

Report of Director of City Development

Report to Executive Board

Date: 6th November 2013

Subject: Bridgewater Place

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): City and Hunslet	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The wind-generated issues around Bridgewater Place continue to be the responsibility of the building's owners and designers to resolve.
2. Following the receipt of numerous representations about the conditions around Bridgewater Place during construction and shortly after opening, Leeds City Council has taken a firm and clear stance to ensure a comprehensive solution is identified and implemented. This has centred on the owners finding a permanent solution covering the immediate area around Bridgewater Place and also the public highway. Their correspondence gave us confidence this matter was being treated seriously and urgently.
3. In addition, following site investigations and in direct response to the concerns being expressed about the risk of pedestrians being blown into the road, the Council took action to install concrete barriers and guard railing in April and July 2008. The concrete barriers were subsequently replaced by guard railing. Overall approximately 180 metres of guardrail have been put in place around the building.
4. The work to identify a comprehensive solution has involved highly specialist work and world renowned consultants. To reinforce our proactive stance, on a without prejudice basis, LCC has jointly funded this work to ensure the appropriate solution is brought forward as soon as possible.

5. Because of the complexity of the work involved a comprehensive solution was elusive and despite many test iterations the results suggested that the wind problems affecting the highway could not be resolved. LCC again took proactive action and employed further specialist consultants to explore additional options in 2012. This resulted in a comprehensive solution being identified and verified by wind tunnel testing earlier this year.
6. Since this comprehensive solution was identified with structures/ baffles within the highway, the agents acting on behalf of the owners have been consistent, in stating that they would progress the design and delivery of mitigation measures only on land within their ownership and not the public highway. They have consistently refused to progress measures to overcome the issues where the solution does not lie on land within their ownership.
7. Accordingly, because of this unacceptable impasse, the Council adopted a twin track approach to ensure progress was made. Firstly, in February 2013 the Executive Board was requested to and agreed to the release of £245k to enable the Council to progress work to design wind mitigation baffles across Water Lane in order to resolve the high wind issues within the highway adjacent to Bridgewater Place. Secondly, and at the same time, to continue to press the owner to progress matters in a holistic manner.
8. At the reconvened Coroner's Inquest in June 2013, the owners confirmed a new position relating to the design of the various elements involved.
9. Members of the Executive Board are therefore requested to note the successful outcome of this twin track approach which has resulted in the owners accepting the need to fund the design of all three elements of the proposals, including the design of the baffles at Water Lane.

Recommendations

Executive Board is requested to:

- i) Note the latest developments and to agree that the Council holds in abeyance its commission with consultants to design baffles across Water Lane. This follows the receipt of written confirmation from the agents acting on behalf of the owners of Bridgewater Place, that they will progress through design and planning permission the three identified wind mitigation measures, comprising baffles across Water Lane, a canopy and vertical screens to the building.
- ii) Note:
 - i. As this report is concerned with agreeing to hold in abeyance the design work on a scheme, the action will be complete when approval is granted by the Executive Board.
 - ii. The decision will take immediate effect.
 - iii. The Chief Officer of Highways and Transportation will be responsible for advising the owners of Bridgewater Place of the Council's decision.

1 Purpose of this report

- 1.1 To request approval from the Executive Board to hold in abeyance the Council's current commission with consultants to design highway baffles across Water Lane on the grounds that Bridgewater Place's owners have confirmed in writing they will progress a comprehensive wind mitigation scheme, including the highway baffles, through design and planning permission.

