



Not for Publication: Appendices 1 and 2 of this report are Exempt/Confidential under Access to Information Procedure Rules 10.4 (3)

Report of : Director of City Development

To : Executive Board

Date: 22 July 2009

Subject: PROPOSED LEEDS ARENA

Electoral Wards Affected:

CITY WIDE

Ward Members consulted (referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In (Details contained in the report)

Executive Summary

The proposed arena is a key project that will contribute to the delivery of the Council's Strategic Plan, which identifies as one of its key priorities the development of high quality facilities of national and international significance.

The report advises Members as to the progress made in developing the scheme proposals for the arena, recommends that Clay Pit Lane be confirmed as the site for the proposed arena development and requests the Board to reconfirm the scope, aims, objectives and outcomes of the project. The report seeks Executive Board's approval to the Heads of Terms for a commercial agreement whereby the Council will receive annual revenue payments from a third party to part finance the City Council's funding model for the capital cost of developing the arena, the details of which are contained in Appendix 1 of the report, the contents of which are Exempt/Confidential under Access to Information Procedure Rules 10.4.(3).

The report also seeks Executive Board approval to the Heads of Terms that have been provisionally agreed with SMG Europe Holdings Ltd for the Agreement for Lease and Lease of the arena, the details of which are contained in Appendix 2 of the report, the contents of which are Exempt/Confidential under Access to Information Procedure Rules 10.4 (3).

1.0 PURPOSE OF THE REPORT

1.1 The purpose of the report is to seek Executive Board's approval to:-

- (i) The selection of the Clay Pit Lane site for the proposed arena development.
- (ii) Reconfirm the scope, aims, objectives and outcomes of the arena project
- (iii) The Heads of Terms provisionally agreed with a third party, whereby the City Council will receive annual revenue payments to part finance the City Council's funding model for the capital cost of the arena development.
- (iv) The Heads of Terms provisionally agreed with SMG Europe Holdings Ltd for the Agreement for Lease and Lease of the arena

And for Executive Board to note

- (vi) The progress made in developing the scheme proposals for the arena.

1.2 With regard to the proposed legal agreements to be entered into to progress the arena development on the Clay Pit Lane site, under the Council's Constitution, a decision may be declared as being exempt from Call In if it is considered that any delay in concluding the legal agreements may result in the parties to the agreements seeking to renegotiate the terms of such agreements and as such, could increase the cost to the Council of developing the arena.

1.3 Appendices 1 and 2 of this report are confidential as they detail the basis of the Council's legal agreement to facilitate the development of the arena and contain financial information of individual companies, which are not publicly available from the statutory registers of information kept in respect of certain companies and charities. It is, therefore, considered that the public interest in maintaining this information as exempt outweighs the public interest in disclosing the terms of the respective legal agreements, as disclosure may increase the cost to the Council of developing the arena. Accordingly, Appendices 1 and 2 of the report are marked Exempt/Confidential under Access to Information Procedure Rules 10.4 (3).

2.0 BACKGROUND INFORMATION

2.1 The Council's Executive Board at its meeting on 5 November 2008 agreed to terminate the developer procurement competition for the arena without the award of a contract and, determined that the City Council should proceed as the developer of the arena itself. The Board also agreed to approve Clay Pit Lane as the preferred site for the arena development, with the Council owned site at Elland Road being identified as the reserve for the development in the event that the site at Clay Pit Lane could not be delivered or ceased to be the most economically viable option and no longer offered best value for money to the City Council. The Board authorised officers to acquire the site of the Brunswick Building from Leeds Metropolitan University (LMU) which when combined with the adjacent site already in the ownership of the Council provided a total site area of 2.08 hectares (5.14 acres), which is of a size capable of accommodating the arena development and a small amount of associated, complementary development.

2.2 The City Council completed the purchase of the site of the Brunswick Building from

LMU on 21 November 2008.

- 2.3 Subsequently, the Executive Board at its meeting on 13 February 2009, approved both the procurement strategy for the design team, the retention of specialist advisors to develop the design proposals for the arena and, delegated authority to the Director of City Development to determine the preferred form of construction contractor procurement.
- 2.4 In determining the ultimate procurement approach, Members of the Executive Board agreed the key success criteria (Key Performance Indicators) for the scheme as;
- * Out turn capital cost control within budget.
 - * Meeting the arena operator's requirements.
 - * Mitigating where possible risk to the Council.
 - * Project delivery 2012.
 - * Maintaining project momentum.

