

Atlantic Wharf Update

INVESTMENT & DEVELOPMENT (CLLR RUSSELL GOODWAY)

AGENDA ITEM:

PORTFOLIO: INVESTMENT & DEVELOPMENT

Appendices 1-3 and 5-9 of this report are not for publication as they contain exempt information of the description contained in paragraphs 14 and 16 of Part 4 and paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972.

Reason for this Report

1. To provide an update on the new Indoor Arena project and to seek authority to amend the legal agreements.
2. To provide an update on the soft market testing exercise for the redevelopment of the Atlantic Wharf site and to obtain approval to implement subsequent disposal and procurement strategies.
3. To present the Outline Business Case for the Capella Production Studio Project.

Background

4. The Atlantic Wharf regeneration scheme remains a major Council priority set out in the Corporate Plan 2023-26 aimed at kick-starting the next phase regeneration of Cardiff Bay. In January 2020, the Council acquired the Red Dragon Centre site to supplement its existing ownership of the County Hall site, to secure full control of a combined area of land in Cardiff Bay of approximately 30 acres. Since then, the Council has progressed proposals for the comprehensive redevelopment of the site anchored by the delivery of a new Indoor Arena and supported by the development of a new MSCP to consolidate surface car parking across the site.
5. In July 2021, Cabinet authorised the development of an Outline Business Case for the redevelopment of the Red Dragon Centre to consider options for the future of the site and to protect the Council's investment.
6. In September 2021, Cabinet approved a Full Business Case for the delivery and operation of a new Indoor Arena and delegated authority to enter into the various legal arrangements.

7. In March 2022, outline planning permission was granted for the Atlantic Wharf site alongside detailed permission for the new Indoor Arena.
8. In March 2023, Cabinet considered a progress report on the Atlantic Wharf regeneration scheme and approved:
 - the extension of the Pre-Contract Service Agreement (PCSA) for the Arena,
 - an interim Full Business Case for the Multi-Storey Car Park,
 - a soft market exercise covering the whole Atlantic Wharf site,
 - the Red Dragon Centre financial strategy,
 - an MoU for the Capella Project authorising the development of an Outline Business Case,
 - the development of an Outline Business Case for the Atlantic Wharf Energy Strategy.
9. In June 2023, Cabinet agreed a report on the Council's Core Office Strategy and authorised the development of a Full Business Cases to consider the possible refurbishment of City Hall and the provision of a new Council office building at Atlantic Wharf.

Issues

10. As previously reported to Cabinet, inflationary pressures have pushed the cost of the new Indoor Arena from the projected figure of £180m to close to £280m. The Council's financial exposure/liability (established via a financial envelope as part of the original public procurement process) is capped and therefore the Live Nation consortium has had to take full responsibility for the additional costs. This has led the Live Nation consortium to review the design of the Arena which requires an extension to the long stop date of the Pre-Contract Service Agreement (PCSA) stage. The next stage of the process is to enter into a Development and Funding Agreement (DFA) to agree the terms of the funding contract in advance of the Live Nation consortium achieving Financial Close. Financial Close can only be achieved once RIBA Stage 4 is completed and a contractor is procured providing a final price. Further detailed design will be undertaken during the DFA stage which requires the Council's existing underwrite to be extended as originally provided for in the DFA. The legal and financial details of this proposal are set out in **Confidential Appendix 1**.
11. The risk associated with extending the Council's underwrite for the Arena design relates to the impact of interest rate rises on the funding strategy. The cost of borrowing has increased significantly over the last year and has reduced the opportunity for surpluses to be realized by the Council over the whole term of the lease. Continued increases in interest rates before Financial Close would seriously test the affordability envelope. As such the Council is working on a funding strategy that will manage the short-term position allowing a longer-term strategy to be entered into when interest rates become more favourable. The Council needs to determine a long-term strategy for managing the interest rate risk prior to entering the DFA to ensure the project remains affordable.
12. The Council continues to develop the Outline Business Case (OBC) for the redevelopment of the Red Dragon Centre and the wider regeneration of the Atlantic

Wharf site with various considerations feeding into this process such as the future of County Hall, the delivery of the new Indoor Arena and the alternative car parking provision within the proposed new MSCP. As part of the OBC process the Council has undertaken a soft marketing exercise to engage investor/developer interest across the wider site to assist with long-term delivery.