2 Background information

- 2.1 An impasse had been reached in that the agents on behalf of the owners had refused to design the baffles across the public highway in Water Lane.
- 2.2 Accordingly, the Council adopted a twin track approach to pursue and fund the design of the baffles and at the same time to continue to press the agents to progress matters in a holistic manner.
- 2.3 In February 2013 the Executive Board gave permission to:
 - i) Note the contents of the report dated 15th February 2013 in terms of the background information, interim mitigation solutions on the ground and work in progress towards a comprehensive solution.
 - ii) Endorse the continued development of work towards an agreed and deliverable solution to the wind issue.
 - iii) Support the principle of the proposed baffles above the highway on Water Lane and seek Authority to Spend for continued wind testing, legal support, highway officer time and engineering design work of £245k to enable a detailed design to be provided for a baffle solution. A further report will be brought back to Executive Board to cover the details of the design of the baffles and the cost of implementing them.
- 2.4 Since that time a contract to design the baffle works has been awarded to Buro Happold and significant progress has been made with the site investigation, foundation design and form and location of the baffle structures across the highway on Water Lane.
- 2.5 In late June 2013, at the resumed inquest into the death of Dr Slaney, the Building Owner's confirmed that they were in a position to design the entire mitigation scheme and submit a comprehensive planning application for the whole scheme. This was contrary to their original position. As a consequence of this statement, further discussions have been held with them and they have now agreed to commission Buro Happold to undertake the project management and design of the entire wind mitigation scheme including the highway baffles, the building canopy and tall vertical screens. Written confirmation was received by the Director of City Development on 20 September 2013.
- 2.6 Leeds City Council will still have a role in agreeing the technical detail of the highway baffles in its capacity as Highway Authority and in reviewing the design of all

elements of the wind mitigation package in consideration of the forthcoming planning application as Planning Authority.

- 2.7 Whilst this proposed amendment to the project design team will lead to a delay (relatively minor) in the submission of a planning application for the highway baffles it is desirable to have one party in overall control of a comprehensive design of the entire mitigation package to ensure that all elements work together as intended and provide a more cohesive design solution in terms of effectiveness, materials and visual appearance.
- 2.8 The agents acting on behalf of the owners have indicated a planning application for the full wind mitigation scheme is expected to be submitted on behalf of the owner by the end of 2013.

3 Main Issues

- 3.1 The Council has taken a firm and proactive stance on this issue, working closely with the owner of Bridgewater Place to identify the best mitigation measures which are both proportionate and achievable and ones which will effectively address the wind issues within the highway in the vicinity of Bridgewater Place. This leadership has been necessary due to the refusal (prior to June 2013) of the building owner to take responsibility for remedial measures outside the parameters of their own land. The Council's funding of the highway baffles has always been on the basis that such funding was a necessary expedient to ensure that the highway works were progressed without any undue delay, and was on the basis that the Council's expenditure would be recouped.
- 3.2 The current position is that the Council's wind experts have identified a potential 'solution', which comprises a number of 4m deep shaped baffles placed 6m above the highway across Water Lane. These options have been tested through the CPP, Inc wind tunnel including the proposed canopy plus two differing baffle options of four baffles of varying length and alignment over the highway and tall screens adjacent to the building corner. The results of the wind tunnel testing confirmed that both options (referred to as AH and AI, see Appendix 1) performed significantly better than any of the other options previously tested and were the only options which returned the site to conditions approaching those which would normally be considered acceptable as part of a planning submission. When assessed in terms of "annual conditions" neither option had any locations which failed the distress criterion. In "worst season" conditions the options only had one test point which marginally failed the distress criterion, but as the affected area was very localised this could be improved upon with localised measures. In terms of comfort, neither option resulted in conditions which would be classified as "uncomfortable" for use as primary pedestrian access routes. LCC's position is that either option would be acceptable.
- 3.3 The owners have expressed their preference is for option AH which is a smaller canopy, larger screens and 4 baffles over Water Lane. The Council is content for the owners to pursue this option subject to local measures being implemented to address the one remaining point of potential distress conditions.

- 3.4 A significant amount of work has been undertaken under the terms of the Council's contract with Buro Happold. There was potentially an additional 7 – 8 weeks worth of work remaining before being in a position to submit a planning application. The appointment of Buro Happold by the owners will mean that the work undertaken to date will still be relevant to the new commission, so delays will be minimised.
- 3.5 There are significant benefits to the Council in agreeing to the owners taking responsibility for the whole mitigation scheme in terms of:
- Keeping the design for the whole wind mitigation scheme in keeping with itself and the host building of Bridgewater Place
 - Ensuring that a single designer is responsible for checking the interaction between the different aspects of the scheme to ensure that one element of the scheme does not cause unexpected interactions with another
 - Ensuring that all of the wind mitigation issues are addressed (including the local measures required) rather than both designers expecting the other to deal with those issues.
 - Keeping roles and responsibilities clear.
- 3.6 Whilst it was the Council's preferred course of action from the start for the owners to take on the design of the entire mitigation scheme, it was only following the resumed Inquest on 24th and 25th June 2013, subsequently adjourned until 3rd December 2013, that the owners changed their position, which has now been confirmed in writing.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Consultation on the contents of this report is not appropriate.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 This report considers the change of design responsibility from Leeds City Council to a private building owner. As such, it is not appropriate to complete either an Equality, Diversity, Cohesion and Integration Screening or Impact Assessment.