3.0 CURRENT POSITION

3.1 In order to add further detail to the key success criteria previously agreed by Executive Board and detailed in paragraph 2.4 above, Members of Executive Board should note that the Arena Project Board (Chaired by the Director of City Development) established to provide direction, management and control of the project has agreed the following project aim, objectives and outcomes;

i) **Project Aim:**

To deliver a 12,500 seat entertainment focussed arena in Leeds, that helps to realise the provision of high quality facilities of national and international importance and optimises the cultural, social and economic benefits for the Leeds City Region.

ii) **Project Objectives**

- * To deliver the arena project within a total funding model of £80.5m inclusive of land, fees and construction costs.
- * To deliver the construction of the arena at a value of between £56 - £59m at Q3 2012 price index.
- * To deliver improvements to the public realm and the Woodhouse Lane MSCP at an initial cost estimate of £2.3m, exclusive of backlog maintenance work to the car park.
- * Meeting the operator's requirements, to ensure that the design and development of the arena meets SMG Europe's stated operator requirements in full.
- * To ensure that there is a seamless interface between the delivery of the arena contract and the operator fit-out.

- * To ensure that the risk exposure to the Council is appropriately managed and mitigated throughout the lifetime of the project.
 - * To deliver the arena to programme, with the facility ready for operation in the 4th quarter 2012.
 - * To ensure that all ancillary works, including car park improvements are completed prior to the arena opening.
 - * To ensure that the delivery of the project is maintained and appropriately resourced throughout the lifetime of the project, with appropriate governance arrangements in place
- iii) **Project Outcomes;** The outcomes of the project are centred around
- * Improving the cultural offer of the City.
 - * Delivering an increased economic impact through primary and secondary spend generated by arena visitors.
 - * Delivering an increased social impact through the employment and training opportunities generated by the scheme.
 - * Increasing the profile of the City through the establishment of a performance venue capable of hosting world class artists and events .
 - * The regeneration of a brownfield site at a gateway location to the city centre.
 - * Creating a sense of place and vibrancy around the Northern Quarter of the city centre and beyond.
- iv) **External Design Quality;** To deliver a high quality design which contributes to the life of the city and enhances its physical environment, creating a new sense of place and vibrancy around the Northern Quarter of the city centre and beyond.
- v) **Sustainability;** Having regard to the budget available, to ensure that the Leeds arena delivers an outcome that sets a new benchmark for the sustainable performance of arenas in the United Kingdom.
- vi) **Economic Impact;** To ensure that the Leeds arena delivers an annual economic impact into the economy of the Leeds City Region of some £25.5m per annum and results in the creation of approximately 330 full time equivalent jobs
- vii) **Social Impact;** To provide long term training and employment opportunities through the delivery of the Leeds arena scheme and to create 330 full time equivalent jobs post completion and to seek to secure 20% of the jobs created for people living in surrounding wards adjacent to the site.

3.2 Executive Board has previously been advised of the potential to incorporate a 'Changing Places Toilet' in the arena. Members should note that consideration is being given to its provision in consultation with SMG the operator, so that it may be

incorporated in the scheme proposals.

3.3 The project's progress to date may be summarised as follows:-

i) Demolition of the Brunswick Building

3.4 Works to demolish the Brunswick Building commenced at the beginning of April 2009. It was envisaged that the demolition contract would take between 16 – 18 weeks, to be complete by end of July/early August. At the time of report preparation, the contractor has indicated that works are two weeks behind programme, but envisages that the time will be recovered as the works progress.

ii) Delivery Team

3.5 The Council has appointed Jacobs as its strategic design partner to provide a multi disciplinary design team to progress the scheme proposals initially to RIBA Stage C (Outline Design). To support Jacobs primarily with regard to the internal design and arrangement of the arena, Jacobs have confirmed the appointment of Populous (formerly HOK Sport) as their sub-consultant, to ensure the arena design complies with SMG's requirements.

3.6 Davis Langdon has been appointed to provide cost management/employers agent services for the project. The company has performed a similar role on a number of comparable projects notably, the O² Dublin, Echo Arena Liverpool, Odessey Arena Belfast and the MEN Arena Manchester.