Indoor Arena (Update)

13. The Live Nation consortium has successfully worked to reduce the level of cost increase through a review of the Arena design and reconsideration of site infrastructure requirements. The design has now been developed to RIBA Stage 3, including cost plans, which indicate that the scheme is now within the Live Nation consortium's revised affordability envelope. The redesign has caused an unavoidable delay to the programme. The intention is now to commence with an advance works package in autumn 2023, with main works starting in early 2024, subject to entering into the DFA.
14. The Live Nation consortium is due to submit a Section 73 planning application in July to update the current designs of the Arena and Hotel. (See **Confidential Appendix 2**).
15. To allow the scheme to proceed and the planning application to be submitted the Council and the Live Nation consortium now need to finalise and agree the DFA. The final draft of the DFA and associated legal commentary are set out at **Confidential Appendix 1**.
16. The Council has continued to finalise the legal documentation with the Live Nation consortium and has agreed the following changes:
 - An extension to the long stop date of the PSCA stage to 31 March 2024.
 - An extension to the current Council underwrite from £5m to £7m set against the Live Nation consortium's current spend of circa £10m and proposed additional spend of more than £5m to develop the designs to RIBA Stage 4. This is bringing forward £2m of the underwrite that would be available under the DFA.
 - A reduction in the long-stop date to achieve Financial Close in the DFA from 24 months to 6 months to ensure works commence on site in 2024.
 - A specific time period for entering into the DFA between 30 November 2023 and 31 March 2024.
17. The extension to the long stop date of the PCSA and the delay in entering the DFA will provide the Live Nation consortium with time to procure a contractor before progressing with RIBA Stage 4 design works to achieve greater cost certainty and provides the Council with further time to agree a financial strategy to mitigate the current interest rate uncertainty.

Atlantic Wharf (Update)

18. The Council has undertaken a soft market exercise to gauge the appetite of the private sector to invest in the redevelopment of the Atlantic Wharf site. The process generated six 'expression of interest' submissions. A summary is provided at **Confidential Appendix 3**.

19. The engagement with the private sector has underlined the importance of confirming delivery of the new Indoor Arena and agreeing the future of County Hall to provide certainty on the context for development. This will give interested parties certainty regarding infrastructure requirements, planning conditions such as SAB and green space provision and energy capacity constraints and wider strategy.
20. The market testing exercise provided a number of interesting proposals that have helped the Council to shape its development strategy for the site. Interest was concentrated in two areas and has led the Council to bring forward a strategy that divides the site into two parts (A & B) as illustrated in the plan attached at **Appendix 4**. Area A is the site of the existing County Hall building which lies immediately adjacent to the proposed new Indoor Arena. Area B is the remaining land including the Red Dragon Centre and a strip of land alongside Bute East Dock.
21. In regard to Area A, the Council has now prepared a development plan for the site, based on the market interest received, which contains 5 development areas and includes the following uses:
- Up to 300,000 sq ft of Offices
 - Capella Production Studios
 - Event Halls
 - Shared foyer and management suite
 - Revised highway infrastructure
22. The proposed development provides an opportunity to create a modern energy efficient suite of offices with a range of shared facilities which will provide value for occupiers. The development proposal is set out at **Confidential Appendix 5**.
23. The Cabinet decision of June 2023 relating to the future of the Council's Core Offices requires the development of a Full Business Case to consider the delivery of a new County Hall building at Atlantic Wharf alongside the Capella project and potentially other third-party opportunities. This process will require the Council to specify its requirements, undertake design work and demonstrate that delivery can be achieved within an affordable budget.
24. **Confidential Appendix 6** sets out a procurement strategy for Area A (illustrated by the plan attached at **Appendix 4** and **Confidential Appendix 5**). Further to the Council's Core Office requirement, the Capella project and the wider opportunities outlined above, the Council will develop a specification which will be taken to the market as part of the development of the Full Business Case process for both the Council's Core Office Strategy and the Capella Project. Whilst the procurement strategy supports the development of the FBC at this stage, the decision to proceed with the development is subject to the satisfactory conclusion of a public procurement process and obtaining approval of the FBC at a future Cabinet meeting.
25. It is proposed that the remaining area of land, illustrated on the plan attached at **Appendix 4** as Area B, is subject to a further market testing exercise and is anticipated to generate significant interest for residential development.

