

Report of the Director City Development

Report to Executive Board

Date: 20 April 2016

The First White Cloth Hall and the Lower Kirkgate Townscape Heritage Initiative

Are specific electoral Wards affected?	🛛 Yes	🗌 No
If relevant, name(s) of Ward(s): City and Hunslet		
Are there implications for equality and diversity and cohesion and integration?	🛛 Yes	🗌 No
Is the decision eligible for Call-In?	🛛 Yes	🗌 No
Does the report contain confidential or exempt information?	🛛 Yes	🗌 No
If relevant, Access to Information Procedure Rule number: 10.4(3)		
Appendix number: 5		

Summary of main issues

- Lower Kirkgate is Leeds' first street and home to the iconic First White Cloth Hall (see Appendix 1). However, Kirkgate (west of Vicar Lane) requires significant investment. To address this the Council bid to the Heritage Lottery Fund which awarded £1.505m to undertake conservation standard repair and restoration works to the FWCH and other properties in the area as part of the Lower Kirkgate Lower Kirkgate Townscape Heritage Initiative (THI).
- 2. The introduction of the THI has led to the refurbishment of 92 Kirkgate and several owners have secured planning permission in the lead up to applying for grant aid. However, there are still impediments to achieving the council's regeneration aims, most notably the restoration of the FWCH. On 25th June 2014 Executive Board gave authority to enter into a 300 year lease with the owner, City Fusion, as part of the Council's plans to secure the future of the building. However, it has not been possible to secure a lease agreement with the owner on terms that are acceptable to both parties. Given the state of the FWCH and the time limited grant funding it is now imperative that the building's future is secured hence the need to acquire the freehold and to commence the design process so that its repair is not delayed. If acquisition cannot be achieved through negotiation the council is prepared to use its compulsory purchase powers to acquire the property and to secure the regeneration of Kirkgate as envisaged by the THI and the adopted Lower Kirkgate Planning Statement.

Recommendation

- 3. Executive Board is recommended to:
 - (i) Authorise the Director of City Development to purchase the freehold of the First White Cloth Hall;
 - (ii) Authorise the Director of City Development to progress the procurement of a multi-disciplinary design team to develop proposals for the refurbishment of the First White Cloth Hall by a mini competition for firms within Lot 4 (Architecture) of the Fusion 21 Framework and, that the evaluation criteria to be used to assess the suitability of bidder's to undertake the commission is split 60% quality and 40% price;
 - (iii) Authorise the Director of City Development, in liaison with the Executive Member (Regeneration, Transport and Planning), to take the actions recommended in the Appendix 5 should a Compulsory Purchase Order (CPO) be the only alternative to acquire the building and to secure the proper restoration of the First White Cloth Hall and surrounding land within Lower Kirkgate ; and
 - (iv) Note that the Programme Manager (Major Projects) will be responsible for Implementation.

1 Purpose of this report

1.1 This report seeks approval to purchase the freehold of the First White Cloth Hall (FWCH) and to procure a multi-disciplinary design team to develop proposals for the refurbishment of the FWCH. The report also seeks support to take the regeneration actions as recommended in Appendix 5 (confidential under the Access to Information Procedure Rule 10.4(3)).

2 Background information

- 2.1 In April 2013, the Heritage Lottery Fund (HLF) awarded the Council a new Townscape Heritage Initiative (THI) for the Lower Kirkgate area of the city centre. The THI consists of a time limited programme of capital investment in commercial properties, backed by grant aid and private sector match funding. The amount awarded by the HLF was £1.505m, match funded by £668k from the capital programme. A further £250k has been earmarked for the FWCH from Historic England and the THI as a whole is expected to attract some £1.5m in private match funding.
- 2.2 The FWCH is owned by City Fusion and is in derelict state with approximately one half of the building having been demolished in 2011, following the collapse of the neighbouring 101 Kirkgate. It is a grade II* listed building which is also on Historic England's 'Buildings at Risk Register' and is assessed as an "extreme risk", its highest priority category. The property is in a fragile condition and requires significant investment which the owners have not been able to provide. Council officers have spent over 12 months seeking to negotiate a 300 year lease of the building with the owner but it has not been possible to reach agreement. In parallel with these negotiations the council has sought to minimise the rate of deterioration of the FWCH and in August 2015 an urgent works notice was served on the owners to compel them to undertake repairs to the building. These repairs have now been undertaken. However, the FWCH remains in a fragile state and requires significant investment in the next few years to ensure its long term survival. In addition the council has procured designers and engineers a feasibility of the building to guide the design and management of the restoration works needed to secure the building for the long term.
- 2.3 Given the lack of agreement in securing a long term lease, the council instigated negotiations to acquire the freehold of the property by private treaty in December 2015. Should these fail the council will need to consider the use of its statutory powers given the condition of the building and its importance historically. The powers available to the local council should negotiation by private treaty fail are outlined in paras. 4.5.1 to 4.5.3. Following acquisition of the property, the Council considers that the building can be restored and a financially viable use found for it that would also allow users to experience this important historic building.
- 2.4 With its professional design advisors the council has carried out investigative works comprising surveys to determine the condition of the building and produced an option appraisal of potential uses that the building could be put to. The next stage is to appoint a design team to develop the option appraisal into a scheme proposal sufficient to submit for planning permission and listed building consent, equating to taking the scheme from RIBA Stage 2 (Concept Design) to RIBA Stage 7 (In use). The design team's initial appointment will be to completion of RIBA Stage 3