3.7 The Council has retained Ove Arup and Partners Ltd (Arup) as the planning Agent responsible for the preparation, co-ordination and submission of the outline planning application for the proposed arena development. Members of the Project Board should note that it has been agreed with the Local Planning Authority that a two stage planning application process will be pursued and, the programme assumes that an outline planning application will be submitted in October 2009. A pre-application presentation to the Plans Panel City Centre was given on 18 June, with a further presentation arranged for 16 September 2009, immediately before submission of the outline application.

3.8 The Executive Board has previously been advised that the funding model for the arena assumes that additional car parking revenue would be raised from the Council owned Woodhouse Lane MSCP, which would be used to fund unsupported prudential borrowing to contribute towards the cost of developing arena. In order to ensure that the Council maximises income from the car park, it is intended to appoint a car park specialist to undertake an analysis and review of the current operation of the car park, in order to identify opportunities to increase income and achieve cost efficiencies to finance enhanced capital investment in the car park prior to the arena opening.

iii) Construction Procurement

3.9 Members of the Executive Board will recall that at its meeting on 13 February 2009, it was agreed after considering a number of possible contract procurement approaches to consider in greater detail both traditional and design and build options and, authorised the Director of City Development under the Council's scheme of delegation to determine the preferred form of contractor procurement.

- 3.10 Traditional procurement involves the employer (the City Council) retaining control of and responsibility for the design of the project through to completion, whilst design and build transfers design responsibility and other risks to the contractor.
- 3.11 The advantage of traditional is that it allows full control over the detailing of the project and does not attract a risk premium for completing the design. The disadvantages of the traditional approach are the level of risk retained by the employer in terms of the design, the site and criticality of the design team meeting the information requirements of the contractor in a timely manner. Traditional also typically has a longer pre-construction period due to the much more detailed level of design that is required prior to tendering.
- 3.12 Design and build has the advantage of substantial design and site risk transfer prior to construction commencing and, the potential to start on site earlier than with a traditional approach. The main disadvantages of design and build are the loss of control of the detailed design and, the 'equitability' of the risk premium paid to the contractor to complete the design i.e. if the contractor perceives that there are unresolved issues with the design, the risk premium charged by the contractor may be disproportionately high.
- 3.13 Taking into account the advantages/disadvantages of both procurement routes outlined in paragraphs 3.10 to 3.12 inclusive above and having regard to the project's Key Performance Indicators (paragraph 2.4 above) and, in particular, the need to minimise risk to the Council and for the project to be delivered in 2012, the Director of City Development has authorised that a two stage design and build contractor procurement approach should be pursued. An OJEU Notice has been placed inviting expressions of interest from potential contractors to build the arena under a design and build approach. It is envisaged that the preferred participating contractor will be selected in March 2010.

iv) Programme

3.14 The strategic development programme for the arena is as follows:

- | | |
|---|---------------|
| * Place OJEU Notice, Contractor Procurement | July 2009 |
| * Submit Outline Planning Application | October 2009 |
| * Determine Outline Planning Application | March 2010 |
| * Select Preferred Participating Contractor | March 2010 |
| * Confirm Contractor Appointment | Aug/Sept 2010 |
| * Start Development on Site | October 2010 |
| * Completion Arena Build Works | July 2012 |
| * Completion Tenant Fit Out Works | October 2012 |
| * Arena Opens | November 2012 |

3.15 In considering the strategic development programme above, the project team remain on programme to achieve the opening of the arena in 2012. However, it is recognised

that to maintain this programme will require a timely and disciplined approach to the project.

4.0 CONSULTATIONS

4.1 Yorkshire Forward which is represented on the Leeds Arena Project Board has been consulted and is supportive of the proposals and recommendations contained in the report.

4.2 A presentation has been made to Plans Panel City Centre detailing the project team, their experience, ability to deliver and the process to be pursued with regard to securing planning consent for the proposed development of the arena at Clay Pit Lane.

4.3 The Arena Project Board supports the recommendations contained in the report.

5.0 COMPLIANCE WITH COUNCIL POLICIES

5.1 The Vision for Leeds 2004 to 2020 identifies a major project to improve the cultural life of the City, including a new, large scale international facility such as an arena.

