

Report of the Director of Place to the meeting of the Executive to be held on 10th July 2018

J

Subject:

One City Park

Summary statement:

This report will update Members on progress on the One City Park scheme and make recommendations for the Council to procure a Development Partner for this project.

Steve Hartley
Director Place

Portfolio:

Cllr Alex Ross-Shaw

Report Contact: Simon Woodhurst
Phone: (01274) 433789
E-mail: simon.woodhurst@bradford.gov.uk

Overview & Scrutiny Area:
Regeneration and Environment

1. SUMMARY

- 1.1. This report will update Members on progress on the One City Park (OCP) scheme and make recommendations for the Council to proceed with the process to procure a Development Partner assist the delivery of this key project.

2. BACKGROUND

- 2.1 The Bradford Council Plan states that “We want a strong Bradford District economy so that everyone can earn a decent income throughout their lives. Working in better jobs, in productive industries”.
- 2.2 This stated priority is mirrored in a variety of adopted and published policy documents including the Local Plan Core Strategy, City Centre Area Action Plan, Economic Strategy and Leeds City Region/LEP Strategic Economic Strategy.
- 2.3 These fundamental objectives to drive economic growth, secure new investment, stimulate the creation and expansion of businesses and generate the provision of high quality jobs and skills opportunities will be partly facilitated through the delivery of new office accommodation in the City Centre.
- 2.4 Whilst it is acknowledged that there is an existing supply of secondary office accommodation in the City Centre, it is also recognised that the lack of top quality, grade ‘A’ accommodation at the right price, in the right location and most importantly available within a predictable timeframe is constraining Bradford’s ability to secure the relocation and investment of the type of high value businesses that will provide the “better jobs” desired and referred to in the City’s various economic and planning strategies.
- 2.5 By creating circa 100,000 sq ft of new commercial accommodation the One City Park scheme will make a major contribution to achieving these key strategic aims and put the City Centre in the optimum position to attract and secure new businesses to the area. In their turn WYCA has also recognised the significance of the scheme to the local and Regional economy by making significant grant funding available to enable the viable delivery of a preferred development scheme, subject to the satisfaction of specific conditions and an agreed time frame being met.
- 2.6 At its meeting of the 12th March 2013 the Executive considered a report on the future treatment of a number of assets owned by the Homes and Communities Agency (HCA) in Bradford City Centre and resolved that the transfer of the former Tyrls and Odeon sites from the HCA to the Council be agreed. The transfer of ownership of the former Tyrls building (as illustrated as edged red on the attached plan at Appendix 1) was completed in October 2013.
- 2.7 The Tyrls building (former West Yorkshire Police station) occupied a key site in the City Centre overlooking the award winning City Park. The upper floors of the building had been largely unoccupied since the police vacated the property in 2004 but the ground floor custody cells were still in use and leased to Her Majesty’s Court and Tribunal Service (HMCTS).
- 2.8 In order to create a satisfactory platform to facilitate the development of a new,

prestigious office led commercial development scheme to be known as “One City Park” (OCP) it was necessary to plan, procure and carry out the relocation of the HMCTS custody cells and these works were completed in May 2015.

2.9 Following the relocation of the custody suite the Council demolished the Tyrils building and subsequently created a temporary garden on the site as a “meanwhile” use pending the delivery of a future redevelopment scheme.

2.10 Officers considered three approaches to delivering the OCP project:

- (i) undertaking enabling works to create a site suitable prepared to present to the Market.
- (ii) the Council acting as developer/contractor to carry out a direct development scheme, retaining and managing the completed development.
- (iii) Engaging with a preferred developer with secured end user(s) to develop the site on a joint venture basis, using the enabling works input as a means of structuring a viable development scheme.

2.11 A developer with a potential secured end user was interested in the project and extensive planning, feasibility and cost/funding appraisal work was carried out by the Developer with the end-user and the Council to explore the potential deliverability of this scheme.

2.12 Unfortunately, due to other considerations the end user decided not to progress with their involvement in the scheme and although the developer however remained committed to the scheme and produced proposals to undertake a new commercial development scheme on a joint venture partnership basis with the Council. However, following detailed and careful consideration of the proposals it was decided that an alternative approach to assess the appetite of the development/investment market’s interest and appetite in such a development opportunity on a wider, transparent and competitive basis would be a more beneficial approach to the Council.

