) through a collaborative approach in order to progress capital build projects during the pandemic in order to progress the schemes

### **4. What are the resource implications including non financial resources**

Total additional funding (above previously approved budgets) of £2,914,049 on the General Fund for the Exeter Bus Station and St. Sidwell's Point programme.

Total additional funding (above previously approved budgets) of £780,306 on the HRA Account for the Edwards Court Extra Care scheme.

### **5. Section 151 Officer comments:**

The additional costs have been negotiated and are considered fair and reasonable by all parties. If approved, the section 151 Officer will determine the most appropriate method of financing. If this is borrowing, the Council will use its own resources (internally borrow) in the short term until interest rates stabilise at a level that is acceptable.

### **6. What are the legal aspects?**

The basis of settlement as set out in the recommendations must be formalised by way of a Settlement Agreement signed by both parties and in place prior to any payments being made by the Council.

### **7. Monitoring Officer's comments:**

This report raises no issues for the Monitoring Officer.

### **8. Report details:**

Edwards Court Extra Care Scheme has been developed to provide exemplar living conditions and high comfort levels for the residents incorporating Passivhaus design to reduce heating bills, and the risk of fuel poverty. It provides high levels of thermal comfort and indoor air quality, together with healthy building design features and climate change mitigation measures. It is a home for life, suitable and accessible for anyone over 60 years old in need of housing and care.

The award winning St Sidwell's Point is the UK's first Passivhaus standard, ultra-low carbon leisure centre. It was designed to save up to 70% on annual energy costs. The new centre provides a 25-metre 8 lane competition pool, 20-metre community pool, a children's confidence pool along with state of the art fitness centre, spa, treatment room and café. It opened in April 2022 and was designed to be an additional draw to the city centre. It is run in-house by Exeter City Council as part of a wider leisure offer.

Exeter Bus Station opened in July 2021 after being visited by the now King Charles III. The bus station offers significant improvement for passengers on the old bus station, which was constructed in the 1960s. The BREEAM 'very good' rated building is operated by Stagecoach.

The three projects represent the three main capital improvement programmes for Exeter City Council. The construction of all three of these took place during the pandemic and faced serious hurdles to overcome.

There is full Part 2 report which covers contractual entitlement and Covid settlement figures for the 'Exeter Bus Station and St. Sidwell's Point programme' and the Edwards Court Extra Care scheme. It explains in details the 'Exeter Bus Station and St. Sidwell's Point programme', addressing contractual entitlement and then covid settlement matters. The contractual entitlement and Covid settlement matters for the Edwards Court Extra Care scheme are then be addressed. The terms are commercially sensitive however the substance of the report is presented here in public.

## **8.1 Exeter Bus Station and St. Sidwell's Point Programme**

### **Contractual Entitlement**

The 'Exeter Bus Station and St. Sidwell's Point Programme' consists of the build of the new bus station, the temporary / interim bus station arrangements whilst the new bus station was being built, the relocation of long distance coaches, the relocation of touring coaches, works associated with land / estates matters in connection with the development, the build of SSP, the procurement of the operator for SSP (abandoned), and the operator fit out costs of SSP (for gym equipment, fittings, etc).

The previous budget approvals on the programme can be summarised as :

1. Approval of the Bus Station and SSP programme = £51.8m at Council on 18<sup>th</sup> December 2018
2. Approval to spend Local Enterprise Partnership 'Getting Building Fund' grant on the Bus Station = £800k at Council on 20<sup>th</sup> July 2021
3. Approval of the operator fit out budget = £1.5m at Council on 21<sup>st</sup> July 2020

The above approvals result in a total budget of £54.1m.

The elements within the 'Exeter Bus Station and St. Sidwell's Point programme' are forecast for delivery of final costs within the overall approved budget, with the exception of the SSP Build element. It is forecast the SSP Build element will be over budget. The main reasons can be summarised as:

- a) Section 278 highways works for Devon County Council costing significantly more than originally envisaged, with the scope of works increased considerably above the original intention.
- b) Change of building cladding material to alleviate building insurance concerns.
- c) Operator fit-out works instructed to be delivered by the building contractor costing in excess of the allocated budget for such.

### **Covid Settlement**

The outbreak of Covid and it's impacts on the construction industry are without precedent. Cabinet Office guidance was issued so that clients and contractors work together in order

to keep the industry operational during the pandemic – looking at cash flow and covid related costs.

In discussions with the contractor at St. Sidwell's Point, ECC identified a series of covid related cost headings with potential allocation of percentage apportionment between contractor & ECC for the costs associated with Covid.

## **8.2 Edwards Court Extra Care scheme**

### **Contractual Entitlement**

Funding for the Edwards Court Extra Care scheme was approved at £14.2m at Executive Committee on 10 July 2018.

Partial possession of the Extra Care building was granted on 20 July 2021, with Practical Completion of the overall scheme (building and external works) was granted on 30 November 2021. End of defects rectification works are ongoing.

Additional spend can be summarised as

- a) changes in balcony specification post contract to avoid combustible materials;
- b) additional specification works and cost of the highways works/S278;
- c) offsite storage and parking;
- d) over sailing licences and legal costs and cost increases against provisional sums.

### **Covid Settlement**

The Edwards Court Extra Care scheme adopted the same approach and principles as the 'Exeter Bus Station and St. Sidwell's Point programme' in relation to the potential Covid Settlement.

## **9. How does the decision contribute to the Council's Corporate Plan?**

The schemes contribute towards a 'Healthy and Active City', housing and building great neighbourhoods and communities, Net Zero carbon city ambitions, a prosperous local economy and leading a well-run council.

## **10. What risks are there and how can they be reduced?**

**Contractual Entitlement and Covid Settlement:** If the additional budget/funding is not approved in order to settle the claims, then there will be a dispute between the parties which could result in legal proceedings and additional costs being incurred. Settlement has been negotiated by the parties and provides certainty to the Council

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined.

## **12. Carbon Footprint (Environmental) Implications:**

There are no direct carbon/environmental impacts arising from the recommendations. The schemes themselves have major environmental considerations, but these decisions were already made by Council

## **13. Are there any other options?**

These options are outlined in Paragraph 10.

**Deputy Chief Executive, Bindu Arjoon and Director of Culture, Leisure and Tourism, Jon-Paul Hedge**

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## **Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

None

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