26. The Council is preparing to undertake a procurement exercise to attract a development partner for the second phase of the Council's housing 'Partnering Scheme' to deliver circa 7000 mixed tenure properties including 4000 Council properties. In order to support the Partnering Scheme, it is proposed to allocate land within Area B to provide the Council's appointed development partner with an opportunity to deliver circa 500 residential units as part of the Partnering Scheme. The specific parcels of land to be allocated to the Partnering Scheme will be determined as part of a review of the masterplan following the market testing exercise relating to Area B. The allocation of this land is separate from any affordable housing requirement arising from the proposed masterplan and/or any subsequent planning application.
27. The Outline Business Case for the redevelopment of the Red Dragon Centre is scheduled to be considered by Cabinet in the in the autumn 2023 and therefore the Council is seeking to relaunch the Area B market exercise in August.

Capella (Production Studio)

28. In July 2021, Cabinet approved a Memorandum of Understanding (MOU) with the Wales Millennium Centre (WMC) for the delivery of the Capella Production Studio proposal at Atlantic Wharf. The project seeks to deliver a co-production space for the development of creative content that can be showcased at the WMC and other venues across Cardiff, Wales and beyond. The MOU has led to the development of an Outline Project Proposal which is attached at **Confidential Appendix 7**. Through this report, Cabinet is asked to provide authority to progress the project to a Full Business Case.

Atlantic Wharf Masterplan

29. **Confidential Appendix 8** provides an updated masterplan vision for the whole Atlantic Wharf site covering the County Hall site and the Red Dragon Centre site and takes account of the updated plans for the new Indoor Arena and associated hotel, the Capella Production Studio proposal and the new development plan for Area A.

Next Steps

30. To progress the Atlantic Wharf Regeneration Scheme, it is proposed that the Council will take forward the following next steps:
- An extension to the long stop date in the PCSA for the Arena and bringing forward part of the Council underwrite with immediate effect.
 - Enter the DFA with the Live Nation consortium for the delivery of the Indoor Arena once the parties are ready between 30 November 2023 - 31 March 2024.

Progress the Full Business Cases, including the development of design to RIBA Stage 3 and the full market testing of construction costs to be presented back to Cabinet, for:

- the Council's Core Office Strategy;
- the Capella Production Studio;

- the development plan for Area A;
- Undertake a further market exercise for Area B to secure a developer(s) to deliver the wider regeneration in line with the Council's masterplan vision, with the outcome to be considered as part of the OBC for the Red Dragon Centre scheduled to be presented back to Cabinet in autumn 2023.

Reason for Recommendation

31. To progress the delivery of the new Indoor Arena and the wider regeneration of the Atlantic Wharf site.

Financial Implications

32. This report focusses on the delivery of the Arena, whilst also considering earlier stage proposals for initial phases of development within Atlantic Wharf. It should be noted that there are a number of other significant major projects the Council is trying to implement which will need to interlink with these to ensure all projects optimise value and costs. These include the wider Atlantic Wharf masterplan, Heat Network, the long-term future of the County Hall building, and the potential redevelopment of the Red Dragon Centre. It is critical that the interlinkages between these projects is understood during the decision-making process given the potential knock-on effects and implications each could have on other Council projects.
33. The delivery of the new Indoor Arena is regarded as the key anchor project and the first phase of the Atlantic Wharf regeneration proposals, so any decisions taken in this report may have a wider impact on viability of other Council projects.
34. This report seeks Cabinet Authority to extend the Arena Pre-Contract Service Agreement (PCSA) to 31st March 2024, as well as approval of the final draft Development and Funding Agreement (DFA), with Cabinet then delegating authority to enter into DFA once called upon to do so by Live Nation within the agreed window of 30 November 2023 to 31 March 2024, subject to satisfying remaining conditions and remaining within affordability envelope.
35. Approving the proposed PCSA extension would allow the Council sufficient time to finalise a financial strategy to mitigate the increasing risks to affordability caused by rising interest rates and ongoing volatility in the market, whilst also demonstrating Council's commitment to progressing with Arena by extending underwrite of Developers costs by an additional £2m. The current position on interest rates means a traditional PWLB funding solution is challenging at present, so alternative solutions are currently being explored to enable delivery of the Arena. Cabinet must have a degree of confidence a funding solution is viable before agreeing to extend PCSA and increasing Council underwrite under PCSA. See **Confidential Appendix 9** for further details.
36. It is important to note though that as per the underwrite of the original PCSA costs, these additional costs will become development costs to be covered by the Developer once the parties enter into the long-term DFA contract. These underwritten costs would

only become payable by the Council in a scenario where the Developer continues to meet all of their own contractual obligations, but the Council is unable to meet its own obligations or chooses not to proceed with the Arena development.

