

**Cheltenham Borough Council**  
**Cabinet – 21<sup>st</sup> December 2021**  
**Clarence Fountain**

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| <b>Accountable member</b>  | <b>Cabinet Member Climate Emergency, Councillor Max Wilkinson</b>  |
| <b>Accountable officer</b> | <b>Chief Executive, Gareth Edmundson</b>   |
| <b>Ward(s) affected</b>    |  |
| <b>Key Decision</b>        | <b>Yes</b>   |
| <b>Executive summary</b>   | <p>Clarence Fountain has been a popular and well used focal point for Cheltenham’s town centre for decades.</p> <p>The trial partial closure of the road adjacent to the Fountain ran until December 2019. During this time, temporary seating and artificial grass was installed.</p> <p>Gloucestershire County Council decided to re-open Clarence Junction to all traffic and subsequently carried out traffic calming works to the road. Following the completion of those works, Cheltenham Borough Council has worked to develop more permanent improvements to the plinth surrounding the fountain.</p> <p>While the temporary measures have successfully created a new space for people to rest and socialise, Cheltenham Borough Council has always intended to create and deliver a more permanent, attractive and green space for everyone to enjoy at the heart of the town centre. This ambition is in line with the Borough Council’s Connecting Cheltenham report.</p> <p>The Borough Council’s proposed upgrades will include the addition of perennial planting and trees to create a ‘pocket park’ which will encourage biodiversity and improve air quality. The design also includes improved seating, space for wheelchairs and a more attractive and durable resin bound finish which will accommodate the ongoing high footfall of this popular town-centre location.</p> <p>The report recommends the appointment of Cotswold Estates and Gardens to deliver the works and the allocation of £95K from recovery funds.</p> |
| <b>Recommendations</b>     | <p><b>It is recommended that Cabinet:</b></p> <ol style="list-style-type: none"> <li><b>1. Approves the final concept design for Clarence Fountain as described in the report and included in Appendix 2;</b></li> <li><b>2. Waive CBC contract rules as described in the report and approve the appointment of Cotswolds Estate &amp; Gardens Ltd to construct the approved design. A breakdown of the estimated costs for the works can be found in Appendix 3 (Exempt);</b></li> <li><b>3. Delegates responsibility for agreeing a construction contract</b></li> </ol>   |

**with Cotswold Estate & Gardens Ltd to the Head of Property, Finance and Assets in consultation with the Townscape Manager, Project Manager and the Borough Solicitor;**

**4. Approves the allocation of up to £95k to deliver the scheme.**

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| <p><b>Financial implications</b></p>  | <p>In the 2020/21 outturn report approved by Council in July 2021, a proportion of the reported underspend was set aside in a Green Economic Recovery and Investment fund. Authority was delegated to the Executive Director of Finance and Assets in consultation with the Lead Member for Finance and Assets to ensure it is spent in line with this proposal.</p> <p>The investment for Clarence Fountain falls within Green Economic Recovery. The estimated cost including any contingency is able to be covered by the remaining budget available from this fund.</p> <p>Ongoing costs of the cleaning and maintenance of the area are expected to be covered within existing budgets, by Ubico and Property Services respectively.</p> <p><b>Contact Officer: Gemma Bell – Head of Property, Finance and Assets (Deputy S151 Officer), <a href="mailto:gemma.bell@cheltenham.gov.uk">gemma.bell@cheltenham.gov.uk</a></b></p>  |
| <p><b>Legal implications</b></p>  | <p>Procurements of goods, services and works above £25,000 require a full competitive tender unless there is justification not to do so in accordance with Contract Rule 6.1. The report refers to Contract Rules 6.1.1. and 6.1.3, the relevant section of which is as follows;</p> <p><i>6.1.1 Where the supplies, works or services are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one or two sources of supply appropriate</i></p> <p><i>6.1.3. The price of services or supplies to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition;</i></p> <p>Cheltenham Borough Council will need to enter into a contract with the chosen contractor which One Legal can assist with.</p> <p>Additional legal comments are detailed in <b>Appendix 1 (Exempt)</b>.</p> <p><b>Contact Officer: One Legal, <a href="mailto:legalservices@onelegal.org.uk">legalservices@onelegal.org.uk</a></b></p> |
| <p><b>HR implications (including learning and organisational development)</b></p> | <p>There are no HR implications.</p> <p><b>Contact officer: Julie McCarthy, HR Manager, <a href="mailto:julie.mccarthy@publicagroup.uk">julie.mccarthy@publicagroup.uk</a>, 01242 264355</b></p>  |
| <p><b>Key risks</b></p>   | <p>See <b>Appendix 1 (Exempt)</b>.</p>  |
| <p><b>Corporate and community plan Implications</b></p>                           | <p>Contributes to the Corporate Plan 2019-2023 revitalisation and improvement of our vibrant town centre</p>  |

