

**Report to CABINET**

**Part A**

## **Prudential Building**

**Portfolio Holder:**

Councillor Arooj Shah, Leader of the Council and Portfolio Holder for Economic and Social Reform

Councillor Abdul Jabbar, Deputy Leader of the Council and Portfolio Holder for Finance and Low Carbon

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**28 February 2022**

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### **Reason for Decision**

The report seeks authority to serve a Repairs Notice pursuant to section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and thereafter to make a Compulsory Purchase Order under Section 47, to ensure the proper preservation of a listed building within Oldham town centre, by enabling its redevelopment and improvement by the Council, to bring the heritage asset back into use and to halt its current decline.

### **Executive Summary**

The report seeks approval to acquire and proceed with the redevelopment of the former Prudential Assurance Building on Union Street, Oldham into a business incubation hub as part of the Future High Street Fund (FHSF) programme. Confirmation of FHSF funding was received in June 2021. The project aims to deliver new and additional office accommodation for the digital creative media sector through the conversion of a currently abandoned and dilapidated Grade II Listed building in Oldham town centre and forms a key component of the Creating a Better Place strategic framework and underpinned by the town centre vision.

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Cabinet approval was obtained in January 2020 for the Council's "Creating a Better Place" strategic programme. The programme was reviewed in August 2020 to confirm alignment with the borough's economic recovery in response to Covid-19 and a renewed focus on building more homes for our residents, creating new jobs through town centre regeneration, and ensuring that Oldham is a great place to visit with lots of family friendly and accessible places to go.

This report provides a progress update (on the January 2020 Cabinet approval) on the project to bring the Prudential Assurance Building into use, sets out the latest position with regard to costs and funding, the process of acquiring the building and makes recommendations for securing project delivery.

## **Recommendations**

Cabinet Members are requested to:

1. Approve the proposed 3-step plan with regard to the serving of the Repairs Notice, the making of the Compulsory Purchase Order, negotiations with the current owner and, if they fail, the subsequent acquisition as detailed in the report.
2. Authorise the Director of Legal Services to serve a repairs notice under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 containing a list of necessary works to secure the preservation of the building as detailed in Appendix A to this report.
3. Authorise the Director of Legal Services or his nominee to make a Compulsory Purchase Order under Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to secure the compulsory acquisition of the land shown edged red on the attached plan at Appendix 1 in accordance with the proposals set out in this report.
4. Authorise the Director of Legal Services or his nominee to seal the Order and Map and to take all the ancillary and necessary steps, including the publication and service of all statutory notices and presentation of the Council's case at any Public Inquiry, to secure the confirmation of the Compulsory Purchase Order by the Secretary of State.
5. Authorise the Director of Legal Services or his nominee to deal with any complaint laid in the Magistrates Court pursuant to section 47(4) or any appeal to the Crown Court pursuant to section 47(6) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
6. Authorise the Director of Legal Services or his nominee to approve agreements with the owner setting out the terms for withdrawal of objections to the Order, including where appropriate seeking exclusion of land from the Order.
7. Authorise the Director of Economy (in the event that the Secretary of State notifies the Council that it has been given the power to confirm the Order) to confirm the Order, if she is satisfied that it is appropriate to do so. If either the Secretary of State or the Council confirms the Order, the Director of Legal Services or his

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nominee is authorised to carry out all necessary steps to comply with statutory requirements relating to confirmation.