(Developed Design), sufficient to apply for planning and listed building consent and then, thereafter, their ongoing appointment and the form of such appointment will be subject to receiving the necessary consents, acquiring the property, their performance to completion of RIBA Stage 3 and, the approach to the appointment of the contractor being agreed.

3 Main issues

- 3.1 The Planning Statement for Lower Kirkgate was adopted in 2011 following an extensive consultation with the public, local businesses and several amenity bodies. The Statement's vision was to secure the future of the historic fabric of Kirkgate and to start a process of sustainable and long lasting regeneration by:
 - (a) working collaboratively with key stakeholders and involving the local community;
 - (b) reinforcing, preserving and enhancing the strong identity, character and distinctiveness of the area and its buildings;
 - (c) investing effectively in good sustainable design;
 - (d) re-connecting and restoring confidence in Kirkgate as a place at the heart of City Centre activity;
 - (e) acting as a catalyst to close the gap between neighbouring areas within the City Centre, and also to those on its edge.
- 3.2 Central to the achievement of these objectives is firstly to consider how best to achieve the future of the First White Cloth Hall and secondly how to ensure that the regeneration of the wider Kirkgate area is secured before the existing grant aid expires in March 2020.

First White Cloth Hall

- 3.3 The iconic structure within the THI is the grade II* listed First White Cloth Hall (FWCH) which set the scene for the city's rapid mercantile expansion from the 1700s. The owner City Fusion has been unable to bring forward a refurbishment scheme for the FWCH and it has not been possible to agree the long term lease to facilitate its repair. Notwithstanding the action that City Fusion has undertaken in response to the urgent works notice served in August 2015, any further uncertainty or the prospect of further delay is not acceptable to the council given its condition and the need to commit grant funding in a timely manner. Due to the historical significance of the building, it is recommended that the Council acquires the freehold of the building to secure its future and to bring about its refurbishment and reuse. The capital programme has £2.6m earmarked for the FWCH as such the Council now has a fully funded restoration scheme based on an extensive outline design and feasibility process which has had the support of Historic England. In addition to securing the freehold, the next stage of the project will involve the production of a detailed design of the repair and restoration works required for the FWCH through an OJEU tender framework, Fusion 21, to ensure that appropriately qualified and experience designers are appointed.
- 3.4 Given the time constraints faced and need to ensure that the designers have particular skills and experience in restoring heritage buildings it is proposed to use the Fusion 21 Framework in compliance with the Public Contract Regulations 2006 (as amended) via a two stage selection process offers (amongst other services) the

provision of architectural consultants (Lot 4). The timescale to appoint the design team under this Framework, using a mini competition, is around 3 months whereas option 3, OJEU European procurement restricted procedure option would take 6-7 months. Discussions have been held with Historic England and they have advised they would have no objections to the use of this Framework to appoint the design team. Similarly HLF have advised it is acceptable to use this framework for the appointment of the design team.