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| <b>Environmental and climate change implications</b> | <p>The environmental and climate benefits of the design are set out fully in section 3 of the report</p>  |
| <b>Property/Asset Implications</b>                   | <p>Clarence Fountain is a high profile public realm asset and these improvements will further enhance its strategic alignment to Cheltenham Borough Council's Corporate Priorities.</p> <p>The materials and design are not expected to have a significant resource or budgetary impact on Property Services and any maintenance will be undertaken without impacting our current plans.</p> <p><b>Contact Officer: Gemma Bell – Head of Property, Finance and Assets (Deputy s151 Officer)</b></p> <p><b>Email: <a href="mailto:gemma.bell@cheltenham.gov.uk">gemma.bell@cheltenham.gov.uk</a></b></p> |

## 1. Background

- 1.1 Clarence Fountain, known to many local residents as Boots Corner, has been a focal point of Cheltenham's Town Centre for decades.
- 1.2 In 2018, a trial road closure of the junction to all traffic (apart from, bicycles buses and taxis) was implemented. The trial aimed to reduce air pollution, improve pedestrian safety and encourage more walking and cycling. All of these elements aimed to make a positive contribution to Cheltenham's Climate Change ambitions. To coincide with the partial road closure, temporary works were undertaken to the fountain and surrounding plinth. The works included;
- Timber-slat benches added
  - Artificial grass applied to the plinth
  - Cycle stands
  - Removal of old street furniture

Four timber planters were also placed on redundant road space, however some of these were subsequently removed by Gloucestershire County Council (GCC) as part of resurfacing works.

- 1.3 In 2019, GCC, which is responsible for transport and highways, took a formal decision to end the trial closure of the road and re-open the town centre to all traffic. GCC has since completed further permanent works to the roads in the area, narrowing the carriageway and calming traffic. This enabled Cheltenham Borough Council to proceed with improvement works in the area.
- 1.4 Clarence Fountain has always been a popular and well-used space. Although the area is compact and sits in between two roads, it is a key intersection at the heart of Cheltenham's retail and leisure offer. This results in the area being the ideal place for individuals and families to stop, sit and take a break. However, prior to the temporary works, it lacked formal and accessible areas to stop and rest. The provision of benches proves there is demand for permanent installations.
- 1.5 The benches and artificial grass have made the fountain and plinth more accommodating for town centre visitors. However, these measures were only ever intended to be temporary pending a final decision by Gloucestershire County Council on the future of the junction.
- 1.6 While the existing materials, such as artificial grass, are practical and hard wearing, it has always been Cheltenham Borough Council's intention to replace these temporary surfaces with more permanent improvements to deliver a better design that is greener, inclusive and more visually appealing.
- 1.7 Since GCC's decision and subsequent completion of further road works, Cheltenham Borough Council has been working to progress designs that seeks to improve this important and well-used space in the centre of Cheltenham.

## 2. Feedback

- 2.1 The area of Clarence Fountain has prompted residents, visitors and a range of organisations and groups to offer views on how the area should be improved.
- 2.2 The current temporary measures have prompted both positive and negative feedback. Opinions have focussed on the positive elements such as the seating, which has made the area more welcoming and useable. However, elements such as the artificial grass have received some negative reactions, with some residents commenting that this makes the area unattractive as well as highlighting that artificial grass is an unsustainable and environmentally damaging material.
- 2.3 As part of the development of a new design, Cheltenham Borough Council has considered all

these views to develop a more attractive and permanent feature that makes a positive contribution to the street scene.