8. Authorise the Director of Legal Services or his nominee to defend any judicial review proceedings brought in respect of a confirmed Order, if it is appropriate to so do.
9. Authorise the Director of Legal Services or his nominee to prepare, seal and serve a general vesting declaration or notice to treat and notice of entry to secure possession of the building pursuant to the Order.
10. Authorise the Director of Economy to negotiate settlement of the amount of compensation due to an affected interest in the event of compulsory purchase and where necessary to start or participate in proceedings before the Upper Tribunal (Lands Chamber) to settle such matters.
11. Agree that upon acquisition the lands acquired under the relevant order be held for planning purposes and vested in the Executive Land Holding Account.
12. Authorise the Director of Economy to negotiate terms for the acquisition of all relevant interests, and for subsequent redevelopment of the building so as to preserve its historic character and to bring the building into use.
13. Delegate approval to the Cabinet Member for Economic and Social Reform in consultation with the Director of Economy, the Director of Legal Services, the Director of Finance (or their nominees), and the Cabinet Member for Finance, to appoint external advisors (for the provision of professional services) up to contract value of £1.122m, in the required configuration, subject to undertaking of a competitive procurement process, to support the Council in delivery of the project to meet the information requirements and timescales set by the Future High Street Fund process and/or as required to carry out the recommendations in this report.
14. To approve an increase in the Capital Programme allocation for this scheme of £0.623m from the current approval of £10.179m to £10.802m to reflect the latest cost estimates included in the report.
15. Delegate approval to the Chief Executive in consultation with the Leader of the Council, Portfolio Holders for Neighbourhoods and Finance, Director of Economy, Director of Finance and Director of Legal Services to review and approve the details associated with finalising and entering into a package of enabling works, pre-construction services, and a 2nd stage open book tender for the redevelopment works associated with Prudential Building subject to undertaking of a competitive procurement process.
16. Delegate approval to the Chief Executive in consultation with the Leader of the Council, Portfolio Holders for Neighbourhoods and Finance, Director of Economy, Director of Finance and Director of Legal Services to review and approve the details associated with finalising and entering into a design and build contract, up to a value of £9.229m on completion of the 2nd Stage tender for the redevelopment works associated with Prudential Building subject to undertaking of a competitive procurement process.

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17. Delegate approval to the Chief Executive in consultation with the Leader of the Council, Portfolio Holders for Neighbourhoods and Finance, Director of Economy, Director of Finance and Director of Legal Services to review and approve the details associated with finalising and entering into a centre management services contract for the Prudential building subject to undertaking of a competitive procurement process.
  18. Note that any significant variation from the proposals and budget set out in this report will be subject to a further report to Cabinet.
  19. Authorise the Director of Legal Services or their nominated representative to sign and/or affix the Common Seal of the Council to all the documents and associated or ancillary documents referred to above and/or required to give effect to the recommendations in this report.

## Prudential Building

### 1 Background

- 1.1 This report provides a progress update on the project to bring the Prudential Building back into use, sets out the latest position with regards to costs and funding and the subsequent process involved to acquire the building.
- 1.2 The Prudential Assurance Building is a unique project to repair the external and internal fabric of the Grade II listed building to create a 21<sup>st</sup> Century incubator facility situated opposite the Oldham Metrolink stop on Union Street. It is one of the buildings identified by Historic England as being of important historic significance and features on the Victorian Society's national list of top ten most endangered buildings.
- 1.3 The proposal is to create a business incubation hub in the building focused primarily on the creative, digital, and media sectors. It responds to a market failure in the provision of high quality, flexible, town centre business incubation and grow-on space for small businesses. The sector is dominated by young and innovative micro or small businesses that require flexible, low-cost premises in a town centre location. A local high-growth business incubation hub provides a ladder of progression from start-up to established business, enabling growth.
- 1.4 The Prudential Building project aims to:
- Restore the derelict grade 2 listed major heritage asset and thereby securing removal of a major risk to the Oldham Town Centre Conservation Area
  - Secure the long-term future of Prudential Building through the development of a business incubation centre with an operational structure in place for the sustainable use, management and maintenance of the building
  - Create 71 new businesses and over 156 new jobs (including apprentices during the delivery phases) over a ten-year period and help emerging businesses grow.
  - Create flexible office accommodation for small to medium sized enterprises (SMEs) primarily in the creative, digital, and media sectors to encourage and support the growth and development of these sectors within Oldham, to deliver the following investment objectives:
    - 3,266 sqm flexible commercial space
    - create 156 gross jobs
    - generate £2,687,124 GVA
    - attract 71 businesses