Wider Regeneration and Other Kirkgate Properties

- 3.5 Kirkgate includes 14 buildings apart from the FWCH. Whilst they are not listed they make an important contribution to the conservation area in that part of the city. However, at present there are 10 (66%) vacant properties in addition to upper floor vacancies or low level storage uses across most of the occupied properties. The THI aims to return 2971m² floorspace back into productive use by generating increased commercial vitality through the introduction of new uses attracted by the areas visible improvements. Depending on the configuration of uses it is estimated that this could increase employment within the Kirkgate frontage by 28-80 people.
- 3.6 So far the THI grant has been used to restore 92 Kirkgate and has introduced a new independent café/ bakery / bar use called Wapentake (see Appendix 3). The owner has recently acquired another property and it is hoped that this along with another two properties will commence onsite this financial year. Whilst 92 Kirkgate provides proof of the potential of Kirkgate to regenerate there are other properties where the development programme is less certain despite the availability of grant thus posing a risk to the comprehensive regeneration envisaged by the THI and the adopted Planning Statement and to the character of this part of the conservation area. The recent fire at 103/104 Kirkgate, which follows the collapse of 101 Kirkgate (which brought down the west wing of the FWCH) in 2010, highlights the vulnerability of Leeds's first street (see Appendix 3a) and the need to take the opportunity to arrest its decline following a careful consideration of the statutory powers available to the Council.

4 Corporate ConsiderationsConsultation and Engagement

- 4.1.1 The Executive Member (Regeneration, Transport and Planning), Legal Services and Development Management have also been consulted on the report along with the Lower Kirkgate Project Board, chaired by the Director of City Development.
- 4.1.2 Ward Members and a range of heritage organisations including Historic England, Leeds Civic Trust, Victorian Society and the West Yorkshire Archaeological Advisory Service (WYAAS) have also been consulted on the general THI proposals, along with property owners within the THI area.
- 4.1.3 The Councils Procurement Unit has been consulted to identify the appropriate procurement route. The Unit has also reviewed the terms and conditions of the Fusion 21 Framework and confirmed they are suitable for use from a legal perspective.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Giving due regard to equality, the proposals in this report has been subject to an Equality Screening, which is appended to this report (Appendix 4). The grant application process will involve monitoring to retrospectively evaluate the performance of applications from different groups. However, the THI was subject to an equality screening and this concluded that the training and awareness raising will potentially give rise to equality impacts in terms of the selection of candidates.

4.3 Council Policies and Best Council Plan

4.3.1 The project will support the Council Policies and Best Council Plan 2013-17 objectives which support economic growth and access to economic opportunities and also the Breakthrough Project of 'World class events and a vibrant city centre that all can benefit from'. It will do this by providing grant aid and development expertise to help address market failure in marginal and heritage rich buildings on the edge of the city. Without this intervention it is possible that some of the built environmental that helped to make Leeds a regional centre will be lost or that vacant spaces that could be used by new enterprises remain unavailable losing an opportunity to create a distinctive independent commercial offer to complement existing city centre businesses.

4.4 Resources and value for money

- 4.4.1 The project will bring investment to the city in the region of £3.3m, most of which would not otherwise occur. The restored buildings will create space for between 28-80 employees and will assist in promoting better energy efficiency and building maintenance practices within the THI and beyond through promotional activity. As such the project represents good value for money for Leeds residents and businesses. The level of match funding required to support the initiative is already part of the Council's capital programme.
- 4.4.2 Except for officer time, it is not envisaged that there will be any costs associated with the procurement of the design team to develop the scheme proposals for the proposed refurbishment of the FWCH. The capital funding required to restore the FWCH has been secured, in addition to capital grant support to repair other properties.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Under s48 of the Planning (Listed Building and Conservation Areas) Act 1990 the Council has legal powers to serve a notice setting out the repairs needs for the proper preservation of a listed building. If the building is not repaired within the requisite period then Council may then serve a Compulsory Purchase Order under Section 47 of the above Act and, if the Order is confirmed by the Secretary of State, proceed to acquire the building in accordance with the Acquisition of Land Act 1981.
- 4.5.2 Alternatively, the Town and Country Planning Act Section 226(i)(a) contains powers to acquire land to facilitate the carrying out of development. Section 226(1)(b) authorises the compulsory acquisition of land for the proper planning of the area. If the Council proceeds under (a) it must also demonstrate that the development is likely to contribute to the promotion or improvement of the economic, social or environment well-being of their area. In order to be successful in securing a compulsory purchase order under the Planning Acts, the Council would have to satisfy the Secretary of State:

- that it had made reasonable efforts to acquire all the order land by negotiation;
- that it had funding available to ensure there was a reasonable prospect of the Scheme going ahead;
- that there were no planning impediments to the delivery of the Scheme
- 4.5.3 Government Guidance on Compulsory Purchase Process and The Crichel Down Rules October 2015 states that CPO's should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purpose for which the CPO is made justify interfering with the human rights of those with an interest in the land effected. Particular consideration should be given to the provisions of Article 1 of the First Protocol of the European Convention on Human Rights.
- 4.5.4 The Council acknowledge that all consultant appointments need to comply with all applicable current public procurement legislation, namely Public Contract Regulations 2015 (PCR 2015), when purchasing any goods or services for the proposed capital project.
- 4.5.5 There are a large number of enabling powers for the purpose of which land can be acquired. The purpose for which an acquiring authority seeks to acquire land will determine the statutory power under which compulsory purchase is sought.
- 4.5.6 The Council also has the power to promote regeneration such as those encompassed within the Lower Kirkgate THI under its well-being powers within Section 1 of the Localism Act 2011 which allows local authorities to "do that individuals generally may do", unless explicitly prohibited elsewhere in law.
- 4.5.7 The restoration of the FWCH can be undertaken using powers under Section 2 of the Local Authorities (Land) Act 1963 which permit the Council to "erect any building and construct or carry out works on land" (not just our own land) where this is for "the benefit or improvement" of the city. THI schemes are compatible with the Grant Block Exemptions Regulations 2014-2020 (aid for culture and heritage conservation), specifically NN 11/2002 which applies to the National Heritage Memorial Fund, of which the THI is a part.
- 4.5.8 The information in Appendix 5 of this report has been identified as exempt because it contains information which relates to City Fusion Ltd and other businesses within the THI area and its release may prejudice their commercial interests and withholding the information is considered to outweigh the public interest benefit or its release. Further risks, in addition to those outlined in section 4.6, are identified in the confidential Appendix 5 attached to this report which relate to the financial or business affairs of the Council. Disclosure of those risks would be prejudicial to the information as confidential outweighs the public interest in treating this information as confidential outweighs the public interest in disclosing it and that these elements of the report should be treated as exempt under Rule 10.4(3) of the Access to Information Procedure Rules. The report is subject to call in.

4.6 Risk Management

- 4.6.1 A separate risk log has been prepared and is regularly updated. The main risks are as follows:-
 - Design Risk There is a risk that the Council will not acquire an interest in the FWCH which could lead to the loss of some or all of the design costs. However, the urgency of the need to secure the FWCH and potential to lose £750k in grant means that on balance the risk is worth taking.
 - Critical Project (FWCH) all THI projects carry the risk that should the critical properties fail to be delivered then HLF could clawback all or some of the funding. This action can be mitigated by demonstrating that all reasonable steps have been taken to secure development and participation by owners and occupiers. The additional measures outlined in this report pertaining to the FWCH will help to reduce these risks.
 - Non-delivery If the THI does not succeed there will be a risk to the special architectural and historic character of the conservation area and the listed FWCH. In particular there is a risk that without further investment the FWCH could be lost due to building collapse.
 - Costs There is a risk that the fee proposal arising from the procurement process may exceed the allowance for such fees contained within the project cost plan and, that this will only become apparent once the preferred bidder has been identified. If such a position were to arise, it may be necessary to review the scope of service required of the design team in order to ensure compliance with the existing budget provision.

5 Conclusions

5.1 Securing the successful rejuvenation of an area which has suffered market failure is complex. However, the funding opportunities available until 2020 are unlikely to be repeated in the near future. During that time the fabric of Leeds' first street is likely to have deteriorated further even with the use of the Council's planning and building regulations powers and the support of some owners. Hence the need for the Council's statutory powers, including compulsory purchase powers, being considered – the details of which are discussed in Appendix 5 (confidential under the Access to Information Procedure Rule 10.4(3)). The restoration of the First White Cloth Hall would secure Leeds' most important building at risk. As importantly the opportunity to help create a critical mass of independent retailing and to revitalise vacant floorspace for the benefit of the local economy would send a positive signal about the resolve of the Council and its partners to support economic prosperity despite the challenges posed.

6 Recommendation

- 6.1 Executive Board is recommended to:
 - (i) Authorise the Director of City Development to purchase the freehold of the First White Cloth Hall;
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be used to assess the suitability of bidder's to undertake the commission is split 60% quality and 40% price;

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- (iv) Note that the Programme Manager (Major Projects) will be responsible for Implementation.