### **3. The recommended design concept**

**3.1** The design of Clarence Fountain and surrounding plinth has been driven by the following design principles:

- Enhancing the space as an attractive place to sit, relax and play
- Cheltenham's commitment to improving air quality, biodiversity and wider climate change ambitions
- Accessibility and inclusivity
- Durable and attractive finishes
- Contributing to Cheltenham's wider place-making outcomes

#### **Urban Greening & Materials**

**3.2** The proposal aims to create a 'pocket park' in the area surrounding Clarence Fountain, which goes beyond just improving the visual impact. The addition of soft landscaping elements aims to create a better overall user experience by helping improve the air quality, making the space a better place to walk and rest and creating a healthier environment. This greening will help make this part of the wider public realm network.

**3.3** Once established, the trees will provide seasonal weather protection, and a welcomed source of shade and surface cooling in the increasingly hotter summers. The proposal includes a mix of sustainable perennial plants, ones that flower reliably every year, whilst utilising different plant forms and structures to ensure visual appeal year round

**3.4** The intention is to use materials with specific finishes that enable the area to be easily maintained thus not significantly adding to the current Ubico regime. Considerations include a metal 'skirt' to the plinth, providing weather resilience and a robust façade. The planters will be powder coated to match the plinth 'skirt'. The plinth surface will be resin bound and include metal powder-coated sheets as cladding, since these are durable, robust and easy to maintain.

#### **Multi-functionality**

**3.5** Clarence Fountain, as it is currently used, is a multifunctional space: it's a meeting spot, a seating and eating area, and children like to play on the plinth. The proposal aims to enhance this quality, therefore the design combines different elements and areas that can be the setting to a variety of experiences.

**3.6** For example, the difference in scale and feel, which can cater for smaller or bigger groups, or the raised seating areas with protective planting, create a more private feel to the busy street environment. The prefabricated circular planters, which also provide coffee cup perches, offer a barrier to the pedestrian traffic desire line and creates visual and sensory interest as well as being a great gathering spot.

#### **Connecting Cheltenham**

**3.7** The provision of more seating, including accessible seating areas, is aligned with the Connecting Cheltenham report. The report cites the need for improved seating options as a key strand of work in the Borough's desire to boost walking as part of a shift to sustainable transport. The

Report states that Town Centre Public Realm should include “Seating designed to encourage people to 'stay'.”

### **Inclusivity**

- 3.8 The main consideration during the design process was the end user, and how this space accommodates a wide variety of people every day. The design looked at ways to create an inclusive space for all to be able to use and enjoy regardless of age, gender and disability.
- 3.9 The design creates a welcoming space for all, with levels of flexibility that will enable different people to use it in different ways and to adapt to their needs while visiting the High Street and Promenade.
- 3.10 To achieve a more accommodating design, recessed seating areas have been incorporated so wheelchair and buggy users can equally enjoy the space. For older people, disabled people and vulnerable groups in general, the inclusion of seating in urban areas is an important place-making priority.
- 3.11 An illustration of the design concept can be found in **Appendix 2**.

## **4. Planning & Highways**

- 4.1 As part of the development of the design, Cheltenham Borough Council has sought planning advice to confirm whether any permissions or approvals are required in advance of any works.
- 4.2 Planning officers have confirmed that that the works can be carried out by CBC as they fall under the remit of part 12 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore the planned works do not require planning permission.
- 4.3 Cheltenham Borough Council will liaise with GCC as the highways authority, and the appointed contractor to ensure that any necessary permissions are secured to allow the works to proceed safely.

## **5. Covid-19 Recovery**

- 5.1 The experience of the Covid-19 pandemic further underlined the importance of our open spaces and their contribution to the wellbeing of our residents and visitors. In addition, the greater risk of infection from Covid-19 by spending more time indoors has led to some change of behaviour where many individuals now prefer to spend more time outdoors.
- 5.2 The pandemic has also placed further pressure on Cheltenham’s high street retail and leisure businesses who have endured closures and severe restrictions while online counterparts have seen huge growth as more business has taken place online.
- 5.3 Cheltenham Borough Council has taken a leading role in trying to support the recovery of retail and leisure. The Cheltenham Economic Recovery Task Force has undertaken a range of work to support the revitalisation of the high street. Most recently, Cheltenham Borough Council has invested in bringing an ice rink to Cheltenham and the Business Improvement District (BID) has launched Christmas Markets to encourage more footfall to the town centre which will drive more spending in high street shops.
- 5.4 The quality of town centre places also plays an important part in ensuring that Cheltenham is an attractive place to visit. Clarence Fountain and junction is a highly visible and busy point connecting the Promenade to the High Street. Therefore, targeted investment to bring about permanent improvements to the space will be of significant and lasting benefit by providing a

high-quality outdoor space while continuing to enhance the retail and town centre environment.