2.13 A pre-tender market consultation exercise to introduce “One City Park” to the property market has been carried through the Council’s attendance at the MIPIM UK (November 2017) and MIPIM 2018 events and in the event that the market response was encouraging then the Council intended to carry out a formal procurement exercise to appoint a suitably qualified partner to deliver the scheme. The Public Contracts Regulations allow for such pre-tender market consultation, and accurate records of such activities have been collated and will be made available to all interested bidders when procurement commences. There is also a requirement to limit market consultation so that those consulted are not then excluded from participating in the competitive process.

2.14 The feedback from the exploratory market engagement was conclusive in confirming that there is significant appetite from commercial property development/investment sector in the OCP proposals and that there is a willingness to engage in a formal OJEU procurement process that will include a competitive dialogue with the Council to produce an innovative and mutually beneficial solution to deliver this opportunity.

3. THE PROPOSAL AND OTHER CONSIDERATIONS

- 3.1 One City Park is a priority site for the Council and is seen as being part of a comprehensive strategic approach to facilitate the development of a number of key city centre sites on a programmed basis. This will be undertaken in such a way as to ensure that individual projects complement rather than compete with each other whilst at the same time achieving a balanced mix, and flow of commercial accommodation that the market wants and the City needs.
- 3.2 The Council is aware however of the challenges that will have to be overcome in order to create the desired vibrant and commercially sustainable Centre the City needs, particularly in delivering viable property development schemes within the prevailing market conditions. The Council is therefore seeking a partner that is able to take an innovative and risk-sharing approach to deliver this project within the timescales of the WYCA funding requirements.
- 3.3 The City Centre commercial property market has underperformed in the recent past but with the benefit of new and emerging development schemes such as the Broadway shopping centre, the Light cinema, the redevelopment of the former Odeon building as an entertainment arena and the remodelling of the city centre railway stations it is considered that there is now an excellent opportunity to use this project to invigorate the commercial office market offer and redress the property investment market's negative view of the City Centre and its offer.
- 3.4 Although aware of the challenges that exist in making speculative office development viable in the City and being open minded as to the possibilities for public / private sector collaboration in delivering this and other similar projects, the Council should also be mindful to ensure that a preferred delivery and funding solution is finally identified in order to minimise public sector cost and risk exposure.
- 3.5 Although the LEP grant monies allocated will, on paper, assist the delivery of the OCP scheme on a strict construction cost viability basis it is also correct to recognise that the ultimate success of the project in terms of overall financial viability, will depend on the Developer's ability to secure tenants/end users on the right lease/rental terms that will ensure the provision of an acceptable development profit and yield for the Investor/Lender. These are real risks for the OCP proposals or any other similar office development scheme in the City Centre that have resulted in the current prevailing market state where no developer or property investor will support such a scheme either on a speculative basis or without the Council using its covenant to guarantee a revenue stream for a long term period, commonly of at least 35 years.
- 3.6 This predicament is not unique to Bradford and is one which is experienced to a higher or lesser degree by most Cities outside of London. A number of Authorities have tackled the problem by underpinning the risks involved in new office and other mixed-use development schemes through various means including entering into industry acceptable Head Lease arrangements and taking on the responsibility of securing sub-tenants/end users. In such cases whilst reducing the developer/investor risks by taking some of this burden on itself, there are also potential benefits to the Authority involved in terms of gaining significant income streams by subletting the new accommodation at a profit rent, accruing Business Rates payments and securing an increased capital

receipt from the development generated by the Funder being prepared to accept a lower yield than normal due to the term specific income stream being guaranteed by the Authority. Such revenues could theoretically be used to mitigate any risks from future voids being experienced post completion of the development scheme.