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- Provide high quality office space in flexible units with meeting room/conference space plus additional networking space
  - Create critical business space required to drive growth in the creative, digital, and media sectors of Oldham's economy
  - Create an incubation hub that generates business to business activity, collaborations and new intellectual property
  - Enables Oldham to provide a ladder of progression for businesses in creative, digital, and media sectors from start-up to high growth
  - Develop a creative digital hub in Oldham
  - Create a destination venue, contributing to the cultural tourism offer of Oldham
- 1.5 Cabinet approved in January 2020 the "Creating a Better Place" strategic framework. The programme was reviewed in August 2020 to confirm alignment with the borough's economic recovery in response to Covid-19 and a renewed focus on building more homes for our residents, creating new jobs through town centre regeneration, and ensuring that "Oldham is a great place to visit with lots of family friendly and accessible places to go".
- 1.6 Cabinet also approved in January 2020 the process of acquiring the former Prudential Assurance Building on Union Street, Oldham, in line with the Council's vision for the Town Centre. The renovation of the building has been in the Council's contemplation for a number of years and is clearly in keeping with the aims set out in its policy framework.
- 1.7 The Prudential building built in 1889 was designed by one of the Victorian period's greatest architects, Alfred Waterhouse, whose other buildings include the Natural History Museum and Manchester Town Hall. The building which encloses a central courtyard, was first listed in January 1973 whilst it was still functioning as an office for the Prudential Assurance, for its special architectural and historic interest.
- 1.8 The building was acquired by its current owner in 2010 and has stood largely unused since that date and the visual appearance is of an empty and decaying building on a prominent town centre site. It is in a significant state of disrepair, attracting anti-social behaviour, presenting health and safety risks, and posing aesthetic issues as a gateway building for those arriving in to or leaving Oldham town centre. Urgent improvements are necessary to safeguard the future of this important heritage asset.
- 1.9 Officers have made sustained efforts over a number of years to work with the building owner in order to bring the building back into use. There was serious concern about the fabric of the building when a building condition survey (2018) revealed a significant degree of deterioration as a result of water ingress through the roof. Since then, the owner has not taken adequate steps to make the building weatherproof.
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- 1.10 There now appears to be no reasonable prospect of the owner bringing the building into an adequate state of repair to ensure its long-term protection. Discussions with the owners have established that they are not willing to sell the building below their estimated valuation of £800,000. The property has been marketed for a considerable period of time, with an original asking price of £1 million being reduced to £900k in July 2021. We believe that the market has yielded no interest. As a result, this report addresses the need to acquire the building and take the necessary steps to bring it back into a state of repair and use.
- 1.11 The Oldham Town Centre Conservation Area Appraisal and Management Plan Supplementary Planning Document was adopted in August 2019 and makes significant references to the Prudential Assurance Building and notes its condition as poor and detracting.

## 2 Current Position

- 2.1 The Prudential Building is currently in private ownership. The building has had various uses since the financial services provider of the same name ceased its occupation, including as a nightclub (within the basement). However, it is currently vacant, with no known future plans for occupancy and future reuse.
- 2.2 As Union Street is a long, straight thoroughfare, the Prudential Building is prominent and is a key landmark, with its visibility perhaps increased due to its proximity to principal retail sites such as the Sainsbury's supermarket and the Spindles Town Square Shopping Centre.
- 2.3 Despite sharing the 2018 building condition survey (and valuation report) with the building owner, Buttress Architects were commissioned to revisit and review the survey due to the ongoing concern (with the building owner) of inactivity to address the general condition issues of the building. The Council has attempted dialogue with the building owner in the intervening period.
- 2.4 The updated survey confirmed that no significant works have been carried out to address the ongoing deterioration and decay of the building. It was noted that while some boarding of openings has taken place, this is insufficient to prevent ongoing water ingress, pigeon infestation and unauthorised entry. It was generally noted that due to insufficient remedial action, there is a steady, ongoing deterioration in condition to the majority of the building fabric.
- 2.5 Historic England, the public body charged with safeguarding England's historic environment, acknowledges the Council's efforts over the years to encourage the owner of the Prudential Building to engage with the upkeep and restoration of the building. Historic England (HE) have been involved in progressing the building condition survey (2018) and its subsequent updated version in June 2021.
- 2.6 The vision for the Prudential Building will be a revitalised landmark destination for Oldham. Its grand, imposing façade will be reinforced within the townscape, and stand as a catalyst for regeneration of the wider town centre. Beyond the ornate terracotta and unique faïence detailing of the banking hall will stand newly active, flexible and connected spaces. Increased activity and interaction within the

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building will give it a new, dynamic purpose. The sympathetic reinvention of this key asset for Oldham will represent a positive step in the town's regeneration and revitalisation.