## 6. Procurement & Construction Costs

- 6.1 Four key drivers informed the procurement approach to achieve value for money for Cheltenham Borough Council.
- a) Following the completion of recent resurfacing and traffic light works by GCC, the ambition to deliver improvements to Clarence Fountain in time for Spring/Summer 2022 when the area is busiest.
  - b) The specialist nature of some of the landscaping elements
  - c) The need to mitigate severe volatility in the current market for materials and supply chain
  - d) Preference for using local contractors
- 6.2 From conducting soft market engagement, interest from contractors who demonstrated both interest, availability and appropriate expertise and experience to help finalise the concept design was limited.
- 6.3 Input by the appointed contractor was also deemed an important part of the design and construction process to mitigate risks on the availability and costs of chosen materials. Therefore, following a market test it was deemed that a full tender process would not be advantageous, likely increase risk and not represent best value for money to Cheltenham Borough Council.
- 6.4 Identified contractors from initial market engagement and assessment were approached with the concept design and quotes were requested. Only one contractor responded with a detailed quote who had appropriate expertise.
- 6.5 It is therefore recommended that Cabinet agree to waive the requirement under Cheltenham Borough Council's Contract Rules to carry out a full tender, pursuant to Contract Rules 6.1.1 and 6.1.3 within due to the lack of evident competition for the works and services and the specialist nature of the works and services.
- 6.6 Cotswold Estates and Gardens Limited are a Gloucestershire-based company established in 1965, who have considerable experience in designing and delivering a diverse range of landscaping schemes across the county. As a local firm, they have assisted the finalisation of the design and have committed to being able (subject to appointment) to complete the necessary works in the first half of 2022. It is therefore recommended that Cabinet agree to appoint Cotswold Estates and Gardens Ltd to complete the works to the area of Clarence Fountain.
- 6.7 A full breakdown of the detailed costs can be found in **Appendix 3 (Exempt)**. While the quote is as accurate as possible at this point, the market for materials remains uncertain, therefore the costs will be finalised as part of the final contract agreement.
- 6.8 It is proposed that the finalised design, materials and specification will be included in a contract for works that will be agreed with the appointed contractor. This responsibility for agreeing the final contract will be delegated to the Head of Property Finance and Assets in consultation with the Townscape Manager, Project Manager and Cheltenham Borough Council's solicitor.
- 6.9 While appropriate checks to the proposed site have been completed, as with any construction project, risks will remain. These include the discovery of any previously unknown constraints to the site, or delays to securing relevant licences which are out of the direct control of CBC and the appointed contractor. These risks have been captured in more detail in Appendix 1(Exempt).
- 6.10 To further mitigate risks, specialist consultants will be appointed as appropriate to manage the delivery of the scheme and to satisfy regulations relating to Construction (Design and Management) Regulations (CDM).

**6.11** Due to uncertainty surrounding the current supply chain and existing project risks, a 15-20% contingency has been included within the project budget. However, robust change control measures will be implemented and recorded to manage and limit any required additional spend. Any surplus funds will be returned if unused at the conclusion of the project.

## 7. Outline programme

**7.1** The outline projected programme is as follows:

- **December 2021** – Cabinet approval
- **January 2022** – Contract close with appointed contractor and construction project team in place.
- **February 2022** – Start on site – completion of final preliminaries and due diligence e.g. Ground Penetration Radar (GPR) survey
- **February – March 2022** – Construction phase
- **April – May 2022** Completion and planting (dependent on planting selected)

**7.2** This outline timeline is subject to a number of risks and interdependencies, some of which are outside of the direct control of Cheltenham Borough Council. These are fully detailed in the risk register found in in **Appendix 1 (exempt)**.

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| <b>Appendices</b>             | <ol style="list-style-type: none"> <li>1. Risk assessment</li> <li>2. Concept design – [stage 3 report]</li> <li>3. Costs breakdown</li> </ol> <p><b>Appendices 1 and 3 not for publication by virtue of paragraphs 3 and 5 of Part 1 of Schedule 12A to the Local Government Act 1972.</b></p> |
| <b>Background information</b> | N/A   |