37. The final draft of the Development Fund Agreement (DFA), as well as a summary note of the key changes, is attached at **Confidential Appendix 1**. This report requests Cabinet approve the final form of the DFA that the Council will enter into with Developer and Operator Consortium to deliver the Arena on a long-term contract, so it is imperative that a clearly agreed funding strategy can be implemented prior to signing this contract. This may require suitable risk mitigation measures being put in place for purposes of prudence to ensure long-term financial viability for the Council. Further information can be found within **Confidential Appendix 9**. A further Cabinet approval of the Funding Strategy for Arena will also be sought prior to entering into DFA.
38. This report also recommends Cabinet approve the Capella Production Studios proposal as outlined in **Confidential Appendix 7**. This proposal, along with the Procurement Strategy set out in **Confidential Appendix 6** starts to bring together a number of component parts of the Atlantic Wharf Development strategy and provide an indication of proposed delivery mechanisms for Core Offices and Capella projects.
39. These proposals indicate the Council will be taking on an element of delivery and financial risk, albeit with some of this risk due to be mitigated by procuring a developer to deliver the facilities within an agreed cost envelope. Further due diligence will be required to fully understand detail of these proposals and impacts upon the Council, including whether the proposed approach will be self-financing, affordable and remains within the Council's risk appetite. Cabinet must also be clear that the proposed procurement strategy, as set out in **Confidential Appendix 6**, delivers value for money for the Council, and whether a best value approach is clearly demonstrated within the business case.
40. Cabinet are also being asked to approve further development of business cases for Capella Production Studios, a development plan for Area A (as set out at **Appendix 4**) as well as a further market testing exercise for the area marked B on the plan attached at **Appendix 4**. The costs associated with development of such business cases and soft market testing exercises will need to be identified by directorate, along with suitable funding sources prior to progressing with these pieces of work.

Legal Implications

41. In relation to the proposed development opportunity of Site A of the Atlantic Wharf (as described above) the Public Contracts Regulations 2015 (as amended) ("PCR") will apply.
42. Noting the above, the Council will be required to advertise and compete the above opportunity in accordance with the PCR.
43. Procurement advice on the procedures available to the Council under the PCR is contained within **Confidential Appendix 6**.

44. Section 145 of the Local Government Act 1972 enables the Council to do, or arrange for the doing of, or contribute towards the expenses of the doing of, anything necessary or expedient for the provision of entertainment of any nature or the provision of a theatre, concert hall, dance hall or other premises suitable for the giving of entertainments and any purposes incidental to that provision.
45. Section 12 of the Local Government Act 2003 enables the Council to invest (a) for any purpose relevant to its functions under any enactment or (b) for the purposes of the prudent management of its financial affairs.
46. The Cabinet needs to take account of the Council's fiduciary duties to the local residents and taxpayers. As such, proper consideration needs to be given to the risks, rewards and potential future liabilities of the proposals which are the subject of this report. The issue concerns whether the potential risks and liabilities described in the report and in the associated appendices are proportionate to securing the stated economic development objectives and thereby in the best interests of the local taxpayers and residents. Any viable alternatives for delivering the economic development objectives should be considered.
47. This report seeks approval to extend the Long Stop date in the PCSA, delay entry into the DFA and bring forward part of the underwrite the Council would need to commit to under the DFA (and make consequential amendments). This variation is of benefit to the Council as it means the Council does not have to commit to funding the pre-agreed sums for delivery of the Arena now and allows the Council time to review any changes in interest rates and finalise its funding strategy.

Equalities & Welsh Language

48. In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must, in making decisions, have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are: (a) Age, (b) Gender reassignment(c) Sex (d) Race – including ethnic or national origin, colour or nationality, (e) Disability, (f) Pregnancy and maternity, (g) Marriage and civil partnership, (h)Sexual orientation (i)Religion or belief –including lack of belief.
49. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socioeconomic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers ([WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 \(gov.wales\)](#)) and must be able to demonstrate how it has discharged its duty.
50. An Equalities Impact Assessment aims to identify the equalities implications of the proposed decision, including inequalities arising from socio-economic disadvantage,

and due regard should be given to the outcomes of the Equalities Impact Assessment annexed to this report.