- 2.7 The building's historic arrangement of office spaces lends itself to a workspace function without the need to substantially impact on the building's heritage significance. In addition to the above, evolving working patterns in a post-Covid future are increasingly likely to require versatility, flexibility and adaptability. The spaces proposed incorporate a mix of workspaces, meeting rooms and breakout areas to achieve the optimum adaptability at this stage.

### **Reasons for Council Involvement**

- 2.8 The Council's primary purpose in seeking to acquire this building is to secure its long-term preservation and to bring the building into active use while preserving its historic character. Bringing the building back into use will comply with the Council's policy objectives.
- 2.9 The proposed investment to redevelop the historic Prudential Building for use as employment space for creative and digital businesses strongly aligns to the ambition set out in the Oldham Plan to deliver an inclusive economy. This ambition is marked by its focus on providing access to opportunities for Oldham residents within a thriving economy, enabling residents to access high quality employment, advance their skills and improve their quality of life.
- 2.10 The redevelopment of the Prudential Building for use as employment space in key growth sectors can directly support the achievement of this ambition by providing high quality employment opportunities with potential for training opportunities and the growth of high value economic sectors within Oldham that can increase economic activity within the town.
- 2.11 The primary local strategic driver for this project is the Council's Creating a Better Place investment programme introduced in January 2020 to deliver economic growth and major regeneration projects within the context of real financial challenges. Delivery of the programme has arguably taken on additional importance as a result of the additional financial pressures created by the COVID-19 pandemic, which has led to increased unemployment in the town and caused significant harm to the viability of several businesses across Oldham. The Prudential Building project aligns with the Creating a Better Place focus upon creating new jobs through town centre regeneration and ensuring Oldham is a great place to visit, under the priority themes of investment and regeneration.
- 2.12 Creating a Better Place is underpinned by the Oldham Town Centre Vision that was adopted by the Council in June 2019. The vision is aligned with national, regional and local strategic priorities and has a clear rationale, narrative and focus. The Prudential Building project supports the vision, which can be defined as a place to live, work, visit and enjoy.
- 2.13 In addition to a strong alignment with Oldham's corporate goals and objectives, the Prudential Building project directly addresses objectives and goals for Greater



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Manchester (GM) as a whole. The GM Local Industrial Strategy (GM LIS) is designed to deliver an economy fit for the future, with prosperous communities across the city-region and radically increased productivity and earning power. It aims to create a highly productive, more inclusive and prosperous city-region for all residents, with a plan for communities across all of GM to thrive and prosper. Oldham Council has adopted the GM LIS, dovetailing it with core strategies and proposals to drive improved economic growth, including focusing on the Creating a Better Place investment strategy set out above.

- 2.14 The Digital Blueprint published by the GM Combined Authority in April 2020 sets out the ambition for GM to be a top five European digital city-region and to be recognised globally for its digital innovation. In the UK, Manchester is home to the largest digital and creative cluster outside of London and has a £5 billion digital economy comprising public sector, private sector and academia. There are over 60 co-working spaces and nine accelerator programmes and ambitions to grow the creative, digital and tech economy to £7 billion by 2029.
- 2.15 Bringing this important historic building into use is likely to contribute to the improvement of the social, economic and environmental wellbeing of the area by:
- Improving the appearance of an architecturally important listed building
  - Improving the appearance of the site particularly as viewed by people arriving to Oldham by Metrolink and by road
  - Ensuring a degree of public access to a building that marks a high point in social and economic development of Oldham
  - Ensuring the preservation of a Grade II listed building
  - Improving the contribution made by a revitalised building to employment opportunities in Oldham
- 2.16 The regeneration and re-use of the building would be wholly consistent with a heritage led regeneration of Oldham town centre.