4.3 Council policies and City Priorities

- 4.3.1 These proposals are in accordance with Council Policies and City Priorities.

4.4 Resources and value for money

In taking a proactive twin track approach to this matter, LCC has expended significant resources to find a comprehensive solution to this problem which ultimately is the responsibility of the owners of Bridgewater Place.

The Council's position is that it will seek to have all funds expended on this matter, including the proportion of the £245k approved by Executive Board in February 2013 that has been spent over the last few months, reimbursed in full.

4.5 Legal Implications, Access to Information and Call In

There are no direct legal actions arising from this particular report but there are other active and pending legal actions associated with the wider issue.

4.6 Risk Management

4.6.1 A comprehensive risk assessment and option appraisal about the existing risks of high wind events around Bridgewater Place has been undertaken and reviewed by the Risk Management Unit. Recommended actions taken since the tragic accident on 10 March 2011, have included the following:

- a diversion for high-sided vehicles in windy conditions which has recently been replaced by a permanent ban for Heavy Goods Vehicles
- additional warning, pedestrian and cyclist signing
- 24-hour windspeed monitoring
- Additional guard railing near to the Grove PH

4.6.2 Whilst it is pleasing to note that the owners have now confirmed they have appointed consultants to design the three elements of the comprehensive scheme through to planning, their agents have not been able to confirm they have approvals to progress to the construction phase. In the event that the building owners refused or failed within a reasonable time-scale to construct all of the elements of their wind mitigation scheme (including the highway baffles and screens which are on Council land), then one of the options available to the Council would be to commence proceedings against them to obtain an injunction to compel them to do so.

4.6.3 Whilst a concept design has been identified which seems to offer the comprehensive solution sought, the buildability of the proposals is a significant challenge given the specialist design of the baffles in particular, the need for significant foundations for the baffles and the presence of significant statutory undertakers equipment in the carriageway.

5 Conclusion

5.1 The Council has pressed the owners and their agents for a comprehensive solution since early 2008. It has also taken positive action in terms of installing measures on the highway, appointing specialist consultants and initiating design work on the baffles, in the absence of others progressing this work, incurring significant expenditure in doing so. The firm and proactive twin track approach has finally culminated in the owners agreeing to appointing Buro Happold to work on the three elements of the comprehensive scheme.

5.2 The appointment of Buro Happold means any delay to the programme to submit a planning application will be kept to a minimum. The benefits of having one design team responsible for the whole wind mitigation package significantly outweigh any small delay to the programme to submit a planning application for the highway baffles. The latter is expected before the end of this calendar year.

5.3 Leeds City Council will still have an involvement in the review of the design of the highway baffles in relation to its statutory roles as Highway and Planning Authorities.

6 Recommendations

6.1 Executive Board is requested to:

- iii) Note the latest developments and to agree that the Council holds in abeyance its commission with consultants to design baffles across Water Lane. This follows the receipt of written confirmation from the agents acting on behalf of the owners of Bridgewater Place, that they will progress through design and planning permission the three identified wind mitigation measures, comprising baffles across Water Lane, a canopy and vertical screens to the building.
- iv) Note:
 - i. As this report is concerned with agreeing to hold in abeyance the design work on a scheme, the action will be complete when approval is granted by the Executive Board.
 - ii. The decision will take immediate effect.
 - iii. The Chief Officer of Highways and Transportation will be responsible for advising the owners of Bridgewater Place of the Council's decision.

7 Background documents¹

7.1 Ongoing wind testing, relating to the micro-climate around Bridgewater Place, has been provided in various external reports. The information contained in these reports has been restricted under the Environmental Impact Regulations 2004 due to the nature of the ongoing studies and is designated as exempt under Access to Information Rule 10.4(3).

8 Appendices

8.1 Appendix 1 – Wind tunnel testing option AH

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.