51. The decision maker should be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

The Well-being of Future Generations (Wales) Act 2015

52. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The wellbeing objectives are set out in Cardiff's Corporate Plan 2023 -26.
53. When exercising its functions, the Council is required to take all reasonable steps to meet its wellbeing objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the wellbeing objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
54. The wellbeing duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
- -Look to the long term
 - -Focus on prevention by understanding the root causes of problems
 - -Deliver an integrated approach to achieving the 7 national well-being goals
 - -Work in collaboration with others to find shared sustainable solutions
 - -Involve people from all sections of the community in the decisions which affect them.
55. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible on line using the link below:
<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

Policy and Budget Framework

56. The decision maker must be satisfied that the proposal is within the Policy and Budget Framework, if it is not then the matter must be referred to Council.

Property Implications

57. All property implications are contained within the body of the report.

58. Where there are property transactions or valuations required to deliver any proposals, they should be done so in accordance with the Council's relevant Asset Management process and in consultation with appropriate service areas.

HR Implications

59. The report refers to the Core Office Strategy report that was considered by Cabinet on 22 June 2023 that authorised the development of a Full Business Case for the refurbishment of City Hall and the provision of a new Council office based at Atlantic Wharf. The human resources implications of this strategy were considered in the Cabinet report so are not repeated here.
60. The culture, health, wellbeing and engagement of employees is vitally important to keep the workplace safe and healthy, and our workforce engaged and resilient. Ensuring all our employees, wherever they are based, have access to our support services and can take part in the associated activities remains critical. Engagement with employees needs to continue on the Core Office proposals in respect of dates, future usage and requirements of Council core buildings.
61. The Trade Unions have been consulted on the information within this report and there will be ongoing engagement and consultation with both trade unions and employees as the business case develops.

RECOMMENDATION

Cabinet is recommended to:

- 1) Approve an extension and variation to the Pre-Contract Service Agreement (PCSA) for the delivery of the new Indoor Arena in line with the legal conditions set out at **Confidential Appendix 1** and the Financial Report **Confidential Appendix 9**.
- 2) Approve the Development and Funding Agreement (DFA) attached at **Confidential Appendix 1** and delegate authority to the Director of Economic Development, in consultation with the Cabinet Member for Investment and Development, the Section 151 Officer and the Legal Officer to:
 - a. approve the final terms of the DFA and in so doing approve any amendments to the legal documentation approved as may be necessary, for reasons including but not limited to ensuring consistency between them and finalising any outstanding areas; and
 - b. approve any further deeds and documents which are ancillary to the legal documents approved;with entry into the DFA being subject to approval of the funding strategy at a future meeting of Cabinet.
- 3) Approve the Outline Project Proposal for the Capella Production Studios as set out at **Confidential Appendix 7**.

- 4) Approve the procurement strategy set out at **Confidential Appendix 6** including the development of a Full Business Case for the Capella Production Studios proposal as set out at **Confidential Appendix 7** and a Full Business Case for the development plan for Area A as set out at **Appendix 4** and delegate authority to the Director of Economic Development in consultation with the Cabinet Member for Investment and Development, the Section 151 Officer and the Legal Officer to deal with all aspects of the procurement strategy and to return to Cabinet for approval of the Full Business Cases in advance of the appointment of any contractors.

- 5) Approve a further market testing exercise for the area marked B on the plan attached at **Appendix 4** to assist with the completion of the Outline Business Case for the redevelopment of the Red Dragon Centre and delegate authority to the Director of Economic Development in consultation with the Cabinet Member for Investment and Development, the Corporate Director of People and Communities, the Section 151 Officer and the Legal Officer to identify land to support the Council's Partnering Scheme as set out in this report.

SENIOR RESPONSIBLE OFFICER	Neil Hanratty Director of Economic Development
	Date

The following appendices are attached:

Appendices

- Confidential Appendix 1 - Legal Reports & Agreements
- Confidential Appendix 2 - Arena Design Update
- Confidential Appendix 3 - Atlantic Wharf Market Exercise Review
- Appendix 4 - Area Plans A & B
- Confidential Appendix 5 - Area A Development Plan
- Confidential Appendix 6 - Procurement Strategy
- Confidential Appendix 7 - Capella Production Studio Proposal
- Confidential Appendix 8 - Updated Masterplan
- Confidential Appendix 9 - Financial Overview & Strategy
- Appendix 10 - Single Impact Assessment (SIA)