7 Background documents¹

7.1 None.

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.

Appendix 1: FWCH images now and a restored option



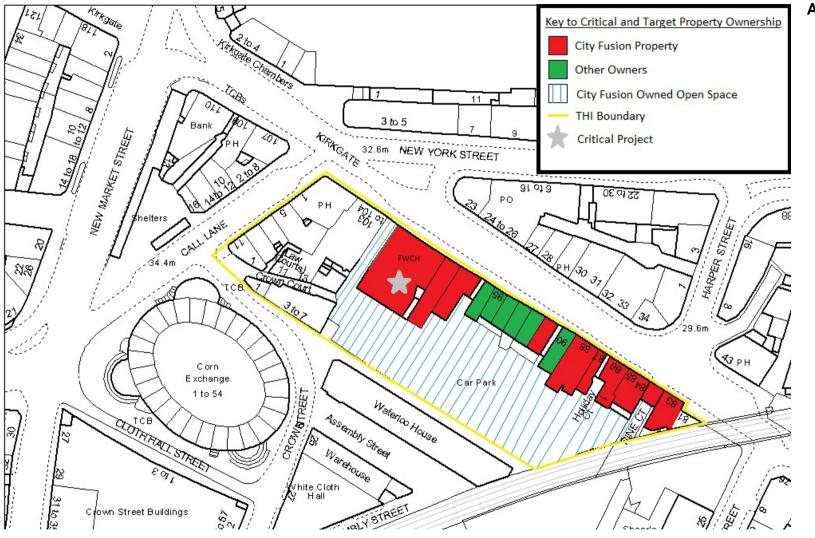
Image A - FWCH



First White Cloth Hall | Kirkgate

Buttress

Image B - FWCH (a restored option; image courtesy of Buttress Architects)



Appendix 2: THI Boundary and Ownerships

Appendix 3: 92 Kirkgate (before and after)





Appendix 3a: Examples of unrepaired properties on Kirkgate

APPENDIX 4: Equality, Diversity, Cohesion and Integration Screening



As a public authority we need to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration.

A **screening** process can help judge relevance and provides a record of both the **process** and **decision**. Screening should be a short, sharp exercise that determines relevance for all new and revised strategies, policies, services and functions. Completed at the earliest opportunity it will help to determine:

- the relevance of proposals and decisions to equality, diversity, cohesion and integration.
- whether or not equality, diversity, cohesion and integration is being/has already been considered, and
- whether or not it is necessary to carry out an impact assessment.

Directorate: City Development	Service area: Regeneration
Lead person:	Contact number:
Franklin Riley	247 8138

1. Title: The First White C	loth Hall	
Is this a:		
Strategy / Policy	Service / Function	Other
If other, please specify		

2. Please provide a brief description of what you are screening

The Lower Kirkgate THI provides capital grants to help property owners address the market failure within Leeds' oldest street. This failure has resulted in valuable floorspace remaining vacant and employment potential unfulfilled especially for new independents operators. The most important building within the THI is the grade II* First White Cloth Hall (FWCH). The main focus of the report is the repair and restoration of the FWCH the main parties to which are known. The wider beneficiaries of the scheme will derive support through the ancillary training and awareness raising being provided by the project. This aspect was the subject of equality screening on 9th May 2014 and reported to Executive Board on 25th June 2014.

The project will raise awareness of local heritage amongst local communities, construction companies and property professionals. This will include the provision of short courses to fill discrete heritage construction skills gaps of construction SMEs

based in the city. This work will complement the Re-Making Leeds scheme that was subject to Equality Screening in May 2014.

3. Relevance to equality, diversity, cohesion and integration

All the Council's strategies/policies, services/functions affect service users, employees or the wider community – city wide or more local. These will also have a greater/lesser relevance to equality, diversity, cohesion and integration.

The following questions will help you to identify how relevant your proposals are.

When considering these questions think about age, carers, disability, gender reassignment, race, religion or belief, sex, sexual orientation and any other relevant characteristics (for example socio-economic status, social class, income, unemployment, residential location or family background and education or skills levels).