### **3 Compulsory Purchase**

- 3.1 Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 bestows compulsory purchase powers on local authorities (subject to confirmation by the Secretary of State) where steps to preserve a listed building are not being taken by the owner. The exercise of the power is subject to compliance with the prior notice requirement contained in section 48 of the Act.
- 3.2 Section 48 requires serving of a Repairs Notice on the owner, setting out (1) the works which are reasonably necessary for the proper preservation of the building and (2) the effects of the sections of the Act conferring compulsory purchase powers, if those steps are not carried out. The repairs notice must be served at least two months before an Order is made under section 47.

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- 3.3 For an Order to be confirmed by the Secretary of State, it will be necessary to demonstrate that the acquisition is in the overriding public interest and that the Council has sufficient funds in place to carry out the works itself. The Secretary of State must be satisfied that reasonable steps are not being taken by the owner to preserve the building; that it is expedient that the building should be preserved; and that it should be compulsorily purchased to ensure its preservation. Whilst there is no statutory requirement to demonstrate that the Council will go beyond carrying out works necessary to bring the building back into a state of repair, the fact that the Council has a developed, costed and funded scheme in place, which goes further than the works identified in the repairs notice, will be a strong factor in establishing the case for confirmation.
- 3.4 External legal advice obtained has considered that the case for compulsory purchase of the Prudential Building under section 47 can be made and that a compulsory purchase order presents the best option to secure the future of the building should other options fail.

### **Oldham Council's case for compulsory purchase**

- 3.5 The building was purchased by its current owner in 2010 for £250,000 and has stood largely unused since that date.
- 3.6 As a result of concern about its deteriorating condition, the Council has made a sustained effort to work with the building owner to secure at least the urgent scheme of works necessary for preservation or to acquire ownership of the building by agreement, which would enable the Council to carry out immediate works and implement a longer-term strategy for its renewal.
- 3.7 There is serious concern about the fabric of the building when an inspection revealed in 2018 a significant degree of deterioration as a result of water ingress through the roof. Since then, the owner has not taken any adequate steps to make the building weatherproof and has unrealistically valued the building for a private disposal for £800,000.
- 3.8 There have been numerous incidences of break-ins, a reported fire, anti-social behaviour, and evidence of drug use within the building and alleyway with used needles observed. The noticeable further deterioration in the condition of the building has led to a number of incidents of falling roof slates and glass as reported by residents and visitors to the town centre, in addition there is a visible area of high-level brickwork with substantial tree growth embedded. The building is also accessible at present and we anticipate it is being used by rough sleepers, which we have to regularly bring to the owner's attention.
- 3.9 As a result of these incidences Environmental Health have in the past served formal notices to secure the property under the Local Government (Miscellaneous Provisions) Act 1976. Due to the persistent nuisance that the building presents as a result of it being open to access and subject to waste accumulation, formal notices have also been served under the Anti- Social Behaviour, Crime and Policing Act 2014.

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- 3.10 The building requires an urgent scheme of works to halt its decline and preserve it, and a further substantial scheme of capital investment and works to bring it back into beneficial use and contribute to the wider regeneration aspirations for Oldham.
- 3.11 There is significant doubt as to whether the owner of the building genuinely intends to bring forward any realistic plan to bring the building into repair. Even basic steps to protect the fabric of the building have not been undertaken over the last ten years. It remains at risk of deterioration, unused and its long-term preservation highly uncertain.
- 3.12 The steps taken by the Council to encourage the building owner to protect the building have not resulted in the submission of a planning application after years of negotiations. It is therefore considered the only way to bring the building back into use is to purchase and redevelop it in accordance with the Council's FHSF business case submission.