- 3.7 It is understood that a number of Local Authorities have been involved in delivering successful new commercial schemes using this or a similar type of mechanism e.g. St. Paul's place Sheffield, with Sheffield council underwriting an 80,000 sq ft office scheme by CTP via a purchase guarantee ('put option'); Stephenson Quarter Newcastle (Council took 20 year non occupational headlease to create value to pay for development costs and profit rent), Town Centre regeneration, Rochdale where again the Council entered into a 35 year Head Lease with borrowing payments covered by rents accrued and an option to purchase the built assets for £1 on expiry of the lease term.
- 3.8 Following the positive feedback received from the pre procurement "soft" marketing exercise the way has been prepared to procure a suitably qualified development partner (or consortium) by spring 2019 to deliver a minimum of 93,000sq.ft. of new commercial accommodation on the OCP site that may be made up of Grade A office space with or without ancillary ground floor A1-A4 uses or a mixture of office and other city centre commercial uses that the Council deems appropriate for the location.
- 3.9 As the value of the proposed works will be above the prescribed EU thresholds for the award of public contracts, the Council as a Contracting Authority that intends to enter into such a contract, is required to formally procure its development partner in accordance with the European Commission's public procurement regulations. Such regulations provide the following possible procedures that Council could use to select its partner:
- (i) "Open" procedure - is suitable for simple one-stage process for procurements where the requirement is straightforward. It is most commonly used in practice for the purchase of goods (e.g. stationary, vehicles etc.) where the requirement can be clearly defined and the buyer is seeking the least expensive supplier. As there is no "pre-qualification" of bidders, anyone can submit a tender and it is possible that a large number of suppliers will bid.
- (ii) "Restricted" procedure - is a two-stage process:
- Stage One (Selection) - Suppliers are alerted to express an interest to a contract opportunity by obtaining and submitting a Selection Questionnaire (SQ); this will be used to establish their capability, experience and suitability etc. The purpose of the SQ is to select a shortlist of 5 (or more) suppliers which are likely to meet the tender requirements.
 - Stage Two (Award) - Shortlisted suppliers which meet the selection criteria are then invited to tender. All tenders are evaluated in line with the methodology and award criteria set out in the tender documentation.

The Restricted procedure is best used where:

- It is anticipated that a large number of suppliers will respond to the advertised Contract Notice; or

- The requirements are typically complex, with a relatively detailed Selection and Award evaluation process.
- (iii) “Competitive Dialogue” procedure, a competitive procedure with negotiation for more strategic, complex or high value projects. The competitive dialogue procedure is best used where the contract is complex and cannot be purchased “off the shelf”. , for example, where the purchasing body has not fully prescribed the scheme and wishes to use the purchaser’s expertise and knowledge to innovate and find the optimum solution. Competitive Dialogue is often used in developer procurements where local authorities wish to exploit the expert knowledge of developers under competitive tension to determine the best solutions.
- (iv) “Competitive Procedure with Negotiation” - similar to Competitive Dialogue however, the competitive with negotiation procedure allows the contracting authority flexibility around whether to negotiate - it is possible to reserve the right (by stating this in the OJEU advertisement) not to negotiate and to simply award the contract based on initial tenders submitted. This reservation is not possible in the competitive dialogue procedure.

That said, the competitive dialogue procedure contains more flexibility around negotiation with the winning bidder provided this does not modify the essential aspects of the contract or procurement or amount to a distortion of competition. It is not possible to negotiate following submission of final tenders if you are using the competitive procedure with negotiation process.

3.10 Having obtained and considered external professional project management and procurement advice on how to best bring the OCP scheme to the development/investment market, Economic Development officers have concluded that the Open and Restricted procedures are not appropriate in this instance as:

- (i) the Council's needs cannot be met without adaption of readily available solutions;
- (ii) the contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial makeup of the service(s) required or because of the risks attached to them. Because, in this case the Council does not wish to prescribe the full and final detail of the scheme, it is considered that negotiation will be required in order to optimise the solutions that are arrived at and
- (iii) the Scheme’s technical and construction specifications cannot be established in advance with sufficient precision by the Council.

3.11 As the Council is hoping to invite innovative proposals from the market to propose bespoke solutions (financial, technical and legal) for the delivery of the Scheme the Council will want to negotiate with the bidders before selecting a final solution that is best capable of meeting its needs. The ‘Competitive Dialogue’ and ‘Competitive Procedure with Negotiation’ procedures provide this capability to negotiate with the shortlisted bidders but the latter option precludes the ability for the Council to continue negotiating with the preferred bidder following submission of the final tender. This means the loss of the capability to continue the negotiating dialogue to the point where

the best solution and terms of agreement for the delivery of the scheme may be obtained by the Council.