Questions	Yes	No
Is there an existing or likely differential impact for the different equality characteristics?		✓
Have there been or likely to be any public concerns about the policy or proposal?		\checkmark
Could the proposal affect how our services, commissioning or procurement activities are organised, provided, located and by whom?		✓
Could the proposal affect our workforce or employment practices?		✓
 Does the proposal involve or will it have an impact on Eliminating unlawful discrimination, victimisation and harassment 	✓	
 Advancing equality of opportunity 		
Fostering good relations		

If you have answered no to the questions above please complete sections 6 and 7

If you have answered **yes** to any of the above and;

- Believe you have already considered the impact on equality, diversity, cohesion and integration within your proposal please go to **section 4.**
- Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to **section 5.**

4. Considering the impact on equality, diversity, cohesion and integration

If you can demonstrate you have considered how your proposals impact on equality, diversity, cohesion and integration you have carried out an impact assessment.

Please provide specific details for all three areas below (use the prompts for guidance).

• How have you considered equality, diversity, cohesion and integration? (think about the scope of the proposal, who is likely to be affected, equality related information, gaps in information and plans to address, consultation and engagement activities (taken place or planned) with those likely to be affected.

The main beneficiaries' of the capital grants will be the building themselves as the owners will have to contribute any increase in property value as match funding. Whilst there are only six owners all applicants will be asked to provide equalities information which will be retrospectively monitored to help safeguard against unfairness.

The marginal location of Lower Kirkgate and the rental levels that it is likely to attract will be of particular importance to emerging independent retailers who might otherwise be priced out of other more expensive parts of the city centre. Whilst the Council cannot guarantee that rental is likely to remain low, it location is a strong indicator that in relative terms this will remain the case. The grant scheme is also encouraging the re-use of upper floor accommodation that often remains vacant or underused within commercial areas. This space could be used flexibly to provide workshop and low cost city centre living accommodation to artists and others needing to be located centrally.

In practice the main equality considerations surround the beneficiaries of any training or awareness raising provided by the project and this is the focus of the following narrative. The report and the training opportunities it seeks to create will affect two main groups, local communities and those involved in the construction industry. Firstly, the THI will provide awareness raising courses and events for local communities. Secondly, Construction SMEs and construction professionals will be recruited to take up aware raising events and short courses to fill discrete training gaps in their organisations.

Consultation was carried out in January 2013, to see if local SMEs supported the training project and the overwhelming majority did so. Public consultation was also carried out in 2011 which showed Leeds residents support for heritage based training, especially aimed at the young. There is limited equalities information on the heritage construction sector. However, information on the general construction industry suggests that BAME communities and in particular women are underrepresented. Whilst there is anecdotal evidence that there has been some progress in recruiting women to plumbing, painting and decorating and management skills they represent only 11% of the Leeds construction sector. BAME communities make up 7.1% of the Leeds total.

The project is working with the Re-Making Leeds initiative to promote heritage and construction to groups such as women and ethnic minorities who tend to be under-represented in these professions.

• Key findings

(think about any potential positive and negative impact on different equality characteristics, potential to promote strong and positive relationships between groups, potential to bring groups/communities into increased contact with each other, perception that the proposal could benefit one group at the expense of another)

Opportunities

Kirkgate provides an accessible example of how history and culture have shaped the city. Bringing communities in Richmond Hill, Holbeck and elsewhere to celebrate a shared built heritage will help to promote community cohesion through shared experiences and the ability to connect with the past through a range of local activities and promotions, including hands on craft events. This awareness raising will also help to increase the diversity of the pool of trainees for this and the Re-Making Leeds project.

• Actions

(think about how you will promote positive impact and remove/ reduce negative impact)

The work mentioned above is designed to increase the diversity of the pool of trainees and provide a progression recruit to scheme offering formal qualifications in heritage construction such as Re-Making Leeds.

5. If you are **not** already considering the impact on equality, diversity, cohesion and integration you **will need to carry out an impact assessment**.

Date to scope and plan your impact assessment:	N/A
Date to complete your impact assessment	N/A
Lead person for your impact assessment (Include name and job title)	N/A

6. Governance, ownership	and approval approved the actions and out	comes of the screening
Name	Job title	Date
Martin Farrington	Director City Development	23 March 2016

7. Publishing

This screening document will act as evidence that due regard to equality and diversity has been given. If you are not carrying out an independent impact assessment the screening document will need to be published.

Please send a copy to the Equality Team for publishing

Date screening completed	22 March 2016	
Date sent to Equality Team		
Date published		
(To be completed by the Equality Team)		