5.2 The development of a multi purpose arena is key to the delivery of the Council's Strategic Plan, which has as one of its strategic outcomes the provision of enhanced cultural opportunities through encouraging investment and development of high quality facilities of national and international significance.

6.0 LEGAL AND RESOURCE IMPLICATIONS

6.1 At a meeting of the Council's Executive Board on 5 November 2008, Members were advised that in order to achieve the proposed development of the arena at Clay Pit Lane a number of legal and funding agreements would need to be concluded namely:-

- i) The acquisition of the site of the Brunswick Building from LMU
- ii) Securing funding support of up to £18m from Yorkshire Forward to the arena project.
- iii) The completion of an Agreement for Lease and Lease with SMG for the arena
- iv) Agreement with a third party whereby the Council will receive annual revenue payment from the company to part finance the City Council's funding model for the cost of developing the arena.

6.2 As advised in paragraph 2.2 above, the City Council completed the acquisition of the site of the Brunswick Building from LMU on 21 November 2008.

6.3 With regard to Yorkshire Forward funding support for the project, Members should note that the Yorkshire Forward Board at a meeting on 4 June 2009, unanimously reaffirmed its support for the project. Given that the level of funding support from Yorkshire Forward exceeds the £10m threshold for which it may make awards, the project details have been passed to the Central Projects Review Group (CPRG) for approval. At the time of report preparation a decision from CRRG is awaited and an update will be presented to the meeting.

- 6.4 Appendices 1 and 2 attached detail the terms that have been provisionally agreed with SMG for the Agreement for Lease and Lease of the arena and, a third party for the receipt of revenue income to part finance the City Council's funding model for the cost of developing the arena respectively.
- 6.5 The information contained in the attached appendices relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in respect of certain companies and charities. It is considered that since this information was obtained through one to one negotiations for the disposal of the property/land referred to, then it is not in the public interest to disclose this information at this point in time. Also, it is considered that the release of the information would or would be likely to prejudice the Council's commercial interests in relation to other similar transactions in that prospective purchasers of other similar properties would be aware about the nature and level of consideration which may prove acceptable to the Council. It is considered that whilst there may be a public interest in disclosure, much of the information will be publicly available from the Land Registry following completion of these transactions and, consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. It is, therefore, considered that these elements of the report should be treated as Exempt/Confidential under Rule 10.4(3) of the Access to Information Procedure Rules.
- 6.6 Members of Executive Board should note that the cost of acquiring the site of the Brunswick Building from LMU and the cost of employing the design/consultant team to progress the scheme proposals can be met from existing budget provision (scheme nos. 13307/BRU/000 and 13307/COM/000 authorised by Executive Board at its meeting on 5 November 2008).

7.0 RISK ASSESSMENT

- 7.1 A full risk assessment is set out in the confidential appendices to the report.

8.0 CONCLUSION

- 8.1 The development of a multi purpose arena is a key priority that will contribute to the delivery of the Council's Strategic Plan, which seeks to encourage investment and development of high quality facilities of national and international significance such as an arena.
- 8.2 The acquisition of the site of the Brunswick Building from LMU along with the provisionally agreed Heads of Terms for the legal agreements detailed in the Appendices to the report and the Yorkshire Forward Board decision to reaffirm its support for the project enables officers to recommend that the Clay Pit Lane be designated for the site of the new arena and, that Elland Road no longer be held as the reserve site for the proposed development.
- 8.3 In selecting Clay Pit Lane as the site for the arena development, Executive Board is requested to reaffirm the scope, aims, objectives and outcomes of the project as detailed in the report.

9.0 RECOMMENDATIONS

9.1 Executive Board is recommended to:

- i) Select Clay Pit Lane as the site for the proposed arena development.
- ii) Note the progress made in developing the scheme proposals.
- iii) Reconfirm the scope, aims, objectives and outcomes of the project as detailed in the report.
- iv) Approve the provisionally agreed Heads of Terms with SMG Europe Holdings Ltd for the Agreement for Lease and Lease of the arena.
- v) Approve the provisionally agreed Heads of Terms with the third party named in Appendix 2 of the report for the receipt of annual revenue payments to part finance the City Council's funding model for the capital cost of developing the arena.

Background papers; Executive Board Reports, 5 November 2008 and 13 February 2009