- 3.12 It is recognised that the suggested Competitive Dialogue procedure which, although potentially complicated and costly both to the Council (although budget resources are in place to cover the appointment process) and certainly to any developer interested in submitting a proposal, early feedback from interested parties indicates that there is an acceptance that such commitment would be acceptable on their part so long as this is reciprocated in terms of similar commitment by the Council. It is believed that there is no need at this stage for the Council to be explicit about what wrap around measures it is prepared to undertake to secure the delivery of the project and it would be sufficient for the OJEU notice to indicate that the Council will be open to such considerations. This would leave the way open for the bidders to put forward suggestions as to what these measures might be as part of their “innovative” approach to delivering the project and the Competitive Dialogue mechanism would provide the Council with the ability to continue negotiations on a preferred solution after receipt of Final submissions and before accepting and proceeding with delivery of the scheme.
- 3.13 It is therefore recommended that the Council adopts the Competitive Dialogue procedure as it:-
- (i) restricts the number of organisations invited to tender (making the tender evaluation more manageable),
 - (ii) allows for more market innovation
 - (iii) enables a best fit solution to be developed through detailed dialogue,
 - (iv) provides the flexibility to negotiate with the preferred bidder after final tenders (provided this does not change 'essential aspects' of the tender or the nature of the procurement) but in the acknowledgment that the procedure is not risk free. The CD Procedure does not provide room for the Council to change its requirements, the market can only be asked to develop the requirements set out in the tender documents, measuring these by using objective transparent evaluation criteria to assess the market's response, and ultimately make an award decision. It should also be acknowledged that the risk of challenge rises as the process develops as costs incurred by the remaining bidders are substantial. These risks can however be managed by the Council, if it chooses, obtaining appropriate additional professional advice.
- 3.14 In addition officers did consider the possibility that the Council may wish to deliver the site whilst avoiding the need for an OJEU process by simply offering the site for sale to a single developer or through a wider informal bidding process. However it was concluded that this was not appropriate given the Council's:
- (i) recognition of the wider development sector's expressed interest in the opportunity,
 - (ii) need to illustrate that a transparent process has been followed to appoint a preferred developer,

- (iii) need to control the quality and timescales of the development process.
 - (iv) wish to encourage the private sector to present innovative solutions that will deliver the desired scheme and regeneration outputs whilst also minimising the Council's risks and financial contribution
 - (v) preference to maintain the ability to continue competitive negotiations with the preferred development partner after the final tender stage in order to ensure that amendments and refinements to the preferred bid can be discussed and negotiated so that a collaborative and risk-sharing approach may be adopted to produce a final detailed scheme that meets both Parties needs and aspirations.
- 3.15 It must be recognised that without an end user prepared to lease the offices on a basis which reimburses any development costs and developer's profit, it is possible that some bidders will require Council support to deliver the development on a viable basis within the March 2021 timeframe to be specified. However, the scoring criteria and provision for competitive dialogue will ensure that solutions are identified and developed which minimise any Council support required.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 One City Park is a key site in Bradford City Centre, which is identified as a Leeds City Region "Urban Growth Centre" spatial priority area in the LEP's Strategic Economic Plan 2016/36. As such the West Yorkshire Combined Authority (WYCA) has approved in principle grant funding of £5.2 million to support the scheme. This funding is on the basis that the construction of the scheme will be completed by the end of March 2021.
- 4.2 £400,000 out of the £5.2m was allocated for spend in 2015/16 on enabling works to demolish the Tyrls building (former police station) and rehabilitate the OCP site for future development. The funding agreement for this initial £400,000 was completed in the form of a repayable loan with WYCA and the monies drawn down in March 2016. The amount repayable to WYCA will be settled from capital receipts from the sale of the site following completion of the development.
- 4.3 The remaining funding of £4.8 million is approved in principle subject to a funding agreement being agreed between the Council and WYCA.
- 4.4 As well as the WYCA funding the Council may, as a result of the exercise to procure a preferred development partner and the agreement of a suitable delivery solution, need to make available additional resources (as referred to at Paragraphs 3.4–3.6 above) to ensure the timely delivery of the OCP scheme on a financially viable basis. The competitive dialogue process will be managed in such a way as to minimise any such requirements with all proposals being subject to rigorous assessment and negotiation. Should any such additional resource requirements emerge through the competitive dialogue procedure and project development process, the Council would not be committed to accepting these. Such additional resource requirements will be presented through the appropriate corporate and committee bodies for consideration prior to entering into contract.