#### **4 Options/Alternatives**

- 4.1 **Option 1** - proceed as planned with the serving a Repairs Notice pursuant to section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and thereafter to make a Compulsory Purchase Order under Section 47, to ensure the proper preservation of a listed building within Oldham town centre, by enabling its redevelopment and improvement by the Council, to bring the heritage asset back into use and to halt its current decline.
- 4.2 **Option 2** - the alternative to using CPO powers to acquire the Prudential Building is to leave it in its current ownership and continue to try and work with the owner to protect and preserve the building. The Council has already spent a protracted amount of time trying to achieve this and the owner has failed to engage. If this option were adopted it is almost inevitable that the building will deteriorate further, likely to the point where it will need to be demolished and the important heritage asset will be lost forever. This is therefore not a viable alternative option.
- 4.3 **Option 3** - the second alternative to using CPO powers is to pay the current owner his asking price of £800,000 for the building. The Council has commissioned an independent valuation of the property in its current condition and a valuation based on the Council's proposed scheme of works. The owner's valuation cannot be supported, and such a purchase could not be demonstrated to be prudent use of public money nor value for money. This is not a viable alternative option.
- 4.4 **Option 4** - the third alternative to using CPO powers is to rely on alternative statutory powers to try and preserve and improve the building. A section 54 urgent works notice could be served to secure the immediate weatherproofing of the building and if the owner fails to carry out the works, the Council could step in and recover the costs from the owner. However, an urgent works notice can only secure works necessary for the immediate preservation of the building and once it has been complied with, there is nothing to compel the owner to carry out further works. The building is likely to slide back into decay and disrepair, ending in a cycle of such notices being served and ever escalating costs to the public purse

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with no guarantee of costs recovery, given the valuation of the building. This is not a viable alternative option.

- 4.5 **Option 5** - a Section 215 (of the Town and Country Planning Act 1990) notice could be served, either instead of using CPO powers or alongside promoting an Order, if the state of the building is considered to be causing an adverse effect to the amenity of the area. Section 215 is a wide power and can be used to great effect, often alongside other heritage powers such as section 47. The downside to relying solely on a section 215 notice to remedy the current situation is that it can only secure the improvement of the external appearance of the property, it cannot secure its long-term preservation as a heritage asset of its internal features, nor bring it back into active use. Non-compliance with section 215 does bring with it the risk of prosecution, alongside the Council's power to step in and carry out the works stated in a notice with associated costs recovery provisions. However, the Council would be at serious risk of entering into a cycle of ongoing prosecutions for failure to comply, spending public money to carry out the works without a guarantee of recovery and the vicious circle of improving the building, only for it to slip back into decline because it is left again to decay. Accordingly, thought should be given to serving a section 215 notice alongside serving a s.48 repairs notice and making a CPO.

## **5 Preferred Option**

- 5.1 **Option 1** – proceed with the only option which guarantees the long-term preservation of the Prudential building is for the Council to acquire it, carry out its scheme of funded works to preserve it and bring it back into active use and thereafter to manage the building to ensure it does not fall back into decline.

## **6 Consultation**

- 6.1 As detailed in the report – over a number of years significant consultation with the owner of the building to persuade the owner to bring the building back into use (it remains empty/unused today), Historic England, the public body charged with safeguarding England's historic environment. There is genuine public interest in the building.

## **7 Financial Implications**

- 7.1 Finance implications are covered in Part B of the report.

## **8 Legal Services Comments**

- 8.1 Legal implications are covered in Part B of the report.

## **9 Co-operative Agenda**

- 9.1 The acceptance of the Future High Street grant award to deliver projects in Oldham town centre supports the Co-operative Agenda by achieving outcomes

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that contribute to making Oldham a place to invest and do business, and a regenerated town which grows the business base.

**10 Human Resources Comments**

10.1 N/A

**11 Risk Assessments**

11.1 Risk implications are covered in Part B of the report.

**12 IT Implication**

12.1 N/A

**13 Property Implications**

Property implications are covered in Part B of the report.

**14 Procurement Implications**

14.1 Procurement implications are covered in Part B of the report.

**15 Environmental and Health & Safety Implications**

15.1 Environmental and Health and Safety implications are covered in Part B of the report.

**16 Equality, community cohesion and crime implications**

16.1 N/A

**17 Implications for Children and Young People**

17.1 N/A

**18 Equality Impact Assessment Completed?**

18.1 NO

**19 Key Decision**

19.1 Yes

**20 Key Decision Reference**

20.1 ESR-04-22

**21 Background Papers**

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21.1 None