- 4.5 All costs incurred by the Council in carrying out the full procurement exercise will be covered by dedicated funds currently allocated within existing Department of Place, Economy and Development revenue budgets.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 The Governance responsibilities for the project will rest with the Strategic Director Place and Project development and management activities will be led by the Assistant Director, Department of Place (Economy and Development).
- 5.2 The desired objective of appointing a Partner in April 2019 and completing the project by March 2021 is tight but achievable and needs to be maintained in line with WYCA's funding requirements.

6. LEGAL APPRAISAL

- 6.1 Legal Services have considered the recommendations made by external professional project management on the procurement route, and have confirmed that the proposed Competitive Dialogue procedure is an OJEU compliant process. It is recommended that:
- (i) following completion of the outlined process to appoint a preferred Development Partner, a Development Agreement and associated legal documents is negotiated between the Council and the preferred Developer in order to set out the parties' obligations, responsibilities and actions to deliver the OCP scheme. These will be produced under the direction of officers of EDS in collaboration with both Legal and Financial Services, and
 - (ii) appropriate steps be taken to ensure that any conditions attached to the WYCA grant will be satisfied by the preferred developer.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

At this stage there are no specific equality and diversity issues

7.2 SUSTAINABILITY IMPLICATIONS

The successful development of the site will promote the economic, physical and environmental sustainability of the city centre. Specific building performance issues will be addressed through the project development process.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

Any potential impacts will be identified as part of the project development processes and will inform design and future management issues as required.

7.4 COMMUNITY SAFETY IMPLICATIONS

There are no community safety implications at this stage; however these will be monitored as work progresses.

7.5 HUMAN RIGHTS ACT

There are no Human Rights implications

7.6 TRADE UNION

There are no Trade Union issues.

7.7 WARD IMPLICATIONS

none.

7.9 IMPLICATIONS FOR CORPORATE PARENTING

None.

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 With the strategic need and objectives outlined in Section 3 above there are a number of options that the Council may now pursue:

9.1.1 Option One

To leave the OCP site undeveloped until such time as local business growth and the performance of the property market improves to an extent where the private development/investment sector undertakes such projects on a speculative basis, and without any intervention or assistance from the Public Sector. At such a time the option to simply put the subject site on the market for sale and development may be a practical and viable option albeit the Council would have limited control over the development process other than that provided by the planning system. Given market frailties there is a risk in this scenario of a prolonged and indefinite period in which the site will remain undeveloped and / or the possibility of an undesired use being promoted by the purchaser. This would also put in doubt the ability to utilise LGF funding earmarked for the site given uncertainties relating to the terms and eligibility of granting a private sector purchaser.

9.1.2 Option 2

To proceed with the procurement process, using the competitive dialogue procurement procedure, to appoint a Development Partner by April 2019 as suggested in Section 3 above. This approach would mean the Council being able to seek innovative solutions from potential development partners to address the current market challenges that have restricted the delivery of such schemes in the past. The Competitive Dialogue procedure would enable the Council to negotiate with the bidders throughout the procurement/appointment process and provide the ability to develop and refine the proposals over a period of time to ensure that the final preferred proposal provides a solution that meets the Council's strategic economic and regeneration objectives, mitigates the risks to a level and generates adequate returns to the satisfaction of both parties and delivers a scheme can be implemented within the WYCA/LEP grant funding timescale requirements.

- 9.2 The recommendation is that the Council proceeds with Option Two above, and because the Council is looking for market led solutions (financial, technical, legal) from a partner with an established track record in delivering similar projects who is able to take an innovative and risk-sharing approach in respect of the OCP scheme proceeds with work to appoint a such a partner by April 2019 using the competitive dialogue procedure. The competitive dialogue procedure allows the Council to enter into dialogue with potential bidders to develop one or more suitable solutions on which the chosen bidders submit a tender. The Council intends to use the competitive process to generate innovative solutions from the market that will bring investment into Bradford, reduce the public sector financial contribution and deliver successful regeneration.

10. RECOMMENDATIONS

10.1 That Members:

- (a) Approve the issue of the requisite OJEU notice to commence the process to procure a preferred Development Partner for the One City Park scheme using the Competitive Dialogue procurement process as outlined in this report and to be conducted by the Director of Place in consultation with the Finance, Procurement and Legal Services.
- (b) Instruct the Strategic Director Place to provide a future report to the Executive to outline the outcome of the approved procurement process and to seek approval for the appointment of a preferred Development Partner and development/delivery proposals for the OCP scheme.

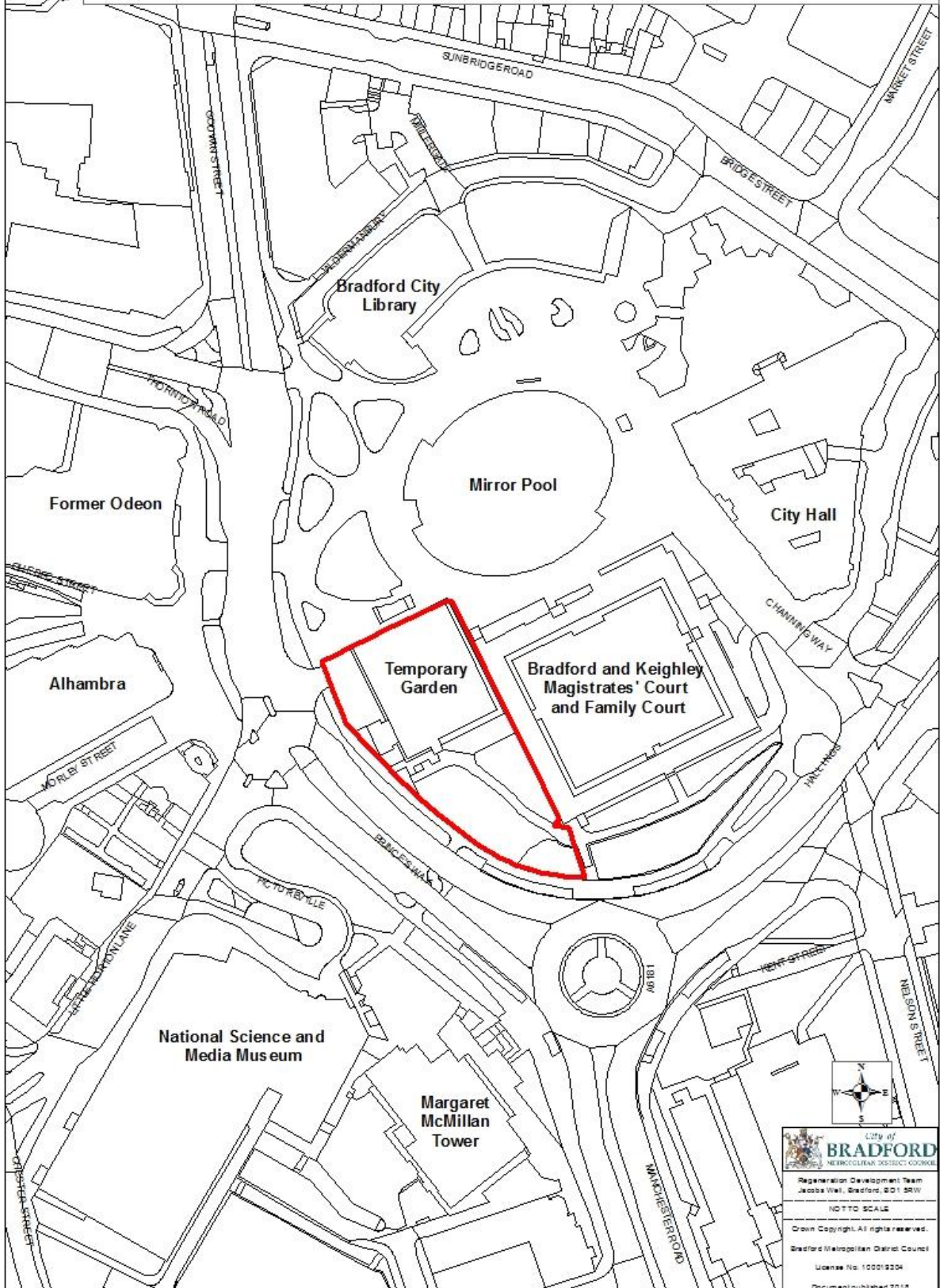
11. APPENDICES

Appendix 1 – Plan of the One City Park Development Site.

12. BACKGROUND DOCUMENTS

None

Appendix 1 - Plan of the One City Park Development Site






Regeneration Development Team
 Jacoba Well, Bradford, BD1 5RW
 NOT TO SCALE
 Crown Copyright. All rights reserved.
 Bradford Metropolitan District Council
 License No. 100019204
 Document published 2019